

**CESAR SAN JOSE AND MARGARITA BATONGBAKAL, PETITIONERS,
VS. HON. COURT OF APPEALS, SPS. MARCOS DE GUZMAN AND
GLORIA DE GUZMAN, RESPONDENTS.**

G.R. No. 106953. August 19, 1993

Ponente: PADILLA, J.

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PADILLA, J.:

In this Petition for Review, Cesar San Jose and Margarita Batongbakal (hereinafter referred to as petitioner-spouses), seek to set aside the decision of the Court of Appeals* in C.A. G.R. No. 30769-CV entitled "Spouses Cesar San Jose and Margarita Batongbakal vs. Spouses Marcos de Guzman and Gloria de Guzman".

The relevant facts in this case are as follows:

Petitioner-spouses filed a complaint to annul the extra-judicial foreclosure sale conducted by the Provincial Sheriff of Bulacan of the property covered by T.C.T. No. T-159703 located in Duhat, Bocaue, Bulacan.

The land was mortgaged by the petitioner-spouses to private respondent-spouses Marcos and Gloria de Guzman on 14 April 1972 as security for the payment of a loan of P12,000.00. For allegedly failing to comply with the conditions of the mortgage, the private respondent-spouses extra-judicially foreclosed the mortgage and the land was sold at a sheriff's sale held on 25 November 1975 with respondent-spouses as purchasers thereof. Consequently, TCT No. T-159703 was cancelled and TCT No. T-30,762(M) was issued in the name of respondent-spouses.

That there was failure to pay the loan obtained from the respondent-spouses and that the latter had the right to foreclose the mortgage either judicially or extrajudicially are not disputed. The only issue to be resolved in this case is whether or not the extra-judicial foreclosure sale complied with the requirements of Act No. 3135 as amended by Act No. 4118 which governs the extra-judicial foreclosure of real estate mortgage.

Petitioner-spouses contend that the extra-judicial foreclosure sale was null and void for the following reasons:

- 1) The petitioner-spouses were not notified of the extra-judicial foreclosure;
- 2) The Sheriff's certificate of posting of notice was not presented;
- 3) There was no proof that the newspaper in which the notice of extra-judicial foreclosure sale was made was one of general circulation; and
- 4) The property mentioned in the Notice of Sheriff's Sale and in the minutes of auction sale was covered by TCT No. T-169705 not by TCT No. T-159703, the title to the mortgaged property subject of the foreclosure sale.

The trial court upheld the validity of the foreclosure sale.* On appeal, the Court of Appeals in its aforesaid decision dated 20 March 1992 likewise held that the foreclosure sale was valid. A Motion for Reconsideration was denied on 26 August 1992. Hence this petition for review.

The provision of Act No. 3135 as amended by Act No. 4118 relevant to the issues in this case is Section 3 which states:

"Sec. 3. Notice shall be given by posting notices of sale for not less than twenty (20) days in at least three public places of the municipality or city where the property is situated, and if such property is worth more than four hundred pesos, such notice shall also be published once a week for at least three consecutive weeks in a newspaper of general circulation in the municipality or city."

In *Tambunting v. Court of Appeals*,^[1] the Court stressed that the statutory provisions governing publication of notice of mortgage foreclosure sales must be strictly complied with, and that even the slightest deviations therefrom will invalidate the notice. In the case at bar, the Notice of Sheriff's sale referred to the property covered by TCT No. T-169705. This was the notice actually published in "The New Record" as shown by the Affidavit of Publication executed by the Business Manager of the aforementioned publication. The trial court and the Court of Appeals upheld the validity of the Notice based on the theory that although the property to be sold pursuant to the foreclosure of mortgage was indeed covered by TCT No. T-159703 and not by TCT No. T-169705, the technical description, however, in the notice was the actual and correct technical description of the property. Both the trial court and the Court of Appeals held that the discrepancy in the title number was "purely a typographical error" which "did not render null and void the public auction sale held by the Sheriff. The number of the transfer certificate as an identification of real property is not controlling. What controls is the technical description."^[2]

We disagree and consequently we reverse the decision of the Court of Appeals.

In the *Tambunting* case,^[3] this Court stated that the failure to advertise a mortgage foreclosure sale in compliance with statutory requirements constitutes a jurisdictional defect invalidating the sale and that a substantial error or omission in a notice of sale will render the notice insufficient and vitiate the sale.

The Notice of Sheriff's Sale, in this case, did not state the correct number of the transfer certificate of title of the property to be sold. This is a substantial and fatal error which resulted in invalidating the entire Notice. That the correct technical description appeared on the Notice does not constitute substantial compliance with the statutory requirements. The purpose of the publication of the Notice of Sheriff's Sale is to inform all interested parties of the date, time and place of the foreclosure sale of the real property subject thereof. Logically, this not only requires that the correct date, time and place of the foreclosure sale appear in the notice but also that any and all interested parties be able to determine that what is about to be sold at the foreclosure sale is the real property in which they have an interest.

The Court is not unaware of the fact that the majority of the population do not have the necessary knowledge to be able to understand the technical descriptions in certificates of title. It is to be noted and stressed that the Notice is not meant only for individuals with the training to understand technical descriptions of property but also for the layman with an interest in the property to be sold, who normally relies on the number of the certificate of title. To hold that the publication of the correct technical description, with an incorrect title number, of the property to be sold constitutes substantial compliance would certainly defeat the purpose of the Notice. This is not to say that a correct statement of the title number but with an incorrect technical description in the notice of sale constitutes a valid notice of sale. The Notice of Sheriff's Sale, to be valid, must contain the correct title number and the correct technical description of the property to be sold.

We need not discuss the other grounds for nullifying the foreclosure sale having found that there was no compliance with the statutory notice requirement.

WHEREFORE, the decision of the Court of Appeals is hereby SET ASIDE and a new decision rendered:

- 1) Declaring the Extra-judicial Foreclosure Sale of the property of the petitioner-spouses null and void.
- 2) Ordering the appropriate Register of Deeds to rein-state Transfer Certificate of Title No. T-159703 in the name of petitioner Margarita Batongbakal married to petitioner Cesar San Jose, giving it full force and effect as though it had never been cancelled.
- 3) Ordering the cancellation of Transfer Certificate of Title No. T-30.762(M) in the name of private respondent spouses Marcos and Gloria de Guzman for being void ab initio.

With costs against the private respondents.

SO ORDERED.

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

Puno, J., no part.

* Justice Salome A. Montoya, ponente, Justices Reynato S. Puno and Celso L. Magsino, concurring

* Decision penned by Judge Narciso T. Atienza, RTC of Malolos, Branch 16

[1] G.R. No. L-48278, 8 November 1988, 167 SCRA 16

[2] CA decision, p. 9

[3] Supra

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