

ELIGIO P. MALLARI, PETITIONER, VS. GOVERNMENT SERVICE INSURANCE SYSTEM AND THE PROVINCIAL SHERIFF OF PAMPANGA, RESPONDENTS.

G.R. No. 157659. January 25, 2010

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

By petition for review on certiorari, the petitioner appeals the decision promulgated on March 17, 2003, whereby the Court of Appeals (CA) dismissed his petition for certiorari.

Antecedents

In 1968, the petitioner obtained two loans totaling P34,000.00 from respondent Government Service Insurance System (GSIS). To secure the performance of his obligations, he mortgaged two parcels of land registered under his and his wife Marcelina Mallari's names. However, he paid GSIS about ten years after contracting the obligations only P10,000.00 on May 22, 1978 and P20,000.00 on August 11, 1978.[1]

What followed thereafter was the series of inordinate moves of the petitioner to delay the efforts of GSIS to recover on the debt, and to have the unhampered possession of the foreclosed property.

After reminding the petitioner of his unpaid obligation on May 2, 1979, GSIS sent on November 2, 1981 a telegraphic demand to him to update his account. On November 10, 1981, he requested a final accounting, but did not do anything more. Nearly three years later, on March 21, 1984, GSIS applied for the extrajudicial foreclosure of the mortgage by reason of his failure to settle his account. On November 22, 1984, he requested an updated computation of his outstanding account. On November 29, 1984, he persuaded the sheriff to hold the publication of the foreclosure notice in abeyance, to await action on his pending request for final accounting (that is, taking his payments of P30,000.00 made in 1978 into account). On December 13, 1984, GSIS responded to his request and rendered a detailed explanation of the account. On May 30, 1985, it sent another updated statement of account. On July 21, 1986, it finally commenced extrajudicial foreclosure proceedings against him because he had meanwhile made no further payments.

On August 22, 1986, the petitioner sued GSIS and the Provincial Sheriff of Pampanga in the Regional Trial Court (RTC), Branch 44, in San Fernando, Pampanga, docketed as Civil Case No. 7802,[2] ostensibly to enjoin them from proceeding against him for injunction (with an application for preliminary injunction). The RTC ultimately decided Civil Case No. 7802 in his favor, nullifying the extrajudicial foreclosure and auction sale; cancelling Transfer Certificate of Title (TCT) No. 284272-R and TCT No. 284273-R already issued in the name of GSIS; and reinstating TCT No. 61171-R and TCT No. 54835-R in his and his wife's names.[3]

GSIS appealed the adverse decision to the CA, which reversed the RTC on March 27, 1996.[4]

The petitioner elevated the CA decision to this Court via petition for review on certiorari (G.R. No. 124468).[5]

On September 16, 1996, this Court denied his petition for review.[6] On January 15, 1997, this Court turned down his motion for reconsideration.[7]

As a result, the CA decision dated March 27, 1996 became final and executory, rendering unassailable both the extrajudicial foreclosure and auction sale held on September 22, 1986, and the issuance of TCT No. 284272-R and TCT No. 284273-R in the name of GSIS.

GSIS thus filed an ex parte motion for execution and for a writ of possession on September 2, 1999.[8] Granting the ex parte motion on October 8, 1999,[9] the RTC issued a writ of execution cum writ of possession on October 21, 1999,[10] ordering the sheriff to place GSIS in possession of the properties.

The sheriff failed to serve the writ, however, partly because of the petitioner's request for an extension of time within which to vacate the properties. It is noted that GSIS acceded to the request.[11]

Yet, the petitioner did not voluntarily vacate the properties, but instead filed a motion for reconsideration and/or to quash the writ of execution on March 27, 2000.[12] Also, the petitioner commenced a second case against GSIS and the provincial sheriff in the RTC in San Fernando, Pampanga (Civil Case No. 12053), ostensibly for consignment (coupled with a prayer for a writ of preliminary injunction or temporary restraining order). However, the RTC dismissed Civil Case No. 12053 on November 10, 2000 on the ground of res judicata, impelling him to appeal the dismissal to the CA (C.A.-G.R. CV No. 70300).[13]

In the meanwhile, the petitioner filed a motion dated April 5, 2000 in Civil Case No. 7802 to hold GSIS, et al.[14] in contempt of court for painting the fence of the properties during the pendency of his motion for reconsideration and/or to quash the writ of execution.[15] He filed another motion in the same case, dated April 17, 2000, to hold GSIS and its local manager Arnulfo B. Cardenas in contempt of court for ordering the electric company to cut off the electric services to the properties during the pendency of his motion for reconsideration and/or to quash the writ of execution.[16]

To prevent the Presiding Judge of Branch 44 of the RTC from resolving the pending incidents in Civil Case No. 7802, GSIS moved to inhibit him for alleged partiality towards the petitioner as borne out by his failure to act on the motion for reconsideration and/or to quash writ of execution, motions for contempt of court, and motion for issuance of break open order for more than a year from their filing, praying that the case be re-raffled to another branch of the RTC.[17] Consequently, Civil Case No. 7802 was re-assigned to Branch 48, whose Presiding Judge then denied the motions for contempt of court on July 30, 2001, and directed the Branch Clerk of Court to cause the re-implementation of the writ of execution cum writ of possession dated October 21, 1999.[18]

The petitioner sought reconsideration,[19] but the Presiding Judge of Branch 48 denied his motion for reconsideration on February 11, 2002.[20]

Ruling of the CA

By petition for certiorari dated March 15, 2002 filed in the CA, the petitioner assailed the orders of February 11, 2002, July 30, 2001, October 21, 1999, and October 8, 1999.[21]

On March 17, 2003, however, the CA dismissed the petition for certiorari for lack of merit,[22] stating:

We find the instant petition patently devoid of merit. This Court is not unaware of the legal tactics and maneuvers employed by the petitioner in delaying the disposition of the subject case (Civil Case No. 7802) which has already become final and executory upon the final resolution by the Supreme Court affirming the judgment rendered by the Court of Appeals. We construe the actuation of the petitioner in resorting to all kinds of avenues accorded by the Rules of Court, through the filing of several pleadings and/or motions in litigating this case, as running counter to the intendment of the Rules to be utilized in promoting the objective of

securing a just, speedy and inexpensive disposition of every action and proceeding.

The issues raised in the present controversy have already been settled in our existing jurisprudence on the subject. In the case of *De Jesus vs. Obnamia, Jr.*, the Supreme Court ruled that "generally, no notice or even prior hearing of a motion for execution is required before a writ of execution is issued when a decision has already become final."

The recent accretion to the corpus of our jurisprudence has established the principle of law, as enunciated in *Buaya vs. Stronghold Insurance Co., Inc.* that "once a judgment becomes final and executory, the prevailing party can have it executed as a matter of right, and the issuance of a Writ of Execution becomes a ministerial duty of the court."

The rule is also firmly entrenched in the aforecited *Buaya* case that "the effective and efficient administration of justice requires that once a judgment has become final, the prevailing party should not be deprived of the fruits of the verdict by subsequent suits on the same issues filed by the same parties. Courts are duty-bound to put an end to controversies. Any attempt to prolong, resurrect or juggle them should be firmly struck down. The system of judicial review should not be misused and abused to evade the operation of final and executory judgments."

As succinctly put in *Tag Fibers, Inc. vs. National Labor Relations Commission*, the Supreme Court is emphatic in saying that "the finality of a decision is a jurisdictional event that cannot be made to depend on the convenience of a party."

We find no cogent reason to discompose the findings of the court below. Thus, we sustain the assailed Orders of the court a quo since no abuse of discretion has been found to have been committed by the latter in their issuance. Moreover, this Court finds this petition to be part of the dilatory tactics of the petitioner to stall the execution of a final and executory decision in Civil Case No. 7802 which has already been resolved with finality by no less than the highest tribunal of the land.

WHEREFORE, premises considered, the instant petition is hereby DISMISSED for lack of merit. Costs against the petitioner.

SO ORDERED.[23]

Issues

Hence, this appeal.

The petitioner insists herein that the CA gravely erred in refusing "to accept the nullity of the following orders" of the RTC, to wit:

- THE ORDER OF THE TRIAL COURT DATED OCTOBER 8, 1999, GRANTING THE EX-PARTE MOTION FOR EXECUTION AND/OR ISSUANCE OF THE WRIT OF EXECUTION OF POSSESSION IN FAVOR OF THE RESPONDENT GSIS;
- THE ORDER OF THE TRIAL COURT DATED OCTOBER 21, 1999 GRANTING THE ISSUANCE AND IMPLEMENTATION OF THE WRIT OF EXECUTION CUM WRIT OF POSSESSION IN FAVOR OF RESPONDENT GSIS;
- THE ORDER OF THE TRIAL COURT DATED JULY 30, 2001 DIRECTING TO CAUSE THE RE-IMPLEMENTATION OF THE WRIT OF EXECUTION CUM WRIT OF POSSESSION IN FAVOR OF THE RESPONDENT GSIS; and
- THE ORDER OF THE TRIAL COURT DATED FEBRUARY 11, 2002, DENYING THE MOTION FOR RECONSIDERATION OF THE ORDER DATED SEPTEMBER 14, 2001, IN RELATION TO THE COURT

ORDER DATED JULY 30, 2001.[24]

Ruling of the Court

The petition for review on certiorari absolutely lacks merit.

I

Petition for Certiorari in CA

Was Filed Beyond Reglementary Period

The petition assailed before the CA on certiorari the following orders of the RTC, to wit:

- The order dated October 8, 1999 (granting the ex parte motion for execution and/or issuance of the writ of execution cum writ of possession of GSIS);[25]
- The order dated October 21, 1999 (directing the issuance of the writ of execution cum writ of possession in favor of GSIS);[26]
- The order dated July 30, 2001 (requiring the Branch Clerk of Court to cause the re-implementation of the writ of execution cum writ of possession, and dismissing the motions to hold GSIS, et al. in contempt);[27] and
- The order dated February 11, 2002 (denying the motion for reconsideration dated August 17, 2001 seeking the reconsideration of the order dated July 30, 2001).[28]

The July 30, 2001 order denied the petitioner's motion for reconsideration and/or to quash writ of execution, and motion to hold GSIS, Tony Dimatulac, et al. and Arnulfo Cardenas in contempt; and declared GSIS's motion for issuance of break open order and for designation of special sheriff from GSIS Legal Services Group as premature. In turn, the motion for reconsideration and/or to quash writ of execution denied by the order of July 30, 2001 had merely challenged the orders of October 8, 1999 and October 21, 1999 (granting the writ of execution cum writ of possession as a matter of course).

Considering that the motion for reconsideration dated August 17, 2001 denied by the order dated February 11, 2002 was in reality and effect a prohibited second motion for reconsideration vis-à-vis the orders dated October 21, 1999 and October 8, 1999, the assailed orders dated July 30, 2001, October 21, 1999, and October 8, 1999 could no longer be subject to attack by certiorari. Thus, the petition for certiorari filed only in March 2002 was already improper and tardy for being made beyond the 60-day limitation defined in Section 4, Rule 65, 1997 Rules of Civil Procedure, as amended,[29] which requires a petition for certiorari to be filed "not later than sixty (60) days from notice of the judgment, order or resolution," or, in case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, "the sixty (60) day period shall be counted from notice of the denial of the said motion."

It is worth emphasizing that the 60-day limitation is considered inextendible, because the limitation has been prescribed to avoid any unreasonable delay that violates the constitutional rights of parties to a speedy disposition of their cases.[30]

II

Nature of the Writ of Possession and its Ministerial Issuance

The petitioner claims that he had not been notified of the motion seeking the issuance of the writ of execution cum writ of possession; hence, the writ was invalid.

As earlier shown, the CA disagreed with him.

We sustain the CA, and confirm that the petitioner, as defaulting mortgagor, was not entitled under Act 3135, as amended, and its pertinent jurisprudence to any prior notice of the application for the issuance of the writ of possession.

A writ of possession, which commands the sheriff to place a person in possession of real property, may be issued in: (1) land registration proceedings under Section 17 of Act No. 496; (2) judicial foreclosure, provided the debtor is in possession of the mortgaged property, and no third person, not a party to the foreclosure suit, had intervened; (3) extrajudicial foreclosure of a real estate mortgage, pending redemption under Section 7 of Act No. 3135, as amended by Act No. 4118; and (4) execution sales, pursuant to the last paragraph of Section 33, Rule 39 of the Rules of Court.[31]

Anent the redemption of property sold in an extrajudicial foreclosure sale made pursuant to the special power referred to in Section 1[32] of Act No. 3135,[33] as amended, the debtor, his successor-in-interest, or any judicial creditor or judgment creditor of said debtor, or any person having a lien on the property subsequent to the mortgage or deed of trust under which the property is sold has the right to redeem the property at anytime within the term of one year from and after the date of the sale, such redemption to be governed by the provisions of Section 464 to Section 466 of the Code of Civil Procedure, to the extent that said provisions were not inconsistent with the provisions of Act 3135.[34]

In this regard, we clarify that the redemption period envisioned under Act 3135 is reckoned from the date of the registration of the sale, not from and after the date of the sale, as the text of Act 3135 shows. Although the original Rules of Court (effective on July 1, 1940) incorporated Section 464 to Section 466 of the Code of Civil Procedure as its Section 25 (Section 464); Section 26 (Section 465); and Section 27 (Section 466) of Rule 39, with Section 27 still expressly reckoning the redemption period to be "at any time within twelve months after the sale;" and although the Revised Rules of Court (effective on January 1, 1964) continued to provide in Section 30 of Rule 39 that the redemption be made from the purchaser "at any time within twelve (12) months after the sale,"[35] the 12-month period of redemption came to be held as beginning "to run not from the date of the sale but from the time of registration of the sale in the Office of the Register of Deeds." [36] This construction was due to the fact that the sheriff's sale of registered (and unregistered) lands did not take effect as a conveyance, or did not bind the land, until the sale was registered in the Register of Deeds.[37]

Desiring to avoid any confusion arising from the conflict between the texts of the Rules of Court (1940 and 1964) and Act No. 3135, on one hand, and the jurisprudence clarifying the reckoning of the redemption period in judicial sales of real property, on the other hand, the Court has incorporated in Section 28 of Rule 39 of the current Rules of Court (effective on July 1, 1997) the foregoing judicial construction of reckoning the redemption period from the date of the registration of the certificate of sale, to wit:

Sec. 28. Time and manner of, and amounts payable on, successive redemptions; notice to be given and filed. -- The judgment obligor, or redemptioner, may redeem the property from the purchaser, at any time within one (1) year from the date of the registration of the certificate of sale, by paying the purchaser the amount of his purchase, with one per centum per month interest thereon in addition, up to the time of redemption, together with the amount of any assessments or taxes which the purchaser may have paid thereon after purchase, and interest on such last named amount at the same rate; and if the purchaser be also a creditor having a prior lien to that of the redemptioner, other than the judgment under which such purchase was made, the amount of such other lien, with interest.

Property so redeemed may again be redeemed within sixty (60) days after the last redemption upon payment of the sum paid on the last redemption, with two per centum thereon in addition, and the amount of any assessments or taxes which the last redemptioner may have paid thereon after redemption by him, with interest

on such last-named amount, and in addition, the amount of any liens held by said last redemptioner prior to his own, with interest. The property may be again, and as often as a redemptioner is so disposed, redeemed from any previous redemptioner within sixty (60) days after the last redemption, on paying the sum paid on the last previous redemption, with two per centum thereon in addition, and the amounts of any assessments or taxes which the last previous redemptioner paid after the redemption thereon, with interest thereon, and the amount of any liens held by the last redemptioner prior to his own, with interest.

Written notice of any redemption must be given to the officer who made the sale and a duplicate filed with the registry of deeds of the place, and if any assessments or taxes are paid by the redemptioner or if he has or acquires any lien other than that upon which the redemption was made, notice thereof must in like manner be given to the officer and filed with the registry of deeds; if such notice be not filed, the property may be redeemed without paying such assessments, taxes, or liens. (30a) (Emphasis supplied).

Accordingly, the mortgagor or his successor-in-interest must redeem the foreclosed property within one year from the registration of the sale with the Register of Deeds in order to avoid the title from consolidating in the purchaser. By failing to redeem thuswise, the mortgagor loses all interest over the foreclosed property.[38] The purchaser, who has a right to possession that extends beyond the expiration of the redemption period, becomes the absolute owner of the property when no redemption is made,[39] that it is no longer necessary for the purchaser to file the bond required under Section 7 of Act No. 3135, as amended, considering that the possession of the land becomes his absolute right as the land's confirmed owner.[40] The consolidation of ownership in the purchaser's name and the issuance to him of a new TCT then entitles him to demand possession of the property at any time, and the issuance of a writ of possession to him becomes a matter of right upon the consolidation of title in his name.

The court can neither halt nor hesitate to issue the writ of possession. It cannot exercise any discretion to determine whether or not to issue the writ, for the issuance of the writ to the purchaser in an extrajudicial foreclosure sale becomes a ministerial function.[41] Verily, a marked distinction exists between a discretionary act and a ministerial one. A purely ministerial act or duty is one that an officer or tribunal performs in a given state of facts, in a prescribed manner, in obedience to the mandate of a legal authority, without regard to or the exercise of his own judgment upon the propriety or impropriety of the act done. If the law imposes a duty upon a public officer and gives him the right to decide how or when the duty shall be performed, such duty is discretionary, not ministerial. The duty is ministerial only when its discharge requires neither the exercise of official discretion nor the exercise of judgment.[42]

The proceeding upon an application for a writ of possession is ex parte and summary in nature, brought for the benefit of one party only and without notice being sent by the court to any person adverse in interest. The relief is granted even without giving an opportunity to be heard to the person against whom the relief is sought.[43] Its nature as an ex parte petition under Act No. 3135, as amended, renders the application for the issuance of a writ of possession a non-litigious proceeding.[44]

It is clear from the foregoing that a non-redeeming mortgagor like the petitioner had no more right to challenge the issuance of the writ of execution cum writ of possession upon the ex parte application of GSIS. He could not also impugn anymore the extrajudicial foreclosure, and could not undo the consolidation in GSIS of the ownership of the properties covered by TCT No. 284272-R and TCT No. 284273-R, which consolidation was already irreversible. Hence, his moves against the writ of execution cum writ of possession were tainted by bad faith, for he was only too aware, being his own lawyer, of the dire consequences of his non-redemption within the period provided by law for that purpose.

III

Dismissal of Petitioner's Motion for Indirect Contempt
Was Proper and In Accord with the Rules of Court

The petitioner insists that the RTC gravely erred in dismissing his charges for indirect contempt against GSIS, et al.; and that the CA should have consequently granted his petition for certiorari.

The petitioner's insistence is plainly unwarranted.

First of all, Section 4, Rule 71, 1997 Rules of Civil Procedure, provides as follows:

Section 4. How proceedings commenced. -- Proceedings for indirect contempt may be initiated *motu proprio* by the court against which the contempt was committed by an order or any other formal charge requiring the respondent to show cause why he should not be punished for contempt.

In all other cases, charges for indirect contempt shall be commenced by a verified petition with supporting particulars and certified true copies of documents or papers involved therein, and upon full compliance with the requirements for filing initiatory pleadings for civil actions in the court concerned. If the contempt charges arose out of or are related to a principal action pending in the court, the petition for contempt shall allege that fact but said petition shall be docketed, heard and decided separately, unless the court in its discretion orders the consolidation of the contempt charge and the principal action for joint hearing and decision. (n) (Emphasis supplied).

Indeed, a person may be charged with indirect contempt only by either of two alternative ways, namely: (1) by a verified petition, if initiated by a party; or (2) by an order or any other formal charge requiring the respondent to show cause why he should not be punished for contempt, if made by a court against which the contempt is committed. In short, a charge of indirect contempt must be initiated through a verified petition, unless the charge is directly made by the court against which the contemptuous act is committed.

Justice Regalado has explained why the requirement of the filing of a verified petition for contempt is mandatory:[45]

1. This new provision clarifies with a regulatory norm the proper procedure for commencing contempt proceedings. While such proceeding has been classified as a special civil action under the former Rules, the heterogeneous practice, tolerated by the courts, has been for any party to file a mere motion without paying any docket or lawful fees therefor and without complying with the requirements for initiatory pleadings, which is now required in the second paragraph of this amended section. Worse, and as a consequence of unregulated motions for contempt, said incidents sometimes remain pending for resolution although the main case has already been decided. There are other undesirable aspects but, at any rate, the same may now be eliminated by this amendatory procedure.

Henceforth, except for indirect contempt proceedings initiated *motu proprio* by order of or a formal charge by the offended court, all charges shall be commenced by a verified petition with full compliance with the requirements therefor and shall be disposed of in accordance with the second paragraph of this section. (Emphasis supplied).

Clearly, the petitioner's charging GSIS, et al. with indirect contempt by mere motions was not permitted by the Rules of Court.

And, secondly, even assuming that charges for contempt could be initiated by motion, the petitioner should have tendered filing fees. The need to tender filing fees derived from the fact that the procedure for indirect contempt under Rule 71, Rules of Court was an independent special civil action. Yet, the petitioner did not tender and pay filing fees, resulting in the trial court not acquiring jurisdiction over the action. Truly, the omission to tender filing fees would have also warranted the dismissal of the charges.

It seems to be indubitable from the foregoing that the petitioner initiated the charges for indirect contempt without regard to the requisites of the Rules of Court simply to vex the adverse party. He thereby disrespected the orderly administration of justice and committed, yet again, an abuse of procedures.

IV

Petitioner Was Guilty of Misconduct As A Lawyer

The CA deemed it unavoidable to observe that the petition for certiorari brought by the petitioner to the CA was "part of the dilatory tactics of the petitioner to stall the execution of a final and executory decision in Civil Case No. 7802 which has already been resolved with finality by no less than the highest tribunal of the land." [46]

The observation of the CA deserves our concurrence.

Verily, the petitioner wittingly adopted his aforescribed worthless and vexatious legal maneuvers for no other purpose except to delay the full enforcement of the writ of possession, despite knowing, being himself a lawyer, that as a non-redeeming mortgagor he could no longer impugn both the extrajudicial foreclosure and the ex parte issuance of the writ of execution cum writ of possession; and that the enforcement of the duly-issued writ of possession could not be delayed. He thus deliberately abused court procedures and processes, in order to enable himself to obstruct and stifle the fair and quick administration of justice in favor of mortgagee and purchaser GSIS.

His conduct contravened Rule 10.03, Canon 10 of the Code of Professional Responsibility, by which he was enjoined as a lawyer to "observe the rules of procedure and xxx not [to] misuse them to defeat the ends of justice." By his dilatory moves, he further breached and dishonored his Lawyer's Oath, particularly: [47]

xxx I will not wittingly or willingly promote or sue any groundless, false or unlawful suit, nor give aid nor consent to the same; I will delay no man for money or malice, and will conduct myself as a lawyer according to the best of my knowledge and discretion with all good fidelity as well to the courts as to my clients xxx

We stress that the petitioner's being the party litigant himself did not give him the license to resort to dilatory moves. His zeal to defend whatever rights he then believed he had and to promote his perceived remaining interests in the property already lawfully transferred to GSIS should not exceed the bounds of the law, for he remained at all times an officer of the Court burdened to conduct himself "with all good fidelity as well to the courts as to [his] clients." [48] His true obligation as a lawyer should not be warped by any misplaced sense of his rights and interests as a litigant, because he was, above all, bound not to unduly delay a case, not to impede the execution of a judgment, and not to misuse Court processes. [49] Consequently, he must be made to account for his misconduct as a lawyer.

WHEREFORE, we deny the petition for review on certiorari for lack of merit, and affirm the decision of the Court of Appeals promulgated on March 17, 2003, with the costs of suit to be paid by the petitioner.

The Committee on Bar Discipline of the Integrated Bar of the Philippines is directed to investigate the petitioner for what appear to be (a) his deliberate disregard of the Rules of Court and jurisprudence pertinent to the issuance and implementation of the writ of possession under Act No. 3135, as amended; and (b) his witting violations of the Lawyer's Oath and the Code of Professional Responsibility.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio-Morales, Leonardo-De Castro, and Villarama, Jr., JJ., concur.

[1] Rollo, p. 42-43.

[2] Id., p. 148.

[3] Id., p. 44.

[4] Id., pp. 169-179.

[5] Id., p. 45.

[6] Id., p. 45, 180.

[7] Id., p. 45.

[8] Id., pp. 51-54.

[9] Id., p. 55.

[10] Id., p. 56.

[11] Id., pp. 45-46.

[12] Id., pp. 57-62.

[13] Id., p. 46.

[14] The other respondents were designated as Tony Dimatulac, Allan Doe, John Doe, Peter Doe, Richard Doe, Romy Doe, Roland Doe, and Juan Doe.

[15] Rollo, pp. 64-66.

[16] Id., pp. 75-78.

[17] Id., pp. 107-108.

[18] Id., pp. 120-121.

[20] Id., pp. 139-144.

[21] Id., pp. 47-48.

[22] Id., pp. 42-50.

[23] Id., pp. 48-49.

[24] Id., pp. 12-13.

[25] Id., p. 55.

[26] Id., p. 56.

[27] Id., pp. 120-121.

[28] Id., pp. 139-141.

[29] A.M. No. 00-2-03-SC (Re: Amendment To Section 4, Rule 65 of The 1997 Rules of Civil Procedure) took effect September 1, 2000. This amendment, being a curative one, is applied retroactively (*Romero v. Court of Appeals*, G.R. No. 142803, November 20, 2007, 537 SCRA 643; *Dela Cruz v. Golar Maritime Services, Inc.*, G.R. No. 141277, December 16, 2005, 478 SCRA 173; *Ramatek Philippines, Inc. v. De Los Reyes*, G.R. No. 139526, October 25, 2005, 474 SCRA 129; *PCI Leasing and Finance, Inc. v. Go Ko*, G.R. No. 148641, March 31, 2005, 454 SCRA 586).

[30] *People v. Gabriel*, G.R. No. 147832, December 6, 2006, 510 SCRA 197; *Yutingco v. Court of Appeals*, G.R. No. 137264, August 1, 2002, 386 SCRA 85.

[31] *Philippine National Bank v. Sanao Marketing, Inc.*, G.R. No. 153951, July 29, 2005, 465 SCRA 287, 301; *Autocorp. Group and Autographics, Inc. v. Court of Appeals*, G.R. No. 157553, September 8, 2004, 437 SCRA 678, 689.

[32] Section 1. When a sale is made under a special power inserted in or attached to any real estate mortgage hereafter made as security for the payment of money or the fulfillment of any other obligation, the provisions of the following sections shall govern as to the manner in which the sale and redemption shall be effected, whether or not provision for the same is made in the power.

[33] An Act to Regulate the Sale of Property under Special Powers Inserted In or Annexed To Real Estate Mortgages (Approved on March 6, 1924).

[34] Section 6, Act No. 3135, as amended, provides:

Sec. 6. Redemption. - In all cases in which an extrajudicial sale is made under the special power herein before referred to, the debtor, his successors-in-interest or any judicial creditor or judgment creditor of said debtor or any person having a lien on the property subsequent to the mortgage or deed of trust under which the property is sold, may redeem the same at anytime within the term of one year from and after the date of the sale; and such redemption shall be governed by the provisions of section four hundred and sixty-four to four hundred and sixty-six, inclusive, of the Code of Civil Procedure, in so far as these are not inconsistent with the provisions of this Act.

[35] Sec. 30. Time and manner of, and amounts payable on, successive redemptions. Notice to be given and filed. - The judgment debtor, or redemptioner, may redeem the property from the purchaser, at any time within twelve (12) months after the sale, on paying the purchaser the amount of his purchase, with one per centum per month interest thereon in addition, up to the time of redemption, together with the amount of any assessments or taxes which the purchaser may have paid thereon after purchase, and interest on such last-named amount at the same rate; and if the purchaser be also a creditor having a prior lien to that of the redemptioner, other than the judgment under which such purchase was made, the amount of such other lien, with interest. Property so redeemed may again be redeemed within sixty (60) days after the last redemption upon payment of the sum paid on the last redemption, with two per centum thereon in addition, and the amount of any assessments or taxes which the last redemptioner may have paid thereon after redemption by him, with interest on such last-named amount, and in addition, the amount of any liens held by said last redemptioner prior to his own, with interest. The property may be again, and as often as a redemptioner is so disposed, redeemed from any previous redemptioner within sixty (60) days after the last redemption, on paying the sum paid on the last previous redemption, with two per centum thereon in addition, and the amounts of any assessments or taxes which the last previous redemptioner paid after the redemption thereon, with interest thereon, and the amount of any liens held by the last redemptioner prior to his own, with interest.

Written notice of any redemption must be given to the officer who made the sale and a duplicate filed with the registrar of deeds of the province, and if any assessments or taxes are paid by the redemptioner or if he has or acquires any lien other than that upon which the redemption was made, notice thereof must in like manner be given to the officer and filed with the registrar of deeds; if such notice be not filed, the property may be redeemed without paying such assessments, taxes, or liens.

[36] *Garcia v. Ocampo*, 105 Phil. 1102, 1108 (1959).

[37] Section 50, Act No. 496, states:

Sec. 50. An owner of registered land may convey, mortgage, lease, charge, or otherwise deal with the same as fully as if it had not been registered. He may use forms of deeds, mortgages, leases, or other voluntary instruments like those now in use and sufficient in law for the purpose intended. But no deed, mortgage, lease, or other voluntary instrument, except a will, purporting to convey or affect registered land, shall take effect as a conveyance or bind the land, but shall operate only as a contract between the parties and as evidence of authority to the clerk or register of deeds to make registration. The act of registration shall be the operative act to convey and effect the land, and in all cases under this Act the registration shall be made in the office of register of deeds for the province or provinces or city where the land lies.

Section 51, Presidential Decree No. 1529, provides:

Sec. 51. Conveyance and other dealings by registered owner.-- An owner of registered land may convey, mortgage, lease, charge or otherwise deal with the same in accordance with existing laws. He may use such forms of deeds, mortgages, leases or other voluntary instruments as are sufficient in law. But no deed, mortgage, lease, or other voluntary instrument, except a will purporting to convey or affect registered land shall take effect as a conveyance or bind the land, but shall operate only as a contract between the parties and as evidence of authority to the Register of Deeds to make registration.

The act of registration shall be the operative act to convey or affect the land insofar as third persons are concerned, and in all cases under this Decree, the registration shall be made in the office of the Register of Deeds for the province or city where the land lies.

See also *State Investment House, Inc. v. Court of Appeals*, G.R. No. 99308, November 13, 1992, 215 SCRA 734; *Agbulos v. Albert*, G.R. No. L-17483, July 31, 1962, 5 SCRA 790; *Tuason v. Raymundo*, 28 Phil. 635 (1914); *Sikatuna v. Guevara*, 43 Phil. 371 (1922); *Worcester v. Ocampo*, 34 Phil. 646 (1916).

[38] *Yulienco v. Court of Appeals*, G.R. No. 141365, November 27, 2002, 393 SCRA 143.

[39] *Samson v. Rivera*, G.R. No. 154355, May 20, 2004, 428 SCRA 759, 771.

[40] *Chailease Finance Corporation v. Ma*, G.R. No. 151941, August 15, 2003, 409 SCRA 250, 253.

[41] *De Vera v. Agloro*, G.R. No. 155673, January 14, 2005, 448 SCRA 203, 213-314.

[42] *Espiridion v. Court of Appeals*, G.R. No. 146933, June 8, 2006, 490 SCRA 273, 277.

[43] *Santiago v. Merchants Rural Bank of Talavera, Inc.*, G.R. No. 147820, March 18, 2005, 453 SCRA 756, 763-764.

[44] *Penson v. Maranan*, G.R. No. 148630, June 20, 2006, 491 SCRA 396, 407.

[45] *Remedial Law Compendium*, Sixth Revised Edition, p. 808; see also *Land Bank of the Philippines v. Listana, Sr.*, G.R. No. 152611, August 5, 2003, 408 SCRA 328.

[46] Rollo, p. 49.

[47] Rules of Court, Rule 138. Sec. 3.

[48] Lawyer's Oath.

[49] Rule 12.04, Canon 12, Code of Professional Responsibility, states:

A lawyer shall not unduly delay a case, impede the execution of a judgment or misuse Court processes.

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