SIO TIAT KING, PETITIONER, VS. VICENTE G. LIM, MICHAEL GEORGE O. LIM, MATHEW VINCENT O. LIM, MEL PATRICK O. LIM, MOISES FRANCIS W. LIM, MARVIN JOHN W. LIM, AND SAARSTAHL PHILIPP...

G.R. No. 185407. June 22, 2015

Ponente: REYES, J.

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REYES, J.:

In Civil Case No. 94-71083, the Spouses Victoriano and Evelyn Calidguid (Spouses Calidguid) executed a Compromise Agreement[1] binding themselves to pay the amount of P2,520,000.00 to the Spouses Jaime Lee (Jaime) and Lim Dechu (collectively, Spouses Lee), which was approved by the Regional Trial Court (RTC) of Manila, Branch 4 in its Decision[2] dated April 24, 1995. However, the Spouses Calidguid failed to comply with the terms of the said decision, leading the Spouses Lee to avail of the remedy of execution. A Writ of Execution[3] was issued on August 2, 1995 to satisfy the compromise judgment and a property belonging to the Spouses Calidguid covered by Transfer Certificate of Title (TCT) No. 85561 was levied on execution. During its sale at a public auction, the judgment creditor, Jaime emerged as the highest bidder and a corresponding Certificate of Sale[4] was issued in his favor.

As an assignee of the Spouses Calidguid, Sio Tiat King (King) redeemed the subject property on October 30, 1996, before the expiration of the one-year period of right of redemption. Hence, the sheriff executed a Certificate of Redemption.[5]

More than 11 years after the redemption of the subject property, King filed a motion for the issuance of a writ of possession, which was granted by the RTC in its Order[6] dated January 22, 2008. A Writ of Possession[7] was thereafter issued on January 25, 2008. Pursuant to this, Sheriff Cesar Javier served a Notice to Vacate[8] addressed to the Spouses Calidguid, their agents and all other persons claiming rights under them at 109 P. Florentino Street corner Araneta Avenue, Sto. Domingo, Quezon City, which is the location of the subject property.

On February 19, 2008, Michael George O. Lim, Mathew Vincent O. Lim, Mel Patrick O. Lim, Moises Francis W. Lim and Marvin John W. Lim (Lims) filed a Joint Affidavit of Third Party Claim,[9] alleging that they are the registered owners of the property situated at 109 P. Florentino Street corner Araneta Avenue, Sto. Domingo, Quezon City under TCT No. 122207.

On February 21, 2008, the Lims filed an Entry of Appearance with Motion to Quash Writ of Execution.[10] On March 14, 2008, the RTC issued an Order setting the case for preliminary conference on April 11, 2008. On March 18, 2008, the actual and physical possession of a part of the subject property was turned over to King, prompting the Lims to file an Extremely Urgent Motion to Issue Status Quo Ante Order.[11] On April 4, 2008, the motion filed by the Lims was granted but to last only until April 11, 2008.[12]

The Lims filed a Petition for Certiorari[13] before the Court of Appeals (CA), alleging among others, that the RTC judge committed grave abuse of discretion when they were ousted from their property by virtue of the writ of possession, without a separate and independent action to resolve the issue of ownership.[14]

Subsequently on April 11, 2008, the RTC issued an Order[15] commanding the sheriff to defer completion of the implementation of the writ of possession while the resolution of the motion to quash the writ of execution is pending.

The RTC issued an Order[16] dated April 28, 2008, denying the motion to quash of the Lims. The RTC also resolved that the TCT of the Spouses Calidguid was issued at an earlier date; therefore it shall prevail over the TCT of the Lims. This led the Lims to file a Motion to Admit the Attached Supplemental Petition,[17] which the CA granted in its Resolution[18] dated May 28, 2008. The CA also issued a temporary restraining order to preserve the rights of both parties while awaiting resolution of the petition.[19] On June 4, 2008, the RTC issued an Order[20] suspending the execution of its Order dated April 28, 2008 and all allied processes pertinent to the case.

On July 22, 2008, the CA rendered a Decision,[21] annulling the Order dated April 28, 2008 of the RTC. The dispositive portion reads:

> WHEREFORE, the petition is GRANTED. The Order dated April 28, 2008 issued by the Regional Trial Court, Branch 4, Manila in Civil Case No. 94-71083 is ANNULLED and SET ASIDE. Accordingly, the Writ of Possession issued on January 25, 2008 is QUASHED, without prejudice to any separate action which private respondent Sio Tiat King may file against all parties concerned for the enforcement of whatever right he may have over the subject property.
>
> SO ORDERED.[22]

The CA decision granted the petition filed by the Lims for the following reasons:

> Firstly, Section 33, Rule 39 of the Rules of Court is not applicable. The second paragraph of said rule provides: "Upon 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."

The above-rule contemplates two situations wherein a writ of possession may issue: (1) only upon the expiration of the period of redemption and no such redemption having been made[;] and (2) only to a purchaser or redemptioner in the execution sale.

In relation thereto, Sec. 27 of the same Rule enumerates the persons who are entitled to exercise the right of redemption over a property sold on execution, thus:

> "Sec. 27. Who may redeem real property so sold. - Real property sold as provided in the last preceding section, or any part thereof sold separately, may be redeemed in the manner hereinafter provided, by the following persons:
>
> (a) The judgment obligor, or his successor-in-interest in the whole or any part of the property;
>
> (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 as redemptioner."

The "successor-in-interest" contemplated under Sec. 27 includes a person to whom the judgment debtor has

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transferred his right of redemption, or one to whom he has conveyed his interests in the property for purposes of redemption, or one who succeeds to his property by operation of law, or a person with a joint interest in the property, or his spouse or heirs. Hence, King, by virtue of a Deed of Assignment of Real Property and Right of Redemption, is included within the term "successor in interest."

In this case, not only was there a redemption made by King within the redemption period but moreover, the writ of possession was issued not to a purchaser or redemptioner but to King himself, a successor-in-interest of Spouses Calidguid, the judgment obligors. Hence, it was no longer a ministerial duty of respondent Judge to issue the writ of possession.

Secondly, contrary to the position of respondent Judge and the contending parties, the writ of possession applied for by King cannot be deemed to be a continuation of the execution proceedings in Civil Case No. 94-71083 which had been terminated long ago after the issuance of the Certificate of Redemption and the satisfaction of the claims of the judgment creditors [Spouses Lee], x x x

x x x x x x x x x

It must be noted that King, by virtue of a Deed of Assignment of Real Property and Right of Redemption, redeemed the property in question as an "assignee" of Sps. Calidguid, the judgment debtors in Civil Case No. 94-71083, and as such is deemed subrogated to the rights and obligations of the latter, x x x In this case, full ownership of the subject property was restored to the judgment debtors, Spouses Calidguid, who were substituted by King, after the redemption made by the latter as evidenced by the Certificate of Redemption, which reads:

> x x x x x x x x x
>
> WHEREAS, by virtue of a Deed of Assignment of Real Property and Right of Redemption, dated October 30, 1996, the Assignee, [King], now offers to redeem the property from the highest bidder, [Jaime], the sum of PHP2,941,478.53 in Equitable Banking Corporation Cashier Check No. 0066-724519 in full satisfaction of the bid price including all interests, rights, shares titles, claims and participation of [Jaime] relative to the aforesaid parcel of land covered by TCT No. 85561, subject matter of Civil Case No. 94-71083 of the Regional Trial Court, Branch 04, Manila;
>
> x x x x x x x x x
>
> WHEREFORE, in view of all the foregoing, the undersigned hereby executed this Certificate of Redemption and hereby restores the [Spouses Calidguid], now being substituted by the Assignee, [King], full ownership of the above-mentioned levied and sold property.
>
> x x x x x x x x x

Thirdly, it is improper to issue a writ of possession when there has been a redemption made by the judgment debtor, as in this case, considering that it would be very difficult to implement the same. The dispositive portion of the Order dated January 22, 2008 granting the Writ of Possession reads:

> "WHEREFORE, finding the motion to be meritorious, the same is hereby granted. As prayed for, let a writ of possession be issued directing the Sheriff of this Court to place movant [King] in actual physical possession of the levied property covered by [TCT] No. 85561 of the Registry of Deeds of Quezon City and to eject therefrom [Spouses Calidguid] their agents and such other persons claiming rights under them."

while the Notice to Vacate reads:

> "TO: Sps. Evelyn P. Calidguid & Victoriano Calidguid,
>
> their agents and ALL OTHER PERSONS

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> CLAIMING RIGHTS UNDER THEM
>
> 109 P. Florentino St., cor. Araneta Ave., SMH,
>
> Quezon City
>
> Greetings:
>
> You are hereby notified by virtue of the Writ of Possession xxx being served upon you and all other persons claiming rights upon you, DEMAND is hereby made upon you and all other persons claiming rights upon you to VACATE the premises xxx covered by TCT No. 85561 of the Registry of Deeds for the City of Quezon City, within five (5) days from receipt of this Notice.
>
> x x x x x x x x x"

This Court could hardly imagine how respondent Sheriff could possibly implement the aforequoted Writ of Possession and Notice to Vacate by placing King in actual physical possession of the subject property and at the same time evicting therefrom Spouses Calidguid, their agents and all other persons claiming rights under them when King himself is one of the persons claiming rights under Spouses Calidguid, as he stepped into the shoes of the latter by virtue of a Deed of Assignment of Real Property and Right of Redemption.

x x x x x x x x x

Fourthly, even assuming that King is legally entitled to a writ of possession, the mere issuance of such writ cannot summarily evict [the Lims] from the subject property since they are occupants therein under claim of ownership. If King had been unlawfully deprived of possession of the subject property, he may file an independent action against [the Lims]. He cannot enforce his claim of possession and ownership in the case terminated long ago.[23] (Citations omitted and emphases in the original)

His motion for reconsideration[24] having been denied by the CA in a Resolution[25] dated November 13, 2008, King filed the present petition.[26]

Issue

The primary issue is whether the Lims may be evicted from the property by virtue of a writ of possession issued in favor of King.

Ruling of the Court

King deplored that the CA erred in ruling that he is a successor-in-interest of the judgment debtor and not a redemptioner under Section 33 of Rule 39 of the 1997 Rules of Court, who is entitled to a writ of possession. He averred that the word "redemptioner" found in the same section should be loosely applied to include the judgment debtor's successor-in-interest.[27] But King's line of reasoning is flawed. His understanding of the word "redemptioner" notwithstanding, the fact is that the writ of possession can only be rightfully enforced against the Spouses Calidguid and their successors-in-interest — which ironically includes King himself. Even assuming for the sake of argument that King is treated as a redemptioner, he seemed to have forgone that the same provision he invoked provides for an exception, which is hereunder quoted:

> Sec. 33. Deed and possession to be given at expiration of redemption period; by whom executed or given. x x x.
>
> xxx 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. (Emphasis ours)

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King acquired his right over the property with TCT No. 85561 from the Spouses Calidguid when their right to redeem the property was assigned to him and subsequently, when redemption was made; whereas the Lims' claim of ownership is based on TCT No. 122207 registered in their names. This goes to show that the Lims hold the property adversely to the judgment obligor, Spouses Calidguid.

The Lims are considered as a third party, whose possession over the subject property may not be defeated summarily. "The third party's possession of the property is legally presumed to be based on a just title, a presumption which may be overcome by the purchaser in a judicial proceeding for recovery of the property. Through such a judicial proceeding, the nature of the adverse possession by the third party may be determined, after such third party is accorded due process and the opportunity to be heard. The third party may be ejected from the property only after he has been given an opportunity to be heard, conformably with the time-honored principle of due process."[28]

The foregoing elucidations find legal basis under Article 433 of the Civil Code, to wit:

> Art. 433. Actual possession under claim of ownership raises a disputable presumption of ownership. The true owner must resort to judicial process for the recovery of the property.

While King and the Lims are contending for the possession and ownership of the same property, which has been the subject of levy and execution in Civil Case No. 94-71083, an ejectment suit should have been filed by King before the Lims could be evicted from the property. This is due to the existence of their ostensibly conflicting titles coupled with the Lims' actual possession over the property. "One who claims to be the owner of a property possessed by another must bring the appropriate judicial action for its physical recovery. The 'judicial process' could mean no less than an ejectment suit or a reivindicatory action, in which the ownership claims of the contending parties may be properly heard and adjudicated."[29]

King took a procedural shortcut when he applied for the issuance of a writ of possession instead of filing a suit to recover possession of the property against the Lims. Besides, as the CA had espoused, the issuance of the writ of possession produced a peculiar situation in which the writ sought by King was directed against himself as the assignee of the judgment debtors.

The CA is also correct when it held that King cannot enforce his claim of possession and ownership in a case terminated long ago,[30] more so that the possession is with the Lims, who are considered as strangers in Civil Case No. 94-71083. As can be readily gleaned from the records, the judgment in the aforecited case has already been executed and satisfied. In their Comment[31] to the petition before the CA, the Spouses Lee manifested that the issuance of the Certificate of Redemption confirmed that their claims as judgment creditors had been fully satisfied.[32]

As regards King's submission that the TCT of the Lims was fictitiously issued, the Court holds that this is not the proper forum to resolve issues concerning ownership of the disputed property. Matters regarding its ownership should be ventilated in a separate proceeding, as this case is limited to the propriety of the issuance of a writ of possession following redemption.[33]

WHEREFORE, the petition is hereby DENIED. The Decision dated July 22, 2008 and the Resolution dated November 13, 2008 of the Court of Appeals in CA-G.R. SP No. 103391 are AFFIRMED.

SO ORDERED.

Velasco, Jr. (Chairperson), Peralta, Villarama, Jr., and Jardeleza, JJ., concur.

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July 3, 2015

NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on June 22, 2015 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on July 3, 2015 at 9:40 a.m.

Very truly yours,
(SGD.)
WILFREDO V. LAPITAN
Division Clerk of Court

[1] Rollo, pp. 146-148.

[2] Issued by Judge Vetino E. Reyes; id.

[3] Id. at 149.

[4] Id. at 150-151.

[5] Id. at 152-153.

[6] Issued by Presiding Judge Socorro B. Inting; id. at 186-187.

[7] Id. at 188.

[8] Id. at 189.

[9] Id. at 190-193.

[10] Id. at 194-196.

[11] Id. at 197-199.

[12] Id. at 200.

[13] Id. at 65-127.

[14] Id. at 91.

[15] Id. at 347.

[16] Id. at 277-279.

[17] Id. at 262-265.

[18] Id. at 281-282.

[19] Id. at 282.

[20] Id. at 411-412.

[21] Penned by Associate Justice Magdangal M. De Leon, with Associate Justices Josefina Guevara- Salonga and Ramon R. Garcia concurring; id. at 43-61.

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[22] Id. at 60.

[23] Id. at 51-57.

[24] Id. at 466-477.

[25] Id. at 63-64.

[26] Id. at 3-40.

[27] Id. at 33-34.

[28] Villanueva v. Cherdan Lending Investors Corp., 647 Phil. 494, 504 (2010).

[29] Id.

[30] Rollo, p. 57.

[31] Id. at 283-287.

[32] Id. at 48.

[33] Dayot v. Shell Chemical Company (Phils.), Inc., 552 Phil. 602, 619 (2007).

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