LUIS MIGUEL YSMAEL AND JOHANN C.F. KASTEN V, PETITIONERS VS. COURT OF APPEALS AND SPOUSES PACIFICO LEJANO AND ANASTACIA LEJANO, RESPONDENTS.

G.R. No. 132497. November 16, 1999

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review of the decision of the Court of Appeals,[1] dated January 26, 1998, dismissing the petition for certiorari and mandamus to set aside an order of the Regional Trial Court, Branch 70, Pasig City, which allowed private respondents to redeem certain parcels of land sold to satisfy the judgment rendered against them and in favor of petitioners.

The facts are not in dispute. They are as follows:

Petitioners brought suit for sum of money against private respondents in the then Court of First Instance of Rizal, Branch 29, and obtained judgment in their favor on October 2, 1980. The dispositive portion of the trial court's decision, dated October 2, 1980, reads:[2]

> WHEREFORE, judgment is rendered directing defendants (herein private respondents) Pacifico Lejano and Anastacia Lejano to pay, jointly and severally, each of the plaintiffs (herein petitioners) the following:
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> - P120,000.00 with interest at 12% per annum from November 25, 1975, until fully paid;
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> - P120,000.00 with interest at 12% per annum from November 25, 1976, until fully paid;
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> - P120,000.00 with interest at 12% per annum from November 25, 1977, until fully paid;
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> - P115,620.00 with interest at 12% per annum from November 25, 1978, until fully paid;
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> - P50,000.00 for moral damages;
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> - P40,000.00 as exemplary damages; and
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> - P25,000.00 as attorney's fees and the costs of suit.

The decision remained unexecuted for a long time as petitioners were unable to locate property belonging to private respondents. However, in 1989, before the right of action upon the judgment could prescribe, petitioners filed a case for the revival of the judgment in the Regional Trial Court, Branch 70, Pasig City, which on March 14, 1990, rendered a decision reviving the judgment in Civil Case No. 3039.

Private respondents appealed to the Court of Appeals, but their appeal was dismissed in a resolution dated October 8, 1992 of the appellate court. Private respondents brought the matter to this Court which likewise dismissed private respondents' petition on January 11, 1993.

Accordingly, on September 9, 1993, the trial court issued a writ of execution, as a result of which the rights,

interests, and participation of private respondents in several parcels of lands, covered by TCT Nos. T-47699, T-50009, T-54010, T-50011, T-50391, T-50392, T-50393, T-50394, and 16274 of the Register of Deeds of Batangas, were levied on execution. On March 15, 1995, private respondents' rights, interests, and participation in said lands were sold at public auction to petitioners, represented by their counsel of record Atty. Fernando R. Arguelles, Jr., who offered the highest bid for P700,000.00. The sale to petitioners was registered in the Office of the Register of Deeds of Nasugbu, Batangas on July 25, 1995. The certificate of sale stated in pertinent parts:[3]

> The period of redemption of the real properties described above will expire one (1) year from and after the date of registration of this Certificate of Sale.
>
> It is hereby required of said highest bidder, that a statement of any amount of assessment or taxes which may have been paid on account of this purchase and such other liens chargeable to the redemptioners, with PROOF hereof, be submitted within thirty (30) days immediately preceding the expiration of the period of redemption, furnishing the defendants a copy thereof, as required by law, for purposes of computing the actual amount payable by the defendants in case of redemption.

On July 16, 1996, private respondents' counsel wrote to petitioners' counsel Atty. Fernando R. Arguelles, Jr. and Deputy Sheriff Sofronio M. Villarin, informing them that private respondents were exercising their right of redemption. Private respondents asked petitioners for a computation of the redemption price. The letter stated in pertinent parts:[4]

> In behalf of the co-owners of defendant Pacifico Lejano, et al., namely: Juliet Lejano-Lagarijos, Amparo Lejano and Leopoldo Lejano, et al., of the parcels of land subject of public auction sale in the above entitled case, we are exercising the right of redemption pursuant to Section 30, Rule 39, Revised Rules of Court. We are, therefore, requesting that compliance be made with respect to the last paragraph of the Certificate of Sale with respect to the "actual amount payable by the defendants in the above entitled case in case of redemption."
>
> We understand that the period of redemption will expire on 25 July 1996. Hence, immediately upon receipt of this letter, please furnish us with the requested total redemption price of the subject property.

Deputy Sheriff Villarin received the letter on July 16, 1996 while Atty. Arguelles received the same on July 17, 1996,[5] but they did not bother to reply.

The twelve-month period of redemption expired on July 19, 1996. Although the certificate of sale was registered on July 25, 1995, the twelve-month period ended on July 19, 1996, considering that the latter year was a leap year. However, thinking that the last day of the period of redemption was on July 25, 1996, private respondent Pacifico Lejano went to the office of Atty. Arguelles on said date and tendered to him two cashier's checks drawn on Far East Bank and Trust Company in the total amount of P784,000.00. One check was for P700,000.00, representing the purchase price at the execution sale, and another was for P84,000.00, representing 1% interest per month on the purchase price from July 25, 1995 to July 25, 1996. The checks came with a letter, dated July 25, 1996, giving notice of private respondents' intention to exercise their right of redemption. Atty. Arguelles, however, refused to accept the payment. In a note to private respondent Pacifico Lejano, Atty. Arguelles claimed he had no authority to receive payment for petitioner Luis Ysmael.

Accordingly, private respondent called up petitioner Ysmael's office, but he was informed that petitioner Ysmael was not in, and it was not known when he would return. Unable to make a tender of payment, private respondent filed the next day, July 26, 1996, a motion for consignation in the trial court. Petitioners opposed the motion, arguing that the period of redemption had already expired and that there was no valid tender of payment because the cashier's checks were insufficient to cover the total redemption price.

In the order dated October 21, 1996, the trial court granted private respondents' motion for consignation, thus:[6]

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> [I]t is not denied that on July 16, 1996, defendants' (private respondents') counsel wrote plaintiffs' (petitioners') counsel and Sheriff Sofronio Villarin, who conducted the auction sale, requesting for computation of the redemption price to be paid which letter was received by the addressees on the same date (Motion for Consignation, par. 3). This was well within the redemption period which expired on July 19, 1996 per computation of the period made by the plaintiffs (Opposition, par. 4). Plaintiffs or the Sheriff never bothered to answer the letter. In this regard, plaintiffs further argue that they cannot be faulted for their failure to give defendants a statement of the total amount of the redemption price since that is so provided in Sec. 30, Rule 39 of the Rules of Court (Rejoinder, par. C). Be that as it may, since the aforecited section in providing for the amount payable to the purchaser (herein plaintiffs) by way of redemption speaks of "the amount of his (their) purchase, with one per centum per month interest thereon in addition, up to the time of the redemption, together with the amount of any assessments or taxes which the purchaser may have paid thereon after purchase, and interest on such last-named amount at the same rate; x x x" (underlining supplied), there would appear to be a need for the judgment debtor or redemptioner to inquire as to the total amount of redemption money to be paid and, therefore, it would not be proper to argue that the plaintiffs or the Sheriff to whom the aforestated letter was addressed could not be faulted for not answering the query. Thus the delay in paying the correct amount of the redemption price could not be solely attributed to the defendants since the plaintiffs or the Sheriff are partly to blame. At least the defendants have shown their good faith in trying to settle the redemption price within the period provided by law which was simply ignored by the plaintiffs who appeared to profit more if the properties are not redeemed by reason of the higher value of said properties.
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> As to the other argument that there was no valid tender of payment of the redemption price because the cashier's checks are not considered legal tender, suffice it to state that in Ramon Tan v. Court of Appeals, et al., (G.R. No. 100555, December 20, 1944), the Supreme Court ruled:
> Now, what was presented for deposit in the instant case was not just an ordinary check but a cashier's check payable to the depositor himself. A cashier's check is a primary obligation of the issuing bank and accepted in advance by its mere issuance. By its very nature, a cashier's check is a bank's order to pay drawn upon itself, committing in effect its total resources, integrity and honor behind the check. A cashier's check by its peculiar character and general use in the commercial world is regarded substantially to be as good as the money which it represents. . . .

Anent the objection that the total amount covered by the two cashier's checks falls short of the correct amount of the redemption price tendered by the defendants, the same should be rectified by requiring them to pay the right amount.

The dispositive portion of the order reads:

> WHEREFORE, the Motion for Consignation is hereby granted. Defendants are hereby allowed to consign/deposit the two (2) checks issued by Far East Bank and Trust Company both dated July 24, 1996 in the sum of P700,000.00 and P84,000.00 with the Office of the Clerk of Court, Pasig City. Likewise, plaintiffs are hereby directed to give a statement of account to the defendants of their obligation for the latter to be able to settle their account fully and the same to be likewise deposited with the Office of the Clerk of Court.
>
> SO ORDERED.

Petitioners filed a motion for reconsideration. As their motion was denied, they filed a petition for certiorari and mandamus in the Court of Appeals. However, the appellate court dismissed their petition on January 26, 1998. Hence, this petition for review on certiorari.

Firstly, petitioners argue that the twelve-month period of redemption expired on July 19, 1996, but that private respondent Pacifico Lejano tendered payment to petitioners' counsel only on July 25, 1996. Secondly, they claim that even assuming that the tender of payment was made on time, the same was invalid because (1) Atty. Arguelles had no authority to receive payment, and (2) the amount of P84,000.00 tendered to pay for the 1%

interest per month on the purchase price was insufficient, the actual interest due being P112,000.00.

We find the foregoing contentions to be without merit.

First. Rule 39, §30 of the 1964 Rules of Court provided that "within twelve months after the sale," the judgment debtor may redeem the property sold at public auction, thus:

> Sec. 30. Time and manner of, and amounts payable on, successive redemptions. Notice to be given and filed. - The judgment debtor, or redemptioner, may redeem the property from the purchaser, at any time within twelve (12) months after the sale, on paying the purchaser the amount of his purchase, with one per centum per month interest thereof in addition, up to the time of redemption, together with the amount of any assessments or taxes which the purchaser may have paid thereon after purchase, and interest on such last named amount at the same rate. . .
>
> Written notice of any redemption must be given to the officer who made the sale and a duplicate filed with the registrar of deeds of the province, and if any assessments or taxes are paid by the redemptioner or if he has or acquires any lien other than that upon which the redemption was made, notice thereof must in like manner be given to the officer and filed with the registrar of deeds; if such notice be not filed, the property may be redeemed without paying such assessments, taxes, or liens.

Under Art. 13 of the Civil Code, a month, unless designated by name, is understood to be equivalent to 30 days, while a year is understood to be of 365 days. Thus, the rulings of this Court under the 1964 Rules stated that the 12-month period of redemption under Rule 39, §30 is equivalent to 360 days counted from the registration of the certificate of sale.[7] Within the said period, the redemptioner must pay the purchaser the full amount of the redemption price, otherwise the redemption is ineffectual.[8]

In the instant case, there is no question that the certificate of sale was registered in the Office of the Register of Deeds of Nasugbu, Batangas on July 25, 1995. Consequently, the right of redemption should have been exercised on or before July 19, 1996, the 360th day after July 25, 1995 considering that 1996 was a leap year.

However, apparently equating the phrase "twelve (12) months" in Rule 39, §30 with one year of 365 days, private respondents reckoned the period of redemption as ending on July 25, 1996 since the sale was registered on July 25, 1995. Indeed, the certificate of sale stated that "the period of redemption . . . will expire one (1) year from and after the date of registration . . ." There was thus an honest mistake on a question of law. Rule 39, §28 of the 1997 Rule of Civil Procedure now provides that the period of redemption shall be "at any time within one (1) year from the date of registration of the certificate of sale," so that the period is now to be understood as composed of 365 days. Neither petitioners nor the sheriff corrected private respondents' mistaken impression, leading the latter to believe that July 25, 1996 was indeed the last day of the period of redemption.

Moreover, private respondents on July 16, 1996 and July 17, 1996, i.e., within 12-month period as provided in Rule 39, §30 of the former Rules of Court, gave notice to Deputy Sheriff Sofronio and petitioner's counsel of their intention to redeem the lands sold. In the same letter, private respondents requested a statement of the redemption price which petitioners and the deputy sheriff chose to ignore. When private respondent Lejano's tender of payment was refused by Atty. Arguelles, Jr., private respondents consigned payment in the trial court on July 26, 1996. The combination of these circumstances makes it inequitable to rule that private respondents lost the right of redemption by his delay of six days to redeem the property. Both the trial court and the Court of Appeals correctly held that private respondents had tried in good faith to exercise their right of redemption. As the appellate court stated:

> . . . such special circumstances exist, namely: (1) the highest bidders (petitioners) did not submit a statement of "any amount of assessment or taxes which may have been paid on account of their purchase to be submitted

> within 30 days immediately preceding the expiration of the period of redemption, furnishing the defendants (private respondents) a copy thereof, as directed in the certificate of sale;" (2) despite receipt of the letters from private respondents, petitioners and deputy sheriff Villarin never made a reply; (3) notwithstanding that petitioners' counsel was their agent in the auction sale in which the properties in question were sold to petitioners, said counsel, Atty. Fernando R. Arguelles, Jr., when private respondents wanted to exercise their right of redemption went into technicalities by saying his authority was limited to just the bidding.
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> Concurrence of the above circumstances is a good occasion to remind petitioners that "every person must, in the exercise of his right and in the performance of his duty, act with justice, give everyone his due, and observe honesty and good faith" (Art. 19, Civil Code). Private respondents wanted to exercise their right of redemption. Petitioners would do well if they adhere to the teaching of aforequoted article. The policy of the law is liberality in favor of redemption.

Although it is required that full payment of the redemption price must be made within the redemption period, the rule on redemption is actually liberally construed in favor of the original owner of the property. The policy of the law is to aid rather than to defeat him in the exercise of his right of redemption.[9] As the Court of Appeals observed, this Court has allowed parties in several cases to perfect their right of redemption beyond the period prescribed therefor. In De los Reyes v. IAC,[10] for instance, the amount deposited in the trial court four (4) days after the lapse of the redemption period was considered an affirmation of the earlier timely offer to redeem and, thus, a valid payment. On the other hand, in Castillo v. Nagtalon[11] and Bodiongan v. Court of Appeals,[12] this Court upheld a redemption made by the judgment debtor or the redemptioner in good faith even if the payment tendered was less than the redemption price. In these cases, the judgment debtor was allowed fifteen days from the finality of the Court's decision to complete the redemption price.

In the case at bar, private respondents seasonably notified petitioners' counsel and the sheriff on July 16, 1996 that they were redeeming the property sold on execution and asked for a statement of the redemption price. There can be no doubt of the earnest intent of private respondents to exercise their right of redemption. Their tender of payment on July 25, 1996, after petitioners' counsel and the sheriff had ignored their letter, should therefore be considered an affirmation of the timely notice to redeem, even if such tender was made six (6) days after the expiration of the redemption period.

Second. Petitioners also question the validity of the tender of the two checks to Atty. Arguelles on the ground that the latter had no authority to accept payment on their behalf and that the interest payment on the purchase price in the amount of P84,000.00 was insufficient. However, it appears that the first question was never really raised in the courts below and, therefore, petitioners cannot now be allowed to raise it for the first time without offending basic rules of fair play, justice and due process.[13] Anent the claim that the interest on the purchase price was insufficient, the Court finds the same to be baseless. The amount of P84,000.00 is the interest on the purchase price of P700,000.00, computed at the rate of 1% per month for 12 months.

Third. Nor is there any merit in petitioners' contention that the Court of Appeals erred in not directing the issuance of a writ of possession in their favor. Under Rule 39, §35 of the former Rules of Court, the issuance of a writ of possession is proper only if the ownership of the property sold on execution has been consolidated in the name of the purchaser, in view of the redemptioner's failure to exercise the right of redemption.

> Sec. 35. Deed and possession to be given at expiration of redemption period. By whom executed or given. - If no redemption be made within twelve (12) months after the sale, the purchaser, or his assignee, is entitled to a conveyance and possession of the property; or, if so redeemed, whenever sixty (60) days have elapsed and no other redemption has been made, and notice thereof given, and the time for redemption has expired, the last redemption, or his assignee, is entitled to the conveyance and possession; but in all cases the judgment debtor shall have the entire period of twelve (12) months from the date of the sale to redeem the property. . . .

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Since we have ruled that private respondents validly exercised their right of redemption within the prescribed period, petitioners are not entitled to the writ of possession.

WHEREFORE, the decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, and De Leon, Jr., JJ., concur.
Buena, J., No part having concurred int eh appealed decision.

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[1] Per Justice Buenaventura J. Guerrero and concurred in by Justices Arturo B. Buena (now Associate Justice of the Supreme Court) and Portia Aliño-Hormachuelos.

[2] Rollo, pp. 30-31.

[3] Id., p. 36.

[4] Id., p. 60.

[5] Id., p. 61.

[6] Id., pp. 58-59.

[7] See State Investment House, Inc. v. Court of Appeals, 215 SCRA 734 (1992); Go It Bun v. Dizon, 214 SCRA 41 (1992); National Marketing Corp. v. Tecson, 139 Phil. 584 (1969)

[8] Bodiongan v. Court of Appeals, 248 SCRA 496 (1995); Belisario v. Intermediate Appellate Court, 165 SCRA 101 (1989).

[9] Sulit v. Court of Appeals, 268 SCRA 441 (1997); De los Reyes v. Intermediate Appellate Court, 176 SCRA 394 (1989).

[10] Supra.

[11] 114 Phil. 7(1962).

[12] 248 SCRA 496 (1995).

[13] Medida v. Court of Appeals, 208 SCRA 887 (1992).

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