SPOUSES ALFREDO AND ENCARNACION CHING, PETITIONERS, VS. FAMILY SAVINGS BANK, AND SHERIFF OF MANILA, RESPONDENTS.

G.R. No. 167835. November 15, 2010

Ponente: PERALTA, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-167835/

PERALTA, J.:

Before this Court are two consolidated[1] cases. In G.R. No. 167835, the spouses Alfredo and Encarnacion Ching (the Spouses Ching), via a petition for review on certiorari, are seeking to annul and set aside the Resolutions of the Court of Appeals (CA), dated November 17, 2004 and April 7, 2005 in CA-G.R. SP No. 87217. While in G.R. No. 188480, Alfredo Ching (Alfredo), also via a petition for review on certiorari, is assailing the Decision[2] dated July 31, 2008 rendered by the CA in CA-G.R. SP No. 96675, dismissing the petition, and the Resolution dated June 19, 2009 denying petitioner's motion for reconsideration.

The procedural and factual antecedents are as follows:

Cheng Ban Yek and Co., Inc. secured a loan from Family Savings Bank (Bank), now BPI Family Bank, with Alfredo acting as surety. On August 6, 1981, the Bank filed a Complaint with the then Court of First Instance (CFI) of Manila, for collection of a sum of money against Cheng Ban Yek and Co., Inc. and Alfredo, docketed as Civil Case No. 142309. On August 12, 1982, the CFI rendered summary judgment in favor of the Bank. Alfredo and Cheng Ban Yek and Co., Inc. appealed the summary judgment before the CA.[3] The CA later issued a Decision affirming the summary judgment. Also, the subsequent petition filed before this Court questioning the CA decision was dismissed for having been filed out of time.[4]

Meanwhile, upon motion of the Bank, the CFI issued an Order granting execution pending appeal. Consequently, the conjugal property of the Spouses Ching, covered by Transfer Certificate of Title (TCT) No. S-3151, was attached, levied, and thereafter sold at public auction on October 10, 1983, wherein the Bank emerged as the highest bidder.

G.R. No. 167835

On March 30, 2004, after more than two decades since the levy and auction sale, the Bank filed a Motion to Retrieve Records, For Issuance of Final Deed of Conveyance, To Order Register of Deeds of Makati City to Transfer Title and For Writ of Possession[5] before the Regional Trial Court (RTC) of Manila, Branch 40. Alfredo opposed[6] the motion and his wife, Encarnacion Ching (Encarnacion), filed a Motion for Leave to Intervene and to Admit Complaint-in-Intervention.[7]

On August 12, 2004, the RTC issued an Order[8] granting the Bank's motion and denying Encarnacion's motion, the dispositive portion of which reads:

> WHEREFORE, Order is issued directing the retrieval from the archives of the Court records of this case granting aforesaid motion of plaintiff and ORDERING:
>
> 1. the issuance of a Final Deed of Conveyance by Deputy Sheriff Ferdinand J. Guerrero or the Clerk of

Court/Ex-Officio Sheriff or any of her duly authorized deputy sheriffs, all of this Court, to plaintiff herein (renamed Family Bank and Trust Co., Inc.) as the highest bidder at the public auction sale;

2. the Register of Deeds of Makati City to issue a new title in the name of Family Bank and Trust Co., Inc. (formerly Family Savings Bank), after payment of the required taxes and fees; and

3. the issuance of a Writ of Possession directing the Clerk of Court/Ex-Officio Sheriff of this court or any of her deputies to place herein plaintiff, thru its duly authorized officers and employees, in possession of the subject property presently covered by TCT No. S-3151.

SO ORDERED.

In granting the motion, the RTC ratiocinated, to wit:

x x x x

1. The validity of the execution issued on September 22, 1982 by this Court thru Hon. Augusto E. Villarin is already "res judicata" when it was raised on appeal by co-defendant Alfredo Ching with the Honorable Court of Appeals in CA-G.R. CV No. 02421, which dismissed the appeal and the dismissal was affirmed by the Honorable Supreme Court when co-defendant Alfredo Ching's Petition for Review was dismissed for being filed out of time per its Decision dated February 24, 2003, in G.R. No. 118830 (Annex F of plaintiff's aforesaid motion to retrieve records etc., dated March 26, 2004, pages 46-55 of record) which Decision has become final and executory on November 4, 2003 (Annex G-1, supra, Entry of Judgment; page 56 of record).

2. The judgment of this Court had not prescribed since it was timely executed on October 10, 1983 and the herein plaintiff's motion to retrieve records, etc. dated March 26, 2004, seeks only to transfer the registration of title in its name and to take possession of the property as the new owner thereof by virtue of the execution sale and the return of the writ of execution to this Court by the executing Deputy Sheriff, Ferdinand J. Guerrero.

3. The issue as to whether the conjugal property of the spouses Alfredo Ching and Encarnacion Ching could validly be levied upon and executed to answer for the personal debt of Mr. Alfredo Ching arising from his execution of an accommodation surety, has been resolved by the Honorable Supreme Court in its aforesaid Decision, dated February 24, 2003 (Annex F, supra) when it held that:

x x x x

4. Plaintiff does not seek to execute the final decision of the Honorable Supreme Court in G.R. No. 118830. The statement in paragraph 2 above is reiterated.

5. The cited cases of Ayala Investment and Development Corporation v. CA, 286 SCRA 272 (1998) and Alfredo Ching and Encarnacion Ching v. CA, G.R. No. 124642, February 24, 2004, are not res judicata in the instant case, since the parties involved are not the same and the facts are completely different. The former case was also cited by them in their motion for reconsideration, dated March 28, 2003 (pages 155-166 of record) and amended motion for reconsideration, dated March 31, 2003 (pages 169-187 of record) with the Honorable Supreme Court in G.R. 118830, but the same was denied with finality in its Resolution, dated October 13, 2003 (page 188 of record).

6. Defendant Alfredo Ching and movant Encarnacion Ching are to blame since they did not redeem the property within the one (1) year redemption period which expired on October 20, 1984 and which resulted in the forfeiture of the property in favor of the plaintiff as the purchaser at the public auction sale.

7. Plaintiff is not liable for damages and, in the first place, this Court has no jurisdiction to award said damages claimed by spouses Ching.

8. The execution of the final Decision of this Court had been completed in 1983. Movant Encarnacion Ching

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

> cannot anymore intervene under Section 2, Rule 19 of the 1997 Rules of Civil Procedure, as amended.[9]

The Spouses Ching filed a Motion for Reconsideration,[10] but it was denied in the Order[11] dated September 28, 2004.

Aggrieved, the Spouses Ching filed a petition for certiorari before the CA, docketed as CA-G.R. SP No. 87217, arguing that the August 12, 2004 Order of the RTC was an act in grave abuse of discretion.

On November 17, 2004, the CA issued a Resolution[12] dismissing the petition for failure to attach copies of pertinent pleadings and relevant documents to the petition, the decretal portion of which reads:

> For failure to attach copies of all pleadings and documents relevant and pertinent to the instant petition, the same is hereby DISMISSED.
>
> SO ORDERED.

The Spouses Ching then filed a motion for reconsideration, but it was denied in the Resolution[13] dated April 7, 2005.

Hence, the petition docketed as G.R. No. 167835.

G.R. No. 188480

In the meantime, during the course of the proceedings in the RTC, the Bank filed an Urgent Ex Parte Motion to Cancel TCT No. S-3151,[14] praying for the RTC to order the Register of Deeds of Makati City, to cancel TCT No. S-3151 in the names of the Spouses Ching, and issue a new title in its name.

On June 30, 2005 the RTC issued an Order[15] granting the ex parte motion. Alfredo filed a motion for reconsideration, which the Bank opposed.

During the pendency of the motion, the Bank filed another Urgent Ex Parte Motion to Modify Order[16] dated June 30, 2005 praying that an Order be issued directing the Register of Deeds of Makati City to cancel not only the original TCT No. S-3151, but also the original duplicate owner's certificate of title.

On August 25, 2005, the RTC issued an Order[17] granting the second ex parte motion. Alfredo filed a motion for reconsideration, which the Bank also opposed.

On December 1, 2005, the RTC issued an Order[18] denying both motions.

Consequently, the Bank was able to effect the cancellation of TCT No. S-3151 with the Register of Deeds of Makati City, as well as cause the issuance of TCT No. 221703[19] in its name.

The Spouses Ching then filed a petition for certiorari before the CA, docketed as CA-G.R. SP No. 93199, questioning the Orders of the RTC dated June 30, 2005, August 25, 2005, and December 1, 2005, claiming that these were issued with grave abuse of discretion on the part of the RTC judge.

While the case was pending before the CA, and on account of there having been no temporary restraining order or writ of preliminary injunction issued, the Bank filed an Urgent Ex Parte Motion to Resolve Motion for Designation of Another Sheriff to Serve/Enforce Writ of Possession/Court Processes.[20] The motion was stamped as received by the RTC on March 29, 2006. However, it appears that in its Order[21] dated March 28, 2006, or a day before the motion was filed, the RTC already granted the urgent ex parte motion.

In relation thereto, Alfredo filed an Urgent Motion to Recall and Set Aside Order[22] dated March 28, 2006, which the Bank opposed.

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

On May 2, 2006, the RTC issued an Order[23] denying the motion. Alfredo filed a motion for reconsideration, but it was denied in the Order[24] dated August 18, 2006.

Aggrieved, Alfredo filed a petition for certiorari before the CA, docketed as CA-G.R. SP No. 96675.

On July 31, 2008, the CA rendered a Decision[25] affirming the Orders of the RTC and dismissing the petition for lack of merit. Alfredo filed a motion for reconsideration, but it was denied in the Resolution[26] dated June 19, 2009.

In affirming the assailed Orders of the RTC, the CA opined that since the urgent ex parte motion of the Bank merely sought for the designation of another sheriff to enforce the writ of possession previously issued by the court, it is a non-litigious motion which may be acted upon by the RTC ex parte without prejudice to the rights of Alfredo. As regards the discrepancy between the date of filing the ex parte motion and the date of the issuance of the RTC Order, the CA held that considering that the said issue was only raised for the first time before the CA, the issue could not be touched upon without violating the rule on due process. It stressed that an issue which was not averred in the complaint cannot be raised for the first time on appeal.

In addition, the CA ruled that title and ownership to the property is consolidated upon the lapse of the period of redemption. It is automatic upon the failure of the judgment obligor to exercise his right of redemption within the period allowed by law. Thus, title may be consolidated in the name of the purchaser even without a new title issued in his name. The term title, as used in consolidation, does not pertain to the certificate of title, or piece of paper, issued by the Register of Deeds, which is a mere evidence of ownership. It is synonymous with ownership.[27]

Hence, the petition docketed as G.R. No. 188480.

The Court's Ruling

Both petitions being interrelated, it is best to resolve the issues collectively. In G.R. No. 167835, the Spouses Ching raise the following issues:

> - WHETHER OR NOT THE COURT OF APPEALS' DISMISSAL OF THE PETITION FOR CERTIORARI IN CA-G.R. SP NO. 82717 IS IN ACCORD WITH LAW AND/OR APPLICABLE DECISIONS OF THE HONORABLE SUPREME COURT.
>
> - WHETHER OR NOT THE TRIAL COURT'S QUESTIONED RULINGS IN CIVIL CASE NO. 142309 ARE IN GRAVE ABUSE OF DISCRETION, ARE NOT IN ACCORD WITH LAW AND/OR APPLICABLE DECISIONS OF THE HONORABLE SUPREME COURT, AND WORK TO DO AN INJUSTICE TO HEREIN PETITIONERS.[28]

While in G.R. No. 188480, Alfredo raises the following issues:

- THE COURT OF APPEALS, IN DENYING THE PETITION IN CA-G.R. SP NO. 96675 AND UPHOLDING THE ACTIONS OF THE LOWER COURT JUDGE, EFFECTIVELY AFFIRMED A VIOLATION OF THE CONSTITUTIONAL RIGHT OF A THIRD PARTY - WHO IS NOT A DEFENDANT IN CIVIL CASE NO. 142309 - AGAINST DEPRIVATION OF PROPERTY WITHOUT DUE PROCESS.

- THE COURT OF APPEALS, IN DENYING THE PETITION IN CA-G.R. SP NO. 96675, ACTED IN A MANNER INCONSISTENT WITH THE RULING OF THE HONORABLE SUPREME COURT IN COMETA V. INTERMEDIATE APPELLATE COURT (151 SCRA 563) AND YSMAEL V. COURT OF APPEALS (G.R. NO. 132497, 16 NOVEMBER 1999) THAT BOTH MILITATED AGAINST THE IMPLEMENTATION OF A WRIT OF POSSESSION ON PROPERTY ON WHICH HAS BEEN IMPROPERLY AND/OR

INCOMPLETELY EXECUTED.

- THE COURT OF APPEALS GRAVELY ERRED IN UPHOLDING - AND IN NOT CONSIDERING AS GRAVE ABUSE OF DISCRETION, IF NOT TOTALLY ANOMALOUS - THE ACTION OF THE LOWER COURT JUDGE OF ISSUING AN ORDER GRANTING RESPONDENT BANK'S URGENT EX PARTE MOTION EVEN BEFORE SAID MOTION WAS ACTUALLY FILED.[29]

The Spouses Ching contend, among other things, that their subsequent submission of the documents, which the CA deemed relevant and pertinent to the petition in G.R. No. 167835, constituted substantial compliance with the Rules. Consequently, by invoking strict compliance with the Rules in dismissing the petition and denying the motion for reconsideration, the CA relied more on technicalities than resolving the case on the merits.

The Bank, on the other hand, argues that the resolution of the CA dismissing the petition for failure to attach all relevant and pertinent

pleadings and documents has legal basis, totally substantiated by the facts of the case, and supported by jurisprudence.

Indeed, this Court has maintained that the subsequent and substantial compliance of a party-litigant may warrant the relaxation of the rules of procedure.[30] Thus, in Jaro v. Court of Appeals,[31] it was elucidated that:

> x x x In Cusi-Hernandez v. Diaz and Piglas-Kamao v. National Labor Relations Commission, we ruled that the subsequent submission of the missing documents with the motion for reconsideration amounts to substantial compliance. The reasons behind the failure of petitioners in these two cases to comply with the required attachments were no longer scrutinized. What we found noteworthy in each case was the fact that petitioners substantially complied with the formal requirements. We ordered the remand of the petitions in these cases to the Court of Appeals, stressing the ruling that by precipitately dismissing the petitions "the appellate court clearly put a premium on technicalities at the expense of a just resolution of the case."
>
> We cannot see why the same leniency cannot be extended to petitioner. x x x
>
> If we were to apply the rules of procedure in a very rigid and technical sense, as what the Court of Appeals would have it in this case, the ends of justice would be defeated. In Cusi-Hernandez v. Diaz, where the formal requirements were liberally construed and substantial compliance was recognized, we explained that rules of procedure are mere tools designed to expedite the decision or resolution of cases and other matters pending in court. Hence, a strict and rigid application of technicalities that tend to frustrate rather than promote substantial justice must be avoided. We further declared that:
> Cases should be determined on the merits, after full opportunity to all parties for ventilation of their causes and defenses, rather than on technicality or some procedural imperfections. In that way, the ends of justice would be served better.

In the similar case of Piglas-Kamao v. National Labor Relations Commission, we stressed the policy of the courts to encourage the full adjudication of the merits of an appeal.[32]

In the case at bar, the CA dismissed the petition in CA-G.R. SP No. 87217 for the Spouses Ching's failure to attach copies of all pleading and documents which the CA deemed relevant to the petition. However, in their Motion for Reconsideration,[33] the Spouses Ching stressed that they have effectively complied and cured their procedural lapses by submitting all the pleadings and documents required by the CA in their Amended Petition.[34] The Spouses Ching even explained that the said documents and pleadings were not relevant and pertinent to the petition, yet they still submitted them. Hence, the amended petition filed by the Spouses Ching should have been given due course by the CA.

Nonetheless, this Court deems that the ends of justice would be better served if the issues raised by the Spouses Ching in their petition before the CA in CA-G.R. SP No. 87217 be resolved in the present petition.

In their petition, the Spouses Ching mainly argues that the trial court gravely erred in granting the Bank's motion, because the RTC no longer had jurisdiction to issue the questioned Orders since the Bank failed to execute the judgment, to consolidate title, and to secure possession of the subject property.[35] They maintain that the RTC erred in totally disregarding the ruling of this Court in the cases of Ayala Investment & Development Corp. v. Court of Appeals[36] and Ching v. Court of Appeals.[37] Finally, the Spouses Ching posit that the execution sale of the subject property was void, considering that the property was conjugal in nature and Encarnacion was not a party to the original action.

The arguments and contentions of the Spouses Ching cannot be upheld.

First, the Spouses Ching's reliance on prescription is unavailing in the case at bar. The Spouses Ching are implying that the RTC violated Section 6, Rule 39 of the Rules of Court, viz.:

> Sec. 6. Execution by motion or by independent action. - A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations.

However, it must be noted that contrary to their allegation, the summary judgment of the RTC in Civil Case No. 142309 had in fact already been enforced. During the pendency of the case, the subject property was already levied upon. Subsequently, after summary judgment and while the case was on appeal, the RTC granted the Bank's motion for execution pending appeal. Consequently, on October 10, 1983, an auction sale of the subject property was conducted, with the Bank emerging as the highest bidder. Later, a Certificate of Sale in its favor was executed by the Sheriff and, thereafter, inscribed as a memorandum of encumbrance on TCT No. S-3151.[38]

It is settled that execution is enforced by the fact of levy and sale. The result of such execution was that title over the subject property was vested immediately in the purchaser subject only to the Spouses Ching's right to redeem the property within the period provided for by law.[39] The right acquired by the purchaser at an execution sale is inchoate and does not become absolute until after the expiration of the redemption period without the right of redemption having been exercised. But inchoate though it be, it is, like any other right, entitled to protection and must be respected until extinguished by redemption.[40] Since, the Spouses Ching failed to redeem the subject property within the period allowed by law, they have been divested of their rights over the property.

Verily, the Bank's "Motion to Retrieve Records, For Issuance of Final Deed of Conveyance, To Order the Register of Deeds of Makati City to Transfer Title and For Writ of Possession" was merely a consequence of the execution of the summary judgment as the judgment in Civil Case No. 142309 had already been enforced when the lot was levied upon and sold at public auction, with the Bank as the highest bidder.

Moreover, contrary to the Spouses Ching's contention, this Court, in Paredes v. Court of Appeals,[41] citing Rodil v. Benedicto,[42] categorically held that the right of the applicant or a subsequent purchaser to request for the issuance of a writ of possession of the land never prescribes. A writ of possession is employed to enforce a judgment to recover the possession of land. It commands the sheriff to enter the land and give possession of it to the person entitled under the judgment.[43] It may be issued in several instances, among which is in execution sales. There was, therefore, no grave error on the part of the RTC in granting the motion.

Second, the applicability of the cases of Ayala Investment & Development Corp. v. Court of Appeals and Ching

v. Court of Appeals to the present case cannot be sustained. Suffice it to say that these cases involved different parties and sets of facts, therefore, they did not operate as res judicata or a case barred by prior judgment in this particular case. However, what could operate as res judicata in this petition is the case of Spouses Alfredo and Encarnacion Ching v. Court of Appeals[44] and that of Cheng Ban Yek & Co. v. Intermediate Appellate Court (IAC).[45]

The doctrine of res judicata is a rule which pervades every well-regulated system of jurisprudence and is founded upon two grounds embodied in various maxims of the common law, namely: (1) public policy and necessity, which makes it to the interest of the State that there should be an end to litigation - republicae ut sit litium, and (2) the hardship on the individual that he should be vexed twice for the same cause - nemo debet bis vexari et eadem causa. A contrary doctrine would certainly subject the public peace and quiet to the will and neglect of individuals and prefer the gratification of the litigious disposition on the part of suitors to the preservation of the public tranquility and happiness.[46]

In Cheng Ban Yek & Co. v. IAC, the petition arose when Cheng Ban Yek & Co., together with Alfredo, appealed the summary judgment in Civil Case No. 142309 to the CA. The CA, however, affirmed in toto the judgment rendered by the lower court. The matter was then elevated before this Court via a petition for review, docketed as G.R. No. 73708, but it was eventually dismissed for having been filed out of time and for lack of merit. Therefore, the decision in Civil Case No. 142309 became final.

In Spouses Alfredo and Encarnacion Ching v. Court of Appeals, the case arose when the Spouses Ching, in an effort to prevent the deputy sheriff from consolidating the sale of the subject property, filed an annulment case, Civil Case No. 8389, with the RTC of Makati City. The Spouses Ching sought to declare void the levy and sale on execution of their conjugal property by arguing that the branch sheriff had no authority to levy upon a property belonging to the conjugal partnership. The RTC later rendered judgment in favor of the Spouses Ching and declared as void the levy and sale on execution upon their conjugal property. The Bank then elevated the decision to the CA, which decision was reversed and set aside by the latter on the ground that the annulment case was barred by res judicata in another annulment case. The Spouses Ching sought recourse before this Court, but the petition was denied and the assailed decision of the CA was affirmed.

It is undeniable, therefore, that the disquisitions of this Court in the above-cited cases are controlling and should be given great weight and consideration in the resolution of the issues raised by the Spouses Ching in the present petition. All matters relevant to the action must, and should, conform to these precedent cases; otherwise, parallel actions emanating from the same case could lead to conflicting conclusions. The winning party would not enjoy the fruits of his victory; instead, it would be an empty victory, ultimately ending in the denial of justice on the part on the righteous litigant.

Third, the Spouses Ching maintain that the subject property could not be levied upon and be sold at public auction because it is conjugal in nature. This Court, in G.R. No. 118830, had this to say:

> In any case, even without the intervention of Encarnacion Ching in the collection case, it appears that Alfredo Ching was able to raise the conjugal nature of the property in both the trial court and appellate court. A perusal of the records reveals that petitioner Alfredo Ching filed a Motion for Reconsideration and to Quash Writ of Execution before the CFI of Manila. In the motion, he specifically argued that the execution was invalid for having been enforced upon their conjugal property. Alfredo Ching raised this argument again on appeal in CA G.R. CV No. 02421. Evidently, due process has been afforded to petitioners as regards the execution on their conjugal property.[47]

Verily, the issue of the conjugal nature of the subject property has been passed upon by the courts and this Court

several times; it is no longer a novel contention. The Spouses Ching cannot, therefore, raise the same argument again and again. The Spouses Ching could not even raise such an argument to bar or prevent the RTC from granting a writ of possession to the Bank or any other motion in furtherance or as a consequence of the issuance of such writ. From the foregoing, the Spouses Ching's petition would logically fail.

Alfredo also contends that the issuance of the Order dated March 28, 2006 by the CA, in CA-G.R. SP No. 96675, was highly irregular, considering that the motion which the said Order granted was filed a day after its issuance, or on March 29, 2009. Alfredo insists that contrary to the conclusion of the CA, he has raised the matter of the Order's irregular issuance in his urgent motion to recall and set aside the said order.

For its part, the Bank contends, among other things, that the March 28, 2006 Order was but a result of the lower court's failure to act on the Bank's earlier ex parte motion dated October 7, 2005. Moreover, the Bank insists that the only logical reason why the lower court stamped "March 29, 2006" as the date of receipt of the ex parte motion is that the said date was erroneously and inadvertently stamped on the pleading as its date of receipt.

Be it inadvertence or a simple mistake in stamping the appropriate date, to remand the case to the RTC for it to issue a new order granting the motion for the designation of a new sheriff would not only be impractical, it would cause more injustice to the parties and protract an already long and dragging litigation.

It must be stressed, however, that the RTC Judge should have been more cautious when he issued the Order, taking into consideration the respective dates wherein the motion was received and the corresponding order issued. Time and again, this Court has emphasized the heavy burden and responsibility of court personnel. They have been constantly reminded that any impression of impropriety, misdeed or negligence in the performance of their official functions must be avoided.[48] A judge should keep in mind that the delicate nature of work of those involved in the administration of justice, from the highest judicial official to the lowest personnel, requires them to live up to the strictest standard of honesty, integrity and uprightness.[49]

Alfredo is assailing the validity of the RTC Order dated March 28, 2006, which granted the Bank's Urgent Ex Parte Motion To Resolve Motion for Designation of Another Sheriff to Serve/Enforce Writ of Possession/Court Processes. It is to be noted that the said Order was but an ancillary motion emanating from the writ of possession granted earlier by the RTC. Corollarily, with regard to a petition for writ of possession, it is well to state that the proceeding is ex parte and summary in nature. It is a judicial proceeding brought for the benefit of one party only and without notice by the court to any person adverse of interest. It is a proceeding wherein relief is granted without giving the person against whom the relief is sought an opportunity to be heard.[50] Consequently, so too was the nature of the urgent motion, it was ex-parte and summary in nature.

Moreover, it is settled that the issuance of a writ of possession to a purchaser in a public auction is a ministerial act. After the consolidation of title in the buyer's name for failure of the mortgagor to redeem the property, entitlement to the writ of possession becomes a matter of right.[51] To be sure, regardless of whether or not there is a pending action for nullification of the sale at public auction, the purchaser is entitled to a writ of possession without prejudice to the outcome of such action.[52] Undeniably, Alfredo failed to redeem the property within the redemption period and, thereafter, ownership was consolidated in favor of the Bank and a new certificate of title, TCT No. 221703, was issued in its name. It was, therefore, a purely ministerial duty for the trial court to issue a writ of possession in favor of the Bank and issue the Order granting the motion for designation of another sheriff to serve the writ, which is merely an order enforcing the writ of possession.

We note, with affirmation, the discussion of the CA on the matter:

> The right of the purchaser to the possession of the property after the period of redemption has lapsed and no redemption was made under the old rule, has not been changed with the advent of the 1997 Rules of Civil

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

> Procedure. The only significant change is the time when the period of redemption period would start. Under the old Rules, the redemption period would commence after the sale, while under the present Rule, the period to reckon with is the date of registration of the certificate of sale with the proper Registry of Deeds.
>
> In the instant case, there is no dispute that the property of the petitioner was sold in an execution sale in favor of the respondent bank and that no redemption was made by the former over the said property within the required one-year period. It has been held that a writ of possession may be issued in favor of the purchaser in an execution sale when the deed of conveyance has been executed and delivered to him after the period of redemption has expired and no redemption has been made by the judgment debtor. After such period, the judgment debtor would be divested of his ownership of the property. Thus, just like in extrajudicial foreclosure, the issuance of the writ of possession after the lapse of the period of redemption is ministerial on the part of the court.
>
> It is the contention of the petitioner that a writ of possession could only be validly issued upon consolidation of title and ownership in the name of the purchaser. We agree. The petitioner then argues that a valid consolidation could be obtained only upon filing of a separate action with the RTC acting as a cadastral court. That we don't agree. The petitioner cited the case of Padilla, Jr. v. Philippine Producers' Cooperative Marketing Association, Inc., to support his argument. The said case involved the issuance of a new title in the name of the purchaser. In fact, the primary issue therein is whether in implementing the involuntary transfer of title of real property levied and sold on execution, it is enough for the executing party to file a motion with the court which rendered judgment, or does he need to file a separate action with the Regional Trial Court. There is nothing therein which states that a new title in the name of the purchaser is necessary for the validity of the writ of possession. On the contrary, a perusal of the said case would reveal that a purchaser, by virtue of a levy and an execution sale, would become the new lawful owner of the property sold if not redeemed within the one-year period.
>
> Following the argument of the petitioner, he might have confused consolidation of title and ownership with the issuance or application for a new title after the redemption as provided for in Section 75 of Presidential Decree No. 1529. Title and ownership to the property is consolidated upon the lapse of the period of redemption. It is automatic upon the failure of the judgment obligor to exercise his right of redemption within the period allowed by law. Title may be consolidated in the name of the purchaser even without a new title issued in his name. The term "title" as used in consolidation does not pertain to the certificate of title, or piece of paper, issued by the Register of Deeds, which is a mere evidence of ownership. It is synonymous with ownership.
>
> There is neither law nor jurisprudence which requires that the certificate of title to the property must first be cancelled and a new one be issued in favor of the purchaser before a valid consolidation of title and ownership could be said to have taken place, and before a court could issue a writ of possession, or an order designating a sheriff to enforce such writ.
>
> Not even the pendency of another action with the appellate courts involving the validity of the writ of possession can stop the enforcement of the said writ in the absence of any restraining order or injunctive writ from the said courts. Accordingly, considering that this Court and the Supreme Court have not issued any temporary restraining order or preliminary injunction against the order of the court a quo for the issuance of writ of possession, we see no cogent reason why the said writ could not be effectively enforced.
>
> The RTC, therefore, acted well within its jurisdiction in issuing the questioned order granting the urgent ex-parte motion of the respondent bank which proceeds from the writ of possession which had long been issued. For all the foregoing, there is no need to address the other issues.[53]

As regards petitioners' remaining arguments, suffice it to say that this is not an appeal from the Decision and Orders of the RTC in the collection case in Civil Case No. 142309 which, to reiterate, has become final and executory,[54] the correctness of the judgment is, therefore, not in issue. Accordingly, there is no need to address

the other errors allegedly committed by the trial court in issuing the assailed Orders.

WHEREFORE, premises considered, and subject to the above disquisitions, both petitions are DENIED. The Resolutions of the Court of Appeals, dated November 17, 2004 and April 7, 2005, in CA-G.R. SP No. 87217; and the Decision and Resolution dated July 31, 2008 and June 19, 2009, respectively, in CA-G.R. SP No. 96675, are AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Nachura, Abad, and Mendoza, JJ., concur.

---

[1] Rollo (G.R. No. 188480), p. 121.

[2] Penned by Associate Justice Amelita G. Tolentino, with Associate Justices Japar B. Dimaampao and Sixto C. Marella, Jr., concurring; id. at 34-47.

[3] CA-G.R. CV No. 02421.

[4] G.R. No. 73708.

[5] CA rollo (CA-G.R. SP No. 96675), pp. 135-140.

[6] Id. at 141-179.

[7] Id. at 180-187.

[8] Id. at 206-209.

[9] Id.

[10] Id. at 210-232.

[11] Id. at 233.

[12] Rollo (G.R. No. 167835), pp. 34-35.

[13] Id. at 37-38.

[14] CA rollo (CA-G.R. SP No. 96675), pp. 336-338.

[15] Id. at 339.

[16] Id. at 355-356.

[17] Id. at 357.

[18] Id. at 365-368.

[19] Id. at 369-371.

[20] Id. at 407-408.

[21] Id. at 40.

[22] Id. at 409-420.

[23] Id. at 41-42.

[24] Id. at 43-68.

[25] Rollo (G.R. No. 188480), pp. 34-47.

[26] Id. at 49-50.

[27] Id. at 45-46.

[28] Rollo (G.R. No. 167835), p. 400.

[29] Rollo (G.R. No. 188480), pp. 19-20.

[30] Hipol v. National Labor Relations Commission (Fifth Division), G.R. No. 181818, December 18, 2008, 574 SCRA 852, 856.

[31] 427 Phil. 532 (2002).

[32] Id. at 547-548.

[33] CA rollo (CA-G.R. SP No. 87217), pp. 459-469.

[34] Id. at 203-268.

[35] Id. at 220.

[36] 349 Phil. 942 (1998).

[37] 467 Phil. 830 (2004).

[38] CA rollo (CA-G.R. SP No. 87217). p. 90.

[39] See Heirs of Gaudencio Blancaflor v. Court of Appeals, 364 Phil. 454, 462-463 (1999).

[40] Id. at 863.

[41] G.R. No. 147074, July 15, 2005, 463 SCRA 504, 525.

[42] 184 Phil. 107 (1980).

[43] H. Black, Black's Law Dictionary 1611 (6[th] ed.).

[44] 446 Phil. 121 (2003).

[45] G.R. No. 73708.

[46] Heirs of the Late Faustina Adalid v. Court of Appeals, G.R. No. 122202, May 26, 2005, 459 SCRA 27, 41.

[47] Spouses Alfredo and Encarnacion Ching v. Court of Appeals, supra note 44.

[48] Office of the Court Administrator v. Cabe, A.M. No. P-96-1185, June 26, 2000, 334 SCRA 348.

[49] Reyes-Domingo v. Morales, A.M. No. P-99-1285, October 4, 2000, 342 SCRA 6.

[50] Oliveros v. Presiding Judge, RTC, Br. 24, Biñan, Laguna, G.R. No. 165963, September 3, 2007, 532 SCRA 109, 119.

[51] Lam v. Metropolitan Bank and Trust Company, G.R. No. 178881, February 18, 2008, 546 SCRA 200, 206.

[52] Oliveros v. Presiding Judge, RTC, Br. 24, Binan, Laguna, supra note 50, at 121-122.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[53] Rollo (G.R. No. 188480), pp. 44-46.

[54] Spouses Alfredo and Encarnacion Ching v. Court of Appeals, supra note 44.

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.