

**GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS), PETITIONER,
VS. THE COURT OF FIRST INSTANCE OF ILOILO, BRANCH III, ILOILO
CITY AND NELITA M. VDA. DE BACALING & MARIA TERESA
INTEGRAT...**

G.R. No. L-45322. July 05, 1989

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

The legal issue presented in this appeal by certiorari is whether, after the judicial foreclosure of a real estate mortgage and the confirmation of the sale, the trial court may grant or fix another period for the redemption of the foreclosed property by the assignee of the mortgagor's equity of redemption.

In 1957 a real estate loan of P600,000 payable in monthly installments within a period of ten (10) years with 7% interest per annum, was granted to the spouses Ramon and Nelita Bacaling by the petitioner, Government Service Insurance System (hereafter GSIS) for the development of the Bacaling-Moreno subdivision. To secure the repayment of the loan, the Bacalings executed in favor of the GSIS a real estate mortgage on four (4) lots owned by them. Out of the approved loan of P600,000, only P240,000 had been released to them by the GSIS as of November 11, 1957.

The Bacalings failed to finish the subdivision project and pay the amortizations on the loan so the GSIS, on May 22, 1959, filed in the Court of First Instance of Iloilo a complaint for judicial foreclosure of the mortgage (Civil Case No. 5233). During the pendency of the case, Ramon Bacaling passed away.

In a decision dated October 5, 1960, the court ordered the widow, for herself and as administratrix of the estate of Ramon Bacaling, to pay the GSIS:

- (1) P240,000 with interest at 7% per annum from May 22, 1959 until the amount was fully paid;
- (2) to pay the sum of P21,879.56 as accumulated interests on the debt up to February 11, 1959 plus 7% interest per annum, from February 12, 1959 until fully paid;
- (3) to pay 10% of the judgment as attorney's fees and costs; and
- (4) should she fail to pay, or deposit with the Clerk of Court, the above amounts within a period of ninety (90) days from receipt of a copy of the decision, the four mortgaged lots would be sold at public auction to satisfy the mortgage debt, and the surplus if any should be delivered to the defendant Nelita Vda. de Bacaling. (pp. 12-13, Record on Appeal.)

Mrs. Bacaling failed to pay the judgment debt within 90 days after receipt of the decision of the court. Consequently, the mortgaged lots were sold at public auction on February 28, 1961. The GSIS was the highest bidder at the sale.

On March 1, 1961, the GSIS filed a motion for confirmation of the sale of the property to it (p. 25, Record on

Appeal). On October 10, 1961, it reiterated said motion and further asked for a deficiency judgment against the mortgagor, its bid of P74,558.25 being inadequate to cover the judgment debt which had swelled to P339,302.58 as of August 31, 1961 (p. 30, Record on Appeal).

On December 18, 1972, respondent Maria Teresa Integrated Development Corporation (MTIDC), as alleged assignee of the mortgagor's "right of redemption," filed a "Motion to Exercise the Right of Redemption" (p. 34, Record on Appeal). The motion was granted by the trial court in an order dated December 20, 1972. Check No. MK-45594 of the China Banking Corporation in the amount of P1,100,000 was delivered by MTIDC to the GSIS as payment of the redemption price. However, the check was dishonored by the drawee bank because it was drawn against a closed account.

On motion of the GSIS the court issued on February 3, 1973 an order declaring null and void the redemption of the property by respondent MTIDC.

Thereafter, written proposals were sent by said respondent to the GSIS for the redemption of the foreclosed property, but the GSIS required cash payment of the redemption price.

On October 25, 1975, respondent Nelita Bacaling filed a motion to re-open the case so she could prove the inadequacy of the price of the sale of the mortgaged property (p. 63, Record on Appeal). The GSIS filed an opposition. In an order dated December 8, 1975, respondent court denied Nelita's motion, confirmed the sale of the mortgaged property, and rendered a deficiency judgment in favor of GSIS (p. 76, Record on Appeal).

On December 19, 1975, fourteen (14) years after the foreclosure sale on February 28, 1961 and almost three (3) years after the court had annulled on February 3, 1973 its redemption of the foreclosed property, respondent MTIDC filed a motion for reconsideration of the court's order and sought the restoration of its right of redemption. The court, over the strong opposition of the GSIS, reconsidered on January 19, 1976 its order of December 8, 1975 and granted MTIDC a period of one year after the finality of its order of January 19, 1976 to redeem the Bacaling properties (p. 94, Record on Appeal).

The GSIS sought a reconsideration of that order on the ground that the court may not extend the period for the redemption of the property (p. 95, Record on Appeal).

On February 12, 1976, the court modified its order of January 19, 1976 by giving MTIDC one (1) year from January 19, 1976 within which to redeem the Bacaling property, instead of one year from the finality of the January 19, 1976 order (p. 101, Record on Appeal). Petitioner received a copy of this last order on February 12, 1976.

On March 1, 1976, the GSIS appealed by certiorari to this Court raising purely legal questions (p. 102, Record on Appeal).

In her Comment on the petition for review, Nelita Vda. de Bacaling asked for the dismissal of GSIS' petition on the grounds that: (1) the appeal has become moot and academic because the one-year redemption period fixed by the trial court had expired without the properties being redeemed; and (2) the questioned order (dated February 12, 1976) is also pending appeal in the Court of Appeals (CA-G.R. No. 60842) hence, this case should be remanded to that Court.

The respondent MTIDC, in its Comment, alleged the same grounds for the dismissal of the appeal, and further argued the legality of the lower court's order because anyway the GSIS entertained and encouraged its overtures for the redemption of the foreclosed property.

On May 30, 1977, this Court, through the First Division, gave due course to the petition.

On October 21, 1977, We denied the motion to remand this appeal to the Court of Appeals.

After the respondents had filed their Comments, the case was declared submitted for decision on January 27, 1978.

Considering the long lapse of time that this case has been awaiting adjudication, and apprehensive that supervening events may have rendered the issues moot and academic, this Court on September 21, 1988 gave the parties ten (10) days from notice to manifest whether they are still interested in prosecuting the case. In a Manifestation filed November 16, 1988, the GSIS declared that it is still interested in prosecuting its appeal.

We find merit in the appeal. Sections 2 and 3, Rule 68 of the Rules of Court provide:

"SEC. 2. Judgment on foreclosure for payment or sale. - If upon the trial in such action the court shall find the facts set forth in the complaint to be true, it shall ascertain the amount due to the plaintiff upon the mortgage debt or obligation, including interest and costs, and shall render judgment for the sum so found due and order that the same be paid into court within a period of not less than ninety (90) day from the date of the service of such order, and that in default of such payment the property be sold to realize the mortgage debt and costs."

"SEC. 3. Sale of mortgaged property; effect. - When the defendant, after being directed to do so as provided in the last preceding section, fails to pay the principal, interest, and costs at the time directed in the order, the court shall order the property to be sold in the manner and under the regulations that govern sales of real estate under execution. Such sale shall not affect the rights of persons holding prior encumbrances upon the property or a part thereof, and when confirmed by an order of the court, it shall operate to divest the rights of all the parties to the action and to vest their rights in the purchaser, subject to such rights of redemption as may be allowed by law." (Underscoring supplied.)

There is no right of redemption from a judicial foreclosure sale after the confirmation of the sale, except those granted by banks or banking institutions as provided by the General Banking Act (Limpin vs. Intermediate Appellate Court, G.R. No. 70987, Sept. 29, 1988). This has been the consistent interpretation of Rule 68 in a long line of decisions of this Court.

"We may say, furthermore, that this Court has already held that in mortgage foreclosures the rights of the mortgagee and persons holding under him are cut off by the sale, when duly confirmed, and with them the equity of redemption. The reason for that holding is that the right of redemption being purely statutory, and there being no statute conferring that right, it does not exist." (Benedicto vs. Yulo, 26 Phil. 166; emphasis ours.)

"x x x When the foreclosure sale is validly confirmed by the court title vests upon the purchaser in the foreclosure sale, and the confirmation retroacts to the date of the sale (Binalbagan Estate, Inc. vs. Gatuslao, et al., 74 Phil. 128). Only foreclosure of mortgages to banking institutions (including Rehabilitation Finance Corporation) and those made extrajudicially are subject to legal redemption, by express provision of statute, and the present case does not come under exceptions." (Villar vs. Javier de Paderanga, 97 Phil. 608-609; emphasis ours.)

"Where the foreclosure is judicially effected, however, no equivalent right of redemption exists. The law (Sec. 3, Rule 68, Rules of Court) declares that a judicial foreclosure sale, 'when confirmed by an order of the court, x x x shall operate to divest the rights of all the parties to the action and to vest their rights in the purchaser, subject to such rights of redemption as may be allowed by law.' Such rights exceptionally 'allowed by law' (i.e., even after confirmation by an order of the court) are those granted by the charter of the Philippine National Bank (Acts No. 2747 and 2938), and the General Banking Act R. A. 337) (See Noran, Comments on the Rules, 1970 Ed., Vol. 3, p. 273, citing Gonzales vs. PNB, 48 Phil. 824, 828; and Martin, Rules of Court, etc., 3rd Ed., Vol. 3, p. 278, citing Villar vs. Javier de Paderanga, 97 Phil. 64; Piano vs. Cayanong, 7 SCRA 397). These laws confer on the mortgagor, his successors in interest or any judgment creditor of the mortgagor,

the right to redeem the property sold on the foreclosure - after confirmation by the court of the foreclosure sale - which right may be exercised within a period of one (1) year, counted from the date of registration of the certificate of sale in the Registry of Property.

“But, to repeat, as such right of redemption exists in case of judicial foreclosure of a mortgage if the mortgagee is not the PNB or a bank or banking institution. In such a case, the foreclosure sale, ‘when confirmed by an order of the court, x x x shall operate to divest the rights of all the parties to the action and to vest their rights in the purchaser.’ There then exists only what is known as the equity of redemption. This is simply the right of the defendant mortgagor to extinguish the mortgage and retain ownership of the property by paying the secured debt within the 90-day period after the judgment become final, in accordance with Rule 68, or even after the foreclosure sale but prior to its confirmation.” (Limpin vs. Intermediate Appellate Court, G.R. No. 70987, September 29, 1988.)

Since the GSIS is not a bank or banking institution, its mortgage is covered by the general rule that there is no right of redemption after the judicial foreclosure sale has been confirmed. Hence, Judge Numeriano Estenzo exceeded his jurisdiction and acted with grave abuse of discretion in granting the respondent, MTIDC, another one-year period to redeem the Bacaling properties over the opposition of petitioner GSIS as mortgagee-purchaser thereof at the public sale. His orders dated January 19, 1976 and February 12, 1976 are null and void.

WHEREFORE, the petition for certiorari is granted. The appealed orders dated January 19, 1976 and February 12, 1976 of Judge Numeriano Estenzo in Civil Case No. 5233 are hereby annulled and set aside. Costs against the private respondents.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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