

**MATILDA GOROSPE AND MARIANO GOROSPE,
PLAINTIFFS-APPELLEES, VS. DOLORES M. SANTOS,
DEFENDANT-APPELLANT. DOLORES M. SANTOS,
COUNTERCLAIMANT-DEFENDANT, VS. CARIDAD J. TORRENTO,
THE...**

G.R. No. L-30079. January 30, 1976

Ponente: ANTONIO, J.

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ANTONIO, J.:

This case was certified to this Court from the Court of Appeals on the ground that the appeal raises purely legal questions.

The legal questions posed by this appeal involve the propriety of the summary judgment rendered by the Court of First Instance of Quezon City in Civil Case No. Q-5794,[1] and the correctness of the trial court's resolution of the other substantive issues, such as on the right of plaintiffs-appellees as assignees of the mortgagor to redeem the property sold on foreclosure and the legal efficacy of the redemption thus made.

At bottom is the action filed by plaintiffs-appellees in the afore-mentioned Civil Case No. Q-5794, against defendant-appellant Dolores M. Santos, wherein said plaintiffs-appellees sought the confirmation of their rights of ownership over the parcel of land covered by Transfer Certificate of Title No. 43761, of the Quezon City land registry, redeemed by them as successors-in-interest,[2] and for the surrender to them of the afore-mentioned transfer certificate of title which is in the possession of the defendant-appellant, or in default thereof, its cancellation and the issuance to them of a new certificate of title.

In the afore-mentioned complaint,[3] the following facts are alleged: On October 19, 1958, Caridad J. Torrento, in order to secure her indebtedness in the amount of P7,000, executed a deed of first mortgage over her parcel of land, covered by Transfer Certificate of Title No. 43761, of the Registry of Deeds of Quezon City, in favor of defendant-appellant Dolores M. Santos. The deed was duly registered and the corresponding owner's duplicate of Transfer Certificate of Title No. 43761 was delivered to defendant-appellant.

On September 1, 1959, "with the consent of the first mortgagee", the mortgagor, Caridad J. Torrento, executed a second mortgage (Annex "A") over the same property, in favor of plaintiffs-appellees, to secure a principal indebtedness in the amount of P6,000.00. This deed of second mortgage was not, however, registered. In the meantime, the first mortgage was extra-judicially foreclosed and the land sold at public auction on March 10, 1960 to Dolores M. Santos, being the highest bidder, for the sum of P3,500.00. The corresponding Sheriff's Certificate of Sale was issued in her favor, which certificate was registered on October 20, 1960 and the same annotated in the original of Transfer Certificate of Title No. 43761.

On February 3, 1961, Dolores M. Santos filed a complaint against Caridad J. Torrento in Civil Case No. 6479, with the Court of First Instance of Rizal, for the recovery of the deficiency resulting between the price obtained in

the sale of the real property at public auction and the outstanding obligation at the time of the foreclosure. On February 9, 1961, the court issued, in the aforesaid case, a writ of preliminary attachment on the properties of Caridad J. Torrento and on February 24, 1961, the Sheriff of Rizal caused the attachment of the rights and interests of Caridad J. Torrento, particularly her right of redemption over the parcel of land sold at public auction. In consideration of the discharge of the second mortgage, Caridad J. Torrento assigned to the second mortgagee (Matilda Gorospe, wife of Mariano Gorospe) all her rights, interests and title over said property, particularly her statutory right of redemption "subject to the attachment in favor of the plaintiffs (second mortgagee) who took over the possession of the property as a consequence thereof." [4]

The deed of assignment of Caridad J. Torrento in favor of Matilda Gorospe, which was made part of the complaint as Annex "B", contained the following stipulation:

"4. That the ASSIGNEE shall, with the consent of her husband Mariano Gorospe, release the ASSIGNOR of her obligations on the Second Mortgage referred to above * * * and that the said Second Mortgage indebtedness shall be considered paid by the execution of this instrument."

On March 10, 1961, Caridad J. Torrento filed, in Civil Case No. 6479, an ex parte motion to lift the preliminary attachment on her right of redemption upon the filing of a bond, which ex parte motion was granted by the court on the same date. Likewise on the same occasion, plaintiffs-appellees, as successors-in-interest of Caridad J. Torrento, paid to the Sheriff the amount of P3,920.00, which represented the amount of the purchase, with one per centum (1%) interest per month thereon in addition, to effect the redemption of the foreclosed property. Upon the filing of the requisite bond by Caridad J. Torrento on March 11, 1961 and its approval by the court in Civil Case No. 6479, the corresponding order dissolving the attachment was issued.

On March 13, 1961, the Sheriff of Rizal, who conducted the sale of the foreclosed property, issued a Certificate of Redemption in favor of plaintiffs-appellees as successors-in-interest of Caridad J. Torrento over the foreclosed property. The Certificate of Redemption was registered also on March 13, 1961 with the Register of Deeds of Quezon City, and the corresponding entry and annotation made on the original of said certificate of title.

Alleging that they became owners in fee simple of the afore-mentioned property by virtue of the aforesaid redemption, plaintiffs-appellees demanded from Dolores M. Santos the surrender to them of the owner's duplicate of Transfer Certificate of Title No. 43761, but defendant-appellant "with malice aforethought and in wanton disregard of the plaintiffs' right to the possession of the title * * * refused and still continue to refuse to recognize the rights and ownership of the plaintiffs over the said property * * * and to deliver to the plaintiffs the duplicate of the said certificate of title." They, therefore, prayed that judgment be rendered "confirming the rights of ownership of the plaintiffs" over said property, and ordering the defendant-appellant to deliver to them the said owner's duplicate of Transfer Certificate of Title No. 43761, or declaring the same null and void and directing the Register of Deeds of Quezon City to issue a new certificate of title in favor of plaintiffs.

Defendant-appellant, in her answer, denied that Matilda J. Gorospe had validly redeemed the property because: (a) under Section 26, Rule 39, Rules of Court, if the purchaser at public auction is also a creditor having a prior lien (first mortgage and a levy on attachment) to that of the redemptioner, the redemptioner can redeem only if she pays the purchaser at public auction not only the amount of her purchase in the sum of P3,500.00 with one per centum per month interest thereon in addition, up to the time of redemption, but also the balance of the mortgage indebtedness (P5,910.00); (b) the order lifting the levy on attachment of the right of redemption of the debtor Caridad J. Torrento, was issued only on March 11, 1961 — or one day after the expiration of the period of redemption — and, therefore, the redemption made on March 13, 1961 was after the expiry of the period of redemption; (c) the so-called certificate of redemption, Annex "C" of the complaint, is not even acknowledged before any officer authorized to take acknowledgment of conveyances of real property, contrary to Section 27,

Rule 39 of the Rules, and the same is, therefore, unregistrable; (d) the document of assignment of the debtor's right of redemption, Annex "B", does not show the amount then actually due on the lien of the supposed assignee, contrary to Section 28 (c), Rule 39 of the Rules of Court; (e) the same document, Annex "B" of the complaint, had never been registered with the Register of Deeds of Quezon City and hence the same cannot affect third persons like the herein defendant Dolores M. Santos. Besides, under the law, said document should, and ought to be subject to the prior lien of herein defendant Dolores M. Santos consisting of a levy on attachment of said right of redemption of the debtor Caridad J. Torrento.[5]

As a first counterclaim, defendant Dolores M. Santos alleged that the Deed of Assignment whereby Caridad J. Torrento transferred to Matilda Gorospe her right of redemption should be declared void and/or rescinded as in fraud of creditors, because (a) the alleged deed of assignment of Torrento's right to redeem dated March 1, 1961, was simulated and fictitious; (b) the transfer was made after suit — Civil Case No. 6479-CFI-Rizal, entitled "Dolores M. Santos vs. Caridad J. Torrento" — had been begun and while the same was pending against the said debtor; and (c) the plaintiffs consented to the said assignment knowing that Caridad J. Torrento's right to redeem the property was already subject to the levy on attachment under Civil Case No. 6479, Court of First Instance of Rizal.[6]

As a second counterclaim, defendant-appellant alleged that plaintiffs-appellees' action is "clearly unfounded and malicious" as even previous to the present action, plaintiff Matilda J. Gorospe had already filed against the defendant a petition entitled "Caridad J. Torrento and Matilda J. Gorospe, petitioners, vs. Dolores M. Santos, oppositor, G.L.R.O. Rec. No. 5975" before Branch IV, wherein said Matilda J. Gorospe and the mortgage debtor Caridad J. Torrento sought the surrender of the Owner's Duplicate of TCT No. 43761-Quezon City from the defendant, which case, as a result of defendant's opposition, was dismissed.[7]

And in support of her third counterclaim, she averred that the defendant Provincial Sheriff of Rizal, notwithstanding that his attention was called to the fact that no valid redemption was made, failed to issue the officer's Deed of Absolute Sale contrary to Section 31, Rule 39 of the Rules of Court and Section 78 of Act 496, as amended, and since no valid redemption was made before March 10, 1961, the Register of Deeds of Quezon City should be ordered to cancel the present TCT NO. 43761-Quezon City and a new certificate of title issued in her name.[8]

On the same day that she filed her answer to the complaint, defendant-appellant filed a "Motion to Bring in New Parties", praying that Caridad J. Torrento, the Provincial Sheriff of Rizal, in his official capacity as Sheriff of Quezon City, and the Register of Deeds of Quezon City be brought in as parties defendants, "in order that she may be granted complete and final determination" of her counterclaims.

On May 26, 1961, plaintiffs-appellees filed a "Manifestation and Countermotion" wherein they alleged that defendant's answer does not specify which of the paragraphs of the complaint "are specifically denied because of defendant's claim of lack of knowledge" and which paragraphs are denied "because some of the allegations therein made are completely false and knowingly made false by the plaintiffs to suit their unlawful purpose." Plaintiffs-appellees, therefore, prayed that defendant-appellant be ordered to make the necessary specifications.

On May 27, 1961, defendant-appellant filed an opposition to the Manifestation and Countermotion of the plaintiffs-appellees. On May 31, 1961, plaintiffs-appellees filed their Answer to the counterclaims,[9] contending that the deed of assignment (Annex "B") may not be rescinded as in fraud of creditors, considering:

"b) That defendant as alleged creditor could not have been defrauded nor could it have been possible to defraud said defendant because at the date the said deed of assignment, Annex 'B' of the complaint, was made and executed, the preliminary attachment, in defendant's favor was already effected on the right of redemption over

the property herein in question as early as February 24, 1961, particularly on the original of TCT No. 43761 in the office of the Register of Deeds of Quezon City;

"c) That defendant should know or ought to know that whoever acquires the right of redemption of the said mortgagor-debtor-assignor Caridad J. Torrento subsequent to the preliminary attachment is subject to the right of defendant as attaching creditor;

"d) That, as clearly appearing in the deed of assignment of the right of redemption, Annex 'B' of the complaint the assignment is subject to the rights of defendant (Dolores M. Santos, * * *

* * * * *

"e) That the said preliminary attachment having been ordered lifted upon the filing of a bond which was approved by the court to guaranty the payment of defendant's claim Civil Case No. 6479-CFI, Rizal and that defendant is, in fact, secured from her claim against the mortgagor-debtor-assignor Caridad J. Torrento by virtue of the bond, defendant's right as attaching creditor over the subject property covered by T.C.T. No. 43761 is thereby extinguished;"

and denying the averments contained in defendant-appellant's second counterclaim because their petition in G.L.R.O. Rec. No. 5795 was dismissed by the court on the ground "that there are issues raised in the pleadings which are outside of the jurisdiction of this court, acting as a Land Registration Court, to resolve." [10]

On June 9, 1961, the court a quo issued an order granting defendant-appellant's Motion to Bring in New Parties and ordering that summons be issued to Caridad J. Torrento, the Provincial Sheriff of Rizal and the Register of Deeds of Quezon City, who were made parties defendants in the case.

On June 11, 1961, plaintiffs filed a "Motion for Summary Judgment", alleging:

"I. That, from the complaint, the answer with counterclaims and the answer to counterclaims filed herein, including the exhibits attached hereto, there appears no genuine issue as to any material fact in this case;

"II. That, other than the amounts of damages, attorney's fees, and costs, which are within the discretion of the court to fix, the determination of whether the plaintiffs are entitled to the relief sought in the complaint and, particularly, the questions of law raised by defendant's answer, can be made, on the basis of those facts, together with supporting documents, alleged in pars. 1 to 14 inclusive, of the complaint; and that the said facts will likewise be the ultimate basis of this court in determining whether the defendant has a valid counterclaim against the plaintiffs and against the counterclaim-defendants Caridad J. Torrento, the Register of Deeds of Quezon City, and the Provincial Sheriff of Rizal;

* * * * *

"V. That, therefore, actually the only issues raised in the answer remaining are issues of law, which should be resolved in favor of the plaintiffs, more particularly as follows:

1. Has the period of redemption expired? If so, when? If the last day for redemption was on March 10, 1961, what was the effect of the attachment of the right of redemption?

* * * * *

2. Is the payment of the amount of P3,920 made by the plaintiffs to the Sheriff on March 10, 1961 covering the purchase price and interest, without including in the redemption price the payment of the amount of the lien by virtue of the preliminary attachment effected on the right of redemption in favor of the mortgagor-purchaser and attaching creditor (herein defendant), in compliance with the requirements of Sec. 26, Rule 39, with respect to the amount to be paid as redemption price?

* * * * *

3. It is required under the provisions of Sec. 27, Rule 39 of the Rules of Court that the certificate of redemption issued by the sheriff be acknowledged or approved before a notary public or other officer authorized to take acknowledgment of conveyance of real property?

* * * * *

4. Whether the certificate of redemption, Annex "C" of the complaint is registerable?

* * * * *

5. Does the deed of assignment, of the mortgagor-debtor/s right of redemption, Annex '3' hereof, comply with the requirements of Section 28(c), Rule 39?

* * * * *

6. * * * is the deed of assignment of the right of redemption of the mortgagor in favor of the plaintiffs, Annex '3' hereof, void and/or rescissible as in fraud of creditors, particularly with respect to the defendant herein as mortgagor-purchaser of the property and as attaching creditor of the right of redemption of the mortgagor-debtor--assignor?"[11]

On June 16, 1961, defendant Dolores M. Santos filed an Opposition to the Motion for Summary Judgment,[12] on the following grounds: (1) the issues as to all the parties in the case at bar have not as yet been joined, as plaintiffs' motion for a bill of particulars (or specifications) directed against defendant's answer and dated May 25, 1961, is still pending resolution by the court, and the persons ordered by the court to be brought in as parties-defendants, namely, Caridad J. Torrento, the Provincial Sheriff of Rizal and the Register of Deeds of Quezon City, have not yet filed their answers; and (2) a reading of the various allegations in the Complaint, Answer with Counterclaims and Answer to Counterclaims will show that there are numerous issues raised which should be tried and on which evidence should be taken, being incapable of proof by mere affidavits.

On June 30, 1961, the court a quo rendered a "Summary Judgment",[13] stating that:

"* * * the Court finds no genuine issue as to any material fact and that the issues raised in defendant's answer are purely questions of law which may be the proper subject of a summary judgment, and this conclusion of the Court, becomes more patent by defendant's failure to contest the truth and genuineness of the documents attached to the motion.

* * * * *

"In her answer with counterclaims, defendant Santos practically admits all the allegations of fact in the complaint, and her allegations in her special and affirmative defenses are mere conclusions of law and are not material to the issues involved. The main issue in this case is whether or not the plaintiffs have substantially complied with the provisions of law relative to the redemption of the real property in question, or whether or not the redemption made by the plaintiffs was valid.

* * * * *

"Of the issues of law raised in defendant's answer, the only material issue of law relative to the validity of the redemption is the defendant's contention that there has been no valid redemption in the sense that the amount that plaintiffs, as redemptioners, should have paid must not only consist of the purchase price and interest but also the amount due on the lien by virtue of the preliminary attachment in favor of the defendant. Under the liberal construction of the rule on redemption, however, the Court believes that the plaintiffs were not strictly bound to have included the amount of said lien in the redemption price that was to be paid, although they were bound to respect the existence of such lien, because certainly the attachment issued in the aforesaid Civil Case

No. 6479 could not have been so issued to prevent or defeat the right of redemption but rather was issued merely to secure the satisfaction of a judgment that may be rendered in said case in favor of the mortgage creditor. The Court, therefore, holds that the amount of P3,920.00 paid on March 10, 1961 by the plaintiffs as redemption price of the property in question was in accordance with law, and the fact that the attachment was ordered lifted and dissolved upon the filing of a bond approved by the Court on March 11, 1961 after the right of redemption was exercised, the lien over the property was thereby extinguished.

"Defendant Santos also raised other questions of law as to the alleged defect of the certificate of redemption which was not acknowledged before a Notary Public, and the failure of the deed of assignment of right to redeem to comply with the requirements of the Rule. The requirement that the certificate of redemption be acknowledged or ratified before a Notary Public is only for the purpose of registration, but failure to comply with the same could not be a valid ground to invalidate the redemption. The validity of a redemption lies on the existence of the right to redeem, the amount to be paid, and the date of payment which must be made within the period provided for by law. As to the defendant's contention that the deed of assignment does not comply with the requirements of Sec. 28(c), Rule 39, the fact remains that the plaintiffs have exercised the right of redemption as successors-in-interest by virtue of the assignment and, as such, it is enough for them to have presented the said deed as required by sub-paragraph (b), Sec. 28 of the Rule.

"From the pleadings and the evidence as regards the first counterclaim relative to the validity of the deed of assignment, the Court is also convinced that there is no genuine issue as to any material fact. Taking the facts presented as a whole, the Court is inclined to uphold the validity of the deed of assignment, and this is more so considering the fact that the plaintiffs, as assignees, are creditors by themselves. Moreover, the deficiency claim of defendant Santos in the civil case referred to in the counterclaim is now secured by a bond which was duly approved by the Court where said case is pending. Consequently, there could be no possible damage or prejudice that the defendant Santos may suffer. Our Supreme Court, in the case of *Enage vs. Vda. de Hijos F. Escano*, 38 Phil. 657 laid down the doctrine that a 'liberal construction will be given to statutes governing the redemption of property; that when a judgment creditor permits the debtor's land to be sold for less than it is worth, he exposes himself to the risk of the loss of the surplus value by the assignment of the right of redemption or its exercise by another creditor; that redemption is looked upon with favor, and, where no injury is to follow, a liberal construction will be given our redemption laws, to the end that the property of the debtor may pay as many of debtor's liabilities as possible.' Therefore, to uphold the validity of the redemption would not cause any injury to the defendant Santos because at any rate the deficiency claim of the latter against counterclaim defendant Torrento was secured by a bond approved by the Court.

"IN VIEW OF ALL THE FOREGOING, summary judgment is hereby rendered in favor of the plaintiffs and against the defendant, as follows:

- a) Confirming the rights and ownership of the plaintiffs, as successors-in-interest of the mortgage debtor Caridad J. Torrento, over the parcel of land covered by Transfer Certificate of Title No. 43761 of the Register of Deeds of Quezon City by virtue of the legal exercise of the right of redemption by the plaintiffs, which redemption is hereby declared valid;
- b) Ordering the defendant to deliver to the plaintiffs the possession and ownership of the duplicate of Transfer Certificate Title No. 43761;
- c) Dismissing the counterclaims of defendant; and
- d) Ordering the defendant to pay the costs."

On July 13, 1961, defendant-appellant Dolores M. Santos, after receipt of the above Summary Judgment, filed her Record on Appeals, Notice of Appeal and Appeal Bond. On August 2, 1961, plaintiffs filed a Motion for Immediate Execution of the Summary Judgment, which motion was opposed by defendant-appellant on August 5, 1961.

On August 16, 1961, defendant-appellant Dolores M. Santos filed a Motion for Reconsideration of the summary judgment, after leave of court therefor had been obtained. This was denied by the lower court in its order dated October 2, 1961. A second motion for reconsideration was likewise denied on October 14, 1961. On March 24, 1962, the court a quo approved defendant-appellant's Record on Appeal and ordered the transmittal of the records of the case to the Court of Appeals. As afore-mentioned, the Court of Appeals certified the case to this Court on the ground that it involves the purely legal question of whether or not summary judgment had been properly rendered by the court of origin.

I

The purpose of Rule 34 of the Revised Rules is to eliminate trial in those cases where there is no genuine issue of fact, since a trial under such circumstances is unnecessary and results in delay and expense which may operate to defeat in whole or in part the recovery of a just claim. As explained by Moore,[14] "The very object of a motion for summary judgment is to separate what is formal or pretended in denial or averment from what is genuine and substantial, so that only the latter may subject a suitor to the burden of a trial. To attain this end, the rule permits a party to pierce the allegations of fact in the pleadings and to obtain relief by summary judgment where facts set forth in detail in affidavits, depositions, and admissions on file show that there are no genuine issues of facts to be tried. The court is authorized to examine evidence, not for the purpose of trying an issue, but to determine whether there is a genuine issue of fact proper for trial."

We have examined the pleadings and the affidavits as well as other documents attached thereto, and We find that there is no genuine issue of fact. It is true that appellant Dolores M. Santos asserted that the deed of assignment of the right to redeem of March 1, 1961 was simulated and fictitious, but said party was unable to serve upon the other party any affidavit or other proof to overcome the probative weight of the public documents submitted by appellees in support of the assignment. In any event, the transfer made by Caridad J. Torrento of her right of redemption could not, in any manner, legally affect appellant Dolores M. Santos, nor cause her damage. As We held in a previous case, if such transfer of the right of redemption "has not caused him any damage, it matters not to him whether same was, or was not, fraudulently executed." [15]

Basically, the only issue then in the aforesaid Civil Case No. Q-5794 was whether or not plaintiff-appellee Matilda J. Gorospe had validly made the redemption of the aforesaid property on March 10, 1961. This is a question purely of law. In short, "there is no genuine issue as to any material fact and * * * the moving party" was "entitled to a judgment as a matter of law," [16] so that the lower court properly rendered a summary judgment.

Appellant likewise contends that issues have not been joined in so far as Caridad J. Torrento, the Provincial Sheriff of Rizal and the Register of Deeds who were ordered to be brought in as parties defendant, are concerned, for the reason that they have not as yet filed their answers. Let it be noted that Caridad J. Torrento adopted plaintiffs-appellees' answer to defendant-appellant's counterclaim as her own. The claim against the Sheriff and Register of Deeds of Quezon City is exclusively against them and any answer of said officials could not be relevant to the resolution of the basic issue which is the validity of the redemption. Indeed, plaintiffs-appellees are not bound to wait for these persons to file their answer which, anyway, are not material to their claim. Under the Rules, plaintiffs-appellees may file a motion for summary judgment "at any time after the pleading in answer" to their claim had been served.

II

Having disposed of this procedural point, We now turn to the basic legal issue — whether or not the plaintiffs-appellees have complied with the requirements of the law relative to the redemption of the real property

in question.

There is no question that Caridad J. Torrento had a perfect right to redeem said property, in view of the provisions of Section 6 of Act. No. 3135, as amended by Act No. 4148, which provides as follows:

"Section 6. In all cases in which an extra-judicial 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 the sale, and such redemption shall be governed by the provisions of sections four hundred and sixty-four to four hundred and sixty-six, inclusive, of the Code of Civil Procedure, in so far as these are not inconsistent with the provisions of this Act."

The right of redemption provided for by the aforequoted provision, like any other property right, may be transferred or assigned by its owner.[17] The transferee of such right stands in the position of a successor-in-interest of the mortgagor within the purview of Section 29 of Rule 39 of the Rules of Court, which states:

"SEC. 29. Who may redeem real property so sold. — Real property sold as provided in the last preceding section, or any part thereof sold separately, may be redeemed in the manner hereinafter provided by the following persons:

(a) The judgment debtor, or his successor in interest in the whole or any part of the property;

* * * * *

This latter provision, which ordinarily refers to redemptions of real property sold on execution of judgments, is likewise applicable to redemption of real property sold on extra-judicial foreclosure of mortgage, by virtue of the afore-mentioned Section 6 of Act No. 3135, as amended, which states that "such redemption shall be governed by the provisions of sections four hundred and sixty-four to four hundred and sixty-six, inclusive, of the Code of Civil Procedure, in so far as these are not inconsistent with the provisions of this Act." Section 464, 465 and 466 of the Code of Civil Procedure are now embodied in Sections 29, 30 and 31 of Rule 39 of the Rules of Court.

We held in *Magno vs. Viola*[18] that the term "successor-in-interest" includes one to whom the debtor has transferred his statutory right of redemption; or one to whom the debtor has conveyed his interest in the property for the purpose of redemption; or one who succeeds to the interest of the debtor by operation of law; or one or more joint debtors who were joint owners of the property sold; or the wife as regards her husband's homestead by reason of the fact that some portion of her husband's title passes to her. There is no question, therefore, that plaintiff-appellee Matilda J. Gorospe is a "successor-in-interest" of the debtor Caridad J. Torrento and as such could exercise the right to redeem the property at any time within the period provided by law.

Appellant, nevertheless, insists that the redemption was made "at a mere fraction of the mortgage debt, one day after the expiration of the right to redeem." Apparently, appellant is of the view that the redemption should have been made on or before March 10, 1961, or within one year from the date of the Sheriff's sale. Time and again, this Court has held that in cases of redemption of registered land, the period should be reckoned from the date the certificate of sale of the property involved was registered, since it is only from the date of its registration that a certificate of sale takes effect as a conveyance.[19] The purpose of the rule is to notify the delinquent registered owners or third parties interested in the redemption that the property had been sold, and that they have one year from the time of constructive notice by means of registration within which to redeem the property, if they wish to do so.[20]

In the case at bar, registration of the certificate of sale in favor of the purchaser at public auction was made only on October 20, 1960. Appellee Matilda J. Gorospe had, therefore, a period of one year from that date within which to exercise the right of redemption assigned to her by Caridad J. Torrento. The redemption having been made on March 10, 1961, it is evident that the same had been timely made.

Equally without merit is appellant's contention that appellees should have paid not only the amount of the purchase price, with interest, but also the amount of the deficiency which is the subject matter of Civil Case No. 6479. In redeeming the property from the purchaser, the judgment debtor must pay the amount of the purchase with one per centum per month interest thereon, up to the time of redemption and the amount of any assessments or taxes which the purchaser may have paid thereon after purchase, and interest on the last named amount at the same rate. Appellee Matilda J. Gorospe cannot be required to pay a greater amount than that imposed upon the judgment debtor. The reason is that, as assignee of such right, the assignee is subrogated to the position of the debtor/mortgagor and is bound by exactly the same conditions that bound the assignor. If the mortgagor, Caridad J. Torrento herself, has offered to redeem the property sold on foreclosure, it would have been untenable for the purchaser at public auction to have refused to resell to her the property on the ground that the total amount of the debt had not been completely paid by her. Apart from the fact that the matter of deficiency is the subject of another case (Civil Case No. 6479), it should be noted that the portion of Section 30 of Rule 39 invoked by appellant is not relevant to the case at bar. Certainly, defendant-appellant cannot be considered a "purchaser who is a creditor having a prior lien to that of the redemptioner, other than the judgment under which such purchase was made * * *" within the meaning and intendment of the Rule. It is not applicable to defendant-appellant because she claims a lien precisely arising from the extra-judicial foreclosure of the mortgage (which is equivalent to the judgment in case of execution of judgment) pursuant to which she purchased said properties.[21] Consequently, Matilda J. Gorospe, as successor-in-interest of the debtor, was bound to pay to the appellant only the amount of the purchase price with the corresponding interest.[22]

The last issue to be disposed of is whether or not the preliminary attachment on the right of redemption, effected in favor of Dolores M. Santos in Civil Case No. 6479, adversely affected the redemption made by Matilda J. Gorospe. The preliminary attachment in question was lifted on March 11, 1961, on motion of Caridad J. Torrento, defendant in Civil Case No. 6479, and upon the filing of a bond. For all intents and purposes, the bond so filed takes the place of the property released from attachment, and secures to Dolores M. Santos the payment of whatever amount may be adjudged in her favor in said case. We do not decide herein the issue of whether or not a preliminary attachment of the right to redeem may be validly effected in favor of a mortgagee at whose instance the foreclosure sale was had, in order to secure the payment of a deficiency.[23] It would be unnecessary for Us to do so, considering that the preliminary attachment has been lifted. It is sufficient to say that appellant has no more right, if she had any to begin with, over the right of redemption exercised by Matilda J. Gorospe.

In a last attempt to repudiate the redemption made by plaintiff-appellee Matilda J. Gorospe, appellant assails the validity of the certificate of redemption issued by the Sheriff on the ground that the same had not been acknowledged before a Notary Public or other officer authorized to take acknowledgments of conveyances of real property. On this point, We agree with the court a quo that this omission is not sufficient cause for the nullification of the redemption. This requirement is only necessary for purposes of registering the deed.

In passing, let it be noted that, notwithstanding that in the case at bar, the parties have, in their respective memoranda, primarily discussed only the issue with respect to the propriety of the rendition of the summary judgment, this Court has deemed it necessary to dispose of the substantive legal issues as well, in order to expeditiously and finally settle the rights of the parties herein. Those questions were raised in the court a quo and are of record, having some bearing on the issue submitted.[24] There is no question that this Court is empowered

to review matters which are not specifically assigned as errors on appeal, when their consideration is necessary in arriving at a just decision of the case.[25]

WHEREFORE, the decision of the court a quo is hereby affirmed, and defendant-appellant Dolores M. Santos is hereby ordered to deliver to plaintiffs-appellees the Owner's Duplicate of Transfer Certificate of Title No. 43761. Costs against defendant-appellant.

Fernando, Barredo, Aquino, and Concepcion, Jr., JJ., concur.

[1] Entitled "Matilda Gorospe and Mariano Gorospe, Plaintiffs, vs. Dolores M. Santos, Defendant; Dolores M. Santos, Counterclaimant, vs. Caridad J. Torrento, the Provincial Sheriff of Rizal, and the Register of Deeds of Quezon City, Defendants."

[2] Section 6 of Act No. 3135, as amended by Act 4118. Cf. Section 25 of Rule 39, now Section 29, Rule 39, of the Revised Rules of Court.

[3] Record on Appeal, p. 2.

[4] Ibid., p. 5.

[5] Ibid., pp. 33-35.

[6] Ibid., p. 35.

[7] Ibid., pp. 38-39.

[8] Ibid., pp. 40-41.

[9] Ibid., pp. 52-56.

[10] Ibid., p. 56.

[11] Ibid., pp. 58-71.

[12] Ibid., p. 82.

[13] Ibid., pp. 90-99.

[14] 3 Moore's Federal Practice, 3174-3175.

[15] Lichauco vs. Olegario, 43 Phil. 540, 546.

[16] Clemente vs. Pascua, L-25153, October 4, 1968, 25 SCRA 422, 427-428.

[17] Barrozo vs. Macaraeg, 83 Phil. 378, 381; Gonzales Diez vs. Delgado & Imperial, 37 Phil. 389; Papa vs. Manalo, 29 Phil. 460; Gomez vs. "La Germinal", et al., 37 Phil. 691; Director of Lands vs. Lagniton, 56 O.G., 24.

[18] 61 Phil. 80, 84-85.

[19] Santos vs. Rehabilitation Finance Corporation, et al., 101 Phil. 980; Garcia vs. Ocampo, et al., 105 Phil. 1102; Agbulos vs. Alberto, 5 SCRA 790.

[20] Santos vs. Rehabilitation Finance Corporation, supra, p. 986.

[21] Gonzales Diez vs. Delgado, et al., supra, p. 401.

[22] Sison, et al. vs. Balgos, 34 Phil. 885.

[23] See Lichauco vs. Olegario, *supra*.

[24] Baquiran vs. Court of Appeals, 2 SCRA 873, 877.

[25] Saura Import and Export Co., Inc. vs. Phil. International Co., Inc., 8 SCRA 143; Miguel vs. Court of Appeals, 29 SCRA 760.

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