

**EDUARDO LUCENA AND NATIVIDAD PARALES, PETITIONERS, VS.
COURT OF APPEALS AND RURAL BANK OF NAUJAN, INC., ROGELIO
PINEDA, MARIANITO BAJA, PATRICIA ARAJA, BRAULIO BAGUS,
REYNALDO M...**

G.R. No. L-77468. August 25, 1999

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This is a petition for review of the Decision dated January 20, 1987 of the Court of Appeals in CA - G.R. CV No. 65526-R entitled Eduardo Lucena, et al. vs. Rural Bank of Naujan, Inc., et al. as well as its Resolution dated February 16, 1987 denying petitioners' motion for reconsideration.[1] The assailed decision reversed the judgment of the then Court of First Instance of Oriental Mindoro in Civil Case No. R-3004, "Eduardo Lucena, et al. vs. Rural Bank of Naujan, et al. (Reconveyance with Damages)" and dismissed herein petitioners' complaint.[2]

The factual antecedents are as follows:

Petitioners allege they are the registered owners of a parcel of land located at the barrio of Mag-asawang Tubig, Municipality of Naujan, Oriental Mindoro, covered by Transfer Certificate of Title No. T-41512 of the Registry of Deeds of Oriental Mindoro. On October 29, 1969, petitioner Eduardo Lucena obtained a loan from the private respondent Rural Bank of Naujan, Inc. in the amount of three-thousand pesos (P3,000.00) secured by a real estate mortgage constituted on said parcel of land. On October 1, 1970, after the loan had matured, petitioners paid to the Rural Bank of Naujan, Inc., the sum of two-thousand six pesos and ninety centavos (P2,006.90) in partial satisfaction of their debt, thereby leaving a balance of one-thousand pesos (P1,000.00) in its favor.

On May 7, 1974, after previous demand by the rural bank for the petitioners to settle the balance of their matured loan went unheeded, the subject property was extrajudicially foreclosed and sold at public auction where the rural bank as highest bidder acquired the property. Prior to the auction sale, notices of foreclosure were posted in at least three conspicuous public places in the municipality where the subject property was located, as indicated in the affidavit of posting dated May 6, 1974.[3] No notices were posted in the barrio where the property was located, nor were any published in a newspaper of general circulation. The Certificate of Sale dated May 7, 1974 issued by private respondent Deputy Sheriff Braulio Bagus was registered with the Registry of Deeds of Oriental Mindoro only on January 9, 1975.[4]

On June 26, 1975, an affidavit of consolidation of ownership was executed by the Rural Bank of Naujan through its manager, private respondent Rogelio P. Pineda. The affidavit of consolidation was subsequently registered by private respondent Reynaldo Mambil in his capacity as acting Register of Deeds on July 8, 1975, under Entry No. 134351. Transfer Certificate of Title No. T-41512 in the name of the petitioners was thus cancelled and Transfer Certificate of Title No. T-68547 of the Registry of Deeds of Oriental Mindoro was then issued in favor of the rural bank also on July 8, 1975. Thereafter, on July 14, 1975, a deed of sale was executed by the rural bank through its manager whereby the subject property was sold to private respondent spouses Marianito Baja and

Patricia Araja, resulting in the cancellation of TCT No. T-68547 and the subsequent issuance of TCT No. T-68680 in the name of said respondents. Said deed of sale dated July 14, 1975 was accepted and registered by private respondent Ramon G. Garcia, then acting Register of Deeds of Oriental Mindoro.[5]

On January 12, 1977, petitioners filed a complaint for reconveyance and damages against private respondents before the then Court of First Instance of Oriental Mindoro, to recover the subject property from private respondents and to compel the latter to compensate them for damages and losses suffered.[6] After trial, the court a quo promulgated its decision dated September 12, 1978, ruling in sum that there was no valid foreclosure sale of the subject property. The dispositive portion thereof reads:

"WHEREFORE, in view of the foregoing the Court believes and so holds that the preponderance of evidence militates in favor of the plaintiffs and against the defendants, and the Court renders judgment, to wit:

(1) Orders the defendants Marianito Baja and Patricia Araja to reconvey the parcel of land registered in their name under TCT No. T-68680 of the Register of Deeds of Oriental Mindoro in favor of herein plaintiffs Eduardo Lucena and Natividad Parales, free from all liens and encumbrances, except the remaining unpaid balance including accrued interest thereon in favor of the Rural Bank of Naujan, Inc.;

(2) Orders the Rural Bank of Naujan, Inc. and its manager Rogelio Pineda, jointly and severally, to pay the herein plaintiffs actual damages in the amount of P17,500.00 for unrealized rentals from subject property;

(3) Orders the Rural Bank of Naujan, Inc. and its manager Rogelio Pineda, jointly and severally, to pay herein plaintiffs moral damages in the amount of P10,000.00;

(4) Orders the Rural Bank of Naujan, Inc. and its manager Rogelio Pineda, jointly and severally, to pay plaintiffs attorney's fees in the amount of P5,000.00, and to pay the costs of suit.

SO ORDERED."[7]

Not satisfied with the judgement, both petitioners and private respondents elevated the case to the Court of Appeals. On January 20, 1987, the respondent court rendered its decision reversing and setting aside the trial court's judgment. It ruled in sum that (a) posting of notices in the barrio where the property is situated is not required, as all the law requires is posting in the municipality or city where the property is located; (b) there is no need to publish the notice of auction sale in a newspaper of general circulation, because the balance of the loan was only one-thousand pesos (P1,000.00); (c) personal notice of the auction sale to the petitioners was not required; (d) the trial court was correct in holding that the date of registration of the sheriff's certificate of sale and not the date of the sale itself was the reckoning point for the start of the one-year redemption period of the petitioners; and (e) the petitioners did not redeem their property within the one-year period from the date of registration of the certificate of sale, and having lost their right of redemption, cannot squirm their way out of their predicament by asking for reconveyance of the subject property.[8]

Petitioners now seek recourse through this petition. They assign the following errors:

"(1) ABSENCE OF POSTING OF NOTICES IN THE BARRIO OF MAGASAWANG TUBIG, WHERE THE LAND IS LOCATED, AS REQUIRED BY REPUBLIC ACT NO. 5939, RENDERED NULL AND VOID THE SALE IN QUESTION.

(2) PUBLICATION WAS A REQUISITE SINE QUA NON IN THIS CASE, BECAUSE THE AMOUNT OF THE LOAN WAS P3,000.00; HENCE, PARAGRAPH 3, SECTION 5 OF REPUBLIC ACT NO. 720, WAS NOT APPLICABLE, BECAUSE THE LAW DOES NOT SPEAK OF THE "BALANCE UNPAID" BUT THE "AMOUNT OF THE LOAN".

(3) THE PREMATURE AND FRAUDULENT CONSOLIDATION OF OWNERSHIP AND MALICIOUS

IMMEDIATE SALE OF THE LAND IN QUESTION IN FAVOR OF MARIANITO BAJA AND PATRICIA ARAJA BEFORE THE EXPIRATION OF THE PERIOD OF REDEMPTION CLOSED THE DOOR FOR LEGAL REDEMPTION; SO THAT AN ACTION FOR RECONVEYANCE BECAME THE PROPER REMEDY.

(4) THE AFFIDAVIT OF CONSOLIDATION OF OWNERSHIP HEREIN WAS NULL AND VOID FOR LACK OF NOTARIZATION."^[9]

We find that the pertinent issues to be resolved are: (1) whether or not a valid foreclosure sale of the subject property was conducted and (2) whether or not reconveyance and damages is the proper remedy available to petitioners.

With respect to the first issue, this Court has ruled that failure to comply with statutory requirements as to publication of notice of auction sale constitutes a jurisdictional defect which invalidates the sale.^[10] Even slight deviations therefrom are not allowed.^[11] Section 5 of Republic Act No. 720 as amended by Republic Act No. 5939 provides:^[12]

"The foreclosure of mortgages covering loans granted by rural banks shall be exempt from the publication in newspapers were the total amount of the loan, including interests due and unpaid, does not exceed three thousand pesos. It shall be sufficient publication in such cases if the notices of foreclosure are posted in at least three of the most conspicuous public places in the municipality and barrio where the land mortgaged is situated during the period of sixty days immediately preceding the public auction. Proof of publication as required herein shall be accomplished by affidavit of the sheriff or officer conducting the foreclosure sale and shall be attached with the records of the case: x x x." (italics supplied)

In the case at bar, the affidavit of posting executed by the sheriff states that notices of the public auction sale were posted in three (3) conspicuous public places in the municipality such as (1) the bulletin board of the Municipal Building (2) the Public Market and (3) the Bus Station. There is no indication that notices were posted in the barrio where the subject property lies. Clearly, there was a failure to publish the notices of auction sale as required by law.

In *Roxas vs. Court of Appeals*,^[13] this Court has ruled that the foreclosure and public auction sale of a parcel of land foreclosed by a rural bank were null and void when there was failure to post notices of auction sale in the barrio where the subject property was located. This Court finds that the same situation obtains in the case at bar. Further still, there was a failure on the part of private respondents to publish notices of foreclosure sale in a newspaper of general circulation. Section 5 of R.A. 720 as amended by R.A. 5939 provides that such foreclosures are exempt from the publication requirement when the total amount of the loan including interests due and unpaid does not exceed three-thousand pesos (P3,000.00). The law clearly refers to the total amount of the loan along with interests and not merely the balance thereof, as stressed by the use of the word "total." At the time of foreclosure, the total amount of petitioners' loan including interests due and unpaid was P3,006.90. Publication of notices of auction sale in a newspaper was thus necessary.

In light of private respondents' failure to comply with the statutory requirements of notice and publication, we rule that the foreclosure and public auction sale of petitioners' property are null and void. Hence, the Rural Bank of Naujan did not acquire valid title to the property in question. This reversal of the Court of Appeals disposes of the other errors assigned by petitioners.

Anent the second issue, the above conclusion requires a determination of whether or not petitioners are entitled to a reconveyance of their property. If the property has not yet passed to an innocent purchaser for value, an action for reconveyance is still available.^[14] It is a condition sine qua non for an action for reconveyance to prosper that

the property should not have passed to the hands of an innocent purchaser for value.[15] He is considered an innocent purchaser who acquired the property for a valuable consideration not knowing that the title of the vendor or grantor was null and void.[16] Good faith or its absence must thus be established on the part of spouses Marianito Baja and Patricia Araja at the time that they purchased the subject property from the Rural Bank of Naujan.

Good faith, or the lack of it, is in the last analysis a question of intention; but in ascertaining the intention by which one is actuated on a given occasion, we are necessarily controlled by the evidence as to the conduct and outward acts by which alone the inward motive may, with safety, be determined.[17] To determine whether or not the Baja spouses were in good faith at the time they purchased the subject property from the Rural Bank of Naujan thus entails a review of the evidence on record.

The trial court concluded that Marianito Baja and Patricia Araja were purchasers in bad faith. The trial court noted that when Marianito Baja verified the title of the subject property at the rural bank, he must have noticed that the certificate of sale was registered with the Office of the Register of Deeds only on January 9, 1975, so that he is presumed to know that the petitioners had at least one year from that date or up to January 8, 1976 to redeem the subject property.[18]

It is a well-settled rule that a purchaser cannot close his eyes to facts which should put a reasonable man upon his guard, and then claim that he acted in good faith under the belief that there was no defect in the title of the vendor. His mere refusal to believe that such defect exists, or his willful closing of his eyes to the possibility of the existence of a defect in his vendor's title, will not make him an innocent purchaser for value, if it afterwards develops that the title was in fact defective, and it appears that he had such notice of the defect as would have led to its discovery had he acted with that measure of precaution which may reasonably be required of a prudent man in a like situation.[19]

In the case at bar, Marianito Baja testified on cross-examination that Victor Atienza, Baja's cousin and petitioners' tenant on the subject property, informed him of the rural bank's intention to sell the land in question.[20] He said that from the time this information was relayed to him until the execution of the deed of sale by the bank in favor of the Baja spouses on July 14, 1975, a period of about half a year elapsed.[21] He further stated that upon learning from Victor Atienza that the property was being sold, he immediately went to the rural bank to verify this information, as well as ascertain if the land was titled.[22] Baja also said that before the deed of sale was executed on July 14, 1975, he made his offer to buy the property from the bank about one month before said date.[23] On direct examination, however, Baja claimed that he verified the title to the subject property to be in the rural bank's name before the sale was effected.[24]

From the records, it appears that title to the property was issued in the rural bank's name only on July 8, 1975, when the bank's affidavit of consolidation of ownership dated June 26, 1975 was registered with the Registry of Deeds of Oriental Mindoro.[25] Said registration was the operative act to prompt the Register of Deeds to cancel the title in the name of petitioners and to issue a new one in the name of the rural bank. Hence, if Marianito Baja claims to have offered to buy the property one month before July 14 1975, or sometime in the middle of June of that year, he must have noticed that the title was not yet in the rural bank's name. More so, he also would have noticed that the title was not yet in the bank's name when he verified the status of the property and the title thereto immediately after Victor Atienza told him that the property was being sold, which, according to him, was about half a year before July 14, 1975.

What Baja should have noticed, if we follow his own chronological estimates, was that the title was still in the petitioners' name when he verified the status of the land in question. Thus, he must have seen that the certificate

of auction sale was registered only on January 9, 1975. As the trial court has said, he is presumed by law to know that the petitioners had one year from this date or until January 8, 1976 to redeem the subject property.

In addition, Baja was completely aware of the fact that Victor Atienza was a tenant of the petitioners. Hence, at the time the property in question was being sold to him by the rural bank, possession thereof was with the petitioners, exercised through their tenant Victor Atienza. In *Santiago vs. Court of Appeals*,^[26] we cited *De Guzman, Jr. vs. Court of Appeals* (156 SCRA 701 [1987]):

"The failure of appellees to take the ordinary precautions which a prudent man would have taken under the circumstances, specially in buying a piece of land in the actual, visible and public possession of another person, other than the vendor, constitutes gross negligence amounting to bad faith.

"In this connection, it has been held that where, as in this case, the land sold is in the possession of a person other than the vendor, the purchaser is required to go beyond the certificate of title and ma[k]e inquiries concerning the rights of the actual possessor. (*Incala vs. Mendoza*, CA-G.R. No. 13677-R, November 9, 1965; *De Jesus vs. Revilla*, CA-G.R. No. 13562-R, October 5, 1965; *Martelino vs. Manikan*, CA-G.R. No. 32792-R, June 22, 1956))

x x x

One who purchases real property which is in the actual possession of another should, at least make some inquiry concerning the right of those in possession. The actual possession by other than the vendor should, at least put the purchaser upon inquiry. He can scarcely, in the absence of such inquiry, be regarded as a bona fide purchaser as against such possessors" (*Conspecto vs. Fruto*, 31 Phil. 144)."

x x x

Marianito Baja testified on cross-examination that he was working for about half a year in another area about a hundred meters away from the subject property before the same was offered to him for sale.^[27] He thus had visual notice that petitioners' tenant Victor Atienza was working on the land in question. He also learned from Atienza that petitioner Eduardo Lucena was the landlord of the former.^[28] In fact, prior to the date that he acquired the property, Baja instructed Atienza to inform said petitioner that the rural bank was selling the property to him.^[29] Baja, however, never communicated directly with petitioner Eduardo Lucena, nor did he receive any response coming from said petitioner.^[30] He did learn, however, that Lucena scolded Victor Atienza when the latter went to see him, indicating that he was aware of said petitioner's aversion to the sale of the property by the rural bank.^[31]

All things considered, Marianito Baja did not make any reasonable inquiry regarding the status of the land in question, despite being aware that the property was still in the possession of the petitioners. He did not even make any effort to communicate directly with petitioner Eduardo Lucena. All he did was to instruct Victor Atienza to inform Lucena of the proposed sale of the property. He did not instruct Atienza, however, to make inquiries concerning the status of the property. Furthermore, Baja's claim that he saw that title to the property was in the name of the rural bank prior to the sale is not credible. Granting *arguendo* that the title was in the name of the rural bank when he first saw it, he nonetheless had notice that possession of the property was with persons other than the vendors thereof. It was thus incumbent upon him to look beyond the title to the subject property and make the necessary inquiries. This he neglected to do.

When the Baja spouses purchased the subject property from the rural bank on July 14, 1975, they did so well within the one-year redemption period of petitioners. In doing so, not only did said respondents have notice of a defect in the title of the rural bank over the subject property, but by purchasing the latter, they also closed the door on the petitioners' right to redeem it. Accordingly, we adopt the finding of the lower court that said respondents purchased the subject property in bad faith. We rule that petitioners are entitled to a reconveyance of the property

as it has not yet passed to an innocent purchaser for value.

In their petition, petitioners also pray that this Court render a decision pursuant to their prayers as appellants in the Court of Appeals. Essentially, petitioners implored the respondent court to raise the amount of damages awarded them by the trial court and to find private respondents Braulio Bagus, Reynaldo Mambil and Ramon Garcia liable for damages as well. Petitioners also asked for the inclusion of exemplary damages and litigation fees in the award.

We find that there is no substantial reason to modify the trial court's award of damages. There is no convincing proof to support petitioners' allegations that private respondents Braulio Bagus, Reynaldo Mambil and Ramon Garcia performed their duties as Deputy Provincial Sheriff and Registers of Deeds with unlawful intent and in bad faith. Furthermore, petitioners' allegations as to the amount of unrealized rentals due them as actual damages are mere assertions unsupported by factual evidence. In determining actual damages, the court cannot rely on mere assertions, speculations, conjectures or guesswork but must depend on competent proof and on the best evidence obtainable regarding the actual amount of loss.[32]

There is also no sound basis for increasing the award of moral damages. The well-entrenched rule is that the grant of moral damages depends upon the discretion of the court based on the circumstances of each case.[33] We find that the trial court exercised its sound discretion in awarding actual and moral damages as it did to the petitioners, as well as in not granting the exemplary damages for lack of sufficient basis.

WHEREFORE, the petition is hereby GRANTED. The decision of the Court of Appeals dated January 20, 1987 is hereby SET ASIDE; and the decision of the CFI of Oriental Mindoro dated September 12, 1978, is hereby REINSTATED and AFFIRMED.

Costs against private respondents.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, and Buena, JJ., concur.

[1] Rollo, p. 18-25.

[2] Records, pp. 47-58.

[3] Id. at 49-50.

[4] Id. at 50.

[5] Id. at 140.

[6] Id. at 7-16.

[7] CA Rollo, p. 28 (78-79).

[8] Supra, note 1 at 21-23.

[9] Id. at 7.

[10] Masantol Rural Bank, Inc. vs. Court of Appeals, 204 SCRA 752, citing Borja vs. Addison, 44 Phil. 895 and Campomanes vs. Bartolome and German & Co., 38 Phil. 808.

[11] Tambunting vs. Court of Appeals, 167 SCRA 16.

[12] An Act Providing for the Creation, Organization and Operation of Rural Banks, and for other purposes.

[13] 221 SCRA 729.

[14] Armamento vs. Guerrero, 96 SCRA 178, 182, citing Clemente vs. Lukban, 53 Phil. 931.

[15] Noblejas and Noblejas, REGISTRATION OF LAND TITLES AND DEEDS, 196 (1992 ed.).

[16] Rivera vs. Moran, 48 Phil. 836.

[17] Leung Yee vs. Strong Machinery Co., 37 Phil. 644, 645.

[18] Records, p. 57.

[19] Supra, note 17 at 651.

[20] TSN, May 10, 1978, p. 9.

[21] Ibid.

[22] Id. at 9-10.

[23] Id. at 10.

[24] Id. at 5.

[25] Supra, at note 5.

[26] 247 SCRA 336, 345.

[27] Supra, note 20.

[28] Supra, note 22.

[29] Supra, note 20 at 11.

[30] Ibid.

[31] Supra, note 20 at 12.

[32] Barzaga vs. Court of Appeals, 268 SCRA 105, 113-114.

[33] Singson vs. Court of Appeals, 282 SCRA 149, 163.

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