

CANDIDA PIANO, PETITIONER, VS. GENEROSA CAYANONG, REGALADO BELLONES AND FRANCISCO PILAPIL, RESPONDENTS.

G.R. No. 18603. February 28, 1963

Ponente: BARRERA, J.

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BARRERA, J.:

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The facts are stated in the decision of the Court of Appeals as follows:

"This is an appeal from the order of the Court of First Instance of Leyte dated Oct. 22, 1954, denying the defendant-appellant the right to redeem the property under litigation.

"On March 17, 1952, the plaintiffs commenced an action to foreclose a Mortgage executed by the defendant in favor of the plaintiffs upon a parcel of land situated at sitio Ipil, Margen, Ormoc City.

"On July 29, 1952, the parties-litigant submitted a compromise agreement on the strength of which the trial judge rendered the following decision:

'Los demandantes y la demandada ban sonetido la siguiente estipulacion:

" 'Come now, the undersigned plaintiffs and defendant of the above entitled case and to this Honorable Court respectfully allege:

""1. That the defendant admits the debt as embodied in the contract in the amount of Two Thousand Pesos (P2,000.00), Philippine Currency;

""2. That the defendant agrees to pay the amount of Four Hundred Pesos (P400.00) as costs and attorney's fees of this action and, expenses of litigation;

""3. That the defendant promises to pay the above amount within 30 days from promulgation of the judgment rendered by the court based on this compromise agreement;

""4. That the defendant agrees that, failure to pay said amount within 30 days, places at the disposal of the court said security for the satisfaction of the judgment.

""Wherefore, it is most respectfully prayed that judgment be rendered in accordance with the above mentioned agreement without costs."

'En su virtud, el Juzgado dicta sentencia condenando a la demandada Candida Piano a pagar a los demandantes

Generosa Cayanong y Regalado Bellones la suma de P2,000.00 como deuda, mas la cantidad de P400.00 como costas y honorarios de abogado dentro del plazo de noventa (90) dias a partir desde la fecha de este decision. Si dentro del referido plazo la demandada dejara de pagar la suma total de P2,400.00 mencionada, el juzgado ordenara que la parcela de terreno hipotecada, conocida como Lote No. 6272 parte del Catastro de Ormoc, ubicada en el sitio de Ipil, barrio de Margen, Ciudad de Ormoc, colindante por el Norte con los herederos de Cirilo Cabahug y Nemesio Maglasang; por el Sur, con Lazaro Aying; y por el Ceste, con los herederos del finado Manuel Martinez, amillarada a nombre de Candida Piano, se venda en subasta publica y que con el producto de la venta se pague la cantidad de P2,400.00 a los demandantes.'

"The defendant failed to pay the obligation within the period set by the court; so the property in question was sold at public auction on Jan. 30, 1952 (should be 1953) per order of the court, by the deputy sheriff of Maasin, Leyte, to the plaintiffs, they being the only bidders for P2,475. The certificate of sheriff's sale contained the provision that the said property is subject 'to redemption within one year from the date hereof in the manner provided by the law applicable to the case.' On March 11, 1953, the plaintiffs filed a motion for the confirmation of the sale executed by the sheriff, which was unopposed by the defendant. The sale was confirmed by the Court on March 21, 1953. Thereafter, the plaintiffs filed a petition for a writ of possession by virtue of such petition the court adjudicated possession to the plaintiffs on Aug. 15, 1953. On Aug. 20, 1953, the deputy clerk issued the writ of possession prayed for by the plaintiffs.

"On Jan. 26, 1954, the defendant deposited with the court the sum of P2,783.93, P2,772 of which was in the concept of redemption deposit to be delivered to Generosa Cayanong and her husband, and P11.93 for consignment fees. On the same day, the defendant filed a motion asking the court to order, the plaintiffs to make an accounting of all rents and/or profits of the said property for the period of their possession. On Feb. 14, 1954, the plaintiff filed with the court required verified accounting, and at the same time informed the court that on Jan. 27, 1954, in Albura, Leyte, a junior encumbrancer, Francisco Pilapil, had redeemed the property by paying them the amount of P2,772, one day after the defendant deposited with the court her redemption money. The instrument of redemption is Exh. I, Redemption of a Lien Holder of a Foreclosed Mortgage. The oppositor Francisco Pilapil, on Feb. 11, 1954 filed an opposition to the defendants' motion of Jan. 26, 1954, claiming that the property, subject of foreclosure, having been sold at a Judicial foreclosure sale, was not subject to redemption after the Judicial sale was confirmed, title thereto having been fully vested and consolidated in favor of Cayamong and Bellones, their assignees and successors-in-interest.

"A month later, the defendant filed another motion questioning the adequacy, of the accounting, filed by the plaintiff and reiterated her prayer for the reconveyance to her of the property in question; the oppositor and the plaintiffs filed their respective oppositions to this motion. On Oct. 22, 1954, the court a quo issued an order denying the defendant the right to redeem the property in dispute."

The first question raised in this appeal is whether the decision of the lower court based on the compromise agreement of the parties, is a judgment Tendered after trial within the contemplation of Section 2 of Rule 70 of the Rules of Court and the Constitution.

Petitioner argues that a judgment in a foreclosure of mortgage under said Section 2 of Rule 70 requires a trial on the merits before the property foreclosed shall be disposed by sale, but since the parties at bar submitted a compromise, agreement upon which the trial court rendered its decision, the same does not satisfy the requirement of the Constitution for failure to state the law and the facts of the case.

The contention is devoid of merit. The court a quo had no necessity of making a finding of facts, the parties having entered into a compromise agreement in order to terminate the suit between them. The agreement had

upon the parties the effect and authority of *res judicata* (Art. 2037, New Civil Code; *Ybleon vs. Sison*, 59 Phil. 281, 290; *Hernandez vs. Barcelon*, 23 Phil. 599, 607; *De Jesus vs. Go Quiolay*, 65 Phil. 476, 482; *Meneses vs. De la Rosa*, 77 Phil. 34, 38; *Salazar vs. Jarabe* 91 Phil., 596, 48 Off. Gaz. 2708, 2712; *Morales vs. Fontanos*, 64 Phil. 19, 21), and the judgment rendered thereon had the authority of *res judicata* from the moment it was rendered (*Meneses vs. De la Rosa*, supra; *Morales vs. Fontanos*, supra). In the absence of an objection to the agreement, it was the duty of the trial court to render judgment strictly in accordance with the terms of the agreement (*Cabrera vs. Lacson*, 71 Phil. 182), and such judgment is more than a mere contract binding the parties because having the sanction of the court, and entered as its determination of the controversy, it has all the force and effect of any other judgment, it being conclusive upon the parties and their privies (*Marquez, vs. Marquez*, 73 Phil. 74).

Petitioner, in further support of her contention cites the case of *Susaniada vs. Mata* (49 Off. Gaz., 77) where this court held that an agreement between the parties sanctioned by the court to adjust a litigation, does not have the effect of a final judgment or character of *res judicata*, because the court's approval of the agreement is considered mainly as an administrative recording of what has been agreed to between the parties.

The above cited case is not in point for the parties therein agreed "that the land to be taken by the plaintiff shall be segregated by a duly qualified surveyor" and this Court held that the "judgment was merely an interlocutory order because something had yet to be done, i.e., the segregation agreed upon, which together with the court's approval, will be the ones to give it finality". In the case at bar the decision of the lower court sentencing the petitioner to pay the amount she had agreed upon to pay was final and nothing else was to be done in order to make her liable for said payment. A judgment on a compromise is not appealable and is immediately executory unless a motion is filed to set aside the compromise on the ground of fraud, mistake, or duress in which event an appeal may be taken from the order denying the motion. (*De los Reyes vs. De Ugarte*, 75 Phil., 505; *Enriquez vs. Padilla*, 77 Phil. 373; *Serrano vs. Reyes*, 110 Phil., 536).

There being no motion to set aside the compromise agreement, we believe, and so hold, that inasmuch as the petitioner admitted her indebtedness and agreed to pay the attorneys fees and the entire obligation within 30 days from the promulgation of the judgment, and having further agreed that in case of default the security would be at the disposal of the court for the satisfaction of the judgment, the lower court did not have the necessity to make findings of fact, it being sufficient that the case was decided on the agreed compromise between the parties.

Petitioner next maintains that the decision of the trial court based upon the compromise agreement should be enforced by execution as an ordinary judgment under Rule 89 of the Rules of Court and not under Rule 70.[1] It is argued that Article 2037 of the New Civil Code on compromise agreements does not make any distinction between ordinary civil actions and foreclosure proceedings, and since the procedure under Rule 70 is strict, in that it grants only an equity of redemption of 90 days, whereas Rule 39 grants a one year period of redemption, the latter rule should prevail, the intention of the law apparently being to give clemency or leniency to the debtor who earnestly submits to a compromise and spares the court of a lengthy trial.

The contention is untenable. An examination of the complaint filed in the lower court will reveal that the action filed by the plaintiffs, respondents herein, is one for foreclosure of mortgage. It is a settled rule that the purpose of an action or suit and the law to govern it, including the period of prescription, are to be determined not by the claim of the party filing the action, made in his argument or brief, but rather by the complaint itself, its argument or brief, but rather by the complaint itself, its allegations and prayer for relief (*Rone vs. Claro*, 91 Phil., 250). The mere silence of Article 2037 (supra), as to whether the compromise refers to an ordinary civil action or a foreclosure proceeding, does not justify execution under Rule 39 when the case directly falls under Rule 70. No judgment rendered in an action for foreclosure of mortgage can be executed, otherwise than in the manner prescribed by the law on mortgages, for the reason that parties to an action are not authorized to change the

procedure which it prescribes. (*Diaz vs. Mendezona*, 43 Phil. 472, 478).

The petitioner also maintains that the appellate court erred in not considering the insertion made by the Sheriff in the certificate of sale providing for a one year period of redemption, as a permissible agreement between the parties who abide by said period, considering that the court a quo approved and confirmed the sale and respondents did not move to have said insertion stricken out.

The argument cannot be sustained. In a foreclosure of mortgage under Rules of Court, there is no right of redemption after the sale is confirmed (*Benedicto vs. Yulo*, 26 Phil. 160, 166), although there is an equity of redemption in favor of the mortgagor or junior encumbrancer, consisting in the right to redeem the mortgaged property within the 90 day period (*Sun Life Assurance Co. of Canada vs. Gonzales Diez*, 52 Phil. 271), or even thereafter, but before the confirmation of the sale (*Anderson vs. Reyes*, 54 Phil. 944; *Reymundo vs. Sunico*, 25 Phil. 365; *Griwalt vs. Velasquez*, 36 Phil. 936; *La Urbana vs. Belando*, 54, Phil. 930, 933). It is only in cases of foreclosures of mortgages in favor of banking and credit institutions (Sec. 76, General Banking Act [Rep. Act 337], to the Philippine National Bank (Acts No. 2747, and 2938), and in extrajudicial foreclosures (Act 3135, as amended by Act 4118), where, by express provision, the law allows redemption. In all other foreclosure cases, there is no legal redemption. The sheriff, therefore, has no authority to grant or insert a period of redemption in the certificate of sale, when the same is conducted pursuant to Rule 70 and, wanting in said authority, any insertion therein has no validity and effect. Once the judicial sale is confirmed by the court, the rights are vested in the purchaser (Sec. 3, Rule 70). From all that appears on the record, the insertion referred to is, as the appellate court correctly declared, "a surplusage and must be disregarded".

The petitioner also maintains that the Court of Appeals erred in not declaring null and void the entire certificate of sheriff's sale upon finding that the sheriff had no authority to embody in his certificate what is not in the substance of the decision. Petitioner cites the decisions of this Court in *Silvestre vs. Torres* (57 Phil. 885) and *Velez vs. Martinez* (63 Phil., 23) wherein we held in effect that a writ of execution not warranted by the decision or judgment which gives life or cause to exist has no validity.

The cases cited are not in point because the writs of execution totally set aside there were against persons not parties to the action and hence the writs' invalidity is as a whole. The certificate of sale involved in this present appeal is in complete accordance with the judgment of the court and the writ of execution, the only defect being the unauthorized insertion of the period of redemption.

It is also petitioner's contention that the one year period of redemption in the certificate of sale duly approved by the trial court constituted a repeated assurance of the right of petitioner to redeem within the year and should have been considered as a "special circumstance" to allow the redemption beyond the period fixed by law, applying by analogy the doctrines in *Lichauco vs. Olegario* (43 Phil. 540); *Rivero vs. Rivera*, (80 Phil. 802); *Alberto vs. De los Santos* (81 Phil. 52); *Facundo vs. Provincial Sheriff of Mindoro*, (CA G.R. No. 421-R, February 28, 1950); and *Bautista vs. Ago* (CA-57 O.G. 4927).

The contention is untenable. The cases cited are not applicable. In *Lichauco vs. Olegario* (supra), a period of redemption existed and was interrupted when the execution debtor wanted to prevent it by executing on the right to redeem, and this Court, considering the legal proceedings therein as special circumstance, extended the period of redemption. In the present case, being a judicial foreclosure of mortgage, there is no period of redemption, or legal proceedings or interruption thereof. On the other hand, the decisions in *Rivero vs. Rivero* (supra), and *Alberto vs. De los Santos*, (supra), far from supporting petitioner's case militate against it, for in these two cases, this Court declared that the fundamental reason underlying statutes providing for the suspension or extension of the period of limitation is the legal or physical impossibility for the interested party to enforce or exercise in time

his right of action. In the case at bar, the one year period of redemption erroneously included by the sheriff did not constitute a legal or physical impossibility for herein petitioner to pay the indebtedness and redeem the property before the confirmation of the sale, because the one year redemption period erroneously inserted in the certificate of sale would, if proper, commence to take only after the confirmation. Obviously this after effect could not be said to have impeded, legally or physically, what should have been accomplished before.

In view of the above conclusions we have arrived at, we find it unnecessary to pass upon the other errors assigned by the parties in their brief.

Finding no error in the decision appealed from the same is hereby affirmed, with costs against petitioner. So ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Paredes, Dizon, Regala, and Makalintal, JJ., concur.

[1] A compromise agreement has upon the parties the effect and authority of res judicata; but there shall be no execution except in compliance with a judicial compromise.

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