PHILIPPINE TRUST COMPANY, PETITIONER, VS. HONORABLE COURT OF APPEALS AND SIMEON POLICARPIO SHIPYARD AND SHIPBUILDING COMPANY, RESPONDENTS.

G.R. No. 124658. December 15, 1999

Ponente: YNARES-SANTIAGO, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-124658/

YNARES-SANTIAGO, J.:

The petition before us has its origins in a decision rendered by this Court on August 25, 1969 entitled "Philippine Trust Company vs. Simeon Policarpio, Modesta Reyes and Iluminada ("Lumen") R. Policarpio."[1]

Sometime in 1958, Iluminada "Lumen" Policarpio, obtained a loan from Philippine Trust Company (Philtrust, for short) in the sum of P300,000.00. As security for the loan, Lumen's parents, as sureties, executed a deed of mortgage to the bank over some parcels of land, including all the improvements thereon, covered by Transfer Certificate of Title No. 4144 (now 51668) of the Register of Deeds of the City of Manila and Transfer Certificate of Title No. 24182 of the Register of Deeds of Rizal. Upon failure of Lumen Policarpio to pay the loan when it fell due, Philtrust initiated foreclosure proceedings before the Court of First Instance (CFI) of Manila. The trial court rendered judgment for foreclosure on October 14, 1963, which this Court affirmed on August 25, 1969.[2]

On October 15, 1970, Philtrust purchased the properties at the auction sale. The sale was confirmed by the trial court in 1971. That same year, the bank was able to consolidate ownership over the property. On March 13, 1972, a Transfer Certificate of Title was issued in the name of the bank. Lumen Policarpio filed a complaint in the Court of First Instance of Rizal on March 23, 1972 to declare the auction sale void for lack of merit, however, the trial court decided in favor of Philtrust. Lumen Policarpio elevated the case to this Court on certiorari but the petition was dismissed on July 23, 1973 for lack of merit.

In February 1974, the ancestral house of the Policarpios situated in the same property already owned by the bank was destroyed by a typhoon. Lumen Policarpio sent letters to the bank officers informing them of the destruction and her plan to rebuild the house. Philtrust, however, never acted on any of the letters. Thus, Lumen Policarpio proceeded to construct the house, purportedly to provide shelter for her ailing mother. Meanwhile, on October 10, 1976, Philtrust filed a motion for the issuance of a writ of possession of said properties. On February 28, 1977, the trial court issued an order declaring that the bank was entitled to the possession of the properties but allowed the previous owners, the Policarpios, to adduce evidence showing that they built the house in good faith. Despite having been given several opportunities to do so, the Policarpios failed to introduce any evidence in their behalf, prompting the trial court to issue on May 29, 1979 the writ of possession. Upon the denial of a subsequent motion for reconsideration, Lumen Policarpio filed a petition for certiorari with the Court of Appeals, asking for leave to present evidence that she was a builder in good faith. The case was consolidated with CA-G.R. S.P. No. 10129, entitled "Ricardo Policarpio, Petitioner versus Hon. Elvirio Peralta, Respondent," since the two cases arose from the same facts. On August 29, 1980, the Court of Appeals dismissed the two petitions and upheld the writ of possession issued by the trial court. Lumen Policarpio filed a petition for review with this Court but the same was

denied for lack of merit. On motion for reconsideration, however, this Court set aside its earlier resolution and remanded the case to the Court of Appeals to allow Lumen Policarpio to adduce evidence showing that she was a builder in good faith. Meanwhile, on December 29, 1980, the bank sold the properties to the present owner, Alto Industrial Enterprises, Inc. which, on September 17, 1984, was allowed to intervene by the court a quo. In a resolution dated January 11, 1985, the Court of Appeals granted Philtrusts' motion for issuance of a writ of partial possession of the properties involved except the portion of 1,000 square meters wherein Lumen Policarpio's house stood. On August 31, 1987, the Court of Appeals rendered a decision, the dispositive portion of which reads as follows:

> WHEREFORE, in consequence of our conclusion that petitioner was not a builder in good faith entitled to the right of reimbursement with the right of retention, the submission and prayer that the writ of possession issued in this case be annulled and set aside, should in view of the facts disclosed after hearing of this appellate court, be as it is hereby, rejected and denied. It follows that the court a quo may now proceed without further delay to implement the questioned writ of possession and take such other steps and proceedings consistent with this judgment.
>
> SO ORDERED.[3]

The decision of the Court of Appeals was affirmed by the Supreme Court on September 2, 1988, and the subsequent motion for reconsideration was denied with finality on February 15, 1989 for lack of merit. Pursuant to the affirmed decision of the Court of Appeals, the trial court issued an alias writ of execution and possession on August 8, 1989. The writ was served on Lumen Policarpio on September 22, 1989. Meanwhile, she filed a motion for reconsideration on September 13, 1989 which was subsequently denied. In February 1990, the implementation of the first alias writ of possession was ordered. When the life of the first alias writ of possession expired, Philtrust moved for the issuance of a second alias writ of possession. On October 30, 1990, the second alias writ of possession was received by Jose Policarpio, brother of the private respondent, at her residence on 1064 M. Naval Street, Navotas, Metro Manila.

It was only on November 14, 1990, or after eleven (11) years and six (6) months, that Philtrust was finally placed in possession of the foreclosed properties, and thirty-one (31) years and two (2) months from the time the case for foreclosure proceeding was instituted in the Court of First Instance on September 29, 1959.

Thereafter, Simeon Policarpio, Modesta Reyes and Iluminada "Lumen" Policarpio filed a petition for prohibition with preliminary mandatory injunction with the Court of Appeals alleging grave abuse of discretion on the part of the trial court in ordering the premature implementation of the second alias writ of possession dated October 15, 1990 alleging that when the writ of possession was issued, the motion for reconsideration of the order of October 15, 1990 had not yet been resolved. A motion for intervention was filed by third party claimants Concordia Ysmael, Gladys Ysmael, and Leonila Policarpio. Another motion for intervention had been filed by Simeon Policarpio Shipyard and Shipbuilding Corporation and R.M. Dried Fish Product. The Court of Appeals, however, dismissed the petition saying that the Policarpios had been fully heard on the issues involved. As to the motions for intervention filed by third party claimants, the court ruled that the supposed intervenors are not really third party claimants but successors-in-interest of spouses Policarpio against whom the writ is likewise enforceable since the sale of the property to Simeon Policarpio Shipyard and Shipbuilding Corporation and the new house built on a portion of the subject property by the Ysmaels, as well as the other transactions entered into by the Policarpios, were made after title to the land had been consolidated in the name of the bank. On appeal to this Court, the aforesaid decision was affirmed and declared to be immediately executory on August 26, 1991.[4]

On November 11, 1992, herein private respondent Simeon Policarpio Shipyard and Shipbuilding Corporation (SPSSC for short) filed a complaint for Damages, Injunction, and Mandamus against petitioner Philtrust and RTC

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

Malabon Sheriff Augusto Castro and Deputy Gallardo C. Tolentino, alleging that on November 14, 1990, by virtue of an alias writ of execution and possession issued by Branch 12, Regional Trial Court (RTC) of Manila on October 15, 1990, the defendant Sheriff, together with Philtrust counsel Atty. Antonio Sikat, Justice Guillermo Santos and Maria C. Noche, with the use of trickery and fraudulent machination, in the absence of the owner of the shipyard shipbuilding corporation, opened the gates of the shipyard without notice to the owners and took possession of it despite the fact that it was not one of the properties mortgaged to the bank.[5]

Petitioner Philtrust filed a motion to dismiss on the grounds of res judicata and failure on the part of private respondent SPSSC to state a cause of action. Petitioner alleged that the issues raised by private respondent involved the same parties and the same properties which have already been passed upon by the courts including the Supreme Court. Petitioner further alleged that the complaint states no cause of action since the property covered by OCT-R-165 is no longer owned by private respondent but by the Land Bank of the Philippines. It appears that the property has been mortgaged by private respondent to the said bank in an instrument dated April 30, 1982 to guarantee payment of a loan in the sum of Four Million Five Hundred Twenty Nine Thousand Pesos (P4,529,000.00).[6]

The trial court denied the motion to dismiss filed by petitioner Philtrust on the ground that the doctrine of res judicata is inapplicable as to OCT-R-165.[7] On motion for reconsideration filed by petitioner Philtrust, the trial court ruled that the case was one for damages anchored on the alleged improper implementation by the defendant Sheriff of the alias writ of possession subjecting thereto the property covered by OCT-R-165, which is entirely separate and distinct from the property subject of the writ. Since the corporation was the one in possession of the property at the time of the implementation of the writ, it is the real party in interest as it was the one prejudiced by the alleged improper implementation of the writ of possession.[8]

Petitioner Philtrust appealed to the Court of Appeals reiterating its claim that private respondent's complaint states no cause of action since private respondent failed to redeem its mortgaged property covered by OCT-R-165 to Landbank within the one year period of redemption and, hence, is not a real party in interest.

On July 30, 1995, the Court of Appeals affirmed the ruling of the trial court, stating that as far as the parcels of land covered by TCT 234088 and TCT 24182 are concerned, there is identity of subject matter. But as to the property covered by OCT-R-165, the doctrine of res judicata is inapplicable. The Court of Appeals also ruled that although the property covered by OCT-R-165 had been foreclosed by Landbank as early as April 27, 1987, and private respondent failed to redeem it within the one year period of redemption, since there was no showing that a second or final deed of sale has been executed in favor of Landbank, there could not have been a resulting transfer of title covering said property in favor of Landbank.[9] Their motion for reconsideration having been denied by the Court of Appeals, Philtrust has instituted the present petition.

Petitioner reiterates its claim that res judicata is applicable as to OCT-R-165 and that private respondent's complaint states no cause of action.

We find no merit in the petition.

The litigation over the properties of the Policarpios subject to foreclosure by Philtrust has spanned almost 40 years since its inception. Atty. Lumen Policarpio has instituted a number of petitions before us, in an apparent attempt to forestall foreclosure of the properties mentioned in Case No. L-228685 entitled, "Philippine Trust Company vs. Simeon Policarpio, Modesta Reyes, and Iluminada (Lumen) R. Policarpio," rendered by this Court on August 25, 1969. The said decision specifically identified the parcels of land subject of the deed of mortgage executed by spouses Policarpio to secure the loan of Lumen Policarpio to be those "covered by Transfer Certificate of Title No. 41144 (now 51668) of the Register of Deeds of the City of Manila, and Transfer

Certificate of Title No. 24182 of the Register of Deeds of Rizal."[10]

The same properties were the subject of litigation between the same parties before this Court in the following cases:

- G.R. No. L-22685 - On August 25, 1969, this Court affirmed the judgment of foreclosure by the trial court in favor of Philtrust.

- G.R. No. L-37143 - On July 20, 1973, this Court dismissed the petition for review on certiorari filed by the Policarpios which sought to declare the auction sale void for lack of notice.

- G.R. No. 55900 - Initially, this Court denied the petition filed by Lumen Policarpio, but on a motion for reconsideration, we remanded the case to the Court of Appeals to determine whether petitioner was a builder in good faith.

- G.R. No. 81142 - On February 10, 1989, this Court resolved with finality to uphold its resolution of September 28, 1988 and the decision of the Court of Appeals dated August 31, 1987 that Lumen Policarpio was a builder in bad faith and the writ of possession in favor of Philtrust be implemented without further delay.[11]

- G.R. No. 97963 - On August 26, 1991, this Court again dismissed the petition of Simeon Policarpio, Modesta Reyes and Iluminada "Lumen" Policarpio questioning the propriety of the implementation of the second alias writ of possession alleging that when the writ of possession had been implemented, a motion for reconsideration had not yet been resolved.[12]

The complaint for damages filed by private respondent SPSSC with the Regional Trial Court of Malabon, Metro Manila, Branch 170, on November 19, 1992, however, was predicated on the alleged improper implementation of the alias writ of execution involving two parcels of land covered by TCT 234088 and OCT-R-165. Respondent Court of Appeals noted that TCT 234088 is actually a consolidation of lots sold to Simeon Policarpio Shipyard and Shipbuilding Corporation by spouses Simeon Policarpio and Modesta Reyes after title to the properties subject of foreclosure has already been consolidated in the name of petitioner Philtrust. Among the parcels of land sold was the lot covered by TCT No. 24182 of the Register of Deeds of Rizal, which property had been identified by this Court as one of the properties mortgaged to Philtrust on May 23, 1958.[13] Hence, insofar as the parcel of land covered by TCT 24182 included in TCT 234088 is concerned, there is an identity of parties, subject matter and cause of action. Consequently, the trial court and the Court of Appeals did not err in declaring that res judicata is applicable as to the complaint for damages based on the improper implementation of the writ of possession involving TCT 24182 included in TCT 234088 because all the elements of res judicata are present, to wit: (a) the former judgment is final; (b) the court which rendered it had jurisdiction over the subject matter and the parties; (c) it was a judgment on the merits; and (d) there must be, between the first and second actions, identity of parties, subject matter and causes of action.[14]

With regard to the parcel of land covered by OCT-R-165, however, there is no showing, and there is nothing on the records, to indicate that it has ever been mortgaged by the Policarpios or their successors in interest to petitioner Bank. In fact, the aforesaid parcel of land could not have been the subject of litigation between the said parties considering that the Original Certificate of Title No. R-165 was only issued in the name of private respondent, Simeon Policarpio Shipyard and Shipbuilding Corporation, on October 14, 1981, more than twelve years after the rendition of the afore-stated Supreme Court judgment.[15] Hence, res judicata is not applicable as regards OCT-R-165 because there is no identity of the subject matter.

Petitioner makes much issue of the fact that private respondent has failed to redeem the foreclosed property covered by OCT-R-165 from Landbank and hence, not being the owner of the property in question, private

respondent's complaint for damages states no cause of action.

This contention deserves scant consideration. Rule 3, Section 2 of the 1997 Rules of Civil Procedure requires that every action "must be prosecuted and defended in the name of the real party in interest." This means that the action must be brought by the person who, by substantive law, possesses the right sought to be enforced and not necessarily the person who will ultimately benefit from the recovery.

Private respondent SPSSC does not dispute that the parcel of land covered by OCT R-165 has been mortgaged to the Landbank of the Philippines to secure a loan in the sum of Four Million Five Hundred Twenty Nine Thousand Pesos (P4,529,000.00) on April 30, 1982. The property was foreclosed as early as April 27, 1987 as evidenced by a certificate of sale issued by the ex-officio sheriff of Malabon. The certificate of sale was inscribed in the Register of Deeds on September 21, 1987, giving private respondent one year to redeem it. However, private respondent failed to redeem the said property within the one year redemption period. Nevertheless, despite failure of private respondent to redeem the property within the one year period following its foreclosure, the bank has deferred consolidation of title and has given private respondent the option to re-acquire the property subject to certain terms under negotiation. A certification issued by the bank dated October 18, 1994 reads:

> This is to certify that a certain property located in Navotas, Rizal owned by Simeon Policarpio Shipyard and Building Corporation and covered by OCT-R-165 was foreclosed by the bank per certificate of sale dated April 29, 1994. The said corporation, represented by Atty. Lumen Policarpio, was given the option to re-acquire the property under the terms presently being negotiated with Landbank.
>
> Although the one year period of redemption had expired on September 21, 1988, this bank has deferred the consolidation of title in view of the report that said property is fully submerged in water.[16]

Since private respondent was in possession of the aforesaid parcel of land when the writ of possession was improperly implemented by the sheriff, it is not correct therefore to say that private respondent does not have a cause of action, simply because it was no longer the owner of the property in question when the writ of possession was implemented. It is elementary that a lawful possessor of a thing has the right to institute an action should he be disturbed in its enjoyment. Verily, Article 539 of the Civil Code states that

> Every possessor has a right to be respected in his possession; and should he be disturbed therein, he shall be restored to said possession by the means established by the laws and rules of court. x x x

The phrase "every possessor" in the article indicates that all kinds of possession, from that of the owner to that of a mere holder, except that which constitutes a crime, should be respected and protected by the means established and the laws of procedure.[17] Consequently, private respondent having been in lawful possession of the property covered by OCT-R-165 at the time the writ of possession was implemented, may institute an action for having been disturbed in its enjoyment.

WHEREFORE, the decision rendered by the Court of Appeals, in C.A. G.R. SP No. 39342, dismissing the instant petition for certiorari filed by Philippine Trust Company is AFFIRMED in toto.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, and Kapunan, JJ., concur.
Pardo, J., no part due to relation to a party.

---

[1] 29 Phil 42 [1969].

[2] Supra.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[3] Rollo, pp. 379-381.

[4] Rollo, pp. 48-57.

[5] Records, pp. 72-79.

[6] Rollo, p. 608, Annex "A".

[7] Rollo, pp. 442-443.

[8] Rollo, p. 166.

[9] Rollo, pp. 78-98.

[10] 29 Phil. at 44.

[11] As cited in the Resolution in G.R. No. 97963 issued by this Court on August 26, 1991, Rollo pp. 353-354.

[12] Rollo, pp. 347-356.

[13] Rollo, p. 91.

[14] Mangoma vs. Court of Appeals, 241 SCRA 21 [1995]; Militante vs. NLRC, 246 SCRA 365 [1995], Guevarra vs. Benito, 247 SCRA 570 [1995].

[15] Rollo, p. 447.

[16] Records, p. 181.

[17] II Tolentino, Civil Code, 241 [1987] citing 3 Sanchez-Roman 438-439, 2 Navarro Amandi 170 and 4 Manresa 214.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.