

THE GOVERNMENT OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. ANTONINO DE ASIS, DEFENDANT AND APPELLANT.

G.R. No. 46457. October 12, 1939

Ponente: MORAN, J.

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MORAN, J.:

In a foreclosure suit filed by the Government of the Philippines against the defendant, Antonino de Asis judgment was rendered in favor of the former. The mortgaged properties were sold and, thereafter, the sale was confirmed. Defendant, by bill of exceptions, appealed from the order of confirmation, and while the appeal was pending before this Court, plaintiff filed a motion in the court below praying that the possession and administration of the properties be turned over to it. Motion was granted and defendant appealed.

The main question here raised is whether or not the lower court, after allowance of the bill of exceptions, has jurisdiction to order the transfer of the possession and administration of the mortgaged properties from appellant to appellee.

As a general rule, after allowance of the bill of exceptions, the trial court loses jurisdiction over its judgment (*Ayllon vs. Shiojo*, 26 Phil., 195; *Sumulong vs. Imperial*, 51 Phil., 251; *Gov't. of P. I. vs. Mendoza*, 51 Phil., 403), and over all contentious matters connected with the issues in the case (*Rustia vs. Judge of Court of First Instance of Batangas*, 44 Phil., 62; *Viuda de Sy-Quia vs. Concepcion*, 60 Phil., 186). The trial court, however, retains jurisdiction to appoint receivers (*Velasco vs. Gochuico*, 28 Phil., 39), and to make any order for the protection and preservation of the rights of the parties on the property during the pendency of the appeal (*Dizon vs. Moir*, 36 Phil., 759).

Plaintiff's motion for the transfer of the possession and administration of the properties, partakes of the nature of a petition for a receivership, designed to protect its rights thereto. Allowance of motion of this kind is, as to the trial court, a matter of discretion, which does not appear to have been abused, specially because the decision of the lower court confirming the judicial sale of the property in question in favor of plaintiff-appellee, has already been affirmed by this court. (G. R. No. 45483, April 12, 1939.)

Order is affirmed, with costs against appellant.

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

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