

ARSENIO REYES, PLAINTIFF-APPELLANT, VS. REYNALDO B. CHAVOSO, ET AL., DEFENDANTS-APPELLEES.*G.R. No. L-24507. April 30, 1969*

Ponente: BARREDO, J.

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This is an appeal from the orders of the Court of First Instance of Rizal, Quezon City Branch, in its Civil Case No. Q-7050, dismissing the case as against defendants spouses Reynaldo B. Chavoso and Manolita C. Chavoso, and the Government Service Insurance System (GSIS), on motions to dismiss separately filed by said defendants.

There is no substantial dispute about the ante-cedent facts. It appears that on November 27, 1961, the Sheriff of Quezon City, at the instance of the GSIS, sold at public auction a certain subdivision lot in Diliman, said city, with all the improvements exist-ing thereon, mortgaged to the above-named corporation by the owners-mortgagors ... the spouses Reynaldo B. Chavoso and Manolita C. Chavoso, herein defendants-appellees. Arsenio Reyes acquired the property at the said auction sale; and on December 2, 1961, the city sheriff referred to issued in his favor the corresponding certi-ficate of sale, the conveying portion of which reads as follows:

"SHERIFF'S CERTIFICATE OF SALE

"I HEREBY CERTIFY, that by virtue of the Deed of Real Estate Mortgage duly executed by the spouses REYNALDO B. CHAVOSO MANOLITA C. CHAVOSO, in favor of the GOVERNMENT SERVICE INSURANCE SYSTEM, as security for the payment of the amount of ELEVEN THOUSAND PESOS P11,000.00), Philippine Currency, plus 6% interest per annum, plus 10% of the total amount of indebtedness as attorney's fees, plus all the fees and expenses in connection with the foreclosure and sale; and after giv-ing due notice of the time and place of sale of the mortgaged property as required by law, on the 27th day of November, 1961, I sold at public auction to MR. ARSENIO REYES, Filipino, married to AMAN-DA SANTOS as the highest bidder for the total amount of FOURTEEN THOUSAND FIVE HUNDRED PESOS (P14,500.00), Philippine Currency, the following described pro-perty together with all improvements thereon, to wit:

'TRANSFER CERTIFICATE OF TITLE No. 26484 REGISTRY OF DEEDS FOR QUEZON CITY

'A PARCEL OF LAND (Lot 4, Block S-167 New of the consoli-dated subdivision plan Pcs-2008, being a portion of the consoli-dated Blocks S-37, S-167, S-168 and Lots R-149 and R-278 of plan Psd-7365-B, G. L. R. O. Record No. 7681), situated in the dis-trict of Diliman, Quezon City. Bounded on the N., by Road Lot 288; on the E., by Lot 5, Block S-167 New; on the S., by Lot 3, Block S-1679 New; and on the W., by Road Lot 290, all of the con-solidation-subdivision plan. x x x x containing an area of SIX HUNDRED (600) SQUARE METERS, more or less x x x."

On November 26, 1962, without the knowledge of plaintiff-appellant ... purchaser of the property at the auction sale ... the mortgagors spouses Reynaldo B. Chavoso and Manolita C. Chavoso paid the sum of Sixteen Thousand Two Hundred Forty Pesos (P16,240.00) to the Sheriff of Quezon City who, on the same day, issued in favor of

said spouses a "Certificate of Re-demption" of the land in question. Said certificate was duly annotated at the back of the corresponding original certificate of title with the Register of Deeds of Quezon City. Likewise, the owners' duplicate certificate of title to the property, theretofore re-tained by the GSIS, notwithstanding the auction sale aforementioned, was surrendered by said company to the Register of Deeds of Quezon City upon demand of the latter.

On March 12, 1963, herein appellant (auction-vendee) commenced action for "Recovery of Property" in the Court of First Instance of Rizal against the spouses Reynaldo B. Chavoso and Manolita C. Chavoso, the GSIS, the Register of Deeds of Quezon City, and against the Sheriff of the place alleging, among others, that the defendant Sheriff of Quezon City accepted the alleged redemption price of P16,240.00 illegally, not only because there was no showing that the plaintiff-appellant Arsenio Reyes had unlawfully refused to accept said redemption price, but also because the amount re-ceived by said official was short of the assessment fees, taxes, documentary stamps and commission in favor of the government. Appellant prayed for judgment order-ing the Chavoso spouses "to surrender possession of the premises to the plaintiff"; to pay P400.00 a month for the use and occupation of the premises starting Novem-ber 28, 1962 till they vacate the premises, and to re-mit all rentals collected from tenants therein; and to pay P1,000.00 for attorney's fees and P1,000.00 for every appeal made by defendants. Separate answers were filed by defendants GSIS, Register of Deeds and Sheriff of Quezon City on April 2, 1963, May 14, 1963, and May 31, 1963,[1] respectively. For their part, defendants spouses Reynaldo B. Chavoso and Manolita C. Chavoso filed a mo-tion to dismiss on the grounds that: (1) the complaint of the plaintiff against said defendants spouses states no cause of action; and (2) the claim of plaintiff against them in the sum of P16,240.00 redemption price has been fully and legally paid. This motion was opposed by plain-tiff.

Resolving the motion to dismiss, the court, on May 24, 1963, dismissed the case as against defendants-spouses Reynaldo B. Chavoso and Manolita C. Chavoso. Plaintiff moved for reconsideration; while defendant GSIS, after knowing that the case had been dismissed as against the Chavoso spouses, also moved for the dismissal of the action against it; and the court, in an order dated July 24, 1963, denied plaintiff's motion for reconsideration of the order of dismissal as against the Chavosos and, at the same time, dismissed the case with respect to defend-ant GSIS.

The auction-vendee, Arsenio Reyes, has appealed from both orders.

The law question involved - whether or not the com-plaint filed in the court below states a cause of action against therein defendants - calls for a determination of the issue as to whether on the face of the complaint, it appears that the Chavoso spouses had validly redeem-ed the property, subject matter of the complaint, which would entitle them to the possession and enjoyment of the property. On this point, the trial court held for appellees as follows:

"The instant complaint prays that de-fendants be ordered to surrender posses-sion of the premises in dispute and to order defendants to pay P400.00 a month as monthly rental starting November 28, 1962 until they vacate the premises and attorney's fees. This claim of the plaintiff is anchored on the fact that on November 27, 1961 he acquired through a public auction sale the property in question. The complaint likewise alleges however, that at the back of TCT No. 26484 there is annotated as per entry PE-1120/T-26484 - Certificate of Re-demption by Reynaldo B. Chavoso, ins-cribed on November 23, 1962, and the date of the instrument November 28, 1962. The complaint also alleges that the redemption money was accepted by the Sheriff on November 23, 1962, and in fact a certificate of redemption has been issued on said date by the Sheriff. The cause of action, there-fore, of the plaintiff in the present complaint is based on whether redemp-tion has been made by the defendants within the period required by law. As alleged (in) the complaint the public auction sale was conducted on Novem-ber 27, 1961. Admittedly, the redemp-tion was made by the defendants on No-vember 23, 1962, which is within the one year period prescribed by law for redemption. That being the

case, the complaint in this case can very well be said to have no cause of action, for the very right of plaintiff to divest defendants of their possession of the disputed premises, has been extinguished by the act of redemption made by the defendants and acknowledged by the proper authorities. Of course, it has been mentioned in the complaint that the redemption money is lacking. Suffice it to say that under the provisions of Section 27, Rule 39 of the Rules of Court -

'x x x Written notice of any redemption must be given to the officer who made the sale and a duplicate filed with the registrar of the province, and if any assessments or taxes are paid by the redemptioner, or if he has or acquires any lien other than that upon which redemption was made, notice thereof must in like manner be given to the officer and filed with the registrar of deeds; if such notice be not filed, the property may be redeemed without paying such assessments taxes, or liens.'

In this particular case, redemption has actually been accepted by the Sheriff and, therefore, it could be gleaned that there has been a valid redemption. For that matter, the complaint states no cause of action."

Appellant contends, however, that the redemption made by the appellees spouses Reynaldo B. Chavoso and Manolita C. Chavoso is null and void. It is argued that the Sheriff of Quezon City may lawfully accept the redemption money for the purchaser only (1) if said purchaser unlawfully refuses to accept the redemption money, or (2) if said purchaser had authorized the sheriff to accept such redemption money. We do not agree. No such conditions are imposed by the Rules. On the contrary, Section 31 of Rule 39 expressly provides that the payment of the redemption money may be made to such sheriff, thus:

"Sec. 31. Effect of redemption by judgment debtor, and a certificate to be delivered and recorded there upon. To whom payments on redemption made. - If the judgment debtor redeem, he must make the same payments as are required to effect a redemption by a redemptioner, whereupon the effect of the sale is terminated and he is restored to his estate, and the person to whom the payment is made must execute and deliver to him a certificate of redemption acknowledged or approved before a notary public or other officer authorized to take acknowledgments of conveyances of real property. Such certificate must be filed and recorded in the office of the registrar of deeds of the province in which the property is situated, and the registrar of deeds must note the record thereof on the margin of the record of the certificate of sale. The payments mentioned in this and the last preceding sections may be made to the purchaser or redemptioner or for him to the officer who made the sale." [Underscoring Ours]

We recall that this same argument was hinted in *Javallana vs. Mirasol and Nuñez*,^[2] where it was suggested that the redemption was rendered ineffectual by reason of the fact that the tender of payment was made to the officer who made the sale instead of directly to the purchaser, and this Court held that "it was manifestly unnecessary for the redemptioner to seek out the purchaser for the purpose of making payment to him."^[3] To the same effect was the holding of this Court in *Basco vs. Gonzalez*,^[4] where, in denying a similar contention, it was explained:

"The further contention of the appellant that the redemption made by Gonzalez through the provincial sheriff is not valid, and that redemption could be made legally only through Primicias^[5] x x x, is untenable.

"In the case of *Papa vs. Manalo* (29 Phil. 360, 364), this Court held that although the purchaser of the auction is the only person who has a right to receive the price of the thing redeemed, the redemptioner may, however, deposit it in the hands of the sheriff for its delivery to such purchaser, especially in the case where the latter refuses to receive it, or when for any reason it may be feared that the period for redemption may lapse without its being shown in the authentic manner that the redemptioner has in due course of time complied with his duty to pay the price of the sale and interest thereon."

It will be seen then that the manner in which the redemption in question in the case at bar was made is not only in accordance with the express provision of the Rules of Court, but is likewise sanctioned by decisional dicta.^[6]

Anent the contention that the amount accepted by the Sheriff from the redemptioner in this case failed to include the assessments, taxes and commissions appellant claims to have paid in addition to the purchase price of the auction sale and, for which reason, it is now contended by appellant that the redemption referred to should be deemed ineffectual, the last paragraph of Section 30, Rule 39 of the Rules of Court expressly provides that "if any assessments or taxes are paid by the redemptioner or if he has or acquires any lien other than that upon which the redemption was made, notice thereof must in like manner be given to the officer (who made the sale) and filed with the registrar of deeds; if such notice be not filed, the property may be redeemed without paying such assessments, taxes, or liens." As correctly pointed out by appellees in their briefs, there is no allegation in the complaint filed with the lower court that such notice was made by appellant, and there is no claim made here by appellant that he complied with the requirement of making such notice to the Sheriff of Quezon City before the latter permitted the redemption. So, even on the assumption that appellant had really paid the assessments, taxes and commissions alluded to by him, he cannot now be heard to complain that the said sheriff violated his duty by accepting only the purchase price at the auction sale and the interests thereon, for without the required notice from appellant that he had made additional payments in the form of assessments, taxes and commissions, the sheriff concerned was in no position to know them. Neither is appellant right in saying that he failed to make such notice precisely because he was not aware of the redemption, intimating that it was the duty of either the redemptioner or the sheriff to notify him of the redemption. No such duty devolves upon them; on the contrary, the rule requiring such notice should be taken to mean that a purchaser or redemptioner, in order to protect his rights, must make such notice as soon as any additional payments are made by him, and not only at the time the mortgagor or judgment debtor offers to make the redemption.

We hold that the lower court did not err in holding that on the face of the complaint filed therewith, it appears that a valid redemption had been made by the appellees spouses, hence no cause of action is stated against them therein, and, in dismissing, on such ground said complaint. The same considerations apply as regards the motion to dismiss of the other appellee GSIS.

Order of dismissal affirmed, with costs against appellant.

Reyes, J.B.L., Acting C.J., Dizon, Makalintal, Zaldivar, Sanchez, Fernando, and Teehankee, JJ., concur.

Concepcion, C.J., and Castro, J., on official leave of absence.

Capistrano, J., did not take part.

[1] On May 29, 1963, plaintiff filed a "motion to declare defendant Sheriff of Quezon City in default", but in an order dated June 1, 1963, the court denied the same - holding that the answer filed by said sheriff on May 31, 1963, "may be considered a substantial compliance with the requirements of the Rules."

[2] 40 Phil. 761, 770-771.

[3] See also *Enage vs. Vda. de Hijos de F. Escaño*, 38 Phil. 657, 662.

[4] 59 Phil. 1, 5.

[5] *Primicias* was the purchaser or auction-vendee at the sale questioned in said case.

[6] Cf. *Abiguel Reyes-Gregorio, et al. vs. Arsenio Reyes*, L-24699, March 28, 1969.

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