RAMON TORRES AND JESSIE BELARMINO, PETITIONERS, VS. SPOUSES VIHINZKY ALAMAG AND AIDA A. NGOJU, RESPONDENTS.

G.R. No. 169569. August 03, 2010

Ponente: PERALTA, J.

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PERALTA, J.:

This resolves the Petition for Review on Certiorari under Rule 45 of the Rules of Court, praying that the Decision[1] of the Court of Appeals (CA), dated June 29, 2005, reversing the judgment of the Regional Trial Court (RTC), Cebu City, Branch 8, and the CA Resolution[2] dated September 8, 2005 denying herein petitioners' motion for reconsideration, be reversed and set aside.

The undisputed facts are as follows.

Respondents are the registered owners of a parcel of land which are covered by two (2) titles, namely: TCT No. 106114 and TCT No. 106115. Said property was extrajudicially foreclosed on June 30, 1997 by the Bank of the Philippine Islands to satisfy a loan obligation. At the public auction sale of the mortgaged property, the same was awarded to the spouses Rudy and Dominica Chua, being the highest bidder for the amount of P310,000.00. They were, subsequently, issued a Certificate of Sale dated July 18, 1997, which was registered in the Office of the Register of Deeds of Cebu City on January 8, 1998.

Meanwhile, in a separate case for ejectment (Civil Case No. R-39051) filed by petitioner Ramon Torres against respondent Alamag, the Municipal Trial Court in Cities (MTCC), Branch 1, Cebu City, rendered a Decision dated March 27, 1998 in favor of herein petitioner Ramon Torres. The MTCC ordered herein respondent Vihinzky Alamag (1) to vacate the premises subject of the ejectment case, and (2) to pay herein petitioner Torres the sum of P75,250.00 as rental arrearages, P20,000.00 as attorney's fees, P5,000.00 as litigation expenses, and costs of suit. Said MTCC Decision became final and executory and pursuant to a writ of execution, a Notice of Levy was annotated on the titles of respondents Alamag's and Ngoju's properties on June 26, 1998. These are the properties subject of the present case.

Thereafter, in a letter request dated December 4, 1998, respondent Alamag asked petitioner Sheriff Jessie Belarmino for confirmation of the initial computation of the estimated redemption price of P389,570.00. On December 28, 1998, petitioner Torres likewise requested for an estimate of the redemption price.

On December 29, 1998, petitioner Torres redeemed the two lots from the Spouses Chua by paying, through the Office of the Clerk of Court of the Regional Trial Court of Cebu City, the amount of P402,993.60. An additional P22,000.00 for interest and taxes was paid by petitioner Torres on January 8, 1999.

However, respondent Alamag also deposited P404,000.00 as redemption money with the Office of the Clerk of Court on January 7, 1999, as evidenced by an Official Receipt and a Notice of Tender, both bearing the same date. The Office of the Clerk of Court did not issue a certificate of redemption to respondent Alamag for the reason that a prior redemption had purportedly been made by petitioner Torres on December 29, 1998.

On January 12, 1999, Sheriff Jessie Belarmino issued a Certificate of Redemption to petitioner Torres.

Respondents Alamag and Ngoju then filed a case for Redemption and Injunction with Prayer for the issuance of a Temporary Restraining Order with the RTC, praying that they be declared to be the rightful persons to redeem the disputed foreclosed properties from the Spouses Chua, and that a certificate of redemption be issued in their favor by petitioner Sheriff Belarmino. Petitioner Torres countered that he is a valid redemptioner under Section 27(b), Rule 39 of the Rules of Court; hence, the issuance to him of a certificate of redemption was only proper.

The RTC then issued its Decision dated April 2, 2001, ruling that petitioner Torres, who is a creditor having a lien by judgment on the subject property, which is subsequent to the lien under which the property was sold, is a valid redemptioner under Section 27(b), Rule 39 of the Rules of Court, and disposed as follows:

> IN VIEW OF THE FOREGOING, judgment is hereby rendered ordering:
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> - That the complaint be dismissed; and
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> - That plaintiffs [herein respondents Alamag and Ngoju] pay the defendants [herein petitoners Torres and Belarmino] P50,000.00 as attorney's fees, litigation expenses, considering that he was forced to hire the services of counsel to protect his interest.[3]

Respondents' motion for reconsideration of the foregoing Decision was denied. On September 11, 2001, herein respondents filed a Notice of Appeal. Petitioners moved for dismissal of the appeal on the ground that it was belatedly filed. On December 14, 2001, the RTC issued an Order denying the motion to dismiss the appeal. The appeal was then given due course.

On June 29, 2005, the CA rendered the assailed Decision holding that both petitioner Torres, on the one hand, and respondents Alamag and Ngoju, on the other, had the right to redeem the disputed lots, but it was respondents who were the first to tender the full redemption price, so they should have been issued the certificate of redemption. The dispositive portion of the CA Decision stated, thus:

> WHEREFORE, in view of the foregoing, the assailed decision of the court a quo is hereby REVERSED AND SET ASIDE. The certificate of redemption dated January 12, 1999 issued to defendant-appellee Ramon Torres is hereby cancelled and plaintiffs-appellants are declared to have validly redeemed subject property.
>
> SO ORDERED.[4]

Petitioners' motion for reconsideration of the above Decision was denied per CA Resolution dated September 8, 2005. Hence, this petition where it is alleged that:

> I.
>
> THE COURT OF APPEALS ERRED IN ALLOWING THE APPEAL OF RESPONDENTS DESPITE FAILURE TO APPEAL ON TIME
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> II.
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> THE COURT OF APPEALS ERRED IN DEVIATING FROM THE AGREED SOLE AND LEGAL ISSUE POSED FOR RESOLUTION AS AGREED BY THE PARTIES BEFORE THE TRIAL COURT AND RESOLVING INSTEAD A FOREIGN ISSUE
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> III.
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> THE COURT OF APPEALS ALSO ERRED EVEN IN RESOLVING THE FOREIGN ISSUE IN IGNORING THE CLEAR PROVISION OF LAW AND APPLICABLE SUPPORTING JURISPRUDENCE THAT IF NO NOTICE OF PAYMENT OF TAXES IS FILED WITH THE SHERIFF AND REGISTER OF DEEDS,

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THERE IS NO NEED TO INCLUDE THE PAYMENT OF TAXES IN REDEMPTION PRICE.[5]

The petition merits some consideration.

The first argument must, however, be struck down. In Neypes v. Court of Appeals,[6] the Court declared that a party-litigant should be allowed a fresh period of 15 days within which to file a notice of appeal in the RTC, counted from receipt of the order dismissing or denying a motion for new trial or motion for reconsideration, so as to standardize the appeal periods provided in the Rules of Court and do away with the confusion as to when the 15-day appeal period should be counted.[7] Furthermore, in Sumiran v. Damaso,[8] the Court again emphasized that the ruling in Neypes, being a matter of procedure, must be given retroactive effect and applied even to actions pending in this Court. Thus, in this case, since respondents received a copy of the Order denying their motion for reconsideration on August 29, 2001, then the last day for filing their notice of appeal was on September 13, 2001. The respondents having filed their notice of appeal on September 11, 2001 is well within the prescribed period.

Petitioners' second argument must, likewise, fail. Their contention, that the CA should have limited its ruling to the issue of whether petitioner Torres had a right to redeem the disputed lots, is incorrect. The main prayer in respondents' complaint before the RTC is for the court to order petitioner Belarmino to issue a certificate of redemption in favor of respondents. In the Pre-Trial Order, one of the issues enumerated for resolution is "[w]hether or not plaintiffs [herein respondents] have the right to redeem from the Spouses Chua, who were the highest bidder of the auction sale, or from defendant Ramon Torres who redeemed the properties from the former as a junior redemptioner."[9] Even in herein respondents' Appellants' Brief filed with the CA, it was averred that the trial court erred in disregarding the tender of redemption made by respondents. Clearly, the main issue brought before the court was who made the proper redemption. Verily, the CA was behooved to determine who, as between petitioner Torres and respondent Alamag, is entitled to a certificate of redemption.

The final question then is, did the CA correctly rule that respondents are the ones entitled to a certificate of redemption? Note that both the RTC and the CA ruled that petitioner Torres had a right to redeem the lots as he is a redemptioner contemplated under Section 27 (b), Rule 39 of the Rules of Court, which provides that:

> SEC. 27. Who may redeem real property so sold. - Real property sold as provided in the last preceding section, or any part thereof separately, may be redeemed in the manner hereinafter provided, by the following persons:
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> x x x x
>
> (b) A creditor having a lien by virtue of an attachment, judgment or mortgage on the property sold, or on some part thereof, subsequent to the lien under which the property was sold. Such redeeming creditor is termed a redemptioner.

Indeed, under the foregoing rule, petitioner Torres had a right to redeem the properties sold at public auction. He is a creditor who had lien on the disputed lots by virtue of the Notice of Levy annotated on the respective titles of the properties as a result of a final and executory judgment for rental arrearages and attorney's fees against respondent Alamag. Petitioner Torres' lien is subsequent to the lien under which the property was sold, i.e., the extrajudicial foreclosure sale, because the Notice of Levy on the properties was annotated on the titles only after the Certificate of Sale for the public auction had been registered in the Office of the Register of Deeds. Hence, the RTC and the CA are correct in ruling that petitioner Torres is indeed a redemptioner under Section 27 (b), Rule 39 of the Rules of Court.

However, the CA further held that despite the fact that petitioner Torres is entitled to redeem the subject lots, respondents should nevertheless be given priority in redeeming the properties in question. In the CA's ruling, petitioner Torres' payment of P402,993.60 made on December 29, 1998, was not the full redemption price as it

did not include interests and taxes. Petitioner Torres only paid the additional amount of P22,000.00 for realty taxes on January 8, 1999, but according to the CA, by that time, respondent Alamag had already tendered the full amount of the redemption price, as he deposited P404,000.00 with the Office of the Clerk of Court on January 7, 1999, one day ahead of Torres' payment for taxes with interest thereon. The CA then ruled that, given this circumstance, it was respondent Alamag who is entitled to a certificate of redemption as he made a proper redemption one day ahead of petitioner Torres.

The foregoing analysis is flawed. There is no cavil as to petitioner Torres' right to redeem the subject properties, he being a redemptioner under Section 27 (b), Rule 39 of the Rules of Court. The records show that as early as December 29, 1998, petitioner Torres already paid the sheriff the redemption price of P402,993.60, based on the sheriff's computation.[10] This was the very same computation on which respondent Alamag based his tender of the redemption price of P404,000.00 on January 7, 1999. The computation already included the bid price paid by the Spouses Chua, capital gains and documentary stamp taxes, fees due to the Register of Deeds, and interest on the total amount for 18 months from June 30, 1997 to December 30, 1998. Note, however, that as of December 29, 1998, neither the sheriff nor petitioner Torres had been informed by the Spouses Chua of the amount they had paid for taxes on the properties. Petitioner Torres testified[11] that he was only informed by the Spouses Chua of the amount they spent for taxes, by showing him the official receipts therefor, on January 8, 1999, thus, he immediately paid the amount of P22,000.00 on the same day.

The Court is unconvinced by the CA's reasoning that petitioner Torres failed to pay the full redemption price on December 29, 1998. The amount of P402,993.60 paid by petitioner Torres already included the bid price paid by the Spouses Chua, capital gains and documentary stamp taxes, fees due to the Register of Deeds, and interest on the total amount for 18 months from June 30, 1997 to December 30, 1998. The only amounts not included were the expenses for payment of realty taxes and interest thereon. Indeed, it has been held that for a valid redemption, the amount tendered must include the following: (1) the full amount paid by the purchaser; (2) with an additional one percent per month interest on the purchase price up to the time of redemption; (3) together with the amount of any assessments or taxes which the purchaser may have paid thereon after purchase; (4) interest on the taxes paid by the purchaser at the rate of one percent per month up to the time of redemption; and (5) 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.[12] However, in Baluyut v. Poblete,[13] the Court held that the purchaser is required to furnish copies of the amounts of assessments or taxes which he may have paid to inform the mortgagor or redemptioner of the actual amount which he should pay in case he chooses to exercise his right of redemption and if no such notice is given, the property may be redeemed without paying such assessments or taxes.[14] Then, in Cayton v. Zeonnix Trading Corporation,[15] the Court reiterated the ruling in Estanislao, Jr. v. Court of Appeals [16] that the payment of the full purchase price and interest thereon by a redemptioner, who had not been apprised of the amount of taxes paid by the purchaser, should already be considered sufficient for purposes of redemption if the redemptioner immediately pays the additional amount for taxes once notified of the deficiency. The Court deemed this to be in consonance with the policy of the law to aid rather than defeat the right of redemption. [17] Therefore, the amount paid by petitioner Torres on December 29, 1998 shall also be deemed sufficient for purposes of redemption. Petitioner Sheriff Jessie Belarmino acted properly in issuing a Certificate of Redemption to petitioner Torres.

IN VIEW OF THE FOREGOING, the Petition is GRANTED. The Decision of the Court of Appeals in CA-G.R. CV No. 73997, dated June 29, 2005, is REVERSED and SET ASIDE, and the Decision of the Regional Trial Court of Cebu City, Branch 8 in Civil Case No. CEB-23175 is REINSTATED.

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SO ORDERED.

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

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[1] Penned by Associate Justice Sesinando E. Villon, with Associate Justices Arsenio J. Magpale and Enrico A. Lanzanas, concurring; rollo, pp. 108-117.

[2] Id. at 134-135.

[3] Rollo, p. 67.

[4] Id. at 117.

[5] Id. at 11-12.

[6] G.R. No. 141524, September 14, 2005, 469 SCRA 633, 644.

[7] Sumiran v. Damaso, G.R. No. 162518, August 19, 2009, 596 SCRA 450, 455.

[8] Supra, at 458.

[9] Records, p. 82.

[10] Exhibit "3," records, p. 142.

[11] See TSN, March 6, 2000, pp. 17-19.

[12] Cayton vs. Zeonnix Trading Corporation, G.R. No. 169541, October 9, 2009, 603 SCRA 141, 156.

[13] G.R. No. 144435, February 6, 2007, 514 SCRA 370, 387.

[14] Id. at 387.

[15] Supra note 12.

[16] 414 Phil. 509 (2001).

[17] Cayton vs. Zeonnix Trading Corporation, supra note 12, at 156-158.

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