

WINSTON MENDOZA and FE MICLAT, Petitioners, vs. FERNANDO ALARMA and FAUSTA ALARMA, Respondents.

G.R. No. 151970. May 07, 2008

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

Before the Court is a petition for review on certiorari[1] assailing the Decision[2] dated 9 July 2001 and Resolution[3] dated 30 January 2002 of the Court of Appeals in CA-G.R. CV No. 58139.

The Facts

Spouses Fernando and Fausta Alarma (respondents) are the owners of an 11.7 hectare parcel of land (land) located in Iba, Zambales. The land, identified as Cadastral Lot No. 2087 of Iba Cadastre, was posted as a property bond for the provisional liberty of a certain Joselito Mayo, charged with illegal possession of firearms in Criminal Case No. 1417-I, entitled "People of the Philippines v. Gregorio Cayan, et al."

When the accused failed to appear in court as directed on 19 March 1984, the trial court ordered his arrest and the confiscation of his bail bond in favor of the government. It also directed the bondsmen to produce within a period of 30 days the person of the accused and to show cause why judgment should not be entered against the bail bond. However, without a judgment being rendered against the bondsmen, the trial court issued a writ of execution against the land in an Order dated 14 April 1986.[4] The land was eventually sold at public auction and petitioners Winston Mendoza and Fe Miclat emerged as the highest bidders. Thus, the land was awarded to petitioners and they immediately took possession of the same.

Sometime thereafter, respondents filed a complaint for recovery of property against petitioners with the Regional Trial Court of Iba, Zambales, Branch 70,[5] grounded on the nullity of the entire proceedings relating to the property bond. During the pre-trial conducted on 3 May 1988, the parties agreed that the property would be placed in the possession of respondents. On 2 August 1989, the court rendered its decision dismissing the complaint and declaring that the Order dated 14 April 1986 was a judgment on the bond.

On appeal, the appellate court reversed the decision of the trial court and nullified the proceedings on the execution, sale, and issuance of the writ of possession.[6] Thereafter, petitioners filed a petition for review on certiorari with this Court, docketed as G.R. No. 101103 and entitled "Winston Mendoza, et al. v. Court of Appeals, et al." In a Resolution dated 18 March 1992, this Court denied the petition and ruled with finality that the assailed 14 April 1986 Order was not a judgment on the bond.[7]

Meanwhile, petitioners applied for the registration of the land with the Regional Trial Court of Iba, Zambales, Branch 70.[8] On 9 September 1987, the trial court granted the registration and issued Original Certificate of Title (OCT) No. O-7249 in the name of petitioners.

The Trial Court's Ruling

Respondents then filed an action for the annulment of title and reconveyance of ownership of the land covered by OCT No. O-7249 with the Regional Trial Court of Iba, Zambales, Branch 71.[9] On 24 September 1997, the trial court dismissed the action contending that it had no jurisdiction to annul the judgment rendered by the Regional Trial Court of Iba, Zambales, Branch 70, a co-equal court.[10] The trial court declared further that since the issue of the case was the validity of OCT No. O-7249, the case should have been filed with the Court of Appeals which has exclusive original jurisdiction over annulment of judgments of a Regional Trial Court.

The Ruling of the Court of Appeals

Respondents filed an appeal with the Court of Appeals which reversed the findings of the trial court and annulled OCT No. O-7249.[11] The appellate court also ordered that a new title over the property be issued in the name of respondents. Petitioners filed a Motion for Reconsideration which the appellate court denied in a Resolution dated 30 January 2002.

Hence, this petition.

The Issue

The sole issue for our resolution is whether the Court of Appeals erred in finding a defect in the proceedings and in ordering the annulment of OCT No. O-7249.

Petitioners contend that even if the execution proceedings were nullified, they were not privy to the irregularities of the auction sale. Thus, as buyers in good faith, they must be protected by the law.

Respondents, on the other hand, maintain that the basis for the acquisition of the land and the issuance of title over it had already been declared void by this Court in G.R. No. 101103. Thus, petitioners cannot now claim good faith. With no valid title to the land, petitioners must reconvey the land to respondents.

The Court's Ruling

The petition lacks merit.

Section 21, Rule 114 of the Revised Rules on Criminal Procedure states:

SEC. 21. -- Forfeiture of bail. When the presence of the accused is required by the court or these Rules, his bondsmen shall be notified to produce him before the court on a given date and time. If the accused fails to appear in person as required, his bail shall be declared forfeited and the bondsmen given thirty (30) days within which to produce their principal and to show cause why no judgment should be rendered against them for the amount of their bail. Within the said period, the bondsmen must:

- (a) produce the body of their principal or give the reason for his non-production; and
- (b) explain why the accused did not appear before the court when first required to do so.

Failing in these two requisites, a judgment shall be rendered against the bondsmen, jointly and severally, for the amount of the bail. The court shall not reduce or otherwise mitigate the liability of the bondsmen, unless the accused has been surrendered or is acquitted.

The provision clearly provides for the procedure to be followed before a bail bond may be forfeited and a judgment on the bond rendered against the surety. In *Reliance Surety & Insurance Co., Inc. v. Amante, Jr.*, [12] we outlined the two occasions upon which the trial court judge may rule adversely against the bondsmen in cases when the accused fails to appear in court. First, the non-appearance by the accused is cause for the judge to summarily declare the bond as forfeited. Second, the bondsmen, after the summary forfeiture of the bond, are

given 30 days within which to produce the principal and to show cause why a judgment should not be rendered against them for the amount of the bond. It is only after this 30-day period, during which the bondsmen are afforded the opportunity to be heard by the trial court, that the trial court may render a judgment on the bond against the bondsmen. Judgment against the bondsmen cannot be entered unless such judgment is preceded by the order of forfeiture and an opportunity given to the bondsmen to produce the accused or to adduce satisfactory reason for their inability to do so.[13]

In the present case, it is undisputed that the accused failed to appear in person before the court and that the trial court declared his bail forfeited. The trial court gave the bondsmen, respondents in this case, a 30-day period to produce the accused or a reasonable explanation for their non-production. However, two years had passed from the time the court ordered the forfeiture and still no judgment had been rendered against the bondsmen for the amount of the bail. Instead, an order of execution was issued and the property was put up for sale and awarded to petitioners, the highest bidders.

These turn of events distinctly show that there was a failure of due process of law. The execution was issued, not on a judgment, because there was none, but simply and solely on the declaration of forfeiture.

An order of forfeiture of the bail bond is conditional and interlocutory, there being something more to be done such as the production of the accused within 30 days. This process is also called confiscation of bond. In *People v. Dizon*, [14] we held that an order of forfeiture is interlocutory and merely requires appellant "to show cause why judgment should not be rendered against it for the amount of the bond." Such order is different from a judgment on the bond which is issued if the accused was not produced within the 30-day period. The judgment on the bond is the one that ultimately determines the liability of the surety, and when it becomes final, execution may issue at once.[15] However, in this case, no such judgment was ever issued and neither has an amount been fixed for which the bondsmen may be held liable. The law was not strictly observed and this violated respondents' right to procedural due process.

In addition, we find that the issue of good faith in buying the property at the auction sale is no longer material. This Court in a previous case had already ruled upon the invalidity of the execution and sale of the land. As a result, the basis for which title to the land had been issued has no more leg to stand on. The appellate court, therefore, was correct in ordering the annulment of the title to the land as a matter of course. There being no valid title nor any right to possess the land, reconveyance to the respondents is only proper under the circumstances.

WHEREFORE, we DENY the petition. We AFFIRM the 9 July 2001 Decision and 30 January 2002 Resolution of the Court of Appeals in CA-G.R. CV No. 58139.

SO ORDERED.

Puno, C.J., (Chairperson), Azcuna, Nachura[*], and Leonardo-De Castro, JJ., concur.

[*]As replacement of Justice Renato C. Corona who is on leave per Administrative Circular No. 84- 2007.

[1] Under Rule 45 of the 1997 Revised Rules of Civil Procedure.

[2] Rollo, pp. 38-42. Penned by Justice Presbitero J. Velasco, Jr. (now a member of this Court) with Justices Bienvenido L. Reyes and Juan Q. Enriquez, Jr., concurring.

[3]Id. at 44-45. Penned by Justice Bienvenido L. Reyes with Justices Alicia L. Santos and Juan Q. Enriquez, Jr., concurring.

[4] Records, p. 54. The dispositive portion reads:

Finding merit in the motion for execution on the bailbond dated 30 January 1986, filed by Trial Fiscal Benjamin A. Fadera, the same is hereby granted.

WHEREFORE, as prayed for, let a writ of execution against the properties posted as bailbond of Joselito Mayo be issued and let said properties be confiscated in favor of the government.

[5] Docketed as Civil Case No. RTC-482-I.

[6] Records, pp. 5-11. Docketed as CA-G.R. CV No. 26547. Penned by Justice Jose A.R. Melo (retired) with Justices Emeterio C. Cui (retired) and Regina G. Ordoñez-Benitez, concurring.

[7] Id. at 12-16.

[8] Docketed as Cadastral Case No. 21, LRC Cad. Rec. No. 642.

[9] Docketed as Civil Case No. RTC-1299-I.

[10] CA rollo , pp. 16-20.

[11] Rollo, pp. 38-42.

[12] G.R. No. 150994, 30 June 2005, 462 SCRA 399.

[13] Id., citing *United States v. Bonoan*, 22 Phil. 1 (1912).

[14] 120 Phil. 953 (1964).

[15] PAMARAN, MANUEL R., *THE 1985 RULES ON CRIMINAL PROCEDURE ANNOTATED*, 1998 edition, p. 262.

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