

ALLIED BANKING CORPORATION, PETITIONER, VS. THE COURT OF APPEALS, HON. REGINO T. VERIDIANO II, PRESIDING JUDGE OF THE CFI OF ZAMBALES AND OLONGAPO CITY, BRANCH I AND LORETO AZOR...*G.R. No. 56279. February 09, 1993*

Ponente: CAMPOS, JR., J.

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This is a petition for review on certiorari of the decisions[*] of the Court of Appeals in C.A. G.R. No. 09892-SP dated September 30, 1980, dismissing the petition for certiorari and prohibition filed with the same court and lifting the restraining order issued by it on October 15, 1979. This petition seeks to set aside the above-mentioned decision, as well as the orders of the Honorable Regino T. Veridiano II, Presiding Judge of CFI Branch I, Olongapo City, dated June 28, 1979, August 21, 1979 and October 3, 1979, in Civil Cases Nos. 95-0 and 2314-0.

The facts, as borne out by the records, are as follows:

Petitioner, through its predecessor-in-interest, the General Bank and Trust Company, was the mortgagee-purchaser at the foreclosure sale of a 5,011 square-meter lot, including improvements thereon, owned by Harvey's Trading and Supply Corporation, situated at National Highway, Old Cabalan, Olongapo City. Private respondent was then an officer of Harvey's Trading and Supply Corporation prior to and after the foreclosure sale. On February 20, 1976, petitioner filed a petition for a writ of possession over the foreclosed property. The same was granted and the Provincial Sheriff of Zambales was directed to place the petitioner in possession of the subject property and to eject therefrom all adverse occupants including herein private respondent. Despite such writ, private respondent refused to vacate the portion occupied by him, hence, on August 10, 1977, petitioner secured an alias writ of possession for the delivery of said portion. On August 13, 1977, private respondent filed a motion for reconsideration with respect to the issuance of the alias writ of possession alleging that the 1,365 square-meter lot which he had been occupying in the concept of an owner is separate and distinct from the 5,011 square-meter lot mortgaged by Harvey's Trading and Supply Corporation, which was the subject of the foreclosure sale. This motion was denied and petitioner was placed in possession of the 5,011 square-meter lot. On August 24, 1977, petitioner executed a Deed of Sale over the said lot in favor of one Ephraim Gochangco. On August 25, 1977, private respondent filed a third party claim with the Office of the Provincial Sheriff protesting the inclusion of his lot in the writ of possession. He likewise filed a motion to hold the sheriff in contempt of court on the ground that the latter had illegally dispossessed him of the 1,365 square-meter lot. Both the third party claim and the motion were denied by the court. Consequently, private respondent instituted Civil Case No. 2314-0 which is for (1) annulment of the writ of possession, (2) recovery of possession of the 1,365 square-meter lot and (3) damages. This case was dismissed on the ground of res judicata in the Order^[1] dated March 15, 1978. By way of a petition for certiorari (CA-G.R. Nos. 08050-51-SP) filed before respondent Court of Appeals, private respondent sought for the annulment of (1) the Order dated August 10, 1977, issued in Case No. 95-0, denying the motion of private respondent to exclude the 1,365 square-meter lot from the writ of possession prayed for by

herein petitioner, and (2) the Order, dated March 15, 1978, dismissing private respondent's complaint in Civil Case No. 2314-0, on the ground of *res judicata*. On December 11, 1978, respondent Court of Appeals rendered judgment[2] in said petition, granting the writ prayed for.

Shortly thereafter, private respondent filed a motion for the delivery to him of the 1,365 square-meter lot based upon a claim that the same is in accordance with the aforesaid decision of respondent Court of Appeals. This motion was strongly opposed by petitioner. Acting thereon, respondent Judge issued the Order[3] of June 28, 1979, the dispositive portion of which reads as follows:

"WHEREFORE, the above motion of movant Loreto Azores is granted and the Allied Banking Corporation is hereby directed to re-deliver to the movant Loreto Azores the 1,365 square meter land which is contiguous to the 5,011 square meters sold in the foreclosure sale.

The Provincial Sheriff of Zambales or any of his deputies, is hereby directed to place Loreto Azores in possession of the 1,365 square meter lot which is subject of this litigation in possession thereof within fifteen (15) days from receipt of this Order."

Petitioner herein filed a motion for reconsideration thereto alleging among other things that it cannot comply with the aforesaid Order since the land purchased in the foreclosure sale had already been sold on August 24, 1977 to Ephraim Gochangco. Resolving the motion, respondent Judge issued the Order[4] of August 21, 1979, the dispositive portion of which reads as follows:

"WHEREFORE, the parties are directed to make immediate representations with buyer Ephraim G. Gochangco for the re-delivery and/or the sale of the property corresponding to the adverse claim of plaintiff Loreto Azores and to submit said report with this Court within a period of ten (10) days from receipt of this Order, otherwise, the order of this Court dated June 28, 1979 will be given full force and legal effect as against both the Allied Banking Corporation and Ephraim G. Gochangco."

A second motion for reconsideration was filed by petitioner but the same was likewise denied by respondent Judge in his Order of October 3, 1979.

On October 13, 1979, petitioner filed a petition for certiorari and prohibition with respondent Court of Appeals alleging, *inter alia*, that respondent Judge had acted without or in excess of its jurisdiction or with grave abuse of discretion in ordering the re-delivery to Loreto Azores of the 1,365 square-meter lot subject matter of the litigation. The same was dismissed in a decision[5] promulgated on September 30, 1980. Hence, this recourse.

The issue in this case is whether or not the court lawfully ordered the re-delivery of the lot in controversy to Loreto Azores, which land was already sold to one Ephraim G. Gochangco on August 24, 1977, a day previous to the filing by Loreto Azores of his Affidavit of Third Party Claim on August 25, 1977.

We rule in the affirmative.

The copies of what appear to be official documents in the records presented before respondent Court of Appeals show the two lots - the 5,011 square-meter lot pertaining to petitioner bank, which it eventually sold to Ephraim G. Gochangco, and the 1,365 square-meter lot being claimed by Loreto Azores - to be different and distinct from each other. Hence, respondent Court of Appeals correctly upheld the nullification of the Order of August 10, 1977 of respondent Judge ordering the inclusion of private respondent's lot in the alias writ of possession issued in favor of petitioner bank "because it included or covered the portion, consisting of 1,365 square-meters, occupied by herein private respondent who was not a party to Case No. 95-0 and who was not afforded his day in court".[6] The dispossession of private respondent from the lot occupied by him without giving him any opportunity to be heard on the matter was tantamount to a deprivation of property without due process of law. This We cannot

countenance. We have ruled time and again that no man shall be affected by a proceeding to which he is a stranger.[7] It is a fundamental doctrine of the law that a party, to be affected by a personal judgment, must have a day in court and an opportunity to be heard.[8] To rule otherwise would be to render nugatory the due process clause of the Constitution.

Furthermore, petitioner bank is estopped from putting up the defense that it cannot now re-deliver the 1,365 square-meter lot that belongs to Loreto Azores as said lot had already been sold to Ephraim G. Gochangco. In the Deed of Sale[9] executed between petitioner bank and Ephraim G. Gochangco, both parties admitted the adverse claim of Loreto Azores over the land subject of the sale. In fact, the purchase price to be paid by the buyer, Ephraim G. Gochangco, was conditioned on the said adverse claim. Thus,

“Should the BUYER fail to perfect title over the subject parcel of unregistered land on account of an adverse claim to the same parcel of land by a certain Loreto Azores, the SELLER hereby agrees to an adjustment in the purchase price.”[10] (Underscoring Ours.)

Hence, Ephraim G. Gochangco's claim that he cannot be bound by the judgment of respondent Court of Appeals ordering the re-delivery to Loreto Azores of the 1,365 square-meter lot included in the said Deed of Sale on the ground that he was not a party to the case is utterly devoid of merit. Not only that, Rule 39, Section 49(b) of the Revised Rules of Court is explicit on the matter:

"Sec. 49. Effect of judgments. -- The effect of a judgment or final order rendered by a court or Judge of the Philippines, having jurisdiction to pronounce the judgment or order, may be as follows:

x x x x x

(b) In other cases the judgment or order is, with respect to the matter directly adjudged x x x, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action x x x."

In this case, Ephraim G. Gochangco is a successor-in-interest of petitioner as he acquired title to the property while the same was under litigation. He is, therefore, conclusively bound by the judgment of respondent Court of Appeals ordering the re-delivery of the 1,365 square-meter lot of Loreto Azores.

Further still, Ephraim G. Gochangco is not a buyer in good faith. In *Casipit vs. Court of Appeals*,[11] We had the occasion to define what a purchaser in good faith is, thus:

"A purchaser in good faith is one who buys the property of another without notice that some other person has a right to, or interest in, such property and pays a full and fair price for the same, at the time of such purchase, or before he has notice of the claim or interest of some other person in the property x x x."

Ephraim G. Gochangco, in this case, bought the property with the full awareness that Loreto Azores has an adverse claim over the same. He agreed to buy the property on the condition that the purchase price shall be subject to adjustment on account of Loreto Azores' adverse claim. Hence, being a buyer in bad faith, he cannot now hide himself under the mantle of the law and hold on to the property that was wrongfully sold to him. He must redeliver the 1,365 square-meter lot that was found to belong to Loreto Azores. His remedy is to ask for a reduction of the price of the land that he paid to petitioner as stipulated in the Deed of Sale entered into between him and the latter.

WHEREFORE, premises considered, We hereby DENY the petition for lack of merit and consequently DISMISS the same. No costs.

SO ORDERED.

Narvasa, C.J., (Chairman), Feliciano, and Regalado, JJ., concur.
Nocon, J., no part.

[*] Penned by Isidro C. Borromeo, Associate Justice; concurred in by Mama D. Busran and Jorge R. Coquia, Associate Justices.

[1] Annex "F", CA Rollo, p. 24.

[2] Penned by Associate Justice Crisolito Pascual and concurred in by Associate Justices Corazon Juliano Agrava and Rodolfo Nocon; Rollo, pp. 37-42.

[3] Annex "J", CA Rollo, p. 49.

[4] Annex "N" (L), CA Rollo, p. 62.

[5] Rollo, pp. 14-19.

[6] Rollo, p. 18.

[7] Filamer Christian Institute vs. Court of Appeals, 190 SCRA 485 (1990); Church Assistance Program, Inc. vs. Sibulo, 171 SCRA 408 (1989); Vda. de Medina vs. Cruz, 161 SCRA 36 (1988).

[8] 30 Am. Jur. 951-954.

[9] Annex "D", CA Rollo, p. 18.

[10]Id., at p. 20.

[11] 204 SCRA 684, 694-695 (1991).

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