

Title: Spouses Fortaleza vs. Spouses Lapitan

Facts:

- On January 28, 1998, Spouses Charlie and Ofelia Fortaleza (petitioners) obtained a loan of P1.2 million from Spouses Rolando and Amparo Lapitan at 34% interest per annum. To secure the loan, petitioners executed a Deed of Real Estate Mortgage over their house and lot in Los Baños, Laguna.
- The Fortalezas failed to repay the loan, leading the creditors to file for extrajudicial foreclosure of the mortgage. The foreclosure sale took place on May 9, 2001, with the creditors' son, Dr. Raul Lapitan, and his wife Rona (respondents), emerging as the highest bidders at P2.5 million.
- The Certificate of Sale was registered with the Registry of Deeds of Calamba City and annotated on the title on November 15, 2002. The Fortalezas did not redeem the property within the one-year redemption period.
- On November 20, 2003, respondents filed an affidavit of consolidation of ownership, and the property was transferred to their names.
- On August 27, 2004, respondents filed an ex parte petition for a writ of possession with the RTC of Calamba City, which the court granted on September 16, 2005.
- Petitioners opposed the granting of the writ on grounds of void mortgage and foreclosure irregularities. The writ was issued after petitioners' failure to appear at hearings despite the RTC's order to do so.

Procedural Posture:

- Petitioners' motion for reconsideration with the RTC was denied.
- Petitioners appealed to the Court of Appeals, which upheld the RTC's decision and directed the enforcement of the writ.
- Petitioners filed a petition for review on certiorari under Rule 45 with the Supreme Court, raising procedural and substantive issues regarding the validity of the foreclosure and the writ of possession.

Issues:

1. Whether the Court of Appeals violated its own internal rules by not adhering to the two-raffle system, resulting in bias.
2. Whether the courts erred in issuing the writ of possession despite alleged irregularities in foreclosure and purported void mortgage.
3. Whether the Fortalezas' right of redemption was improperly denied, considering the property was their family home and exempt from forced sale.

Court's Decision:

1. On the Two-Raffle Rule: The Supreme Court dismissed this procedural issue, noting that the 2009 revised rules of the Court of Appeals had changed the procedures, and no vested right was impaired. The allegations of bias were unsupported by evidence.
2. On the Writ of Possession: The Court confirmed that the issuance of a writ of possession is a ministerial act post-foreclosure, barring recognized exceptions that were not present in this case. No third-party interest or gross inadequacy of price was alleged or proven by petitioners.
3. On Redemption Right and Family Home Exemption: The Court held that the family home exemption does not apply as the mortgage pre-dated any assertion of such status. The petitioners failed to timely assert any right of redemption, thereby waiving it through inaction.

Doctrine:

An *ex parte* writ of possession following a foreclosure sale is ministerial and non-adversarial unless exceptional cases apply such as third-party adverse possession claims (Barican doctrine).

Class Notes:

- Elements of Ministerial Duty: In foreclosure, issuance of possession writs post-sale.
- Family Home: Not exempt from foreclosure if mortgage agreement exists.
- Redemption: To preserve this right, timely action and tender of price are essential. Liberal interpretations favor debtors, but neglect nullifies this advantage (Articles 153-155, Family Code; Act No. 3135, as amended).

Historical Background:

This case reflects the judiciary's ongoing efforts to delineate the ministerial duties of courts in foreclosure proceedings versus substantive rights protected under property law, notably balancing creditor and debtor rights amidst evolving property jurisprudence in the Philippines.