

ESTRELLA BENIPAYO RODRIGUEZ, MANUEL D. BENIPAYO, DONATO BENIPAYO, JR., JAIME D. BENI-PAYO, MAXIMA BENIPAYO MORA-LES, AURORA BENIPAYO DE LEON, FRANCISCO D. BENIPAYO, ALEJANDRO D....

G.R. No. L-22958. June 30, 1970

Ponente: DIZON, J.

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DIZON, J.:

The petition for certiorari filed in this case prays for judgment, inter alia, as follows:

"x x x x x declare the order of the respondent judge approving the auction sale of the properties in question null and void and, thereafter, ordering the re-bidding of the properties in question at public auction or the approval of the sale thereof without any condition such that the buyers should assume the liability in favor of the Development Bank of the Philippines;"

The properties sold at public auction are the ones mentioned in paragraph 16 of the petition as follows:

"XVI

That on the date scheduled in the Notice of Sale (Annex 'O'), on the ground that circumstances then prevailing would not enable them to actively participate in the auction sale, petitioners moved for the postponement of the sale, but because of the objection of respondent Benipayo represented by the Ambrosio Padilla Law Offices the postponement was denied and the sale continued as scheduled with Atty. Ambrosio Padilla actively participating therein allegedly not in behalf of his client, respondent Benipayo, but on behalf of the bidder respondent Jose N. Dualan (herein-after referred to as respondent Dualan for the sake of brevity). In the said auction sale, respondent Dualan acting through Atty. Ambrosio Padilla successfully bid for Lot No. 6-B-2, Block No. 2124, covered by Transfer Certificate of Title No. 48979 of the Office of the Register of Deeds of Manila. On the other hand, respondent Vicente Sayson, Jr. (hereinafter referred to as respondent Sayson, Jr. for the sake of brevity) successfully bid for the sale to him of Lot No. 6-A of Block No. 2124, covered by Transfer Certificate of Title No. 48978 of the Office of the Register of Deeds of Manila. Thereafter, the Sheriff of Manila, presented his Return to the respondent judge, copy of which is hereto attached as Annex 'P' and made an integral part here-of;"

It appears that after the respondents, through their respective counsel, filed their answer to the petition for certiorari, the parties submitted their respective memorandum.

On May 8, 1970 the petitioners, jointly with respondents Vicente Sayson and Alberto Benipayo, assisted by their respective counsel, submitted to this Court the following COMPROMISE AGREEMENT:

"COME NOW the petitioners and the respondents Vicente Sayson and Alberto Benipayo, assisted by their respective undersigned counsel, and hereby respectfully submit to this Honorable Court the following compromise agreement:

1. That in consideration of the return to respondent Vicente Sayson of the amount he has paid as consideration for the property co-vered by T.C.T. No. 48978 of the Registry of Deeds for the City of Manila, if is agreed that the auction sale made by the sheriff of Manila on March 30, 1964 insofar as said pro-property covered by T.C.T. No. 48978 is concerned, in which auction sale the said Vicente Sayson was the highest bidder for said property, be considered cancelled and declared of no further force and effect.

2. That as consideration for the said property sold in the abovementioned public auction, the herein respondent Sayson has paid to the sheriff of the City of Manila the sum of One Hundred Seventy Three Thousand Pesos (P173,000.00) which forms part of the sum of Four Hundred Five Thousand Nine Hundred Thirty Four Pesos (P405,934.00) deposited with the Clerk of the Court of First Instance of Manila or the City of Treasurer of Manila.

3. That the herein parties have agreed that the above-mentioned sum of One Hundred Seventy Three Thousand Pesos (P173,000.00), shall be ordered returned to the herein res-pondent Vicente Sayson.

4. That with this compromise agreement, the petition for Certiorari pending before the Honorable Supreme Court has become academic in-sofar as respondent Vicente Sayson is concerned, and, therefore, should be dismissed; and the orders of the Court of First Instance of Manila dated April 28, 1964 and May 16, 1964, which orders are the subject matter of the present case for certiorari, should also be considered vacated and of no further force and effect in-sofar as said Vicente Sayson is concerned.

WHEREFORE, the herein parties respectfully pray:

(1) That this compromise agreement be approved;

(2) That the Clerk of the Court of First Instance of Manila and/or the City Treasurer of Manila be ordered to return to respondent Vicente Sayson the amount of P173,000.00 out of the sum of P405,934.00 deposited by the sheriff of the City of Manila in connection with the auction sale of properties covered by T.C.T. Nos. 48978 and 48979 of the Registry of Deeds for Ma-nila in Civil Case No. 52188 of the Court of first Instance of Manila;

(3) That the present case for Certio-rari be dismissed insofar as said respondent Vicente Sayson is concerned;

(4) That the orders of the Court of First Instance of Manila in Civil Case No. 52188 dated April 28, 1964 and May 16, 1964 be considered vacated and of no further force and effect with respect to respondent Vicente Sayson, and the auction sale in said case dated March 30, 1964 be also considered cancelled and rescinded insofar as the pro-property covered by T.C.T. No. 48978 and insofar as said respondent Vicente Sayson are concerned."

As the other private respondent, Dr. Jose N. Dualan, did not appear to have signed the above Compromise Agree-ment, our resolution of May 19, 1970 required him to com-ment thereon within ten (10) days from notice. Pursuant thereto said respondent submitted on June 5, 1970 his comments paragraph 4 of which reads as follows:

"4. That respondent Dr. Jose N. Dualan does not have any objection to the approval of said Compromise Agreement dated May 7, 1970 which involves a separate and distinct property;"

WHEREFORE, a partial decision in this case is hereby rendered approving the above Compromise Agreement and requiring the parties thereto to comply with the provisions thereof.

This case should be deemed dismissed as against respondent Vicente Sayson Jr.

Without costs.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.

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