

ARCELIE B. PARMAN, PETITIONER, VS. CITY TRUST REALTY CORPORATION (NOW BANK OF THE PHILIPPINE ISLANDS) AND HON. FORTUNITO L. MADRONA IN HIS CAPACITY AS PRESIDING JUDGE OF BRANCH ...

Ponente: CASTILLO, M., J.

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CASTILLO, M., J.:

This Petition for Annulment of Final Order[1] under Rule 47 of the Revised Rules of Court, with an application for the issuance of temporary restraining order (TRO) and/or preliminary injunction, seeks to annul the Order[2] dated November 3, 2000 which ordered the issuance of a writ of possession, rendered by the Regional Trial Court (RTC), Branch 274, Parañaque City, in the case docketed as Land Registration Case (LRC) No. 00-0049. It likewise seeks to nullify the Certificate of Sale[3] dated August 13, 1993[4] and prays that the writ of possession and extra-judicial foreclosure be declared null and void.[5]

The antecedent facts are as follows:

On December 5, 1991, petitioner Arcelie B. Parman and her husband, Adan H. Parman, executed a real estate mortgage[6] over their property, including all the improvements thereon, covered by Transfer Certificate of Title (TCT) No. 58076 with an area of Two Hundred Forty Square Meters (240 sq.m.), in favor of Citytrust Banking Corporation, to secure the payment of their bank loan in the amount of Eight Hundred Thousand Pesos (P800,000.00). On December 6, 1991, spouses Parman executed a promissory note[7] for the foregoing loan, which was payable in thirty-six (36) consecutive monthly installments with interest.

Sometime in 1991, the spouses began residing in the subject property, which is located at No. 31 Honduras Street, Betterliving Subdivision, Parañaque City. On October 7, 1992, Citytrust Unibanking Group sent a letter[8] to the aforementioned address, informing petitioner Parman that the check dated September 25, 1992 which she issued was returned due to insufficiency of funds. On February 12, 1993, Citytrust Banking Corporation filed an application for the extra-judicial foreclosure of the mortgaged property.[9] On March 29, 1993, a public auction was held and the subject property was sold for the amount of One Million Twenty Eight Thousand Pesos (P1,028,000.00) to herein private respondent Citytrust Realty Corporation which was the highest bidder. On August 13, 1993, a Certificate of Sale[10] was issued to the latter and the same was registered on September 15, 1993. Prior to the expiration of the one (1) year redemption period, particularly on August 30, 1994, the petitioner paid to Citytrust Banking Corporation the amount of Three Hundred Eighty Three Thousand Seven Hundred Eighty Seven Pesos (P383,787.00), leaving a balance of Nine Hundred Sixty Thousand Five Hundred Sixty Nine and 44/100 Pesos (P960,569.44).[11] Due to the petitioner's failure to redeem the subject property, an Affidavit of Consolidation[12] and TCT No. 139818[13] were issued in favor of private respondent Citytrust Realty Corporation. On April 6, 1996, the private respondent filed with the RTC, Branch 274 of Parañaque City, an application for the issuance of a writ of possession.[14] On April 15, 1996, which was approximately three (3) years after the expiration of the redemption period, Citytrust Insurance Brokers wrote a letter[15] to the petitioner's husband. The letter requested for a confirmation of the renewal of the fire insurance coverage

pertaining to the subject property. On April 6, 2000, the private respondent filed a petition praying for the issuance of a writ of possession.[16] On November 3, 2000, then RTC Judge Amelita G. Tolentino and now Associate Justice of this Court, issued the assailed Order[17], the dispositive portion of which reads:

WHEREFORE, let a Writ of Possession be issued on the property known and denominated as Lot 11, Blk. 13 of the consolidation subdivision plan (LRC) Pcs-3975, being a portion of the consolidation of Psu-101654, and Lot 3, Psu-151351, LRC Rec. Nos. N-1644 and N-12793), situated in the Barrio of Wawa, Municipality of Parañaque, Province of Rizal, which is covered by Transfer Certificate of Title No. 139818 of the Registry of Deeds of Parañaque City as soon as possible.

SO ORDERED.[18]

On November 25, 2001, the petitioner received a Notice to Vacate[19] dated November 15, 2001. On December 3, 2001, spouses Parman filed with the RTC of Parañaque City a Complaint[20] for Injunction with a prayer for the issuance of a TRO and preliminary injunction, but the same did not prosper since the RTC could not enjoin the act of a co-equal court.[21] The same injunction case was filed with this Court (Special Fifth Division) but it was dismissed on July 3, 2002 since injunction was a mere auxiliary remedy and not a principal remedy.[22] On August 8, 2006, the RTC issued an Order granting the Urgent Ex-Parte Motion for the Issuance of an Alias Writ of Possession. On August 14, 2006, an alias writ of possession[23] and notice to vacate[24] were issued.

Hence, this petition.

On August 29, 2006, Parman filed the instant Petition for Annulment of Final Order[25] under Rule 47 of the Revised Rules of Court, with an application for the issuance of a TRO and/or preliminary injunction. On September 22, 2006, this Court (Ninth Division) issued a Resolution[26] denying the petitioner's application for a TRO. On September 26, 2007, Citytrust Banking Corporation sold the subject property to Spouses Lioador and Maria Lea Gatapia.[27] On November 10, 2006, private respondent Citytrust Realty Corporation filed its Comment on the petition in the form of an Answer[28]. It later on filed an Amended Answer[29] on January 18, 2007. On April 10, 2008, this Court (Former Ninth Division) issued a Resolution[30], referring the instant case to the RTC of Parañaque City for pre-trial and reception of evidence, in accordance with Section 6[31], Rule 47 of the Revised Rules of Court. Mediation was conducted but the same was not successful, based on the Mediator's Report dated December 5, 2008[32]. After the pre-trial was terminated on June 11, 2009,[33] the parties proceeded to trial. The petitioner's husband, Adan Parman, testified. On August 13, 2012, the petitioner filed her Formal Offer of Evidence[34], to wit:

Exhibit "A"

- Writ of Possession dated November 3, 2000[35];

Exhibit "B"

- Certificate of Sale dated August 13, 1993[36];

Exhibit "C"

- Alias Writ of Possession issued by the RTC, Branch 274, Parañaque City[37];

Exhibit "D"

- Notice to Vacate dated August 14, 2006[38];

Exhibit "E"

- TCT No. 58076 under the name of spouses Parman[39]

Exhibit “F”

- Notice to Vacate dated November 15, 2001;[40]

Exhibit “G”

- Letter dated October 7, 1992 sent by Citytrust Banking Corporation to the petitioner;[41]

Exhibit “H”

- Certificate of Sale dated August 13, 1993;[42]

Exhibit “I”

- Receipt/Statement of Account, dated June 7, 1996, which Citytrust Banking Corporation issued to Adan Parman;[43] and

Exhibit “J”

- Letter sent by Citytrust Insurance Brokers Corporation, a subsidiary corporation of the private respondent, to spouses Parman notifying the latter of the automatic renewal of the fire insurance coverage pertaining to the subject property.[44]

The private respondent did not present any witness.[45] On December 9, 2013, the private respondent filed its Formal Offer of Evidence[46], as follows:

Exhibit “1”

- Real Estate Mortgage dated December 5, 1991;[47]

Exhibit “2”

- Promissory Note executed by spouses Parman;[48]

Exhibit “3”

- TCT No. 58076 in the name of spouses Parman;[49]

Exhibit “4”

- Affidavit of Consolidation;[50]

Exhibit “5”

- TCT No. 139818 in the name of private respondent Citytrust Realty Corporation;[51]

Exhibits “6” and “7”

- Demand Letters, both dated January 7, 200 (sic), addressed to spouses Parman;[52]

Exhibit “8”

- Complaint for injunction, dated December 3, 2001, filed by spouses Parman with the RTC and docketed as Civil Case No. 01-0431;[53]

Exhibit “9”

- private respondent Citytrust Realty Corporation's Answer to Complaint;[54]

Exhibit “10”

- Decision, dated July 3, 2002, rendered by this Court (Special Fifth Division), pertaining to the Petition filed by spouses Parman against Citytrust Realty Corporation and Hon. Amelita G. Tolentino, docketed as CA-G.R. SP No. 68150;[55]

Exhibit “11”

- Petition, dated December 13, 2001, filed by spouses Parman against Citytrust Realty Corporation and Hon. Amelita G. Tolentino, docketed as CA-G.R. SP No. 68150;[56]

Exhibit “12”

- Citytrust Realty Corporation's Comment on the Petition, dated February 1, 2002, in the case docketed as CA-G.R. SP No. 68150;[57]

Exhibit “13”

- Final Sheriff's Return dated July 4, 2003, showing that the implementation of the writ of possession[58] dated October 10, 2001 was not satisfied;[59] and

Exhibit “14”

- Entry of Judgment for the case docketed as CA-G.R. SP No. 68150, showing that the Decision dated July 3, 2002 has become final and executory on July 26, 2002.[60]

The petitioner alleges that the instant Petition for Annulment of Final Order is grounded on lack of jurisdiction and extrinsic fraud. The petitioner was prevented from participating in the foreclosure proceedings. The notices were not sent to the correct address of the petitioner. There were no publication and posting of notices which are both required in an extra-judicial foreclosure of mortgage. The petitioner was denied the right to due process.[61] The lack of notices and publication violated Section 3[62] of Act No. 3135, as amended by Act 4118. The petitioner verified with the Office of the Sheriff of RTC Makati and she was informed that there was no record of any notice or publication pertaining to the extra-judicial foreclosure. The private respondent claims that the required posting of notices and publication were complied with but it failed to attach any paper to its pleadings to prove its alleged compliance.[63] The Supreme Court has ruled that failure to publish a notice of the auction sale constitutes a jurisdictional defect which renders the sale invalid.[64] Thus, the extra-judicial foreclosure is a nullity and did not entitle the private respondent to a writ of possession. Aside from the aforementioned jurisdictional defect, the private respondent also defrauded the petitioner by luring her to pay the amount of Three Hundred Eighty Three Thousand Seven Hundred Eighty Seven Pesos (P383,787.00) despite the fact that the bank has already initiated a foreclosure proceeding. On August 30, 1994, the petitioner paid the said amount in good faith. The payment was made prior to the expiration of the redemption period which was on September 15, 1994.[65] The petitioner also received from Citytrust Insurance Brokers a letter of renewal of the fire insurance coverage in 1996 which was after the expiration of the redemption period. This gave the petitioner the impression that she was still a mortgagor in good standing. Hence, she paid the insurance premiums. Admittedly, the issuance of a writ of possession is ministerial. However, the petitioner avers that it cannot be acquired by an entity which is not a legal purchaser at a public auction. There was no valid extra-judicial foreclosure due to fraud and absence of notices and/or publication. Thus, the writ of possession is likewise invalid.[66]

On the other hand, in its Amended Answer[67], private respondent Citytrust Realty Corporation alleges that the petitioner has the burden of proving that the auction sale was null and void due to the alleged lack of posting and/or publication of the notice of the foreclosure sale. The Ex-Officio Sheriff who conducted the foreclosure sale and the Executive Judge who signed the certificate of sale are presumed to have performed their duties.[68] It is not necessary to personally notify the mortgagors of the auction sale. The sale was legal and valid. The petitioner

admitted having made a partial payment in the amount of Three Hundred Eighty Seven Thousand Seven Hundred Eighty Seven Pesos (P387,787.00) out of the sum of Nine Hundred Sixty Thousand Five Hundred Sixty Nine and 44/100 Pesos (P960,569.44) for the full redemption of the subject property.[69] Thus, she is deemed to have prior knowledge of the foreclosure proceedings. The petitioner failed to redeem the subject property prior to the expiration of the redemption period. Thereafter, the title thereto was consolidated in the private respondent's name, thus, entitling the latter to the issuance of a writ of possession and the implementation of the assailed Order. The petitioner is in estoppel. She has no cause of action in the filing of the present petition. Assuming that she has a cause of action, the same has already prescribed.[70] The instant petition should have been instituted within four (4) years from the time she had knowledge of the assailed RTC Order (Annex "A" of the instant petition) and of the foreclosure sale, or from the time she made a partial payment on August 30, 1994. Any question on the validity of the foreclosure sale cannot be used as a ground for opposing the issuance of a writ of possession or invalidating the assailed Order. The petitioner filed a Complaint[71] with the RTC which was docketed as Civil Case No. 01-0431. It must be noted that the petitioner's causes of action as stated in her Complaint are the same causes of action which she raised in the present petition. The aforementioned Complaint, where she prayed for the issuance of an injunction, was dismissed. The petitioner also filed a petition with this Court which was docketed as CA-G.R. SP No. 68150[72], where she prayed for the issuance of a TRO/writ of preliminary injunction in connection with the execution of the writ of possession and eviction of spouses Parman from the subject property, based on the same grounds which she raised in the instant petition.[73] The foregoing petition (CA-G.R. SP No. 68150) was dismissed by this Court in its Decision dated July 3, 2002.[74] Thus, the instant petition is barred by res judicata. The petitioner has no legal capacity to file the present petition since she was not joined by her spouse. She is also guilty of forum shopping. The petitioner failed to indicate in the Verification and Certification of Non-Forum Shopping the fact that she filed the aforementioned complaint with the RTC and petition with this Court. The instant petition was filed to harass and/or mulct money from the private respondent.[75]

We deny the petition.

Firstly, the petitioner availed of the wrong remedy. The present petition for annulment of final order under Rule 47 of the Revised Rules of Court may only be availed of in specific instances. Under Section 1 of Rule 47, a party may resort to the foregoing remedy only when "the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner"[76]. The petitioner failed to avail of the foregoing remedies. In *Dare Adventure Farm Corporation v. CA*, the Supreme Court upheld this Court's dismissal of the petition under Rule 47 since the "petitioner did not show why it had not availed itself of the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies"[77]. In *Pinausukan Seafood House v. Far East Bank & Trust Company, et. al.*, the Supreme Court held that "[a] petition for annulment of judgment is a remedy in equity so exceptional in nature that it may be availed of only when other remedies are wanting" and that "[a] petition for annulment that ignores or disregards any of the safeguards cannot prosper"[78].

Similar to the instant petition is the case of *Metropolitan Bank and Trust Company v. Spouses Bance*, where the respondents therein filed a petition with this Court seeking to annul the RTC Order, which affirmed the issuance of the writ of possession. They alleged that there was extrinsic fraud in securing the writ because the fact of foreclosure of the mortgage was deliberately withheld from them. This Court declared the foreclosure of mortgage null and void and annulled the RTC Order. However, the Supreme Court reversed this Court's Decision. The Supreme Court ruled that the respondents pursued the wrong remedy of filing a petition under Rule 47 and that "[u]nder Section 8 of Act No. 3135, as amended, in case it is disputed that the writ of possession was irregularly issued, the mortgagor may file with the trial court that issued the writ a petition to set aside the sale and to cancel the writ of possession within 30 days after the purchaser-mortgagee was given possession"[79].

Moreover, it is worthy to note the following statements in the instant petition:

This is a Petition brought under Rule 47 of the Revised Rules of Court for the nullification of the Writ of Possession[80] dated November 3, 2001[81] issued by the Regional Trial Court, Branch 247 of Parañaque City, and the nullification of the Certificate of Sale[82] registered on September 15, 1993 by the Office of the Provincial Sheriff of Makati. Petitioner availed of this remedy because ordinary remedies such as new trial, appeal, petition for relief from judgment or other appropriate remedies for that matter are no longer available without the fault of the petitioner. xxx”

The foregoing declarations do not show why ordinary or other appropriate remedies were no longer available or not availed of through no fault of the petitioner. On the contrary, the petitioner was at fault when she erroneously filed the following cases, as outlined in the instant petition itself, to wit:

l) On December 3, 2001, petitioner filed an injunction case with RTC Branch 257 of Parañaque City against private respondent but the said case did not prosper for a co-equal court cannot enjoin the act of another court.

m) The same case of injunction was erroneously brought by the counsel of the petitioner with the Honorable Court of Appeals, 5[th] Division, but the same case was dismissed[83] on July 3, 2002 considering that Injunction is a mere auxiliary remedy.[84]

Akin to a special civil action of certiorari, a petition for annulment of final orders, “cannot be used as a substitute for a lost appeal where the latter remedy is available; especially if such loss or lapse was occasioned by one’s own negligence or error in the choice of remedies”[85]. In fact, when this Court (Special Fifth Division) dismissed herein petitioner’s action for the issuance of a writ of permanent prohibitory injunction in CA-G.R. SP No. 68150, the Decision therein already stated that “[w]hile this Court commiserates with the plight of the petitioners, the latter did not opt to avail of any principal remedy (like annulment of the foreclosure sale) to protect their interests”[86]. However, the petitioner still failed to file an action for annulment of the extra-judicial foreclosure proceedings which is within the jurisdiction of the RTC. Indeed, a petition for annulment of final orders of the RTC “is a remedy granted only under exceptional circumstances and such action is never resorted to as a substitute for a party’s own neglect in not promptly availing of the ordinary or other appropriate remedies”[87]. In the instant petition, not only was an appeal available to herein petitioner but she also failed to sufficiently show the circumstances that would justify the filing of a petition for annulment of final order instead of an appeal. The petitioner’s erroneous filing of cases in the RTC and this Court does not justify the filing of the present petition.

In the instant petition under Rule 47, Parman seeks to nullify the Certificate of Sale[88] and prays that “a Resolution be issued DECLARING the assailed WRIT OF POSSESSION and the EXTRA-JUDICIAL FORECLOSURE as NULL AND VOID”[89]. Based on the foregoing, it appears that the petitioner is attempting to create a case for the nullification of the writ of possession and certificate of sale as well as the annulment of the extra-judicial foreclosure proceedings, which are within the jurisdiction of the RTC. In *Guiang v. Co*, the Supreme Court held that Rule 47 “does not apply to an action to annul the levy and sale at public auction of petitioner’s properties or the certificate of sale executed by the deputy sheriff over said properties. Neither does it apply to an action to nullify a writ of execution because a writ of execution is not a final order or resolution, but is issued to carry out the mandate of the court in the enforcement of a final order or of a judgment”[90]. Akin to the foregoing case, the instant petition under Rule 47 is also not the proper remedy to annul the foreclosure proceedings or nullify a writ of possession.

Secondly, even assuming that a petition under Rule 47 is the correct remedy, the annulment of the RTC Order on the ground of extrinsic fraud must still fail, considering that the period for filing the same had already lapsed. Section 3 of Rule 47 provides that “[i]f based on extrinsic fraud, the action must be filed within four (4) years

from its discovery”. The petitioner avers that there was extrinsic fraud which denied her right to due process of law. She maintains that she and her husband had no knowledge of the foreclosure proceedings.[91] However, the records show that spouses Parman discovered the fact of foreclosure of the mortgage as early as June 7, 1996, when Citytrust Banking Corporation gave them the Receipt/Statement of Account (Exhibit “I”)[92]. During the trial, witness Adan Parman testified, as follows:

Atty. Atienza:

Q:

In other words, Mr. Witness, upon receipt from the bank of your Exhibit “I”, you immediately came to know that the mortgaged property was foreclosed, is it not?

(Court interpreter translating the question in tagalog.)

Witness A. Parman:

A:

Yes, doon mismo sa bank, pagbayad ko ng three hundred eighty [thousand], that's the time na nalaman ko na. The same day.[93]

Despite discovering on June 7, 1996 the alleged fraudulent act of foreclosing the subject property without the petitioner's knowledge, the latter filed the instant petition on the ground of extrinsic fraud only on August 29, 2006, which was more than four (4) years or more than a decade later. Consequently, it appears that there is no extrinsic fraud since the petitioner had the opportunity to assert her rights in the proper forum but failed to do so due to her own fault. In *Amihan Bus Lines, Inc. v. Romars International Gases Corporation, et al.*, extrinsic fraud was defined as follows:

“It is doctrinal that the fraud that will justify annulment of a judgment is extrinsic fraud. Extrinsic fraud refers to any fraudulent act of the prevailing party in litigation committed outside of the trial of the case, whereby the defeated party is prevented from fully exhibiting his side of the case by fraud or deception practiced on him by his opponent, such as by keeping him away from court, by giving him a false promise of a compromise, or where the defendant never had the knowledge of the suit, being kept in ignorance by the acts of the plaintiff, or where an attorney fraudulently or without authority connives at his defeat.”[94] (Emphasis supplied.)

As discussed above, the petitioner became aware of the foreclosure proceedings as early as June 7, 1996, which was prior to her receipt of the Notice to Vacate on November 25, 2001 as well as the issuance of the assailed RTC Order dated November 3, 2000. She failed to diligently intervene or file the appropriate pleadings to assert her rights over the subject property. She may not now file the petition under Rule 47 since, to repeat, it is “a remedy in equity so exceptional in nature that it may be availed of only when other remedies are wanting xxx”.[95]

Finally, the RTC Order may not be annulled on the ground of lack of jurisdiction. The RTC has jurisdiction over an application for a writ of possession. In *Mandy Commodities Co., Inc. v. The International Commercial Bank of China*, the Supreme Court ruled as follows:

In this light, inasmuch as the petition questioned the manner by which the trial court arrived at the issuance of its orders, it is unmistakable that petitioner, in effect, acknowledged that the trial court possessed jurisdiction to take cognizance of respondent’s application for a writ of possession.

It is also unmistakable that the trial court, in which jurisdiction over applications for writs of possession is by law vested, had acquired jurisdiction over the subject matter of respondent's application merely upon its filing.

xxx The purported errors that it may have incidentally committed do not negate the fact that it had, in the first place, acquired the authority to dispose of the application and that it had since retained such authority until the assailed orders were issued. Such errors, if indeed there were, are nevertheless mere errors of judgment which are correctible by an ordinary appeal before the Court of Appeals, a remedy that was then available to petitioner, and not by a petition for annulment under Rule 47. Furthermore, the order granting a petition for a writ of possession is a final order from which an appeal would be the proper and viable remedy.[96](Emphasis supplied.)

It is worthy to note that in this Court's Resolution[97] dated September 22, 2006, We declared the following[98]:

xxx The order for a writ of possession is rendered as a matter of course upon the filing of motion and approval of the bond.[99] The judge to whom an application for the writ is filed need not look into the validity of the mortgage or the manner of its foreclosure.[100] No discretion is left to the trial court. To underscore the writ's ministerial character, the Supreme Court ruled that the issuance of the same could not be stayed by a pending action for annulment of foreclosure of mortgage.[101] An injunction to prohibit the issuance of the writ is even disallowed.[102] xxx

xxx Once the writ has been issued, the court has no alternative but to enforce it without delay.[103] (Emphasis supplied.)

The Supreme Court “has consistently held that the duty of the trial court to grant a writ of possession is ministerial xxx. Any question regarding the regularity and validity of the sale, as well as the consequent cancellation of the writ, is to be determined in a subsequent proceeding as outlined in Section 8 of Act 3135.[104]”[105] It is also significant to note that the issuance of a writ of possession is an ex parte proceeding.[106] Thus, there is no credence in the petitioner's allegation that she was denied the right to due process and “not given her day in court to participate in the issuance of the assailed writ of possession”[107]. We emphasize that prior to the filing of the instant petition on August 29, 2006, the petitioner failed to avail of the appropriate remedy. The petitioner did not assert her rights although she had knowledge of the foreclosure proceedings as early as June 7, 1996, and despite being made aware of the assailed RTC Order dated November 3, 2000 when the petitioner received the Notice to Vacate on November 25, 2001[108].

All told, there is no basis in granting the instant petition for annulment of the assailed RTC Order.

WHEREFORE, premises considered, the petition is DENIED. The assailed Order[109] dated November 3, 2000 rendered by the RTC, Branch 274, Parañaque City, in the case docketed as LRC No. 00-0049, is AFFIRMED.

SO ORDERED.

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

[1] Rollo, pp. 2-44.

[2] Annex “A” of the Petition, Rollo, pp. 16-17.

[3] Rollo, p. 18.

[4] Rollo, p. 3.

[5] Rollo, p. 13.

[6] Rollo, pp. 69-72.

[7] Rollo, pp. 73-74.

[8] Rollo, p. 25.

[9] Rollo, p. 6; Records, p. 411.

[10] Rollo, p. 26.

[11] Rollo, p. 27.

[12] This was not attached to the records of this case but allegedly formed part of the records of LRC Case No. 00-0049, Records, pp. 583-584.

[13] This was not attached to the records of this case but allegedly formed part of the records of LRC Case No. 00-0049, Records, pp. 583-584.

[14] Rollo, p. 7.

[15] Rollo, p. 28.

[16] Records, p. 532.

[17] Rollo, pp. 16-17.

[18] Rollo, p. 17.

[19] Rollo, p. 24.

[20] Rollo, pp. 75-84.

[21] Rollo, p. 7.

[22] Rollo, p. 32.

[23] Rollo, p. 19.

[24] Rollo, p. 20.

[25] Rollo, pp. 2-44.

[26] Rollo, pp. 46-47.

[27] Records, pp. 412 and 415.

[28] Rollo, pp. 58-98.

[29] Rollo, pp. 105-121.

[30] Rollo, pp. 131-132.

[31] Section 6, Rule 47 of the Revised Rules of Court reads:

SEC. 6. Procedure --- The procedure in ordinary civil cases shall be observed. Should a trial be necessary, the reception of the evidence may be referred to a member of the court or a judge of Regional Trial Court.

[32] Records, p. 323.

[33] Rollo, p. 140.

[34] Records, pp. 462-481.

[35] Records, pp. 469-470. This properly pertains to the RTC Order on the issuance of a writ of possession.

- [36] Records, p. 471.
- [37] Records, p. 472.
- [38] Records, p. 473.
- [39] Records, p. 474-476.
- [40] Records, p. 477.
- [41] Records, p. 478.
- [42] Records, p. 479. This is the same document referred to as Exhibit “B”, Records, p. 471. [43]Records, p. 480.
- [44] Records, p. 481.
- [45] Records, p. 525.
- [46] Records, pp. 526-581.
- [47] Rollo, pp. 69-72.
- [48] Rollo, pp. 73-74.
- [49] Records, p. 474-476.
- [50] This was not attached to the records of this case but allegedly formed part of the records of LRC Case No. 00-0049, Records, p. 528.
- [51] Ibid.
- [52] Ibid.
- [53] Records, pp. 530-535.
- [54] Records, pp. 536-549.
- [55] Rollo, pp. 30-33.
- [56] Records, pp. 564-581.
- [57] Records, pp. 550-560.
- [58] Records, p. 562.
- [59] Records, pp. 561-562.
- [60] Records, p. 563.
- [61] Rollo, pp. 4-5.
- [62] Section 3 of Act No. 3135, as amended by Act No. 4118, reads:
- Sec. 3. Notice shall be given by posting notices of the sale for not less than twenty days in at least three public places of the municipality or city where the property is situated, and if such property is worth more than four hundred pesos, such notice shall also be published once a week for at least three consecutive weeks in a newspaper of general circulation in the municipality or city.
- [63] Rollo, p. 9.

[64] Rollo, p. 10.

[65] Rollo, p. 10.

[66] Rollo, p. 11.

[67] Rollo, pp. 105-121.

[68] Rollo, pp. 110-111.

[69] We note that based on the Receipt/Statement of Account (Exhibit/Annex "I"), the amount of P960, 569.44 more accurately pertains to the total amount due as of June 7, 1996, while the total redemption price as of August 1994 was P1,156,501.00, Rollo, p. 27.

[70] Rollo, p. 111.

[71] Rollo, pp. 75-84.

[72] Rollo, pp. 30-33.

[73] Rollo, pp. 112-113.

[74] Rollo, pp. 30-33.

[75] Rollo, p. 113.

[76] Section 1, Rule 47 of the Rules of Court reads:

SECTION 1. Coverage. This Rule shall govern the annulment by the Court of Appeals of judgments or final orders and resolutions in civil actions of Regional Trial Courts for which the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner.

[77] G.R. No. 161122, September 24, 2012.

[78] G.R. No. 159926, January 20, 2014.

[79] G.R. No. 167280, April 30, 2008.

[80] Annex A and Series (Certified True Copy attached). We note that Annex "A" more accurately pertains to the RTC's Order dated November 3, 2000 in LRC Case No. 00-0049, which ordered the issuance of the writ of possession. Rollo, pp. 16-17.

[81] This correctly pertains to year 2000.

[82] Annex B (Certified True Copy attached). Rollo, p. 18.

[83] Annex K and series. Rollo, pp. 29-32.

[84] Rollo, p. 7.

[85] G.R. No. 166734, July 3, 2009.

[86] Rollo, p. 32.

[87] Spouses Manila v. Spouses Manzo, G.R. No. 163602, September 7, 2011.

[88] Rollo, p. 3.

[89] Rollo, pp. 12-13.

[90] G.R. No. 146996, July 30, 2004.

[91] Rollo, p. 7.

[92] Records, p. 480; Rollo, p. 27.

[93] Transcript of Stenographic Notes (TSN) dated July 16, 2012, p. 25.

[94] G.R. No. 180819, July 5, 2010.

[95] People, et al. v. Bitanga, G.R. No. 159222, June 26, 2007.

[96] G.R. No. 166734, July 3, 2009.

[97] Rollo, pp. 180-182.

[98] Rollo, pp. 181-182.

[99] Id.

[100] Id.

[101] Autocorp Group v. Court of Appeals, 437 SCRA 678; Ong v. Court of Appeals, 333 SCRA 189.

[102] Id. See also supra, Chailease Finance Corporation v. Ma.

[103] Supra, Ong v. Court of Appeals.

[104] Section 8 of Act 3135 reads:

Section 8. Setting aside of sale and writ of possession. – The debtor may, in the proceedings in which possession was requested, but not later than thirty days after the purchaser was given possession, petition that the sale be set aside and the writ of possession cancelled, specifying the damages suffered by him, because the mortgage was not violated or the sale was not made in accordance with the provisions hereof, and the court shall take cognizance of this petition in accordance with the summary procedure provided for in section one hundred and twelve of Act Numbered Four hundred and ninety-six; and if it finds the complaint of the debtor justified, it shall dispose in his favor of all or part of the bond furnished by the person who obtained possession. Either of the parties may appeal from the order of the judge in accordance with section fourteen of Act Numbered Four hundred and ninety-six; but the order of possession shall continue in effect during the pendency of the appeal. (Emphasis supplied)

[105] Spouses Samson and Rempson Realty & Development Corporation v. Judge Rivera,, et. al., G.R. No. 154355, May 20, 2004.

[106] Ibid.

[107] Rollo, p. 8.

[108] Rollo, p. 5.

[109] Annex “A” of the Petition, Rollo, pp. 16-17.

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