

LUCIA Y. MATIAS, PETITIONER AND APPELLANT, VS. THE PROVINCIAL SHERIFF OF NUEVA ECIJA, RESPONDENT AND APPELLEE.

G.R No. 48925. August 30, 1943

Ponente: PABLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-48925/>

PABLO, J.:

This is a direct appeal from the Court of First Instance of Nueva Ecija, to which the case was submitted for decision upon a stipulation of facts and which dismissed the complaint without costs. The undisputed facts are as follows:

In civil case No 6043 of the Court of First Instance of Nueva Ecija entitled "Lucia Y. Matias et al., plaintiffs, vs. Gonzalo H. Cotoco et al., defendants, the plaintiffs procured a writ of preliminary attachment by virtue of which, on August 26, 1931, they attached the shares of stock belonging to the defendant Gonzalo H. Cotoco in the corporation known as Samahang Magsasaka, Inc. The attachment was duly noted on the books of the corporation. Final judgment was subsequently entered in said case in favor of the plaintiff Lucia Y. Matias against the defendant Gonzalo H. Cotoco for the sum of P11,023.80, with legal interest thereon from August 22, 1931, and by virtue of the writ of execution issued thereon the sheriff levied upon and advertised for sale at public auction 5,894 shares of stock belonging to the judgment debtor Gonzalo H. Cotoco in the Samahang Magsasaka, Inc., which had been previously attached as aforesaid. On September 30, 1932, the provincial fiscal of Nueva Ecija, in representation of the Collector of Internal Revenue, wrote to the provincial sheriff as follows:

"Septiembre 30, 1932

"Sr. SHERIFF PROVINCIAL.

"Cabanatuan, Nueva Ecija

"SEÑOR:

"En relacion con las propiedades embargadas por Vd. en virtud de una orden de ejecucion expedida en la causa civil No. 6043 del Juzgado de Primera Instancia de Nueva Ecija, titulada 'Lucia Y. Matias y otros contra Gonzalo H. Co Toco y otros,' cuya venta en publica, subasta esta anunciada por Vd. para el dia 3 de octubre, 1932, tengo el honor de reclamar todas y cada una de dichas propiedades en nombre y representacion del Administrador de Rentas Internas en virtud del gravamen preferente que el Gobierno de las Islas Filipinas tiene sobre las mismas por impuestos de comercio e ingreso que Gonzalo H. Co Toco debe a este, segun relacion que aparece en el 'proof of debt' suscrito y jurado por el Administrador de Rentas Internas en 22 de junio ultimo, cuyo original esta unido al expediente de la causa civil No. 6041 de dicho Juzgado de Primera Instancia de Nueva Ecija, copia de la cual he remitido a la oficina de Vd. antes de ahora.

Nuestra reclamacion se funda en las disposiciones del articulo 1588 delCodigo Administrativo tal como esta enmendado.

"Esta reclamacion hacemos extensiva al producto de dichas propiedades en caso de venta de las mismas.

"Respetuosamente,

(Sgd.) "ALFONSO SANTOS
'Fiscal Provincial"

There was another third-party claimant named Guan Suy (alias Gonzalo Chua Guan), and the execution creditor filed an indemnity bond of P58,000 in favor of the sheriff "in view of the said claim of Guan Suy (alias-Gonzalo Chua Guan), * * * for which reason the provincial sheriff of Nueva Ecija on October 3, 1932, sold, as scheduled in the publication, the said stocks of Gonzalo H. Cotoco in the Samahang Magsasaka, Inc., consisting of 5,894 shares of stock in favor of Lucia Y. Matias, [she] being the highest bidder for the amount of P2.947."

The provincial sheriff demanded of the plaintiff the payment in cash of the amount of her bid in view of the claim of the Collector of Internal Revenue over the proceeds of the sale, but the plaintiff refused to pay it on the ground that being the execution creditor she was "not obliged to give a cash payment of the said bid." The sheriff refused to issue a certificate of sale to the plaintiff, and the latter on April 25, 1938, brought the present action to compel him to do so.

The claim of the Collector of Internal Revenue against the judgment debtor Gonzalo H. Cotoco consisted of the following: P10,479.73 for sales tax and penalties due from the limited copartnership Gonzalo Cotoco & Co. for the year 1931, and deficiency income taxes (whether on the income of the partnership of Gonzalo H. Cotoco personally was not specified) for the years 1928, 1929, 1930, and 1931 amounting to more than P18,000.

The trial court held that Gonzalo H. Cotoco, as general and managing partner of Gonzalo H. Cotoco & Co., was personally liable for the Government's claim against the partnership, and that under section 1588 of the Administrative Code, said claim constituted a lien on the property of the debtor superior to the claim of the plaintiff herein. Hence the judgment of dismissal.

In her first assignment of error, appellant contends that being the judgment creditor and having filed a bond in favor of the sheriff, she was not obligated to pay in cash the amount of her bid at the public sale of the property of the judgment debtor. The Solicitor-General, representing the sheriff appellee in this Court, on the other hand contends that all bids in a public sale should be paid in cash regardless of whether or not the successful bidder be the judgment creditor himself.

Section 19 of Rule 39 (formerly section 457 of Act No. 190) provides that all sales of property under execution must be made to the highest bidder, and that after sufficient property has been sold to satisfy the execution, no more property shall be sold. Section 20 of Rule 39 (formerly section 458 of Act No. 190) provides as follows:

"Sec. 20. Refusal of purchaser to pay—If a purchaser refuses to pay the amount bid by him for property struck off to him at a sale under execution, the officer may again sell the property to the highest bidder and shall not be responsible for any loss occasioned thereby; but the court may order the refusing purchaser to pay into court the amount of such loss, with costs, and may punish him for contempt if he disobeys the order. The amount of such payment shall be for the benefit of the person entitled to the proceeds of the execution, unless the execution has been fully satisfied, in which event such proceeds shall be for the benefit of the judgment debtor. When a purchaser refuses to pay, the officer may thereafter reject any subsequent bid of such person."

It will be seen that the law is silent as to the manner of payment in case the successful bidder is the execution creditor himself. In the absence of a third-party claimant to the proceeds of the sale, the execution creditor need not pay down the amount of the bid if it does not exceed the amount of his judgment; and if it does, he should only be required to pay the excess. That has been the invariable practice, dictated by common sense, the correctness of which is too obvious for argument.

In the present case, however, the Collector of Internal Revenue claimed the proceeds of the sale on the ground that the Government had a lien for taxes on the property sold superior to the claim of the appellant. That claim was controverted by the appellant. The sheriff had no authority, to decide the controversy; so in order to protect himself against the conflicting claims he had the right to demand of the herein appellant as successful bidder the payment in cash of the amount of her bid as a condition precedent to the issuance by him of the certificate of sale, in order that he might hold the amount subject to the order of the court, which alone has jurisdiction to decide said controversy. If the court should decide it in favor of the execution creditor, it would and should order the sheriff to issue the certificate of sale, and the sheriff would thereby be relieved of any responsibility to the other claimant. If the court should find that the claim of the third party over the proceeds of the sale was superior to that of the execution creditor, the latter should be ordered to pay the amount of his bid to the sheriff within a reasonable time (which should be specified by the court) as a condition precedent to the issuance of the certificate of sale by the sheriff. Failure of the execution creditor to make the payment would automatically annul the sale.

It is true that in this case the appellant gave the sheriff an indemnity bond of P58,000 in order that the latter might proceed with the sale; but we believe that said bond did not cover the claim of the Government over the proceeds of the sale, since in paragraph 5 of the stipulation of facts it appears that appellant filed said bond "in view of the said claim of Guan Suy (alias Gonzalo Chua Guan)." The bond is not attached to the record

In view of the foregoing considerations, we overrule appellant's first assignment of error.

Appellant's second and last assignment of error is that "the lower court erred in holding that the Collector of Internal Revenue has a preferential right over the stocks of Gonzalo Cotoco in the Samahang Magsasaka, Inc." That is the controversy between the appellant and the Collector of Internal Revenue. It cannot be decided without hearing both parties. Since the Collector of Internal Revenue was not made a party respondent in this case, any decision adverse to his claim would not be binding on him for lack of jurisdiction over his person. The provincial fiscal in the lower court and the Solicitor General in this Court appeared for the sheriff, but the latter is not the Collector of Internal Revenue. For this reason, the trial court did not have, and this Court does not have, jurisdiction to pass upon the merit of the controversy discussed in appellant's second assignment of error.

For this reasons above stated, the dispositive part of the decision appealed from is affirmed, without any finding as to costs. So ordered.

Yulo, C. J., Moran and Paras, JJ., concur.

RESOLUTION ON MOTION FOR RECONSIDERATION

OZAETA, J.:

Appellant, while recognizing the correctness of the decision rendered by us on August 30, 1943, pleads nevertheless that, conformably to the findings of law made therein she be permitted within ten days to pay the amount of her bid to the sheriff or to file a bond to answer for the claim of the Collector of Internal Revenue in order to avoid the necessity of her having to commence a new action for that purpose, considering that the judgment sought to be executed in civil case No. 6043 of the Court of First Instance of Nueva Ecija became executory as long ago as about the year 1932.

Considering all the facts and circumstances set forth in our decision and the conclusions of law therein arrived at, we see no legal obstacle but on the contrary find it just and equitable to permit appellant to pay the amount of her bid or file a bond in its stead to answer for the claim of the Collector of Internal Revenue.

Wherefore the dispositive part of our decision of August 30, 1943, is hereby amended so as to read as follows:

"The dispositive part of the decision appealed from is affirmed; provided, however, that if the plaintiff-appellant shall within ten days from the date the record of this case is received in the trial court, pay to the defendant sheriff the full amount of her bid plus the expenses of the sale or, in lieu thereof, file such bond as the trial court may fix to answer fully for the claim of the Collector of Internal Revenue, then the trial court shall authorize and order said sheriff to execute the certificate of sale in question in favor of the plaintiff. No finding as to costs."

Yulo, C. J., Moran, and Paras, JJ., concur.

CONCURRING

BOCOBO, J.,

I concur in the result. I do not believe it is necessary to declare that in the absence of a third-party claimant to the proceeds of the sale, the execution creditor need not pay down the amount of the bid if it does not exceed the amount of his judgment. In the instant case, there is a third party claimant to the proceeds of the sale, so the foregoing statement is obiter dictum.

Moreover, the soundness of the above pronouncement may well be doubted, for these reasons:

- Execution sales should be strictly competitive. All bidders, without exception, should, therefore, stand on the same footing, and none should have any advantage over the others. But exempting the judgment creditor, who is a bidder, from paying cash, when other bidders are required to do so, would be repugnant to the competitive character of judicial sales.
- The judgment debtor has a right to redeem the property within the statutory period. That right of redemption may be rendered unjustly difficult by the judgment creditor by outbidding all the other bidders who are willing to pay cash though their offer is smaller than the judgment creditor's. And the latter may easily defeat the other bidders because he does not have to pay down the amount of his bid. On the other hand, the judgment debtor would have to pay a smaller amount in the redemption, if one of the other bidders, ready to pay cash, had not been kept out by the judgment creditor.
- In some cases, the execution sale would become a mockery. For example, in a foreclosure of mortgage, the mortgage creditor, who has won his suit, could easily become the owner of the property by outbidding other bidders. The foreclosure sale would be a useless formality because from the time of the judgment the mortgage creditor has practically become the owner of the real property. Such a state of affairs flies in the face of the principle which frowns upon the automatic forfeiture of the property in favor of the mortgage creditor.
- The rule would keep away and discourage prospective bidders other than the judgment creditor. Consequently, the latter would control the price at the sale, to the prejudice of the judgment debtor whose property should be sold at the highest possible price. This can not happen if only the judgment creditor appears at the sale because all other persons are at a disadvantage.

Lastly, there are decisions contrary to the ruling referred to. Thus, in *Kelly vs. Barnet* (24 Cal. App., 119; 140 Pac, 605), it was held:

"The plain intendment of these sections is that sales of property under execution shall be conducted for cash, and that successful bidders shall be prepared to pay the amount of their bids in cash at the time of the Sale. No

distinction is made between purchasers who are also judgment creditors and those who are not"

See also *Camden vs. Mayhew* (129 U. S., 73; 32 Law ed., 608).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.