

SOSTENES CAMPILLO, PLAINTIFF AND APPELLEE, VS. PHILIPPINE NATIONAL BANK AND THE REGISTER OF DEEDS OF PASAY CITY, DEFENDANTS, PHILIPPINE NATIONAL BANK, DEFENDANT AND APPELLANT.

G.R. No. L-19890. May 21, 1969

Ponente: DIZON, J.

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DIZON, J.:

Appeal taken by the Philippine National Bank, hereinafter referred to as the Bank, from the decision of the Court of First instance of Manila in Civil Case No. 43301 commenced against it and the Register of Deeds of Pasay City by appellee Sostenes Campillo on June 2, 1960. The dispositive portion thereof reads as follows:

"IN VIEW OF ALL THE FOREGOING, this Court hereby renders judgment as follows:

- (1) Declaring that plaintiff is the owner of the property covered by Transfer Certificate of Title No. 8067 of the Office of the Register of Deeds of Pasay City;
- (2) Ordering the Register of Deeds of Pasay City to cancel the said transfer certificate of title and to issue thereof another in favor of plaintiff Sostenes Campillo, subject only to the mortgage encumbrance of the Philippine National Bank;
- (3) Sentencing the defendant Philippine National Bank to pay the plaintiff attorney's fees in the amount of One Thousand Pesos (P1,000.-00), and the costs of this action; and
- (4) Absolving the defendant Register of Deeds of Pasay City.

The damages prayed for by the plaintiff are denied.

The counterclaim interposed by the defendant Philippine National Bank is dismissed for lack of merit.

SO ORDERED."

The following antecedent facts are not disputed:

On May 5, 1959 the Court of First Instance of Manila rendered decision in Civil Case No. 35447 entitled "Sostenes Campillo, plaintiff vs. Justiniano D. Quirino, defendant", as follows:

"WHEREFORE, the Court hereby approves the foregoing compromise agreement and renders judgment in conformity therewith, and directs the parties to comply with the terms thereof. The defendant is further adjudged to pay the amount of P2,000.00 as attorney's fees." (Exhs. A and A-1).

The compromise agreement approved by the Court provided, inter alia, the following:

- "4. That the parties hereby agree that the total of defendant's indebtedness to the plain-tiff under the first, second and third causes of action referred to in the preceding three paragraphs hereof, is in the amount of

P45,837.28 as of August 31, 1957;

"5. That the parties hereby agree that the said amount of P45,837.28 shall earn interest at the rate of 12% per annum, from August 31, 1957 up to March 1, 1958. After March 1, 1958, the said amount of P45,837.28, shall earn in-terest at the rate of 6% per annum up to the time the said amount of P45,837.28 is fully paid, but the accrued interests up to March 1, 1958 shall not earn interest;

x x x x x

"7. That the defendant obliges and binds himself to pay unto the plaintiff the full amount of P45,837.28, together with the sti-pulated interests from August 31, 1957, up to the time full payment is made, and the amount of attorney's fees that might be fixed by this Honorable Court, within a period of six (6) months from the date of the judgment of this Honorable Court approving this compromise agree-ment;

"8. That, it being the intention of the parties not to embarrass the defendant in the negotiation of certain pending business tran-sactions, the parties agree, and accordingly pray that no judgment approving this compromise agreement be rendered earlier than three months from submission hereof;

"9. That the parties hereby agree that in case defendant fails and/or refuses to pay the amount of P45,837.28, together with the stipulated interests and attorney's fees within the 6-month period provided for in this agree-ment, a writ of execution shall be issued by the Court against the defendant for the pay-ment of the said amount of P45,837.28, the sti-pulated interests and attorney's fees."

As the abovementioned decision became final and executory, the corresponding writ of execution was issued, and pursuant to it the Sheriff of Manila levied on certain personal properties of the judgment debtor which, upon sale at public auction, netted only the amount of P1,031.55, with which the judgment was partially satisfied.

On March 15, 1960 an alias writ of execution was issued, pursuant to which the Sheriff of Pasay City, on March 16, 1960, attached end levied - the attachment and notice of levy having been registered on the same date - all the rights, title, interest and participation of the judgment debtor, Jus-tiniano D. Quirino, in a parcel of land and its improvements situated in San Roque, Pasay City, and more particularly described in and covered by T.C.T. No. 236-A by the Re-gister of Deeds of said City in the name of Quirino. On that date the only encumbrance duly annotated on the aforesaid certificate of title was a mortgage in favor of the Bank exe-cuted by Justiniano D. Quirino and his wife, to secure the payment of the sum of P13,000.00. Thereafter, the required notice of sale was duly published, setting the sale at public auction of the property levied upon on April 8, 1960 at 10 o'clock in the morning in the City Hall building of Pasay City.

On April 5, 1960 the Bank filed a third party claim, stating therein that it was the mortgagee of the property described in the notice of sale. This notwithstanding - and presumably because the required indemnity bond was filed by the judgment creditor - the execution sale was made as scheduled on April 8, 1960 at eight o'clock in the morning, the property having been sold to the highest bidder - the judgment creditor - who assumed the mortgage with which the property was burdened. The certificate of sale dated April 8, 1960 (Exhibit H) was duly registered in the Office of the Register of Deeds of Pasay City on April 12 of the same year.

Desiring to pay the mortgage obligation already mentioned, appellee requested the Bank to inform him about the exact amount of the mortgage debt or of the unpaid balance thereof as of April 8, 1960, but the Bank refused to do so claiming at that time that it already owned the property having purchased it in an extra-judicial foreclosure sale. In view of this turn of events, appellee commenced the present action on June 2, 1960 praying for judgment as follows:

"WHEREFORE, it is respectfully prayed:

1. That defendant be ordered to furnish the plaintiff with the exact amount of the mortgage he has assumed as of April 8, 1960 so that the same may be liquidated by said plaintiff;
2. That plaintiff be declared a redemptioner, entitled to redeem the property from the defendant by paying the amount of the mortgage he has assumed, which may be done after said defendant shall have furnished plaintiff with the said amount of the mortgage; and that the false claim of defendant be declared as unfounded, malicious and made in bad faith in order to protect third person;
3. That defendant be condemned to pay the herein plaintiff actual damages in the amount of P20,000.00 and exemplary damages to the tune of P10,000.00;
4. That defendant be condemned to pay plain-tiff attorney's fees in the amount of P3,000.00, together with the costs of the proceedings; and
5. That plaintiff be granted such other and further relief as may in law and equity be deemed justifiable under the premises."

In the meantime the one year period of redemption specified in the certificate of sale (Exhibit H) of April 8, 1960 expired without any party redeeming the property from the purchaser - the herein appellee. As a result, on April 13, 1961 the Sheriff of Pasay City executed the corresponding deed of final sale (Exhibit M-3). On May 27 of the same year the trial court, upon appellee's motion, directed the Sheriff of Pasay City to deliver to him the possession of the property, together with its improvements. This was done by said officer on June 2, 1961 (Exhibit P).

After receiving the deed of final sale mentioned above, appellee presented it for registration to the Register of Deeds of Pasay City on April 18, 1961. As in this connection he was required to comply with the provisions of Section 78 of Act 496, on April 28, 1961 he filed in the Court of First Instance of Rizal (Pasay City Branch) "A Petition for Entry of New Certificate of Title Under Section 78, Act 496". After due hearing with previous notice served upon the Register of Deeds of said city, the Court issued on May 9, 1961 an order directing the latter to cancel T.C.T. No. 236-A and to issue in lieu thereof another certificate in the name of appellee. However, said officer refused to comply with said order unless the owner's duplicate of T.C.T. No. 236-A - which was in the possession of the Bank - was surrendered to his office. Appellee's request for the delivery of said owner's duplicate made upon the Bank was, however, denied by the latter.

It turned out, on the other hand, that on July 6, 1961, without any kind of notice served upon appellee, the Register of Deeds of Pasay City cancelled T.C.T. No. 236-A and in lieu thereof issued T.C.T. No. 8067 in favor of the Bank. In view thereof, appellee caused a notice of lis pendens to be registered in the record of this case and to be annotated on the new T.C.T. No. 8067.

The answer filed by the Bank in Civil Case No. 43301 of the Court of First Instance of Manila - now before Us on appeal - set forth its defense as follows:

"SPECIAL AND AFFIRMATIVE DEFENSES defendant respectfully alleges:

10. That on December 17, 1958 by virtue of an extra-judicial foreclosure sale of the real estate properties described in Transfer Certificate of Title No. (12280) 236-A of the Office of the Register of Deeds of Pasay City and referred to in par. 4 of the complaint, on the real estate mortgage executed by the spouses Justiniano D. Quirino and Lorraine Becker in favor of the defendant for P13,000.00 duly registered and referred to in par. 6 of the complaint, the said properties were sold by the City Sheriff of Pasay to the defendant, it being the highest bidder, a copy of the covering Certificate of Sheriff's Sale is hereto attached as Annex 'I', and made an integral part hereof;

11. That the period of redemption of the aforementioned property expired on December 17, 1959 without the said spouses Justiniano D. Quirino and Lorraine Becker having exercised their right of redemption, and that in view thereof, the ownership and title over said properties became absolute and consolidated in the name of the Bank;

12. That on March 31, 1960 defendant was furnished by the Office of the Pasay City Sheriff 'Notice of Sheriff's Sale' dated March 16, 1960, alleged and referred to in par. 7 of the complaint;

13. That in view of said notice of sale, defendant filed with said Sheriff's Office its Third Party Claim, Annex 'B' of the complaint;

14. That it is true that although defendant, at the time it received the 'Notice of Sheriff's Sale' mentioned in par. 12 of this answer, is already the absolute owner of the properties in question, defendant in so stating in its Third Party Claim Annex 'B' of the complaint that it 'claims to be the Mortgagee' is founded on the fact that defendant acquired the said properties by virtue of the foreclosure proceedings instituted by it on the said mortgage as set forth in par. 10 of this answer;

15. That as set out in par. 6 of the complaint the said mortgage encumbrance of P13,000.00 in favor of defendant appears annotated in the covering Certificate of Title No. 236-A aforesaid at the time plaintiff attached said property, and consequently, it was the duty of plaintiff to investigate the status of said property as well as the aforementioned encumbrance, before purchasing the property and assuming the mortgage;

16. That moreover, the covering Certificate of Sheriff's Sale Annex 'T' in favor of the defendant and succeeding consolidation of ownership for purposes of binding third parties need not be registered because defendant's purchase, unlike in private sales, was in a public sale, after the necessary publication and other formalities required by law to bind all parties, have been complied with;

17. That in, addition thereto, when plaintiff thru the Pasay City Sheriff caused to have the properties sold at a public execution sale, plaintiff could not sell and the public could not buy the same, as the said properties already belong to defendant when plaintiff had it attached on March 16, 1960, because plaintiff could not acquire more rights than what he caused to be sold at the public execution sale;

18. That the defendant being already the absolute owner after the expiration of the one-year redemption period mentioned in par. 11 of this answer, plaintiff assuming to be the successor in interest of said Justiniano D. Quirino could not be a redemptioner because Justiniano D. Quirino ceased to be a redemptioner upon his failure to redeem within the one year redemption period, and that consequently, plaintiff has no right to be furnished the amount of the mortgage obligation supposedly claimed to have been assumed by him;

19. That plaintiff's pretensions of assumption of the defendant's mortgage is not valid in law and in fact, because even assuming that the said assumption is true, the same cannot take place without the consent of the creditor-defendant-Bank in line with Art. 1293 of the Civil Code of the Philippines, especially in this case where said attempt to assume was made not only without the consent of, but against the will of the defendant;

20. That plaintiff's pretension of assumption aforesaid cannot take place because there was no debt or obligation to be assumed inasmuch as after the foreclosure sale by the defendant and especially after title to the property in question consolidated in the name of the Bank, the mortgage obligation of said Justiniano D. Quirino was deemed paid and, therefore, extinguished;

21. That plaintiff's Third Party Claim Annex 'B' of the complaint was filed by plaintiff in good faith to protect its interest;

22. That being the absolute owner of the property in question, defendant has all the rights inherent to ownership, and as such, it may so enter into a contract of negotiated sale with third parties on said property without violating any right of, or prejudicing plaintiff, more so as defendant had already negotiated the sale of

the properties to a third party long before plaintiff requested to be furnished the exact amount of the said mort-gage obligation;"

After due trial the lower court rendered the judgment appealed from, which the Bank now urges us to reverse claiming that said court committed the eight errors specified in its brief. The first six pose the Bank's main contention as follows: that when the mortgaged property was attached and levied upon by the Sheriff of Pasay City to satisfy the com-promise judgment rendered in favor of herein appellee, Sostenes Campillo, against Justiniano D. Quirino in Civil Case No. 35447 of the Court of First Instance of Manila, said property no longer belonged to Quirino but to the Bank, for the reason that the latter had already acquired ownership thereof as a result of an extra-judicial foreclosure sale; that the property not having been redeemed within the time provided by law, the Bank became its absolute owner upon the expiration of said period on December 17, 1959; that in view of all these facts and circumstances, the levy and the sale at public auction of the property covered by T.C.T. No. 236-A were of no legal force and effect.

The last two assignments of error would stand or fall according to whether the Bank's main contention is sustained or overruled.

Upon the undisputed facts set forth above, We are of the opinion, and so hold, that the Bank's main contention is untenable. Its case would indeed be unassailable had the sale in its favor made on December 17, 1958 as a result of the extra-judicial foreclosure of the real estate mortgage executed by the Quirino spouses, been registered before March 16, 1960 - the date when the same mortgaged property was attached and levied upon and subsequently (April 8, 1960) sold at public auction by virtue by the alias writ of execution issued in Civil Case No. 35447. This levy in execution was duly registered on March 16, 1960, while the certificate of sheriff's sale (Exhibit H) in favor of appellee executed on April 8, 1960 was registered on April 12, 1960. Upon the other hand, it is an admitted fact that the extra-judicial foreclosure sale made in favor of the Bank on December 17, 1958 was registered the Office of the Register of Deeds of Pasay City only on April 21, 1960.

It is settled in this jurisdiction that a sale of real estate, whether made as a result of a private transaction or of a foreclosure or execution sale, becomes legally effective against third parties only from the date of its registration (Section 50, Pct 496; *Anderson & Co., vs. Garcia* 64:506) which, in the case of the foreclosure sale in favor of the Bank, as stated heretofore, was ef-fected only an April 21, 1960. Consequently, when the same property subject matter thereof was actually attached and levied upon on March 16, 1960 and the levy thus made was registered on the same date, the property stood in the official records of the government still as property of Justiniano D. Quirino and was therefore properly at-tached, levied upon and subsequently sold as his property. The net result of this is that the execution sale made in favor of herein appellee transferred to him all the rights, interest and participation of Quirino in the aforesaid property at that time, subject only to the lone encumbrance duly registered and annotated on the back of Certificate of Title No. 236-A issued in the name of Quirino (*Ramirez vs. Causin*, G. R. L-10794, July 31, 1957; *Capistrano vs. Philippine National Bank et al.*, G. R. L--9628, August 30, 1957; *Vargas vs. Tancioco* 67:308; *Philippine Executive Commission vs. Abadilla* 74:68).

In view of the conclusion We have arrived at in con-nection with the first six assignments of error, a dis-cussion of the remaining two is no longer deemed necessary.

WHEREFORE, the appealed judgment being in accordance with law, the same is hereby affirmed, with costs.

Reyes, J.B.L. (Acting C.J.), Makalintal, Zaldivar, Sanchez, Fernando, and Capistrano, JJ., concur.

Teehankee and Barredo, JJ., did not take part.

Concepcion, C.J., and Castro, J., are on official leave.

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