

DOMINGO A. DIZON, PETITIONER, VS. ELPIDIO R. DIZON, RESPONDENT.

G.R. No. 156539. September 05, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-156539/>

SANDOVAL-GUTIERREZ, J.:

Before us is the instant Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision[1] dated October 18, 2002 and Resolution[2] dated January 7, 2003 rendered by the Court of Appeals in CA-G.R. SP No. 45492, entitled "Elpidio R. Dizon, petitioner, v. The Honorable Presiding Judge, Regional Trial Court, Manila, Branch 41, Deputy Sheriff Cesar Q. Cabildo and Domingo A. Dizon, respondents."

Domingo A. Dizon, petitioner, purchased from his nephew, Elpidio R. Dizon (herein respondent), a house and lot located on Limay St., Tondo, Manila. However, respondent failed to deliver the house and lot to petitioner. It appears that the co-owner of the lot, respondent's brother Ricardo, did not give said respondent a written authority to sell his ½ share. Consequently, petitioner filed with the Regional Trial Court (RTC), Branch 41, Manila a complaint for specific performance and sum of money with damages against respondent, docketed as Civil Case No. 90-51838.

On March 20, 1992, the trial court rendered a Decision rescinding the contract of sale between the parties, thus:

PREMISES CONSIDERED, judgment is hereby rendered:

- 1) declaring the contract of sale entered into by and between plaintiff and defendant over that undivided portion of Lot 27-B-3 in the name of Ricardo Dizon and the building constructed thereon rescinded;
- 2) ordering defendant to pay plaintiff as follows:
 - a) a sum of P207,000.00 with interest thereon at the legal rate from January 29, 1990 until the same is fully paid;
 - b) the sum of P350,000.00 with interest thereon at the rate of 3% a month from January 29, 1990 until the same is fully paid; and
 - c) the sum of P50,000.00 as and by way of attorney's fees and expenses of litigation.[3]

On January 13, 1997, the trial court issued a writ of execution implemented by sheriff Cesar Cabildo. He scheduled the auction sale of respondent's properties for the satisfaction of the above judgment on April 3, 1997 at 10:00 a.m.

Petitioner's attorney-in-fact as well as respondent and his counsel participated in the sale. Petitioner emerged as the highest bidder, having offered P180,000.00 for the two (2) parcels of land owned by respondent which were attached by the sheriff.

The proceedings at the auction sale were duly recorded in the Minutes of Sheriff's Sale[4] signed by the parties and their counsels.

In the afternoon of the same date, the sheriff went to the house of respondent and showed him the "Supplemental Minutes on Sheriff's Sale" specifying that petitioner's counsel arrived at 10:45 a.m. (after the auction sale at 10:25 a.m.) and offered a new bid of P1,690,074.41 covering the same properties in lieu of the earlier bid of P180,000.00.

Respondent refused to sign the supplemental sale contending that it will be difficult for him to redeem the property. Besides, the auction sale had already been perfected and, therefore, the subsequent sale is "a new or second sale." Consequently, he filed a motion to quash the "Supplemental Minutes on Sheriff's Sale" alleging inter alia that the supplemental sale is void because it was prepared at 10:25 a.m. after the auction sale at 10:00 a.m.

In an Order dated May 5, 1997, the trial court denied respondent's motion to quash "it appearing that the subject supplemental sale redounds to the benefit of movant-defendant as it obviates the execution and/or garnishment of any other property, income, or deposits of movant-defendant." [5]

Respondent filed a motion for reconsideration, but it was also denied by the trial court in its Order dated August 12, 1997. He then filed a petition for certiorari and prohibition with the Court of Appeals alleging that the RTC judge committed grave abuse of discretion in upholding the validity of the "Supplemental Minutes on Sheriff's Sale."

In its assailed Decision dated October 18, 2002, the appellate court granted the petition and set aside the questioned Orders of the RTC dated May 5, 1997 and August 12, 1997, thus:

The record shows that the auction sale begun on time, that is 10:00 AM of April 3, 1997, wherein both parties as well as their respective counsels appeared and participated in the bid as reflected in the Minutes of Sheriff's Sale. As certified by the respondent sheriff himself, the said sale was finished at exactly 10:25 o'clock in the morning of said date. The amended bid therefore of private respondent's counsel made at 10:45 AM of even date could not be considered as valid as the same was made after the perfection of the auction sale.

x x x

Consequently, the respondent judge is considered to have gravely abused his discretion in upholding the validity of the Supplemental Minutes on Sheriff's Sale.[6]

Petitioner filed a motion for reconsideration but it was denied by the appellate court in its Resolution dated January 7, 2003.

Hence, the instant petition.

Petitioner contends that as the highest bidder, he has the option to amend his bid in order to conform to the amounts awarded in his favor by the trial court.

Respondent maintains that since the auction sale had been perfected, its consideration can no longer be modified; and that it will be difficult for him to redeem his properties valued at P1,690,074.41 instead of only P180,000.00.

Article 1476, paragraph 2 of the Civil Code provides:

Article 1476. In the case of a sale by auction:

x x x

(2) A sale by auction is perfected when the auctioneer announces its perfection by the fall of the hammer, or in other customary manner. Until such announcement is made, any bidder may retract his bid; and the auctioneer may withdraw the goods from the sale unless the auction has been announced to be without reserve.

During the public auction conducted on April 3, 1997 which ended at 10:25 a.m., the sheriff declared petitioner the highest bidder. Considering that the auction sale had already been perfected, a supplemental sale with higher consideration at the instance of only one party (herein petitioner) could no longer be validly executed.

We therefore rule that in denying respondent's motion to quash the "Supplemental Minutes on Sheriff's Sale," and declaring the supplemental sale valid, the trial court gravely abused its discretion.

WHEREFORE, we DENY the petition and AFFIRM the challenged Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 45492. Costs against petitioner.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

[1] Penned by Associate Justice Eubulo G. Verzola (deceased) and concurred in by Associate Justice Teodoro P. Regino (retired) and Associate Justice Sergio L. Pestaño (deceased), Annex "A" of the petition, rollo, pp. 21-26.

[2] Annex "C" of the petition, id., pp. 33-34.

[3] Rollo, p. 47.

[4] Id., p. 60.

[5] Id., p. 62.

[6] Id., p. 25.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.