

ARSENIO REYES, PETITIONER, VS. ANTONIO NOBLEJAS, IN HIS OFFICIAL CAPACITY AS LAND REGISTRATION COMMISSIONER AND JOSE SANTOS, IN HIS CAPACITY AS THE REGISTER OF DEEDS OF RIZAL, ...*G.R. No. 23691. November 25, 1967*

Ponente: ANGELES, J.

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An appeal by certiorari to review the resolution of the Land Registration Commissioner, dated August 25, 1964 - ordering the Register of Deeds of Rizal to deny registration of the Deed of Sale and the Affidavit of Consolidation of Ownership presented to him by herein petitioner. The main issue is, whether or not the period of redemption of properties sold at public auction pursuant to an extrajudicial foreclosure of real estate mortgage under Act No. 3135, as amended by Act No. 4118, is to be counted from the date of the execution of the certificate of sale by the sheriff, or, from the date of registration of the corresponding certificate of sale issued by the sheriff in the Office of the Register of Deeds concerned.

For purposes of disclosing the law question involved, the following statement of facts lifted from the resolution appealed from will suffice:

"It appears from the facts of record that the spouses Leonardo Gamboa and Aurora L. Cariaga are the registered owners of the properties covered by Transfer Certificates of Titles Nos. 18230, 18231, 18232, 18233 and 18234, of the Registry of Deeds of Rizal. These properties were mortgaged to the Philippine National Bank and upon the failure of the mortgagors to pay the amount of the indebtedness upon maturity, the mortgage was foreclosed extrajudicially under the provisions of Act No. 3135, as amended.

"On February 6, 1963, the mortgaged properties were sold at public auction by the Provincial Sheriff of Rizal for the sum of P6,010.00 in favor of Arsenio Reyes, the highest bidder, and the corresponding certificate of sale was issued by the sheriff on February 21, 1963. In said certificate, the expiration date of the period of redemption was fixed by the sheriff to be 'one (1) year from and after the date of the sale.' It should be noted in this connection, that the duplicate of the certificate of sale was not filed (registered) by the sheriff in the office of the Register of Deeds. A copy thereof which was attached to the Affidavit of Consolidation of Ownership as a supporting paper, was neither entered in the Primary Entry Book for Act 496.

"On February 10, 1964, there were presented for registration in the Registry of Deeds of Rizal, an Affidavit of Consolidation of Ownership executed on February 8, 1964, by the auction-vendee, Arsenio Reyes, and a Deed of Sale executed by the Philippine National Bank as attorney-in-fact of the mortgagee (sic), in favor of the auction-vendee, Arsenio Reyes.

"The Register of Deeds denied the registration of the above-mentioned documents on the ground that the period of redemption has not yet expired. In support of his opinion on the matter, the Register of Deeds invoked the doctrine laid by the Supreme Court in the case of *Salazar v. Meneses*, G. R. No. L-15378, promulgated on July 31, 1963, wherein it was held that the rule that the period of redemption in execution

sales pursuant to Section 26 of Rule 39 of the Rules of Court, which begins to run not from the date of sale but from the date of registration of the certificate of sale, is also applicable in extrajudicial foreclosure sales of registered land.

"Claiming that Section 6 of Act 3135, as amended, is so clear on the point that the redemption period shall begin to run from the date of sale, the petitioner, thru his counsel, disagreed with the ruling of the Register of Deeds. Hence, this appeal."

As stated in the opening paragraph of this opinion, the Land Registration Commissioner, upon the foregoing premises, promulgated the resolution appealed from, ordering the Register of Deeds of Rizal to deny the registration of the Deed of Sale executed by the mortgagee and the Affidavit of Consolidation of Ownership executed by the auction-vendee, Arsenio Reyes, who presented the said documents for registration. A motion for reconsideration of the resolution was subsequently denied by the Land Registration Commissioner, hence, the instant petition for review.

It is the theory of petitioner that in sales of property at public auction pursuant to an extrajudicial foreclosure of real estate mortgage under Act No. 3135, as amended by Act No. 4118, the period of redemption should be reckoned from the date of the auction sale which, he contends, is the express mandate of Section 6 of Act No. 3135:

"Section 6. In all cases in which the extrajudicial sale is made under the special power hereinbefore referred to, the debtor, his successors in-interest, or any judicial creditor or judgment creditor of said debtor, or any person having a lien on the property subsequent to the mortgage or deed of trust under which the property is sold, may redeem the same at any time within the term of one year from and after the date of sale; and such redemption shall be governed by the provisions of sections 464 to 466, inclusive, of the Code of Civil Procedure, insofar as these are not inconsistent with the provisions of this Act."

On the other hand, the Land Registration Commissioner is of the opinion that the above-quoted provision is not the only pertinent and controlling law on the matter, specially when it is taken into consideration that the land involved is registered land under the Torrens system. He maintains, and so held in the resolution appealed from, that Section 6 of Act 3135 should be applied to the present case together with: (1) sections 30 to 35 of Rule 39 of the Revised Rules of Court with regard to redemption; (2) Section 27, Rule 39 of the said Rules and Section 71 of Act 496 with regard to the filing (registration) of the sheriff's certificate of sale; and (3) Section 50 of Act 496, with regard to the registration of the certificate of sale so as to consider the land conveyed and affected under the Land Registration Act.

The ruling of the Land Registration Commissioner must be sustained. Section 27, Rule 39 of the Revised Rules of Court provides that the certificate of sale executed by the sheriff in a public auction sale must be filed (registered) in the Office of the Register of Deeds of the province where the land is situated. This is a mandatory requirement. Failure to register the certificate of sale violates the said provision of law and, construed in relation with Section 50 of the Land Registration Law (Act 496), shall not take effect as a conveyance or bind the land covered by a torrens title because "the act of registration is the operative act to convey and affect the land." So the redemption period, for purposes of determining the time when a final deed of sale may be executed or issued and the ownership of the registered land consolidated in the purchaser at an extrajudicial foreclosure sale under Act 3135, should be reckoned from the date of registration of the certificate of sale in the office of the register of deeds concerned and not from the date of the public auction sale. To this effect is the holding in the case of *Ernesto Salazar v. Flor de Lis Mene-ses*, L-15378, July 31, 1963, where this Court explained at length this principle, as follows:

"The issue decisive of this appeal is the one raised by the appellant in their third assignment of error, which is

to this effect: That the lower court erred in not holding that the period of redemption in this case, as far as appellants are concerned, started only on May 26, 1956, the date when the certificate of sale issued by the sheriff was registered. Should we rule to this effect, it is clear that when the appellants attempted to exercise their right to redeem, as judgment creditors of the deceased mortgagor by judgment subsequent to the extrajudicial foreclosure sale, and when they instituted the present action on October 1, 1956, the period of redemption had not yet expired.

"We find appellants' contention to be meritorious. In the case of *Agbulos v. Alberto*, G. R. No. L-17483, promulgated on July 31, 1962, we held:

'The property involved in the present case is registered land. It is the law in this jurisdiction that when property brought under the operation of the Land Registration Act is sold, the operative act is the registration of the deed of conveyance. The deed of sale does not 'take effect as a conveyance, or bind the land' until it is registered (Section 50, Act 496; *Tuason v. Raymundo*, 28 Phil. 635; *Sikatuna v. Guevarra*, 43 Phil. 371; *Worcester v. Ocampo*, 34 Phil. 646). Undoubtedly, to be in consonance with this well settled rule, Section 24, Rule 39 of the Rules of Court, provides that the duplicate of the certificate of sale given by the sheriff who made the auction sale to the purchaser must be filed (registered) in the office of the register of deeds of the province where the property is situated.

'In *Garcia v. Ocampo*, G.R. No. L-13029, June 30, 1959, we held that the twelve months period of redemption provided for in Sec. 26, Rule 39 of the Rules of Court "begins to run not from the date of sale, but from the time of the registration of the sale in the office of the register of deeds." The entry or annotation on the back of the certificate of title of the property in question on July 18, 1959 (*supra*) was in accordance with this ruling when it provided that the execution sale was "subject to redemption within one year from registration hereof."

'A case similar to the present is that of *Gonzales et al v. Philippine National Bank et al*. 48 Phil. 824, where we held that the provision of Section 32, Act 2938 (Charter of the Philippine National Bank) providing for a right of redemption in favor of the bank's mortgagor "within one year from the sale of the real estate as a result of the foreclosure" should be construed to mean one year after the confirmation of the foreclosure sale, because the sale becomes valid only after the confirmation. Along the same line we may say in this case that the period of one year after the sale must likewise start only from the date of registration of the certificate of sale, because it is only when that the certificate takes "effect as a conveyance" in accordance with Act 496.'

"The above ruling is squarely applicable to the present case which involves also registered land, in spite of the fact that the sale in question is not an execution sale but a foreclosure sale."

But it is further argued by the petitioner that the rule should not be applied to this case where there are no third parties involved. He cites a number of authorities,[1] to the effect that as between the parties, registration is not necessary to bind the immediate parties to a transaction involving registered land. He would then conclude that since the only purpose of registration is to protect the buyer from third party claims, it stands to reason that when, as in this case, there are no third party claimants to the land, registration is not necessary and the sale between the parties should be made to take effect from the date of the auction sale. We are not impressed by the argument. Apparently, herein petitioner failed to see the "other side of the coin" and overlooked the doctrine, also well settled, that the registration required by Section 50 of the Land Registration Law is intended primarily for the protection of innocent third persons, i.e., persons who, without knowledge of the sale and in good faith, have acquired rights to the property.[2] The same protection to third parties is obviously one of the objects of Section 27, Rule 39 of the Revised Rules of Court in requiring that the certificate of sale issued by the sheriff in an auction sale be registered in the office of the register of deeds, for the purpose of the legislature in providing for our present system of registration is to afford some means of publicity so that persons dealing with real property

may reach the records and thereby acquire security against instruments the execution of which has not been revealed. Redemption is not the concern merely of the auction-vendee and the mortgagor, but also of the latter's successors in interest or any judicial creditor or judgment creditor of said mortgagor, or any person having a lien on the property subsequent to the mortgage under which the property has been sold. It is precisely for this reason that the certificate of sale should be registered, for only upon such registration may it legally be said that proper notice, though constructive, has been served unto possible redemptioners contemplated in the law. We have to conclude, there-fore, that the date of sale mentioned in Section 6 of Act 3135, as amended, should be construed to mean the date of registration of the certificate of sale in the office of the register of deeds concerned. Only after the lapse of the twelve-month redemption period from the date of registration of the certificate of sale and in the absence of any redemptioner within the said pe-riod, may the deed of final sale be executed in favor of the purchaser who may then consolidate the title of the property in his favor. Consequently, We have to declare that the Land Registration Commissioner was right in ordering the Register of Deeds of Rizal to deny the registration of the Deed of Sale and the Affidavit of Consolidation of Ownership, the simultaneous registration of which documents was sought by herein petitioner even before the certificate of sale issued by the sheriff was registered.

WHEREFORE, and considering all the foregoing, the resolution appealed from should be, as hereby it is affirmed, with costs against herein petitioner.

Dizon, Acting C.J., Makalintal, Bengzon, Zaldivar, Sanchez, Castro, and Fernando, JJ., concur.
Concepcion, C.J., and Reyes, J.B.L., J., on official leave of absence.

[1] Galanza v. Nuesa, 95 Phil. 713 (1954); Evangelista v. Montano, et al., 93 Phil. 275 (1953); Carillo v. Salak de Paz, et al., 91 Phil. 265; Manuel v. PNB, 101 Phil. 968.

[2] See, Evangelista v. Montano, et al., supra.

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