

RUBEN C. REYES, PETITIONER, VS. TANG SOAT ING (JOANNA TANG) AND ANDO G. SY, RESPONDENTS.

G.R. No. 185620. December 14, 2011

Ponente: PEREZ, J.

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PEREZ, J.:

Challenged in this petition for review on certiorari under Rule 45 of the Rules of Court is the Decision[1] of the Court of Appeals in CA-G.R. SP No. 96913 annulling and setting aside the Orders[2] of the Regional Trial Court (RTC), Branch 7, Malolos, Bulacan which denied respondents Tang Soat Ing's (Joanna Tang's) and Ando Sy's Opposition (To MFR Farm, Inc.'s Motion dated 25 April 2006) and Motion (To declare void the sale of the property covered by TCT No. 198753) dated May 23, 2006.

The controversy arose from a complaint for Enforcement of Easement and Damages with Prayer for Preliminary Injunction and Restraining Order filed by MFR Farms, Inc. (MFR) against respondents docketed as Civil Case No. 1245-M. MFR complained of respondents' commercial and industrial use of their property covered by Transfer Certificate of Title (TCT) No. T-198753, and sought the enforcement of the encumbrance contained in their title. MFR likewise asked for the payment of damages suffered by its pig farm resulting from respondents' illegal use of their property.

After trial, the RTC granted MFR's complaint and specifically held that:

x x x [Respondents] have defied the clear undertaking stated in the title to the subject property to limit the use thereof to purposes not commercial or industrial in character. x x x [U]sing the land as a chemical processing site and as a storage facility for chemicals is devoting it to industrial purposes, which is not allowed under the subsisting encumbrance on the property.

x x x [R]elief is owing to [MFR], but the grant thereof is rendered all the more imperative in light of the manifestly injurious effects which the business of [respondents] is causing to the neighboring estate, if not to the entire locality. x x x By more than mere preponderance of evidence has it been established that the gaseous by-products of the chemical manufacturing process are outright pollutants which cause direct and manifest harm to humans and animals alike, not to mention other living things.

x x x x

WHEREFORE, judgment is hereby rendered: (a) ordering [respondents] to desist from the further conduct of industrial or commercial activities on the parcel of land covered by TCT No. T-198753 of the Registry of Deeds of Bulacan, particularly the manufacture and storage of chemicals thereat, including the construction of buildings intended for purposes prohibited by the title to the property; (b) making permanent the injunctions issued by this Court's orders of May 3, 1982 and December 7, 1983; (c) ordering [respondents] to pay [MFR] actual damages in the amount of Six hundred Thirty-Nine Thousand Six hundred Fifty (P639,650.00) Pesos, with legal rate of Twelve (12%) percent interest from the filing of the complaint on January 15, 1982, until the same is fully paid; (d) ordering [respondents] to pay [MFR] exemplary damages in the amount One Hundred Thousand (P100,000.00) Pesos by way of example of correction for the public good; (e) ordering [respondents]

to pay MFR attorney's fees in the amount of One Hundred Thousand (P100,000.00) Pesos and to pay the costs of suit.[3]

On appeal by respondents docketed as CA G.R. CV No. 37808, the Court of Appeals affirmed with modification the ruling of the RTC: the Court of Appeals reduced the rate of interest to six percent (6%) and deleted the award of exemplary damages and attorney's fees.[4]

MFR and respondents filed separate appeals by certiorari[5] to this Court questioning the appellate court's ruling. Unfortunately for the parties, we dismissed both appeals for "late payment of legal fees and late filing of the petition." [6] By December 1, 1997, the decision of the Court of Appeals in CA G.R. CV No. 37808 became final and executory, and was recorded in the Book of Entries of Judgment.[7]

On September 28, 1998, upon motion of MFR, the RTC issued a Writ of Execution.[8] Pursuant thereto, the Branch Clerk of Court commanded the Sheriff of RTC, Branch 7, Malolos, Bulacan, Mr. Leovino Legaspi (Sheriff Legaspi), to execute the Decision dated September 12, 1991 as modified by the Court of Appeals.[9] Sheriff Legaspi was likewise ordered to accomplish a return of the proceedings taken thereon in accordance with Section 14, Rule 39 of the Rules of Court.

On January 4, 1999, Sheriff Legaspi submitted a Sheriff's Report manifesting:

That on October 2, 1998[,] the undersigned was in receipt of the Writ of Execution issued by Hon. Danilo A. Manalastas for service thereof;

That on October 9, 1998[,] the undersigned served copy of the Writ of Execution and copy of the Notice dated October 9, 1998 to [respondent] Tang Soat Ing giving him five (5) days to comply [with] his obligations under the Writ of Execution, thru Rodolfo Mendez, caretaker of the [respondents], at Tungkong Mangga, San Jose del Monte, Bulacan. The undersigned inquired from the said caretaker about the personal properties of Tang Soat Ing but he was told that Tang Soat Ing has no more properties and the factory located in the compound is being leased to other people;

That on December 10, 1998[,] the undersigned went back to Tang Soat Ing at Tungkong Mangga, Sa Jose del Monte, Bulacan but said person was not there and also Rodolfo Mendez was not around because he was in Manila;

That on December 28, 1998[,] the undersigned went back to Tungkong Mangga, San Jose del Monte, Bulacan and talked to the caretaker[,] Rodolfo Mendez[,] and asked him what happened to the papers he gave to [respondent] Tang Soat Ing. The caretaker said that [respondent Tang Soat Ing] called his lawyer and informed [the latter] about the papers he received. The caretaker also told the undersigned that he [did] not know what the lawyer said.[10]

A few days thereafter, on January 7, 1999, Sheriff Legaspi presented the Writ of Execution and the Notice of Levy on Execution of Real Property[11] covering TCT No. T-198753 to the Register of Deeds of Bulacan Province.

On February 4, 1999, the Notice of Levy was inscribed on TCT No. T-198753.[12]

On May 7, 1999, Sheriff Legaspi issued a Notice of Sale on Execution of Real Property[13] which he likewise posted on the following places:

(a)

The Bulletin Board of Municipal Hall of San Jose del Monte, Bulacan;

(b)

The Bulletin Board of the Church of San Jose del Monte, Bulacan;

(c)

The Bulletin Board of the Chapel of Gaya-gaya, San Jose del Monte, Bulacan;

(d)

The Bulletin Board of the main entrance of the Provincial Capitol Building of Malolos, Bulacan; and

(e)

The Posting Board of the Office of the Ex-Officio Sheriff located at the back of the Bulwagan ng Katarungan Building, Malolos, Bulacan.[14]

On June 12, 19 & 26, 1999, the Notice of Sale on Execution of Real Property was published in The Times Newsweekly.[15]

On July 19, 1999, at the public auction of the subject property covered by TCT No. T-198753, MFR was declared as the highest bidder. On even date, Sheriff Legaspi issued a Certificate of Sale[16] which was registered with the Register of Deeds of Bulacan Province.

After more than five (5) years, on September 17, 2004, with respondents failing to exercise their right of redemption, MFR filed a Motion[17] asking the RTC to issue an order directing the Register of Deeds of Bulacan Province to cancel TCT No. T-198753 in the name of respondents, and issue a new certificate of title in the name of MFR.

On September 28, 2004, the RTC denied the Motion holding that a mere motion is not sufficient for the cancellation of a certificate of title. The RTC ruled that under Section 107[18] of Presidential Decree No. 1529, the Property Registration Decree, a petition and a hearing are required for the issuance of a new certificate of title.

On December 1, 2004, MFR filed a Petition[19] in the same case, under the same docket number, Civil Case No. 1245-M, before the same execution court. In this new petition, MFR impleaded the Register of Deeds as additional defendant and prayed for the same reliefs as those prayed for in their previous motion with an additional prayer for the issuance of an order directing respondents to immediately surrender the Owner's Duplicate Copy of TCT No. T-198753.

On three separate occasions, December 9, 2004 and February 8 and 17, 2005, respondents, through their counsel of record, Atty. T. J. Sumawang (Atty. Sumawang), received a copy of the Petition.[20]

Respondents failed to file an Answer or any responsive pleading to MFR's Petition. Consequently, MFR moved to declare respondents in default. The Motion to Declare Respondents in Default was served on Atty. Sumawang on June 11, 2005.

The RTC granted MFR's Motion to Declare Respondents in Default: thereafter, MFR presented evidence ex-parte.

During presentation of evidence ex-parte, MFR filed a Motion for Substitution of Party Petitioner attaching thereto a Deed of Transfer of Interest declaring petitioner Ruben C. Reyes' (Reyes) acquisition of MFR's rights over the subject property. On January 2, 2006, the RTC issued an Order granting this latest motion: MFR was substituted by Reyes as party-petitioner.

In an Order dated January 10, 2006, the RTC granted the Petition, thus:

WHEREFORE, finding merit in the instant petition, the same is hereby granted. Accordingly, defendant/private respondent Tang Soat Ing (Joanna Tang) is hereby directed to surrender to the Court her

duplicate owner's copy of TCT No. T-198753 within thirty (30) days from receipt of this Order. In [the event said] defendant/private respondent fails to surrender such owner's duplicate copy as directed hereinabove, the Register of Deeds of Bulacan is hereby directed to cancel TCT No. T-198753 and issue in lieu thereof a new owner's duplicate certificate of title in the name of Ruben C. Reyes, who has substituted [MFR] by virtue of a Deed of Transfer of Interest and pursuant to the order of this court dated January 02, 2006.[21]

Copies of the Order were separately served on Atty. Sumawang, Atty. Anacleto Diaz (Reyes' counsel) and the Register of Deeds of Bulacan Province on January 20 and February 2, 2006, respectively.[22] However, service thereof to respondents' counsel was returned and rendered impossible. Apparently, Atty. Sumawang had already died in December 2005.[23]

On April 27, 2006, Reyes filed another Motion praying that the Register of Deeds of Bulacan Province be directed to cancel TCT No. T-198753 in the name of respondents and to issue a new one in his (Reyes') name.

On May 19, 2006, new counsel for respondents entered its appearance. Forthwith, on May 23, 2006, respondents, through their new counsel, filed the previously adverted to Opposition and Motion,[24] opposing Reyes' April 27, 2006 Motion and moving to declare void the sale of the subject property.

After an exchange of pleadings from the parties, the RTC issued the Order denying respondents' Opposition and Motion for lack of merit. The RTC ruled that, "Section 107 of PD 1529 does not categorically state that the petition x x x should be in the form of a separate, distinct and original action to be filed in another court, as otherwise it will create a situation in which the final judgment of a court, and its enforcement, may be subject to a review of, or even reversal by another court of co-equal jurisdiction." [25] As regards the motion to declare void the execution sale of the subject property covered by TCT No. T-198753, the RTC noted that "there was substantial compliance with the requirements of [Section 15, Rule 39 of the Rules of Court evidenced] in the Sheriff's Report dated January 4, 1999, as well as the publication and posting requirements, extant in the records of this case." [26] In conclusion, the RTC ruled that respondents are estopped from questioning the proceedings, after keeping silent thereon for a long time, despite notice thereof.

Respondents filed a Motion for Reconsideration which the RTC denied in its Order dated October 20, 2006.

Gaining no reprieve from the RTC, respondents filed a petition for certiorari before the Court of Appeals seeking to: (1) nullify the trial court's twin Orders dated July 17, 2006 and October 20, 2006, respectively; and (2) declare void the execution proceedings relating to the sale of the subject property and the cancellation of TCT No. T-198753.

In yet another turn of events, the appellate court annulled and set aside the July 17, 2006 and October 20, 2006 Orders of the RTC:

WHEREFORE, the Petition is GRANTED and the Orders issued on July 17 and October 20, 2006 are ANNULLED and SET ASIDE. The public auction sale of the property held on July 19, 1999 is declared invalid and the Certificate of Sale issued by Sheriff Leovino G. Legaspi on July 19, 1999 in favor of [petitioner Reyes, substituting MFR] covering the parcel of land embraced in Transfer Certificate of Title No. T-198753 is likewise declared null and void.[27]

Aggrieved, Reyes filed a Motion for Reconsideration which resulted in another exchange of pleadings between the parties. On December 9, 2008, the Court of Appeals denied the motion.

Hence, this impasse with the following issues for our resolution:

- Whether the execution sale of the subject property covered by TCT No. T-198753 is void;

- Proceeding from the validity of the execution sale and the consolidation of Reyes' ownership over the subject property, whether Section 107 of Presidential Decree No. 1529 contemplates the filing of a separate cadastral case before the RTC acting as a land registration court.

The petition is partially impressed with merit.

In declaring void the execution sale, the appellate court noted that petitioner did not strictly comply with the requirements of Section 15, Rule 39 of the Rules of Court. The Court of Appeals relied on our holding in *Villaceran v. Beltejar*,^[28] an administrative case finding therein respondent Sheriff guilty of simple neglect of duty for failure to strictly comply with the rules on execution sale. The Court of Appeals ruled that the deficiencies in the notice of execution sale were substantial and of such nature as to prevent the court from applying the presumption of regularity in the performance of official functions by Sheriff Legaspi at the time of the execution sale. On this score, the Court of Appeals pointed out that it was incumbent upon Reyes' part to prove that the requirements of the law on execution sale have been fully complied with.

We disagree.

Contrary to the Court of Appeal's holding, the burden of evidence to prove lack of compliance with Section 15, Rule 39 of the Rules of Court rests on the party claiming lack thereof i.e., respondents.

In *Venzon v. Spouses Juan*,^[29] we declared that the judgment debtor, as herein respondents, alleging lack of compliance with the posting and publication requirements of the auction sale in accordance with the rules, is behooved to prove such allegation. We held, thus:

x x x. Whoever asserts a right dependent for its existence upon a negative, must establish the truth of the negative by a preponderance of the evidence. This must be the rule, or it must follow that rights, of which a negative forms an essential element, may be enforced without proof. Thus, whenever the [party's] right depends upon the truth of a negative, upon him is cast the onus probandi, except in cases where the matter is peculiarly within the knowledge of the adverse party.

It was error, therefore, for the trial court to hold that:

Defendants did not present evidence to rebut the "no notice" allegation of the plaintiff. Although in the defendant spouses' pre-trial brief, there is that general allegation that the auction sale was made in accordance with law, however, there is no showing in the record that the requirements with respect to publication/posting of notices were complied with by the defendants.

Deliberating on the absence of notice, the fact that the plaintiff did not come to know that Lot 12 was being subjected to an auction sale proves two things: one, that no notice was posted in the place where the property is located [and, two, that] there was no auction sale that took place on March 30, 1992. . . .

Further, the defendants, particularly defendant sheriff, who is the most competent person to testify that a written notice of sale was made and posted in accordance with law, was not presented to the witness stand. Neither was a document presented like Sheriff's Certificate of Posting to attest to the fact that a written notice of sale was posted before the property was allegedly sold at public auction. In fact, the record is silent as (to) where the auction sale was conducted.

By ruling in the foregoing manner, the trial court incorrectly shifted the plaintiff's burden of proof to the defendants. It is true that the fact of posting and publication of the notices is a matter "peculiarly within the knowledge" of the Deputy Sheriff. However, the trial court did not acquire jurisdiction over him, as he was not served with summons. At the time of the filing of the complaint, he was "no longer connected" with the Caloocan RTC, Branch 126, which issued the writ of execution. Hence, he could not testify in his own behalf.

x x x [T]he duty imposed by Section[18] (c) is reposed upon the sheriff, who is charged with the enforcement of the writ. Respondent spouses had a right to presume that he had regularly performed his duty. It was not incumbent upon them to present him as a witness for, in the absence of the sheriff, the burden to prove lack of posting and publication remained with petitioner.[30] (Emphasis supplied)

Respondents made no attempt to meet this burden of evidence, simply maintaining lack of notice of the entire proceedings (execution and issuance of a new title over the subject property) before the trial court.

We cannot subscribe to respondents' belated posturing. The disputable presumption that official duty has been regularly performed was not overcome by respondents.[31] The documents on record lead us to the inevitable conclusion that respondents had constructive, if not actual, notice of the execution proceedings from the issuance of the Writ of Execution, the levy on the subject property,[32] its subjection to execution sale, up to and until the proceedings in the RTC relating to the issuance of a new certificate of title over the subject property. Certainly, respondents are precluded from feigning ignorance of MFR (substituted by Reyes) staking a claim thereon.

There was substantial compliance with Section 15, Rule 39 of the Rules of Court: the documents in support thereof, i.e., the Certificate of Posting issued by Sheriff Legaspi and the Affidavit of Publication executed by the publisher of The Times Newsweekly, appear to be in order.[33] In this case, the purpose of giving notice through posting and publication under Section 15(c) of the same rule--to let the public know of the sale to the end that the best price or a better bid may be made possible to minimize prejudice to the judgment debtor--was realized.

Another thing militates against respondents' claim of lack of knowledge of the encumbrance on their property--the separate registrations of: (1) the Notice of Levy on TCT No. T-198753; (2) the Certificate of Sale.

In this jurisdiction, we adhere to the doctrine that registration in a public registry works as constructive notice to the whole world.[34] Section 51 of Act No. 496, as amended by Section 52 of Presidential Decree No. 1529, provides:

SECTION 52. Constructive notice upon registration.--Every conveyance, mortgage, lease, lien, attachment, order, judgment, instrument or entry affecting registered land shall, if registered, filed or entered in the Office of the Register of Deeds for the province or city where the land to which it relates lies, be constructive notice to all persons from the time of such registering, filing, or entering.

And, quite undeniably, respondents had constructive notice that their property is subject of execution proceedings arising from their judgment debt and in danger of forfeiture to their judgment creditor.

Respondents consistently flouted the judgment in Civil Case No. 1245-M, as amended by the Decision of the Court of Appeals in CA G.R. CV No. 37808, which became final and executory on December 1, 1997, by their utter failure to respond to the processes of the RTC in the execution proceedings despite their receipt of notice at each stage thereof. At the very least, respondents' attack on the validity of the execution proceedings, culminating in the execution sale of the subject property, is barred by laches.

Laches is the failure or neglect, for an unreasonable and unexplained length of time, to do that which by exercising due diligence could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it.[35] Laches thus operates as a bar in equity.[36]

We hearken to the time-honored rule anchored on public policy:

[R]elief will be denied to a litigant whose claim or demand has become "stale," or who has acquiesced for an unreasonable length of time, or who has not been vigilant or who has slept on his rights either by negligence, folly or inattention. In other words, public policy requires, for peace of society, the discouragement of claims

grown stale for non-assertion; thus laches is an impediment to the assertion or enforcement of a right which has become, under the circumstances, inequitable or unfair to permit.[37] (Emphasis supplied)

The records bear out that as of October 9, 1998, and on two occasions thereafter, December 10 & 28, 1998, Sheriff Legaspi served a copy of the Writ of Execution on respondents, and followed up thereon. With no action forthcoming from respondents, who are ostensibly evading payment of their judgment debt, the Sheriff correctly levied on the subject property. For more than five (5) years from the execution sale thereof, with respondents not exercising their right of redemption, up to the filing of a Motion, and subsequently, a Petition for the issuance of a new certificate of title over the property in Reyes' name, respondents made no effort to settle their judgment debt, much less, to ascertain the status of the execution proceedings against them and the levy on, and consequent sale of, their property. Truly significant is the fact that eight (8) years had lapsed, from the time respondents received a copy of the Writ of Execution in October 1998 until they, through their new counsel, filed the Opposition and Motion in May 2006, before respondents were prodded into action.

We find obvious respondents' brazen ploy to forestall and thwart the execution of a final and executory judgment against them. The death of their counsel, Atty. Sumawang, and their engagement of a new one, does not minimize the hard fact that respondents had notice of, not only the execution proceedings, but also, the proceedings on the issuance of a new title over the subject property. Yet, respondents did not act on any of these notices which were duly received by Atty. Sumawang. Respondents' Motion to nullify the execution proceedings, from the levy on the subject property and sale thereof, is an afterthought, a last-ditch effort to evade payment of their judgment debt. Their claim of ignorance of the execution proceedings flies in the face of the documents on record. This bare-faced claim cannot trump the disputable presumption that a person takes ordinary care of his concerns.[38] Consequently, respondents are estopped and barred from assailing the execution proceedings before the RTC.

Time and again, we have held that once a judgment becomes final and executory, the prevailing party should not be denied the fruits of his victory by some subterfuge devised by the losing party.[39] We completely agree with the RTC's disquisition, thus:

Finally, after [MFR] had filed the petition in question pursuant to and in compliance with the order of this court dated September 28, 2004, to which no answer or any responsive pleading was filed by respondents or thru their lawyer, as the latter was certainly notified of the proceedings in said petition, respondents cannot now assail said proceedings after keeping silent thereon for a long time, and if indeed there was neglect on the part of their lawyer in informing them of or in taking part in said proceedings, such negligence of their counsel binds them as client. There is likewise an evident lack of prudence and due diligence on the part of the respondents by their failure to inform this court of the withdrawal of their former counsel for a long period of time, and they cannot now, by feigning ignorance of the proceedings had in the petition in question, assail the same thru a new counsel. In other words, respondents cannot be allowed to keep silent on or refuse to participate in proceedings that they know were taking place in connection with a final judgment rendered against them and then suddenly, after said proceedings were long terminated, come to court to question the same through a new counsel. The respondents are clearly in estoppel. Also, the court finds no practical purpose and benefit in sustaining the theory posited by respondents which, aside from the reasons advanced earlier, will have no other effect than to further unduly delay the execution of a judgment that had long acquired finality.[40]

x x x x

Respondents are clearly estopped from assailing the proceedings in question by their failure or refusal to participate therein despite their or their counsel's knowledge thereof, and it would be unjust for the plaintiff to allow respondents to put in issue the validity of said proceedings at this late stage, thru another counsel, as they are bound by the action or inaction of their former counsel.[41]

The Court of Appeal's reliance on *Villaceran v. Beltejar*[42] is misplaced. *Villaceran* is an administrative case finding the Sheriff guilty of simple neglect of duty for failure to strictly comply with the rules on execution sale. We held therein that there was no substantial compliance by the Sheriff with Section 15(c), Rule 39 of the Rules of Court. Our declaration that "[n]o reason exists not to apply the principle in the extrajudicial foreclosure sales of real property (statutory requirements of posting and publication must be strictly complied with since non-compliance could constitute a jurisdictional defect that would invalidate the sale) to execution sales of real property under Rule 39 of the Rules of Court"[43] is an obiter which should not be definitive of the facts obtaining herein.

The facts of this case demonstrate respondents' stubborn refusal to comply with the judgment against them by claiming lack of notice of the execution proceedings. We reiterate that this claim is belied by the evidence on record and cannot invalidate the enforcement and execution of a final and executory judgment of this Court. On the whole, respondents' silence and inaction for eight (8) years from the time the subject property was validly levied upon by the RTC, bars them from claiming invalidity of the execution proceedings.

Notwithstanding the validity of the execution sale and Reyes' consolidation of ownership over the subject property upon the lapse of the redemption period, we hold that Section 107 of Presidential Decree No. 1529 contemplates the filing of a separate and original action before the RTC, acting as a land registration court.

Reyes argues that to require him to "file his petition in another court would unduly divest the RTC of its jurisdiction to enforce its final and executory decision." Reyes invokes our ruling in *Natalia Realty, Inc. v. Court of Appeals*[44] where we declared that "jurisdiction of the court to execute its judgment continues even after the judgment has become final for the purpose of enforcement of judgment." [45]

Reyes' reasoning is off tangent. *Natalia* is inapplicable because the execution proceedings in this case have been completed and was terminated upon the execution sale of the subject property. Reyes already consolidated ownership over the subject property; as owner, he has a right to have the same registered in his name. This transfer of title to the subject property in Reyes' name is no longer part of the execution proceedings: the fact of levy and sale constitutes execution, not so is the action for the issuance of a new title.[46]

Indeed, the subsequent filing of a separate and original action for the titling of the subject property in Reyes' name, no longer involves the execution of the judgment in Civil Case No. 1245-M.

Section 107 of the Property Registration Decree falls under PETITIONS AND ACTIONS AFTER ORIGINAL REGISTRATION, Chapter X thereof. The provision reads:

SECTION 107. Surrender of withhold duplicate certificates. - Where it is necessary to issue a new certificate of title pursuant to any involuntary instrument which divests the title of the registered owner against his consent or where a voluntary instrument cannot be registered by reason of the refusal or failure of the holder to surrender the owner's duplicate certificate of title, the party in interest may file a petition in court to compel surrender of the same to the Register of Deeds. The court, after hearing, may order the registered owner or any person withholding the duplicate certificate to surrender the same, and direct the entry of a new certificate or memorandum upon such surrender. If the person withholding the duplicate certificate is not amenable to the process of the court, or if not any reason the outstanding owner's duplicate certificate cannot be delivered, the court may order the annulment of the same as well as the issuance of a new certificate of title in lieu thereof. Such new certificate and all duplicates thereof shall contain a memorandum of the annulment of the outstanding duplicate.

That a succeeding registration of property in another's name, after its original registration, contemplates a separate original action is reinforced by our ruling in *Padilla v. Philippine Producers' Cooperative Marketing Association*,

Inc.[47] Answering the question: "In implementing the involuntary transfer of title of real property levied and sold on execution, is it enough for the executing party to file a motion with the court which rendered judgment, or does he need to file a separate action with the Regional Trial Court," we unequivocally declared, thus:

Petitioner is correct in assailing as improper respondent's filing of a mere motion for the cancellation of the old TCTs and the issuance of new ones as a result of petitioner's refusal to surrender his owner's duplicate TCTs.

Indeed, this called for a separate cadastral action initiated via petition.

Section 107 of PD 1529, formerly Section 111 of Act 496, provides:

x x x x

Respondent alleges that it resorted to filing the contested motion because it could not obtain new certificates of title, considering that petitioner refused to surrender his owner's duplicate TCTs. This contention is incorrect. The proper course of action was to file a petition in court, rather than merely move, for the issuance of new titles. This was the procedure followed in Blancaflor by Sarmiento Trading which was in more or less the same situation as the respondent in this case:

Petitioners reliance on prescription and laches is unavailing in this instance. It was proper for Sarmiento Trading Corporation to file a petition with the Court of First Instance of Iloilo, acting as a cadastral court, for the cancellation of TCT No. 14749 in the name of Gaudencio Blancaflor and the issuance of another in its name. This is a procedure provided for under Section 78 of Act No. 496 and Section 75 of PD No. 1529. . . .

Section 78 of Act 496 reads:

Sec. 78. Upon the expiration of the time, if any allowed by law for redemption after registered land has been sold on any execution, or taken or sold for the enforcement of any lien of any description, the person claiming under the execution or under any deed or other instrument made in the course of the proceedings to levy such execution or enforce any lien, may petition the court for the entry of a new certificate to him, and the application may be granted: Provided, however, That every new certificate entered under this section shall contain a memorandum of the nature of the proceeding on which it is based: Provided, further, That at any time prior to the entry of a new certificate the registered owner may pursue all his lawful remedies to impeach or annul proceedings under execution or to enforce liens of any description.

Section 75 of PD 1529 provides:

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, or 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 to him.

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

It is clear that PD 1529 provides the solution to respondent's quandary. The reasons behind the law make a lot of sense; it provides due process to a registered landowner (in this case the petitioner) and prevents the fraudulent or mistaken conveyance of land, the value of which may exceed the judgment obligation. x x x.

While we certainly will not condone any attempt by petitioner to frustrate the ends of justice – the only way to describe his refusal to surrender his owner's duplicates of the certificates of title despite the final and executory judgment against him – respondent, on the other hand, cannot simply disregard proper procedure for the issuance to it of new certificates of title. There was a law on the matter and respondent should have followed it.

In any event, respondent can still file the proper petition with the cadastral court for the issuance of new titles in its name.[48] (Emphasis supplied).

Plainly, Reyes must institute a separate cadastral action initiated via petition.

WHEREFORE, the petition is PARTLY GRANTED. The Decision of the Court of Appeals in CA G.R. SP No. 96913 annulling and setting aside the Orders dated July 17, 2006 and October 20, 2006 issued by the Regional Trial Court, Branch 7, Malolos, Bulacan in Civil Case No. 1245-M is MODIFIED:

1. The public auction sale of the subject property covered by TCT No. T-198753 on July 19, 1999 is declared VALID;
2. The Certificate of Sale issued by Sheriff Leovino Legaspi on July 19, 1999 in favor of MFR Farms, Inc. (substituted by petitioner Ruben C. Reyes) covering the parcel of land embraced in Transfer Certificate of Title No. T-198753 is likewise declared VALID; and
3. The Petition[49] dated October 29, 2004 filed by MFR Farms, Inc. (substituted by Ruben C. Reyes) is DISMISSED without prejudice to re-filing as a separate original action pursuant to Section 107 of Presidential Decree No. 1529.

SO ORDERED.

Carpio, (Chairperson), Brion, Sereno, and Reyes, JJ., concur.

[1] Penned by Associate Justice Sixto C. Marella, Jr. with Associate Justices Edgardo F. Sundiam (now deceased) and Rosalinda Asuncion-Vicente, concurring. Rollo pp. 45-63.

[2] Penned by Judge Danilo A. Manalastas dated July 17, 2006 and October 20, 2006, respectively; id. at 348-351.

[3] CA rollo, pp. 61-67.

[4] Rollo, p. 136.

[5] Under Rule 45 of the Rules of Court.

[6] CA rollo, p. 85.

[7] Id. at 87.

[8] Id. at 90-93.

[9] Id. at 90-93.

[10] Id. at 94.

[11] Rollo, pp. 137-138.

[12] Id. at 139-140.

[13] Id. at 142-143.

[14] Id. at 144.

[15] Id. at 147.

[16] Id. at 148-149.

[17] Id. at 150-153.

[18] SECTION 107. Surrender of withhold duplicate certificates. - Where it is necessary to issue a new certificate of title pursuant to any involuntary instrument which divests the title of the registered owner against his consent or where a voluntary instrument cannot be registered by reason of the refusal or failure of the holder to surrender the owner's duplicate certificate of title, the party in interest may file a petition in court to compel surrender of the same to the Register of Deeds. The court, after hearing, may order the registered owner or any person withholding the duplicate certificate to surrender the same, and direct the entry of a new certificate or memorandum upon such surrender. If the person withholding the duplicate certificate is not amenable to the process of the court, or if not any reason the outstanding owner's duplicate certificate cannot be delivered, the court may order the annulment of the same as well as the issuance of a new certificate of title in lieu thereof. Such new certificate and all duplicates thereof shall contain a memorandum of the annulment of the outstanding duplicate.

[19] Rollo, pp. 162-168.

[20] Id. at 177-179.

[21] Id. at 205.

[22] Id. at 206.

[23] Id.

[24] Id. at 213-230.

[25] Id. at 350.

[26] Id. at 351.

[27] Id. at 62-63.

[28] 495 Phil. 177 (2005).

[29] 471 Phil. 152 (2004).

[30] Id. at 161-162.

[31] Section 3(m), Rule 131 of the Rules of Court.

[32] Rollo, pp. 154-159.

[33] Id. at 144 and 147.

[34] "G" Holdings, Inc. v. National Mines and Allied Workers Union Local 103 (NAMAWU), G.R. No. 160236, October 16, 2009, 604 SCRA 73, 101.

[35] San Roque Realty and Development Corporation v. Republic of the Philippines (through the Armed Forces of the Philippines), G.R. No. 163130, September 7, 2007, 532 SCRA 493, 509.

[36] Isabela Colleges, Inc. v. The Heirs of Tolentino-Rivera, 397 Phil. 955, 969 (2000).

[37] Id. at 970.

[38] Section 3(d), Rule 131 of the Rules of Court.

[39] Natalia Realty, Inc. v. Court of Appeals, 440 Phil. 1, 28 (2002).

[40] Order dated July 17, 2006. Rollo, p. 351.

[41] Order dated October 20, 2006. Id. at 419.

[42] Supra note 28.

[43] Villaceran v. Beltejar, supra note 28 at 183-184.

[44] Supra note 39.

[45] Natalia Realty, Inc. v. Court of Appeals, supra note 39 at 22.

[46] Padilla, Jr. v. Philippine Producers' Cooperative Marketing Association, Inc., 502 Phil. 49, 56 (2005).

[47] Id.

[48] Id. at 56-59.

[49] MFR Farms Inc., petitioner, v. Tang Soat Ing, Andro G. Sy, and THE REGISTER OF DEEDS FOR BULACAN, respondents. CA rollo, pp. 104-107.

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