

JACINTO PUNSALAN, PETITIONER, VS. HONORABLE JOSE R. CARLOS, AS JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA; MARIANO CARAGAY, ASSIGNEE; AND JOSE F. GANZON, CREDITOR.

G.R. No. 48742. May 25, 1942

Ponente: OZAETA, J.

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OZAETA, J.:

Upon motion of which all the interested "parties were duly notified, the assignee of the insolvency of Rafael Fernandez (case No. 40007) was authorized by the Court of First Instance of Manila on March 29, 1941, "to sell, either at public or private sale, for a sum not less than P5,000 cash the property of this estate located in Hermosa, Bataan, and known in these proceedings as 'Hacienda Bamban.'" The court stated in the same order that there was no objection to the sale of said hacienda for a sum not less than P6.000, and that such sale was for the best interest of the insolvent estate.

Jose Alejandrino, attorney for the herein respondent Jose F. Ganzon, made a written offer to purchase said hacienda for the sum of P5,050. The assignee also received verbal offers from various interested persons ranging from P5,100 to P6,000. Believing that a better price could be obtained at public sale, the assignee decided to hold a public bidding. For that purpose he sent notices of sale to all known interested parties, fixing the date of the public bidding at 11 a. m. on July 18, 1941, and requesting: the submission of sealed bids accompanied by 10 per cent of the amount of the bid as earnest money. Five sealed bids were received by the assignee from the following persons:

Jacinto Punaalan, Dinoiupihan, Bataan

P7,000

Jose Rivera, Hermosa, Bataan

7,101

Eliseo Aguirre, Samal, Bataan

7,006

Jose Alejandrino, San Fernando, Pampanga

7,001

Isaac Enriquez, Balanga, Bataan

6,112

The sale was awarded to Jacinto Punsalan as the highest bidder. Upon payment by him of the full price of P7,500, the assignee executed the corresponding deed of sale in his favor. When the deed of sale was submitted to the court, together with the assignee's report of the proceedings, Jose F. Ganzon, thru his attorney Jose Alejandrino, objected to the approval, manifesting that he was willing to pay not less than P8,500 for the property; and another person named Fernando Rivera also objected, stating that he was willing to pay not less than P8,750 for the property. Thereupon the court disapproved the sale on the ground that it had not been advertised in any newspaper; that the property in question would have commanded a very much better price had the proper notices and publication been made; and that "the sale of the property for P7,500, when there are better offers, is highly prejudicial to the creditors herein." The court ordered the assignee to sell the property at public auction to the highest bidder after due publication in at least one newspaper of general circulation, and fixed the selling price at not less than P8,760.

An unopposed motion for reconsideration filed by Jacinto Punsalan, the successful bidder, having been denied, the present certiorari proceeding was instituted to annul the said order. None of the respondents herein cared to appear and oppose the relief prayed for by the petitioner.

We find no irregularity in the sale to warrant the respondent judge in setting it aside. Without any objection of any interested party, the assignee had been duly authorized to dispose of the property even at private sale for a much lower price—P5,000. He exercised sound judgment and commendable care in holding a public bidding with written notice to all persons known to be interested in the property. As a result, he obtained a much better prices—P7,500, which was the highest bid. The objector Jose F. Ganzon, acting thru his attorney Jose Alejandrino, was an unsuccessful bidder, his bid being P499 less than that of the petitioner. We think it is unfair and not conducive to the stability of judicial sales to permit him to defeat the award to the highest bidder by improving his bid after the sale had been concluded.

The failure of the assignee to advertise the sale in a newspaper was not an irregularity for such publication was not required in the order of the court authorizing the sale. Perchance the personal written notice of sale given by the assignee to all known interested persons was more effective, it surely was less expensive, than an impersonal notice thru a newspaper. By the order complained of, the court amended the first order after it had become final and had been duly complied with.

"In order to maintain confidence in the stability of judicial sales, courts have adopted the wise policy that confirmation will not be refused except for substantial reasons, and that in the absence of fraud or misconduct, the highest bidder will be accepted as the purchaser of the property offered for sale." (31 Am. Jur., Judicial Sales, sec. 116, p. 459.) No fraud or misconduct was alleged and proven in this case.

The order complained of is hereby set aside, without any finding as to costs. So ordered.

Yulo, C. J., Moron, Paras, and Bocobo, JJ., concur.

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