

JORGE NAVARRA AND CARMELITA BERNARDO NAVARRA AND THE RRRC DEVELOPMENT CORP., PETITIONERS, VS. COURT OF APPEALS AND PLANTERS DEVELOPMENT BANK, RESPONDENTS.

G.R. No. 86237. December 17, 1991

Ponente: CRUZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-86237/>

CRUZ, J.:

The respondent Court of Appeals[1] is faulted in this petition for review for sustaining the orders of the trial court dated February 22, 1988, and May 20, 1988.

The petitioners, spouses Jorge Navarra and Carmelita Bernardo, together with Ruben Bernardo and Cresencia Villanueva, and their family corporation, the RRRC Development Corporation, executed a real estate mortgage in favor of private respondent Planters Development Bank over five parcels of registered land to secure the payment of a loan in the principal sum of P1,200,000.00.

When the petitioners failed to pay their obligation, Planters caused the extra-judicial foreclosure of the mortgage in accordance with Act No. 3135 as amended. On May 15, 1984, a public auction was held; the following day the sheriff issued a certificate of sale in favor of Planters as the highest bidder. The one-year period having expired without the petitioners exercising their right of redemption, ownership of the five parcels of land was transferred to the private respondent upon the issuance in its name of new TCT Nos. 97073, 97074, 97075, 97076 and 97077 by the Register of Deeds of Makati, Metro Manila.

Thereafter, Planters sent a letter of demand to the petitioners to vacate the premises, but the demand was rejected. It then filed a petition for the issuance of a writ of possession pursuant to Section 6 of Act No. 3135 as amended before the RTC-Makati, Branch 137. This was docketed as LRC Case No. M-1201.

When the petition was set for hearing on August 24, 1987, no oppositor appeared nor was a written opposition filed. Upon motion, Planters was allowed to present its evidence *ex parte*. On October 2, 1987, however, the spouses Navarra and the RRRC Development Corporation filed their written opposition, alleging *inter alia* that they were the plaintiffs in Civil Case No. 16917 pending before the Regional Trial Court of Makati, Branch 145; that they were the owners of the properties subject thereof which they had acquired by virtue of a contract of sale; and that herein private respondent had already been declared in default in the said civil case. They added that the petition for the issuance of the writ of possession was a mere ruse of the private respondent.

Civil Case No. 16917 is a complaint for specific performance filed by the petitioners on June 3, 1987, to compel the respondent bank to execute in their favor a deed of sale covering the five lots involved in LRC Case No. M-1201.

Acting upon the written opposition, the trial court set the hearing of the petition on November 16, 1987, to enable the oppositors to present their evidence. On December 8, 1987, Planters filed its comment/rejoinder to the opposition, and on December 14, 1987, the petitioners filed their sur-rejoinder.

The trial court reset the hearing of November 16, 1987, to December 14, 1982, then to January 25, 1988, and finally to February 16, 1988. The petitioners filed a written manifestation stating that they were not presenting evidence and, citing the case of *Zaragoza vs. Diaz*, 65 SCRA 315, argued - rather implausibly - that the petition for a writ of possession should be dismissed because it was filed after the one-year period of redemption.

On February 22, 1988, the trial court issued the assailed order disposing as follows:

WHEREFORE, the petition is hereby granted, and let a writ of possession issue, to be implemented by the Sheriff of this Court, by placing the possession of the five (5) parcels of land, including all improvements existing thereon, situated at Barangay San Dionisio, Parañaque, Metro Manila covered by Transfer Certificate of Title Nos. 97073, 97074, 97075, 97076 and 97077, in favor of petitioner.

Their motion for reconsideration of the order having been denied on May 20, 1988, the petitioners filed with the respondent Court of Appeals a special civil action for certiorari, alleging that the trial court committed grave abuse of discretion amounting to lack of jurisdiction in issuing the orders of February 22, 1988, and May 20, 1988.[2]

The respondent court dismissed the petition on September 12, 1988, and denied the motion for reconsideration on December 22, 1988. The petitioner then came to this Court for relief under Rule 45 of the Rules of Court.

The petitioners agree that it is the ministerial duty of the court to issue a writ of possession in favor of the highest bidder at the public auction conducted in the extra-judicial foreclosure of the mortgage. This is authorized by Act No. 3135 as amended. They also concede that as a rule any question regarding the validity of the mortgage or of its foreclosure cannot be a legal ground for refusing the issuance of the writ of possession.

But while the petitioners are not questioning these rules, they submit that the writ of possession should not have been issued because they are already the owners of the subject property by virtue of the perfected and partially consummated contract of sale they had entered into with Planters. To prove their claim, they presented to the respondent court an exchange of letters which the petitioners insist has established a meeting of minds between them and Planters relative to their repurchase of the subject properties.[3]

The Court has examined these letters and finds that the alleged repurchase involved only a house and lot and a restaurant building and lot while the assailed writ of possession involved five lots in all. Remarkably, the letters were never presented in LRC Case No. M-1201, as may be inferred from the following observation of the trial judge in the assailed basic order:

The main thrust in the opposition is the claim by the oppositors' ownership over the properties subject matter of the petition. It is their impression that a perfected sale was entered into between them and the petitioner. This Court has given them the opportunity to present evidence in support of their stand but instead they opted not to present evidence, and limited themselves to filing a written manifestation inviting attention to the ruling of the Supreme Court in the case of *Zaragoza vs. Diaz* (No. L-19462 July 25, 1975, 65 SCRA 315).

The petitioners also ask this Court to consider four letters which they have attached to their petition, claiming these to be newly-discovered evidence that would substantiate their allegation that they made a down payment of P300,000 to the private respondent for the repurchase of the subject properties.[4]

As defined, newly-discovered evidence is evidence which could not have been discovered prior to the trial in the court below by the exercise of due diligence and which is of such character as would probably change the result.[5]

The decision of the respondent Court of Appeals was promulgated on September 12, 1988. On the other hand, the letters are dated October 24, 1988, and November 12, 1988. As they were not existing at the time the respondent

court rendered its decision, and indeed prior to the trial, they could not by any kind of diligence have been discovered at all during that period. It is clear that they do not qualify as newly-discovered evidence under the definition as they came into existence only after the trial.

A no less important consideration is that the Rules of Court allow only two occasions when a party may file a motion for new trial on the ground of newly-discovered evidence. That motion may be filed only with the trial court under Rule 37 or with the Court of Appeals under Rule 53 but never with the Supreme Court.[6]

Time and again we have stressed that the Supreme Court is not a trier of facts. It is not the function of this Court to analyze or weigh all over again the evidence already considered in the proceedings below, its jurisdiction being limited to reviewing only errors of law that may have been committed by the lower courts. Such review does not extend to reversing the factual findings of such courts save only in the exceptional instances we have laid down in a number of decisions.[7]

The petitioners cite the cases of *Cometa vs. IAC*, 151 SCRA 563, and *Barican vs. IAC*, 162 SCRA 358, where this Court ordered deferment of the issuance of the writ of possession pending resolution of the issue of ownership of the disputed properties.

It is true that we did hold as follows in the *Cometa* case:

In the case at bar, the validity of the levy and sale of the properties is directly put in issue in another case by the petitioners. This Court finds it an issue which requires pre-emptive resolution. For if the respondent acquired no interest in the property by virtue of the levy and sale, then, he is not entitled to its possession.

However, there were peculiar circumstances in that case which are not present in the case at bar, to wit:

Moreover, equitable considerations constrain us to reverse the decision of the respondent court. The fact is undisputed that the properties in question were sold at an unusually lower price than their true value. Properties worth at least P500,000.00 were sold for only P57,396.85. We do not comment on the consequences of the inadequacy because that is the very issue which confronts the court below in the pending case. It appearing, however, that the issuance of the writ of possession would and might work injustice because the petitioner might not be entitled thereto, we rule that it be withheld. (Emphasis supplied.)

The facts in the *Barican* case are also different because -

In the instant case, the petition for the issuance of an alias writ of possession was set for hearing. During the hearing, the lower court discovered certain facts, among them: In Civil Case No. C-11232, the petitioner-spouses claim ownership of the foreclosed property against the respondent bank and Nicanor Reyes to whom the former sold the property by negotiated sale; the complaint alleged that the DBP knew the assumption of mortgage between the mortgagors and the petitioner-spouses and the latter have paid to the respondent bank certain amounts to update the loan balances of the mortgagors and transfer and restructuring fees which payments are duly receipted; the petitioner-spouses were already in possession of the property since September 28, 1979 and long before the respondent bank sold the same property to respondent Nicanor Reyes on October 28, 1984; and the respondent bank never took physical possession of the property.

Under these circumstances, the obligation of a court to issue a writ of possession in favor of the purchaser in a foreclosure of mortgage case ceases to be ministerial.

In the said case, this Court took into account the circumstances that as early as 1979 the judgment debtor was no longer in possession of the disputed property and that there was a pending civil case involving the rights of third parties, namely, the petitioner-spouses. No such third parties are involved in the case at bar, the controversy being confined only to Planters, as mortgagee, and the Navarra spouses, as mortgagors.

The purchaser at an extra-judicial foreclosure sale has a right to the possession of the property even during the one-year period of redemption provided he files an indemnity bond. After the lapse of the said period with no redemption having been made, that right becomes absolute and may be demanded by the buyer even without the posting of a bond. Possession may then be obtained under a writ which may be applied for ex parte pursuant to Section 7, of Act 3135 as amended by Act 4118 as follows:

Sec. 7. In any sale made under the provisions of this Act, the purchaser may petition the Court of First Instance of the province or place where the property or any part thereof is situated, to give him possession thereof during the redemption period, furnishing bond in an amount equivalent to the use of the property for a period of twelve months, to indemnify the debtor in case it be shown that the sale was made without violating the mortgage or without complying with the requirements of this Act. Such petition shall be made under oath and filed in form of an ex parte motion in the registration or cadastral proceedings if the property is registered, or in special proceedings in the case of property registered under the Mortgage Law or under section one hundred and ninety-four of the Administrative Code or of any other real property encumbered with a mortgage duly registered in the office of any register of deeds in accordance with any existing law, and in each case the clerk of the court shall, upon the filing of such petition, collect the fees specified in paragraph eleven of section one hundred and fourteen of Act Numbered Four hundred and ninety-six, as amended by Act Numbered Twenty-eight hundred and sixty-six, and the court shall, upon approval of the bond, order that a writ of possession issue, addressed to the sheriff of the province in which the property is situated, who shall execute said order immediately.

Applying this provision, the respondent Court of Appeals correctly observed:

Let it be stressed that, while it is true that the claim of ownership over the five (5) parcels of land is pending litigation in Civil Case No. 16917, until and unless the lower court in said case has finally adjudicated the ownership thereof to petitioners, private respondent cannot be deprived of its right of possession over the same since the right of private respondent springs from the failure of petitioners to redeem the foreclosed properties within the one-year period granted by law and the consequent issuance of new transfer certificates of title in its name. Consequently, the claim of ownership, allegedly in view of a perfected contract of sale, is left to be determined in Civil Case No. 16917. The same cannot be raised as a justification for opposing the issuance of a writ of possession since, under Sec. 7 of Act No. 3135 as amended, the proceeding is ex parte. x x x.

There being no dispute that the lands were not redeemed within one year from the registration of the extrajudicial foreclosure sale, it should follow that the private respondent has acquired an absolute right, as purchaser, to the writ of possession. The land registration court has the ministerial duty to issue that writ upon mere motion, conformably to the afore-cited Section 7.

The question of the ownership of the land or the alleged perfected or consummated sale can be threshed out in Civil Case No. 16917, which is still pending. What we are holding here only is that because that question could not be raised in the petition for the issuance of the writ of possession in LRC Case No. M-1201, the order of the trial judge granting the petition was conformable to law.

WHEREFORE, the challenged decision of the Court of Appeals is AFFIRMED, with costs against the petitioner.

Narvasa, C.J., Griño-Aquino, and Medialdea, JJ., concur.

[1] Penned by Ordoñez-Benitez, J., with Bellosillo and Kalalo, JJ., concurring.

[2] Through Judge Santiago Ranada, Jr.

[3] Rollo, pp. 217-221; Annex "A," "B," "C," and "D," Memorandum for the petitioners.

[4] Rollo, pp. 145-148; Annex "T," "U," "V," and "W," Petition.

[5] Rule 53, Section 1, Revised Rules of Court.

[6] Cuenca vs. Cuenca, 168 SCRA 335.

[7] Medina vs. Asistio, 191 SCRA 218; SSS vs. CA, 177 SCRA 1; Reynolds Philippines Corp. vs. CA, 169 SCRA 220; Apex Investment and Financing Corp. vs. IAC, 166 SCRA 458; Bunag vs. CA, 158 SCRA 299.

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.