

NATIONAL HOUSING AUTHORITY, PETITIONER, VS. AUGUSTO BASA, JR., LUZ BASA AND EDUARDO S. BASA, RESPONDENTS.

G.R. No. 149121. April 20, 2010

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

This Petition for Review on Certiorari under Rule 45 of the Rules of Court seeks to set aside the Amended Decision[1] of the Court of Appeals dated November 27, 2000 and its Resolution dated July 19, 2001 denying the motion for reconsideration of the National Housing Authority (NHA).

On April 19, 1983, spouses Augusto and Luz Basa loaned from NHA the amount of P556,827.10 secured by a real estate mortgage over their properties covered by Transfer Certificates of Title (TCTs) Nos. 287008 and 285413, located at No. 30 San Antonio St., San Francisco del Monte, Quezon City.[2] Spouses Basa did not pay the loan despite repeated demands. To collect its credit, the NHA, on August 9, 1990, filed a verified petition for extrajudicial foreclosure of mortgage before the Sheriff's Office in Quezon City, pursuant to Act No. 3135, as amended.[3]

After notice and publication, the properties were sold at public auction where NHA emerged as the highest bidder.[4] On April 16, 1991, the sheriff's certificate of sale was registered and annotated only on the owner's duplicate copies of the titles in the hands of the respondents, since the titles in the custody of the Register of Deeds were among those burned down when a fire gutted the City Hall of Quezon City on June 11, 1988.[5]

On April 16, 1992, the redemption period expired,[6] without respondents having redeemed the properties. Shortly thereafter, on April 24, 1992, NHA executed an Affidavit of Consolidation of Ownership[7] over the foreclosed properties, and the same was inscribed by the Register of Deeds on the certificates of title in the hand of NHA under Entry No. 6572/T-287008-PR-29207.[8]

On June 18, 1992, NHA filed a petition for the issuance of a Writ of Possession. The said petition was granted by the Regional Trial Court (RTC) in an Order[9] dated August 4, 1992.

A Writ of Possession[10] was issued on March 9, 1993 by the RTC, ordering spouses Augusto and Luz Basa to vacate the subject lots. The writ, however, remained unserved. This compelled NHA to move for the issuance of an alias writ of possession on April 28, 1993.

Before the RTC could resolve the motion for the issuance of an alias writ of possession, respondents spouses Basa and Eduardo Basa, on June 2, 1993, filed a Motion for Leave to Intervene and Petition in Intervention (with Prayer for Temporary Restraining Order and/or Writ of Preliminary Injunction).[11] Respondents anchored said petition for intervention on Section 8[12] of Act No. 3135, as amended, which gives the debtor/mortgagor the remedy to petition that the sale be set aside and the writ of possession be cancelled. In the said petition for intervention, respondents averred that the extrajudicial foreclosure of the subject properties was a nullity since notices were not posted and published, written notices of foreclosure were not given to them, and notices of sale

were not tendered to the occupants of the sold properties, thereby denying them the opportunity to ventilate their rights.[13] Respondents likewise insisted that even assuming arguendo that the foreclosure sale were valid, they were still entitled to redeem the same since the one-year redemption period from the registration of the sheriff's certificate of foreclosure sale had not yet prescribed.[14] Citing *Bernardez v. Reyes*[15] and *Bass v. De la Rama*,[16] respondents theorized that the instrument is deemed registered only upon actual inscription on the certificate of title in the custody of the civil registrar.[17] Since the sheriff's certificate was only inscribed on the owner's duplicate certificate of title, and not on the certificate of title in the possession of the Register of Deeds, then there was no effective registration and the one-year redemption period had not even begun to run. Thus, respondents asked the RTC, among others, to declare the foreclosure sale null and void, to allow the respondents to redeem the mortgaged properties in the amount of P21,160.00, and to cancel the Writ of Possession dated March 9, 1993.

NHA opposed respondents' petition for intervention.[18] It countered that the extrajudicial foreclosure sale was conducted validly and made in accordance with Act No. 3135 as evidenced by the publication of the Notice of Sheriff's Sale in the *Manila Times* in its issues dated July 14, 21 and 28, 1990.[19] NHA also said that respondents had been furnished with a copy of the Notice of Sheriff's Sale as shown at the bottom portion of said notice.[20] NHA maintained that respondents' right of redemption had long expired on April 15, 1992 since the certificate of sale was inscribed on their TCT Nos. 285413 and 287008 a year earlier, or on April 16, 1991. It pointed out that the RTC, via its Order dated August 4, 1992, had already ruled that respondents' right of redemption was already gone without them exercising said right. Since said order had already attained finality, the ruling therein could no longer be disturbed.

On January 2, 1995, the RTC issued the first assailed Order[21] with the following directives: 1) granting the issuance of the alias writ of possession which allowed NHA to take possession of the subject properties; 2) admitting the Petition in Intervention and "treating the same as the petition to set aside sale mentioned in [Sec. 8] of Act No. 3155"; and 3) granting the issuance of a Writ of Preliminary Injunction in favor of respondents that ordered NHA to refrain from selling or disposing of the contested properties. The pertinent portion of the order reads:

After examining the record and following precedents x x x this Court hereby orders:

1. The issuance of an alias writ of possession;
2. Admission of the "Petition in Intervention," treating the same as the "petition" to set aside sale, etc., mentioned in [Sec. 8] of Act No. 3155;
3. The issuance of a writ of preliminary injunction, after a BOND in the amount of P20,000.00 had been duly filed by intervenors, ordering movant National Housing Authority, its agents and/or any other person acting under its command, to desist and refrain from selling or in any manner from disposing of the subject properties covered by TCT Nos. 287008 and 285413 and located at No. 30, San Antonio Street, San Francisco del Monte, Quezon City, pending the termination of this proceeding and/or unless a contrary order is issued by this Court;
4. Setting the hearing of the petition in intervention (to set aside) on March 17, 1995, at 8:30 a.m.[22]

NHA filed a motion for reconsideration[23] assailing the RTC's Order insofar as it admitted respondents' motion for intervention and issued a writ of preliminary injunction. NHA argued that respondents should have assailed the foreclosure sale during the hearing in the petition for the issuance of a Writ of Possession, and not during the hearing in the petition for the issuance of an alias writ of possession since the "petition" referred to in Section 8 of Act No. 3135 pertains to the original petition for the issuance of the Writ of Possession and not the Motion for the Issuance of an Alias Writ of Possession. NHA stressed that another reason why the petition for intervention

should be denied was the finality of the Order dated August 4, 1992 declaring respondents' right of redemption barred by prescription. Lastly, NHA asserted that the writ of possession was issued as a matter of course upon filing of the proper motion and thereby, the court was bereft of discretion.

In the second assailed Order[24] dated September 4, 1995, the RTC denied NHA's motion for reconsideration reasoning that the admission of the intervention was sanctioned by Section 8 of Act No. 3135. As to the grant of preliminary injunction, the RTC made the justification that if the NHA was not restrained, the judgment which may be favorable to respondents would be ineffectual. The order partly provides:

The motion is without merit. The admission of the intervention is sanctioned by Sec. 8 of Act No. 3135. And, because, otherwise or if no preliminary injunction is issued, the movant NHA may, before final judgment, do or continue the doing of the act with the intervenor asks the court to restrain, and thus make ineffectual the final judgment rendered afterwards which may grant the relief sought by the intervenor.

ACCORDINGLY, the motion for reconsideration is DENIED. [25]

Undaunted, NHA filed on November 24, 1995, a special civil action for certiorari and prohibition before the Court of Appeals.

The Court of Appeals rendered a Decision[26] dated February 24, 2000, in favor of the NHA. It declared null and void the assailed orders of the RTC dated January 2, 1995 and September 4, 1995, to the extent that the said orders admitted the petition in intervention and granted the issuance of the preliminary injunction; but it upheld the grant of the alias writ of possession, thus:

WHEREFORE, the petition is GRANTED, and the assailed order of January 2, 1995 is declared NULL AND VOID except for the portion directing the issuance of an alias writ of possession. Likewise declared NULL AND VOID is the second assailed order of September 4, 1995 denying the petitioner's motion for reconsideration. Let an alias writ of possession be issued and executed/implemented by the public respondent without further delay.[27]

The Court of Appeals defended its affirmation of the RTC's grant of the alias writ of possession in NHA's favor by saying that it was a necessary consequence after the earlier writ was left unserved to the party. It further explained that NHA was entitled to the writ of possession as a matter of course after the lapse of the redemption period.

As to the RTC's admission of respondents' petition for intervention, the appellate court opined that it was improperly and erroneously made. The Court of Appeals believed that the only recourse available to a mortgagor, in this case the respondents, in a foreclosure sale is to question the validity of the sale through a petition to set aside the sale and to cancel the writ of possession, a summary procedure provided for under Section 112 of the Land Registration Act. It also observed that the grant of the preliminary injunction by the RTC was uncalled for as it would effectively defeat the right of NHA to possession, the latter having been entitled by virtue of the grant of the alias writ of possession.

Respondents filed a motion for reconsideration.[28] They alleged that since they raised the issue that their right of redemption had not prescribed, said fact should have changed the whole scenario such that the issuance of a writ of possession ceased to be summary in nature and was no longer ministerial. Respondents then concluded that their right to redeem the properties against NHA's right to the writ of possession must be threshed out in a hearing of the case on its merits.

With regard to the RTC Order dated August 4, 1992 granting the writ of possession which, according to the NHA, became final and executory, respondents argued that said order did not constitute *res judicata* so as to bar the

filing of the petition for intervention since the said order was not a judgment on the merits that could attain finality.

Also, respondents would like the Court of Appeals to treat the petition for intervention not only as an opposition to the issuance of the alias writ of possession, but also as a proper remedy under Section 8 of Act No. 3135, as amended, in view of the various issues raised.

On November 27, 2000, the Court of Appeals, in its Amended Decision, reconsidered its earlier stance. It declared that the period of redemption had not expired as the certificate of sale had not been registered or annotated in the original copies of the titles supposedly kept with the Register of Deeds since said titles were earlier razed by fire. Taking its cue from *Bass v. De la Rama* where the Court purportedly made a ruling that entry of a document, such as sale of real property, in the entry book is insufficient to treat such document as registered, unless the same had been annotated on the certificate of title; the Court of Appeals went on to say that the entry of the certificate of sale in the owner's duplicate of the titles could not have been sufficient to register the same since anyone who would wish to check with the Register of Deeds would not see any annotation. Thus, entry made on the owner's duplicate of the titles cannot be considered notice that would bind the whole world. Having been deprived of their right of redemption, the Court of Appeals deemed it proper to allow respondents to intervene. The dispositive part of the amended decision decrees:

WHEREFORE, the motion for reconsideration is GRANTED. Our decision dated February 24, 2000, is RECONSIDERED and SET ASIDE and the petition DISMISSED.[29]

Unfazed, NHA filed a motion for reconsideration, which the Court of Appeals denied in its July 19, 2001 Resolution, to wit:

ACCORDINGLY, the Motion for Reconsideration dated February 24, 2000 is DENIED for lack of merit.[30]

Hence, the instant petition.

In its memorandum, NHA tendered the following issues:

- WHETHER OR NOT THE ANNOTATION OF THE SHERIFF'S CERTIFICATE OF SALE IN THE PRIMARY ENTRY BOOK OF THE REGISTER OF DEEDS AND ON THE OWNER'S DUPLICATE TITLE IS SUFFICIENT COMPLIANCE WITH THE REQUIREMENT OF LAW ON REGISTRATION.
- WHETHER OR NOT THE CASE OF BASS VS. DE LA RAMA HAS BEEN SUPERSEDED.[31]

Respondents, on the other hand, offered the following as issues:

I

WHETHER OR NOT THE COURT OF APPEALS ERRED IN FINDING THAT THE LOWER COURT DID NOT ACT WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN ADMITTING THE RESPONDENTS' INTERVENTION AND GRANTING THE EQUITABLE WRIT OF INJUNCTION THEREBY DISMISSING THE PETITION FOR CERTIORARI AND PROHIBITION.

II

WHETHER OR NOT THE INSTANT PETITION COMPLIES WITH THE REQUIREMENTS OF RULE 45 OF THE RULES OF COURT.[32]

On the procedural aspect, respondents question NHA's alleged failure to include in its petition copies of material portions of the record such as pleadings filed in the RTC and the Court of Appeals as required under Section 4, Rule 45 of the Rules of Court. Respondents also pointed out the purported defective verification of NHA in view

of the fact that it merely stated that the one verifying had read the allegations of the petition and that the same were true and correct to the best of his knowledge. According to respondents, such declarations were not in accordance with the rules which require that a verified pleading must state that the affiant had read the pleading and that the allegations therein were true and correct based on his personal knowledge and not only to the "best" of his knowledge.

As to the merits, NHA stresses that the annotation and entry in the owner's duplicate certificate of titles of the sheriff's certificate of sale are sufficient compliance with the requirement of law on registration. To support this, NHA refers to Land Registration Administration Circular No. 3 dated December 6, 1988, entitled "Entry and Provisional Registration of Instruments Pending Reconstitution of Title" which allegedly authorized all Registers of Deeds to accept for entry and provisional registration instruments affecting lost or destroyed certificates of title pending reconstitution of the original. The legality and validity of the disputed registration on its duplicate copies of the sheriff's certificate of sale, NHA insists, are backed by this Court's ruling in *Development Bank of the Philippines v. Acting Register of Deeds of Nueva Ecija*,^[33] where purportedly, this Court made a favorable interpretation of Section 56 of Presidential Decree No. 1529. NHA says that the inscription of the sheriff's certificate of sale only to the owner's duplicate copies, but not to those in the custody of the register of deeds is justified as the latter were burned down. Thus, it could not be blamed for the non-registration of the sale in the original copies.

NHA faults the Court of Appeals' reliance on *Bass v. De la Rama* since the ruling therein stating that entry and annotation of a sale instrument on the owner's duplicate copy only as insufficient registration, was already abandoned in *Development Bank of the Philippines v. Acting Register of Deeds of Nueva Ecija*, where it was allegedly ruled that the primary entry alone of the transaction produces the effect of registration so long as the registrant has complied with all that is required of him for purposes of entry and annotation.

In contrast, respondents submit that annotation of the sheriff's certificate of sale on the owner's copy is inadequate to propel the running of the redemption period. They firmly believe that for the sale instrument to be considered as registered, the inscription must be made on the reconstituted titles.

Respondents disagree with NHA's opinion that *Bass v. De la Rama* was superceded by *Development Bank of the Philippines v. Acting Register of Deeds of Nueva Ecija*. They are of the persuasion that the ruling in DBP pertains exclusively to the unique factual milieu and the issues attendant therein, but not to the instant case where *Bass* purportedly applies. Respondents also assail NHA's citation of *Sta. Ignacia Rural Bank, Inc. v. Court of Appeals*.^[34] According to them, said case finds no application to the instant controversy because the issue involved in the former was whether the redemption period should be reckoned from the date of the auction sale or the registration of the certificate of sale, which ostensibly is not the bone of contention in this case.

Ascribing NHA's inaction to have the burned titles reconstituted, respondents assert that such neglect should not be used as a justification for the non-inscription in the original titles of the certificate of sale. Additionally, respondents insist that the question of whether the redemption period should be reckoned from the inscription on the owner's duplicate copies is a factual and legal issue that is appropriately adjudicated in a hearing on the merits of their petition in intervention, and not in the instant special civil action for certiorari and prohibition which is limited in scope, namely, whether the RTC committed grave abuse of discretion amounting to lack of jurisdiction in admitting their petition in intervention.

Respondents reiterate that the issuance of the writ of possession prayed for by NHA before the RTC is no longer ministerial since it raised the issue of whether their period of redemption has already expired. They cite *Barican v. Intermediate Appellate Court*^[35] as the authority to this argument.

We dwell first with the procedural issues before the main controversy. Respondents contend that the instant petition is dismissible on the ground that NHA failed to attach pleadings filed in the RTC and the Court of Appeals as required under Section 4, Rule 45 of the Rules of Court which partly provides:

SEC. 4. Contents of petition. -- The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner, and shall x x x (d) be accompanied by a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court a quo and the requisite number of plain copies thereof, and such material portions of the record as would support the petition; x x x.

In its petition, NHA attached the February 24, 2000 Decision, the November 27, 2000 Amended Decision, and the July 19, 2001 Resolution all of the Court of Appeals; copies of the transfer certificates of title of the disputed properties; and the June 13, 1994 Order of the Quezon City RTC ordering the reconstitution of the said titles. This Court finds that NHA substantially complied with the requirements under Section 4 of Rule 45. The same conclusion was arrived at by this Court in *Development Bank of the Philippines v. Family Foods Manufacturing Co., Ltd.*[36] when it was faced with the same procedural objection, thus:

As held by this Court in *Air Philippines Corporation v. Zamora*:

[E]ven if a document is relevant and pertinent to the petition, it need not be appended if it is shown that the contents thereof can also [be] found in another document already attached to the petition. Thus, if the material allegations in a position paper are summarized in a questioned judgment, it will suffice that only a certified true copy of the judgment is attached.

Third, a petition lacking an essential pleading or part of the case record may still be given due course or reinstated (if earlier dismissed) upon showing that petitioner later submitted the documents required, or that it will serve the higher interest of justice that the case be decided on the merits.

Nevertheless, even if the pleadings and other supporting documents were not attached to the petition, the dismissal is unwarranted because the CA records containing the promissory notes and the real estate and chattel mortgages were elevated to this Court. Without a doubt, we have sufficient basis to actually and completely dispose of the case.

We must stress that cases should be determined on the merits, after all parties have been given full opportunity to ventilate their causes and defenses, rather than on technicalities or procedural imperfections. In that way, the ends of justice would be served better. Rules of procedure are mere tools designed to expedite the decision or resolution of cases and other matters pending in court. A strict and rigid application of rules, resulting in technicalities that tend to frustrate rather than promote substantial justice, must be avoided. In fact, Section 6 of Rule 1 states that the Rules shall be liberally construed in order to promote their objective of ensuring the just, speedy and inexpensive disposition of every action and proceeding.

Contrary to respondents' assertion, NHA's verification conforms to the rule. Section 4, Rule 7 of the Rules of Court states:

SEC. 4. Verification. - Except when otherwise specifically required by law or rule, pleadings need not be under oath, verified or accompanied by affidavit.

A pleading is verified by an affidavit that the affiant has read the pleading and that the allegations therein are true and correct of his personal knowledge or based on authentic records.

A pleading required to be verified which contains a verification based on "information and belief," or upon "knowledge, information and belief," or lacks a proper verification, shall be treated as an unsigned pleading.

The reason for requiring verification in the petition is to secure an assurance that the allegations of a pleading are true and correct; are not speculative or merely imagined; and have been made in good faith.[37] To achieve this purpose, the verification of a pleading is made through an affidavit or sworn statement confirming that the affiant has read the pleading whose allegations are true and correct of the affiant's personal knowledge or based on authentic records.[38]

The General Manager of NHA verified the petition as follows:

3. I have read the allegations contained therein and that the same are true and correct to the best of my own personal knowledge.[39]

A reading of the above verification reveals nothing objectionable about it. The affiant confirmed that he had read the allegations in the petition which were true and correct based on his personal knowledge. The addition of the words "to the best" before the phrase "of my personal knowledge" did not violate the requirement under Section 4 of Rule 7, it being sufficient that the affiant declared that the allegations in the petition are true and correct based on his personal knowledge.

Now, as to the merits of the case. The main issue before us is whether the annotation of the sheriff's certificate of sale on the owner's duplicate certificate of titles is sufficient registration considering that the inscription on the original certificates could not be made as the same got burned.

Jurisprudence is replete with analogous cases. Of foremost importance is *Development Bank of the Philippines v. Acting Register of Deeds of Nueva Ecija*[40] where the Court listed cases where the transaction or instrument was annotated not on the original certificate but somewhere else. In that case, DBP, following the extrajudicial foreclosure sale where it emerged as the highest bidder, registered with the Register of Deeds the sheriff's certificate of sale in its favor. After it had paid the required fees, said transaction was entered in the primary entry book. However, the annotation of the said transaction to the originals of the certificates of title could not be done because the same titles were missing from the files of the Registry. This prompted DBP to commence reconstitution proceedings of the lost titles. Four years had passed before the missing certificates of title were reconstituted. When DBP sought the inscription of the four-year old sale transaction on the reconstituted titles, the Acting Register of Deeds, being in doubt of the proper action to take, referred the matter to the Commissioner of the Land Registration Authority by consulta, the latter resolved against the annotation of the sale transaction and opined that said entry was "ineffective due to the impossibility of accomplishing registration at the time the document was entered because of the non-availability of the certificate (sic) of title involved." [41] In other words, annotation on the primary book was deemed insufficient registration. The Court disagreed with this posture. Considering that DBP had paid all the fees and complied with all the requirements for purposes of both primary entry and annotation of the certificate of sale, the Court declared that mere entry in the primary book was considered sufficient registration since "[DBP] cannot be blamed that annotation could not be made contemporaneously with the entry because the originals of the subject certificates of title were missing and could not be found, since it had nothing to do with their safekeeping. If anyone was responsible for failure of annotation, it was the Register of Deeds who was chargeable with the keeping and custody of those documents." [42] To buttress its conclusion, the Court reviewed the relevant jurisprudence starting from 1934. The Court noted that before the Second World War, particularly in *Government of the Philippine Islands v. Aballe*, [43] the prevailing doctrine was an inscription in the book of entry even without the notation on the certificate of title was considered as satisfactory and produced all the effects which the law gave to its registration. During the war, however, the Court observed that there was apparent departure from said ruling since in *Bass v. De la Rama*, the holding was that entry of an instrument in the primary entry book does not confer any legal effect without a memorandum thereof inscribed on the certificate of title. [44] DBP noted that *Bass v. De la Rama*, however, survived only for a

little while since "later cases appear to have applied the Aballe ruling that entry in the day book, even without the corresponding annotation on the certificate of title, is equivalent to, or produces the effect of, registration to voluntary transactions, provided the requisite fees are paid and the owner's duplicates of the certificates of title affected are presented." [45]

These later cases are *Levin v. Bass* [46] and *Potenciano v. Dineros*, [47] both of which involve the issue of whether entry in the day book of a deed of sale, payment of the fees, and presentation of the owner's duplicate certificate of title constitute a complete act of registration. [48]

Simply, respondents' resort to *Bass v. De la Rama* is futile as the same was abandoned by the later cases, i.e., *Bass*, *Potenciano* and *DBP*.

In the recent case of *Autocorp Group v. Court of Appeals*, [49] the respondent was awarded the foreclosed parcels of land. A sheriff's certificate of sale was thereafter issued in its favor. Thereafter, petitioners in that case filed a complaint before the RTC with a prayer for the issuance of an ex parte TRO aimed at preventing the Register of Deeds from registering the said certificate of sale in the name of the respondent and from taking possession of the subject properties. [50] Before the RTC could issue a TRO, respondent presented the sheriff's certificate of sale to the Register of Deeds who entered the same certificate in the primary book, even if the registration fee was paid only the following day. Four days after, the RTC issued a TRO directing the Register of Deeds to refrain from registering the said sheriff's certificate of sale. A preliminary injunction was thereafter issued as the TRO was about to expire. The preliminary injunction was questioned by therein respondent. One of the main issues raised there was whether the entry of the certificate of sale in the primary book was equivalent to registration such that the TRO and the preliminary injunction issues would not lie anymore as the act sought to be restrained had become an accomplished act. The Court held that the TRO and the preliminary injunction had already become moot and academic by the earlier entry of the certificate of sale in the primary entry book which was tantamount to registration, thus:

In fine, petitioner's prayer for the issuance of a writ of injunction, to prevent the register of deeds from registering the subject certificate of sale, had been rendered moot and academic by the valid entry of the instrument in the primary entry book. Such entry is equivalent to registration. Injunction would not lie anymore, as the act sought to be enjoined had already become a *fait accompli* or an accomplished act. [51]

Indeed, the prevailing rule is that there is effective registration once the registrant has fulfilled all that is needed of him for purposes of entry and annotation, so that what is left to be accomplished lies solely on the register of deeds. The Court thus once held:

Current doctrine thus seems to be that entry alone produces the effect of registration, whether the transaction entered is a voluntary or an involuntary one, so long as the registrant has complied with all that is required of him for purposes of entry and annotation, and nothing more remains to be done but a duty incumbent solely on the register of deeds. [52]

In the case under consideration, NHA presented the sheriff's certificate of sale to the Register of Deeds and the same was entered as Entry No. 2873 and said entry was further annotated in the owner's transfer certificate of title. [53] A year later and after the mortgagors did not redeem the said properties, respondents filed with the Register of Deeds an Affidavit of Consolidation of Ownership [54] after which the same instrument was presumably entered into in the day book as the same was annotated in the owner's duplicate copy. [55] Just like in *DBP*, *Levin*, *Potenciano* and *Autocorp*, NHA followed the procedure in order to have its sheriff's certificate of sale annotated in the transfer certificates of title. There would be, therefore, no reason not to apply the ruling in said cases to this one. It was not NHA's fault that the certificate of sale was not annotated on the transfer

certificates of title which were supposed to be in the custody of the Registrar, since the same were burned. Neither could NHA be blamed for the fact that there were no reconstituted titles available during the time of inscription as it had taken the necessary steps in having the same reconstituted as early as July 15, 1988.[56] NHA did everything within its power to assert its right.

While it may be true that, in DBP, the Court ruled that "in the particular situation here obtaining, annotation of the disputed entry on the reconstituted originals of the certificates of title to which it refers is entirely proper and justified," this does not mean, as respondents insist, that the ruling therein applies exclusively to the factual milieu and the issue obtaining in said case, and not to similar cases. There is nothing in the subject declaration that categorically states its pro hac vice character. For in truth, what the said statement really conveys is that the current doctrine that entry in the primary book produces the effect of registration can be applied in the situation obtaining in that case since the registrant therein complied with all that was required of it, hence, it was fairly reasonable that its acts be given the effect of registration, just as the Court did in the past cases. In fact the Court there continued with this pronouncement:

To hold said entry ineffective, as does the appealed resolution, amounts to declaring that it did not, and does not, protect the registrant (DBP) from claims arising, or transactions made, thereafter which are adverse to or in derogation of the rights created or conveyed by the transaction thus entered. That, surely, is a result that is neither just nor can, by any reasonable interpretation of Section 56 of Presidential Decree No. 1529 be asserted as warranted by its terms.[57]

What is more, in *Autocorp Group v. Court of Appeals*,[58] the pertinent DBP ruling was applied, thereby demonstrating that the said ruling in DBP may be applied to other cases with similar factual and legal issues, viz:

Petitioners contend that the aforecited case of DBP is not apropos to the case at bar. Allegedly, in DBP, the bank not only paid the registration fees but also presented the owner's duplicate certificate of title. We find no merit in petitioner's posture x x x.

x x x x

Like in DBP v. Acting Register of Deeds of Nueva Ecija, the instrument involved in the case at bar, is a sheriff's certificate of sale, We hold now, as we held therein, that the registrant is under no necessity to present the owner's duplicates of the certificates of title affected, for purposes of primary entry, as the transaction sought to be recorded is an involuntary transaction.

x x x x

x x x Such entry is equivalent to registration. Injunction would not lie anymore, as the act sought to be enjoined had already become a *fait accompli* or an accomplished act.[59]

Moreover, respondents' stand on the non-applicability of the DBP case to other cases, absent any statement thereof to such effect, contravenes the principle of *stare decisis* which urges that courts are to apply principles declared in prior decisions that are substantially similar to a pending case.[60]

Since entry of the certificate of sale was validly registered, the redemption period accruing to respondents commenced therefrom, since the one-year period of redemption is reckoned from the date of registration of the certificate of sale.[61] It must be noted that on April 16, 1991, the sheriff's certificate of sale was registered and annotated only on the owner's duplicate copies of the titles and on April 16, 1992, the redemption period expired, without respondents having redeemed the properties. In fact, on April 24, 1992, NHA executed an Affidavit of Consolidation of Ownership. Clearly, respondents have lost their opportunity to redeem the properties in question.

As regards respondents' allegation on the defect in the publication and notice requirements of the extrajudicial

foreclosure sale, the same is unavailing. The rule is that it is the mortgagor who alleges absence of a requisite who has the burden of establishing such fact.[62] This is so because foreclosure proceedings have in their favor the presumption of regularity and the burden of evidence to rebut the same is on the party who questions it.[63] Here, except for their bare allegations, respondents failed to present any evidence to support them. In addition, NHA stated in its Comment to Motion for Leave of Court to Intervene that it had complied with the publication of the Notice of Sheriff's Sale in the Manila Times in the latter's issues dated July 14, 21 and 28, 1990.[64] It also claimed that an Affidavit of Publication of said newspaper was attached as Annex "B" in the said comment.[65] NHA also said that respondents had been furnished with a copy of the Notice of Sheriff's Sale as shown at the bottom portion of said notice.[66] From all these, it would tend to show that respondents' aspersion of non-compliance with the requirements of foreclosure sale is a futile attempt to salvage its statutory right to redeem their foreclosed properties, which right had long been lost by inaction.

Considering that the foreclosure sale and its subsequent registration with the Register of Deeds were done validly, there is no reason for the non-issuance of the writ of possession. A writ of possession is an order directing the sheriff to place a person in possession of a real or personal property, such as when a property is extrajudicially foreclosed.[67] Section 7 of Act No. 3135 provides for the rule in the issuance of the writ of possession involving extrajudicial foreclosure sales of real estate mortgage, to wit:

Sec. 7. In any sale made under the provisions of this Act, the purchaser may petition the [Regional Trial Court] of the province or place where the property or any part thereof is situated, to give him possession thereof during the redemption period, furnishing bond in an amount equivalent to the use of the property for a period of twelve months, to indemnify the debtor in case it be shown that the sale was made without violating the mortgage or without complying with the requirements of this Act. Such petition shall be made under oath and filed in the form of an ex parte motion in the registration or cadastral proceedings if the property is registered, or in special proceedings in the case of property registered under the Mortgage Law or under section one hundred and ninety-four of the Administrative Code, or of any other real property encumbered with a mortgage duly registered in the office of any register of deeds in accordance with any existing law, and in each case the clerk of the court shall, upon the filing of such petition, collect the fees specified in paragraph eleven of section one hundred and fourteen of Act Numbered Four Hundred and ninety-six, as amended by Act Numbered Twenty-eight hundred and sixty-six, and the court shall, upon approval of the bond, order that a writ of possession issue, addressed to the sheriff of the province in which the property is situated, who shall execute said order immediately.

This provision of law authorizes the purchaser in a foreclosure sale to apply for a writ of possession during the redemption period by filing an ex parte motion under oath for that purpose in the corresponding registration or cadastral proceeding in the case of property with Torrens title.[68] Upon the filing of such motion and the approval of the corresponding bond, the law also in express terms directs the court to issue the order for a writ of possession.[69]

The time-honored precept is that after the consolidation of titles in the buyer's name, for failure of the mortgagor to redeem, the writ of possession becomes a matter of right.[70] Its issuance to a purchaser in an extrajudicial foreclosure is merely a ministerial function.[71] The writ of possession issues as a matter of course upon the filing of the proper motion and the approval of the corresponding bond. The judge issuing the writ following these express provisions of law neither exercises his official discretion nor judgment.[72] As such, the court granting the writ cannot be charged with having acted without jurisdiction or with grave abuse of discretion.[73] To accentuate the writ's ministerial character, the Court disallowed injunction to prohibit its issuance despite a pending action for annulment of mortgage or the foreclosure itself.[74]

Believing that the instant case does not come within the penumbra of the foregoing rule, respondents resort to the

ruling in *Barican v. Intermediate Appellate Court*.^[75] Unfortunately for them, the instant case does not even come close to the cited case. There, the Court deemed it inequitable to issue a writ of possession in favor of the purchaser in the auction sale considering that the property involved was already in the possession of a third person by virtue of a deed of sale with assumption of mortgage even before the purchaser could register the sheriff's certificate of sale. Also, the auction buyer therein unreasonably deferred to exercise its right to acquire possession over the property. These circumstances are not present in the instant case.

Moreover, in *Fernandez v. Espinoza*,^[76] the Court refused to apply the ruling in *Barican v. Intermediate Appellate Court*^[77] and *Cometa v. Intermediate Appellate Court*,^[78] two cases which are exemptions to the stated rule, reasoning that:

In *Cometa*, which actually involved execution of judgment for the prevailing party in a damages suit, the subject properties were sold at the public auction at an unusually lower price, while in *Barican*, the mortgagee bank took five years from the time of foreclosure before filing the petition for the issuance of writ of possession. We have considered these equitable and peculiar circumstances in *Cometa* and *Barican* to justify the relaxation of the otherwise absolute rule. None of these exceptional circumstances, however, attended herein so as to place the instant case in the same stature as that of *Cometa* and *Barican*. Instead, the ruling in *Vaca v. Court of Appeals* is on all fours with the present petition. In *Vaca*, there is no dispute that the property was not redeemed within one year from the registration of the extrajudicial foreclosure sale; thus, the mortgagee bank acquired an absolute right, as purchaser, to the issuance of the writ of possession. Similarly, UOB, as the purchaser at the auction sale in the instant case, is entitled as a matter of right, to the issuance of the writ of possession.

Just as in *Fernandez*, this Court does not see any compelling reason to veer away from the established rule.

In fine, this Court finds that the Court of Appeals committed reversible error in ruling that the annotation of NHA's sheriff's certificate of sale on the duplicate certificates of title was not effective registration and in holding that respondents' redemption period had not expired.

WHEREFORE, premises considered, the instant petition is hereby GRANTED. The Amended Decision of the Court of Appeals dated November 27, 2000 is SET ASIDE.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio, Bersamin, and Villarama, Jr., JJ., concur.

[*] Per Special Order No. 834, dated 12 April 2010, signed by Chief Justice Reynato S. Puno designating Associate Justice Antonio T. Carpio to replace Associate Justice Conchita Carpio Morales, who is on official leave.

[1] Penned by Associate Justice Delilah Vidallon-Magtolis with Associate Justices Bernardo P. Abesamis and Mercedes Gozo-Dadole, concurring; rollo, pp. 22-26.

[2] Rollo, p. 10.

[3] Id. at 11.

[4] CA rollo, p. 141.

[5] Rollo, p. 114.

[6] Id. at 38.

[7] Id.

[8] CA rollo, p. 19.

[9] Id. at 23-24.

[10] Id. at 25.

[11] Id. at 28-36.

[12] SEC. 8. The debtor may, in the proceedings in which possession was requested, but not later than thirty days after the purchaser was given possession, petition that the sale be set aside and the writ of possession canceled, specifying the damages suffered by him, because the mortgage was not violated or the sale was not made in accordance with the provisions hereof, and the court shall take cognizance of this petition in accordance with the summary procedure provided for in section one hundred and twelve of Act Numbered Four hundred and ninety-six; and if it finds the complaint of the debtor justified, it shall dispose in his favor of all or part of the bond furnished by the person who obtained possession. Either of the parties may appeal from the order of the judge in accordance with section fourteen of Act Numbered Four hundred and ninety-six; but the order of possession shall continue in effect during the pendency of the appeal.

[13] CA rollo, pp. 30-31.

[14] Id. at 31.

[15] G.R. No. 71832, September 24, 1991, 201 SCRA 648.

[16] 73 Phil. 682 (1942).

[17] CA rollo, p. 32.

[18] NHA's opposition is embodied in its "Comment to Motion for Leave of Court to Intervene and to Quash/Cancel Writ of Possession" dated June 3, 1993. CA rollo, pp. 37-40.

[19] CA rollo, p. 38.

[20] Id.

[21] Id. at 13.

[22] Id.

[23] Id. at 41-45.

[24] Id. at 14.

[25] Id.

[26] Id. at 99-105.

[27] Id. at 104.

[28] Id. at 106-113.

[29] Rollo, p. 26.

[30] Id. at 27.

[31] Id. at 116-117.

[32] Id. at 137.

[33] UDK No. 7671, June 23, 1988, 162 SCRA 450.

[34] G.R. No. 97872, March 1, 1994, 230 SCRA 513.

[35] G.R. No. L-79906, June 20, 1988, 162 SCRA 358.

[36] G.R. No. 180458, July 30, 2009, 594 SCRA 461, 468-469.

[37] Valmonte v. Alcala, G.R. No. 168667, July 23, 2008, 559 SCRA 536, 543-544.

[38] Id.

[39] Rollo, p. 18.

[40] Supra note 33.

[41] Id. at 454.

[42] Id. at 456.

[43] 60 Phil. 986 (1934).

[44] Development Bank of the Philippines v. Acting Register of Deeds of Nueva Ecija, supra note 33 at 456.

[45] Id. at 457-458.

[46] 91 Phil. 419 (1952).

[47] 97 Phil. 196 (1955).

[48] Development Bank of the Philippines v. Acting Register of Deeds of Nueva Ecija, supra note 33 at 458.

[49] G.R. No. 157553, September 8, 2004, 437 SCRA 678.

[50] Id. at 682.

[51] Id. at 688-689.

[52] Development Bank of the Philippines v. Acting Register of Deeds of Nueva Ecija, supra note 33 at 459.

[53] Exhibit "E," CA rollo, p. 19 for TCT No. 287008; Exhibit "D," rollo, p. 35 for TCT No. 285413.

[54] Id.; Exhibit "D," CA rollo, p. 191 for TCT No. 285413.

[55] Id.

[56] CA rollo, pp. 183 and 189.

[57] Development Bank of the Philippines v. Acting Register of Deeds of Nueva Ecija, supra note 33 at 459-460.

[58] Supra note 49 at 686-689.

[59] Id.

[60] Negros Navigation Co., Inc. v. Court of Appeals, 346 Phil. 551, 565 (1997).

[61] Id.

[62] Cristobal v. Court of Appeals, 384 Phil. 807, 815 (2000).

[63] Id.

[64] CA rollo, p. 38.

[65] Id.

[66] Id.

[67] *Fernandez v. Espinoza*, G.R. No. 156421, April 14, 2008, 551 SCRA 136, 144.

[68] *Chailease Finance Corporation v. Ma*, 456 Phil. 498, 504 (2003).

[69] Id.

[70] *Manalo v. Court of Appeals*, 419 Phil. 215, 235 (2001).

[71] Id.

[72] Id.

[73] Id.

[74] *Chailease Finance Corporation v. Ma*, supra note 68, citing *Manalo v. Court of Appeals*, id.

[75] Supra note 35.

[76] Supra note 67 at 153.

[77] Supra note 35.

[78] 235 Phil. 569 (1987).

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