

INOCENCIO Y. LUCASAN FOR HIMSELF AND AS THE JUDICIAL ADMINISTRATOR OF THE INTESTATE ESTATE OF THE LATE JULIANITA SORBITO LUCASAN, PETITIONER, VS. PHILIPPINE DEPOSIT INSURANCE CO...

G.R. No. 176929. July 04, 2008

Ponente: NACHURA, J.

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NACHURA, J.:

On appeal is the March 23, 2006 Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 81518, affirming the July 24, 2003 Order[2] of the Regional Trial Court (RTC) of Bacolod City, Branch 43, granting respondent's motion to dismiss, as well as its subsequent Resolution[3] denying petitioner's motion for reconsideration.

The factual antecedents are as follows.

Petitioner Inocencio Y. Lucasan (Lucasan) and his wife Julianita Sorbito (now deceased) were the owners of Lot Nos. 1500-A and 229-E situated in Bacolod City, respectively covered by TCT Nos. T-68115 and T-13816.

On August 3, 1972, Pacific Banking Corporation (PBC) extended a P5,000.00 loan to Lucasan, with Carlos Benares as his co-maker. Lucasan and Benares failed to pay the loan when it became due and demandable. Consequently, PBC filed a collection case with the RTC of Bacolod City, docketed as Civil Case No. 12188.

On April 30, 1979, the RTC rendered a decision ordering Lucasan and Benares to jointly and severally pay PBC P7,199.99 with interest at 14% per annum computed from February 7, 1979, until the full payment of the obligation. Lucasan failed to pay the monetary award; thus, to satisfy the judgment, the RTC issued a writ of execution directing the sheriff to effect a levy on the properties owned by Lucasan and sell the same at public auction.

In compliance with the writ, the City Sheriff of Bacolod issued a Notice of Embargo on January 8, 1981, which was annotated on Lucasan's TCT Nos. T-68115 and T-13816 as Entry No. 110107. Annotated as prior encumbrances on the same titles were the mortgages in favor of Philippine National Bank (PNB) and Republic Planter's Bank (RPB) executed to secure Lucasan's loans with the banks.

On May 13, 1981, the lots were sold at public auction and were awarded to PBC as the highest bidder. A certificate of sale was executed in its favor and was registered and annotated on TCT Nos. T- 68115 and T-13816 as Entry No. 112552 on June 5, 1981. Neither PNB nor RPB, the mortgagees, assailed the auction sale.

Lucasan, as well as the mortgagee banks, PNB and RPB, did not redeem the properties within the redemption period. Nevertheless, PBC did not file a petition for consolidation of ownership.

In January 1997, Lucasan, through counsel, wrote a letter to the Philippine Deposit Insurance Corporation (PDIC), PBC's receiver and liquidator seeking the cancellation of the certificate of sale and offering to pay PBC's claim against Lucasan.[4]

Not long thereafter, Lucasan paid his loans with the PNB and RPB. Consequently, the mortgagee banks executed their respective releases of mortgage, resulting in the cancellation of the prior encumbrances in favor of PNB and RPB.

On August 13, 2001, PDIC denied Lucasan's request for the cancellation of the certificate of sale stating:

Please be informed that based on our records, TCT Nos. T-68115 and T-13816 have already become part of the acquired assets of Pacific Banking Corporation by virtue of a Certificate of Sale dated May 13, 1981 executed by the City Sheriff of Bacolod. Subsequently, this document was registered on the titles on June 5, 1981 so that the last day of the redemption period was June 5, 1982.

With regard to your request, we regret to inform you that reacquisition of the subject properties have to be through sale following PDIC's policy on disposal. Accordingly, these properties can be disposed through public bidding using the latest appraised value in the total amount of P2,900,300.00 as of March 29, 2000 as a minimum bid. If you are still interested to acquire the properties, please get in touch with our Asset Management Group x x x.[5]

Lucasan then filed a petition denominated as declaratory relief with the RTC of Bacolod City docketed as Civil Case No. 02-11874.[6] He sought confirmation of his rights provided in the second paragraph of Section 1, Rule 63 of the Rules of Court in relation to Section 75 of Presidential Decree (P.D.) No. 1529. Lucasan also pleaded for the lifting and/or cancellation of the notice of embargo and the certificate of sale annotated on TCT Nos. T-68115 and T-13816, and offered to pay P100,000.00 or such amount as may be determined by the RTC, as consideration for the cancellation.

PDIC moved to dismiss the complaint for lack of cause of action. It averred that an action to quiet title under Section 1 of Rule 63 may only be brought when there is a cloud on, or to prevent a cloud from being cast upon, the title to real property. It asseverated that a cloud on the title is an outstanding instrument record, claim, encumbrance or proceeding which is actually invalid or inoperative, but which may nevertheless impair or affect injuriously the title to property. PDIC claimed that the notice of embargo was issued pursuant to a writ of execution in Civil Case No. 12188, while the certificate of sale was executed as a result of a public bidding. Thus, their annotations on the titles were valid, operative or effective. PDIC asserted that Lucasan's petition is nothing but a disguised attempt to compel PDIC to resell the properties at a reduced price of P100,000.00. Accordingly, it prayed for the dismissal of the petition.[7]

Lucasan opposed the motion.[8] He countered that the subject properties were still in his possession, and neither PBC nor PDIC instituted an action for consolidation of ownership. Since the certificate of title was still in his name, he contended that he could pursue all legal and equitable remedies, including those provided for in Section 1, Rule 63 of the Rules of Court to reacquire the properties. He also claimed that PDIC's policy of disposing the subject properties through public bidding at the appraised value of P2,900,300.00 was unjust, capricious and arbitrary, considering that the judgment debt amounted only to P7,199.99 with interest at 14% per annum. Lucasan urged the RTC to apply the liberal construction of the redemption laws stressed in *Cometa v. Court of Appeals*.[9]

In its Order[10] dated July 24, 2003, the RTC granted PDIC's motion to dismiss, thus:

The clouds contemplated by the provision of law under Article 476 of the Civil Code is one where the instrument, record, claim, encumbrance or proceeding is apparently valid or effective on its face that nothing appears to be wrong, but in reality, is null and void. Hence, the petition filed by [Lucasan] pursuant to the said article is equivalent to questioning the validity of the subsequent annotation of Entry No. 110107 and Entry No. 112522 in TCT Nos. T-13816 and T-68115.

Records disclose that Entry No. 110107 which is a Notice of Embargo was issued by virtue of a valid judgment

rendered in Civil Case No. 12188 entitled "Pacific Banking Corporation vs. [Inocencio] Lucasan, et al.," whereby the Court found [Lucasan] liable in favor of [PBC] the sum of P7,199.99 with 14% interest per annum to be computed from February 7, 1979 until fully paid.

As mandated in Sec. 12, Rule 39 of the Revised Rules of Court, such levy on execution create a lien in favor of [PBC] over the right, title and interest of [Lucasan] over the two (2) subject parcels of land covered by TCT Nos. T-13816 and T-68115, subject to liens and encumbrances then existing. The fact that [Lucasan] has redeemed the mortgage properties from the first mortgages (sic), PNB and PNB (sic) Republic Bank, does not vest him any title free from the lien of [PBC].

While the law requires that the judgment debtor, [Lucasan] must be served with a notice of levy and even if not served therewith, the defect is cured by service on him of the notice of sale prior to the sale, nowhere in the petition which alleges that [Lucasan] refutes the validity of the execution sale. Thus, he is deemed to have received and recognized the same.

As support for his thesis, [Lucasan] cites the case of Balanga vs. Ca., et al. (supra). However this Court is unable to agree that it is applicable to the present case. As correctly argued by [PDIC], in that case the proceedings under execution suffered infirmity from the very start as the levy and sale made by the sheriff of the land of petitioner Balanga included the house erected on the land [and] constituted as a family home which, under the law, exempt from execution. In the case at bar, no objection was interposed by [Lucasan] as a valid levy has been made pursuant to Sec. 7, Rule 57 of the Revised Rules of Court, as a consequence of which, the sale made pursuant to Sec. 11 of the same rule is also valid and effective.[11]

The dispositive portion of the RTC Order reads:

WHEREFORE, finding the claim of any cloud over the titles of [Lucasan] to be bereft of basis in fact and in law, the Motion to Dismiss filed by [PDIC] is granted. Accordingly, this is hereby ordered DISMISSED

SO ORDERED.[12]

Lucasan filed a motion for reconsideration, but the RTC denied it on October 20, 2003.[13]

On appeal, the CA affirmed in toto the RTC ruling. It declared that Lucasan already lost his right to redeem the properties when he failed to exercise it within the prescribed period. The effect of such failure was to vest in PBC absolute ownership over the subject properties.[14]

The CA disposed, thus:

WHEREFORE, in view of all the foregoing premises, the appeal is hereby DENIED. Accordingly, the assailed Order of the Regional Trial Court of Bacolod City, Branch 43 dated 24 July 2003 dismissing [Lucasan's] Petition for Declaratory Relief and the subsequent Order of the same Court dated 20 October 2003 denying [Lucasan's] motion for reconsideration from the Order of Denial (sic) are hereby affirmed in toto. No costs.

SO ORDERED.[15]

Lucasan sought a reconsideration of the CA Decision, but the same was denied on February 7, 2007.[16]

Before us, Lucasan impugns the CA Decision on the following grounds:

1- THE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION IN AFFIRMING THE ORDER OF DISMISSAL OF THE PETITIONER'S PETITION IN THE REGIONAL TRIAL COURT WHEN IT DISREGARDED THE CLEAR PROVISION OF SECTION 75 OF PRESIDENTIAL DECREE NO. 1529 AND PUT TO NAUGHT THE APPLICABLE JURISPRUDENCE IN ZACARIAS COMETA x x x AND THE CASES CITED THEREIN, INSPITE (sic) OF THE CLEAR AND OUTSTANDING SIMILARITY OF FACTS WITH THE CASE UNDER CONSIDERATION.

2- THE COURT OF APPEALS ALSO ERRED AND GRAVELY ABUSED ITS DISCRETION WHEN IT FAILED TO CONSIDER THAT THE NOTICE OF EMBARGO AND CERTIFICATE OF SALE ISSUED BY THE CITY SHERIFF WERE ONLY LEVY ON THE INTEREST OF THE PETITIONER ON THE TWO (2) SUBJECT LOTS, AS DECREED IN QUEZON BEARING & PARTS CORPORATION, x x x, WHICH IS LIKEWISE APPLICABLE TO THE CASE AT BAR.[17]

Lucasan posits that he has sufficient cause of action against PDIC; thus, he chides the RTC for dismissing his complaint, and the CA for affirming the dismissal. In support of his thesis, he cites Section 75 of Presidential Decree (PD) No. 1529, or the Property Registration Decree[18] and Cometa v. Court of Appeals.[19]

As gleaned from the averments of the complaint, Lucasan's action was one for quieting of title under Rule 63 of the Rules of Court. Essentially, he sought the cancellation of the notice of embargo and the certificate of sale annotated on TCT Nos. T-68115 and T-13816 claiming that the said annotations beclouded the validity and efficacy of his title. The RTC, however, dismissed his complaint for lack of cause of action which was affirmed by the CA in its assailed Decision. Thus, the key issue for our consideration is whether the dismissal of Lucasan's complaint was proper.

Quieting of title is a common law remedy for the removal of any cloud of doubt or uncertainty with respect to real property. The Civil Code authorizes the said remedy in the following language:

ART. 476. Whenever there is a cloud on title to real property or any interest therein, by reason of any instrument, record, claim, encumbrance or proceeding which is apparently valid or effective but is in truth and in fact invalid, ineffective, voidable, or unenforceable, and may be prejudicial to said title, an action may be brought to remove such cloud or to quiet the title.

An action may also be brought to prevent a cloud from being cast upon title to real property or any interest therein.

ART. 477. The plaintiff must have legal or equitable title to, or interest in the real property which is the subject-matter of the action. He need not be in possession of said property.

To avail of the remedy of quieting of title, two (2) indispensable requisites must concur, namely: (1) the plaintiff or complainant has a legal or an equitable title to or interest in the real property subject of the action; and (2) the deed, claim, encumbrance or proceeding claimed to be casting a cloud on his title must be shown to be in fact invalid or inoperative despite its prima facie appearance of validity or legal efficacy.[20] Stated differently, the plaintiff must show that he has a legal or at least an equitable title over the real property in dispute, and that some deed or proceeding beclouds its validity or efficacy.

Unfortunately, the foregoing requisites are wanting in this case.

Admittedly, the subject parcels of land were levied upon by virtue of a writ of execution issued in Civil Case No. 12188. On May 13, 1981, a public auction of the subject parcels of land was held and the lots were awarded to PBC as the highest bidder. A certificate of sale in favor of PBC was issued on the same day, and was registered and annotated on TCT Nos. T-68115 and T-13816 as Entry No. 112552 on June 5, 1981.

Under the 1964 Rules of Court, which were in effect at that time, the judgment debtor or redemptioner had the right to redeem the property from PBC within twelve (12) months from the registration of the certificate of sale.[21] With the expiration of the twelve-month period of redemption and no redemption having been made, as in this case, the judgment debtor or the redemptioner lost whatever right he had over the land in question.[22]

Lucasan admitted that he failed to redeem the properties within the redemption period, on account of his then limited financial situation. [23] It was only in January 1997 or fifteen (15) years later that he manifested his desire

to reacquire the properties. Clearly thus, he had lost whatever right he had over Lot Nos. 1500-A and 229-E.

The payment of loans made by Lucasan to PNB and RPB in 1997 cannot, in any way, operate to restore whatever rights he had over the subject properties. Such payment only extinguished his loan obligations to the mortgagee banks and the liens which Lucasan claimed were subsisting at the time of the registration of the notice of embargo and certificate of sale.

Neither can Lucasan capitalize on PBC's failure to file a petition for consolidation of ownership after the expiration of the redemption period. As we explained in *Calacala v. Republic*:^[24]

[P]etitioners' predecessors-in-interest lost whatever right they had over [the] land in question from the very moment they failed to redeem it during the 1-year period of redemption. Certainly, the Republic's failure to execute the acts referred to by the petitioners within ten (10) years from the registration of the Certificate of Sale cannot, in any way, operate to restore whatever rights petitioners' predecessors-in-interest had over the same. For sure, petitioners have yet to cite any provision of law or rule of jurisprudence, and we are not aware of any, to the effect that the failure of a buyer in a foreclosure sale to secure a Certificate of Final Sale, execute an Affidavit of Consolidation of Ownership and obtain a writ of possession over the property thus acquired, within ten (10) years from the registration of the Certificate of Sale will operate to bring ownership back to him whose property has been previously foreclosed and sold.

x x x x

Moreover, with the rule that the expiration of the 1-year redemption period forecloses the obligor's right to redeem and that the sale thereby becomes absolute, the issuance thereafter of a final deed of sale is at best a mere formality and mere confirmation of the title that is already vested in the purchaser. As this Court has said in *Manuel vs. Philippine National Bank, et al.*:

Note must be taken of the fact that under the Rules of Court the expiration of that one-year period forecloses the owner's right to redeem, thus making the sheriff's sale absolute. The issuance thereafter of a final deed of sale becomes a mere formality, an act merely confirmatory of the title that is already in the purchaser and constituting official evidence of that fact.(Emphasis supplied.)

Certainly, Lucasan no longer possess any legal or equitable title to or interest over the subject parcels of land; hence, he cannot validly maintain an action for quieting of title.

Furthermore, Lucasan failed to demonstrate that the notice of embargo and the certificate of sale are invalid or inoperative. In fact, he never put in issue the validity of the levy on execution and of the certificate of sale duly registered on June 5, 1981. It is clear, therefore, that the second requisite for an action to quiet title is, likewise, absent.

Concededly, Lucasan can pursue all the legal and equitable remedies to impeach or annul the execution sale prior to the issuance of a new certificate of title in favor of PBC. Unfortunately, the remedy he had chosen cannot prosper because he failed to satisfy the requisites provided for by law for an action to quiet title. Hence, the RTC rightfully dismissed Lucasan's complaint.

Lucasan tries to find solace in our ruling in *Cometa v. Court of Appeals*. Sadly for him, that case is not on all fours with his case, for it was not for quieting of title but a petition for issuance of a writ of possession and cancellation of lis pendens. Likewise, in *Cometa* the registered owner assailed the validity of the levy and sale, which Lucasan failed to do.

Undoubtedly, Lucasan's right to redeem the subject properties had elapsed on June 5, 1982. His offer to redeem the same in 1997 or long after the expiration of the redemption period is not really one for redemption but for repurchase. Thus, PBC and PDIC, its receiver and liquidator, are no longer bound by the bid price. It is entirely

within their discretion to set a higher price. As we explained in *De Robles v. Court of Appeals*:^[25]

The right to redeem becomes *functus officio* on the date of its expiry, and its exercise after the period is not really one of redemption but a repurchase. Distinction must be made because redemption is by force of law; the purchaser at public auction is bound to accept redemption. Repurchase however of foreclosed property, after redemption period, imposes no such obligation. After expiry, the purchaser may or may not re-sell the property but no law will compel him to do so. And, he is not bound by the bid price; it is entirely within his discretion to set a higher price, for after all, the property already belongs to him as owner.

Accordingly, the condition imposed by the PDIC for the re-acquisition of the property cannot be considered unjust or unreasonable.

Verily, in several cases,^[26] this Court allowed redemption even after the lapse of the redemption period. But in those cases a valid tender was made by the original owners within the redemption period. Even in *Cometa*, the redemption was allowed beyond the redemption period because a valid tender of payment was made within the redemption period. The same is not true in the case before us.

In fine, we find that the RTC correctly dismissed Lucasan's complaint for quieting of title. Thus, the CA committed no reversible error in sustaining the RTC.

WHEREFORE, the petition is DENIED. The Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 81518, are AFFIRMED. Costs against the petitioner.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Reyes, JJ., concur.

[1] Penned by Associate Justice Pampio A. Abarintos, with Associate Justices Enrico A. Lanzanas and Apolinario D. Bruselas, Jr., concurring; rollo, pp. 28-35.

[2] Rollo, pp. 21-29.

[3] *Id.* at 36-37.

[4] RTC records, p. 28.

[5] *Id.* at 31.

[6] *Id.* at 1-12.

[7] *Id.* at 64-73.

[8] *Id.* at 84-88.

[9] 404 Phil. 107 (2001).

[10] RTC records, pp. 113-119.

[11] *Id.* at 118-119.

[12] *Id.* at 119.

[13] *Id.* at 142.

[14] Rollo, pp. 28-35.

[15] Id. at 35.

[16] Id. at 36-37.

[17] Id. at 11.

[18] SEC. 75. Application for new certificate upon expiration of redemption period. - Upon the expiration of the time, if any, allowed by law for redemption after the registered land has been sold on execution taken or sold for the enforcement of a lien of any description, except a mortgage lien, the purchaser at such sale or anyone claiming under him may petition the court for the entry of a new certificate of title to him.

Before the entry of new certificate of title, the registered owner may pursue all legal and equitable remedies to impeach or annul such proceedings.

[19] Supra note 9.

[20] Calacala v. Republic, G.R. No. 154415, July 28, 2005, 464 SCRA 438, 444.

[21] See DBP v. Leonor Vda. de Moll, 150 Phil. 101 (1972).

[22] See Calacala v. Republic, supra note 20, at 445.

[23] Letter dated October 30, 2001, RTC records, pp. 32-33.

[24] Supra, at 445-447.

[25] G.R. No. 128053, June 10, 2004, 431 SCRA 566, 570, citing Natino v. Intermediate Appellate Court, 197 SCRA 323 (1991).

[26] Delos Reyes v. Intermediate Appellate Court, G.R. No. 74768, August 11, 1989, 176 SCRA 394; Tolentino v. Court of Appeals, 193 Phil. 663 (1981); Doronila v. Vasquez, 72 Phil. 572 (1941).

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