

AURORA DE LEON, PETITIONER, VS. COURT OF APPEALS, AND CITIBANK, N.A. (MANILA BRANCH), INTEGRATED CREDIT & CORPORATE SERVICES COMPANY, ET AL., RESPONDENTS.

G.R. No. 123290. August 15, 1997

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

May a judgment debtor dispute the validity of the execution sale of properties belonging to him at the time of the attachment thereof but which were later sold by him in favor of a third person? This is the basic issue presented before this Court for resolution.

On 8 October 1990, petitioner Aurora de Leon applied for and was granted by private respondent Citibank, N.A., Manila Branch (hereafter Citibank) a credit line facility under its Ready Credit Line System. It was stipulated that the petitioner could draw from the line “an amount not exceeding her available balance,” i.e., the sum of the initial amount of the line (P200,000), deposits, and payments, less previous dues and availments made from the line. She could avail of the line through checks drawn against the Ready Credit Account or through withdrawals from Automated Teller Machines (ATMs) or by other means specified by Citibank.

The petitioner made transactions under the line. But due to excess of availments she made, computer errors which redounded to her benefit, and withdrawals she made after deposit of checks which were subsequently dishonored but were erroneously credited in her favor, the petitioner had overdrawn from the line P393,373.16 for the period ending 22 April 1991; P692,748.00 for the period from 10 to 13 May 1991; and P1,483,201.84 on 16 May 1991.

On 5 June 1991, Citibank filed with the Regional Trial Court (RTC) of Makati a complaint[1] for recovery of the overdrawn amounts and for exemplary damages and attorney’s fees. It also prayed for the issuance of a writ of attachment. The case was docketed as Civil Case No. 91-1580 and raffled to Branch 145 presided by Judge Job B. Madayag (hereafter MADAYAG court).

The next day, the trial court issued a writ of attachment.[2] After Citibank’s filing of the required attachment bond of P2,369,523.00,[3] Deputy Sheriff Ruben S. Nequinto caused the garnishment of petitioner’s deposits with different banks and the attachment of petitioner’s personal properties and real properties covered by TCT Nos. 3723 to 3731 of the Register of Deeds of Mandaluyong, Metro Manila.

The aforementioned real properties were earlier mortgaged by the petitioner in favor of Bonifacio Choa and Rodolfo Bediones to secure a loan. The mortgage was annotated in the titles.

On 8 August 1991, Citibank and the petitioner submitted to the trial court for its approval a Compromise Agreement[4] wherein the petitioner acknowledged her obligation to Citibank in the amount of P3,047,917.45. After having paid P279,164.90, she undertook to pay the balance of P2,768,752.45 in four installments covered by postdated checks. It was expressly agreed by them that the writ of preliminary attachment over petitioner’s properties would be maintained until full payment of petitioner’s obligation.

On 21 August 1991, the trial court rendered a decision approving the Compromise Agreement and ordering the parties to strictly comply with it.[5]

Since the first check delivered by the petitioner to Citibank was dishonored upon presentment for having been drawn against insufficient funds,[6] Citibank filed on 7 October 1991 a motion for the execution of the aforementioned decision. On 22 October 1991, the trial court granted[7] the motion, and on 25 October 1991 it issued a writ of execution. [8]

On 21 November 1991, the attached real properties covered by TCT Nos. 3723 to 3731 were sold at public auction, with the Integrated Credit and Corporate Services (hereafter ICCS) as the highest bidder.[9] The sum of P2,810,582.45 realized from the sale was applied to the partial satisfaction of the writ of execution.[10]

Meanwhile, or on 11 October 1991, Choa and Bediones executed a Deed of Cancellation of Mortgage. Five days after, the petitioner executed a Deed of Absolute Sale over the attached real properties in favor of Amicus Construction and Development Corporation (hereafter Amicus) of which Bediones is the president and Choa, the chairman of the board. Subsequently, the titles in the name of the petitioner were cancelled and new titles were issued. However, on 14 November 1991, the petitioner filed with the RTC of Pasig, Metro Manila (Branch 153), a complaint[11] docketed as Civil Case No. 61500 for the annulment of the deed of sale, claiming that the deed was executed “through machination, misrepresentation, fraudulent and deceitful means” employed by Choa and Bediones.

Since the petitioner or her successor in interest failed to exercise the right of redemption over the auctioned properties, the Sheriff executed on 20 May 1993 a Final Deed of Sale to ICCS.[12]

The next day, the petitioner filed with the RTC of Makati a complaint[13] for the annulment of the certificate of sale and for damages, with a prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction against Citibank, ICCS, and Deputy Sheriff Nequinto. This case was docketed as Civil Case No. 93-1650 and raffled to Branch 63 presided by Judge Julio R. Logarta (hereafter LOGARTA court).

A week later, the LOGARTA court issued a temporary restraining order[14] against ICCS, the Deputy Sheriff, and the Register of Deeds of Mandaluyong to prevent them from executing a final deed of sale, registering the deed, and issuing new transfer certificates of title.

On 4 June 1993, Citibank and ICCS filed a motion to dismiss[15] Civil Case No. 93-1650. After due hearing, the LOGARTA court issued an order dated 17 June 1993 denying petitioner’s prayer for the issuance of a writ of preliminary injunction.[16] On 21 June 1993, said court granted the motion to dismiss.[17]

The petitioner filed separate motions for the reconsideration[18] of the orders of 17 June 1993 and 21 June 1993.

In September 1993, Ovation Intrigators and Realty Corporation (hereafter Ovation) purchased from ICCS[19] the subject lots, now under TCT Nos. 7555 to 7566 and 3731. Thus, on 23 November 1993, Ovation moved that it be substituted for ICCS and that the notice of lis pendens appearing on TCT Nos. 7555 to 7566 and 3731 be cancelled. It further prayed that a writ of possession be issued in its favor.[20]

In its order of 10 November 1993,[21] the LOGARTA court denied petitioner’s motion for reconsideration of the order of 17 June 1993 but granted her motion for reconsideration of the order of 21 June 1993. Furthermore, it granted the motion for the consolidation of Civil Case No. 93-1650 with Civil Case No. 91-1580 (erroneously referred to as Civil Case No. 93-1508). On 11 January 1994, the MADAYAG court granted a similar motion for consolidation filed by Citibank.[22] The record of Civil Case No. 93-1650 was thereafter forwarded to the MADAYAG court.[23]

On 18 April 1994, Ovation manifested before the MADAYAG court that Civil Case No. 61500 in Branch 153 of the RTC of Pasig was dismissed for non-suit. Ovation thus submitted that the petitioner was not a real party in interest in Civil Case No. 91-1650.[24]

On 19 April 1994, the MADAYAG court denied Ovation's motion for the issuance of a writ of possession (prayed for in its Omnibus Motion dated 23 November 1993), reasoning that a favorable action on the motion would be premature in view of the consolidation of Civil Case No. 93-1650 with Civil Case No. 91-1580.[25] Afterwards, it issued an order[26] declaring that it would treat petitioner's action in Civil Case No. 93-1650 as a mere motion in, or an incident of, Civil Case No. 91-1580.

On 30 September 1994, Citibank and Ovation filed a motion to resolve the issue of whether the petitioner was still a real party in interest.[27] The petitioner, in turn, filed her Opposition to the motion.[28]

In its order of 1 March 1995,[29] the MADAYAG court ruled that the petitioner had "no legal interest in the subject properties" and ordered a writ of possession to issue in favor of Ovation. It justified its pronouncement in this wise:

[T]here is no dispute that the subject properties were registered in the name of Amicus on October 24, 1991, or even before these properties were sold on execution.... By virtue of such sale, Aurora transferred all her rights and interests over the subject properties to Amicus as her successor-in-interest, even the right to redeem the same from ICCS resided with Amicus at this time (Sec. 29, Rule 39, Revised Rules of Court).

Third, Aurora may contend that the Guinobatan ruling cannot apply to the case at bar since it contemplates the annulment of contracts of sale as opposed to execution sale. This is without merit. Such distinction is of no moment as the real issue is who would be benefited by the annulment of the sale, whether by contract or by execution, and as such stands as a real party in interest. It is thus clear that in the event the execution sale is annulled and subsequent titles cancelled in case of an adverse judgment, it is Amicus that will be reinstated as registered owner. It is, therefore, Amicus which is the real party in interest.

Fourthly, the fact that the judgment executed was rendered against Aurora and the further fact that she was a party to the case where execution issued, has no bearing on the present proceeding. For all intents of [sic] purposes, the rights she bore as such defendant regarding the subject properties were transferred to Amicus which should have been the party to question any irregularity in the sale thereof. Records show that at no time has Amicus entered its appearance in these proceedings nor has it authorized Aurora to act on its behalf. Aurora, therefore, has no further right to question the execution sale of the subject properties. Such right properly belongs to Amicus.

In the fifth place, the pendency of the proceeding for annulment of sale against Amicus as filed by Aurora in Civil Case No. 61500 of the Pasig RTC Branch 153 does not affect this Court's ruling. The filing of the said case before the RTC of Pasig does not vest any rights in favor of Aurora and as stated in the Guinobatan ruling, real interest to pursue an action does not contemplate incidental or contingent interests. The filing of a case and the annotation of a notice of lis pendens does not create a non-existent right or lien. (Citations omitted).

Petitioner's motion for the reconsideration[30] of the said order was denied for lack of merit.[31]

Subsequently, the petitioner filed an Urgent Motion to Hold in Abeyance Issuance of Writ of Possession. The motion was eventually denied, and a writ of possession was issued.[32]

On 23 June 1995, the petitioner filed with the Court of Appeals a petition for certiorari,[33] which was docketed as CA-G.R. SP No. 37537.

In its Decision[34] of 20 September 1995, the Court of Appeals denied the petition for want of merit, stressing that the province of a writ of certiorari is the correction of errors of jurisdiction, not errors of judgment.

Petitioner's motion for reconsideration^[35] of the decision having been denied in the resolution^[36] of 20 December 1995, she filed the instant petition.

The petitioner asserts the following as her "Reasons Warranting Review":

1. In ruling that "the object of petitioner's protestations arose from the decision of the respondent (trial) court which was promulgated way back on August 16, 1991, which decision was never appealed," (Parentheses supplied), the Court of Appeals failed to appreciate the fact that petitioner was not and is not questioning the said decision. What is at issue and is claimed to be in violation of the law and existing jurisprudence is the manner in which the auction sale of petitioner's properties was conducted.
2. In denying petitioner's petition, the Court of Appeals sustained the theory of private respondents and the conclusion of the trial court of the alleged "lack of interest" of petitioner in the properties in question despite the fact, appearing and spread out in the records of the trial court, that the said properties were attached, levied upon in execution and sold at public auction as properties belonging to the petitioner as judgment debtor.
3. In denying petitioner's petition, the Court of Appeals sustained the trial court's denial of due process to the petitioner of her day in court and of the opportunity to prove that -
 - a. The nine (9) parcels of land of the petitioner covered by separate titles and with nine (9) townhouses built thereon were sold as a package deal and not lot by lot as should have been.
 - b. The package price of P2,810,582.45 for which the nine (9) lots and townhouses were sold is grossly inadequate.

The determinative issue here relates to the second "reason warranting review" raised by the petitioner, that is, whether she had an existing interest to question the execution sale. If she had none then it would be unnecessary, for being academic, to resolve the two other issues.

Under the Rules of Court, every action must be prosecuted or defended in the name of the real party in interest.^[37] A suit instituted by one who is not a real party in interest may be dismissed for failure to state a cause of action.^[38]

A real party in interest is one who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit.^[39] By real interest is meant a present substantial interest, as distinguished from a mere expectancy or a future, contingent, subordinate, or consequential interest.^[40]

In proceedings to set aside an execution sale, the real party in interest is the person who has an interest either in the property sold or the proceeds thereof. Conversely, one who is not interested or is not injured by the execution sale cannot question its validity.^[41]

There would have been no question about petitioner's standing to challenge the execution sale conducted on 21 November 1991 had she remained the owner of the subject properties at the time of the auction sale. It must, however, be recalled that after the filing by respondent Citibank of a motion for execution, the petitioner executed in favor of Amicus a Deed of Absolute Sale over the attached real properties. Subsequently, the certificates of title in the name of the petitioner were cancelled and new titles were issued in the name of Amicus. By such sale, the petitioner had relinquished all her rights and interests over the said properties in favor of Amicus.

Notably, petitioner's former counsel, Atty. Reynaldo A. Feliciano, stated before the LOGARTA court:

ATTY. FELICIANO:

Well if your Honor please, what we have admitted is the existence of the transfer certificates of title. We have not admitted that Amicus is really the owner of the properties because as of now, in these transfer certificates

of title, and it is annotated in the certificates that the case was filed by the plaintiff against Bonifacio Choa, Rodolfo Bediones and Amicus Construction and Development Corporation. With that annotation, the alleged ownership of Amicus is not clear and it is questionable.[42]

The petitioner, in her Opposition to Citibank's Motion to Resolve, referred to herself in this wise:

In the third place, there is no dispute [sic] that defendant is the previous registered owner of the properties sold at the herein questioned execution sale for the purpose of satisfying the judgment debt of defendant in favor of plaintiff.

As such previous registered owner, she is a real party in interest in seeking the annulment of the execution sale because she stands to be benefited or injured by the judgment on this issue.[43]

Petitioner's present counsel, Atty. Eduardo C. Tutaan, admitted before the appellate court:

JUSTICE DE LA RAMA:

Will you please explain now why your clients transferred these properties to Amicus?

ATTY. TUTAAN:

She was embegged [sic] to sign a deed of sale Your Honor.

JUSTICE DE LA RAMA:

What do you mean?

ATTY. TUTAAN:

On the ground Your Honor, telling her that they will not foreclose the mortgage of our client Your Honor. She will just cancel the mortgage, but she will sign a Deed of Sale...(inaudible)

JUSTICE LUNA:

So, she owed money?

ATTY. TUTAAN:

Yes, she owed money Your Honor.

x x x

JUSTICE DE LA RAMA:

Was that considered paid by Amicus?

ATTY. TUTAAN:

Considered it as paid Your Honor. They cancelled the mortgage but they made her sign a Deed of Sale, which they said they will not registered [sic] but they registered it.

JUSTICE DE LA RAMA:

The question is, what [sic] that transfer of property to Amicus by your client considered the full payment of the obligation of your client and is there a document to that effect?

ATTY. TUTAAN:

Reading from the Deed of Sale signed by my client Your Honor, they considered it, the execution of the Deed, as paid... (inaudible)

JUSTICE DE LA RAMA:

So why was she embeggled [sic], if that is the case?

ATTY. TUTAAN:

I was not the lawyer then Your Honor, but I read the pleadings Your Honor, but I was not yet the lawyer for the petitioner Your Honor.

JUSTICE DE LA RAMA:

The point the Court would like to raise is, so, there was full consent of De Leon to transfer the properties to Amicus knowing that that transfer will be considered as full payment of her obligation, is that correct?

ATTY. TUTAAN:

Yes, Your Honor, but they assured her that the Sale will not be registered and she will be given time to pay the obligation, Your Honor. But what Amicus did, was register the sale and the titles in its own name.

JUSTICE MABUTAS:

What is the profession of your client?

ATTY. TUTAAN:

She is a teacher, Your Honor.

JUSTICE MABUTAS:

So, we can presume that she knew what she was doing.

ATTY. TUTAAN:

She is not a lawyer, Your Honor.

JUSTICE LUNA: (off the record)

Even then, if there is an agreement not to register the property, and then the document of sale should be the best evidence whether the sale was subject to certain resolutory or conditional factors.

ATTY. TUTAAN:

That is surprising. Amicus does not do anything Your Honor. No, no, no, we can only assume but we have no proof.[44]

From the above it may be gathered that Amicus is, at the least, the registered owner of the properties. Moreover, Atty. Tutaan's statements before the appellate court exposed the improbability of petitioner's claim over the subject properties. While the petitioner sought to annul the sale of the properties to Amicus in Civil Case No. 61500, according to Ovation that case was dismissed for non-suit. The petitioner never denied or contested this assertion. Her non-existent claim to the properties was thus further weakened by the dismissal of her complaint in Civil Case No. 61500.

The next question that we have to tackle is whether the petitioner had an interest in the proceeds of the execution sale. Here, we must make a distinction. If there were excess proceeds of the sale, the petitioner could not be said to have an interest thereon, as the same would pertain to Amicus, which is her successor in interest. But, if there was a deficiency, that is to say, the proceeds of the sale were not enough to satisfy the judgment, she would be qualified to attack the sale. This is so because it would be the petitioner as the judgment debtor, and not Amicus,

who should pay the deficiency.

However, it is significant to note that in her 26 February 1996 Manifestation/Motion[45] to lift the garnishment on her dollar account with a certain bank, the petitioner declared:

That the Branch Sheriff sold at public auction real properties under the name of petitioner in the amount of Two Million Eight Hundred Ten Thousand Five Hundred Eighty-Two Pesos and Forty Five Centavos (P2, 810, 582.45) and as per sheriff's return of execution the said amount was credited to the partial satisfaction of the judgment.

That as per computation of the petitioner there is a minimal balance of One thousand Pesos (P1,000.00) more or less on the judgment.

Three days after she filed the said motion, the petitioner unconditionally paid the balance of P1,000[46] for the full satisfaction of the judgment debt; and the court forthwith granted the motion.[47] By her acquiescence of the bid price of the auctioned properties and of the application thereof to the satisfaction of her judgment debt, coupled with her payment of the deficiency, the petitioner is deemed to have waived, or is estopped to assert, defects and irregularities in the execution sale.[48]

In closing we note that petitioner's bad faith cannot be overemphasized. She paid her debts to Citibank with bouncing checks. Later, she brokered a compromise agreement which, it appears, she had no intention of honoring, as she breached the same by delivering more bouncing checks to Citibank. She raised no objection to the execution sale before or immediately after the sale was held. She even moved for the lifting of the garnishment on her dollar account on the ground that the execution sale raised sufficient money to release her from her liability. She or her successor in interest did not redeem the property, even though the auction price, according to her, was grossly inadequate. More than a year after the sale, when the right of redemption had already lapsed and when the winning bidder had a right to conveyance and possession[49] of the properties, she filed an action in another court to annul the auction on grounds which existed during the sale and which she could have raised earlier. Clearly, her acts have succeeded only in delaying justice by denying what is rightfully due the private respondents.

WHEREFORE, the petition is dismissed for lack of merit.

Treble costs against the petitioner.

SO ORDERED.

Melo, Francisco, and Panganiban, JJ., concur.

Narvasa, C.J., (Chairman), no part, related to one of the lawyers.

[1] Original Record (OR), Civil Case No. 91-1580, 1-16.

[2] Id., 43.

[3] Id., 34-35.

[4] Id., 58-61.

[5] OR, 62-64; Rollo, 57-59.

[6] OR, 65-67.

[7] Id., 71.

[8] Id., 72.

[9] Id., 86

[10] Id.

[11] Rollo, CA-G.R. SP No. 37537, 23-39.

[12] OR, Civil Case No. 91-1580, 90.

[13] OR, Civil Case No. 93-1650, 1-8.

[14] Id., 152-151.

[15] Id., 159-166.

[16] Id., 223-226.

[17] Id., 235-236.

[18] Id., 227-230, 240-248.

[19] OR, Civil Case No. 93-1650, 283-285.

[20] Id., 278-282.

[21] Id., 297-298.

[22] Id., 299.

[23] Id., 300.

[24] OR, Civil Case No. 91-1580, 131-133.

[25] Id., 130.

[26] Id., 135-136.

[27] OR, Civil Case No. 91-1580, 138-144.

[28] Id., 149-153.

[29] Id., 165-175.

[30] Id., 214-220, 221-223.

[31] OR, Civil Case No. 91-1580, 237.

[32] Id., 239-242.

[33] Rollo, CA-G.R. SP No. 37537, 2-18.

[34] Per Mabutas, Jr., R., J., ponente, with Torres, Jr. (now Supreme Court Associate Justice) and De la Rama, J., JJ., concurring. Rollo, 30-55.

[35] Rollo, CA-G.R. SP No. 37537, 296-302.

[36] Rollo, 56.

[37] Section 2, Rule 3 of the Rules of Court.

[38] Columbia Pictures, Inc. v. Court of Appeals, G.R. No. 110318, 28 August 1996, 15.

[39] Board of Optometry v. Colet, G.R. No. 122241, 30 July 1996, 13.

[40] 1 Manuel V. Moran, Commentaries on the Rules of Court 154 [1979].

[41] 30 AM. JUR. 2d. Executions and Enforcement of Judgments §552 [1994].

[42] TSN, 14 June 1993, 7; OR, Civil Case No. 93-1650, 211.

[43] OR, Civil Case No. 91-1580, 150. Underscoring supplied for emphasis.

[44] TSN, 20 July 1995, 64-69; Rollo, CA-G.R. SP No. 37537, 254-259. Emphasis supplied.

[45] OR, Civil Case No. 91-1580, 75.

[46] Id., 78.

[47] OR, Civil Case No. 91-1580, 79.

[48] 30 AM. JUR. 2d Executions and Enforcement of Judgments §545 [1994].

[49] Sec. 35, Rule 39 of the Rules of Court.

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