

BOYET SEMPIO, PETITIONER, VS. HON. COURT OF APPEALS AND AURELIA L. TUAZON, RESPONDENTS.

G.R. No. 124326. January 22, 1998

Ponente: PUNO, J.

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PUNO, J.:

Petitioner implores this court to set aside the Decision[1] of respondent Court of Appeals dated November 29, 1993 and its Resolution[2] dated March 21, 1996 denying petitioner's Motion for Reconsideration in CA-G.R. CV No. 32744.[3] Respondent court found the dismissal, on the ground of *litis pendentia*, of respondent Aurelia L. Tuazon's complaint for injunction and damages in Civil Case No. 681-M-90 against petitioner, to be reversible error and accordingly ordered the remand of the case to the Regional Trial Court, Branch 6, Bulacan, for further proceedings.

The facts. Petitioner is the son of spouses Bernardo Sempio and Genoveva Ligot in whose name, the parcel of land subject of the instant case, is registered as evidenced by Transfer Certificate of Title No. T-6263. The land is situated in San Miguel, Bulacan and contains an area of approximately Three Thousand One Hundred Ninety-two (3,192) square meters.

Sometime before 1982, said spouses mortgaged the land to the Development Bank of the Philippines (DBP) to secure a loan of One Hundred Sixteen Thousand Seven Hundred Pesos (P116,700.00).[4] This loan was not fully paid; consequently, the DBP extrajudicially foreclosed the mortgage. At the public auction sale, the DBP emerged as the highest bidder and was correspondingly issued a Certificate of Sale dated March 1, 1982.[5]

On October 17, 1989, the DBP filed a Petition for Issuance of Writ of Possession Ex-Parte in the Regional Trial Court, Branch 15, Bulacan.[6] Docketed as Civil Case No. P-1787-89, said petition was opposed by Bernardo Sempio in an appropriate pleading filed on February 28, 1990.[7] Subsequently, respondent Tuazon filed a Complaint in Intervention claiming that she was the new owner of the land, having already purchased the same, albeit in the name of her daughter, Jeanette T. Baylon, from the DBP.[8]

On March 8, 1990, the Sempio spouses filed a Complaint for Annulment of Foreclosure, Reconveyance of Title and Damages in the Regional Trial Court, Branch 19, Bulacan. They contended, among others, that they were not notified of the foreclosure sale in violation of the notice, posting and publication requirements under Act No. 3135.[9] Said complaint was docketed as Civil Case No. 181-M-90.

In the same year, 1990, respondent Tuazon filed in the Regional Trial Court, Branch 6, Bulacan, a Complaint for Injunction and Damages, docketed as Civil Case No. 681-M-90. She invoked her exclusive right to the land as owner and accordingly asked the trial court to enjoin petitioner from digging any portion of the land and to assess against the latter the damages warranted under such circumstances.

On September 24, 1990, the extrajudicial foreclosure proceedings instituted by the DBP upon the land, were nullified by the trial court in Civil Case No. 181-M-90.

On December 21, 1990, the trial court ordered the dismissal of Civil Case No. 681-M-90 on the ground of lis pendens or auter action pendant, specifically, the pendency of Civil Case No. P-1787-89 for issuance of writ of possession filed by the DBP. The trial court also ratiocinated that respondent Tuazon should have sought protection of her right as new owner of the land in Civil Case No. 181-M-90 where the validity of the foreclosure proceedings undertaken by the DBP, her predecessor-in-interest, was at issue.

On October 21, 1991, DBP's Petition for Issuance of Writ of Possession Ex-parte was denied in Civil Case No. P-1787-89. Respondent Tuazon's Complaint in Intervention was also dismissed.

The DBP sought relief from the Court of Appeals: in Civil Case No. P1787-89, through ordinary appeal; and in Civil Case No. 181-M-90, through a Petition for Certiorari.

In a Decision dated November 26, 1993, the Court of Appeals affirmed the trial court in its refusal to issue a writ of possession in favor of the DBP or respondent Tuazon as plaintiff in intervention in Civil Case No. P-1787-89.

In contrast, the Court of Appeals annulled and set aside the decision of the trial court in Civil Case No. 181-M-90. We, however, reversed said appellate court in our Decision^[10] dated October 28, 1996 in G.R. No. 115953. The dispositive portion of that decision states:

"WHEREFORE, the Resolution of the Court of Appeals of 15 February 1994 reversing its Decision of 19 February 1991 is REVERSED and SET ASIDE. Consequently, the Decision of the RTC - Br. 19, of Malolos, Bulacan, dated 24 September 1990 (in its Civil Case No. 181-M-90) (a) declaring null and void the extrajudicial foreclosure, the Sheriff's Certificate of Sale, and all consequent proceedings over the parcel of land covered by TCT No. T-6263 of the Registry of Deeds of Bulacan; (b) directing herein petitioners Genoveva Ligot and the Heirs of Bernardo Sempio to pay respondent Development Bank of the Philippines P119,320.00 with legal rate of interest effective 1 March 1982 minus P30,301.00; (c) ordering respondent Development Bank of the Philippines to cancel the mortgage upon full payment of the loan; and (d) further ordering respondent Development Bank of the Philippines to pay petitioners P5,000.00 for attorney's fees, is AFFIRMED, with the MODIFICATION that the 'legal rate of interest' is increased to eighteen percent (18%) per annum as stipulated by the parties.

SO ORDERED."^[11]

In the meantime, from the decision of the trial court dismissing Civil Case No. 681-M-90, respondent Tuazon filed an appeal to respondent Court of Appeals, which docketed the same as CA-G.R. CV No. 32744.

On November 29, 1993, respondent court promulgated the Decision^[12] setting aside the dismissal order of, and remanding the case to, the court a quo for further proceedings.

Petitioner Boyet Sempio, one among those substituted as heirs in place of Bernardo Sempio who died during the pendency of the instant proceedings, filed a Motion for Reconsideration^[13] on January 3, 1994. In the Resolution^[14] dated March 21, 1996, however, respondent Court of Appeals denied the motion.

Hence, this petition for review on certiorari.

Petitioner ascribes reversible error to respondent court for ruling that neither identity of parties nor identity of causes of action attends Civil Case No. 681-M-90 vis-à-vis Civil Cases Nos. P-1787-89 and 181-M-90 as to warrant the dismissal of the former on the ground of either *litis pendentia* or *res judicata*.

In her Comment^[15] dated December 19, 1996, respondent Tuazon echoed the overriding concern of respondent Court of Appeals in the fact that the issue of whether or not she were a purchaser in good faith and for value, was never passed upon in both Civil Cases Nos. P-1787-89 and 181-M-90. Respondent court postulated:

"x x x [T]here is no identity of parties. The fact that Aurelia L. Tuazon is purported to be the successor of Development Bank of the Philippines is not enough to detract from our original pronouncement. An innocent purchaser for value may set up defenses not available to its predecessor-in-interest. The former does not necessarily step into the shoes of the latter.

Similarly, we find no identity of causes of action between the two. Civil Case No. 181-M-90 is an action for annulment of foreclosure, reconveyance of title and damages, while the instant case is an action for damages against the defendants who remain in possession of a property she purchased and who are digging the premises to the damage of the plaintiff appellant." [16]

On September 11, 1997, petitioner, by way of a Reply to Comment, [17] exhorted us to forthwith grant the instant petition in view of our Decision dated October 28, 1996, in G.R. No. 115953, ultimately upholding the nullification of the foreclosure proceedings as ordered by the Regional Trial Court, Branch 19, Bulacan, in Civil Case No. 181-M-90. No less than this court having restored the Sempios to their pre-foreclosure status as exclusive owners of the land, petitioner submits that the issue of ownership ought not to be re-litigated in Civil Case No. 681-M-90.

In our Resolution [18] dated October 6, 1997, we gave due course to the instant petition.

Indeed, in the light of the foregoing circumstances and more, the grant of this petition is in order.

The requisites for *lis pendens* are: (1) identity of parties, or at least such as representing the same interests in both actions; (2) identity of rights asserted and reliefs prayed for, the reliefs being founded on the same facts; and (3) identity in both cases is such that the judgment that may be rendered in the pending case would, regardless of which party is successful, amount to *res judicata* in the other. [19]

All these concur in the instant case.

First. Respondent Tuazon contends that there is no identity of parties to justify the application of the doctrine of *lis pendens*, considering that while she is the plaintiff in Civil Case No. 681-M-90, she was only an intervenor in Civil Case No. P-1787-89 and was never at all a party in Civil Case No. 181-M-90.

The foregoing argument is, however, premised on the wrong notion that identity of parties is calibrated by their strict sameness or a total lack of differentiation among them.

Well-settled is the rule that only substantial, and not absolute, identity of parties is required for *lis pendens*, or in any case, *res judicata*, to lie. [20] There is substantial identity of parties when there is a community of interest between a party in the first case and a party in the second case albeit the latter was not impleaded in the first case. [21]

Respondent Tuazon, concededly, was not impleaded as party-defendant in Civil Case No. 181-M-90. This court, however, is not oblivious to the fact that she purchased the land from the DBP at a time when the latter, despite non-redemption by the Sempios of the land within the applicable period, had not as yet effectuated the cancellation of TCT No. T-6263 and the issuance of a certificate of title in the name of the DBP. Respondent Tuazon apparently bought the land with the actual knowledge, or at least, she ought to have known, that the DBP was not the registered owner thereof. As such, respondent Tuazon cannot invoke the protection accorded by the law to purchasers of real property in good faith and for value. [22] Moreover, respondent Tuazon should also be taken to task for failing to make inquiry concerning the rights of the Sempios who were then and are until now, in possession of the land. Such failure to take the ordinary precautions which a prudent person would have taken under the circumstances, specially in buying a piece of land in the actual, visible and public possession of persons other than the vendor, constitutes gross negligence amounting to bad faith. [23]

Considering the foregoing, it cannot be denied that the interests of respondent Tuazon are inextricably intertwined with those of the DBP such that the former's exercise of her rights as purchaser-transferee of the land foreclosed by the DBP, is conditioned on the latter's successful defense of the validity of its foreclosure procedures in Civil Case No. 181-M-90. Thus, a community of interest, and corollarily, substantial identity of parties, exist between respondent Tuazon and the DBP insofar as Civil Cases Nos. 181-M-90 and 681-M-90 are concerned.

Likewise, substantial identity of parties obtains between Civil Cases Nos. P-1787-89 and 681-M-90. That respondent Tuazon was a mere intervenor in Civil Case No. P-1787-89 should not preclude us from appreciating the existence of identity of parties as a requisite of *lis pendens* because no less indubitable is the uniform interest of respondent Tuazon as new owner of the land in both cases. Be it as intervenor seeking to obtain possession of the land in Civil Case No. P-1787-89 or as plaintiff seeking to enjoin others from using the same and to collect the appropriate damages in Civil Case No. 681-M-90, respondent Tuazon, in both cases, asserted what she believed to be vested in her: that single, indivisible right as exclusive owner of the land.

Second. Respondent Tuazon adopts the posture of respondent Court of Appeals that different causes of action underlie Civil Cases Nos. P-1787-89, 181-M-90 and 681-M-90, which involve issuance of a writ of possession, annulment of foreclosure, and injunction with damages, respectively.

What impresses us as dissimilar, however, is only the form by which respondent Tuazon has sought to enforce her right as new owner of the land, following its sale to her by the DBP. In Civil Case No. P-1787-89, she intervened, anchoring her possessory claim on her right as new owner of the land. Invoking the same right, respondent Tuazon herself filed Civil Case No. 681-M-90 to enjoin the Sempios from digging portions of the land which she claims to be hers in exclusive ownership and to collect from them the appropriate damages for violation of her ownership rights. It is this same right that stood to be defeated in Civil Case No. 181-M-90, should the foreclosure proceedings be voided and DBP's title to the land, annulled, considering that respondent Tuazon purchased the same from the DBP with notice that the DBP was neither the registered owner nor the actual possessor thereof, rendering her a purchaser in bad faith not entitled to any protection under the law.

Thus, whether we inquire into the unity of rights asserted in the various actions filed on the basis of an identical set of facts involving respondent Tuazon, or we apply the true test of identity of causes of action that transcends the form of the action and rather evaluates whether or not the same evidence would support and establish the several actions pending,[24] there is no denying that identity of causes of action lies in the instant case.

There is only one cause of action running through respondent Tuazon's litigious undertakings: the continued violation of what she believes to be her right to exclusive possession and enjoyment of the land. Therefore, evidence of her exclusive ownership of the land is indispensable in prosecuting her claims in both Civil Cases Nos. P-1787-89 and 681-M-90. Although respondent Tuazon could not have proffered such evidence in Civil Case No. 181-M-90 where she was not impleaded, her rights are inherently contingent on those of the DBP since she may not be deemed a purchaser in good faith and accorded legal protection as such. At any rate, the parties are bound not only as regards every matter offered and received to sustain or defeat their claims or demand but as to any other admissible matter which might have been offered for that purpose and of all other matters that could have been adjudged in that case.[25]

Finally, respondent Tuazon cannot innocently pretend insulation from the legal effects of the non-issuance of a writ of possession in favor of the DBP and the nullification of its foreclosure proceedings. The DBP having been legally declared non-owner of the land and the Sempios, including petitioner, having been restored by no less than this court to full ownership thereof, respondent Tuazon is perforce bound thereby, and Civil Case No. 681-M-90 was therefore correctly dismissed by the court *a quo* on the ground of *lis pendens*, although too, the additional

ground of res judicata now obtains.

IN VIEW WHEREOF, the petition is GRANTED. The Decision of respondent Court of Appeals dated November 29, 1993 and its Resolution dated March 21, 1996 are hereby SET ASIDE and the Decision of the Regional Trial Court, Branch 6, Bulacan, in Civil Case No. 681-M-90, is hereby REINSTATED. No costs.

SO ORDERED.

Regalado, (Chairman), Mendoza, and Martinez, JJ., concur.

[1] Penned by Associate Justice Eubulo G. Verzola and concurred in by Associate Justices Serafin V.C. Guingona and Corona Ibay Somera; Rollo, pp. 23-29.

[2] Penned by Associate Justice Eubulo G. Verzola and concurred in by Associate Justices Corona Ibay Somera and Portia Alino-Hormachuelos; Rollo, pp. 36-38.

[3] Entitled, "Aurelia L. Tuazon, Plaintiff-Appellant, v. Boyet Sempio, et al., Defendants-Appellees".

[4] See Decision of this court in G.R. No. 115953, entitled "Genoveva Ligot Sempio and Heirs of Bernardo Sempio, Petitioners, v. Court of Appeals and Development Bank of the Philippines, Respondents, promulgated on October 28, 1996 (263 SCRA 617, 618 [1996]).

[5] See Decision of the Court of Appeals in Ca-G.R. CV No. 37057, entitled, "Development Bank of the Philippines, Petitioner-Appellant, v. Sps. Bernardo Sempio, et al., Oppositors-Appellees, Aurelia Tuason, Intervenor-Appellant," promulgated on November 26, 1993.

[6] Id.

[7] Id.

[8] Id.

[9] See Note No. 4.

[10] Penned by Associate Justice Josue N. Bellosillo and concurred in by Associate Justices Teodoro R. Padilla, Jose C. Vitug, Santiago M. Kapunan and Regino C. Hermosissima, Jr.; Rollo, pp. 68-80.

[11] Ibid., p. 79.

[12] See Note No. 1.

[13] Rollo, pp. 30-34.

[14] See Note No. 2.

[15] Rollo, pp. 45-50.

[16] Court of Appeals Resolution dated March 21, 1996, p. 2, Rollo, p. 37.

[17] Rollo, pp. 61-65.

[18] Rollo, p. 81.

[19] Victronics Computers, Inc. v. RTC, Br. 63, Makati, 217 SCRA 517, 529 [1993]; Sanpiro Finance Corp. vs. Intermediate Appellate Court, 220 SCRA 527, 534 [1993].

[20] Santos v. Court of Appeals, 226 SCRA 630, 637 [1993]; Anticamara v. Ong, 82 SCRA 337, 342 [1978]; Suarez v. Municipality of Naujan, 18 SCRA 682, 688 [1966].

[21] Anticamara v. Ong, *supra*.

[22] Claverias v. Quingco, 207 SCRA 66, 82 [1992].

[23] Bautista v. Court of Appeals, 230 SCRA 446, 450 [1994].

[24] Development Bank of the Philippines v. Pundogar, 218 SCRA 118, 132 [1993].

[25] Gabuya v. Layug, 250 SCRA 218, 221 [1995]; Carlet v. Court of Appeals, et al., G.R. No. 114275, July 7, 1997.

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