ANTONIA J. GUTANG, PETITIONER, VS. THE DEPUTY SHERIFF, REGIONAL TRIAL COURT, BRANCH 22, MANILA; THE REGISTER OF DEEDS, CITY OF MANDALUYONG; ALBERTO LOOYUKO AND JUAN O. UY, RESPO...

G.R. NO. 119716. July 31, 2007

Ponente: CORONA, J.

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CORONA, J.:

This is a petition for review on certiorari[2] which seeks to set aside the decision of the Court of Appeals (CA) in CA-G.R. SP No. 35213.[3]

At the center of this controversy is a Mandaluyong City property previously covered by TCT No. (450666)-1702 in the name of Linda Mendoza, married to Tomas Mendoza.[4]

On April 22, 1977, private respondents Alberto Looyuko and Juan O. Uy filed a complaint for sum of money, docketed as Civil Case No. R-82-5792,[5] against Tomas Mendoza in the Regional Trial Court (RTC) of Manila, Branch 22.[6] On private respondents' motion, a writ of preliminary attachment was issued over the property. This was annotated on TCT No. (450666)-1702.[7]

While the Manila case was pending, petitioner Antonia J. Gutang filed a complaint for sum of money, docketed as Civil Case No. 13122, against Tomas Mendoza in the Court of First Instance (CFI), Branch 4, Iloilo City.[8] The case was decided in favor of petitioner on December 24, 1980.[9] Consequently, a writ of execution was issued in her favor. The Mandaluyong property was levied upon on July 9, 1981[10] and sold in a public auction to petitioner as the highest bidder on October 4, 1984.[11] No redemption was made; hence, petitioner consolidated her title to the property. The final certificate of sale was issued on November 15, 1985.[12] Subsequently, TCT No. (450666)-1702 was cancelled and a new certificate of title, TCT No. 242, was issued in her name.[13] TCT No. 242 contained the liens annotated in TCT No. (450666)-1702, including a mortgage in favor of FGU Insurance Corporation (FGU) dated December 3, 1976[14] and the April 22, 1977 writ of preliminary attachment (relative to Civil Case No. R-82-5792).[15]

Meanwhile, on March 4, 1986, the Manila RTC decided Civil Case No. R-82-5792 in favor of private respondents. A writ of execution was then issued in their favor. To satisfy the Mendozas' judgment obligation, the Mandaluyong property was again levied upon and sold to private respondents as winning bidders in a public auction held on May 8, 1986.[16] The corresponding certificate of sale was issued to them on December 20, 1990[17] and annotated on TCT No. 242.

On January 3, 1992, private respondents filed a motion in Civil Case No. R-82-5792 for the issuance of a final deed of sale, cancellation of TCT No. 242 and the issuance of a new title in their names.[18] The Manila RTC granted the motion and ordered the cancellation of TCT No. 242 and the issuance of a new title in the names of private respondents.[19]

Subsequently, the Register of Deeds of Mandaluyong City, on February 6, 1992, cancelled TCT No. 242/T-2[20] and issued TCT No. 10107 in the names of private respondents.[21] TCT No. 10107 also contained liens previously annotated on TCT No. (450666)-1702, including the mortgage in favor of FGU.[22]

Petitioner appealed the August 30, 1994 order of the Manila RTC to the CA but the appellate court dismissed it.[23]

On May 15, 1995, petitioner filed this petition.[24] Petitioner contends that the Manila RTC had no jurisdiction to order the cancellation of petitioner's title and issue a new one in the names of private respondents.[25]

On July 12, 2001, this Court promulgated Looyuko et al. v. Court of Appeals.[26] There, both petitioner and private respondents assailed the validity of the foreclosure proceedings which had been initiated in the meantime by FGU on the basis of the mortgage to it (FGU). The mortgage was annotated on TCT No. (450666)-1702 and carried over to both TCT Nos. 242 and 10107. Both petitioner and private respondents charged that FGU's failure to implead them as parties nullified the foreclosure on the mortgage of the Mandaluyong property.[27]

In Looyuko, we upheld the validity of the foreclosure proceedings and declared that FGU held a lien superior to those of petitioner and private respondents. FGU had the mortgage annotated in its favor on December 3, 1976. On the other hand, private respondents and petitioner were declared "prevailing parties" in their respective complaints against the Mendozas in 1980 (CFI Iloilo) and in 1986 (RTC Manila). Hence, the effects of the 1988 execution[28] in FGU's favor retroacted to 1976 when the mortgage was annotated.[29]

FGU was indeed the rightful transferee of the Mandaluyong property, however, we recognize that petitioner and private respondents, as judgment creditors and junior lien holders, also had interests in the lot, though subordinate to that of FGU. When they purchased the same Mandaluyong property in separate public auctions, petitioner and private respondents acquired it subject to the encumbrances annotated on the TCT. In effect, they acquired not the property itself but the equity of redemption. For this reason, we ordered the cancellation of private respondents' TCT No. 10107[30] and the issuance of a new one in the name of FGU, subject to the equity of redemption of petitioner and private respondents.[31]

WHEREFORE, the petition is hereby DENIED.

Costs against petitioner.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.

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[1] The Court of Appeals and Judge Mariano N. de la Cruz, in his capacity as presiding judge of the Regional Trial Court of Manila, Branch 22, were impleaded as respondents. They were excluded here pursuant to Rule 45, Section 4 of the Rules of Court.

[2] Under Rule 56 in relation to Rule 46 of the Rules of Court (1964); dated May 15, 1995.

[3] Penned by Associate Justice Eduardo G. Montenegro (retired) and concurred in by Associate Justices Minerva P. Gonzaga-Reyes (retired Associate Justice of this Court) and Jose C. de la Rama (retired) of the Eleventh Division of the Court of Appeals; dated April 10, 1995. Rollo, pp. 146-168.

[4] Id., pp. 29, 203.

[5] Id., pp. 31, 147, 205, 580. This was originally docketed as Civil Case No. 107877 but later changed to Civil

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Case No. (R)-82-5792. To avoid confusion, the case shall be referred to as Civil Case No. R-82-5792.

[6] Id., pp. 30, 204, 580.

[7] Id., pp. 30, 204. The writ of attachment was again annotated on April 25, 1985 when Civil Case No. R-82-5792 was adjudged in favor of private respondents.

[8] Id., pp. 28, 202, 579.

[9] Id., pp. 28, 202.

[10] Id., pp. 29, 203.

[11] Id.

[12] Id.

[13] Id., pp. 29, 203, 580.

[14] Looyuko et al. v. Court of Appeals, 413 Phil. 445, 450-455 (2001). The facts with regard to FGU Insurance Corporation are as follows:

On December 2, 1976, the spouses Tomas and Linda Mendoza executed a mortgage over the Mandaluyong property in favor of FGU Insurance Corporation. The mortgage was annotated on TCT No. (450666)-1702 on December 3, 1976. Due to the spouses' failure to satisfy their obligation, FGU instituted foreclosure proceedings in Manila, RTC docketed as Civil Case No. 82-9760, on June 1, 1982. On January 22, 1988, the case was decided FGU's favor.

The trial court subsequently issued a writ of execution over the Mandaluyong property. It was sold in public auction to FGU as the highest bidder on November 24, 1988 and the certificate of sale was issued on March 2, 1989. On August 23, 1989, the trial court ordered the cancellation of TCT No. 242 and the issuance of a new one in FGU's name.

[15] Gutang v. Hon. Dela Cruz, CA-G.R. SP No. 351213, April 10, 1995, citing Gutang v. Hon. Pelayo, CA-G.R. SP No. 16655, April 12, 1989, id., p. 150.

[16] Id., pp. 30, 204.

[17] Id., p. 204.

[18] Id., p. 205.

[19] Id.

[20] TCT No. 242/T-2 was issued to FGU pursuant to the August 23, 1989 order in Civil Case No. 82-9760. This TCT cancelled petitioner's TCT No. 242. See note 14.

[21] Rollo, pp. 670-672.

[22] Id.

[23] Id., pp. 161-162.

[24] Amended on July 3, 1995.

[25] Rollo, pp. 34-49.

[26] Supra note 14. The consolidated petition includes Looyuko et al. v. Court of Appeals, G.R. No. 102696, FGU Insurance Corporation v. Court of Appeals, G.R. No. 102716, Tanunliong v. Court of Appeals, G.R. No. 108257 and Tanunliong v. Court of Appeals, G.R. No. 1200954. Counsels for Schubert Tanunliong twice moved (on December 18, 1995 and on September 8, 1999) for the consolidation of this petition with the others; however, it was left behind when the other petitions were consolidated and transferred to the ponente pursuant to A.M. No. 00-9-03-SC dated February 27, 2001.

[27] RULE OF COURT, Rule 68, Sec. 1. The provision states that:

Section 1. Complaint in an action for foreclosure. – In an action for the foreclosure of a mortgage or other encumbrance upon real estate, the complaint shall set forth x x x and the names and residences of all persons having or claiming an interest in the property subordinate in right to that of the holder of mortgage, all of whom shall be made defendants in the action.

According to petitioner, the above quoted provision requires that all persons having or claiming an interest over the property subordinate to that of the mortgagor shall be made defendants in the action for foreclosure.

[28] Supra note 14, at 452.

[29] See Kruenzle and Streiff v. Villanueva, 41 Phil. 611(1916).

[30] TCT No. 10107 cancelled FGU's TCT No. 242/T-2 which in turn cancelled petitioner's TCT No. 242. See notes 14 and 20.

[31] Supra note 15, at 446-448. The relevant portions of the decision state:

[A]n execution creditor who levies his execution upon property that the judgment debtor has mortgaged to another can sell at most only the equity of redemption belonging to the mortgagor. As it is the equity of redemption that the subordinate lien holders had acquired by levy on execution and that was sold in the public auction, this equity, not the property itself, was what the purchasers, who incidentally are the subordinate lien holders themselves bought at the execution sale.

xxx xxx xxx

Such equity of redemption does not constitute a bar to the registration of the property in the name of the mortgagee. Registration may be granted in the name of the mortgagee but subject to the subordinate lien holders' equity of redemption, which should be exercised within ninety (90) days from the date the decision becomes final. This registration is merely a necessary consequence of the execution of the final deed of sale. xxx

xxx xxx xxx

WHEREFORE:

xxx xxx xxx

The Registry of Deeds of is ordered to cancel TCT No. 10107 in the names of Jose Looyuko and John Uy and to issue a new one in the name of FGU Insurance Corporation, subject to the equity of redemption of Jose Looyuko and Jose Uy and Antonia Gutang, respectively. The equity of redemption of Jose Looyuko and John Uy should be exercised within ninety days (90) days from the date this decision becomes final.

SO ORDERED.

(The RTC Manila, in its August 23, 1989 order in FGU v. Spouses Mendoza, Civil Case No. 82-7960, ordered the cancellation of TCT No. 242, id., p. 452.)

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