HENRY C. SEVESES, PETITIONER, VS. HON. COURT OF APPEALS, HON. MANUEL P. DUMATOL, SHERIFF ARSENIO C. DE GUZMAN AND RAMON N. CARREON, RESPONDENTS.

G.R. No. 102675. October 13, 1999

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Petitioner is the registered owner of a three hundred seventy (370) square meter parcel of land located in Parañaque, under Transfer Certificate of Title No. (122084) 33601 of the Registry of Deeds of Parañaque, Metro Manila.[1]

The subject property was originally owned by Rexcon Philippines under Transfer Certificate of Title No. S-44444 of the Registry of Deeds of Metro Manila, District IV,[2] free of any lien and encumbrance. On November 29, 1977, Rexcon Philippines, through its President/Manager/Owner, Reynaldo M. Reyes, entered into a Contract of Sale with private respondent Ramon N. Carreon. Soon thereafter, private respondent Carreon took possession of the subject property, introduced improvements thereon and religiously paid his monthly installments on the purchase price.

Sometime in 1979, however, Carreon discovered that merely three (3) days after the execution of their contract, a mortgage in favor of Makati Leasing and Finance Corporation was annotated on the title of the subject property, on account of a P168,000.00 loan. The mortgage was cancelled on February 22, 1978. But then, on February 19, 1979, a Deed of Absolute Sale in favor of Reyes was annotated on the property's title, as a result of which Transfer Certificate of Title No. S-44444 was cancelled and Transfer Certificate of Title No. S-82210 was issued to Reyes.[3] Shortly thereafter, on February 22, 1979, another mortgage, this time in favor of Ayala Investment and Development Corporation, for a P200,000.00 loan, was annotated. Private respondent Carreon demanded that title to the land be restored in the name of Rexcon Philippines, free from any lien or encumbrance. Reyes ignored the demand, whereupon private respondent Carreon suspended payment of his amortizations on the property.

Due to the failure of private respondent Carreon to pay the required installments on the sale, Reyes considered the sale rescinded and instituted an action for rescission before the Regional Trial Court of Pasay City on November 13, 1979, which was docketed as Civil Case No. 7648-P. A writ of preliminary injunction was issued by virtue of which private respondent Carreon was dispossessed of the subject property. Meanwhile, private respondent Carreon caused a notice of lis pendens to be annotated on Reyes' title to the property on April 1, 1981. On January 17, 1985, the Pasay RTC rendered a Decision approving and affirming Reyes' extra-judicial rescission.

Petitioner subsequently acquired the property from Reyes. When title was transferred to petitioner's name on September 22, 1987, the notice of lis pendens was carried over. According to petitioner, Reyes had informed him that the pending case had been terminated inasmuch as no appeal was filed by private respondent Carreon. When petitioner tried to obtain a loan from Far East Bank and Trust Company using the subject property as collateral, the bank verified the status of the case referred to in the notice of lis pendens and obtained a Certificate of Finality

from the court that the decision in the said case had become final. Thus, the notice of lis pendens was cancelled on October 12, 1987.

From the time of the sale of the property to him up to the present, petitioner had been in possession of the same, constituting it as his family's residence. On August 10, 1990, however, respondent Sheriff Arsenio C. De Guzman served a notice upon petitioner, giving him five (5) days from receipt within which to vacate the subject property.[4] Petitioner learned that private respondent Carreon appealed the decision of the RTC of Pasay to the Court of Appeals, which appeal was docketed as CA-G.R. CV No. 06498, and, on December 28, 1988, obtained favorable judgment therein. The dispositive part of the Court of Appeals Decision reads:

> WHEREFORE, premises considered, judgment is hereby rendered REVERSING and SETTING ASIDE the appealed decision and another one entered as follows:
>
> 1. Dismissing the complaint filed by the plaintiff-appellee;
>
> 2. Ordering the plaintiff-appellee to restore defendant-appellant to the peaceful possession of the subject property;
>
> 3. Ordering the plaintiff-appellee to restore the title, subject of the contract of purchase and sale, in its original condition at the time of the execution of said contract. Or in the alternative, if the same becomes impossible, to give security to the defendant-appellant that he will return the purchase price should the peaceful possession of the defendant-appellant be disturbed by actual contingency;
>
> 4. Ordering the defendant-appellant to pay all back amortizations from March 1979 upon the restoration of the title over the subject property to its original condition at the time he entered into the contract of purchase and sale or compliance by the plaintiff-appellant of the alternative remedy indicated above.

With costs against the plaintiff-appellee.[5]

The aforementioned Decision became final and executory on July 10, 1989 after this Court denied Reyes' Petition for Review in G.R. No. 87985.[6]

Faced with the notice ordering him to vacate, petitioner filed on August 14, 1990 with the Pasay City Regional Trial Court an "Urgent Motion for Leave to Intervene"[7] and a "Motion for Protective Order and/or Restraining Order."[8] The following day, respondent Judge Manuel Dumatol issued an Order directing respondent Sheriff to defer enforcement of the Writ of Execution until further notice.

On May 24, 1991, respondent Judge issued an Order denying petitioner's Motions, holding that petitioner "has no one to blame except himself for the present predicament he is in."[9] Petitioner's "Motion for Reconsideration" and "Motion for Inhibition"[10] were denied by respondent Judge in an Order dated July 29, 1991 for lack of merit.[11]

Petitioner thus brought a petition for certiorari[12] with the Court of Appeals. This, too, was denied due course in respondent Court of Appeals' Decision of October 31, 1991.[13]

Hence, the instant Petition anchored upon the following grounds –

> I. THE PETITIONER WAS DENIED DUE PROCESS WHEN THE RESPONDENT COURT OF APPEALS AFFIRMED THE DENIAL BY THE RESPONDENT JUDGE OF HIS MOTION FOR INTERVENTION AND MOTION FOR INHIBITION.
>
> II. THE RESPONDENT COURT OF APPEALS HAS MADE CONCLUSIONS OF LAW WHICH RUN ROUGHSHOD OVER ACCEPTED PRINCIPLES OF JURISPRUDENCE.[14]

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The Petition must be denied.

To begin with, despite petitioner's protestations, he cannot qualify as a buyer in good faith. A purchaser in good faith and for value is one who buys the property of another without notice that some other person has a right to or interest in such property and pays a full and fair price for the same, at the time of such purchase, or before he has notice of the claims or interest of some other person in the property.[15] To be sure, the notice of lis pendens of private respondent Carreon was annotated in Reyes' title as early as April 1, 1981. It was on the title when Reyes sold the property to petitioner on September 22, 1987 and was carried over to petitioner's title. Hence, it is clear that petitioner cannot be considered an innocent purchaser for value and in good faith. His claim to the subject property must yield to the lien in favor of private respondent Carreon.

That the notice of lis pendens was cancelled and title thereafter was issued in his name does not save the day for petitioner. For one, the cancellation of the notice of lis pendens on a mere certification of case finality by a court personnel does not appear in order. The rules dictate that cancellation of the notice should be done with judicial authority.[16] Then, too, by virtue of the notice of lis pendens, petitioner is bound by the outcome of the litigation subject of the lis pendens. As a transferee pendente lite, he stands exactly in the shoes of the transferor and must respect any judgment or decree which may be rendered for or against the transferor. His interest is subject to the incidents or results of the pending suit, and his Certificate of Title will, in that respect, afford him no special protection.[17]

Coming now to the main issue of intervention, it would appear that petitioner's Motion for Intervention was, indeed, filed late. Section 2, Rule 19 of the Rules of Court, which was then controlling, provides that a motion to intervene should be filed "before rendition of judgment." To be sure, intervention can no longer be allowed in a case already terminated by final judgment,[18] such as in the case before us.

At any rate, even if the Motion for Intervention was seasonably filed, it should still be denied. In the case of Santiago Land Development Corporation v. Court of Appeals,[19] petitioner maintained that as purchaser pendente lite of the land in litigation, it had a right to intervene under Rule 12, Section 2. We rejected this position and said that "since petitioner is not a stranger in the action between Quisumbing and the PNB, petitioner in fact having stepped into the shoes of PNB in a manner of speaking, it follows that it cannot claim any further right to intervene in the action." As in the instant Petition, it was argued that the denial of the Motion to Intervene would be a denial likewise of due process. But this, too, was struck down in Santiago Land,[20] where we held that "petitioner is not really denied protection. It is represented in the action by its predecessor in interest." Indeed, since petitioner is a transferee pendente lite with notice of the pending litigation between Reyes and private respondent Carreon, petitioner stands exactly in the shoes of Reyes and is bound by any judgment or decree which may be rendered for or against the latter.

Neither can petitioner expect to prevent the implementation of the Decision in CA-G.R. CV No. 06498 by referring to the fact that (1) the subject property is no longer Reyes' to give back; (2) title to the subject property is no longer in Reyes' name but in his name; and (3) title to the subject property is in the hands of his mortgagee bank. These, he says, were "actual contingencies" which "drastically changed the entire complexion of the case." However, "(T)he new facts and circumstances that would justify a modification or non-enforcement of a final and executory judgment refer to those matters which developed after the judgment acquired finality and which were not in existence prior to or during the trial."[21] In the instant case, it cannot be disputed that these so-called "actual contingencies" occurred before the judgment acquired finality. Hence, they cannot effectively be the basis of non-enforcement of the subject final and executory judgment.

Finally, we find no basis in finding any abuse of discretion on the part of respondent Judge in denying petitioner's

Motion for Inhibition. As held in Aleria v. Hon. Velez[22] --

> As to the prayer for inhibition, petitioner claims that the issuance of the questioned Orders shows that respondent Judge has already lost his impartiality or cold neutrality to administer justice, and that petitioner does not stand a chinaman's chance of ever getting justice before respondent Judge. Such sweeping conclusions here do not merit consideration. The questioned Orders, by themselves, do not sufficiently prove bias and prejudice to disqualify respondent Judge under Section 1, second paragraph of Rule 137 of the Rules of Court. For such bias and prejudice, to be a ground for disqualification, must be shown to have stemmed from an extrajudicial source, and result in an opinion on the merits on some basis other than what the judge learned from his participation in the case. Opinions formed in the course of judicial proceedings, as long as they are based on the evidence presented and conduct observed by the judge, even if found later on to be erroneous, do not prove personal bias or prejudice on the part of the judge. Extrinsic evidence is required to prove bias, bad faith, malice or corrupt purpose, in addition to palpable error which may be inferred from the decision or order itself. This, the petitioner herein did not sufficiently adduce to warrant respondent Judge's inhibition or disqualification.

Moreover, not being allowed to intervene, petitioner had no standing to seek the disqualification of respondent Judge.

We once more emphasize that a "notice of lis pendens is an announcement to the whole world that a particular property is in litigation, and serves as a warning that one who acquires an interest over said property does so at his own risk, or that he gambles on the result of the litigation over said property."[23] Thus, we cannot grant the reliefs prayed for by petitioner.

WHEREFORE, premises considered, the Petition is hereby DENIED. The assailed Decision of the Court of Appeals is AFFIRMED in toto. No pronouncement as to costs.

SO ORDERED.

Puno, and Pardo, JJ., concur.

Davide, Jr., C.J., (Chairman), and Kapunan, JJ., on official business abroad.

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[1] Petition, Annex "A to A-3"; Rollo, pp. 20-23.

[2] Comment, Annex "A" of Annex "A"; Rollo, pp. 170-171.

[3] Id., Annex "B" of Annex "A"; Rollo, pp. 172-173.

[4] Petition, Annex "B"; Rollo, p. 24.

[5] Opposition in CA-G.R. CV No. 25750, Annex "C", Decision in CA-G.R. CV No. 06498; C.A. Records, pp. 120-121.

[6] Id., p. 122.

[7] Petition, Annex "C"; Rollo, pp. 25-27.

[8] Id., Annex "C-2"; Rollo, pp. 36-37.

[9] Id., Annex "E"; Rollo, p. 46.

[10] Id., Annex "F"; Rollo, pp. 48-51.

[11] Id., Annex “G”; Rollo, p. 52.

[12] Id., Annex “H”; Rollo, pp. 53-75.

[13] Id., Annex I”; Rollo, pp. 76-85.

[14] Petition, p. 6; Rollo, p. 7.

[15] Diaz-Duarte vs. Spouses Ong, G.R. No. 130352, November 3, 1998.

[16] See paragraph 2, Section 24, Rule 14 of the Revised Rules of Court.

[17] Toledo-Bañaga v. Court of Appeals, G.R. No. 127941, 28 January 1999; Yu vs. Court of Appeals, G.R. No. 109078, 251 SCRA 509 [1995].

[18] Chavez v. Presidential Commission on Good Government, G.R. No. 130716, 10 May 1999.

[19] G.R. No. 106194, 276 SCRA 674 [1997] .

[20] Supra.

[21] Soco vs. Court of Appeals, G.R. No. 116013, 263 SCRA 449, 456 [1996] .

[22] G.R. No. 127400, 16 November 1998.

[23] Villanueva v. Court of Appeals, G.R. No. 117108, 281 SCRA 298, 306-307 [1997] .

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