

PURIFICACION PASCUA, PETITIONER, VS. HON. JESUS Y. PEREZ, ET AL., RESPONDENTS.*G.R. No. L-19554. January 31, 1964*

Ponente: BAUTISTA ANGELO, J.

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Purification Paseua mortgaged on December 13, 1956 two parcels of land in favor of Elisa Paraiso Vda. de Verzosa to secure a loan of P25,000.00 on condition that the mortgage may be redeemed within one year from said date. When Pascua failed to redeem the mortgage as stipulated, Verzosa took steps to foreclose it extra-judicially thru the sheriff of Manila. At the foreclosure sale Verzosa purchased the property for P35,000.00 and on May 8, 1959 the sheriff issued in her favor the corresponding certificate of sale. The sheriff fixed the expiration of the redemption period on April 29, 1959. When Verzosa tried to take possession of the property as a result of its sale in her favor, Pascua commenced an action before the Court of First Instance of Manila to annul the foreclosure sale on the ground that the mortgage was null and void because it involved a usurious transaction. On November 16, 1960, the court rendered decision finding the transaction to be usurious and annulling the sale made by the sheriff in favor of Verzosa. The dispositive part of the decision reads as follows:

"IN VIEW OF THE FOREGOING, the Court hereby renders judgment annulling the deed of sale of the parcels of land in favor of defendant issued by the Sheriff and ordering the defendant Elisa Paraiso Vda. de Verzosa to allow plaintiff to redeem the two parcels of land in question upon payment of the amount of TWENTY THOUSAND ONE HUNDRED P20,100.00) PESOS plus interest at the legal rate from the date of the sale until the redemption is made without pronouncement as to costs."

Because of the failure of Pascua to redeem the property within the period of one year from the date of the receipt of the decision, Verzosa filed a motion on January 17, 1962 in the same case praying that, since Pascua failed to redeem the property as stated in the decision an order be issued vesting in her the title to the property and directing the cancellation of the notice of lis pendens that was annotated on the two titles covering the property. And acceding to the motion, over the opposition of Pascua, the court a quo issued on February 6, 1962 an order the dispositive portion of which read:

"WHEREFORE, as prayed for by defendant Vda. de Verzosa, the Court hereby declares that title to the properties mortgaged under the mortgage deed Exhibit 'B' is already vested in defendant Elisa P. Vda. de Verzosa and the Register of Deeds of Manila is hereby ordered, upon payment of the proper legal fees, to cancel the notice of lis pendens of this case appearing annotated on transfer certificates of title Nos. 60626 and-60627 of the land records of Manila."

In due course, Pascua interposed the present petition for certiorari contending (1) that the court a quo erred in holding that Pascua failed to redeem the property within one year from the receipt of the decision in the annulment case, there being no legal and factual basis thereof; and (2) assuming that Pascua has incurred in such failure, the court a quo erred in vesting the title of the property in Verzosa without the corresponding appropriate action and without due process of law.

There is merit in the contention that the court a quo erred in holding that petitioner has failed to redeem the property within the period of one year from the date the decision in the annulment case has become final for there is indeed no such period fixed either in the body of said decision, nor in its dispositive part, as we have quoted elsewhere in this decision. Verily, that was the intention of the court when it allowed petitioner to redeem the property upon payment of the sum of P20,100.00, plus interest thereon from date of the sale until the redemption is made, but it overlooked to specify or mention the period within which the redemption should be effected. There being no such specification, it is unfair to hold petitioner delinquent in exercising the option given to her when the period for doing so is not stated. As a matter of fact, petitioner was of the impression that her right to redeem could be exercised within what she believed to be a reasonable period of time, and at the time the motion for vesting was filed in court she had almost completed negotiation to obtain the money with which she expected to effect the redemption.

Assuming that petitioner has been delinquent in exercising her option within the period which in the opinion of the court she should have exercised it, still we are of the opinion that the court a quo erred in vesting in respondent the title of the property outright without taking the necessary appropriate action for that purpose, or without due process of law, since petitioner, at the time the motion was filed, was then the owner of the property in view of the annulment of the sale executed by the sheriff in favor of respondent in the annulment case instituted by petitioner against respondent. Note that what was ordered by the court a quo in said case was to allow petitioner to redeem the property upon payment of the sum of P20,100.00 which is contrary to its decision annulling the deed of sale in favor of respondent. The most, therefore, that respondent could do upon failure of petitioner to pay the above amount, was to ask the execution of the decision, and not the vesting of title to the property in her, as the court did. The only right of respondent in the premises was merely to collect the amount of the loan, plus the interest due thereon, which can be effected by filing a motion for execution in the annulment case. This respondent can still do.

Wherefore, petition is granted. The order of respondent court dated February 6, 1962 is hereby set aside. Costs against respondent Verzosa.

Bengzon, C. J., Padilla, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

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