

**MELECIO ROSARIO AND ROMEO C. RAMIREZ,
PLAINTIFFS-APPELLEES, VS. TAYUG RURAL BANK, INC., ET AL.,
DEFENDANTS, TAYUG RURAL BANK, INC., DEFENDANT-APPELLANT.**

G.R. No. L-26538. March 21, 1968

Ponente: CASTRO, J.

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CASTRO, J.:

This case was certified to us by the Court of Appeals pursuant to section 17 of Republic Act 296, as amended, because the appellant raises only questions of law.

At the threshold is the principal question of whether the period for redemption of property sold at public auction by virtue of an extrajudicial foreclosure under Act 3135, as amended, is to be reckoned from the date the sheriff executes the certificate of sale or from the date the certificate of sale is recorded in the Registry of Deeds.

The antecedent facts are not disputed. Romeo C. Ramirez borrowed P440 from the Tayug Rural Bank, to secure which Me-lecio Rosario mortgaged in favor of the bank his 15,000-square meter land covered by TCT 9562. Ramirez made several payments on the loan so that on maturity date (February 15, 1955), his remaining indebtedness was only P170. But because he failed to settle his obligation in full, the bank, after giving the required notices, extrajudicially foreclosed the mortgage. The provincial sheriff, on July 21, 1961, sold the land at public auction for the unpaid amount of P208.53 in favor of the bank, to which the corresponding certificate of sale was issued on the same day. The certificate of sale was, however, recorded in the Registry of Deeds only on November 16, 1962. Five days thereafter, or on November 21, 1962, the bank sold the land to the defendant Nenita Vergara for P1,600.

In the meantime, or on August 22, 1962, Ramirez re-mitted the sum of P100 to the bank as a deposit for redemption. And on November 7, 1963, he wrote the bank, offering to redeem the property by paying the unpaid balance together with interests and expenses. He enclosed a money order for P108.53; this sum plus what he had previously deposited amounted to P208.53. The bank, however, refused to accept the offer, contending that the one-year redemption period began to run on July 21, 1961 and, therefore, had already slipped away. Hence, Melecio Rosario and Romeo Ramirez sued the bank and Nenita Vergara, to compel these two defendants to accept payment and to reconvey the property. Nenita Vergara defaulted.

On the basis of the stipulation of facts and documentary evidence submitted by the parties, the lower court rendered judgment as follows:

"IN VIEW OF THE FOREGOING, judgment is hereby rendered in favor of plaintiffs, particularly Me-lecio Rosario, the registered owner of the land in question under Transfer Certificate of Title No. 9562, ordering the Tayug Rural Bank and defendant Nenita Vergara to permit Melecio Rosario to redeem the property in question by paying the amount of indebtedness remaining on July 21, 1961, plus interests at the rate of 1% a month from said date until the day of redemption. And the redemption shall have to be done within thirty (30) days from the time the present decision shall have become final and executory.

"The Tayug Rural Bank and defendant Nenita Ver-gara are also sentenced to pay the plaintiffs by way of attorney's fees and litigation expenses the amount of P100.00.

"Defendants, besides, shall pay the costs."

Hence, the present recourse by the bank.

The judgment a quo must be affirmed.

This Court has already spelled out with sufficient clarity its position on this matter.[1] And in the most re-cent case of Arsenio Reyes vs. Antonio Noblejas, G.R. No. L-23691, November 25, 1967, 1967D PHILD 520, we rejected the very same theory now espoused by the appellant. There, we expli-citly and emphatically stated that the redemption period should be reckoned from the date of registration of the certificate of sale and not from the date of the auction sale.

In that case, the provincial sheriff, on the strength of an extrajudicial foreclosure under Act 3135, sold at public auction, on February 6, 1963, certain properties mortgaged to the Philippine National Bank. The corresponding certificate of sale was issued to the highest bidder on February 21, 1963, which certificate fixed the date of the auction sale as the starting point of the one-year redemption period. The certi-ficate of sale was not, however, recorded in the office of the Register of Deeds. When the affidavit of consolidation of ownership was sought to be registered on February 10, 1963, the Register of Deeds refused for the reason that the redemp-tion period had not yet expired. The Land Registration Com-mission sustained the Register of Deeds.

The question upon which the case turned was: In an ex-trajudicial foreclosure of real estate mortgage under Act 3135, when does the period of redemption of the auctioned property start? We resolved this question in this wise:

"It is the theory of petitioner that in sales of property at public auction pursuant to an extra-judicial foreclosure of real estate mortgage under Act 3135, as amended by Act No. 4118, the period of redemption should be reckoned from the date of the auction sale which, he contends, is the express mandate of Section 6 of Act No. 3135:

'Section 6. In all cases in which the extrajudicial sale is made under the special power hereinbefore referred to, the debtor, his successors in interest, or any judicial creditor or judgment creditor of said debtor, or any person having a lien on the property subsequent to the mortgage or deed of trust under which the property is sold, may redeem the same at any time within the term of one year from and after the date of sale; and such redemption shall be governed by the pro-visions of sections 464 to 466, inclusive, of the Code of Civil Procedure, insofar as these are not inconsistent with the provisions of this Act.'

"On the other hand, the Land Registration Com-missioner is of the opinion that the above-quoted provision is not the only pertinent and controlling law on the matter, especially when it is taken into consideration that the land involved is registered land under the Torrens system. He maintains, and so held in the resolution appealed from, that Section of Act 3135 should be applied to the present case to-gether with: (1) sections 30 to 35 of Rule 39 of the Revised Rules of Court with regard to redemption; (2) Section 27, Rule 39 of the said Rules and Section 71 of Act 496 with regard to the filing (registration) of the sheriff's certificate of sale; and (3) Section 50 of Act 496, with regard to the registration of the certificate of sale so as to consider the land con-veyed and affected under the Land Registration Act.

"The ruling of the Land Registration Commis-sioner must be sustained. Section 27, Rule 39 of the Revised Rules of Court provides that the certi-ficate of sale executed by the sheriff in at public auction sale must be filed (registered) in the Of-fice of the Register of Deeds of the province where the land is situated. This is a mandatory require-ment. Failure to register the certificate of sale violates the said provision of law and, construed in relation with Section 50 of the Land Registration Law (Act 496), shall not take effect as

conveyance or bind the land covered by a torrens title because 'the act of registration is the operative act to convey and affect the land.' So the redemption period, for purposes of determining the time when a final deed of sale may be executed or issued and the ownership of the registered land consolidated in the purchaser at an extrajudicial foreclosure sale under Act 3135, should be reckoned from the date of registration of the certificate of sale in the office of the register of deeds concerned and not from the date of the public auction sale."

The appellant in the case at bar argues, however, that actual notice is equivalent to registration, and that as between the immediate parties registration is not necessary to give effect to the deed of sale since registration is intended only to protect the buyer from claims of third persons who subsequently acquire the property. This argument does not bail out the appellant. We have examined the cases cited, and we note that they involved voluntary transactions such as contract of sale,[2] pacto de retro,[3] quitclaim,[4] and not forced transfers such as execution or foreclosure sales.

This argument was embellished in *Reyes vs. Noblejas*, supra, but this Court was not impressed. Thus,

"But it is further argued by the petitioner that the rules could not be applied to this case where there are no third parties involved. He cites a number of authorities * * * to the effect that as between the parties, registration is not necessary to bind the immediate parties to a transaction involving registered land. He would then conclude that since the only purpose of registration is to protect the buyer from third party claims, it stands to reason that when as in this case, there are no third party claimants to the land, registration is not necessary and the sale between the parties should be made to take effect from the date of the auction sale. We are not impressed by the argument. Apparently, herein petitioner failed to see the 'other side of the coin' and overlooked the doctrine, also well settled, that the registration required by Section 50 of the Land Registration Law is intended primarily for the protection of innocent third persons, i.e. persons who, without knowledge of the sale and in good faith, have acquired rights to the property. * * * The same protection to third parties is obviously one of the objects of Section 27, Rule 39 of the Revised Rules of Court in requiring that the certificate of sale issued by the sheriff in the auction sale be registered in the office of the register of deeds, for the purpose of the legislature in providing for our present system of registration is to afford some means of publicity so that persons dealing with real property may reach the records and thereby acquire security against instruments the execution of which has not been revealed. Redemption is not the concern merely of the auction-vendee and the mortgagor, but also of the latter's successors in interest or any judicial creditor or judgment creditor of said mortgagor, or any person having a lien on the property subsequent to the mortgage under which the property has been sold. It is precisely for this reason that the certificate of sale should be registered, for only upon such registration may it legally be said that proper notice, though constructive, has been served unto possible redemptioners contemplated in the law. We have to conclude, therefore, that the date of sale mentioned in Section 6 of Act 3135, as amended, should be construed to mean the date of registration of the certificate of sale in the office of the Register of Deeds concerned. Only after the lapse of the twelve-month redemption period from the date of registration of the certificate of sale and in the absence of any redemptioner within the said period, may the deed of final sale be executed in favor of the purchaser who may then consolidate the title of the property in his favor. Consequently, we have to declare that the Land Registration Commissioner was right in ordering the Register of Deeds of Rizal to deny the registration of the deed of sale and the affidavit of consolidation of ownership, the simultaneous registration of which documents was sought by herein petitioner even before the certificate of sale issued by the sheriff was registered."

Finally, the appellant bank objects to the redemption on the ground that the amount tendered is inadequate to meet the redemption price. Considering, however, that the sum tendered was the amount of the purchase price paid at the auction sale and that the tender was timely made and in good faith, we believe that the ends of justice would be better served by affording the appellees the opportunity to redeem the property by paying the bank the auction purchase price plus 1% interest per month thereon up to the time of redemption. This Court laid down the correct

formula in *Castillo vs. Nagtalon*, G.R. No. L-17079, January 29, 1962, as follows:

"The procedure for the redemption of properties sold at execution sale is prescribed in Section 26, Rule 39, of the Rules of Court. Thereunder, the judgment debtor or redemptioner may redeem the property from the purchaser, within 12 months after the sale, by paying the purchaser, the amount of his purchase with 1% per month interest thereon up to the time of redemption, together with the taxes paid by the purchaser after the purchase, if any. In other words, in the redemption of properties sold at an execution sale, the amount payable is no longer the judgment debt but the purchase price. Considering that appellee tendered payment only of the sum of P317.44, whereas the three parcels of land she was seeking to redeem were sold for the sums of P1,240.00, P21,00, and P30,00, respectively, the aforementioned amount of P317.44 is insufficient to effectively release the properties. However, the tender of payment was timely made and in good faith; in the interest of justice we incline to give the appellee opportunity to complete the redemption purchase of the three parcels, as provided in Section 26, Rule 39 of the Rules of Court, within fifteen (15) days from the time this decision becomes final and executory. In this wise, justice is done to the appellee who had been made to pay more than her share in the judgment, without doing an injustice to the purchaser who shall get the corresponding interest of 1% per month on the amount of his purchase up to the time of redemption."

ACCORDINGLY, the judgment a quo affirmed at appellant's cost.

Reyes, Acting C.J., Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Angeles, and Fernando, JJ., concur.
Concepcion, C.J., on leave.

[1] *Garcia vs. Ocampo*, G.R. No. L-13029, June 30, 1959; *Agbulos vs. Alberto*, G.R. No. L-17483, July 31, 1962; *Salazar vs. Flor de Lis Meneses*, G.R. No. L-15378, July 31, 1963

[2] *Evangelista vs. Montano et al*, 93 Phil. 275 (1953); *Carillo vs. Salak de Paz, et. al*, 91–Phil. 265 (1962); *Sao vs. Fabiana*, G.R. No. L-11285, May 16, 1958.

[3] *Galanza vs. Nuesa*, 95 Phil. 713 (1954).

[4] *Casica vs. Villesca et al*, G.R. No. L-9590, April 30, 1957.

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