

CORAZON ROQUE, PETITIONER, VS. BONIFACIO YSIP, JUDGE OF THE COURT OF FIRST INSTANCE OF BULACAN, MELITON CASTILLO, AMANDA ILAC REYES, ILUMINADA S. CASTRO, CAROLINA GATMAITAN VDA....

G.R. No. L-4443. November 29, 1951

Ponente: PADILLA, J.

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PADILLA, J.:

In civil case No. 221 of the Court of First Instance of Bulacan, the petitioner was the defendant and the respondents, except the judge, were the plaintiffs. Judgment was rendered therein against the defendant to pay P18,420 and costs. On 2 August 1949, upon petition of the plaintiffs, the respondent judge issued an alias writ of execution against the defendant for the sum of P2,920, the unpaid balance of the money judgment. On 26 July, Meliton Castillo, one of the plaintiffs, wrote a letter to the provincial sheriff informing him that the defendant had a right or share in a parcel of land, lot No. 3553 of the Malolos Cadastre, described in original certificate of title No. 8550, "together with the improvements consisting of a house and a warehouse." On 10 September, the sheriff announced the sale at public auction of the right, title, interest and claim of the judgment debtor in the parcel of land to be held on 4 October, by publishing it in the Manila Chronicle, a newspaper of general circulation in the province of Bulacan, and by posting notices in three public places, to wit: on the municipal building bulletin board at the entrance of the town market, on the bulletin board of the post office in Malolos and on the bulletin board of the Court of First Instance of Bulacan. On 4 October, the date set for the sale, no bidder appeared except the plaintiffs who bid the sum of P3,060.20, the balance of the money judgment, including notice and expenses of the sale and the sheriff's fees, for the right, title, interest and claim of the judgment debtor in the parcel of land and improvements thereon. On 29 October, the sheriff executed the certificate of sale. On 20 January 1950, the plaintiffs filed a petition praying that the sale be set aside on the ground that it was made "under a clear mistake of fact." On 31 January, the respondent court denied the petition. On 15 March 1950, on motion for reconsideration filed by the plaintiffs, the respondent court reconsidered its previous order of 31 January, and set aside the sale at public auction made by the sheriff on 4 October 1949 on the ground of clear mistake of fact. On 30 September 1950, the defendant filed a motion for reconsideration of the order setting aside the sale at public auction. The plaintiffs filed their opposition thereto. On 27 October, the respondent court denied the motion for reconsideration, on the ground that it was filed long after the reglementary period had expired and suggested to the defendant the filing of a petition for relief under Rule 38. On 14 November, the defendant filed the petition for relief as suggested by the court, but on 15 December, the petition was denied for having been filed out of time.

To annul the order of 15 March 1950 setting aside the sale at public auction on the ground of excess of jurisdiction and grave abuse of discretion this petition was filed.

In their answer the respondents practically admit the allegation of facts but not the conclusions and interpretation by the petitioner of the provisions of the rules governing the sales at public auction by the sheriff pursuant to writs of execution.

It is contended that the respondent court exceeded its jurisdiction and committed a grave abuse of discretion when it set aside the sale at public auction made by the sheriff of the province of Bulacan in accordance with the rules of court on the ground of error committed by the purchasers who offered a bid for a sum much higher than the value of the property sold and on the further ground that the notice of sale did not state that a house and a warehouse were erected upon the parcel of land to be sold at public auction. The notice of sale stated that the parcel of land to be sold at public auction was lot No. 3533 of the cadastral survey of Malolos together with the improvements thereon.

That courts have control of the execution proceedings and may set aside a sale when a mistake of fact has been committed, to the end that justice may be administered to the parties, is undeniable. Therefore, the order of 15 March 1950 complained of, setting aside the sale made by the sheriff of Bulacan, was a lawful and valid exercise of the respondent court's jurisdiction, did not constitute an excess thereof, neither did it constitute a grave abuse of discretion. More than six months having elapsed—from 15 March to 14 November 1950—when the petition for relief from the order of 15 March 1950 was filed, the denial thereof was in accordance with section 3, Rule 38.

The petition is denied, with costs against the petitioner.

Paras, C. J., Feria, Pablo, Bengzon, Tuason, Reyes, Jugo, and Bautista Angelo, JJ., concur.
Montemayor, J., took no part.

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