

ANECITO CAMPOS, VS. PETITIONER, BANK OF THE PHILIPPINE ISLANDS, NOW SUBSTITUTED BY HOUSTON HOMEDEPOT, INC., RESPONDENT.

G.R. No. 207597. May 30, 2016

Ponente: BRION, J.

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BRION, J.:

This is a petition for review on certiorari assailing the Court of Appeals' (CA) dismissal of Anecito Campos' petition for certiorari in CA-G.R. CEB SP No. 02964[1] where he questioned the denial of his motion to suspend the implementation of a writ of possession in CAD Case No. 06-2266.[2]

Antecedents

The CA found the facts outlined below.

In 1980, petitioner Campos mortgaged fourteen (14) lots in favor of the Far East Bank and Trust, Co. (FEBTC) - now merged with respondent Bank of the Philippine Islands (BPI/the Bank) - to secure a One (1) Million peso loan. Among these lots was the then vacant Lot No. 7-G-4 (subject lot).[3]

Sometime in the late 1980's, Campos constructed a two-storey building on the subject lot allegedly with the knowledge and consent of the Bank.

Due to unfortunate business losses, Campos failed to pay his loan. The loan eventually ballooned to Eleven (11) Million pesos (P11,000,000.00).[4] Consequently, the Bank moved for the extra judicial foreclosure of the mortgaged lots.[5]

The Bank was issued a Certificate of Sale after becoming the highest bidder during the public auction at a bid of 11.3 million pesos.

When Campos failed to redeem the properties within the legal redemption period, the Bank consolidated its ownership of the properties.[6] Thereafter, it filed a verified ex parte motion for the issuance of a writ of possession before the Regional Trial Court (RTC).[7]

On August 7, 2006, the RTC granted the motion and ordered the Clerk of Court and the Ex Officio Sheriff of the RTC to place the Bank in possession of the lots.[8]

On September 8, 2006, the RTC issued a Writ of Possession commanding the Ex Officio Provincial Sheriff of Negros Occidental to execute the August 7, 2006 Order.[9]

Long after the RTC's August 7, 2006 Order became final and executory, Campos filed a Motion for the Suspension of the Implementation of the Writ of Possession and/or to Allow Mortgagor to Present Evidence of Good Faith dated February 12, 2007.[10]

Campos claimed that he constructed the building on subject Lot No. 7-G-4 in good faith and with the Bank's

consent. Citing Article 546[11] in relation to Articles 448[12] and 450[13] of the Civil Code, Campos argues that he has the right to retain possession of the subject lot until the Bank reimburses him the value of the building.[14]

The Bank opposed the motion arguing that the purchaser in a foreclosure sale has no obligation to reimburse the mortgagor for the value of the improvements.[15] More importantly, the Bank cited the Mortgage Contract which stipulates:

x x x the MORTGAGOR does hereby transfer and convey by way of mortgage unto the MORTGAGEE, its successors or assigns, the parcels of land which are described in the list inserted on the back of this document and/or appended hereto, together with all the buildings and improvements now existing or which may hereafter be erected or constructed thereon of which the MORTGAGOR declares that he/it is the absolute owner free from all liens and incumbrances [sic],[16] x x x [emphases supplied]

On April 16, 2007, the RTC denied Campos' motion for lack of merit.[17] Citing *Ong v. Court of Appeals*[18] and *De Vera v. Agloro*,[19] the RTC explained that upon the expiration of the redemption period, its duty to issue a writ of possession is ministerial. It likewise explained that any cause of action for the reimbursement may be pursued in a separate civil action but not in a non-litigious and ex parte proceeding for the issuance of a writ of possession.[20]

On April 20, 2007, Campos moved for reconsideration[21] citing *Policarpio v. Court of Appeals*[22] where the Court permitted the heirs of a mortgagor to present evidence that they were builders in good faith.

On September 10, 2007, the RTC denied the motion for reconsideration.[23] It explained that in *Policarpio*, the main issue was denial of due process because the trial court had called for evidence on the matter of good faith several times. However, the court capriciously reversed itself during the absence of the petitioners' counsel due to illness, and received the respondent's evidence ex parte.

The RTC further held that the motion for suspension was filed long after the writ of possession attained finality.

Campos responded to the denial through a petition for certiorari with the CA with an application for a Temporary Restraining Order (TRO). The petition was docketed as CA-G.R. CEB-SP No. 02964.

On July 24, 2012, the CA dismissed the petition after finding no grave abuse of discretion on the part of the RTC.[24] The CA held that the RTC's action is allowed under Section 7 of Act No. 3135 which grants the purchaser the right to demand a writ of possession upon the lapse of the redemption period. Accordingly, it was the RTC's ministerial duty to issue a writ of possession. Campos' remedy under Section 8 of Act No. 3135 was to file a petition to set aside or cancel the writ of possession within thirty days after the Bank was given possession.[25]

Campos moved for reconsideration[26] reiterating that he had not been furnished a copy of the ex parte motion or of the RTC's order granting the writ of possession. He also asserted the applicability of *Policarpio* to his situation.

On May 23, 2013, the CA denied Campos' motion for reconsideration. Hence, the present petition for review on certiorari.

The Petition

Campos insists on his right to prove that he was a builder in good faith pursuant to *Policarpio*. He also claims: (1) that the bank already has 13 of the 14 mortgaged lots; (2) that the 13 lots have an assessed value of 12 million pesos and a market value of 15 million pesos — many times the value of the original loan; and (3) that the original 1 million peso loan ballooned to 11 million due to exorbitant interest rates and excessive penalties charged by the Bank.

He argues that the Bank did not furnish him a copy of its ex parte motion for a writ of possession and that he was denied notice of the proceedings.[27] Lastly, he contends that the Bank will unduly enrich itself at his expense if he is not reimbursed the value of the improvements he constructed in good faith.[28]

The Counter-arguments

On May 18, 2015, Houston HomeDepot, Inc., (Houston), as the Bank's transferee pendente lite, filed its comment on the petition with leave of court.[29] Houston disputed Campos' claim of good faith, citing the stipulation that included all future improvements as part of the mortgage.[30]

Houston further alleged that Campos made it difficult to come to an amicable arrangement. Campos allegedly dismantled the bulk of the improvements and locked up the premises while Houston's motion to enforce the writ of possession was being heard by the trial court.[31]

On July 3, 2015, the Bank also filed its comment to the petition.[32] It refuted Campos' claim as to the original value of the loan and produced the Mortgage Contracts which put the value of the loan at P9,324,000.00.[33]

The Bank, moreover, noted that the earliest Mortgage Contract was dated June 28, 1990 - later than "the late 1980s" when Campos allegedly constructed the building.[34] Even if the building was constructed after the mortgage, the contract expressly stipulates that any future improvements form part of the mortgage.[35] The Bank further maintained that Campos resorted to the wrong remedy by filing a motion to suspend the implementation of the writ of possession.

Lastly, the Bank denied the applicability of Policarpio, arguing: (1) that Policarpio involved a judicial foreclosure; and (2) that in Policarpio, an heir of the deceased mortgagor allegedly constructed a new house on the lot 3 years after the foreclosure sale with the consent of the mortgagee bank.[36] The Bank argues that neither is true in the present case.

Our Ruling

We DENY the petition for lack of merit.

We emphasize at the outset that this Court is not a trier of facts. It is not our function to weigh conflicting evidence all over again after the lower courts have sifted through them. Except for a few recognized exceptions,[37] this Court will not disturb the factual findings of the trial courts. Thus, we refrain from passing upon the conflicting allegations of the parties as to the original amount of the loan. Moreover, the conflicting factual details are immaterial to the resolution of the case.

Notably, the present appeal by certiorari stems from the CA's denial of a petition for certiorari. The case before the CA was a limited and extraordinary form of judicial review whose only purpose was to determine whether or not the RTC acted without jurisdiction or committed grave abuse of discretion.

This appeal by certiorari of the CA's dismissal is an even narrower form of review. Our present function is not to determine whether the RTC committed errors of law, but to determine whether the CA committed errors of law in dismissing the petition for certiorari. The core issue remains whether or not the RTC acted beyond its jurisdiction or gravely abused its discretion in denying Campos' motion to suspend the implementation of the writ of possession.

It did not.

First, Section 7 of Act No. 3135, as amended by Act No. 4118, explicitly allows the purchaser of a foreclosed property to file an ex parte motion to acquire possession of the property:

Section 7. In any sale made under the provisions of this Act, the purchaser may petition the Court of First

Instance of the province or place where the property or any part thereof is situated, to give him possession thereof during the redemption period, furnishing bond in an amount equivalent to the use of the property for a period of twelve months, to indemnify the debtor in case it be shown that the sale was made without violating the mortgage or without complying with the requirements of this Act. Such petition shall be made under oath and filed in form of an ex parte motion xxx and the court shall, upon approval of the bond, order that a writ of possession issue, addressed to the sheriff of the province in which the property is situated, who shall execute said order immediately.[38] [emphases supplied]

Neither the Bank nor the trial court was obligated to furnish Campos with notice of the proceedings. An ex parte proceeding is one made at the instance and for the benefit of one party only, and without giving notice to or hearing from any person adversely affected.[39] Campos was not entitled to participate in the proceedings except to the extent permitted by Section 8 of Act No. 3135.[40] Considering that he never questioned the validity of the sale, Campos' remedy was to institute a separate civil action for the value of the improvements.

Failure to redeem the foreclosed property extinguishes the mortgagor's remaining interest in it. Following the consolidation of ownership and the issuance of a new certificate of title in the purchaser's name, the purchaser can demand possession at any time as a result of his absolute ownership[41] With the consolidated title, the purchaser becomes entitled to possession and it becomes the ministerial duty of the court to issue a writ of possession.[42] Likewise, the implementation of the writ is a ministerial duty; otherwise, the writ will be a useless paper judgment.[43]

The writ issues as a matter of course and the court is left with no alternative or discretion except to issue the writ.[44] The rationale is to immediately vest possession of the property in the purchaser, such possession being founded on his right of ownership.[45] The only exception is if the property is possessed by a third party whose possession is adverse to the mortgagor.[46]

The RTC therefore did not err - and did not abuse its discretion -when it issued the writ of possession ex parte and denied Campos' motion to suspend its implementation.

Second, the term "grave abuse of discretion" has a specific and well-defined meaning; it is not an amorphous concept that can be shaped or manipulated to suit a litigant's purpose.[47] It is present when there is such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction,[48] or where power is exercised arbitrarily or in a despotic manner by reason of passion, prejudice, or personal hostility amounting to an evasion of positive duty, or to a virtual refusal to perform a legal duty or act at all in contemplation of law.[49]

The RTC did not act capriciously or arbitrarily. In fact, it observed the provisions of Act No. 3135 and narrowly adhered to prevailing jurisprudence on the ministerial nature of its duty to issue a writ of possession.

Third, we reject Campos' argument citing Policarpio as authority to contradict overwhelming jurisprudence that the RTC's duty to issue a writ of possession in extrajudicial foreclosure sales is ministerial.

The *lis mota* in Policarpio was not the character of a writ of possession but the arbitrariness of the trial court's actions. The trial court, after repeatedly calling for the mortgagor's heirs to present evidence of their good faith, suddenly changed its mind when their lawyer was absent due to illness. The trial court then capriciously heard, received, and admitted the bank's evidence while the petitioner was not represented in court.[50]

Moreover, Policarpio is an outlier involving a judicial foreclosure of mortgaged property. In that case, the mortgagee-bank did not immediately acquire possession of the property even though the court already confirmed the sale.[51] The mortgagor's heirs retained possession of the property and allegedly negotiated with the Bank to repurchase it.[52] In the meantime, the ancestral house located on the property was destroyed by a typhoon, prompting the heirs to rebuild it.[53]

The mortgagees' construction was made three years after title to the property was consolidated in the Bank but before the latter acquired possession. In other words, the mortgagees built on the Bank's property.

Articles 448, 450, and 546 fall under Chapter II (The Right of Accession) of Book II, Title II of the Civil Code. These provisions on the good faith of the builder contemplate situations when a person builds on the land of another. They do not apply when, as in the present case, the owner builds on his own property.

The developments subsequent to the consolidation of title in the bank's name as well as the judicial character of the foreclosure removed Policarpio from the ambit of Section 7 of Act No. 3135 and placed it within the coverage of the Rules on Accession.

Lastly, the mortgage contracts themselves specifically include "all the buildings and improvements now existing or which may hereafter be erected or constructed [on the properties]" as part of the mortgage. This renders the value of the improvements and Campos' alleged good faith immaterial; he voluntarily included the building when he entered into the mortgage.

Article 1306. The contracting parties may establish such stipulations, clauses, terms and conditions as they may deem convenient provided they are not contrary to law, morals, good customs, public order, or public policy.[54]

This Civil Code provision asserts the Autonomy of Contracts. Contractual obligations have the force of law between the parties and should be complied with in good faith. The Courts will not rescue a litigant from his bad bargains, protect him from unwise investments, relieve him from disadvantageous contracts, or annul the effects of his foolish acts unless there has been a violation of law.[55]

WHEREFORE, premises considered, we hereby DENY the petition for lack of merit, and accordingly AFFIRM the July 24, 2012 decision and the May 23, 2013 resolution of the Court of Appeals in CA-G.R. CEB SP No. 02964.

SO ORDERED.

Carpio, (Chairperson), Brion, Del Castillo, Mendoza, and Leonen, JJ., concur.

[1] Penned by Associate Justice Ramon Paul L. Hernando and concurred in by Associate Justices Carmelita Salandanan-Manahan and Zenaida T. Galapate-Laguilles.

[2] RTC, Negros Occidental, Branch 46, Bacolod City, through Judge George S. Patriarca.

[3] Rollo, p. 107.

[4] Id. at 108.

[5] Id.

[6] Id.

[7] Id. at 57, 108.

[8] Id. at 63, 108.

[9] Id. at 73, 109.

[10] Id. at 81, 109.

[11] Article 546. Necessary expenses shall be refunded to every possessor; but only the possessor in good faith may retain the thing until he has been reimbursed therefor.

Useful expenses shall be refunded only to the possessor in good faith with the same right of retention, the person who has defeated him in the possession having the option of refunding the amount of the expenses or of paying the increase in value which the thing may have acquired by reason thereof.

[12] Article 448. The owner of the land on which anything has been built, sown or planted in good faith, shall have the right to appropriate as his own the works, sowing or planting, after payment of the indemnity provided for in articles 546 and 548, or to oblige the one who built or planted to pay the price of the land, and the one who sowed, the proper rent. However, the builder or planter cannot be obliged to buy the land if its value is considerably more than that of the building or trees. In such case, he shall pay reasonable rent, if the owner of the land does not choose to appropriate the building or trees after proper indemnity. The parties shall agree upon the terms of the lease and in case of disagreement, the court shall fix the terms thereof.

[13] Article 450. The owner of the land on which anything has been built, planted or sown in bad faith may demand the demolition of the work, or that the planting or sowing be removed, in order to replace things in their former condition at the expense of the person who built, planted or sowed; or he may compel the builder or planter to pay the price of the land, and the sower the proper rent.

[14] Id. at 82-83.

[15] Id. at 86.

[16] Id. at 87.

[17] Id. at 93.

[18] 388 Phil. 857 (2000).

[19] 489 Phil. 185(2005).

[20] Rollo, pp. 94-95.

[21] Id. at 96.

[22] 214 Phil. 36(1984).

[23] Rollo, p. 103.

[24] Id. at 105.

[25] Id. at 113.

[26] Id. at 117.

[27] Id. at 23-24.

[28] Id. at 25.

[29] Id. at 159. Id.

[31] Id. at 160.

[32] Id. at 184.

[33] Id. at 190.

[34] Id. at 191.

[35] Id. at 192.

[36] Id. at 193.

[37] (1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.

[38] Sec. 7, Act No. 3135 (1924) as amended by Act No. 4118 (1933).

[39] Black's Law Dictionary, Eight Edition (2004), p. 1737.

[40] Section 8. The debtor may, in the proceedings in which possession was requested, but not later than thirty days after the purchaser was given possession, petition that the sale be set aside and the writ of possession cancelled, specifying the damages suffered by him, because the mortgage was not violated or the sale was not made in accordance with the provisions hereof, x xx

[41] Edralin v. Philippine Veterans Bank, 660 Phil. 368, 380-381 (2011).

[42] Id. at 381; Bank of the Philippine Islands v. Tarampi, 594 Phil. 198, 205 (2008); Carpo v. Chua, 508 Phil. 462, 477 (2005); and Cabling v. Lumampas, G.R. No. 196950, June 18, 2014, 726 SCRA 628, 633-634.

[43] Bank of the Philippine Islands v. Tarampi, supra note 42, at 206.

[44] Id. at 205.

[45] Dayrit v. Philippine Bank of Communications, 435 Phil. 120 (2002).

[46] Rule 39, Sec. 33, Rules of Court; See Cabling v. Lumampas, supra note 42, at 634-635.

[47] Yu v. Judge Reyes-Carpio, 667 Phil. 474, 481-482 (2011); Dycoco v. Court of Appeals, G.R. No. 147257, July 31, 2013, 702 SCRA 566, 580; and Malayang Manggagawa ng Stayfast Phils., Inc. v. National Labor Relations Commission, G.R. No. 155306, August 28, 2013, 704 SCRA 24, 39.

[48] Abad Santos v. Province of Tarlac, 67 Phil. 480 (1939); Tan v. People, 88 Phil. 609 (1951); and Pajo v. Ago, 108 Phil., 905 (1960).

[49] Tavera-Luna, Inc. v. Nable, 67 Phil., 340 (1939); Alafritz v. Nable, 72 Phil., 278 (1941); and Liwanag v. Castillo, 106 Phil. 375 (1959).

[50] Id. at 44-45.

[51] Policarpio v. Court of Appeals, supra note 22, at 39, 41.

[52] Id. at 41.

[53] Id. at 46.

[54] Art. 1306, CIVIL CODE.

[55] Vales v. Villa, 35 Phil. 769, 788 (1916).

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