METROPOLITAN BANK, & TRUST COMPANY, PETITIONER, VS. HON. FLORO T. ALEJO, IN HIS CAPACITY AS PRESIDING JUDGE OF BRANCH 172 OF THE REGIONAL TRIAL COURT OF VALENZUELA; AND SY TAN ...

G.R. No. 141970. September 10, 2001

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

In a suit to nullify an existing Torrens Certificate of Title (TCT) in which a real estate mortgage is annotated, the mortgagee is an indispensable party. In such suit, a decision canceling the TCT and the mortgage annotation is subject to a petition for annulment of judgment, because the non-joinder of the mortgagee deprived the court of jurisdiction to pass upon the controversy.

The Case

Before this Court is a Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court, assailing the March 25, 1999 Resolution of the Court of Appeals (CA) in CA-GR SP No. 50638, which states in full:

> "This resolves the petition for annulment of judgment based on `external (sic) fraud' filed by petitioner Metropolitan Bank and Trust Company seeking to annul the Decision dated August 12, 1998 rendered by respondent judge, Honorable Floro T. Alejo, Presiding Judge of the Regional Trial Court, Branch 172, Valenzuela, Metro Manila, in Civil Case No. 4930-V-96 entitled `Sy Tan Se, represented by his attorney-in-fact Sian Suat Ngo v. Raul Acampado, et al.
>
> "This Court has observed that petitioner knew of the questioned Decision sometime [i]n October 1998 (Petition, Rollo, p. 3). This being the case, petitioner should have first sought recourse by way of petition for relief from judgment under Rule 38 of the 1997 Rules of Civil Procedure. Accordingly, the petition for annulment of judgment is DENIED DUE COURSE and DISMISSED outright for being insufficient in form and substance (Section 2, Rule 47, 1997 Rules of Civil Procedure)."

Also challenged is the January 27, 2000 CA Resolution[2] denying petitioner's Motion for Reconsideration.

The Facts

On November 21, 1995[3] and January 30, 1996,[4] Spouses Raul and Cristina Acampado obtained loans from petitioner in the amounts of P5,000,000 and P2,000,000, respectively. As security for the payment of these credit accommodations, the Acampados executed in favor of petitioner a Real Estate Mortgage[5] and an Amendment of Real Estate Mortgage[6] over a parcel of land registered in their names. The land was covered by TCT No. V-41319 in the Registry of Deeds of Valenzuela City, where the contracts were also registered on November 20, 1995 and January 23, 1996, respectively.[7]

On June 3, 1996, a Complaint for Declaration of Nullity of TCT No. V-41319 was filed by Respondent Sy Tan Se against Spouses Acampado. In the Regional Trial Court (RTC) of Valenzuela, Branch 172, it was docketed as

Civil Case No. 4930-V-96,[8] the progenitor of the present controversy.

Despite being the registered mortgagee of the real property covered by the title sought to be annulled, petitioner was not made a party to Civil Case No. 4930-V-96,[9] nor was she notified of its existence.

Because the spouses defaulted in the payment of their loan, extrajudicial foreclosure proceedings over the mortgaged property were initiated on April 19, 1997.

On June 17, 1997, the sheriff of Valenzuela conducted an auction sale of the property, during which petitioner submitted the highest and winning bid.[10] On July 15, 1997, a Certificate of Sale was issued in its favor.[11] This sale was entered in the Registry of Deeds of Valenzuela on July 28, 1997.

When the redemption period lapsed exactly a year after, on July 28, 1998, petitioner executed an Affidavit of Consolidation of Ownership to enable the Registry of Deeds of Valenzuela to issue a new TCT in its name.

Upon presentation to the Register of Deeds of the Affidavit of Consolidation of Ownership, petitioner was informed of the existence of the August 12, 1998 RTC Decision in Civil Case No. 4930-V-96, annulling TCT No. V-41319. The dispositive portion of the Decision[12] stated:

> "WHEREFORE, judgment is hereby rendered declaring as null and void Transfer Certificate of Title No.V-41319 in the name of defendant Raul Acampado for having proceeded from an illegitimate source. With costs against the defendant.
>
> SO ORDERED."

On January 27, 1999, petitioner filed with the Court of Appeals a Petition for Annulment of the RTC Decision.

Ruling of the Court of Appeals

For being insufficient in form and substance, the Petition for Annulment was outrightly dismissed by the CA. It ruled that petitioner ought to have filed, instead, a petition for relief from judgment or an action for quieting of title.

Hence, this Petition.[13]

Issues

In its Memorandum, petitioner presents the following issues:

> "I
>
> x x x [W]hether or not a petition for annulment of judgment under Rule 47 of the 1997 Rules of Civil Procedure is the proper remedy available to petitioner under the circumstances."
>
> "II
>
> x x x [W]hether or not the judgment of the trial court in Civil Case No. 4930-V-96 should be annulled."[14]

The Court's Ruling

The Petition is meritorious.

First Issue:
Proper Remedy

Respondents aver that a petition for annulment is not proper, because there were three different remedies available

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but they were not resorted to by petitioner.

We are not persuaded. First, a petition for relief, the remedy pointed to by the Court of Appeals, was not available to petitioner. Section 1, Rule 38 of the Rules of Court, states:

> "Petition for relief from judgment, order, or other proceedings.-When a judgment or final order is entered, or any other proceeding is thereafter taken against a party in any court through fraud, accident, mistake, or excusable negligence, he may file a petition in such court and in the same case praying that the judgment, order or proceeding be set aside." (Italics supplied)

It must be emphasized that petitioner was never a party to Civil Case No. 4930-V-96. In Lagula et al. v. Casimiro et al.,[15] the Court held that -- relative to a motion for relief on the ground of fraud, accident, mistake, or excusable negligence -- Rule 38 of the Rules of Court "only applies when the one deprived of his right is a party to the case." Since petitioner was never a party to the case or even summoned to appear therein, then the remedy of relief from judgment under Rule 38 of the Rules of Court was not proper. This is plainly provided in the italicized words of the present provision just quoted.

Second, in denying petitioner's Motion for Reconsideration of the Decision dismissing the Petition for Annulment of Judgment, the Court of Appeals reasoned that another remedy, an action for quieting of title, was also available to petitioner.

We do not agree. It should be stressed that this case was instituted to ask for relief from the peremptory declaration of nullity of TCT No. V-41319, which had been issued without first giving petitioner an opportunity to be heard. Petitioner focused on the judgment in Civil Case No. 4930-V-96 which adversely affected it, and which it therefore sought to annul. Filing an action for quieting of title will not remedy what it perceived as a disregard of due process; it is therefore not an appropriate remedy.

Equally important, an action for quieting of title is filed only when there is a cloud on title to real property or any interest therein. As defined, a "cloud on title is a semblance of title which appears in some legal form but which is in fact unfounded."[16] In this case, the subject judgment cannot be considered as a cloud on petitioner's title or interest over the real property covered by TCT No. V-41319, which does not even have a semblance of being a title.

It would not be proper to consider the subject judgment as a cloud that would warrant the filing of an action for quieting of title, because to do so would require the court hearing the action to modify or interfere with the judgment or order of another co-equal court. Well-entrenched in our jurisdiction is the doctrine that a court has no power to do so, as that action may lead to confusion and seriously hinder the administration of justice.[17] Clearly, an action for quieting of title is not an appropriate remedy in this case.

Third, private respondent cites a last remedy: the intervention by petitioner in Civil Case No. 4930-V-96. The availability of this remedy hinges on petitioner's knowledge of the pendency of that case, which would have otherwise been alerted to the need to intervene therein. Though presumed by private respondent, any such knowledge prior to October 1998 is, however, emphatically denied by petitioner.

The Petition for Annulment before the Court of Appeals precisely alleged that private respondent purposely concealed the case by excluding petitioner as a defendant in Civil Case No. 4930-V-96, even if the latter was an indispensable party. Without due process of law, the former intended to deprive petitioner of the latter's duly registered property right. Indeed, the execution of the Decision in Civil Case No. 4930-V-96 necessarily entailed its enforcement against petitioner, even though it was not a party to that case. Hence, the latter concludes that annulment of judgment was the only effective remedy open to it.

The allegation of extrinsic fraud, if fully substantiated by a preponderance of evidence, may be the basis for annulling a judgment.[18] The resort to annulment becomes proper because of such allegation, coupled with the unavailability of the other remedies pointed to by respondents.

Second Issue: Lack of Jurisdiction

It is undisputed that the property covered by TCT No. V-41319 was mortgaged to petitioner, and that the mortgage was annotated on TCT No. V-41319 before the institution of Civil Case No. 4930-V-96. It is also undisputed that all subsequent proceedings pertaining to the foreclosure of the mortgage were entered in the Registry of Deeds. The nullification and cancellation of TCT No. V-41319 carried with it the nullification and cancellation of the mortgage annotation.

Although a mortgage affects the land itself and not merely the TCT covering it, the cancellation of the TCT and the mortgage annotation exposed petitioner to real prejudice, because its rights over the mortgaged property would no longer be known and respected by third parties. Necessarily, therefore, the nullification of TCT No. V-41319 adversely affected its property rights, considering that a real mortgage is a real right and a real property by itself.[19]

Evidently, petitioner is encompassed within the definition of an indispensable party; thus, it should have been impleaded as a defendant in Civil Case No. 4930-V-96.

> "An indispensable party is a party who has such an interest in the controversy or subject matter that a final adjudication cannot be made, in his absence, without injuring or affecting that interest[;] a party who has not only an interest in the subject matter of the controversy, but also has an interest of such nature that a final decree cannot be made without affecting his interest or leaving the controversy in such a condition that its final determination may be wholly inconsistent with equity and good conscience. It has also been considered that an indispensable party is a person in whose absence there cannot be a determination between the parties already before the court which is effective, complete, or equitable. Further, an indispensable party is one who must be included in an action before it may properly go forward.
>
> "A person is not an indispensable party, however, if his interest in the controversy or subject matter is separable from the interest of the other parties, so that it will not necessarily be directly or injuriously affected by a decree which does complete justice between them."[20]

The joinder of indispensable parties to an action is mandated by Section 7, Rule 3 of the Revised Rules of Civil Procedures, which we quote:

> "SEC 7. Compulsory joinder of indispensable parties. - Parties in interest without whom no final determination can be had of an action shall be joined either as plaintiffs or defendants."

Aside from the above provision, jurisprudence requires such joinder, as the following excerpts indicate:

> "Indispensable parties must always be joined either as plaintiffs or defendants, for the court cannot proceed without them. x x x. Indispensable parties are those with such an interest in the controversy that a final decree would necessarily affect their rights, so that the courts cannot proceed without their presence."[21]
>
> "x x x. Without the precence of indispensable parties to a suit or proceeding, a judgment of a Court cannot attain real finality."[22]
>
> "Whenever it appears to the court in the course of a proceeding that an indispensable party has not been joined, it is the duty of the court to stop the trial and to order the inclusion of such party. (The Revised Rules of Court, Annotated & Commented by Senator Vicente J. Francisco, Vol. I, p. 271, 1973 ed., See also Cortez vs. Avila, 101 Phil. 705.) Such an order is unavoidable, for the `general rule with reference to the making of parties in a

> civil action requires the joinder of all necessary parties wherever possible, and the joinder of all indispensable parties under any and all conditions, the presence of those latter parties being a sine qua non of the exercise of judicial power.' (Borlasa vs. Polistico, 47 Phil. 345, at p. 347.) It is precisely `when an indispensable party is not before the court (that) the action should be dismissed.' (People vs. Rodriguez, 106 Phil. 325. at p. 327.) The absence of an indispensable party renders all subsequent actuations of the court null and void, for want of authority to act, not only as to the absent parties but even as to those present."[23] (emphasis supplied)

> "The evident aim and intent of the Rules regarding the joinder of indispensable and necessary parties is a complete determination of all possible issues, not only between the parties themselves but also as regards to other persons who may be affected by the judgment. A valid judgment cannot even be rendered where there is want of indispensable parties."[24]

From the above, it is clear that the presence of indispensable parties is necessary to vest the court with jurisdiction, which is "the authority to hear and determine a cause, the right to act in a case."[25] We stress that the absence of indispensable parties renders all subsequent actuations of the court null and void, because of that court's want of authority to act, not only as to the absent parties but even as to those present.

It is argued that petitioner cannot possibly be an indispensable party, since the mortgage may not even be valid because of the possible absence of compliance with the requirement[26] that the mortgagor be the absolute owner of the thing mortgaged. It should be emphasized, however, that at the time the mortgage was constituted, there was an existing TCT (No. V-41319), which named the mortgagors, the Acampado spouses, as the registered owners of the property. In Seno v. Mangubat[27] this Court held as follows:

> "The well-known rule in this jurisdiction is that a person dealing with a registered land has a right to rely upon the face of the Torrens Certificate of Title and to dispense with the need of inquiring further, except when the party concerned has actual knowledge of facts and circumstances that would impel a reasonably cautious man to make such inquiry.
>
> xxx xxx xxx
>
> "Thus, where innocent third persons relying on the correctness of the certificate of title issued, acquire rights over the property, the court cannot disregard such rights and order the total cancellation of the certificate for that would impair public confidence in the certificate of title; otherwise everyone dealing with property registered under the Torrens system would have to inquire in every instance as to whether the title ha[s] been regularly or irregularly issued by the court. Indeed this is contrary to the evident purpose of the law."

The peremptory disregard of the annotations registered and entered in TCT No. V-41319 constituted a deprivation of private property without due process of law and was therefore unquestionably unjust and iniquitous. This, we cannot countenance.

Clearly, it was the trial court's duty to order petitioner's inclusion as a party to Civil Case No. 4930-V-96. This was not done. Neither the court nor private respondents bothered to implead petitioner as a party to the case. In the absence of petitioner, an indispensable party, the trial court had no authority to act on the case. Its judgment therein was null and void due to lack of jurisdiction over an indispensable party.

In Leonor v. Court of Appeals[28] and Arcelona v. Court of Appeals,[29] we held thus:

> "A void judgment for want of jurisdiction is no judgment at all. It cannot be the source of any right nor the creator of any obligation. All acts performed pursuant to it and all claims emanating from it have no legal effect. Hence, it can never become final and any writ of execution based on it is void:"x x x it may be said to be a lawless thing which can be treated as an outlaw and slain at sight, or ignored wherever and whenever it exhibits its head."

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WHEREFORE, the Petition is GRANTED and the assailed Resolutions of the Court of Appeals are REVERSED. The Decision of the Regional Trial Court in Civil Case No. 4930-V-41319 is hereby NULLIFIED and SET ASIDE. No costs.

SO ORDERED.

Melo, (Chairman), Vitug, Gonzaga-Reyes, and Sandoval-Gutierrez, JJ., concur.

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[1] Rollo, pp. 17-19; penned by Justice Omar U. Amin and concurred in by Justices Hector L. Hofileña (Division chairman) and Martin S. Villarama Jr. (member).

[2] Rollo, p. 20.

[3] Records, p. 21.

[4] Ibid., p. 23.

[5] Id., pp. 25-28.

[6] Id., pp. 29-30.

[7] Id., p. 47.

[8] Records, p. 56.

[9] Petition, p. 6; rollo, p. 13.

[10] Records, p. 50.

[11] Ibid.

[12] Records, pp. 18-20.

[13] This case was deemed submitted for resolution on January 25, 2001, upon receipt by this Court of respondent's 3-page Memorandum, which was signed by Atty. Melencio A. Cea. Petitioner's Memorandum, signed by Atty. Renato B. Corpuz Jr. of Santiago Corpuz & Ejercito, was filed earlier on December 29, 2000.

[14] Petitioner's Memorandum; rollo, p. 69.

[15] 98 Phil. 102, December 17, 1955, per Bautista Angelo, J.

[16] Tolentino, Civil Code, Vol. II, 1992 ed., p. 150.

[17] Wack Wack Condominium Corp. v. Court of Appeals, 215 SCRA 850, November 23, 1992; Mas v. Dumara-og, 12 Phil. 34, September 29, 1964.

[18] Islamic Da Wah Council of the Phils. v. Court of Appeals, 178 SCRA 178, September 29, 1989.

[19] Paras, Civil Code Annotated, Vol. V, 1995 ed., pp. 1043-1044.

[20] Arcelona v. Court of Appeals, 280 SCRA 20, 39-40, October 2, 1997, per Panganiban, J.; Servicewide Specialists, Inc. v. Court of Appeals, 318 SCRA 493, November 19, 1999.

[21] Seno v. Mangubat, 156 SCRA 113, 118-119, December 2, 1987, per Gancayco, J.; Quiombing v. Court of Appeals, 189 SCRA 325, 330, August 30, 1990.

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[22] Servicewide Specialists, Inc. v. Court of Appeals, 318 SCRA 493, November 19, 1999, per Purisima, J.

[23] Lim Tanhu v. Ramolete, 66 SCRA 425, August 29, 1975, per Barredo, J.

[24] Director of Lands v. Court of Appeals, 93 SCRA 238, 248, September 25, 1979.

[25] People v. Mariano, 71 SCRA 600, June 30, 1976, per Muñoz-Palma, J.; Century Insurance Co., Inc. v. Fuentes, 2 SCRA 1168, August 31, 1961 -- citing Herrera v. Barreto and Joaquin, 25 Phil. 245, September 10, 1913; and Napa v. Weissenhagen, 29 Phil 180, January 6, 1915. See also United BF Homeowner's Association v. BF Homes, Inc. 310 SCRA 304, July 14, 1999.

[26] Under Article 2085, par. (2) of the Civil Code.

[27] 156 SCRA 113, 118-119, December 2, 1987, per Gancayco, J.

[28] 256 SCRA 69, 82, April 2, 1996, per Panganiban, J.

[29] Supra.

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