

ESTANISLAO PADILLA, JR. PETITIONER, VS. PHILIPPINE PRODUCERS’ COOPERATIVE MARKETING ASSOCIATION, INC., RESPONDENT.

G.R. No. 141256. July 15, 2005

Ponente: CORONA, J.

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CORONA, J.:

In implementing the involuntary transfer of title of real property levied and sold on execution, is it enough for the executing party to file a motion with the court which rendered judgment, or does he need to file a separate action with the Regional Trial Court?

This is a petition for review on certiorari[1] from a decision

of the Court of Appeals in CA-G.R. CV No. 53085,[2] and its resolution denying reconsideration,[3] both of which affirmed the orders of the Regional Trial Court of Bacolod City, Branch 51.[4]

The undisputed facts of the case follow.[5]

Petitioner and his wife are the registered owners of the following real properties: Lot Nos. 2904-A (covered by TCT No. T-36090), 2312-C-5 (covered by TCT No. T-3849), and 2654 (covered by TCT No. T-8053), all situated in Bago City.

Respondent is a marketing cooperative which had a money claim against petitioner.

On April 24, 1987, respondent filed a civil case against petitioner for collection of a sum of money in the Regional Trial Court of Bacolod City.[6] Despite receipt of summons on May 18, 1987, petitioner (then defendant) opted not to file an answer.[7] On March 3, 1988, respondent (then plaintiff) moved to have petitioner-defendant declared in default, which the trial court granted on April 15, 1988.[8] Respondent presented its evidence on October 9, 1989.[9] On November 28, 1989, the trial court rendered a decision in respondent's favor.[10] Petitioner was furnished a copy of this decision by mail on November 29, 1989 but, because of his failure to claim it, the copy was returned.[11]

On May 31, 1990, the Court issued a writ of execution. On June 4, 1990, the three lots (Lot 2904-A, Lot 2312-C-5 and Lot 2654), all of the Bago Cadastre and registered in petitioner's name, were levied by virtue of that writ. On July 4, 1990, sheriff Renato T. Arimas auctioned off the lots to satisfy the judgment, with respondent as the only bidder. On July 10, 1990, ex-officio provincial sheriff and clerk of court Antonio Arbis executed a certificate of sale in favor of respondent. On August 13, 1990, the certificate of sale was recorded in the Register of Deeds.[12]

When petitioner failed to exercise his right of redemption within the 12-month period allowed by law, the court, on motion of respondent, ordered on February 5, 1992 the issuance of a writ of possession for the sheriff to cause the delivery of the physical possession of the properties in favor of respondent.[13]

On May 17, 1995, respondent filed a motion to direct the Register of Deeds to issue new titles over the properties

in its name, alleging that the Register of Deeds (RD) of Bago City would not issue new titles (in respondent's name) unless the owner's copies were first surrendered to him. Respondent countered that such surrender was impossible because this was an involuntary sale and the owner's copies were with petitioner.[14]

On July 3, 1995, the trial court issued an order granting the motion. In a subsequent order dated August 8, 1995, it denied petitioner's motion for reconsideration. Petitioner appealed. Four years later, the Court of Appeals rendered the assailed decision affirming the order of the trial court.

Petitioner contends that respondent's motion for the RD to cancel the existing certificates of title and issue new ones in its name was in fact a real action and that the motion was procedurally infirm because respondent did not furnish him a copy.[15] He also claims that under Section 6 of Rule 39 of the 1997 Rules of Civil Procedure, the execution of the judgment was barred by prescription, given that the motion was filed more than 5 years after the writ of execution was issued on March 23, 1990.[16] He also argues that respondent failed to follow the correct procedure for the cancellation of a certificate of title and the issuance of a new one, which is contained in Section 107 of PD 1529.[17]

In its comment,[18] respondent claims that the motion dated May 15, 1995 to direct the RD to issue new certificates of title was but a continuation of the series of events that began with the decision in its favor on November 28, 1989, and from there, the auction of the properties and the issuance of a certificate of sale in 1990.

The two principal issues for consideration are:

- (1) whether or not respondent's right to have new titles issued in its name is now barred by prescription and
- (2) whether or not the motion in question is the proper remedy for cancelling petitioner's certificates of title and new ones issued in its name.

On the first issue, we rule that the respondent's right to petition the court for the issuance of new certificates of title has not yet prescribed.

In *Heirs of Blancaflor vs. Court of Appeals*,[19] Sarmiento Trading Corporation, predecessor-in-interest of the private respondent Greater Manila Equipment Marketing Corporation, secured a writ of execution in 1968 by virtue of which it levied real property belonging to petitioners' predecessor-in-interest, Blancaflor. When the property was auctioned, Sarmiento Trading bid successfully and, in 1970, after the lapse of the one-year redemption period, consolidated its ownership over the lot.

Sarmiento Trading then filed a petition with the Court of First Instance to order the cancellation of Blancaflor's title and the issuance of a new one in its name. In 1972, Sarmiento Trading sold the lot to private respondent which, at the time, went by the name Sarmiento Distributors Corporation.

In 1988, the Deputy Register of Deeds of Iloilo wrote to Blancaflor requesting him to surrender his owner's duplicate copy of the TCT. Blancaflor did not comply and the RD refused to issue a new title. On May 25, 1989, private respondent filed a petition in the Regional Trial Court praying that the petitioners be ordered to surrender the owner's duplicate copy of the title. The petitioners refused, claiming that respondent's cause of action had already prescribed. Ruling otherwise, we stated:

It is settled that execution is enforced by the fact of levy and sale. The result of such execution sale—with Sarmiento Trading Corporation as the highest bidder—was that title to Lot No. 22 of TCT No. 14749 vested immediately in the purchaser subject only to the judgment debtor's right to repurchase. Therefore, upon Sarmiento Trading Corporation's purchase of Lot No. 22 covered by TCT No. 14749 at the auction sale, private respondent's successor-in-interest had acquired a right over said title.

The right acquired by the purchaser at an execution sale is inchoate and does not become absolute until after the expiration of the redemption period without the right of redemption having been exercised. But inchoate though it be, it is like any other right, entitled to protection and must be respected until extinguished by redemption. Gaudencio Blancaflor was not able to redeem his property after the expiration of the redemption period, which was 12 months after the entry or annotation of the certificate of sale made on the back of TCT No. 14749. Consequently, he had been divested of all his rights to the property. (underscoring ours)

In this case, the rule being invoked by petitioner[20] states:

SEC. 6. Execution by motion or by independent action.—A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations.

As should be evident from Blancaflor, petitioner Padilla's reliance on Section 6 of Rule 39 of the 1997 Revised Rules of Civil Procedure is misplaced. The fact of levy and sale constitutes execution, and not the action for the issuance of a new title. Here, because the levy and sale of the properties took place in June and July of 1990, respectively, or less than a year after the decision became final and executory, the respondent clearly exercised its rights in timely fashion.

In addition, petitioner himself admits his failure to redeem the properties within the one-year period by adopting the facts stated in the Court of Appeals' decision.[21] There is thus no doubt he had been divested of his ownership of the contested lots.

Respondent's position hinges on petitioner's failure to redeem the properties 12 months after the certificate of sale was recorded in the Register of Deeds on August 13, 1990. There is no uncertainty about respondent's having become the new lawful owner of the lots in question by virtue of the levy and the execution sale.

On the other hand, the issue of whether to acquire new titles by mere motion or through a separate petition is an entirely different matter.

Petitioner is correct in assailing as improper respondent's filing of a mere motion for the cancellation of the old TCTs and the issuance of new ones as a result of petitioner's refusal to surrender his owner's duplicate TCTs.

Indeed, this called for a separate cadastral action initiated via petition.

Section 107 of PD 1529,[22] formerly Section 111 of Act 496,[23] provides:

Sec. 107. Surrender of withheld duplicate certificates.—Where it is necessary to issue a new certificate of title pursuant to any involuntary instrument which divests the title of the registered owner against his consent or where a voluntary instrument cannot be registered by reason of the refusal or failure of the holder to surrender the owner's duplicate certificate of title, the party in interest may file a petition in court to compel the surrender of the same to the Register of Deeds. The court, after hearing, may order the registered owner or any person withholding the duplicate certificate to surrender the same, and direct the entry of a new certificate or memorandum upon such surrender. If the person withholding the duplicate certificate is not amenable to the process of the court, or if for any reason the outstanding owner's duplicate certificate cannot be delivered, the court may order the annulment of the same as well as the issuance of a new certificate of title in lieu thereof. Such new certificate and all duplicates thereof shall contain a memorandum of the annulment of the outstanding duplicate.

Respondent alleges that it resorted to filing the contested motion because it could not obtain new certificates of title, considering that petitioner refused to surrender his owner's duplicate TCTs. This contention is incorrect. The

proper course of action was to file a petition in court, rather than merely move, for the issuance of new titles. This was the procedure followed in Blancaflor by Sarmiento Trading which was in more or less the same situation as the respondent in this case:[24]

Petitioners' reliance on prescription and laches is unavailing in this instance. It was proper for Sarmiento Trading Corporation to file a petition with the Court of First Instance of Iloilo, acting as a cadastral court, for the cancellation of TCT No. 14749 in the name of Gaudencio Blancaflor and the issuance of another in its name. This is a procedure provided for under Section 78 of Act No. 496 and Section 75 of PD No. 1529...

Section 78 of Act 496 reads:

Sec. 78. Upon the expiration of the time, if any allowed by law for redemption after registered land has been sold on any execution, or taken or sold for the enforcement of any lien of any description, the person claiming under the execution or under any deed or other instrument made in the course of the proceedings to levy such execution or enforce any lien, may petition the court for the entry of a new certificate to him, and the application may be granted: Provided, however, That every new certificate entered under this section shall contain a memorandum of the nature of the proceeding on which it is based: Provided, further, That at any time prior to the entry of a new certificate the registered owner may pursue all his lawful remedies to impeach or annul proceedings under execution or to enforce liens of any description.

Section 75 of PD 1529 provides:

Sec. 75. Application for new certificate upon expiration of redemption period.—Upon the expiration of the time, if any, allowed by law for redemption after the registered land has been sold on execution, or taken or sold for the enforcement of a lien of any description, except a mortgage lien, the purchaser at such sale or anyone claiming under him may petition the court for the entry of a new certificate to him.

Before the entry of a new certificate of title, the registered owner may pursue all legal and equitable remedies to impeach or annul such proceedings.

It is clear that PD 1529 provides the solution to respondent's quandary. The reasons behind the law make a lot of sense; it provides due process to a registered landowner (in this case the petitioner) and prevents the fraudulent or mistaken conveyance of land, the value of which may exceed the judgment obligation. Petitioner contends that only his interest in the subject lots, and not that of his wife who was not a party to the suit, should have been subjected to execution, and he should have had the opportunity to prove as much.

While we certainly will not condone any attempt by petitioner to frustrate the ends of justice — the only way to describe his refusal to surrender his owner's duplicates of the certificates of title despite the final and executory judgment against him — respondent, on the other hand, cannot simply disregard proper procedure for the issuance to it of new certificates of title. There was a law on the matter and respondent should have followed it.

In any event, respondent can still file the proper petition with the cadastral court for the issuance of new titles in its name.

WHEREFORE, the instant petition is hereby GRANTED. The decision of the Court of Appeals in CA-G.R. CV No. 53085 is hereby REVERSED. The order of the Regional Trial Court of Bacolod City ordering the Register of Deeds of Bago City to issue new certificates of title in favor of respondent is ANULLED.

SO ORDERED.

Panganiban, Chairman, Sandoval-Gutierrez, Carpio Morales, and Garcia, JJ., concur.

[1] Under Rule 45 of the Rules of Court.

[2] CA Decision dated March 15, 1999 in CA-G.R. CV No. 53085, penned by Associate Justice Artemon D. Luna and concurred in by Associate Justices Delilah Vidallon-Magtolis and Rodrigo V. Cosico of the Second Division, Rollo, pp. 26-34.

[3] CA Resolution dated November 19, 1999 (affirming the March 15, 1999 CA Decision) in CA-G.R. CV No. 53085, penned by Associate Justice Artemon D. Luna and concurred in by Associate Justices Delilah Vidallon-Magtolis and Rodrigo V. Cosico of the Second Division, Rollo, pp. 37.

[4] Orders dated July 3, 1995 and August 8, 1995 penned by Judge Ramon B. Posadas of the Regional Trial Court of Bacolod City, Branch 51, Rollo pp. 67-70

[5] Rollo, pp. 27-28, 68-69.

[6] Docketed as Civil Case No. 4427, Rollo, pp. 67-70

[7] Id., p. 68.

[8] Id., p. 68.

[9] Id., p. 107.

[10] Id., p. 68.

[11] Id., p. 107.

[12] Id., p. 68.

[13] Id., p. 68.

[14] Id., pp. 39-40.

[15] Id., p. 11.

[16] Id., pp. 15-17. The motion was filed on May 17, 1995.

[17] Id., pp. 18-19.

[18] Id., pp. 90-95.

[19] 364 Phil. 454 (1999).

[20] Section 6, Rule 39 of the 1997 Revised Rules of Civil Procedure.

[21] Rollo, p. 12

[22] Amending and Codifying the Laws Relative to Registration of Property and for Other Purposes.

[23] The Land Registration Act

[24] Supra, p. 463.

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