

**BLANCA CONSUELO ROXAS, PETITIONER, VS. COURT OF APPEALS
AND RURAL BANK OF DUMALAG, RESPONDENTS.***G.R. No. 100480. May 11, 1993*

Ponente: NOCON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-100480/>**NOCON, J.:**

This is a petition for review on certiorari seeking reversal of the decision of public respondent Court of Appeals in CA-G.R. CV No. 21140, dated May 23, 1991,[1] which set aside the decision of the Regional Trial Court of Roxas City, Sixth Judicial Region, Branch 18, in Civil Case No. V-4543, dated January 20, 1989.

The antecedent facts are, as follows:

Petitioner Blanca Consuelo Roxas is the owner of a parcel of land (Lot No. 3108) located at Tanza Norte, Panay, Capiz, containing an area of 14.7238 hectares and covered by Tax Declaration No. 5129. On December 22, 1969, she executed a special power of attorney appointing her brother, the late Manuel Roxas, as her attorney-in-fact for the purpose of applying for an agricultural loan with private respondent Rural Bank of Dumalag, Inc. using said land as collateral. Armed with said special power of attorney, Manuel Roxas applied for, was granted and received an agricultural loan in the amount of P2,000.00 from private respondent on December 26, 1969. As security for the loan, he executed the corresponding real estate mortgage over the subject land.

On October 24, 1973, private respondent foreclosed the real estate mortgage for failure to pay the loan on maturity. On January 7, 1974, the subject land was sold at public auction to private respondent, being the highest bidder for P3,009.37. For failure to exercise the right of redemption, private respondent consolidated its ownership over the subject land. On October 4, 1982, possession thereof was taken from Jennifer Roxas, daughter of Manuel Roxas, and delivered by the sheriff to private respondent.

On September 2, 1981, petitioner filed a complaint for cancellation of foreclosure of mortgage and annulment of auction sale against private respondent before the Regional Trial Court of Roxas City, docketed as Civil Case No. V-4543.

In her complaint, petitioner claimed that Manuel Roxas never informed her about the approval of the loan. When the loan matured, she did not receive any demand for payment from private respondent nor was there any information from Manuel Roxas about the maturity of the loan. The foreclosure did not comply with the requirement of giving written notices to all possible redemptioners, neither did Manuel Roxas inform her about the foreclosure. In 1974, she learned of the foreclosure from a certain Rosario Pelobello. In that same year, she went to private respondent to inquire about the status of her loan, that is, the amount of her total account and for that matter, she asked for a statement of account. Her request was refused or ignored. After repeated requests therefor went unheeded, she consulted her lawyer, who sent a letter to private respondent, requesting for said statement of account. On May 10, 1981, she wrote another letter to private respondent, reiterating her previous request. Private respondent finally replied, informing petitioner that it already foreclosed the subject land and it can no longer be redeemed since the redemption period has expired on March 6, 1975. Petitioner was able to

obtain her statement of account only on August 19, 1981. She consigned with the trial court the amount of P4,194.50 as redemption price of the subject land.

Refuting the claims of petitioner, private respondent contended in its answer that petitioner never cared about the payment of her loan although she knew of the status of her account; that she was duly notified of the foreclosure and public auction sale since notice to Manuel Roxas, her agent, was notice to the principal; that the sheriff duly posted copies of the notice of foreclosure sale in conspicuous public places before the actual auction sale; and that she acted negligently in not taking steps to redeem the subject land.

On January 20, 1989, the trial court rendered judgment in favor of petitioner. The dispositive portion of its decision reads:

"WHEREFORE, a decision is rendered declaring:

1. As null and void the public auction sale of Lot 3108 mortgaged by plaintiff Consuelo D. Roxas thru her attorney-in-fact Manuel D. Roxas in favor of the defendant Rural Bank of Dumalag, (Capiz) Inc. conducted by the Provincial Sheriff Ex-Officio of Capiz on January 7, 1974, and all proceedings connected therewith, or related to the sale at public auction of Lot 3108 situated at Tanza Norte, Panay, Capiz, including the cancellation of the Certificate of Public Auction;
2. Allowing plaintiff Consuelo D. Roxas to redeem the land from the defendant Rural Bank of Dumalag (Capiz) Inc., for the amount of P4,194.50 as consigned by plaintiff with this court;
3. Ordering defendant Rural Bank to reconvey the mortgaged premises to plaintiff Consuelo D. Roxas or her representative;
4. Costs against the defendants.

SO ORDERED."[2]

The trial court ratiocinated that private respondent failed to give notice of foreclosure to petitioner as owner of the property and there was no compliance with the requirements of Section 5 of Republic Act No. 720,[3] as amended by Republic Act No. 5939, the pertinent portion of which, provides:

"The foreclosure of mortgages covering loans granted by rural banks shall be exempt from the publication in newspapers now required by law where 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." (underscoring supplied)

The notices of foreclosure were posted in the municipality where the subject land was located and in Roxas City, but not in the barrio. Moreover, there was no affidavit of the sheriff who conducted the sale, attached to the records of the case.

On elevating the matter to the Court of Appeals, said court reversed the decision of the trial court.[4] According to the appellate court, Section 5 of R.A. No. 720 does not require personal notification to the mortgagor in case of foreclosure and there was substantial compliance with the requirements of said law.

Hence, the present petition seeking reversal by petitioner of respondent court's decision and raising as issues whether or not respondent court acted correctly:

- 1) in reversing the decision of the trial court, despite failure to post notices in the barrio where the land lies;

2) in not allowing redemption or recovery of the land on equitable, if not legal ground; and

3) in not passing upon the issue of gross inadequacy of price.

Elaborating on these issues, petitioner asserts that the failure to post the notice in the barrio where the mortgaged property is situated rendered the foreclosure and sale by public auction void. She invokes Our ruling in the case of *Tambunting, et al. v. Court of Appeals, et al.*,^[5] which held that the statutory provisions governing publication of notice of mortgage foreclosure sales must be strictly complied with, and that a slight deviation therefrom will invalidate the notice and render the sale voidable. If recovery cannot be had under the strict provision of law, it must be allowed under the liberal consideration of equity in view of the special circumstances in this case: first, private respondent admitted that it was always its practice of notifying mortgagors of the maturity of their loans, yet, in the case of petitioner, it did not do so; second, despite earlier requests, private respondent gave the statement of account only in 1981; third, even after the supposed foreclosure of the land in 1974, private respondent allowed petitioner to have possession thereof, paying the taxes in her name until 1982, when private respondent started to demand possession. The price paid by private respondent was only P3,009.37 while the total area of the subject land is more than fourteen hectares and a fishpond at the time of the sale in 1974.

The decision of respondent court is set aside.

The basic issue in this petition is easy to resolve by referring to Our previous decisions.

It is settled doctrine that failure to publish notice of auction sale as required by the statute constitutes a jurisdictional defect which invalidates the sale.^[6] Even slight deviations therefrom are not allowed.^[7]

Section 5 of R.A. No. 720, as amended by R.A. No. 5939, provides that notices of foreclosure should be posted in at least three (3) of the most conspicuous public places in the municipality and barrio where the land mortgaged is situated.

In the case at bar, the Certificate of Posting which was executed by the sheriff states that he posted three (3) copies of the notice of public auction sale in three (3) conspicuous public places in the municipality of Panay, where the subject land was situated and in like manner in Roxas City, where the public auction sale took place.^[8] It is beyond dispute that there was a failure to publish the notices of auction sale as required by law. Section 5 provides further that proof of publication shall be accomplished by an affidavit of the sheriff or officer conducting the foreclosure sale. In this case, the sheriff executed a certificate of posting, which is not the affidavit required by law. The rationale behind this is simple: an affidavit is a sworn statement in writing whereas a certificate is merely a statement in writing. Strict compliance with the aforementioned provision is mandated. We, therefore, cannot sustain the view of respondent court that there was substantial compliance with Section 5 of R.A. No. 720, as amended, with respect to the affidavit of posting by the sheriff and the non-posting of the required notice in the barrio where the land mortgaged is situated. Instead, We declare the foreclosure and public auction sale of the subject land void.

With the conclusion thus reached, We find it unnecessary to resolve the other issues raised by petitioner.

WHEREFORE, the petition is hereby GRANTED. The decision of the Court of Appeals dated May 23, 1991 is SET ASIDE. The decision of the trial court is AFFIRMED, subject to the MODIFICATION that paragraphs 2 and 3 are deleted. In lieu thereof: 2) petitioner is required to pay forthwith private respondent the principal amount of her loan which is P2,000.00 plus interest thereon at the rate stipulated upon or in the absence thereof, at the legal rate per annum computed from the date the loan was obtained until the date of consignment with the trial court; 3) declaring private respondent as entitled, in case of failure of petitioner to pay in full her obligation with interest as aforementioned within sixty (60) days from notice hereof, to foreclose its mortgage on Lot No. 3108, after due

compliance with the publication requirements of Section 5 of R.A. No. 720, as amended by R.A. No. 5939, at a public auction sale.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.

[1] Penned by Associate Justice Regina G. Ordoñez-Benitez with the concurrence of Associate Justices Jose A.R. Melo and Emeterio C. Cui.

[2] RTC decision, pp. 8-9.

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

[4] Rollo, p. 27.

[5] G.R. No. L-48278, 167 SCRA 16 (1988).

[6] Masantol Rural Bank, Inc. v. Court of Appeals, et al., G.R. No. 97132, 204 SCRA 752 (1991), citing Borja v. Addison, 44 Phil. 895 and Campomanes v. Bartolome and Germann & Co., 38 Phil. 808.

[7] Tambunting, et al. v. Court of Appeals, et al., supra.

[8] Exhibit "6".

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.