

JOSE DELOS REYES, PETITIONER, VS. JOSEPHINE ANNE B. RAMNANI, RESPONDENT.

G.R. No. 169135. June 18, 2010

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

A judgment debt is enforced by the levy and sale of the debtor's property.[1] The issuance of the final certificate of sale to the purchaser at the execution sale is a mere formality upon the debtor's failure to redeem the property within the redemption period.

This Petition for Review on Certiorari seeks to reverse and set aside the May 13, 2005 Decision[2] of the Court of Appeals (CA) in CA-G.R. SP No. 87972, which affirmed the August 19, 2004[3] and November 10, 2004[4] Orders of the Regional Trial Court (RTC) of Pasig City, Branch 159 in Civil Case No. 24858. Also assailed is the August 3, 2005 Resolution[5] denying petitioner's motion for reconsideration.

Factual Antecedents

On October 11, 1977, the trial court rendered a Decision in Civil Case No. 24858 in favor of respondent Josephine Anne B. Ramnani. Thereafter, a writ of execution was issued by the trial court. On June 6, 1978, then Branch Sheriff Pedro T. Alarcon conducted a public bidding and auction sale over the property covered by Transfer Certificate of Title (TCT) No. 480537 (subject property) during which respondent was the highest bidder. Consequently, a certificate of sale was executed in her favor on even date. On November 17, 1978, a writ of possession was issued by the trial court. On March 8, 1990, the certificate of sale was annotated at the back of TCT No. 480537. Thereafter, the taxes due on the sale of the subject property were paid on September 26, 2001.

On February 17, 2004, respondent filed a motion (subject motion) for the issuance of an order directing the sheriff to execute the final certificate of sale in her favor. Petitioner opposed on the twin grounds that the subject motion was not accompanied by a notice of hearing and that the trial court's October 11, 1977 Decision can no longer be executed as it is barred by prescription.

Ruling of the Regional Trial Court

In its August 19, 2004 Order, the trial court granted the motion:

WHEREFORE, premises considered, the motion is hereby GRANTED; and this Court hereby directs the Branch Sheriff of this Court to issue the corresponding Final Certificate of Sale in the above-entitled case in accordance with the rules immediately upon receipt hereof.

SO ORDERED.[6]

The trial court ruled that the prescription for the issuance of a writ of execution is not applicable in this case. Less than a year from the October 11, 1977 Decision, respondent exercised her right to enforce the same through the levy and sale of the subject property on June 6, 1978. Although the certificate of sale was annotated on TCT No.

480537 only on March 8, 1990, petitioner did not exercise his right to redeem the subject property within one year from said registration. Thus, what remains to be done is the issuance of the final certificate of sale which was, however, not promptly accomplished at that time due to the demise of the trial court's sheriff. The issuance of the final certificate of sale is a ministerial duty of the sheriff in order to complete the already enforced judgment.

Petitioner moved for reconsideration which was denied by the trial court in its November 10, 2004 Order. Petitioner thereafter sought review via certiorari before the CA.

Ruling of the Court of Appeals

The CA denied the petition in its assailed May 13, 2005 Decision:

WHEREFORE, premises considered, the petition is hereby DENIED. The orders dated August 19, 2004 and November 10, 2004 of the RTC, Branch 159, Pasig City in Civil Case No. 24858 are hereby AFFIRMED.

SO ORDERED.[7]

In affirming the ruling of the trial court, the CA noted that the subject motion is a non-litigious motion, hence, the three-day notice rule does not apply. Further, it agreed with the trial court that the issuance of the final certificate of sale is not barred by prescription, laches or estoppel because the October 11, 1977 Decision was already executed through the levy and sale of the subject property on June 6, 1978. Respondent is entitled to the issuance of the final certificate of sale as a matter of right because petitioner failed to redeem the subject property.

Issues

- Whether the trial court acted with grave abuse of discretion amounting to lack or excess of jurisdiction in taking cognizance of the fatally defective motion and the subsequent issuance of the Orders dated August 19, 2004 and November 10, 2004;
- Whether respondent is barred by prescription, laches or estoppel.[8]

Petitioner's Arguments

Petitioner contends that the motion dated February 16, 2004 filed by respondent to compel the sheriff to execute the final certificate of sale is fatally defective because it does not contain a notice of hearing. He further claims that the subject motion seeks to enforce the trial court's October 11, 1977 Decision which can no longer be done because 27 years have elapsed from the finality of said Decision.

Respondent's Arguments

Respondent contends that the subject motion is a non-litigious motion and that petitioner was not denied due process because he was given an opportunity to be heard by the trial court. She also points out that said motion is not barred by prescription, laches and estoppel considering that the levy and sale of the subject property was conducted on June 6, 1978 and petitioner failed to redeem the same.

Our Ruling

The petition lacks merit.

Respondent is entitled to the issuance of the final certificate of sale as a matter of right.

Petitioner, in essence, argues that the October 11, 1977 Decision was not timely executed because of respondent's

failure to secure the final certificate of sale within 10 years from the entry of said judgment. This is erroneous. It is not disputed that shortly after the trial court rendered the aforesaid judgment, respondent moved for execution which was granted by the trial court. On June 6, 1978, the subject property was sold on execution sale. Respondent emerged as the highest bidder, thus, a certificate of sale was executed by the sheriff in her favor on the same day. As correctly held by the trial court, the October 11, 1977 Decision was already enforced when the subject property was levied and sold on June 6, 1978 which is within the five-year period for the execution of a judgment by motion under Section 6,[9] Rule 39 of the Rules of Court.

It is, likewise, not disputed that petitioner failed to redeem the subject property within one year from the annotation of the certificate of sale on TCT No. 480537. The expiration of the one-year redemption period foreclosed petitioner's right to redeem the subject property and the sale thereby became absolute. The issuance thereafter of a final certificate of sale is a mere formality and confirmation of the title that is already vested in respondent.[10] Thus, the trial court properly granted the motion for issuance of the final certificate of sale.

As to petitioner's claim that the subject motion is defective for lack of a notice of hearing, the CA correctly ruled that the subject motion is a non-litigious motion. While, as a general rule, all written motions should be set for hearing under Section 4,[11] Rule 15 of the Rules of Court, excepted from this rule are non-litigious motions or motions which may be acted upon by the court without prejudicing the rights of the adverse party.[12] As already discussed, respondent is entitled to the issuance of the final certificate of sale as a matter of right and petitioner is powerless to oppose the same.[13] Hence, the subject motion falls under the class of non-litigious motions. At any rate, the trial court gave petitioner an opportunity to oppose the subject motion as in fact he filed a Comment/Opposition[14] on March 1, 2004 before the trial court. Petitioner cannot, therefore, validly claim that he was denied his day in court.

WHEREFORE, the petition is DENIED. The May 13, 2005 Decision and August 3, 2005 Resolution of the Court of Appeals in CA-G.R. SP No. 87972 are AFFIRMED.

Costs against petitioner.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Leonardo-De Castro, and Perez, JJ., concur.

[1] *Jalandoni v. Philippine National Bank*, 195 Phil. 1, 5 (1981).

[2] *Rollo*, pp. 28-34; penned by Associate Justice Remedios A. Salazar-Fernando and concurred in by Associate Justices Rosmari D. Carandang and Monina Arevalo-Zenarosa.

[3] *Id.* at 60-62; penned by Judge Rodolfo R. Bonifacio.

[4] *Id.* at 69.

[5] *Id.* at 42; penned by Associate Justice Remedios A. Salazar-Fernando and concurred in by Associate Justices Rosmari D. Carandang and Monina Arevalo-Zenarosa.

[6] *Id.* at 62.

[7] *Id.* at 33.

[8] *Id.* at 15.

[9] SECTION 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.

[10] *Calacala v. Republic of the Philippines*, 502 Phil. 681, 691 (2005).

[11] SECTION 4. Hearing of motion. - Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

[12] *Id.*

[13] Section 33, Rule 39 provides:

SECTION 33. Deed and possession to be given at expiration of redemption period; by whom executed or given. - If no redemption be made within one (1) year from the date of the registration of the certificate of sale, the purchaser is entitled to a conveyance and possession of the property; x x x. The deed shall be executed by the officer making the sale or by his successor in office, and in the latter case shall have the same validity as though the officer making the sale had continued in office and executed it.

Upon the expiration of the right of redemption, the purchaser or redemptioner shall be substituted to and acquire all the rights, title, interest and claim of the judgment obligor to the property as of the time of the levy. The possession of the property shall be given to the purchaser or last redemptioner by the same officer unless a third party is actually holding the property adversely to the judgment obligor.

[14] *Rollo*, pp. 92-94.

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