

**HERMENEGILDO R. ROSALES, PLAINTIFF-APPELLANT, VS.  
PEREGRIN YBOA, PROVINCIAL DEPUTY SHERIFF OF SAMAR AND  
THE REGISTER OF DEEDS FOR THE PROVINCE OF SAMAR,  
DEFENDANTS-APPELLEES.**

*G.R. No. L-42282. February 28, 1983*

Ponente: DE CASTRO, J.

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**DE CASTRO, J.:**

This case was certified to this Court by the former Court of Appeals per its Resolution of November 13, 1975 the appeal thereto made having raised purely legal question, which is whether or not the Court of First Instance of Samar, in Civil Case No. 5325 entitled "Hermenegildo Rosales vs. Peregrin Yboa, et al.," erred in declaring the legality and validity of the redemption made by the mortgagor Pedro Oliverio of his titled property.

It appears that by virtue of the foreclosure of real estate mortgage duly executed by the mortgagor Pedro Oliverio in favor of the Development Bank of the Philippines, as security for the payment of the amount of P12,000.00, and after giving notice of the date, time and place of sale as required by law, defendant-appellee Deputy Sheriff of Samar Peregrin Yboa, sold at public auction on January 28, 1970 to plaintiff-appellant Rosales, the highest bidder, for the total amount of fourteen thousand five hundred pesos (P14,500.00), the parcel of land covered by T.C.T. No. T-646 of the Register of Deeds for the Province of Samar. The corresponding Sheriff's certificate of sale was issued in favor of plaintiff-appellant, which certificate was registered in the Office of the Register of Deeds for the Province of Samar on February 3, 1970.

On January 23, 1971, after the mortgagor Pedro Oliverio had served notice in writing of the redemption and had paid on said date to defendant-appellee Deputy Sheriff the principal amount of P14,500.00 plus P1,691.00 representing the one (1%) per centum interest per month, the latter executed a Deed of Certificate of Redemption restoring, conveying and assigning unto the said mortgagor, his heirs and assigns all the estate, right, title and interest on said foreclosed property.

On March 10, 1971, plaintiff-appellant filed the instant complaint for cancellation of certificate of redemption alleging that no valid redemption was effected because while the mortgagor had paid within the period of redemption the purchase price in the sum of P14,500.00 plus P1,691.00 representing 1% interest per month, he, however, failed to tender payment of 1) the full interest on the purchase price, which should be P1,715.84, instead of P1,691.00 actually paid by the mortgagor, thereby leaving a deficiency in the sum of P24.84; 2) the sum of P3.00 representing the registration fee of the certificate of sale, plus interest thereon of P0.04; 3) the delinquent real estate taxes of the subject property for the years 1960 to 1970 amounting to P745.47; and 4) the Sheriff's commission in the sum of P99.82.

On March 22, 1971, defendants-appellees filed an answer alleging that while it is true that mortgagor Pedro Oliverio has tendered to defendant-appellee Deputy Sheriff the amount of P14,500.00 plus P1,691.00 for redemption purpose, the sum tendered being the amount of the auction purchase price plus 1% interest per month

thereon up to the time of redemption and the tender being timely made and in good faith, the same is a valid one according to Section 30, Rule 39 of the Rules of Court; that granting in arguendo, that the property subject of redemption is delinquent in the payment of real estate taxes for the years 1960 to 1970 in the total amount of P745.47, it will not in anyway affect the regularity and validity of the redemption for no written notice that any such assessments or taxes are paid by the plaintiff-appellant as purchaser, was given to defendant-appellee Deputy Sheriff who made the sale thereof and such not having filed, the property may be redeemed even without paying such assessments or taxes.

On August 16, 1971, the trial court conducted a pre-trial of the case. After such pre-trial and upon motion of plaintiff-appellant, the trial court rendered a summary judgment, pursuant to Rule 34 of the Rules of Court, since the answer of defendants-appellees raises no genuine issue of material facts, as well as their admission of the genuineness and due execution of the Certificate of Sale executed by defendant-appellee Deputy Sheriff in favor of plaintiff-appellant; the payment of entry fee and annotation on TCT No. T-640 of the Certificate of Sale in the sum of P3.00; the Certificate of Redemption executed by defendant-appellee Deputy Sheriff in favor of mortgagor Pedro Oliverio; the Certificate of Delinquency of real estate taxes of the subject property in the amount of P745.47; and the non-payment of sheriff's commission in the sum of P99.82. In the summary judgment the trial court dismissed the plaintiff-appellant's complaint and declared that the Certificate of Redemption of the property sold at public auction is valid and legal "without prejudice to the right of the plaintiff-appellant to recover from the redemptioner the sum of P0.67 representing the deficiencies in the 1% monthly interest[1] and the sum of P3.00 representing the entry and annotation fees of the Register of Deed of Samar for the registration of the Certificate of Sale together with the sum of P0.04 representing interest on the last stated amount from February 3, 1970 to January 23, 1971."

On December 13, 1971, plaintiff-appellant, after receipt of the Summary Judgment, filed his Record on Appeal, Notice of Appeal and Appeal Bond. On May 12, 1972, the trial court approved the Record on Appeal and ordered the transmittal of the records of the case to the Court of Appeals. As aforementioned, the Court of Appeals certified the case to this Court on the ground that it involves the purely legal question of whether or not a valid and legal redemption was made by the mortgagor Pedro Oliverio of his titled property.

There is no question that Pedro Oliverio has the right to redeem the subject property, in view of the provisions of section 6 of Act 3135, as amended by Act No. 4148.[2] The procedure for effecting such redemption is contained in section 30, Rule 39 of the Rules of Court, the pertinent portion of which provides:

"Sec. 30. Time and manner of, and amounts payable on successive redemptions. Notice to be given and filed.—The judgment debtor, or redemptioner, may redeem the property from the purchaser, at anytime within twelve (12) months after the sale, on paying the purchaser the amount of his purchase, with one per centum per month interest thereon in addition, up to the time of redemption, together with the amount of any assessments or taxes which the purchaser may have paid thereon after purchase, and interest on such last named amount at the same rate; . . .

.....

"Written notice of any redemption must be given to the Officer who made the sale and a duplicate filed with the register of deeds of the province; . . ."

Pursuant to the above-cited provision, the requisites for a valid redemption are: 1) the redemption must be made within twelve (12) months from the time of the registration of the sale in the Office of the Register of Deeds (Gorospa vs. Santos, 69 SCRA 191; Agbulos vs. Alberto, 5 SCRA 790; Santos vs. Rehabilitation Finance Corporation, et al., 101 Phil. 980); 2) payment of the purchase price of the property involved, plus 1% interest per month thereon, together with the amounts of assessments or taxes thereon, if any, paid by the purchaser after the

sale with the same rate of interests (Rosario vs. Tayug Rural Bank, 22 SCRA 1220 cited in Tolentino vs. Court of Appeals, 106 SCRA 513); and 3) written notice of the redemption must be served on the officer who made the sale and a duplicate filed with the Register of Deeds of the province.

There is no dispute, that in the case at bar, the mortgagor Pedro Oliverio tendered payment of the purchase price on January 23, 1971, well within the redemption period of twelve (12) months after the registration of the sale on February 3, 1970 and that defendants-appellees Deputy Sheriff of Samar and the Register of Deeds of Samar were duly notified in writing of the mortgagor's desire to redeem the subject property. Equally beyond question is the fact that mortgagor Pedro Oliverio tendered the sum of P14,500.00 corresponding to the purchase price of the property, and the amount of P1,691.00 representing the 1% monthly interest thereon, although the trial court found a deficiency of P0.67 due and owing to the plaintiff-appellant. The mortgagor, therefor, has substantially complied with the requirements of the law to effect redemption, for which reason a Certificate of Redemption was issued in his favor by defendant-appellee Deputy Sheriff.

But plaintiff-appellant would insist that although mortgagor Pedro Oliverio had tendered payment of the purchase price of P14,500.00 and the interest of P1,691.00, nevertheless, no valid redemption was effected by the latter, since there are still four deficiencies which the mortgagor failed to pay. Firstly, plaintiff-appellant would contend that there is still a deficiency interest of P24.84 on the purchase price since the interest thereon should be computed from the date of the auction sale, that is, January 28, 1970, and not from the date of the registration thereof on February 3, 1970. The contention is without merit. Plaintiff-appellant has not cited any authority to support his theory that the interest on the purchase price should be computed from the date of the sale and not from the registration thereof. We rule that since the period of redemption begins only from the date of the registration of the certificate of sale in the Office of the Register of Deeds, it being only then that the certificate takes effect as a conveyance,[3] the computation of the interest on the purchase price should also be made to commence from that date.

Secondly, although the amount of P3.00 representing the registration fee incurred by plaintiff-appellant may be considered as "any assessments or taxes which the purchaser may have paid thereon after purchase," still the non-payment of this amount by the mortgagor Pedro Oliverio will not render invalid his redemption, since, as discussed above, he has substantially complied with the legal requirements for a valid redemption.

Thirdly, as to the non-payment of real estate taxes of the subject property for the years 1960 to 1970 amounting to P745.47, the same should not affect the regularity and validity of the redemption made by the mortgagor Pedro Oliverio. The latter is not legally bound to pay such amount to plaintiff-appellant as purchaser, for Section 30, Rule 39 clearly provides that "the judgment debtor, or redemptioner, may redeem the property . . . on paying the purchaser . . . the amount of any assessments or taxes which the purchaser may have paid thereon after purchase; and interest on such last-named amount at the same rate." Nowhere in the Records is it shown that plaintiff-appellant had paid such amount. On the contrary, defendants-appellees in their Answer[4] to plaintiff-appellant's complaint, have averred that no written notice that any assessments or taxes are paid by the latter as purchaser, was given to defendant-appellee Deputy Sheriff of Samar, who made the sale thereof. In fact, the Solicitor-General, in his Brief filed in behalf of the defendants-appellees, has made the following observation:[5]

"We are indeed surprised how appellant was able to secure the registration of his certificate of sale without first paying the delinquent taxes as required by Section 1, Republic Act No. 456.

"An extra judicial foreclosure sale being in the nature of a voluntary transaction, appellant should have been required by the Register of Deeds of Samar to pay the delinquent land taxes on the subject property before registering his certificate of sale. Payment of delinquent land taxes being a condition precedent to the

registration of appellant's Certificate of Sale, but which, somehow, he was able to evade, he cannot now avail of the issue of such delinquent land taxes to defeat the mortgagor's right of redemption."

Finally, the non-payment of the Sheriff's commission in the sum of P99.82 will not, likewise, affect the validity of redemption since such amount is not included in the payments required of a redemptioner as set forth in said Section 30 of Rule 39.

In fine, We hold that the failure of the mortgagor Pedro Oliverio to tender the amount of P745.47 representing the delinquent real estate taxes of the subject property, the registration fee of P3.00 and the interest thereon of P0.04, the Sheriff's Commission in the sum of P99.82, and the deficiency interest on the purchase price of the subject property, will not render the redemption in question null and void, it having been established that he has substantially complied with the requirements of the law to effect a valid redemption, with his tender of payment of the purchase price and the interest thereon within twelve (12) months from the date of the registration of the sale. This ruling is in obedience of the policy of the law to aid rather than to defeat the right of redemption.[6]

WHEREFORE, the decision of the court a quo is hereby affirmed, without costs.

**SO ORDERED.**

Makasiar (Chairman), Concepcion Jr., Guerrero, Abad Santos and Escolin, JJ., concur.  
Aquino, J., is on leave.

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[1] As per computation, the lower court found a deficiency of P0.67 due and owing to plaintiff-appellant.

[2] "Section 6. In all cases in which an extra-judicial sale is made under the special power herein before referred to, the debtor, his successors-in-interest or any judicial creditor or judgment creditor of said debtor, or any person having a lien on the property subsequent to the mortgage or deed of trust under which the property is sold, may redeem the same at any time within the term of one year from and after the date of the sale, and such redemption shall be governed by the provisions of sections four hundred and sixty-four to four hundred and sixty-six inclusive, of the Code of Civil Procedure, in so far as these are not inconsistent with the provisions of this Act."

[3] Gorospe vs. Santos, 69 SCRA 191, citing Agbulos vs. Alberto, 5 SCRA 790; Garcia vs. Ocampo, 105 Phil. 1102.

[4] p. 27, Record on Appeal.

[5] pp. 8-9, Brief for Appellees, p. 28, Rollo.

[6] Tolentino vs. Court of Appeals, 106 SCRA 513, 525, citing Javellana vs. Mirasol and Nuñez, 40 Phil. 761.

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