

CARMEN BASCON TIBAJIA, NORBERTO TIBAJIA, JR., AURORA T. VITO, PETITIONERS, VS. HONORABLE COURT OF APPEALS, AILEEN GO, RESPONDENTS.

G.R. No. 82193. February 06, 1991

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari seeking to reverse and set aside: (1) the December 2, 1987 Decision[*] of the respondent Court of Appeals nullifying and setting aside the June 26, 1987 Order[**] of the Regional Trial Court of Pasig, Branch 154, which denied the notice of appeal from the Order of August 15, 1986 (granting the issuance of a certificate of redemption); and (2) the February 19, 1988 resolution denying the motion for reconsideration of said decision.

The facts of the case are as follows:

The judgment of the Regional Trial Court of Pasig, Branch 154, in a money claim, Civil Case No. 50315, has become final and executory. The plaintiff therein, Eden Tan, obtained a satisfaction of judgment against herein petitioners, spouses Carmen Bascon Tibajia and Norberto Tibajia, Jr. by selling, through the Provincial Sheriff of Rizal, twenty-one parcels of land in Paranaque, Metro Manila, owned by the defendants in the sum of P250,000.00.

In an auction sale held on April 12, 1985, herein private respondent Aileen Go acquired the parcels of land as the highest bidder for the amount of P330,500.00. A certificate of sale was issued and registered with the Register of Deeds of Pasay on April 15, 1985.

On April 2, 1986, herein petitioner Aurora Vito, sister of petitioner Norberto Tibajia, Jr., claiming to be a co-owner of the properties sold, offered to redeem the same in her own capacity as well as in her capacity as representative of her co-petitioner. The Clerk of Court and Ex-officio Sheriff of Rizal, allowed the redemption and she paid the sum of P369,994.20 and a percentage fee in the sum of P3,751.90 as shown by Official Receipt Nos. 1484952 and 1488357 both dated April 2, 1986 (Rollo, p. 39) and in the name of Norberto Tibajia, et al. (Exhibits "1" and "2").

On April 14, 1986, upon learning of the offer to redeem by petitioner Aurora Vito, private respondent Aileen Go filed a "Manifestation and Motion" opposing the offer to redeem on the ground that she was not the judgment debtor or among those authorized to effect redemption under Rule 39 of the Rules of Court, and further, the tender was not addressed to the proper party specified under the Rules, which is the purchaser.

In an ex-parte motion, received by the Court on April 18, 1986, Aileen Go prayed for the issuance of a final deed of sale as the 12 months redemption period had already expired and no valid redemption had been made by the judgment debtors. Aurora Vito filed an opposition thereto, maintaining that she is a co-owner of the properties subject matter of the action; that she offered to redeem the same in her own capacity as well as in her capacity as

representative of her co-petitioners; and that she is qualified to exercise the right of redemption as provided for in Section 29, Rule 39 of the Rules of Court and under Article 1620 of the Civil Code.

At the hearing of the incidents on April 24, 1986, Aurora Vito informed the court that she was authorized by her co-petitioners to redeem, as per special power of attorney allegedly executed in New York on April 16, 1986, xerox copy of which was submitted to the court on May 2, 1986. On the other hand, it is the position of private respondent Aileen Go that the 360 days from the registration of the certificate of sale with the Register of Deeds on April 15, 1985 had expired on April 10, 1986.

The Regional Trial Court of Rizal, in its order of August 15, 1986 found the redemption valid -

"Considering that Aurora Vito is exercising the right of redemption in her own right as a co-owner as well as attorney-in-fact of Norberto Tibajia, the Court finds the redemption in accordance with law, hence, the Manifestation and Motion filed by Aileen Go is hereby denied and the Ex-Officio Provincial Sheriff of this Court is ordered to issue the corresponding certificate of redemption."

Aileen Go filed a motion for reconsideration but the same was denied by the court in an Order dated April 15, 1987 (Rollo, pp. 41-42).

On May 18, 1987, private respondent Aileen Go (as the auction vendee) filed a Notice of Appeal from the above-mentioned orders of the Regional Trial Court (Rollo, p. 43).

The Regional Trial Court of Pasig, in an order dated June 26, 1987, denied said notice of appeal, on the grounds that: (1) the judgment has long become final and executory; and (2) the auction-vendee is not a party to the case.

Alleging grave abuse of discretion amounting to lack of jurisdiction on the part of the RTC presiding judge, private respondent Aileen Go elevated the case to the Court of Appeals on Certiorari and Mandamus with prayer for preliminary injunction, for the purpose of (a) annulling the order of the RTC of Pasig, Branch 154, dated June 26, 1987, which denied due course to her appeal and (b) compelling the Presiding Judge of the RTC to reinstate the appeal interposed by her from the order of August 15, 1986 and from the order of the same court issued on April 15, 1987.

In an order dated December 2, 1987 (Rollo, pp. 27-35), respondent Court of Appeals found the order denying the notice of appeal arbitrary and whimsical, fraught with abuse of discretion and granted the Petition for Writ of Certiorari.

Petitioner Aurora Vito's motion for reconsideration of said decision was denied (Court of Appeals, Rollo, pp. 61-67).

Hence, this petition, which by Court Resolution has been given due course.

Petitioner raises two issues, to wit:

I

IS PRIVATE RESPONDENT AILEEN GO ENTITLED TO APPEAL IN CIVIL CASE NO. 50315, REGIONAL TRIAL COURT OF RIZAL, BRANCH 145 AFTER SAID COURT FOUND THAT THE JUDGMENT IN SAID CASE HAS LONG BECOME FINAL AND EXECUTORY AND THAT SAID RESPONDENT AILEEN GO WAS NEVER A PARTY TO SAID CASE?

II

WAS THERE A VALID REDEMPTION MADE ON THE PROPERTIES SOLD AT PUBLIC AUCTION BY THE PETITIONERS WHO WERE THE JUDGMENT DEBTORS IN CIVIL CASE NO. 50315 - THE

REDEMPTION BEING MADE BY PETITIONER AURORA VITO WHO WAS FOUND AND ESTABLISHED TO BE THE CO-OWNER OF THE PROPERTIES AND THE ATTORNEY-IN-FACT OF CO-PETITIONERS SPOUSES NORBERTO AND CARMEN TIBAJIA?

The main issue in this case is whether or not the redemption should be given due course.

The answer is in the affirmative.

From the records of this case, it will be gathered that respondent Aileen Go, as the highest bidder in the public auction sale of April 12, 1985, acquired the 21 parcels of land for the amount of P330,500.00. The certificate of sale was issued and registered with the Registry of Deeds of Pasay on April 15, 1985. Accordingly, the expiry date of the redemption period was on April 15, 1986 (pursuant to Section 30, Rule 39 of the Rules of Court). On April 2, 1986, herein petitioner Aurora Tibajia Vito, sister of petitioner Norberto Tibajia, Jr., claiming to be a co-owner pro-indiviso over one-half (1/2) share of the sold properties, offered to redeem the same in her own capacity as well as in her capacity as representative of her co-petitioners. The Clerk of Court and Ex-Officio Sheriff of Rizal allowed the redemption and she paid the sum of P369,994.20 and a percentage fee in the sum of P3,751.90 and was issued Official Receipt Nos. 1484952 and 1488357, both dated April 2, 1986 (Rollo, p. 31) and in the name of Norberto Tibajia, et al. (Ibid., p. 21). Nevertheless, private respondent Go, on April 14, 1986, in a Manifestation and Motion, opposed the offer to redeem on the ground that Vito was not the judgment debtor.

The records show that the redemption amount was paid on April 2, 1986, prior to the expiration date of the redemption on April 10, 1986, [***] and that the redemption was made for the judgment debtors as evidenced by the receipts issued in the name of Norberto Tibajia, et al. Conversely, it was not shown that Norberto Tibajia, et al. opposed Vito's claim to be a co-owner of the questioned property or her capacity as representative of said owners - the judgment debtors. Unquestionably, such redemption is allowed under Sec. 29, Rule 39 of the Rules of Court. Mindful that the policy of the law is to aid rather than to defeat the right of redemption (Tioseco v. Court of Appeals, 143 SCRA 705, 710 [1986]; citing the case of Javellana v. Mirasol and Nunez, 40 Phil. 761), the ends of justice would be better served to give due course to the redemption.

PREMISES CONSIDERED, the December 2, 1987 decision of the Court of Appeals is hereby SET ASIDE, and the August 15, 1986 order of the Regional Trial Court of Pasig, Branch 154, is REINSTATED.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

[*] Penned by Associate Justice Bonifacio A. Cacdac, Jr., and concurred in by Associate Justices Serafin E. Camilon and Ricardo L. Pronove, Jr.

[**] Penned by Judge Ramon Buenaventura.

[***] The rule says 12 months, not one year, therefore the period is 360 days, not 365 days (See Art. 13, Civil Code).

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