ASUNCION SAN JUAN, PETITIONER, VS. COURT OF APPEALS AND YOUNG AUTO SUPPLY CO., RESPONDENTS.

G.R. No. 110055. August 20, 2001

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Can courts validly order the Register of Deeds to annotate a final Certificate of Sale in the Original Certificate of Title and to register such sale, even if the registered owner-mortgagor refuses to surrender the owner's duplicate Certificate of Title?

The Case

This is the main question raised in the Petition for Review before us, assailing the November 20, 1992 Decision[1] of the Court of Appeals[2] (CA) in CA-GR CV No. 18444. The CA affirmed the May 25, 1988 Order[3] of the Regional Trial Court (RTC) of Negros Occidental (Branch 52),[4] which voided the owner's duplicate copy of TCT No. T-120163 and ordered the Register of Deeds to annotate, in the Original Certificate of Title, the final Certificate of Sale in favor of private respondent, without the need of presenting the owner's duplicate copy.

The decretal portion of the CA Decision reads as follows:

> "Pursuant therefore to the foregoing, in order for the Register of Deeds to issue a new certificate of title, the existing certificate of title shall first be declared null and void or cancelled if the same has not been delivered by the registered owner to the vendee in the foreclosure sale. As the appellant failed to comply with the order of the court dated May 12, 1988, the subsequent order of the court a quo dated May 25, 1988 declaring Certificate of Title No. T-120163 of oppositor San Juan as null and void, and directing further the Register of Deeds to annotate the Final Certificate of Sale in favor of petitioner without the necessity of presenting the owner's copy of the aforementioned certificate of title was proper and consistent with the law governing the same.
>
> "ACCORDINGLY, the decision appealed from is hereby AFFIRMED, and the instant appeal is DISMISSED.[5]

Petitioner's Motion for Reconsideration was denied by the CA in its Resolution dated April 6, 1993.[6]

The Facts

The subject of the present controversy is Lot No. 14-B, Bacolod Cadastre, which was formerly covered by Transfer Certificate of Title (TCT) No. T-120163 registered in the name of Petitioner Asuncion San Juan. The property was mortgaged to Private Respondent Young Auto Supply Co., Inc., through petitioner's attorney-in-fact, Rafael Alducente. Upon default in the payment of the principal loan secured by the mortgage, an extrajudicial foreclosure proceeding was instituted by private respondent before the city sheriff of Bacolod City. Since private respondent was the sole bidder in the auction sale held on June 5, 1985, the corresponding Certificate of Sale was

issued in its favor. On September 13, 1985, the Certificate was registered with the Office of the Register of Deeds of Bacolod City.[7]

After the lapse of the one-year redemption period, a final Certificate of Sale was issued on September 22, 1986.[8] However, private respondent could not register it, because petitioner refused to surrender her duplicate Certificate of Title.

Thus, on March 11, 1988, private respondent filed, before the Regional Trial Court of Negros Occidental, a Petition[9] for the registration and the annotation of the final Certificate of Sale. During the trial, petitioner manifested that the owner's duplicate Certificate of Title to the property, subject of the foreclosure sale, was in her possession. Thus, the trial court issued an Order[10] directing petitioner to deliver to private respondent within seventy-two (72) hours therefrom the owner's duplicate copy.

Because of petitioner's failure to comply with the Order, the trial court issued another Order dated May 25, 1988, the dispositive portion of which reads:

> "In view of the above, the Register of Deeds of Bacolod City is hereby directed to annotate in the original Certificate of Title kept in its file the Final Certificate of Sale duly entered as Doc. No. 254; Page No. 51; Book No. 61; Series of 1986, of Ex-Oficio Notary Public Judge Vivencio Ibrado, MTCC, Bacolod City, executed by Atty. Leopoldo Cioco, Ex-Oficio City Sheriff on September 22, 1986 in favor of the [herein private respondent] without the necessity of presenting the owner's copy of the aforementioned transfer certificate of title."[11]

Petitioner filed a Motion for Reconsideration and/or Opposition to the Petition, pummeling for the first time the validity and the regularity of the issuance of the final Certificate of Sale. Likewise, petitioner belatedly asserted that she had already revoked the Special Power of Attorney she had admittedly issued in favor of Rafael Alducente.[12] However, the trial court denied the Motion on June 27, 1988.[13]

Ruling of the Court of Appeals

The appellate court held that "the final Certificate of Sale was properly and regularly issued by the ex oficio city sheriff of Bacolod City. This was done by virtue of the alleged failure of the oppositor, Asuncion San Juan, to exercise her right of redemption that expired on June 26, 1986 x x x. The Certificate of Sale was dated June 5, 1985, and it was not until September 22, 1986, that the final Certificate of Sale was executed, yet she never redeemed the property or questioned the regularity of the transaction in the intervening period except when the appellant filed the instant Motion for Reconsideration of June 9, 1988."[14]

The Court of Appeals added that "the fact of the mortgage, its release and the Certificate of Sale are matters of record in the Office of the Register of Deeds of Bacolod City. It cannot be, therefore, said that these instruments were irregularly executed. For being public documents, they are entitled to the presumption of regularity. To counteract all this, which appellant now seeks to do, there must be convincing, not merely preponderant proof. Hence, the issuance of the new Certificate of Title in favor of petitioner as a consequence of the registration of the final Certificate of Sale and the execution of the other instruments relative thereto are presumed regular."[15]

Disagreeing with the CA, petitioner elevated the matter to this Court via the Petition earlier mentioned.[16]

Issue

The Petition submits this sole issue for the Court's consideration: "the petitioner was denied her day in court in gross violation of due process of law."[17]

The Court's Ruling

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The Petition is utterly without merit.

Sole Issue:Petitioner's Right to Due Process

Petitioner contends that "(i)t is a matter of record that the [trial] court x x x, as sustained by the respondent court, ordered herein petitioner to surrender her owner's duplicate certificate of title without considering her opposition, in gross violation not only of her basic rights but also of the provisions of Sec. III of Act 496 (the Land Registration Act), now Sec. 107 of PD 1529, having proceeded without priorly determining whether or not the petitioner had been lawfully divested of her title to the subject property, pursuant to the aforecited law." We do not agree.

Citing the constitutional provision on due process, petitioner begs for justice. However, she has no one else to blame but herself for being remiss in protecting and defending her property rights over the contested lot. To defend her title over the property, she should have filed the necessary court action from the moment she discovered the mortgage.

A careful examination of the records[18] shows that on July 27, 1985, petitioner received a copy of the July 17, 1985 Order issued by the Regional Trial Court, Negros Occidental, Branch 51, in which the foreclosure and sale proceedings were instituted. The Order directed the registration of the June 5, 1985 Certificate of Sale covering the subject property.

From that moment, she should have exerted and exhausted all possible judicial remedies to protect her property rights over the contested land. Yet, it took almost three (3) years -- well beyond the lapse of the redemption period -- and the issuance of the final Certificate of Sale, before she protested and attacked the validity of the real estate mortgage.

The right to attack the validity of a mortgage may be lost by a waiver of defects and objections, such as alleged fraud or misrepresentation. Mortgagors desiring to attack the validity of a mortgage should act with promptness. Otherwise, unreasonable delay may amount to ratification.[19]

A duly executed mortgage is presumed to be valid until the contrary is shown. To the party attacking rests the burden of proving its invalidity due to fraud, duress or illegality. It should be stressed that, as a general rule, courts will adopt such construction as will sustain rather than defeat the mortgage.[20]

Furthermore, in Gonzales v. Basa,[21] the Court ruled that "once a mortgage has been signed in due form, the mortgagee is entitled to its registration as a matter of right. By executing the mortgage, the mortgagor is understood to have given his consent to its registration, and he cannot be permitted to revoke it unilaterally. The validity and fulfillment of contracts can not be left to the will of one of the contracting parties."

Additionally, we find petitioner's protestations barred by laches. Laches has been defined as "the failure or neglect, for an unreasonable and unexplained length of time, to do that which by exercising due diligence could or should have [been] done earlier; it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either abandoned it or declined to assert it."[22] Mortgages may be fraudulent, illegal, or otherwise invalid. Through their acts or omissions, however, mortgagors may be estopped from denying the effect or from contesting the foreclosure, either by prolonged neglect to set up any defense against it or by permission to sell the property on foreclosure.[23]

In any case, the records show that petitioner was actually summoned by the trial court to appear and to "show cause why the [P]etition [for Registration and Annotation of Certificate of Sale Without Presentation of Owner's Copy] should not be granted."[24] Through counsel, she in fact attended the May 12, 1988 hearing, in which she

manifested that the owner's duplicate Certificate of Title to the subject property was in her possession. Thus, she was directed to deliver it to private respondent for the purpose of annotating the final Certificate of Sale in favor of the latter.[25] Petitioner failed to heed the Order, to which she did not object either. She simply remained silent until an adverse Order, nullifying her duplicate copy of the title, was issued by the RTC.

When petitioner filed her Motion for Reconsideration, the trial court asked respondent to comment thereon. She thereafter filed a Reply.

The filing of these pleadings gave the parties the opportunity and the means to raise and substantiate their respective arguments. Petitioner cannot now claim to have been denied her day in court. She was duly heard. Indeed, she was given ample opportunity to be heard.

Going now to the meat of the controversy, we hold that under the circumstances obtaining, the annotation of private respondent's final Certificate of Sale in the Original Certificate of Title, even without the presentation of petitioner's duplicate, was valid. To rule otherwise would result in a situation in which a purchaser in a foreclosure sale can never consolidate his or her title to the property even after the lapse of the redemption period, because of the sheer refusal or failure of the former owner to submit the latter's duplicate certificate of title. The mortgagee-purchaser would then be at the mercy of the mortgagor, if the latter without any just cause withholds such duplicate. Apt is the following pronouncement of the Court in Toledo-Banaga v. Court of Appeals:[26]

> "Petitioners['] other contention that the execution of the final and executory decision--which is to issue titles in the name of private respondent--cannot be compelled by mandamus because of the `formality' that the registered owner first surrenders her duplicate Certificates of Title for cancellation per Section 80 of Presidential Decree 1529 cited by the Register of Deeds, bears no merit. In effect, they argue that the winning party must [a]wait execution until the losing party has complied with the formality of surrender of the duplicate title. Such preposterous contention borders on the absurd and has no place in our legal system x x x. Otherwise, if execution cannot be had just because the losing party will not surrender her titles, the entire proceeding in the courts, not to say the efforts, expenses and time of the parties, would be rendered nugatory. It is revolting to conscience to allow petitioners to further avert the satisfaction of their obligation because of sheer literal adherence to technicality, or formality of surrender of the duplicate titles."

Significantly, Section 71 of Presidential Decree No. 1529[27] provides:

> "SEC. 71. Surrender of certificate in involuntary dealings. - If an attachment or other lien in the nature of involuntary dealing in registered land is registered, and the duplicate certificate is not presented at the time of registration, the Register of Deeds shall, within thirty-six hours thereafter, send notice by mail to the registered owner, stating that such paper has been registered, and requesting him to send or produce his duplicate certificate so that a memorandum of the attachment or other lien may be made thereon. If the owner neglects or refuses to comply within a reasonable time, the Register of Deeds shall report the matter to the court, and it shall, after notice, enter an order to the owner to produce his certificate at a time and place named therein, and may enforce the order by suitable process."

The proceedings before the lower court and the Register of Deeds of Bacolod City were all consistent with the applicable law and jurisprudence. Petitioner has not satisfactorily shown any reversible error on the part of the Court of Appeals.

WHEREFORE, the Petition is hereby DENIED and the assailed Decision AFFIRMED. Costs against petitioner.

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SO ORDERED.

Melo, (Chairman), Vitug, Gonzaga-Reyes, and Sandoval-Gutierrez, JJ., concur.

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[1] Rollo, pp. 21-26.

[2] Eleventh Division, composed of JJ Justo P. Torres Jr. (ponente and now a retired member of this Court), Manuel C. Herrera (Division chairman) and Pacita Cañizares-Nye (member).

[3] CA rollo, p. 6.

[4] Penned by Judge Bethel Katalbas-Moscardon.

[5] CA Decision, p. 5; rollo, p. 25.

[6] Rollo, p. 28.

[7] Records, p. 6.

[8] Ibid., p. 3 - 4.

[9] Records, p. 1.

[10] Ibid., p. 9.

[11] CA rollo, p. 6.

[12] Records, pp. 32-35.

[13] Ibid., p. 55.

[14] CA Decision, pp. 3-4; rollo, pp. 23-24.

[15] Ibid., p. 4; id., p. 24.

[16] To eradicate its backlog, the Court on February 27, 2001 resolved to redistribute long-pending cases to justices who had none, and who were thus tasked to prioritize these old cases. Consequently, this case was raffled to the ponente for study and report.

[17] Petition for Review on Certiorari, p. 9; id., p. 15.

[18] Records, p. 45.

[19] 59 Corpus Juris Secundum §147, p. 196.

[20] Ibid., §149, p. 198.

[21] 73 Phil. 704, September 30, 1942, per Ozaeta, J.

[22] Vda. de Cabrera v. CA, 267 SCRA 339, February 3, 1997, per Torres, Jr, J.

[23] 59 Corpus Juris Secundum §147, p. 196 citing U.S.- Rummel v. Butler County, CC Mo., 93 F 304.

[24] Records, p. 9.

[25] RTC Order dated May 12, 1988; records, p. 18.

[26] 302 SCRA 331, 342-343, January 28, 1999, per Martinez, J.

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[27] "An Act Amending and Codifying The Laws Relative to Registration of Property and For Other Purposes."

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