

JOSE UNCHUAN, PETITIONER, VS. COURT OF APPEALS, (FIFTH DIVISION), HON. SENEN G. PENARANDA, REGIONAL TRIAL COURT OF MISAMIS ORIENTAL, BRANCH 20, 10TH JUDICIAL REGION, CAGAYAN DE ...

G.R. No. 78775. May 31, 1988

Ponente: CORTES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-78775/>

CORTES, J.:

On November 3, 1976, Flora Jaldon, represented by her attorney-in-fact, Manuel Jaldon, Jr., mortgaged a parcel of land located in Cagayan De Oro City, containing an area of 184 square meters, and covered by Transfer Certificate of Title No. T-7564, to the Philippine Banking Corp. On December 10, 1976, petitioner Unchuan, claiming to be the owner of one-half of the mortgaged property, caused to be annotated on the title an adverse claim. The annotation reads:

Entry No. 52445 - Affidavit of Adverse Claim executed by Jose Unchuan claiming 1/2 portion of land embraced in this TCT by virtue of a verbal agreement and further evidence(d) by official receipt of her advances covering the consideration of the aforesaid portion. . . . [Italics supplied.]

Subsequently, the Philippine Banking Corporation extrajudicially foreclosed the mortgage over the property and in the public sale, the bank was the highest bidder. As the property was not redeemed within the reglementary period, a deed of final conveyance was executed, and accordingly, TCT No. 43346 was issued to the bank. Unchuan's adverse claim had not been cancelled; hence, it was carried over to TCT No. 43346.

On March 18, 1985, Faustino Neri, Jr. caused to be annotated on the title a Notice of Lis Pendens, which, however, was subsequently cancelled after he executed a release of claim on January 30, 1986.

On May 14, 1986, the bank filed a petition for the cancellation of the annotations on its title and for the issuance of a writ of possession. Named respondents were Unchuan and Faustino Neri, Jr. Unchuan filed an opposition to the petition. In his affirmative and special defenses, Unchuan again raised his claim of ownership to the 1/2 portion of the lot in question. Annex "A" to the Opposition is a photocopy of what is claimed to be a receipt issued by Flora Jaldon, dated May 28, 1973, which states:

May 28, 1973

Received from Jose T. Unchuan, half owner of the lot at Pabayo St., formerly owned by Aquileo Yamut, the sum of TWO HUNDRED PESOS (P200.00) to be applied as payment of 1/2 of land taxes of abovementioned lot, which was sold to him previously and full payment hereby acknowledged fully received by me.

Flora Y. Jaldon

Hearing was set several times. On July 16, 1986, notice was sent setting the hearing for August 19, 1986, but due to the failure of Unchuan's counsel to appear, said hearing had to be reset for September 2, 1986. The hearing set

for September 2, 1986 had to be reset again for September 23, 1986 upon motion of counsel for Unchuan. Finally, on September 23, 1986, hearing proceeded as scheduled and the case was submitted for resolution upon agreement of the parties. However, on September 25, 1986, Unchuan filed a manifestation praying for the dismissal/suspension of the petition for writ of possession on the ground that he had filed an action for quieting of title on the property. Attached to the manifestation was a copy of Unchuan's complaint in Civil Case No. 10770 for "Quieting of Title, Ownership, Annulment of Deed of Mortgage, Foreclosure Proceedings and TCT No. 43346." The complaint alleged in part:

3. That (Unchuan) acquired ownership of his one-half (1/2) portion of the above-described property by purchase from Flora Y. Jaldon long before November 1976;
4. That immediately after (Unchuan) purchased one-half (1/2) portion of the aforementioned property long before November 1976, he immediately constructed two (2) semi-concrete residential buildings of strong materials and have resided thereon with his family continuously up to the present;
5. That from the time (Unchuan) purchased one-half (1/2) portion of the above-described property from Flora Y. Jaldon, he has been contributing one-half (1/2) of the taxes due the government on said property;
6. That since the time (Unchuan) began to reside and live on his one-half (1/2) portion of said property long before November 3, 1976 or for a period of more than ten (10) years, he has not been disturbed of his ownership and possession of the same;

On October 3, 1986 the trial court issued an order directing the issuance of a writ of possession in favor of the bank. Unchuan brought a petition for certiorari with the Court of Appeals which denied the petition for lack of merit. Hence, the present recourse.

The only issue raised in this appeal is whether or not the trial court gravely abused its discretion in issuing the writ of possession even without a full-blown trial to resolve the claim of Unchuan, and despite the pendency of the action to quiet title.

Extrajudicial foreclosure of real estate mortgages is governed by Act 3135, amended by Act No. 4118. Section 6 provides that in cases of extrajudicial sale, "redemption shall be governed by the provisions of sections four hundred and sixty-four to four hundred and sixty-six, inclusive, of the Code of Civil Procedure insofar as these are not inconsistent with the provisions of this Act." Sections 464-466 of the Code of Civil Procedure were superseded by Sections 25-27 and Section 31 of the Rules of Court, which in turn were replaced by Sections 29-31 and Section 35 of Rule 39 of the Revised Rules of Court. [IFC Service Leasing and Acceptance Corp. v. Nera, 125 Phil. 595 (1967), 19 SCRA 181.]

Once the estate mortgaged is extrajudicially sold, and it is not redeemed within the reglementary period, no separate and independent action is necessary to obtain possession of the property. [Tan Soo Huat v. Ongkiko, 63 Phil. 746 (1936).] The purchaser at the public auction only has to file a petition for the issuance of a writ of possession pursuant to Section 35 of Rule 39 of the Revised Rules of Court which provides:

SEC. 35. Deed and possession to be given at expiration of redemption period. By whom executed or given. —

*** **

. . . The possession of the property shall be given to the purchaser or last redemptioner by the same officer unless a third party is actually holding the property adversely to the judgment debtor. [Italics supplied.]

Note, however, that a third party not privy to the debtor is protected by the law. He may be ejected from the premises only after he has been given an opportunity to be heard, conformably with the time-honored principle of

due process. "Where a parcel of land levied on execution is occupied by a party other than the judgment debtor, the proper procedure is for the court to order a hearing to determine the nature of said adverse possession." [Guevara et al. v. Ramos et al., G.R. No. L-24358, March 31, 1971, 38 SCRA 194; Saavedra et al. v. Siari Valley Estates, Inc., et al., 106 Phil. 432 (1959); Omana v. Gatulayao, 73 Phil. 66 (1941); Gozon v. Dela Rosa, 77 Phil. 919 (1947); Santiago v. Sheriff of Manila, 77 Phil. 740 (1946).]

Even as Unchuan concedes that proceedings were held to determine the nature of his possession, he questions the summary manner by which his claim was resolved.

It is too late in the day for Unchuan to question the summary nature of the proceedings in the lower court. In the hearing of September 23, 1986, his counsel agreed to submit the case for resolution, even as on said date, all that he had submitted for consideration of the court was his Opposition to the Petition of Philippine Banking Corporation. He is now estopped from questioning the procedure adopted by the trial court.

Moreover, there is nothing objectionable in the summary disposition of third-party claims. On several occasions, the Court had sanctioned summary proceedings to determine the nature of the possession of third-party claimants. [See Gozon v. Dela Rosa, supra; Saavedra v. Siari Valley Estates, Inc., et al., supra; Planas and Verdon v. Madrigal and Co. et al., 94 Phil. 754 (1954).]

On the basis of the record of the case, the trial judge ruled in favor of Philippine Banking Corporation. This Tribunal has carefully gone over the record, and is convinced that there is sufficient basis warranting the issuance of a writ of possession.

The land involved is a Torrens-titled property. It is basic that a person dealing with registered property need not go beyond, but only has to rely on, the title. He is charged with notice only of such burdens and claims which are annotated on the title, for registration is the operative act that binds the property.

Unchuan claims that he purchased one-half (1/2) of the property "long before November 3, 1976." However, other than his bare allegation, the only proof he presented in court is a handwritten receipt for the payment of his contribution to realty taxes allegedly signed by Flora Jaldon. He has not bothered to prove the authenticity of the private writing, though. The alleged receipt does not even sufficiently identify the land subject of the sale to Unchuan to be the same land mortgaged and then sold to Philippine Banking Corporation. Also, for a transaction as important as the sale of a registered parcel of land, Unchuan has not even kept a record of precisely when he bought the property, except that it was "long before November 3, 1976," which incidentally is the day when Flora Jaldon mortgaged the property to Philippine Banking Corporation. Moreover, the sale was merely a verbal agreement; hence, it could not be registered. All that Unchuan did was to file a belated adverse claim on December 10, 1976, after the property had been mortgaged to Philippine Banking Corporation. Note, however, that since the filing of the adverse claim, Unchuan has done nothing to prosecute his claim of ownership over one-half of the property. He has not, for instance, compelled Jaldon to execute the proper instrument so that the sale could be registered (assuming that the land was indeed sold to him) and the proper title issued in his name. In fact, the mortgage to the bank had been foreclosed, and a new title had been issued in the name of Philippine Banking Corporation, but all that Unchuan did was file an adverse claim.

The Civil Code provides that if the same immovable property is sold to different vendees, "the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property" [Art. 1544, Civil Code.] Presidential Decree No. 1529 extends the protection given to an innocent purchaser for value to an innocent mortgagee. [Art 32, Pres. Decree No. 1529 (1978).] Thus granting that Unchuan indeed bought one-half of the property "long before November 3, 1976", since he filed his adverse claim only after the land was mortgaged to the bank, the right of the bank to the property is superior to that of Unchuan.

There was no need for the trial court to await the outcome of Civil Case No. 10770. As in execution sales, proceedings incident to extrajudicial foreclosure of mortgages to resolve the possession of third-party claimants may proceed independently of the action which said claimants may bring to enforce or protect their claim of ownership over the property. Thus, it was not error for the trial court to act upon the petition for the issuance of a writ of possession despite the pendency of Civil Case No. 10770 which raises a question of ownership. Needless to say, the order of the trial court directing the issuance of a writ of possession cannot prejudice the outcome of Civil Case No. 10770.

WHEREFORE, finding no reversible error in the order of the trial court as affirmed by the decision of the Court of Appeals, the petition is hereby DENIED. Costs against the petitioner.

SO ORDERED.

Fernan, (Chairman), Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

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.