

THE GOVERNMENT OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. APOLONIA S. ZAPANTA AND SY CHING & COMPANY, DEFENDANTS. APOLONIA S. ZAPANTA, APPELLANT.

G.R. No. 45200. April 10, 1939

Ponente: MORAN, J.

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MORAN, J.:

By virtue of the judgment duly confirmed by this court, plaintiff herein, the Government of the Philippines, through the Solicitor-General, addressed a petition to the lower court for the issuance of a writ of execution. The writ prayed for was issued and in pursuance thereof the sheriff of Manila announced the sale at public auction of the mortgaged properties; and, thereafter, sold the same for P43,000 to the Pension and Investment Board as the highest bidder. Plaintiff then moved for the confirmation of the sale and for the issuance of another writ of execution for the satisfaction of the deficiency in the sum of P19,735.39. Defendant Apolonia S. Zapanta opposed this motion for alleged inadequacy of the price, and filed affidavits of two supposed real estate brokers. The lower court granted the motion, and the instant appeal was taken.

Assuming that the reasonable value of the properties is P66,000, as the affidavits of the real estate brokers purport to show, we do not think that the price of P43,000 at which they were sold is so grossly inadequate as to shock the conscience of the court. In *Bank of the Philippine Islands vs. Green* (52 Phil., 491), the property worth P60,000 was sold for P25,000; in *National Bank vs. Gonzalez* (45 Phil., 693), the property worth P45,950 was sold for P15,000; and in *Government of the Philippine Islands vs. Serna* (G. R. No. 32196, March 8, 1930, not reported), the property worth P120,000 was sold for P15,000. In none of these cases did this court set aside the sale for inadequacy of price.

We have it as an established doctrine that inadequacy of the price alone, unless shocking to the conscience of the court, will not be sufficient to set aside the sale, if there is no showing, as in the instant case, that in the event of a resale a better price can be obtained, or that there was fraud, collusion, mistake, surprise, unfairness or irregularity in the conduct of said sale. (*Government of the Philippine Islands vs. Green*, supra; *Warner, Barnes & Co. vs. Santos*, 14 Phil., 446; *La Urbana vs. Belando*, 54 Phil., 930; *National Bank vs. Gonzalez*, supra; *Guerrero vs. Guerrero*, 67 Phil., 442; *Cu Unjieng & Sons vs. Mabalacat Sugar Co.*, 58 Phil., 439; and *Government of the Philippine Islands vs. Serna*, supra.) We need not belabor this doctrine with additional remarks except to dispel certain misapprehensions of litigants about the adequacy or fairness of the price at which properties are usually sold at public auction. In forced sales of this kind, judgment debtors ought not to expect their properties to be sold at their market value. The nature of such sales precludes any reasonable expectation of obtaining prices such as are procured in ordinary sales where the element of free bargaining is in full play.

Order is accordingly affirmed, with costs against appellant.

Avanceña, C. J., Villa-Real, Imperial, Diaz, Laurel, and Concepcion, JJ., concur.

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