

**SANTIAGO LAND DEVELOPMENT CORPORATION, PETITIONER, VS.
THE HONORABLE COURT OF APPEALS AND THE HEIRS OF
NORBERTO J. QUISUMBING, RESPONDENTS.***G.R. No. 106194. August 07, 1997*

Ponente: MENDOZA, J.

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Petitioner has filed a motion for reconsideration to which private respondents, heirs of Norberto J. Quisumbing, have filed an opposition. Petitioner has in turn filed a reply. Petitioner maintains that, as purchaser pendente lite of the land in litigation in Civil Case No. 10513 of the Makati Regional Trial Court, entitled “Norberto J. Quisumbing v. Philippine National Bank,” petitioner has a right to intervene under Rule 12, §2.

First. Petitioner points out that Sen. Vicente J. Francisco’s book on the Rules of Court (Vol. 1, page 719), which the Court cited in its decision, in turn cites Moore’s Federal Practice (Vol. 2, page 2307) which actually supports petitioner’s right to intervene. Petitioner states:

9. Prof. Moore, in his above-cited treatise, cites among others a case decided by the Supreme Court of California for the proposition that intervention of a purchaser pendente lite is recognized by the U.S. courts. (Ibid., Chapter 24.03, page 19, note 49; See, e.g., *Dutcher v. Haines City Estate*, 26 F. 2d 669 [CCA Fla., 1928]; *State ex rel. Thelen v. District Court for Toole County*, 17 P. 2d 57, 93 Mont. 149 [S.C. Mont., 1932]; *Bily v. Board of Property Assessment Appeals & Review*, 44 A. 2d 250, 353 Pa. 49 [S.C. Penn., 1945]; *Miracle House Corp. v. Haige et al.*, 96 So. 2d 417 [S.C. Fla., 1957]).

The Court cited Sen. Francisco’s work on the Rules of Court only for the proposition, not disputed by petitioner, that the purpose of Rule 12, §2 on intervention is to enable a stranger to an action to become a party to protect his interest and the court to settle in the process all conflicting claims. 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.

Nor do we find the cases said to be cited in Moore’s Federal Practice supportive of petitioner’s right to intervene in this case. The first three cases (*Dutcher v. Haines City Estate*, 26 F.ed 669 (CCA Fla., 1928); *State ex rel. Thelen v. District Court*, 17 P.2d 57, 93 Mont. 149 (S.C. Mont., 1932) and *Bily v. Board of Property Assessment Appeals and Review*, 44 A.2d 250, 353 Pa. 49 (S.C. Penn. 1945)) involve purchasers pendente lite in execution or sheriff’s sales, not in voluntary transactions. The difference is important. In voluntary sales or transactions, the vendor can be expected to defend his title because of his warranty to the vendee. No such obligation is owed by the owner whose land is sold at execution sale. In fact the buyer at such sales takes the property subject to the superior right of other parties. Thus, in *Dutcher v. Haines City Estates*, *supra*, in the action brought by Dutcher against the Haines City Estates to claim a lien on certain lands, it was held that a bank, which subsequently obtained a judgment against the Haines City Estates for a sum of money and bought the lands being claimed by Dutcher, was entitled to intervene. It was held that “the title of the bank is superior to any lien asserted by

appellants [Dutchers and company]. ...It is immaterial that the title was acquired by the purchaser pendente lite, as it is valid and cannot be affected by the pending litigation.”

In *State ex rel. Thelen v. District Court*, supra, *Ke-Sun Oil Co.* brought a suit to quiet title against *Sunburst Oil & Refining, Oil Well Supply and Ferdig Oil Co. Oil Well Supply*, which had a lien on a property belonging to *Ferdig Oil*, foreclosed the lien and the property was sold to *J.N. Thelen*. It was held that *J.N. Thelen* should have been allowed by the lower court to intervene in order “to have his rights adjudicated.” (17 P.2d at 59)

And in *Bily v. Board of Property Assessment Appeals*, supra, it was held that in an appeal brought by property owners to protest an assessment, a party who foreclosed a mortgage on one of the properties and purchased the property at sheriff’s sale has a right to intervene. It was held that the right of intervention should be accorded to any one having title to property “which is the subject of litigation, provided that his rights will be substantially affected by the direct legal operation and effect of the decision, and provided also that it is reasonably necessary for him to safeguard an interest of his own which no other party on record is interested in protecting.” (44 A.2d at 251)

As the purchaser in those cases did not acquire the property from their owners but adverse to them, he could expect no party in the pending suit to safeguard his interest. Hence the necessity of allowing his intervention. In contrast, in the case at bar, petitioner himself considers the defenses raised by PNB, its predecessor in interest, to be “formidable” and all that it desires in seeking to intervene is “to fortify even more such defenses” (Reply to Opposition. p. 4). Petitioner is thus unlike the heirs in *Dizon v. Romero*, 26 SCRA 452 (1968) or the purchaser pendente lite at a sheriff’s sale in *Bily v. Board of Property Assessment* who had to be allowed to intervene because it was “reasonably necessary for him to safeguard an interest of his own which no other party on record is interested in protecting.” (44 A.2d at 251) It is simply petitioner’s perfectionism or meticulousness that makes it want to intervene “to further improve the defenses of the original party (here, PNB).” But otherwise there is no reasonable necessity for its intervention.

On the other hand the last case cited in *Moore’s Federal Practice*, *Miracle House Corp. v. Haige*, supra, while involving a vendee who sought to intervene in a case in which said vendee had an interest by virtue of a contract of sale made in its favor by one of the vendors, does not involve a purchaser pendente lite so as to be considered on all fours with the case at bar. He was a purchaser but not pendente lite. Hence the ruling in that case cannot be invoked by petitioner.

Second. Petitioner contends that, unless its right to intervene is upheld, a stranger to the action would have a better right contrary to the constitutional guarantee of equal protection of the laws. Petitioner is not really denied protection. It is represented in the action by its predecessor in interest whose defenses petitioner itself considers to be “formidable.” As private respondents point out, it is not really the case that petitioner is denied a hearing. It is not. As already stated, since petitioner is a transferee pendente lite with notice of the pending litigation between *Quisumbing* and PNB, petitioner stands exactly in the shoes of defendant PNB and is bound by any judgment or decree which may be rendered for or against PNB. Under Rule 3, §20, the action may be continued against PNB, the original defendant. In the alternative - although it was not essential that the transferee be substituted and the latter insist on such substitution - the trial court could have directed that petitioner be either substituted as party-defendant or joined with defendant PNB.

Third. Petitioner points out:

20. On a separate matter, this Honorable Court stated in its decision that:

[T]he appellate court therefore properly refused to pass upon petitioner’s attempt to inquire into the consideration

paid for the assignment of the right of redemption to the late Norberto J. Quisumbing, as well as petitioner's claim that the transfer of interest to Quisumbing was made in violation of Art. 1491(5) of the Civil Code, prohibiting attorneys from acquiring property or interest which is the object of the litigation in which they take part as such. This matter was never alleged by PNB in its answer to Quisumbing's complaint.

Petitioner most respectfully wishes to point out that the foregoing statement as to PNB's supposed failure to raise the defense that the "transfer of interest to Quisumbing was made in violation of Art. 1491(5) of the Civil Code, is not correct.

Indeed, PNB raised this defense. Attached hereto as Annex "A" is PNB's answer with counterclaim in Civil Case No. 10513 wherein PNB expressly raised the nullity under Art. 1491(5) of the supposed assignment to Atty. Quisumbing (Annex "A" at page 3, par. [e], among its various defenses. Hence, it is most respectfully asked that manifestation this be NOTED to prevent any party from unreasonably capitalizing on the erroneous statement of fact.

The Court regrets the error. The underscored portion should not have been made. However, correction of the error does not call for the modification of the decision.

ACCORDINGLY, the motion for reconsideration is DENIED for lack of merit.
SO ORDERED.

Regalado, (Chairman), Romero, Puno, and Torres, JJ., concur.

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