

**HEIRS OF ROSALIA A. DONGALLO AND LUIS P. DONGALLO
REPRESENTED BY TERESITA DONGALLO-DE JOYA, PETITIONERS,
VS. HON. MARIA FILOMENA D. SINGH, RTC JUDGE OF QUEZON CITY,
BR. 85, AMY ...**

Ponente: BARRIOS, M. M., J.

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BARRIOS, M. M., J.:

This petition for a writ of certiorari assails the Resolution dated 03 October 2013[1] rendered by the Regional Trial Court (RTC) of Quezon City, Branch 85, in LRC Case No. Q-30984(11)[2] for grave abuse of discretion amounting to lack or in excess of its jurisdiction in denying petitioner's Omnibus Motion[3] for having been filed out of time. Likewise assailed and sought to be enjoined is the Writ of Possession[4] issued on 29 October 2013.

The Antecedents

Petitioners[5] aver that on 13 July 2012, their sibling Teresita D. De Joya received[6] a copy of the Decision[7] dated 17 May 2012 rendered by the court a quo granting private respondent Amy Granada's Petition for the Issuance of a Writ of Possession covering the subject properties. It appeared that Granada was the highest bidder during the public auction sale conducted on 21 June 2007 by the Office of the City Treasurer of Quezon City of tax delinquent real properties, which included the subject properties which are covered by Transfer Certificate of Title Nos. 179989 and 179990 and registered in the name of "Rosalia A. Dongallo married to Luis P. Dongallo".[8] After the one (1) year redemption period had lapsed, a Final Bill of Sale was executed, and hence, TCT No. 179989 of the Dongallo spouses was cancelled and a new title (TCT No. 004-2010010762) was issued in the name of private respondent Granada.[9]

Consequently, on 25 July 2012, petitioners filed an Omnibus (a) Motion for Leave to File Petition for Intervention (b) Motion for Reconsideration of the Decision dated May 17, 2012 (c) Motion to Hold Issuance and/or Enforcement of Writ of Possession[10] on the ground of lack of notice of the tax delinquency and of the conduct of auction sale to the registered owners as well as to the petitioners themselves. Unfortunately, said Omnibus Motion was denied by the trial court in its assailed 03 October 2013 Resolution[11] on the ground that under Section 2, Rule 19 of the Rules of Court, intervention can no longer be permitted after rendition of judgment. Moreover, the ex-parte petition for a writ of possession is a non-litigious proceeding as, in fact, the issuance thereof is a ministerial duty of the court. In any event, the issue of the validity of the auction sale cannot be threshed out in the petition for writ of possession, but more appropriately, in another proceeding for its annulment.

On 21 November 2013, private respondent Sheriff Adenauer G. Rivera served the Notice to Vacate upon Teresita Dongallo-De Joya.[12]

In this petition, petitioners ascribe grave abuse of discretion in denying their omnibus motion. More specifically, petitioners assail the decision granting the writ of possession because they were not summoned nor notified of the proceedings.

On 21 February 2014, this Court denied petitioners' Urgent Motion for Issuance of Temporary Restraining Order.[13] From this order, a motion for reconsideration was filed.

Our Ruling

We deny the petition.

At the onset, We stress that a petition for a writ of possession is ex-parte and summary in nature.[14] After the expiration of the period of redemption and title is consolidated in the name of the winning bidder at the public auction sale, entitlement to the writ of possession is a matter of right.[15] Hence, as long as the verified petition states the facts sufficient to entitle the applicant to the relief requested, the issuance by the court of the writ of possession is a ministerial duty.

As heretofore stated, the proceeding involved is ex-parte and summary in character. As rightly reasoned by respondent court, it is not litigious.[16] The purchaser can demand possession at any time following the consolidation of ownership in his name and the issuance to him of a new TCT.[17] No summons is issued, although the affected party is notified thereof.

Finally, We hold that respondent did not abuse its discretion in not allowing the intervention. It must be remembered that when petitioners filed their motion to intervene, a judgment was already issued directing the issuance of a writ of possession in favor of respondent Amy Granada who is the registered owner of the subject property. The rules expressly provide that intervention is no longer appropriate after trial was finished and a decision has been rendered.

WHEREFORE, premises considered, the petition is DISMISSED. Consequently, with the dismissal of the main petition, the motion for reconsideration of the denial of the injunctive relief has become moot.

SO ORDERED.

Reyes, Jr., (Chairperson) and Pizarro, JJ., concur.

[1] Rollo, pp. 16-18 The dispositive portion reads:

x x x

The Court finds no new issues raised in the Heirs of deceased Spouses Luis Dongallo and Rosalia A. Dongallo's Omnibus Motion that will warrant a reversal of the subject Decision dated 17 May 2012. The Omnibus Motion is denied and the Decision dated 17 May 2012 is declared final and executory. Issue a writ of possession for immediate enforcement.

SO ORDERED.”

[2] Petition for Issuance of Writ of Possession over TCT No. 004-2010010762.

[3] Rollo, pp. 32-36 Omnibus (a) Motion for Leave to File Petition for Intervention (b) Motion for Reconsideration of the Decision dated May 17, 2012 (c) Motion to Hold Issuance and/or Enforcement of Writ of Possession.

[4] Rollo, pp. 19-20.

[5] Rollo, pp. 26-27 Children and heirs of the late Rosalia Dongallo (who died on 8 January 1995 as per Death Certificate) and Luis P. Dongallo (who died on 16 May 1999 as per Death Certificate).

[6] Rollo, p. 31.

[7] Rollo, pp. 28-31 Rendered by RTC of Quezon City, Branch 85, in LRC Case No. Q-30984 (11) with the following dispositive portion:

“WHEREFORE, judgment is hereby rendered granting the petition and hereby directing the issuance of a writ of possession in favor of the petitioner Amy M. Granada over the property covered by Transfer Certificate of Title No. 04-2010010762 of the Registry of Deeds of Quezon City. The Sheriff of this Court is directed to henceforth place the petitioner in possession of the subject property covered by Transfer Certificate of Title No. 04-2010010762 by causing the previous owners Rosalia A. Dongallo married to Luis P. Dongallo, all occupants thereof and other persons claiming rights under them, to vacate the same and surrender the possession thereof in petitioner's favor.

SO ORDERED.”

[8] Rollo, pp. 25 and 37.

[9] Rollo, pp. 28-31 It was stated therein that, the RTC of Quezon City, Branch 95 in Q-28997(10) approved the Final Bill of Sale dated 4 July 2008 and canceled TCT No. 179989. Subsequently, TCT No. 004-2010010762 was issued in the name of Granada on 10 November 2010. The subject property is covered by Tax Declaration Nos. E-097-03953 for the land and D-097-06155 for the improvement.

[10] Rollo, pp. 32-36.

[11] Rollo, pp. 16-18.

[12] Rollo, p. 53 Sheriff's Report dated 2 December 2013.

[13] Rollo, pp. 66-67 Resolution dated 21 February 2014.

[14] LZK Holdings and Development Corporation vs. Planters Development Bank, G.R. No. 187973, 20 January 2014.

[15] Donna Nagtalon vs. United Coconut Planters Bank, G.R. No. 172504, 21 July 2013.

[16] Gregorio Espinoza, etc. vs. United Overseas Bank Phils. G.R. No. 175380, 22 March 2010.

[17] Metropolitan Bank & Trust Company vs. Spouses Edgardo M. Cristobal and Ma. Teresita S. Cristobal, G.R. No. 175768, 11 December 2013.

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