

**ABIGUEL REYES-GREGORIO, ET AL., PLAINTIFFS AND APPELLEES,
VS. ARSENIO REYES, DEFENDANT AND APPELLANT.***G.R. No. L-24699. March 28, 1969*

Ponente: DIZON, J.

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On May 8, 1958, the spouses Dominador Gregorio (now deceased) and Abiguel Reyes - the latter is now one of the plaintiff-appellees - borrowed from the Manila Building and Loan Association the sum of Five Thousand Pesos (P5,000), securing payment thereof with a mortgage upon a parcel of land with an area of 332 sq.m. situated at Barrio Concepcion, Malabon, Rizal and covered by T.C.T. No. 32734. As the mortgagors failed to pay the amortizations agreed upon, the mortgage was foreclosed extra judicially and sold at public auction by the Provincial Sheriff of Rizal on January 5, 1962 to defendant-appellant, the highest bidder. As a re-sult the corresponding certificate of sale was issued in his name. The consideration mentioned therein was the sum of Six Thousand Fifty Pesos (P6,050), and it likewise provided that the properties sold could be redeemed within one year or not later than January 5, 1963.

On January 3, 1963, appellee Abiguel Reyes-Gregorio went to the office of the Provincial Sheriff of Rizal and tendered payment of and the latter received the sum of Six Thousand Seven Hundred Seventy-Six Pesos (P6,776) for the redemption of the property and issued the correspond-ing official receipt therefore on the same date. On April 19, 1963, she demanded from defendant-appellant the execution of the corresponding deed of reconveyance, but the latter refused claiming that she could no longer exercise the right of redemption because the period there-fore had already expired. For this reason the present suit was commenced.

After due trial the lower court rendered judgment as follows:

"IN VIEW OF THE FOREGOING CONSIDERATIONS, it is the finding of this Court that the redemption made by the plaintiff was in accord-ance with law. Therefore, judgment is hereby rendered in favor of the plaintiff as against the defendant and the sheriff is hereby ordered to collect from the plaintiff and to deliver to the defendant the legal expenses incurred by the said defendant like the sheriff's fees, assessments and documentary stamps which were not included in the redemption price previously fixed by the sheriff, and that once this is complied with, to inform the Court so that the Register of Deeds may be ordered to cancel the title to the property previously issued to defendant and to issue a new one in the name of the plaintiff."

From the above decision defendant-appellant inter-posed the present appeal.

The facts hereinbefore set forth are not disputed, the same being covered by the stipulation of the facts submitted by the parties. Likewise, appellees' right to redeem the properties sold at the extra-judicial foreclo-sure sale is clear, under the provision Section 6 of Act 3135 as amended by Act 4118. Therefore, the only issue to be resolved now is whether or not appellees exercised their right of redemption in the manner provided by law.

We are of the opinion and so hold that Section 27 of Rule 39 of the Rules of Court, in relation to the pro-visions of Act 3135 as amended by Act 4118, is decisive of the above issue. It provides that the payment of the

redemption money should be made "to the purchaser or redemptioner, or for him to the officer who made the sale." And it has been held in this connection that it is the duty of the officer who made the sale to accept the tender of payment and execute the corresponding certificate of redemption provided such tender is made within the period for the purpose (*Enaje vs. Vda. A. Escaño* 38 Phil. 657). It is crystal clear, therefore, that the redemption made in this case was timely and in accordance with law.

PREMISES CONSIDERED, judgment is hereby rendered affirming the decision appealed from, with double costs imposed on appellant.

Concepcion, C.J., Reyes, JBL, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.

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