

SPOUSES BASILIO AND NORMA HILAGA, PETITIONERS, VS. RURAL BANK OF ISULAN (COTABATO, INC., AS REPRESENTED BY ITS MANAGER), RESPONDENT.

G.R. No. 179781. April 07, 2010

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

Petitioners appeal from the Decision[1] dated May 25, 2007 and Resolution [2] dated August 6, 2007 of the Court of Appeals (CA) in C.A.-G.R. CV No. 81979 which had reversed the August 8, 2003 Judgment [3] of the Regional Trial Court of Surallah, South Cotabato, Branch 26 in Civil Case No. 666-N for "Redemption of Foreclosed Mortgaged Property Under [Act No.] 3135." The appellate court held that petitioners' right to redeem the foreclosed property from the respondent bank had expired.

The following facts are established:

Petitioners Basilio and Norma B. Hilaga were the owners of a parcel of land, identified as Lot No. 172-A, Pls-212-D-7, located at Barrio Lopez Jaena, Municipality of Norala, Province of South Cotabato and containing an area of 46,868 square meters, more or less.

On March 16, 1970, petitioners obtained a loan from respondent Rural Bank of Isulan (Cotabato) Inc., in the amount of P2,500.00. To secure the loan, they executed a Real Estate Mortgage [4] over the above-mentioned property which was then covered only by Tax Declaration No. 5537. [5] When petitioners failed to pay their obligation when it became due on March 19, 1971, the respondent bank initiated foreclosure proceedings. The subject property was sold at a public auction by the Provincial Sheriff on April 20, 1977 and a Certificate of Extrajudicial Sale [6] was issued in favor of the Rural Bank of Isulan (Cotabato) Inc. as the highest bidder. The respondent bank then took possession of the foreclosed property. Meanwhile, unknown to respondent bank, a Free Patent title [7] (Original Certificate of Title No. P-19766) had been issued in favor of petitioners on August 4, 1976 or before the foreclosure sale.

On September 21, 1994, or more than seventeen (17) years after the foreclosure sale, petitioner Basilio Hilaga sent a letter [8] to the respondent bank's lawyer, the late Atty. Ismail Arceno, conveying his desire to redeem the subject property. When the letter remained unanswered, petitioners, through their counsel, again sent a letter [9] dated May 4, 1999, seeking to redeem the foreclosed property. The second letter, however, also remained unheeded.

Thus, on June 3, 1999, petitioners filed a complaint [10] for Redemption of Foreclosed Mortgaged Property Under [Act No. 3135] before the Regional Trial Court of Surallah, South Cotabato, Branch 26, seeking to redeem the subject property from the respondent bank under the provisions of Act No. 3135. In their complaint, petitioners alleged that the mortgage and subsequent foreclosure of the subject property had not been annotated on the title nor registered with the Register of Deeds. Also, no annotation and consolidation of ownership was made in favor of the respondent bank. Thus, the one (1)-year redemption period under Act No. 3135, which commences

from the date of registration of the sale, has not yet started. They insisted that, indeed, their right of redemption has not yet expired because under Section 119 of Commonwealth Act No. 141 or the Public Land Act, a homesteader whose homestead has been sold at a public auction by virtue of an extrajudicial foreclosure, may repurchase said land within five (5) years from the date of registration of the sale. Thus, they can still exercise their right of redemption. They signified their willingness to redeem or repurchase the foreclosed property by depositing the amount of P10,000.00 with the court.

In its Answer with Counterclaim, [11] the respondent bank averred that when the real estate mortgage in its favor was executed, the parcel of land was merely covered by a tax declaration. That unknown to the respondent bank, petitioners proceeded to apply for and cause the issuance in 1976 of a free patent and torrens title to the land; hence, they are estopped to claim that the parcel of land mortgaged is covered by a free patent and torrens title. They likewise cannot avail of the benefits afforded to a grantee of a public land under the Homestead and Free Patent Laws because they violated the terms and conditions of their application to avail of a grant by homestead or free patent when they mortgaged the land.

As aforesaid, the trial court rendered judgment in favor of petitioners. The trial court ruled that because the certificate of sale was not registered, petitioners can still redeem the subject property. The dispositive portion of the trial court's decision reads--

IN VIEW OF THE FOREGOING PREMISES, judgment is hereby rendered in favor of the Plaintiffs, thereby ordering the defendant Bank:

- 1) to allow the plaintiffs to exercise their right of redemption under Act 3135 over the foreclosed property described above in the amount corresponding to the principal obligation, plus the corresponding interest accruing from the date of the filing of this case[; and]
- 2) to pay attorney's fees in the amount of FIVE THOUSAND PESOS (PH 5,000.00).

SO ORDERED. [12]

On appeal, the CA reversed the trial court. According to the CA, the right of petitioners to redeem their foreclosed property can only be exercised within two (2) years from the date of foreclosure, as provided under Republic Act No. 720 [13] or the Rural Banks' Act, as amended by Republic Act No. 2670. The CA also ruled that petitioners are guilty of laches.

On August 6, 2007, the CA denied petitioners' motion for reconsideration.

Hence, this appeal.

Petitioners alleged that--

I

THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR OF LAW IN HOLDING THAT THE APPLICABLE LAW IS ACT NO. 3135, AS AMENDED BY ACT NO. 4118 IN CONJUNCTION WITH REPUBLIC ACT NO. 720 AS AMENDED BY REPUBLIC ACT NO. 2670 (RURAL BANK ACT).

II

THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR OF LAW AND GRAVE ABUSE OF DISCRETION IN HOLDING THAT PETITIONERS HAS ONLY TWO YEARS TO REDEEM THEIR PROPERTY FROM THE ISSUANCE OF CERTIFICATE OF SALE AFTER THE SAME WAS FORECLOSED.

III

THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR OF LAW AND GRAVE ABUSE OF DISCRETION IN DECLARING THAT PETITIONERS ARE GUILTY OF LACHES. [14]

Essentially, the issue is whether petitioners can still redeem their foreclosed property.

Petitioners assail the CA's ruling that they only have two (2) years from the time the certificate of sale was issued to the respondent bank to redeem the property. Petitioners submit that they can still redeem their foreclosed property from respondent bank since under the provisions of Act No. 3135, as amended, the one (1)-year redemption period should start from the date of registration of the certificate of sale with the Register of Deeds.

They admit that when the property was mortgaged, the property was covered by a mere tax declaration. However, they point out that even though a free patent title was later issued to them, respondent bank still opted to foreclose the property under Act No. 3135, as amended, and not under Republic Act No. 720 or the Rural Banks' Act, nor under Act No. 3344 or the Spanish Mortgage Law. Thus, under the provisions of Act No. 3135, they have one (1) year from the date of the registration of the sale to redeem the mortgaged property. Because no registration of the sale was effected, they can still redeem the property from the respondent bank.

The petition has no merit.

Section 5 of Republic Act No. 720, as amended by Republic Act Nos. 2670 and 5939, specifically provides for the redemption period for lands foreclosed by rural banks. It provides in part as follows:

Sec. 5. x x x

Loans may be granted by rural banks on the security of lands without Torrens titles where the owner of private property can show five years or more of peaceful, continuous and uninterrupted possession in the concept of an owner; x x x or of homesteads or free patent lands pending the issuance of titles but already approved, the provisions of any law or regulations to the contrary notwithstanding: Provided, That when the corresponding titles are issued the same shall be delivered to the register of deeds of the province where such lands are situated for the annotation of the encumbrance: x x x

x x x Provided, That when a homestead or free patent land is foreclosed, the homesteader or free patent holder, as well as their heirs shall have the right to redeem the same within two years from the date of foreclosure in case of a land not covered by a Torrens title or two years from the date of the registration of the foreclosure in case of a land covered by a Torrens title x x x.

In *Sta. Ignacia Rural Bank, Inc. v. Court of Appeals*, [15] we summarized the rules on redemption in the case of an extrajudicial foreclosure of land acquired under our free patent or homestead statutes as follows. If the land is mortgaged to a rural bank under Republic Act No. 720, as amended, the mortgagor may redeem the property within two (2) years from the date of foreclosure or from the registration of the sheriff's certificate of sale at such foreclosure if the property is not covered or is covered, respectively, by a Torrens title. If the mortgagor fails to exercise such right, he or his heirs may still repurchase the property within five (5) years from the expiration of the two (2)-year redemption period pursuant to Section 119 of the Public Land Act (C.A. No. 141). If the land is mortgaged to parties other than rural banks, the mortgagor may redeem the property within one (1) year from the registration of the certificate of sale pursuant to Act No. 3135. If he fails to do so, he or his heirs may repurchase the property within five (5) years from the expiration of the redemption period also pursuant to Section 119 of the Public Land Act.

In the present case, petitioners admit that when the property was mortgaged, only the tax declaration was presented. Although a free patent title was subsequently issued in their favor on August 4, 1976, petitioners failed

to inform the creditor rural bank of such issuance. As a result, the certificate of sale was not registered or annotated on the free patent title. Petitioners are estopped from redeeming the property based on the free patent title which was not presented during the foreclosure sale nor delivered to the Register of Deeds for annotation of the certificate of sale as required under Section 5 of Republic Act No. 720, as amended. Estoppel in pais arises when one, by his acts, representations or admissions, or by his own silence when he ought to speak out, intentionally or through culpable negligence, induces another to believe certain facts to exist and such other rightfully relies and acts on such belief, so that he will be prejudiced if the former is permitted to deny the existence of such facts. [16]

Petitioners cannot fault respondent for the non-registration of the certificate of sale because petitioners did not inform the respondent bank that a Torrens title had already been acquired by them on August 4, 1976. By their silence and inaction, petitioners misled the respondent bank to believe that their only proof of ownership was the tax declaration. Thus, the two (2)-year redemption period shall be reckoned from the date of the foreclosure. Apropos is the CA's ruling on this matter:

It is undisputed that the foreclosed property was not yet covered by a Torrens title, being merely covered by a Tax Declaration, when appellees mortgaged their property. Clearly, the right of appellees to redeem their foreclosed property can only be exercised within two (2) years from the date of foreclosure, as provided for under R.A. No. 720, as amended by R.A. No. 2670. When the instant suit commenced on 31 May 1999, appellees right to redeem had already lapsed since they had only until 1979 to exercise their right of redemption or within two (2) years from the foreclosure proceedings in 1977. [17]

For the same reason, petitioners' assertion that they will have five (5) years from the date of registration of the sale to redeem the foreclosed property under Section 119 of the Public Land Act has no merit, the reckoning period for the redemption period being properly from the date of sale.

But even assuming *arguendo* that petitioners can avail of the five (5)-year redemption period provided under Section 119 of the Public Land Act, they still failed to exercise their right of redemption within the reglementary period provided by law. As mentioned earlier, Section 119 of said Act expressly provides that where the land involved is acquired as a homestead or under a free patent, if the mortgagor fails to exercise the right of redemption, he or his heirs may still repurchase the property within five (5) years from the expiration of the two (2)-year redemption period. The auction sale having been conducted on April 20, 1977, petitioners had until April 20, 1984 within which to redeem the mortgaged property. Since petitioner only filed the instant suit in 1999, their right to redeem had already lapsed. It took petitioners twenty-two (22) years before instituting an action for redemption. The considerable delay in asserting one's right before a court of justice is strongly persuasive of the lack of merit in petitioners' claim, since it is human nature for a person to enforce his right when the same is threatened or invaded. [18]

WHEREFORE, the petition for review on certiorari is hereby DENIED, for lack of merit. The Decision and Resolution of the Court of Appeals dated May 25, 2007 and August 6, 2007, respectively, in C.A.-G.R. CV No. 81979 are AFFIRMED.

With cost against the petitioners.

SO ORDERED.

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

[1] Rollo, pp. 35-43. Penned by Associate Justice Mario V. Lopez with Justices Romulo V. Borja and Michael P.

Elbinias concurring.

[2] Id. at 44-47.

[3] Id. at 90-95.

[4] Records, p. 21. Annex "1".

[5] Id. at 23. Annex "2".

[6] Id. at 5. Annex "A".

[7] Rollo, p. 70. Annex "3".

[8] Id. at 60.

[9] Id. at 61.

[10] Records, pp. 1-4. Docketed as Civil Case No. 666-N.

[11] Id. at 15-20.

[12] Rollo, p. 95.

[13] AN ACT PROVIDING FOR THE CREATION, ORGANIZATION AND OPERATION OF RURAL BANKS, AND FOR OTHER PURPOSES.

[14] Rollo, pp. 25-26.

[15] G.R. No. 97872, March 1, 1994, 230 SCRA 513, 525.

[16] Ibaan Rural Bank, Inc. v. Court of Appeals, G. R. No. 123817, December 17, 1999, 321 SCRA 88, 93.

[17] Rollo, p. 41.

[18] Quinsay v. Intermediate Appellate Court, G.R. No. 67935, March 18, 1991, 195 SCRA 268, 280.

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