

**SPOUSES JOHN AND ANITA UY TANSIPEK, PETITIONERS, VS.
PHILIPPINE BANK OF COMMUNICATIONS, REGISTER OF DEEDS OF
METRO MANILA, DISTRICT II, AND GRACE S. BELVIS, RESPONDENTS.**

G.R. No. 146096. December 14, 2001

Ponente: PARDO, J.

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PARDO, J.:

The Case

The case is an appeal via certiorari from the decision[1] of the Court of Appeals reversing that of the Regional Trial Court, Pasig City, Branch 166, and dismissing the complaint by petitioners to nullify the extra-judicial foreclosure sale conducted by the Sheriff of Pasig City, covering a real property situated at San Juan, Province of Rizal, which respondent Philippine Bank of Communications (PBC) purchased at the public auction sale.

The Facts

The facts, as found by the Court of Appeals, are as follows:

"Philippine Bank of Communications (PBC) filed with the Office of the Clerk of Court and Ex-Officio Sheriff of the Regional Trial Court of Pasig a petition dated December 7, 1984 for extra-judicial foreclosure of mortgage.

"Subject of the petition for foreclosure was the mortgage constituted on January 17, 1979 by spouses John Tansipek and Anita Uy Tansipek over a 524 sq. m. parcel of land (the property) known as Lot 2, Block 84 of the San Juan Heights Subdivision and covered by Transfer Certificate of Title No. 14800 to secure the payment of loans they obtained from the PBC.

"As of October 5, 1984, the obligation of the spouses Tansipek amounted to P1,236,314.84, by PBC's computation.

"Extra-judicial sale of the property was scheduled on January 9, 1995, notice of which was published in the NEW RECORDS, a newspaper of general circulation published weekly, in its December 15, 22, and 29, 1984 issues.

"As scheduled, extra-judicial sale of the property was conducted on January 9, 1985 which was attended by a representative of the Tansipek spouses. The PBC was the highest bidder at P500,000.00.

"As the period to redeem the property expired without the Tansipek spouses redeeming it, ownership was consolidated in favor of PBC. Title to the property was cancelled and in its stead TCT No. 56256 in the name of PBC was issued on February 19, 1986.

"On May 8, 1986, the PBC filed at the Regional Trial Court of Pasig a petition for the issuance of a writ of possession of the property, docketed as LRC Case No. R-3661.

"Subsequently or on June 2, 1987, the Tansipek spouses filed a complaint against PBC, two sheriffs of the

Pasig RTC, and the Register of Deeds of Metro Manila, District II, for the annulment of the extra-judicial foreclosure sale on the ground of "lack and/or insufficient publication and notice, fraud and collusion and insufficient bid price." The complaint was docketed as Civil Case No. 54613.

"The petition for issuance of a writ of possession and the complaint for annulment were consolidated at Branch 166 of the RTC of Pasig.

"In its decision of May 11, 1995, the trial court held that the extra-judicial foreclosure of mortgage on January 9, 1985 was null and void for the December 15, 22, and 29, 1984 issues of the NEW RECORD were delivered to the Post Office for mailing to regular subscribers six days after the sale, adding that the NEW RECORD was then of limited or local circulation, was not known in San Juan where the property is situated, and the subscribers were not shown to be found in San Juan.

"The trial court likewise held that there was no proof that notice of the sale was posted in three public places in San Juan and that the bid price of P500,000.00 was inadequate, the value of the property being estimated to be P1,285,000.00

"Accordingly, the trial court disposed as follows:

"WHEREFORE, judgment is hereby rendered:

"1. Declaring the extra-judicial foreclosure of the subject property and the corresponding Certificate of Sale, null and void;

"2. Ordering the defendant Register of Deeds to cancel TCT No. 56256 and reinstate TCT No. 14800 in favor of the plaintiffs;

"3. Dismissing the petition in LRC Case No. R-3661, for lack of merit; and,

"4. Ordering defendant bank to pay plaintiffs the sum of P30,000.00, as attorney's fees, plus the costs of suit."[2]

On August 8, 2000, the Court of Appeals promulgated a decision, the dispositive portion of which reads:

"WHEREFORE, the appealed decision of the trial court is REVERSED and SET ASIDE and another rendered DISMISSING Civil Case No. 54613, and granting the issuance of a WRIT OF POSSESSION in LRC Case No. 3661 in favor of Philippine Bank of Communications.

"SO ORDERED."[3]

On August 30, 2000, petitioners moved for reconsideration[4] of the afore-quoted decision. However, on October 26, 2000, the Court of Appeals denied the motion.[5]

Hence, this appeal.[6]

The Issues

The issues raised are: (1) whether the foreclosure sale is null and void because the consideration is shocking and unconscionably inadequate, and (2) whether petitioners are entitled to the reconveyance of the property covered under TCT No. 56256 and payment of attorneys' fees.

The Court's Ruling

We find the petition without merit. The issues raised are factual.[7] In an appeal via certiorari, we may not review the findings of fact of the Court of Appeals.[8] When supported by substantial evidence, the findings of fact of the Court of Appeals are conclusive and binding on the parties and are not reviewed by this Court,[9] unless the case

falls under any of the exceptions to the rule.[10]

"There are instances when the findings of fact of the trial court and/or Court of Appeals may be reviewed by the Supreme Court, such as (1) when the conclusion is a finding grounded entirely on speculation, surmises and conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) where there is a grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings of fact are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents; and (10) when the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and contradicted by the evidence on record."

At any rate, petitioners failed to redeem the mortgaged property within the redemption period. Thereafter, respondent consolidated the ownership of the property in its name.

Under Section 7, Act 3135, as amended, respondent PBCom, as the highest bidder in the auction sale, has the right to ask ex-parte for a writ of possession, so that it may be placed in physical possession of the foreclosed real property.

In *Laureano v. Bormaheco, Inc.*, [11] we held that:

"After the expiration of the one-year period without redemption being effected by the property owner, the right of the purchaser to the possession of the foreclosed property becomes absolute. The basis of this right to possession is the purchaser's ownership of the property. Mere filing of an ex parte motion for the issuance of the writ of possession would suffice, and no bond is required."

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IN VIEW WHEREOF, the petition is hereby DENIED lack of merit, and the decision of the Court of Appeals [12] is AFFIRMED in toto.

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] In CA-G. R. CV No. 58545, promulgated on August 8, 2000, Petition, Annex "A-1", Rollo, pp. 29-36.

[2] *Ibid.*, at pp. 29-32.

[3] *Ibid.*, at p. 36.

[4] Petition, Annex "B", Rollo, pp. 37-43.

[5] *Ibid.*, Annex "C", Rollo, pp. 46-47.

[6] Petition filed on January 12, 2001, Rollo, pp. 8-27. On March 27, 2001, we gave due course to the petition. (Rollo, pp. 67-68).

[7] *Heirs of Simeon Borlado v. Court of Appeals*, G. R. No. 114118, August 28, 2001.

[8] Cristobal v. Court of Appeals, 353 Phil. 834 [1998]; Concepcion v. Court of Appeals, 324 SCRA 85 [2000], citing Congregation of the Virgin Mary v. Court of Appeals, 353 Phil. 591 [1998], Arriola v. Mahilum, 337 SCRA 464 [2000]; Bolanos v. Court of Appeals, G. R. No. 122950, November 20, 2000.

[9] Atillo v. Court of Appeals, 334 Phil. 546 [1997].

[10] Cebu Shipyard and Engineering Works, Inc. v. William Lines, Inc., 366 Phil. 439, 452 [1999].

[11] G. R. No. 137619, February 6, 2001, citing United Coconut Planters Bank v. Reyes, 193 SCRA 756, 764 [1991].

[12] In CA-G. R. CV No. 58545, promulgated on August 08, 2000.

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