

**RURAL BANK OF SAN MATEO, INCORPORATED, PETITIONER, VS.
HON. INTERMEDIATE APPELLATE COURT, RENATO S. MERCADO,
BENJAMIN V. SANIDAD, SANTOS L. PILOTIN AND MARIANO MANUEL,
RESPONDENTS.**

G.R. No. 66936. December 12, 1986

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review by certiorari of the decision of the respondent appellate court reversing in toto the decision of the trial court in a case for annulment of award and Sheriff's absolute sale with damages filed by petitioner against private respondents Renato S. Mercado, Benjamin V. Sanidad, Santos L. Pilotin and Mariano Manuel.) The trial court promulgated a decision in favor of herein petitioner, the decretal portion of which reads:

"WHEREFORE, judgment is hereby rendered:

"1. setting aside the auction sale conducted by the defendants-Sheriffs on March 8, 1976 and consequently declaring the certificate of sale in favor of defendant Santos L. Pilotin, without force and effect;

"2. Ordering the cancellation of Entry No. 4878 annotated at the back of TCT No. T-19927 of the Registry of Deeds of Quirino;

"3. Ordering the defendants-Sheriffs to return the bid of Ten Thousand Pesos (P10, 000.00 to defendant Santos L. Pilotin; and

"4. Ordering the defendants to pay the costs."

The undisputed facts as found by the then respondent Intermediate Appellate Court (IAC) now known as the Court of Appeals are as follows:

"In December 1975, the plaintiff-appellee, the Rural Bank of San Mateo (Isabela), Inc., filed a petition for the Extra-Judicial Foreclosure and Sale of a parcel of land situated at Sta. Clara, Diffun, Quirino, containing an area of 12.1801 hectares, covered by and embraced in TCT No. T- 19927, homestead patent, of the land records of Quirino, which title was issued in the name of Mariano Manuel.

"The aforementioned parcel of land was mortgaged with plaintiff-appellee by Mariano Manuel using as collateral his T.C.T. No. 19927 (Exhibit "A", plaintiff-appellee). The mortgage was foreclosed and the obligation of the mortgagor Mariano Manuel, including principal and interests as of December 8, 1975, amounted to P18,597.27 (Exhibit "C", plaintiff-appellee). Likewise, the said mortgagor Mariano Manuel executed a Chattel Mortgage in favor of the plaintiff-appellee (Exhibit "D", plaintiff-appellee) for a hand tractor and his obligation, including principal and interests as of December 9, 1975, amounted to P22,997.29. The total obligation of the mortgagor Mariano Manuel with the plaintiff-appellee, both in the Real Estate Mortgage and the Chattel Mortgage, principal including interests as of December 9, 1975, amounted to P41,594.56.

"The defendants-appellants Renato Mercado, Ex-Officio Provincial Sheriff, through his Deputy Provincial Sheriff Benjamin V. Sanidad, acting favorably on the said petition caused the publication of the Notice of Extra-Judicial Foreclosure and Sale in the Vizcaya Advocate (Exhibit "G" and "G-1", plaintiff-appellee). The auction sale was set on March 8, 1976, at 8:30 A.M. in the Court of First Instance Building, at Cabarroguis, Quirino. The plaintiff-appellee, through its representative submitted its bid in the amount of P41,594.56 for the lot and machinery, and which amount was the total obligation of the mortgagor Mariano Manuel, principal including interests as of December 9, 1975, with the plaintiff-appellee. Likewise, the defendant-appellant Santos L. Pilotin submitted his bid in the amount of P10,000.00.

"The defendant appellant Benjamin V. Sanidad awarded the bid to the defendant-appellant Santos L. Pilotin for P10,000.00 and considered the bid of plaintiff-appellee in the amount of P41,594.56 as "lost and unprevailing".

"On March 9, 1976, the defendant-appellant Benjamin V. Sanidad, with undue haste, prepared the proceedings of the auction sale, conducted by him and furnished the plaintiff-appellee a copy of the proceedings (Exhibit "I", plaintiff-appellee).

"On August 16, 1976, after receiving a copy of the proceedings of the auction sale, the plain-tiff-appellee sent a letter (Exhibit "J", plaintiff-appellee) to the defendant-appellant Benjamin V. Sanidad, protesting the results of the auction sale or bidding and requesting consideration of the award of the bid for P10,000.00 to the defendant-appellant Santos L. Pilotin.

"On November 22, 1976, the defendant-appellant Santos L. Pilotin caused the registration of the Sheriff's Certificate of Sale, in his favor, of the Original Copy of TCT No. T-19927, which is on file in the office of the Register of Deeds of Quirino, as Entry No. 4878, without presenting the Owner's Duplicate Copy of TCT No. T-19927, which he knows was in the possession of the plaintiff-appellee.

"On July 18, 1978, the defendant-appellant filed a petition for the surrender of the Owner's Duplicate Copy of TCT No. T-19927, docketed as LRC Proceedings Case No. 59, in the Court of First Instance of Quirino. However, the hearing of the said petition was held in abeyance, due to a prejudicial question raised by the plaintiff-appellee, and as a consequence, the trial court issued an order dated July 31, 1979.

"On October 26, 1978, the plaintiff-appellee filed in the Court of First Instance of Isabela Civil Case No. II-1511, for Annulment of Auction Sale with Damages, but said case was dismissed without prejudice, due to WRONG VENUE.

"So on March 17, 1979, the plaintiff-appellee filed in the Court of First Instance of Quirino, Civil Case No. 87, for Annulment of Auction Sale with Damages." (Pages 2-4, Decision of IAC, Annex C)

After due hearing, the trial court rendered its decision which was appealed by defendants to the IAC. The IAC reversed the decision of the trial court, and stated as follows -

"We do not agree and we believe the assignments of error are well taken.

It is to be noted that all the steps as required for the extra-judicial foreclosure sale of a piece of land were followed. It is likewise to be noted that the authority of the Sheriff was to sell the land, not any machinery and the notice of sale as published explicitly said so. Hence, for the Sheriff to accept a bid for lot and machinery will expose the Sheriff to a demand for the delivery of the machinery which was not being sold at public auction.

For the Court to demand that the Sheriff should have postponed the sale and demand an explanation from plaintiff what it meant by its bid is untenable as there is no such legal duty on the part of the Sheriff. Furthermore, the plaintiff Bank was represented at the public auction by its bookkeeper, Virgilio C. Esper, who had the best opportunity to explain to the Sheriff the meaning of the bid, but said representative did not do so. As a matter of fact, even if the Sheriff had done what the Court wanted it to do, the result will still be the same.

In its statement of the undisputed facts, the Court said in its decision found on page 36 of the Re-cord on Appeal:

'8. That Deputy Sheriff BENJAMIN V. SANIDAD informed the plaintiff about the result of the Auction proceedings and that upon receipt of the copy of said auction proceedings, the plaintiff sent communication to defendant SANIDAD wherein he (plaintiff) merely reiterated its bid as 'amounting to P41,594.56' as per Annex "J" of the complaint;

Note that it was plaintiff that in this case caused the whole trouble. It was the creditor of two separate obligations from Mariano Manuel and two separate securities for as the Court said in its recital of the undisputed facts found on page 35 of Record on Appeal:

'1. That defendant Mariano Manuel is the mortgagor of title TCT No. T-19927, covering a parcel of land described in par. 2 of the complaint to the Rural Bank of San Mateo, Inc., to secure the payment of a loan obtained by said mortgagor in the amount of P6,440.00 as shown in Entry No. 91294 annotated at the back of said TCT No. T-19927 on September 28, 1967 and as shown by a promissory note dated September 19, 1967, xerox copy of which is attached to the complaint as Annexes "B" to "B-3";

'2. That defendant Mariano Manuel also executed a Chattel Mortgage in favor of the Rural Bank of the San Mateo, Inc., using a certain tractor machinery to secure the payment of a loan in the amount of P6,284.50 dated October 19, 1967 as evidenced by Annexes 'D' and 'D-1' of the complaint and promissory note dated October 10, 1967 as per Annex 'E' of the complaint;

However, plaintiff sought to foreclosure only the Real Estate Mortgage. It did not foreclose the Chattel Mortgage. Despite this fact its bid of P41,594.56 was for the sum total of the two obligations, i.e. the one secured with the Real Estate Mortgage and the other secured with the Chattel Mortgage. For the Sheriff to accept the bid of P41,594.56 which was explicitly for the "lot and machinery" will open him to the charge of foreclosing the chattel mortgage and a demand for the delivery of the machinery, which the Sheriff of course will not be able to fulfill as only the Real Estate Mortgage was being foreclosed.

As regards the contention that the bid of P10,000.00 being very much less than the obligation of P18,597.27 secured by the Real Estate Mortgage, this is totally immaterial as the duty of the Sheriff is to sell the property to the highest bidder. (Sec. 21, Rule 39, Revised Rules of Court). To demand that the Sheriff must sell the property at not less than the amount of the obligation is to place a "tipo" or "upset price" which has been outlawed by the Code of Civil Procedure and the Rules of court (Yangco v. Cruz Herrera, et al., 11 Phil. 402, 403)

Appellants' third assignment of error is to the effect that:

THE COURT A QUO ERRED IN HOLDING THAT THE REGISTRATION OF THE SHERIFF'S CERTIFICATE OF SALE IS IRREGULAR.

We find merit in this assignment. We agree, with appellant when it said in its reply brief:

'The assertion that the registration of the Sheriff's Certificate of Sale is null and void because the Owner's Duplicate Certificate of Title was not surrendered to the Register of Deeds at the time of registration is without merit because Sheriff's Certificate of Sale in question is an involuntary document and the presentation of the Owner's Duplicate Certificate of title when it is registered is not required. Its annotation at the back of the Owner's Duplicate Certificate of Title is not even necessary for its validity since its registration does not require the issuance of a new certificate of Title. Section 55 of Art. 496 refers to the registration of a voluntary document.

Plaintiff's argument applies in the registration of a voluntary document for in that case the presentation of the owner's duplicate copy at the time of registration is an essential element.

Appellants' fourth assignment of error states:

THE LOWER COURT A QUO ERRED IN NOT HOLDING THAT THE CAUSE OF ACTION, IF ANY, OF PLAINTIFF AS HAVING LONG PRESCRIBED AND/OR THAT HE IS GUILTY OF LACHES.

Between the auction sale on March 8, 1976 and the registration of the Sheriff's Certificate of Sale on November 22, 1976 only 8 months elapsed, hardly a sufficient period for laches to apply. From the registration of the sale on November 22, 1976 to the filing of the present complaint on March 19, 1979 only a little less than 3 years lapsed - hence, there is no prescription. There is no requirement that this action must be brought within the one year period of redemption. We believe this is an action for an injury to plaintiff not based on contract and the prescriptive period is four years under Article 1146 No. 1 of the Civil Code of the Philippines.

We find therefore no merit in this assignment.

Appellants' fifth assignment is but a consequence of the other assignments and further no competent evidence was submitted to prove the same.

WHEREFORE, finding merit in this appeal, We REVERSE in toto the judgment of the lower court, dated October 15, 1982, and in its stead a new judgment is hereby rendered dismissing the complaint, without pronouncement as to costs.

SO ORDERED.

Petitioner now comes to Us assigning two errors, to wit:

- The Hon. Intermediate Appellate Court erred in not concluding that it is the duty of respondents Mercado and Sanidad, as the Sheriffs who conducted the sale of the foreclosed property, to protect petitioner's interest by clarifying its bid and informing it of all the other bids before the actual sale.
- The Hon. Intermediate Appellate Court erred in concluding that petitioner is under obligation to foreclose not only the real estate mortgage but also the chattel mortgage.

Petitioner's contentions do not deserve Our consideration. We fully subscribe to the appellate court's brilliant dissertation on the matter. There is nothing to clarify as the contents of the bid offer of petitioner clearly show that the bid of petitioner for the amount of P41,594.56 is for the "lot and machinery." The records show that the auction sale was a result of the petition filed by the Rural Bank of San Mateo, Inc. for the Extra-Judicial Foreclosure and Sale of a parcel of land covered by TCT No. 19927 issued in the name of Mariano Manuel. No mention was made that the foreclosure of a chattel mortgage was also sought. The authority of the Sheriff was only to sell the land, not any machinery and the notice of sale as published explicitly said so. The findings of the appellate court on the regularity of the extra-judicial foreclosure sale are not disputed by the petitioner. Moreover, there is no law which requires the auctioning Sheriff to inform petitioner of all bids offered before the actual sale. A reading of the provisions of Act No. 3135 as amended by Act No. 4118 (An Act to Regulate the Sale of Property Under Special Powers Inserted In or Annexed to Real-Estate Mortgages) shows that the law is bereft of any provision imposing this duty on the auctioning Sheriff. Besides, it was not necessary anymore to inform petitioner because it was duly represented by a certain Mr. Virgilio Asper during the auction sale. Petitioner's bid offer is clear. It says: "Bid Prices for the following - 1. Manuel Mariano (Lot and Machinery)" P41,594.56 x x x (Annex "H", Record on Appeal, p. 44, Rollo). Said Mr. Asper had all the opportunity to offer any clarification or explanation to the auctioning Sheriff about the bid. Mr. Romulo Petines, Jr., the bank president, himself admitted that the bid was for the lot and machinery," belying the claim that the bid was a divisible one. The issue of whether the bid in the amount of P41,594:56 offered by petitioner is divisible or not is a question of fact

already established by the trial and appellate courts and the same will not be disturbed by Us as these are supported by the evidence.

The contention that the respondent Sheriff became an agent of the petitioner is off-tangent and does not find support in the provisions of Act No. 3135 as amended. The power to decide to foreclose the mortgaged property or not is the prerogative of the mortgagee. After this the act of the Sheriff is governed by the provision of Act No. 3135 as amended, and not by the instructions of the mortgagee.

We cannot sustain petitioner's second assigned error which states that the appellate court erred in concluding that petitioner is under obligation to foreclose not only the real state mortgage but also the chattel mortgage. No such conclusion was made. The pertinent portion of the appellate court's decision reads:

"However, plaintiff sought to foreclose only the Real Estate Mortgage. It did not foreclose the Chattel Mortgage. Despite this fact its bid of P41,594.56 was for the sum total of the two obligations, i.e the one secured with the Real Estate Mortgage and the other secured with the Chattel Mortgage. For the Sheriff to accept the bid of P41,594.66 which was explicitly for the "lot and machinery" will open him to the charge of foreclosing the chattel mortgage and a demand for the delivery of the machinery, which the Sheriff of course will not be able to fulfill as only the Real Estate Mortgage was being foreclosed.

WHEREFORE, premises considered, the petition is hereby DENIED for lack of merit and the appealed decision is hereby AFFIRM in toto.

SO ORDERED.

Feria, (Chairman), Fernan, Alampay, and Gutierrez, Jr., JJ., concur.

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