

ENRICO S. EULOGIO AND NATIVIDAD V. EULOGIO, PETITIONERS, VS. PATERNO C. BELL, SR., ROGELIA CALINGASAN-BELL, PATERNO WILLIAM BELL, JR., FLORENCE FELICIA VICTORIA BELL, PATERNO FE...

G.R. No. 186322. July 08, 2015

Ponente: SERENO, C.J.

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SERENO, C.J.:

This is a Petition for Review on Certiorari assailing the Court of Appeals (CA) Decision[1] in CA-G.R. SP No. 87531 which granted the Petition for Certiorari filed by respondents and enjoined the execution sale of their family home for the satisfaction of the money judgment awarded to petitioners in Civil Case No. 4581, and the Resolution[2] which denied petitioners' Motion for Reconsideration.

Antecedent Facts

Respondents Paterno William Bell, Jr., Florence Felicia Victoria Bell, Paterno Ferdinand Bell III, and Paterno Benerano IV (the Bell siblings) are the unmarried children of respondent Spouses Paterno C. Bell and Rogelia Calingasan-Bell (Spouses Bell). In 1995, the Bell siblings lodged a Complaint for annulment of documents, reconveyance, quieting of title and damages against petitioners Enrico S. Eulogio and Natividad Eulogio (the Eulogios). It was docketed as Civil Case No. 4581 at the Regional Trial Court (RTC) of Batangas City, Branch 84. The Complaint sought the annulment of the contract of sale executed by Spouses Bell over their 329-square-meter residential house and lot, as well as the cancellation of the title obtained by petitioners by virtue of the Deed.

The RTC granted respondents' prayers, but declared Spouses Bell liable to petitioners in the amount of P1 million plus 12% interest per annum. The dispositive portion of the Decision dated 15 July 1998 reads as follows:

WHEREFORE, prescinding from all the foregoing, the Court hereby declares:

1. That the sale of the subject house and lot under Deed of Sale marked as Exhibit "F" is only an equitable mortgage in favor of the defendants Enrico Eulogio and Natividad Eulogio. However, the mortgage cannot bind the property in question for being violative of Chapter 2, Title 4 of the Family Code, its encumbrance not having been consented to in writing by a majority of the beneficiaries who are the plaintiffs herein;
2. The said equitable mortgage is deemed to be an unsecured mortgage [sic] for which the Spouses Paterno C. Bell, Sr. and Rogelia Calingasan Bell as mortgagors are liable to the defendants-spouses Enrico Eulogio and Natividad Eulogio in the amount of P1,000,000 plus interest of 12% per annum. However, under the Fourth Party Complaint Sps. Paterno C. Bell, Sr. and Rogelia Calingasan Bell have the right of reimbursement from fourth party defendants Nicolas Moraña and Julieta Moraña for whom their loan of P1,000,000 was secured by Sps. Paterno C. Bell, Sr. and Rogelia Calingasan Bell. Accordingly, the fourth party defendants Nicolas Moraña and Julieta Moraña are hereby ordered to reimburse Paterno C. Bell, Sr. and Rogelia Calingasan Bell the loan of P1,000,000 plus interest of 12% per annum to be paid by the latter to defendants Enrico and

Natividad Eulogio;

3. The house and lot in question is free from any and all encumbrances by virtue of said equitable mortgage or the purported sale; and

4. The Deed of Sale (Exhibit "F") is null and void for being contrary to law and public policy.

Accordingly, (1) the Register of Deeds of Batangas City is hereby ordered to cancel Transfer Certificate of Title No. T-131472 in the name of defendants Enrico S. Eulogio and Natividad Eulogio and to re-constitute (sic) Transfer Certificate of Title No. RT-680-(5997) as "family home" of the plaintiffs Florence Felicia Victoria C. Bell, Paterno William C. Bell Jr., Paterno Ferdinand C. Bell III, Paterno Benerano C. Bell IV and fourth party plaintiffs Paterno C. Bell Sr. and Rogelia Calingasan Bell; or in the alternative to issue a new Transfer Certificate of Title under the same tenor;

2. The City Assessor of Batangas City is hereby directed to issue a tax declaration covering the said subject property as family home for the said plaintiffs and fourth party plaintiffs Paterno C. Bell and Rogelia Calingasan Bell; and

3. Defendants Enrico Eulogio and Natividad Eulogio are ordered to pay the plaintiffs attorney's fees and litigation expenses of P35,000.00, as the plaintiffs have been compelled to litigate to protect their property rights, and costs.[3]

Both petitioners and respondents appealed to the CA, but the trial court's Decision was affirmed en toto. Spouses Bell later brought the case to this Court to question their liability to petitioners in the amount of P1 million plus interest. The Court, however, dismissed their Petition for failure to show any reversible error committed by the CA.[4] Thereafter, entry of judgment was made.[5]

On 9 June 2004 the RTC issued a Writ of Execution, as a result of which respondents' property covered by the newly reconstituted Transfer Certificate of Title (TCT) No. 54208 [formerly RT-680 (5997)] was levied on execution. Upon motion by respondents, the trial court, on 31 August 2004, ordered the lifting of the writ of execution on the ground that the property was a family home.[6]

Petitioners filed a Motion for Reconsideration of the lifting of the writ of execution. Invoking Article 160 of the Family Code, they posited that the current market value of the property exceeded the statutory limit of P300,000 considering that it was located in a commercial area, and that Spouses Bell had even sold it to them for P1 million.[7]

The RTC, on 13 October 2004, set the case for hearing to determine the present value of the family home of respondents. It also appointed a Board of Appraisers to conduct a study on the prevailing market value of their house and lot.[8]

Respondents sought reconsideration of the above directives and asked the RTC to cite petitioners for contempt because of forum-shopping.[9] They argued that petitioners' bid to determine the present value of the subject property was just a ploy to re-litigate an issue that had long been settled with finality.

The RTC, however, denied the Motion for Reconsideration[10] of respondents and directed the commissioners to canvass prospective buyers of their house and lot.[11]

On 23 November 2004, respondents filed a Petition for Certiorari and Injunction before the CA,[12] where it was docketed as CA-G.R. SP No. 87531.

Subsequently, the RTC issued on 25 November 2004 an Order[13] dispensing with the valuation report of the commissioners and directing the issuance of a writ of execution. Consequently, respondents filed before the CA a

Supplemental Petition with an urgent prayer for a temporary restraining order.[14]

The CA eventually enjoined[15] the execution sale set on 22 December 2004[16] by the RTC.

On 31 July 2008, the CA rendered its Decision granting respondents' Petition for Certiorari, but it rejected their theory that *res judicata* had already set in.

The appellate court ruled that the RTC Decision, which had become final and executory, only declared respondents' house and lot as a family home. Since the issue of whether it may be sold in execution was incidental to the execution of the aforesaid Decision, there was as yet no *res judicata*.

Still, the CA found that the trial court committed grave abuse of discretion in ordering the execution sale of the subject family home after finding that its present value exceeded the statutory limit. The basis for the valuation of a family home under Article 160, according to the appellate court, is its actual value at the time of its constitution and not the market/present value; therefore, the trial court's order was contrary to law.[17]

On 09 February 2009,[18] the CA denied petitioners' Motion for Reconsideration. Hence, this Petition.

Issues

The issues to be resolved are: (1) whether petitioners are guilty of forum-shopping; (2) whether a hearing to determine the value of respondents' family home for purposes of execution under Article 160 of the Family Code is barred under the principle of *res judicata*; and (3) whether respondents' family home may be sold on execution under Article 160 of the Family Code.

The Court's Ruling

The Court denies the Petition for lack of merit.

Petitioners are not guilty of forum-shopping.

Forum shopping can be committed in three ways: (1) by filing multiple cases based on the same cause of action and with the same prayer, the previous case not having been resolved yet (where the ground for dismissal is *litis pendentia*); (2) by filing multiple cases based on the same cause of action and with the same prayer, the previous case having been finally resolved (where the ground for dismissal is *res judicata*); and (3) by filing multiple cases based on the same cause of action but with different prayers, or by splitting of causes of action (where the ground for dismissal is also either *litis pendentia* or *res judicata*).[19]

The essence of forum shopping is the filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment through means other than by appeal or certiorari.[20] Forum shopping does not apply to cases that arise from an initiatory or original action that has been elevated by way of appeal or certiorari to higher or appellate courts or authorities. This is so because the issues in the appellate courts necessarily differ from those in the lower court, and the appealed cases are but a continuation of the original case and treated as only one case.[21]

Respondents contend that the Decision in Civil Case No. 4581, which declared that property in dispute was a family home, had long attained finality. Accordingly, respondents maintain that petitioners' bid to re-litigate the present value of the property in the course of the execution proceedings is barred by *res judicata*, and that petitioners should be cited for contempt of court because of forum-shopping.[22]

Recall that although the trial court had nullified the Deed of Sale over respondents' family home in Civil Case No. 4581 for lack of a written consent from its beneficiaries as required under Article 158 of the Family Code,[23] the court still recognized the validity of the transaction as an unsecured loan. Hence, it declared Spouses Bell liable to

petitioners in the amount of P1 million plus 12% interest per annum.

Petitioners' bid to satisfy the above judgment cannot be considered an act of forum shopping. Simply, the execution of a decision is just the fruit and end of a suit and is very aptly called the life of the law.[24] It is not separate from the main case. Similarly, the filing of the instant Petition as a continuation of the execution proceedings does not constitute forum shopping. Seeking a reversal of an adverse judgment or order by appeal or certiorari does not constitute forum shopping. Such remedies are sanctioned and provided for by the rules.[25]

Indeed, as will be presently discussed, the causes of action in the main proceedings in Civil Case No. 4581 and the consequent execution proceedings are identical. Suffice it to say, however, that the danger of a multiplicity of suits upon one and the same cause of action, which the judicial policy against forum shopping seeks to prevent, does not exist in this case.

Re-litigating the issue of the value of

respondents' family home is barred

by res judicata.

Res judicata (meaning, a "matter adjudged") is a fundamental principle of law that precludes parties from re-litigating issues actually litigated and determined by a prior and final judgment.[26] Under the 1997 Rules of Court, there are two aspects of res judicata, namely: bar by prior judgment[27] and conclusiveness of judgment.[28]

There is "bar by prior judgment" when, as between the first case in which the judgment has been rendered and the second case that is sought to be barred, there is an identity of parties, subject matter, and causes of action. In this instance, the judgment in the first case constitutes an absolute bar to the second action. The judgment or decree on the merits of the court of competent jurisdiction concludes the litigation between the parties, as well as their privies, and constitutes a bar to a new action or suit involving the same cause of action before the same or any other tribunal.[29]

On the other hand, there is "conclusiveness of judgment" where there is an identity of parties in the first and second cases, but no identity of causes of action. Under this rule, the first judgment is conclusive only as to those matters actually and directly controverted and determined and not as to matters merely involved therein. Stated differently, any right, fact, or matter in issue directly adjudicated or necessarily involved in the determination of an action before a competent court in which judgment is rendered on the merits is conclusively settled by the judgment therein and cannot again be litigated between the parties and their privies whether or not the claim, demand, purpose, or subject matter of the two actions is the same.[30]

In this case, the trial court's final decision in Civil Case No. 4581 bars petitioners' move to have the property in dispute levied on execution.

There is no question that the main proceedings in Civil Case No. 4581 and the subsequent execution proceedings involved the same parties[31] and subject matter.[32] For these reasons, respondents argue that the execution sale of the property in dispute under Article 160 of the Family Code is barred by res judicata, since the trial court has already determined that the value of the property fell within the statutory limit.

The CA held that the trial court's Decision, which is indisputably final, only settled the issue of whether the property in dispute was a family home. The CA ruled thus:

We rule that there is no res judicata.

At the outset, let it be emphasized that the decision of the trial court dated July 15, 1998, which has become final and executory, only declares the subject property as a family home. As a matter of fact, private respondents never questioned that such property is a family home, and consequently, the issue as to whether or not the property is family home is settled and res judicata lies only with respect to this issue.

But the issue as to whether or not a family home could be the subject of an execution sale was not resolved by the trial court. This issue[was] raised only when the writ of execution was issued and hence, [was not] resolved with finality. Thus, the issue before this Court is whether or not the [f]amily [h]ome of petitioners under the facts and circumstances of the case could be the subject of a writ of execution and sold at public auction.[33]

The Court disagrees with the CA.

"Cause of action" is the act or omission by which a party violates the right of another.[34] It may be argued that the cause of action in the main proceedings was the sale of the property in dispute, while in the execution proceedings it was the indebtedness of Spouses Bell to petitioners.

The settled rule, however, is that identity of causes of action does not mean absolute identity. Otherwise, a party could easily escape the operation of res judicata by changing the form of the action or the relief sought.[35] The test to determine whether the causes of action are identical is to ascertain whether the same evidence will sustain both actions, or whether there is an identity of the facts essential to the maintenance of the two actions. If the same facts or evidence would sustain both, the two actions are considered the same, and a judgment in the first case would be a bar to the subsequent action. Hence, a party cannot, by varying the form of action or adopting a different method of presenting the case, escape the operation of the principle that one and the same cause of action shall not be twice litigated between the same parties or their privies.[36]

Among several tests resorted to in ascertaining whether two suits relate to a single or common cause of action are: (1) whether the same evidence would support and sustain both the first and the second causes of action; and (2) whether the defenses in one case may be used to substantiate the complaint in the other. Also fundamental is the test for determining whether the cause of action in the second case existed at the time of the filing of the first complaint.[37]

Applying the above guidelines, the Court finds that the entirety of Civil Case No. 4581 - including the bid of petitioners to execute the money judgment awarded to them by the trial court - is founded on a common cause of action. Records show that the sole evidence submitted by petitioners during the execution proceedings was the Deed of Sale, which the trial court had nullified in the main proceedings. Concomitantly, the very same defense raised by petitioners in the main proceedings, i.e., that they had bought the property from Spouses Bell for P1 million - was utilized to substantiate the claim that the current value of respondents' family home was actually P1 million. In fact, the trial court's order for respondents' family home to be levied on execution was solely based on the price stated in the nullified Deed of Sale.

Res judicata applies, considering that the parties are litigating over the same property. Moreover, the same contentions and evidence advanced by the petitioners to substantiate their claim over respondents' family home have already been used to support their arguments in the main proceedings.

Any lingering doubt on the application of res judicata to this case should be put to rest by the trial court's discussion of the nature and alienability of the property in dispute, to wit:

The second issue is about the allegation of the plaintiffs that the family home which has been constituted on the house and lot in question is exempt from alienation and that its value does not exceed P300,000. Paterno Bell, Sr. testified that the two-storey house was built in 1947 and was made of wood and hollow blocks. He inherited it in 1976 from his parents and has been living there with his family. In 1976, when an extra-judicial

settlement was made of the estate of his parents, the fair market value of the house was P70,000.

City Assessor Rodezinda Pargas testified and presented Tax Declaration and others, (Exhibit "J", Tax Declaration No. 005-047) beginning 1985 showing that the subject lot with an area of 329 sq. m. had a fair market value of P76,000.00 and the residential house located thereon of P50,000.00, for a total value of P126,000.00. She testified that during the prior years the assessed values were lower. This shows that the limit of the value of P300,000.00 under Article 157, Title 5 of the Family Code has not been exceeded. The testimonies of the plaintiffs who are children of Sps. Paterno Bell, Sr. and Rogelia Calingasan Bell show that they had lived in that house together with their said parents. The Court therefore concludes that the said house is a family home under Chapter 2, Title 5 of the Family Code. Its alienation by the said Spouses without the written consent of the majority of the children/plaintiffs is null and void for being contrary to law and public policy as enunciated in Art. 158 of the Family Code.[38] [Underscoring supplied]

The foregoing points plainly show that the issue of whether the property in dispute exceeded the statutory limit of P300,000 has already been determined with finality by the trial court. Its finding necessarily meant that the property is exempt from execution. Assuming for the sake of argument that causes of action in the main proceedings and in the execution proceedings are different, the parties are still barred from litigating the issue of whether respondents' family home may be sold on execution sale under the principle of conclusiveness of judgment.

Respondents' family home cannot be
sold on execution under Article 160
of the Family Code.

Unquestionably, the family home is exempt from execution as expressly provided for in Article 153 of the Family Code.[39]

It has been said that the family home is a real right that is gratuitous, inalienable and free from attachment.[40] The great controlling purpose and policy of the Constitution is the protection or the preservation of the homestead - the dwelling place. A houseless, homeless population is a burden upon the energy, industry, and morals of the community to which it belongs. No greater calamity, not tainted with crime, can befall a family than to be expelled from the roof under which it has been gathered and sheltered.[41] The family home cannot be seized by creditors except in special cases.[42]

The nature and character of the property that debtors may claim to be exempt, however, are determined by the exemption statute. The exemption is limited to the particular kind of property or the specific articles prescribed by the statute; the exemption cannot exceed the statutory limit.[43]

Articles 155 and 160 of the Family Code specify the exceptions mentioned in Article 153, to wit:

ARTICLE 155. The family home shall be exempt from execution, forced sale or attachment except:

- (1) For nonpayment of taxes;
- (2) For debts incurred prior to the constitution of the family home;
- (3) For debts secured by mortgages on the premises before or after such constitution; and
- (4) For debts due to laborers, mechanics, architects, builders, materialmen and others who have rendered service or furnished material for the construction of the building.

ARTICLE 160. When a creditor whose claims is not among those mentioned in Article 155 obtains a judgment

in his favor, and he has reasonable grounds to believe that the family home is actually worth more than the maximum amount fixed in Article 157, he may apply to the court which rendered the judgment for an order directing the sale of the property under execution. The court shall so order if it finds that the actual value of the family home exceeds the maximum amount allowed by law as of the time of its constitution. If the increased actual value exceeds the maximum allowed in Article 157 and results from subsequent voluntary improvements introduced by the person or persons constituting the family home, by the owner or owners of the property, or by any of the beneficiaries, the same rule and procedure shall apply.

At the execution sale, no bid below the value allowed for a family home shall be considered. The proceeds shall be applied first to the amount mentioned in Article 157, and then to the liabilities under the judgment and the costs. The excess, if any, shall be delivered to the judgment debtor.

Related to the foregoing is Article 157 of the Family Code, which provides:

ARTICLE 157. The actual value of the family home shall not exceed, at the time of its constitution, the amount of three hundred thousand pesos in urban areas, and two hundred thousand pesos in rural areas, or such amounts as may hereafter be fixed by law.

In any event, if the value of the currency changes after the adoption of this Code, the value most favorable for the constitution of a family home shall be the basis of evaluation.

For purposes of this Article, urban areas are deemed to include chartered cities and municipalities whose annual income at least equals that legally required for chartered cities. All others are deemed to be rural areas. [Underscoring supplied]

The minutes of the deliberation by the drafters of Family Code on Article 160 are enlightening, to wit:

Justice Puno inquired if the above Article [160] is still necessary. In reply, Judge Diy opined that the above Article is intended to cover a situation where the family home is already worth P500,000 or P1M. Justice Reyes stated that it is possible that a family home, originally valued at P300,000, later appreciated to almost P1M because of improvements made, like roads and plazas. Justice Caguioa, however, made a distinction between voluntary and involuntary improvements in the sense that if the value of the family home exceeded the maximum amount because of voluntary improvements by the one establishing the family home, the Article will apply; but if it is through an involuntary improvement, like the conversion into a residential area or the establishment of roads and other facilities, the one establishing the family home should not be punished by making his home liable to creditors. He suggested that the matter be clarified in the provision.

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Prof. Bautista objected to the phrase "is worth" since if they will specify that the family home is worth more than the maximum amount at the time it was constituted, they will avoid the suit because the creditor will be given proper warning. Justice Puno opined that this is a question of fact. Justice Caguioa added that, under the second sentence, there will be a preliminary determination as to whether the family home exceeds the maximum amount allowed by law.

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Justice Caguia accordingly modified the last sentence as follows:

If the excess in actual value over that allowed in Article 157 is due to subsequent voluntary improvements by the person or persons constituting the family home or by the owner or owners of the property, the same rules and procedure shall apply.

Prof. Bautista objected to the above provision, because it will in effect penalize the owner for improving the family home. On the other hand, Justice Puno opined that the provision covers only the excess in actual value

over that allowed by law. Judge Diy added that the owner may improve the family home up to P300,000. Justice Caguioa stated that without the above provision, one can borrow money, put it all on improvement of the family home even beyond the maximum value of a family home and, thereby, exempt it from levy on the part of the creditor. He added that anyway, if one voluntarily improves his family home out of his money, nobody can complain because there are no creditors.

Justice Puno posed the question: What is "due to the subsequent improvement?" Is it the "excess" or is it the "increase", or is it the "increase", which constitutes the "excess"? In reply, Justice Reyes opined that it is the "increase" which constituted the "excess". Justice Puno, Justice Reyes and Justice Caguioa modified the last sentence as follows:

If the increase in actual value exceeds that maximum allowed in Article 157 and results from subsequent voluntary improvements introduced by the person or persons constituting the family home or by the owner or owners of the property, the same rule and procedure shall apply.

Prof. Bautista commented that the phrase "increase in actual value" does not include the original value. Justice Puno suggested that they just say "increased actual value", which the Committee approved.[44] [Underscoring supplied]

To summarize, the exemption of the family home from execution, forced sale or attachment is limited to P300,000 in urban areas and P200,000 in rural areas, unless those maximum values are adjusted by law. If it is shown, though, that those amounts do not match the present value of the peso because of currency fluctuations, the amount of exemption shall be based on the value that is most favorable to the constitution of a family home. Any amount in excess of those limits can be applied to the payment of any of the obligations specified in Articles 155 and 160.

Any subsequent improvement or enlargement of the family home by the persons constituting it, its owners, or any of its beneficiaries will still be exempt from execution, forced sale or attachment provided the following conditions obtain: (a) the actual value of the property at the time of its constitution has been determined to fall below the statutory limit; and (b) the improvement or enlargement does not result in an increase in its value exceeding the statutory limit.[45] Otherwise, the family home can be the subject of a forced sale, and any amount above the statutory limit is applicable to the obligations under Articles 155 and 160.

Certainly, the humane considerations for which the law surrounds the family home with immunities from levy do not include the intent to enable debtors to thwart the just claims of their creditors.[46]

Petitioners maintain that this case falls under the exceptions to the exemption of the family home from execution or forced sale. They claim that the actual value of respondents' family home exceeds the P300,000 limit in urban areas. This fact is supposedly shown by the Deed of Sale whereby private respondents agreed to sell the property for P1 million way back in 1995. Therefore, the RTC only properly ordered the execution sale of the property under Article 160 to satisfy the money judgment awarded to them in Civil Case No. 4581.[47]

As earlier discussed, it has been judicially determined with finality that the property in dispute is a family home, and that its value at the time of its constitution was within the statutory limit. Moreover, respondents have timely claimed the exemption of the property from execution.[48] On the other hand, there is no question that the money judgment awarded to petitioners falls under the ambit of Article 160.

Notwithstanding petitioners' right to enforce the trial court's money judgment, however, they cannot obtain its satisfaction at the expense of respondents' rights over their family home. It is axiomatic that those asserting the protection of an exception from an exemption must bring themselves clearly within the terms of the exception and

satisfy any statutory requirement for its enforcement.[49]

To warrant the execution sale of respondents' family home under Article 160, petitioners needed to establish these facts: (1) there was an increase in its actual value; (2) the increase resulted from voluntary improvements on the property introduced by the persons constituting the family home, its owners or any of its beneficiaries; and (3) the increased actual value exceeded the maximum allowed under Article 157.

During the execution proceedings, none of those facts was alleged - much less proven - by petitioners. The sole evidence presented was the Deed of Sale, but the trial court had already determined with finality that the contract was null, and that the actual transaction was an equitable mortgage. Evidently, when petitioners and Spouses Bell executed the Deed of Sale in 1990, the price stated therein was not the actual value of the property in dispute.

The Court thus agrees with the CA's conclusion that the trial court committed grave abuse of discretion in ordering the sale on execution of the property in dispute under Article 160. The trial court had already determined with finality that the property was a family home, and there was no proof that its value had increased beyond the statutory limit due to voluntary improvements by respondents. Yet, it ordered the execution sale of the property. There is grave abuse of discretion when one acts in a capricious, whimsical, arbitrary or despotic manner in the exercise of one's judgment, as in this case in which the assailed order is bereft of any factual or legal justification.[50]

WHEREFORE, the Petition for Review on Certiorari is hereby DENIED for lack of merit. Accordingly, the Decision of the Court of Appeals in CA-G.R. SP No. 87531, enjoining the trial court from proceeding with the sale of the family home of respondents, is AFFIRMED.

SO ORDERED.

Leonardo-De Castro, Bersamin, Perez, and Perlas-Bernabe, JJ., concur.

[1] Rollo, pp. 31-45; penned by Associate Justice Monina Arevalo-Zenarosa with Associate Justices Regalado E. Maambong and Normandie B. Pizarro concurring.

[2] Id. at 46-47; penned by Associate Justice Monina Arevalo-Zenarosa with Associate Justices Japar B. Dimaampao and Normandie B. Pizarro concurring.

[3] CA rollo, pp. 85-86.

[4] Id. at 87.

[5] Id. at 35.

[6] Id. at 11-12.

[7] Id. at 48-51.

[8] Id. at 36.

[9] Id. at 56-61.

[10] Id. at 37.

[11] Id. at 38.

[12] Id. at 2-90.

[13] Id. at 112.

[14] Id. at 98-112.

[15] Id. at 92-97 (Temporary Restraining Order dated 21 December 2004), 141-146 (Writ of Preliminary Injunction dated 23 February 2005).

[16] Id. at 139-140.

[17] Id. at 43.

[18] Rollo, pp. 46-47.

[19] Sps. Villanueva v. Court of Appeals, G.R. No. 163433, 22 August 2011, 655 SCRA 707.

[20] Saludaga v. COMELEC, G.R. Nos. 189431 & 191120, 7 April 2010, 617 SCRA 601; Duvaz Corp. v. Export and Industry Bank, 551 Phil. 382 (2007).

[21] Guy v. Asia United Bank, 561 Phil. 103 (2007).

[22] Rollo, pp. 104-115 (respondents' Memorandum).

[23] Executive Order No. 209 (As Amended), Article 158, provides:

ARTICLE 158. The family home may be sold, alienated, donated, assigned or encumbered by the owner or owners thereof with the written consent of the person constituting the same, the latter's spouse, and a majority of the beneficiaries of legal age. In case of conflict, the court shall decide.

[24] Cabang v. Sps. Basay, G.R. No. 180587, 20 March 2009, 582 SCRA 172.

[25] See Duvaz Corp. v. Export and Industry Bank, *supra* note 20.

[26] Puerto Azul Land, Inc. v. Pacific Wide Realty Development Corp., G.R. No. 184000, 17 September 2014, citing Union Bank of the Phil. v. ASB Development Corp., 582 Phil. 559, 579 (2008).

[27] RULES OF COURT, Rule 39, Section 47(b).

[28] RULES OF COURT, Rule 39, Section 47(c).

[29] Oropeza Marketing Corp. v. Allied Banking Corp., G.R. No. 129788, 3 December 2002, 393 SCRA 278.

[30] *Supra*.

[31] In Estate of Don Filemon Y. Sotto v. Palicte, G.R. No. 158642, 22 September 2008, 566 SCRA 142, the Court has explained that "there is identity of parties not only when the parties in the case are the same, but also between those in privity with them, such as between their successors-in-interest. Absolute identity of parties is not required, and where a shared identity of interest is shown by the identity of relief sought by one person in a prior case and the second person in a subsequent case, such was deemed sufficient."

[32] In Sps. Ley v. Union Bank of the Philippines, 549 Phil 168 (2007), the Court has defined the subject matter of a case as "the item with respect to which the controversy has arisen, or concerning which the wrong has been done, and it is ordinarily the right, the thing, or the contract under dispute."

[33] CA rollo, pp. 39-40.

[34] RULES OF COURT, Rule 2, Sec. 2.

[35] *Pilar Development Corp. v. Court of Appeals*, G.R. No. 155943, 13 August 2013.

[36] *Yap v. Chua*, G.R. No. 186730, 13 June 2012, 672 SCRA 419.

[37] *Supra*.

[38] CA rollo, p. 84.

[39] Executive Order No. 209 (As Amended), Article 153, provides:

ARTICLE 153. The family home is deemed constituted on a house and lot from the time it is occupied as a family residence. From the time of its constitution and so long as any of its beneficiaries actually resides therein, the family home continues to be such and is exempt from execution, forced sale or attachment except as hereinafter provided and to the extent of the value allowed by law.

[40] *Taneo v. Court of Appeals*, 363 Phil 652 (1999).

[41] *Gomez v. Gealone*, G.R. No. 58281, 13 November 1991, 203 SCRA 474, citing *Young v. Olivarez*, 41 Phil. 391, 395 (1921).

[42] *Supra* note 37.

[43] 35 C.J.S. Exemption §26, at 44 (1943).

[44] Minutes of the 179th Meeting of the Civil Code and Family Law Committees held on Saturday, 4 April 1987, 9:00 a.m. at the First Floor Conference Room of Bocobo Hall, U.P. Law Complex, pp. 29-32.

[45] 40 Am. Jur. 2d, Homestead §40, at 285-286 (1999).

If the homestead property is less in amount or value than that which has been specified by the statute, it may be enlarged until it has reached the statutory quantity or value. Where a house and lot are duly selected and declared a homestead, the subsequent erection of an additional dwelling house on the lot does not vitiate the homestead or render any part of its subject to seizure and sale under execution, unless the value of the homestead has increased beyond the statutory limit.

[46] *People v. Chavez*, 120 Phil. 1019 (1964).

[47] Rollo, pp. 81-103 (petitioners' Memorandum).

[48] See *Ramos v. Pangilinan*, G.R. No. 185920, 20 July 2010, 625 SCRA 181 for the Court's discussion of the guidelines under which a family home may be sold on execution to satisfy the debts and obligations specified in Articles 155 and 160.

[49] 35 C.J.S. Exemption §92, at 144 (1943).

[50] *Tan v. Matsuura*, G.R. Nos. 179003 and 195816, 9 January 2013, 688 SCRA 263.

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