

TAY CHUN SUY, PETITIONER, VS. COURT OF APPEALS AND DEVELOPMENT BANK OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 93640. January 07, 1994

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

As between the buyer of a vessel at a prior extrajudicial foreclosure and the buyer at a subsequent auction sale, both buyers failing to register their transactions, who has a better right of dominion over the vessel?

On 9 May 1978, Sta. Clara Lumber Co., Inc. (SCLC), obtained a loan of P18,514,357.56 from private respondent Development Bank of the Philippines (DBP). As security for the loan, SCLC mortgaged some of its properties, among which was a vessel, MV Sta. Clara I. Upon SCLC's failure to pay the loan, the mortgage was foreclosed. On 18 August 1982, the Clerk of Court and Provincial Sheriff Ex-Officio of Sultan Kudarat, Aurelio M. Rendon, conducted an auction sale and sold the vessel to DBP for P3,600,000.00. He thereafter issued a certificate of sale dated 18 August 1982 in favor of DBP.[1] However, DBP did not register with the Philippine Coast Guard the mortgage; neither the foreclosure nor the auction sale.

In December 1983, DBP and Sta. Clara Housing Industries, Inc. (SCHI), entered into a Lease/Purchase Agreement[2] which provided that DBP should lease some of the former properties of SCLC, including MV Sta. Clara I, to the latter and transfer actual ownership over these properties upon completion by the lessee of the stipulated lease/purchase payment.

On 10 July 1986, petitioner caused the levy and attachment of the same vessel, MV Sta. Clara I, in order to satisfy a judgment rendered by the Regional Trial Court, Br. XII, Davao City, in Civil Case No. 15970, "Tay Chun Suy v. Sta. Clara Lumber Co., Inc." At the time of the levy, the coastwise license of the vessel was in the name of Sta. Clara Lumber Co., Inc.

On the scheduled date of the execution sale, Atty. Necitas Kintanar, counsel for SCHI, verbally informed Deputy Sheriff Manases M. Reyes, Jr., who was to conduct the sale, that MV Sta. Clara I was no longer owned by SCLC but by DBP pursuant to a prior extrajudicial foreclosure sale. Despite such information, Sheriff Reyes, Jr., proceeded with the sale and awarded the vessel to petitioner for P317,000.00.[3]

Meanwhile, on 23 July 1986, MV Sta. Clara I was again levied upon and attached by Deputy Sheriff Alfonso M. Zamora by virtue of a writ of attachment issued by the Regional Trial Court, Br. XI, Cebu City, in Civil Case No. CEB-5162, "Philippine Trigon Shipyard Shipping Corp. v. Sta. Clara Housing Industries, Inc., et al." [4] On 24 July 1986, the same court issued an order appointing Philippine Trigon Shipyard Shipping Corporation as depositary of the attached vessel with authority to operate the vessel temporarily. MV Sta. Clara I was then taken from the port of Davao City to Cebu City.

Upon being informed of the execution sale to petitioner, DBP filed a complaint before the Regional Trial Court, Br. XVII, Davao City, for annulment of the execution sale, recovery of possession, damages and attorney's fees

with prayer for restraining order and preliminary injunction.[5] Petitioner moved to dismiss the complaint for alleged lack of jurisdiction, cause of action and/or legal personality to sue on the part of DBP.[6]

On 28 October 1986, the court denied the motion to dismiss but granted DBP's prayer for a writ of preliminary injunction.[7] Petitioner moved for reconsideration of the denial but on 19 November 1986, the motion was likewise denied.[8]

Forthwith, petitioner filed with the Court of Appeals a petition for certiorari and mandamus with prohibition assailing the Orders of 28 October and 19 November 1986 of the trial court. On 11 March 1987, the Court of Appeals dismissed the petition.[9]

Petitioner appealed to this Court by way of a petition for review on certiorari, docketed as G.R. No. 78383, "Tay Chun Suy vs. Development Bank of the Philippines, et al." In the resolution of 28 September 1987 (not 30 September 1987), the Third Division of this Court denied the petition for lack of merit.[10]

On 4 December 1987, the trial court issued a decision which, among other matters, declared that DBP was the lawful owner of MV Sta. Clara I and that the public auction sale conducted by Deputy Sheriff Manases Reyes, Jr., on 16 July 1986 and the resultant certificate of sale were null and void.[11]

On 16 December 1987, petitioner sought recourse to the Court of Appeals. On 28 February 1990, the appellate court dismissed his appeal.[12] On 23 May 1990, the motion to reconsider the dismissal was denied.[13]

Hence, this petition for review on certiorari. Petitioner contends that the Court of Appeals erred (1) in finding that the sheriff's auction sale of the vessel did not enjoy the presumption of regularity; and (2) in affirming the decision of the trial court declaring DBP as the true and exclusive owner of MV Sta. Clara I.[14]

Well-entrenched is the rule that factual findings of the trial court, as well as those of the Court of Appeals, are entitled to great weight and respect.[15] This rule once more finds application in the case at bar.

The records show that SCHI, lessee of the vessel, is an entity separate from SCLC, and was not a party to the case filed by petitioner against the latter.[16] Yet, SCHI was furnished, on a Saturday, copy of the notice of auction sale of MV Sta. Clara I. Sta. Clara Lumber Co., Inc., which was the proper party, does not appear to have been notified. Upon being informed of the auction sale, counsel for SCHI immediately went to the auction site and requested that the sale be reset that day on the ground that SCLC was no longer the owner of the vessel. To support this claim, the Manager of SCHI hurriedly left for her office to secure a copy of the certificate of sale in favor of DBP as this was demanded by the sheriff.[17]

Given the circumstances obtaining in this case, a delay of a few hours could not have prejudiced petitioner. A sheriff's ministerial duty to conduct an auction sale is not without any limitation. In the performance of this duty, he is deemed to know what is inherently right and inherently wrong. Nonetheless, Sheriff Reyes, Jr., upon the persistent proddings of petitioner, proceeded with the auction sale. His poor judgment alone would not have caused any suspicion of bias. However, his precipitate action taken together with the anomalous proceedings that ensued, and the haste with which he delivered the certificate of sale to petitioner in the afternoon of the day of the auction sale lead to the inevitable conclusion that the whole operation was contrived to benefit petitioner.[18] The handwritten Minutes (Exh. "D") of the auction sale clearly indicate the haste with which they were prepared, a telltale evidence of the anomalous conduct of the proceedings. On its face, one cannot determine the name of the successful bidder of the vessel. The 16 July 1986 minutes[19] read:

MINUTES

Time: 10:15 o'clock in the morning

Conducting Officer: Sheriff Reyes

Present:

Plaintiff (Bidder) 100,000 - 250,000

140,000 - 270,000

Atty. Positos 180,000 - 290,000

220,000 - 300,000

Atty. Kintanar 240,000 - 310,000

Mr. Ang (Bidder) 245,000 - 315,000

Mr. Arceo (Bidder)

317,000 - Winner

Mr. Ang (Davao Metal Enterprises)

Al -

120,000 - 246,000 311,000

160,000 - 251,000 315,000

200,000 - 272,000

225,000 - 291,000

242,000 - 310,000

x x x x

Sold to Plaintiff - P317,000

The minutes became even more vague when Sheriff Reyes, Jr., testified that there were only three bidders. From the minutes, however, we find that all those present offered bids as there were amounts placed opposite their names -

Atty. Fabro, counsel for DBP:

Q

Atty. Positos, counsel for the defendant also bided, it seems to me?

Sheriff Reyes, Jr.:

A

That is, Atty. Positos was present.

Q

After the word - Present: is the word Plaintiff (Bidder), are we to understand or are we made to believe that these people here bided because there are amounts corresponding to their names?

A

No, actually Mr. Ang, Mr. Arceo and the plaintiff bided actually during the auction sale.

Q

Why is it that corresponding to the name of Atty. Positos here there are amounts here -

140,000 - 270,000

180,000 - 290,000

220,000 - 300,000

and Atty. Kintanar, 240,000 - 310,000?

A

Atty. Kintanar never gave his bid, he just observed the proceedings of the auction sale.

Q

How come that you stated in the minutes that there are amounts opposite their names there?

A

They were present at that time.

Q

Why was it that opposite their names appear some amounts here if they did not actually bid during the auction sale, what is the use of this (sic) amounts here?

A

We put that only there in paper that that they are (sic) present. Atty. Positos and Atty. Kintanar were really present at that time and only Mr. Ang, Mr. Arceo and the plaintiff were the regular bidders of the auction sale.

Q

So you believe that that should be the only thing that should appear there in the minutes as what you have placed there?

A

That is our procedure in the making of minutes, we have placed there those present, the bidders, we have different style in making minutes

Q

We have seen other minutes prepared by others

COURT:

Do not argue, he said that is how he prepares minutes. Ask him only insofar as what is relevant in this case.

ATTY. FABRO:

Q.

When you stated here - Mr. Ang, are you referring to the Chinaman who bought the vessel?

ATTY. APORTADERA:

The question is misleading, counsel is referring to Mr. Ang who bought the vessel? That is misleading.

ATTY. FABRO:

I am asking him your Honor.

Q

Who is this Mr. Ang?

A

A bidder.

Q

He also bided?

A

Yes.

Q

His bid was 245,000 - 315,000?

A

Yes, sir.

Q

There is also this Mr. Arceo, Mr. Arceo bidded also?

A

Yes, sir.

Q

Will you please explain to the Honorable Court why is it that the name of Mr. Arceo (Bidder) here there appears the amount of 317,000 and there is the word - Winner? Would you please try to explain to the Honorable Court what are those entries there?

A

Mr. Ang's bid starts here from the amount P100,00 and plaintiff starts from AL - P120, 000.

ATTY. FABRO:

May we pray that these entries here found under the word - Present: be marked as Exhibit "D-2"

COURT:

Mark it.

ATTY. FABRO:

And we would also like to have this (sic) words: "Sold to Plaintiff P317,000" encircled and marked Exhibit "D-3."

COURT:

Mark it.

ATTY. FABRO:

We would like to manifest your Honor that on the basis of this (sic) minutes submitted by Deputy Sheriff Manases Reyes, there appears here no name of Buyer, although it is stated here that it was sold to plaintiff for P317,000.00.

This counsel is wondering where is the name of the buyer who bought the vessel, your Honor[20] (underscoring supplied).

Significantly, the above testimony of Sheriff Reyes, Jr., to the effect that Atty. Positos did not participate in the bidding was rebutted by the latter.[21] In view of the ambiguity of the minutes, the trial court was constrained to ask clarificatory questions from Sheriff Reyes, Jr. -

COURT:

Q:

The highest bidder, who is the plaintiff here as the highest bidder?

A:

AL

Q:

Who is this AL?

A:

AL is the plaintiff.

Q:

What is the name of AL, you stated there AL, what does that mean?

Q:

Actually there is some significance of that word AL as far as you are concerned?

A:

Yes, sir.

Q:

What is that AL?

A:

Initial (sic) of plaintiff.

Q:

Why did you not record the full name of the plaintiff there as the name of the highest bidder?

A:

I only put there the initial (sic) during the proceedings.

x x x x

Q:

On the face of your minutes I can say that this is not the proper minutes that should be done by any Sheriff. You should even type your minutes after the auction sale in order to inform any person later on what actually happened during the proceedings. Even in stating merely the name of plaintiff, you just place here - AL, what is the significance of this AL, when you know that he is supposed to be the plaintiff. He is the plaintiff- bidder but you placed there only AL.

Now, in your certificate of sale what did you state there as the highest bidder?

A:

The name of the plaintiff.

Q:

Do you have a certificate of sale?

A:

Yes, sir. (Witness hands to the Court carbon original of a copy of the certificate of sale).

Q:

Do you have in the records copy of this certificate of sale?

A:

Yes, Your Honor.

Q:

You stated here that you awarded the vessel to Tay Chun Suy, as he is the highest bidder. You stated in your certificate of sale - the Plaintiff herein was the successful bidder who offered his oral bid in the amount of P317,000.00 you are basing this statement of yours from your minutes of July 16, 1986, is that correct?

A:

Yes, your Honor.

Q:

But the one who won here in the bid was a certain AL only as stated in your minutes, is that correct?

A:

Yes, your Honor.

Q:

Why did you not state in your certificate of sale that this AL is actually the one you referred here as Tay Chun Suy, are you not aware that that is the very material where you based your certificate of sale and that the certificate of sale will tally with the minutes of your proceedings - of the auction sale?

(No answer).

COURT:

You are not only to explain that, you have to explain why your certificate of sale does not tally with your minutes, you awarded the vessel to one Tay Chun Suy while what appears in your minutes is that a certain AL x x x x (underscoring supplied).[22]

The procedure followed by Sheriff Reyes, Jr., was patently irregular. The unexplained inconsistencies in the minutes and the certificate of sale are so material as to affect the integrity of the whole proceedings. Noteworthy, too, is the fact that the Minutes (Exh. "D") do not mention the request of counsel for SCHI for deferment of the auction sale. While the request was made prior to the auction sale, the trial court was correct in its observation that the same should have been entered in the minutes because of its importance and relevance to the sale.[23] Under these circumstances, the ruling of the appellate court sustaining the trial court on the nullity of the auction sale cannot be faulted.

Petitioner vigorously maintains that the failure of DBP to register its title to MV Sta. Clara I with the Philippine Coast Guard is fatal to its claim of ownership. Likewise, he raises doubts as to whether the trial court has jurisdiction to issue the writ of preliminary injunction.[24]

In G.R. No. 78383, we rejected these arguments in our resolution of 28 September 1987 -

The respondent appellate court correctly held that the Regional Trial Court of Davao City, Branch 17, had jurisdiction over the action brought in Civil Case No. 18188 concerning the vessel herein involved which was allegedly purchased by petitioner in an execution sale, and which execution sale was the result of the judgment rendered by Branch 12 of the same Regional Trial Court in Civil Case No. 15970 Branch 17, Regional Trial Court of Davao City, did not undertake to annul the judgment of the Regional Trial Court of Davao City, Branch 12, jurisdiction to annul belonging to the Court of Appeals. Respondent appellate court also correctly held that a certificate of registration of ownership of a vessel is only presumptive evidence that the registered owner has legal title to the vessel, and that DBP's failure to register with the Philippine Coast Guard its prior

acquisition of the vessel is not fatal to its ownership of said vessel, vis-a-vis petitioner herein, who similarly failed to register the alleged subsequent sale of the vessel to itself (sic) in an execution sale.[25]

This resolution is now final and executory. The question of whether the non-registration by DBP is fatal to its claim to the vessel or whether the trial court has jurisdiction over the action should no longer be raised anew. Once a case has been decided one way, then another case involving exactly the same point at issue should be decided in the same manner.[26] At any rate, our ruling in Santos v. Bayhon[27] should put to rest petitioner's doubt as to the jurisdiction of the trial court -

The general rule that no court has the power to interfere by injunction with the judgments or decrees of another court with concurrent or coordinate jurisdiction possessing equal power to grant injunctive relief, applies only when no third-party claimant is involved (Traders Royal Bank v. Intermediate Appellate Court, 133 SCRA 142). When a third-party, or a stranger to the action, asserts a claim over the property levied upon, the claimant may vindicate his claim by an independent action in the proper civil court which may stop the execution of the judgment on property not belonging to the judgment debtor (underscoring supplied).

Further, petitioner contends that he is a bona fide purchaser for value at the auction sale and that he came to know about the acquisition by DBP only upon its filing of the complaint for annulment of the execution sale.[28]

The evidence on record belies such contention. Before the auction sale started, counsel for petitioner was already aware of the cloud on the title of SCLC to the vessel as shown hereunder -

Atty. Fabros, counsel for DBP:

Q:

But you know for a fact that Atty. Kintanar requested for the postponement of the auction sale in the afternoon because they were filing a third party claim or that they will still inform DBP of that pending sale, you know that?

Atty. A. Positos, counsel for petitioner:

A:

No, because it was Atty. Kintanar and the sheriff who were talking and I only interfered to proceed with the sale considering there was no formal third party claim.

Q:

You want to tell the Honorable Court that during all the time you were ignorant of the proceedings that they were making?

A:

No, sir, the conversation is only between the sheriff and Atty. Kintanar and the sheriff informed me afterwards but I did not personally talk to Atty. Kintanar.

x x x x

Court:

Q:

You are sure that during that proceedings of the auction sale, Atty. Kintanar made it known to the sheriff that the vessel is already owned by DBP?

A:

That is the allegation.

Q:

The question can be answered with yes or no?

A:

Yes, sir.

Q:

And you also heard Atty. Kintanar requesting the sheriff to postpone the proceedings in the afternoon?

A:

I was informed by the sheriff only.

Q:

By the way, how far were you from Atty. Kintanar and the sheriff during the actual proceedings?

A:

Before the actual auction sale there was a conversation between Atty. Kintanar and the sheriff, but I was already around 4 or 5 meters away (underscoring supplied).[29]

Notwithstanding his knowledge of the prior claim of DBP, petitioner insisted that the sheriff proceeded with the auction sale. Under the caveat emptor rule, he assumed the risk of losing the vessel because his right to it cannot be considered superior to that of DBP. As we held in one case,[30] an execution creditor generally acquires no higher or better right than what the execution debtor has in the property levied upon. It follows then that if the judgment debtor had no interest in the property, the execution creditor acquires no interest therein.

Moreover, petitioner is now estopped from denying knowledge of the prior claim of DBP to the vessel in the light of his judicial admission. Thus, the trial court ruled -

By way of factual background, defendant Tay Chun Suy through counsel, admitted all prior proceedings pertinent to the testimony of plaintiff witness, Aurelio Rendon, in order to dispense with his testimony, Exh. "A" to "F" and submarkings for plaintiff, were admitted referring to the foreclosure sale of the subject vessel by the sheriff of Sultan Kudarat province; the certificate of sale and/or corresponding notices required by law, all matters were contained in the Order of this Court dated August 6, 1986.

In effect, defendant Tay Chun Suy, admitted the ownership of plaintiff over said vessel way back on August 18, 1982.[31]

Petitioner takes exception to the aforequoted ruling. He asserts that he never admitted that he knew of DBP's prior acquisition at the time of the execution sale on 16 July 1986.

Petitioner never challenged this particular ruling in his appeal to the Court of Appeals. Hence, he cannot be allowed to ventilate it now in this proceeding. Points of law, theories, issues and arguments not adequately brought to the attention of the trial court need not be, and ordinarily will not be, considered by a reviewing Court as they cannot be raised for the first time on appeal.[32]

The evidence on record fully supports the findings of the lower courts. We therefore find no need to discuss the other arguments raised by petitioner to support his cause.

WHEREFORE, finding no reversible error in the decision of the court a quo, the petition for review on certiorari is DISMISSED, with costs against petitioner.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., and Quiason, JJ., concur.

[1] Annex "A", Record on Appeal, p. 9.

[2] Annex "B", *ibid.*, p. 15.

[3] Annex "C", Record on Appeal, p. 25.

[4] Annex "D", *ibid.*, p. 50.

[5] Record on Appeal, p. 3.

[6] *Ibid.*, pp. 36 and 83.

[7] *Ibid.*, p. 212.

[8] *Ibid.*, p. 163.

[9] Penned by Justice Lorna S. Lombos-dela Fuente, concurred in by Justices Ricardo J. Francisco and Alfredo L. Benipayo, Eleventh Division; Record on Appeal, p. 365.

[10] Record on Appeal, p. 372.

[11] Penned by Judge Renato A. Fuentes, RTC, Br. 17, Davao City; Record on Appeal, p. 321.

[12] Penned by then Associate Justice Jose C. Campos, Jr., now retired member of this Court, concurred in by Associate Justices Oscar M. Herrera and Asali S. Isnani, Fifth Division; Rollo, p. 82.

[13] Rollo, p. 93.

[14] *Ibid.*, p. 19.

[15] *Ramos v. Court of Appeals*, G.R. Nos. 64129-31, 18 November 1991, 203 SCRA 657, 668.

[16] TSN, 4 September 1986, p. 26.

[17] *Ibid.*, p. 25.

[18] Cf. *Machinery & Engineering Supplies, Inc. v. Court of Appeals*, 96 Phil. 70, 74 (1954), where the sheriffs were already notified that the machineries and equipment were not personal properties and therefore not subject to seizure by the terms of the order. Nonetheless, upon directive of the president of petitioner, the sheriffs dismantled the equipment. This Court agreed with the appellate court that while the question of whether the machineries are personal properties is one of law too technical to decide on the spot, it would not have cost the sheriff much time and difficulty to bring the latter to the court's attention and have the equipment and machineries guarded, so as not to frustrate the trial court's order of seizure. But, acting upon the directives of the president of petitioner, to seize the properties at any cost, the deputy sheriffs lent themselves as instrument to harass and embarrass the respondent company.

[19] Exh. "D" for Plaintiff DBP.

[20] TSN, 16 September 1986, pp. 41-44.

[21] TSN, 1 October 1986, p. 78.

[22] TSN, 16 September 1986, pp. 44, 54-55.

[23] Ibid., p. 53.

[24] Rollo, pp. 29, 193-194.

[25] Supra, p. 4.

[26] Pines City Educational Center v. The National Labor Relations Commission (Third Division), G.R. No. 96779, 10 November 1993.

[27] G.R. No. 88643, 23 July 1991, 199 SCRA 525, 528.

[28] Rollo, pp. 158-160.

[29] TSN, 1 October 1986, pp. 76 and 80.

[30] Pacheco v. Court of Appeals, L-48689, 31 August 1987, 153 SCRA 382, 388-389.

[31] Record on Appeal, p. 334.

[32] Santos v. Intermediate Appellate Court, G.R. No. 74243, 14 November 1986, 145 SCRA 592, 595.

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