

# FIRST DIVISION

[ G.R. No. 247229, September 03, 2020 ]

**LUZ V. FALLARME, PETITIONER, VS. ROMEO PAGEDPED,  
RESPONDENT.**

## D E C I S I O N

**REYES, J. JR., J.:**

Before the Court is a petition for review on *certiorari* seeking the reversal of the Decision<sup>[1]</sup> dated May 2, 2018 and the Resolution<sup>[2]</sup> dated February 14, 2019 of the Court of Appeals (CA) in CA-G.R. CV No. 108155 which granted the appeal and reversed the ruling of the Regional Trial Court (RTC) in Civil Case No.7821-R.

### ***Property claimed by Pagedped***

The subject matter of this case is a 1,862-square meter land in Baguio City, formerly covered by Transfer Certificate of Title (TCT) No. T-61200 issued in the name of Spouses Rudy and Nena Avila (Avilas).

On May 2, 1999, the Avilas obtained a P200,000.00 loan from Romeo Pagedped (Pagedped) secured by a real estate mortgage (REM) over the property. The Avilas delivered to Pagedped the owner's duplicate copy of TCT No. T-61200, and the REM was annotated on the title, as Entry No. 257381-29-86 on June 1, 1999.

Upon the failure of the Avilas to settle their obligation despite repeated demands, Pagedped judicially foreclosed the REM and the property was sold at a public auction on October 5, 2005 with Pagedped emerging as the highest bidder. The Sheriff's Certificate of Sale was registered and entered with the Register of Deeds on November 22, 2005 and annotated on TCT No. T-61200, as Entry No. 6809-36-178.

After a year from the time the Sheriff's Certificate of Sale was recorded, Pagedped consolidated his ownership over the parcel of land and was issued TCT No. T-91349 over the same on November 24, 2006, thereby cancelling TCT No. T-61200. All the annotations on TCT No. T-61200 were carried over to TCT No. T-91349.

According to Pagedped, it was only then that he discovered that several annotations were made on TCT No. T-61200 in the name of Fallarme.<sup>[3]</sup>

### ***Fallarme's claim to 1/2 A of the property***

Luz V. Fallarme (Fallarme) instituted a case before the RTC, docketed as Civil Case No. 5045-R, against the Avilas. A Notice of Attachment dated April 4, 2003 and later a Notice of Levy upon Realty dated May 20, 2005, were issued by the court involving one-half (Yi) portion of the subject parcel of land. The notices were annotated on TCT No. T-61200 as Entry Nos. 14015-33-118 and 590-36-16, respectively.

Subsequently, Fallarme caused the sale at public auction of the Vz portion on July 12, 2005. At the public auction, Fallarme emerged as the highest bidder, for P528,000.00, for which reason, she was issued a Sheriff's Certificate of Sale. The Sheriff's Certificate of Sale was annotated on TCT No. T-61200, on June 9, 2006, as Entry No. 13687-37-108.<sup>[4]</sup>

**RTC, Baguio City, Branch 6  
LRC Adm. Case No. 1967-R**

On May 26, 2010, Pagedped filed a petition for the cancellation of all annotations appearing on TCT No. T-91349, docketed as LRC Adm. Case No. 1967-R, before the RTC of Baguio City, Branch 6. Fallarme was joined as a respondent in the case.

In his petition, Pagedped alleged that he was surprised to discover that a Notice of Attachment dated April 4, 2003 and a Notice of Levy upon Realty dated May 20, 2005 by Sheriff Oliver N. Landingin involving the case of Fallarme were annotated at the back of his TCT No. T-91349, and that thereafter a Sheriff's Certificate of Sale dated July 12, 2005 issued by Sheriff Landingin in favor of Fallarme was also registered and entered with the Office of the Register of Deeds on June 9, 2006, and annotated on the same title. Pagedped was neither notified nor impleaded as a party to the foreclosure proceedings initiated by Fallarme, even though the Deed of REM executed in his favor was entered and annotated earlier than Fallarme's. He alleged that Fallarme knew of the encumbrance in his favor as appearing in the title, yet she failed to notify him of her foreclosure to his damage and prejudice.<sup>[5]</sup>

**RTC Ruling in LRC Adm. Case No. 1967-R**

On January 10, 2013, the RTC granted Pagedped's petition and the Register of Deeds of Baguio City was directed to cancel all entries mentioned therein.<sup>6</sup>

The *fallo* reads:

WHEREFORE, the instant petition is granted. The Register of Deeds, Baguio City, is directed to cancel Entry No. 14015-33-118 (Notice of Attachment), Entry No. 590-36-16 (Notice of Levy upon realty) and Entry No. 13687-37-108 (Sheriff's Certificate of Sale) in the Transfer Certificate of Title No. T-91349 of the Registry of Deeds of Baguio City in the name of Romeo Pagedped.

SO ORDERED.<sup>[7]</sup>

Fallarme filed a notice of appeal on January 31, 2013, and the case was elevated to the Court of Appeals, docketed as CA-G.R. CV No. 100279.

**CA-G.R. CV No. 100279**

On November 24, 2017, the appellate court<sup>[8]</sup> ruled:

**WHEREFORE,** the appeal is GRANTED. The decision of the Regional Trial Court of Baguio City, Branch 6 dated January 10, 2013 in LRC Case No. 1967-R is REVERSED and SET ASIDE. A new decision is entered

DISMISSING the petition for cancellation of encumbrances on Transfer Certificate of Title No. T-91349.

**SO ORDERED.**<sup>[9]</sup>

The CA, through the Special Sixteenth Division, held that the RTC correctly held that the encumbrances in favor of Fallarme are inferior to that of Pagedped. This is because any subsequent lien annotated at the back of a certificate of title cannot, in any way, prejudice a mortgage previously registered even if the sale took place after the annotation of the subsequent lien or encumbrance. While the subject encumbrances were already existing when the auction sale was held on October 5, 2005, the rights of Pagedped as the original mortgagee and purchaser at the auction sale, takes precedence.

The CA further held, however, that the RTC committed reversible error in ordering the cancellation of the subject encumbrances because the record shows that Fallarme was not impleaded in the judicial foreclosure proceedings initiated by Pagedped. A subsequent lien holder who was not impleaded as a party in the foreclosure suit is not bound by the judgment in favor of the foreclosing mortgagee. Thus, the subsequent lien holder's equity of redemption remains unforeclosed and a separate foreclosure proceeding must be brought to require her to redeem from the party acquiring title. Without the conduct of a separate foreclosure proceeding, Fallarme's equity of redemption remained unforeclosed and Pagedped acquired title to the property subject to the encumbrances annotated at the back of TCT No. T-91349. Thus, the encumbrances cannot be ordered cancelled until it is shown that Fallarme failed to exercise her equity of redemption as provided for by law.<sup>[10]</sup>

The CA Decision in CA G.R. CV No. 100279 acquired finality on June 30, 2018.<sup>[11]</sup>

Meanwhile, shortly after she filed her appeal to the CA, above mentioned, Fallarme sent Pagedped a letter on February 21, 2013, through counsel, saying that the judgment in the case to judicially foreclose the REM is ineffective to her since she was not made a party to said case. Also, since she has 1/2 interest in the property, P100,000.00, (which is half of the P200,000.00 for which the property covered by TCT No. T-61200 was sold) should be taken into consideration in the computation of the redemption amount plus the legal rate of interest due thereon, computed from the time of the foreclosure sale up to the date when the property is redeemed.

Pagedped refused the offer to redeem 1/2 portion of the property which prompted Fallarme to file on April 18, 2013, a complaint for redemption and consignment before the RTC of Baguio City, Branch 7 docketed as Civil Case No. 7821-R.

**RTC Baguio City, Branch 7  
Civil Case No. 7821-R**

In her complaint, Fallarme alleged that since she was not made a party in the case for judicial foreclosure of the real estate mortgage constituted over the subject parcel of land filed by Pagedped, her supposed equity of redemption remained valid and subsisting.

Pagedped, in his Answer, meanwhile maintained that the publication of the notice of

foreclosure sale was a notice to the whole world, and since no redemption was made within one year from the registration of the foreclosure sale to him, redemption was no longer possible notwithstanding the consignment of the redemption price.

At the pre-trial, Pagedped and Fallarme stipulated on the following: (1) that Fallarme is the subsequent lien holder of 1/2 portion of the property covered by TCT No. T-91349; (2) that prior to the filing of Pagedped's judicial foreclosure of real estate mortgage constituted on the subject real property, Fallarme already caused the annotation of a notice of attachment and a notice of levy, but Pagedped learned of these annotations only after the release of the title in his favor; (3) that Fallarme was not joined as a party to the foreclosure action over the subject real property which Pagedped instituted against the Avilas because the latter never knew of the transaction between the Avilas and Fallarme and he was not a party to their contract; (4) that there was an offer from Fallarme for the redemption of the Vz portion of the subject property; (5) that Pagedped was informed of Fallarme's intention to consign the redemption price and the actual consignment of the redemption price; (6) that Pagedped refused Fallarme's offer to redeem the Vz portion of the subject real property; (7) that the owner's copy of TCT No. T-61200 had always been with Pagedped; (8) that in Civil Case No. 5045-R, Pagedped was never impleaded with the qualification that said case is a personal action by Fallarme against the Avilas; and (9) that the subject lot is now registered in the name of Pagedped under TCT No. T-91349.<sup>[12]</sup>

### **RTC Branch 7 Ruling in Civil Case No. 7821-R**

On November 4, 2016, the RTC of Baguio City, Branch 7 held:

**WHEREFORE**, as prayed for, plaintiff Luz Fallarme is hereby declared to be entitled to redeem 1/2 portion of the property registered under Transfer Certificate of Title No. T-91349 of the Register of Deeds of Baguio City from defendant Romeo Pagedped who is hereby given thirty (30) days from notice to claim the consigned redemption price of Phpl88,000.00 from the Office of the Executive Judge through the RTC Clerk of Court and immediately thereafter, surrender the Owner's Duplicate Certificate of the said title to the Register of Deeds of Baguio City for cancellation and for the issuance in lieu thereof, of another title registered in the names of Luz Fallarme and Romeo Pagedped as co-owners of the lot covered by the said title.

**SO ORDERED.**<sup>[13]</sup>

The RTC, in ruling for Fallarme, held that since she was not joined as a party in the case instituted by Pagedped for the judicial foreclosure of real estate mortgage constituted upon the subject land, her right to redeem the Vi portion thereof as a subordinate lien holder remained unforeclosed and unaffected. The RTC then fixed the redemption price at P188,000.00, representing 1/2 of the purchase price plus 12% annual interest computed from the registration of the foreclosure sale to Romeo on November 22, 2005 to the filing of the instant case on April 18, 2013.

Pagedped filed an appeal with the CA docketed as CA-G.R. CV No. 108155 arguing that he was not notified of the notices of attachment and levy annotated on the copy of TCT No. T-61200 on file with the Office of the Register of Deeds, thus, such

annotations were not binding on him. This also justifies why Fallarme was not impleaded in the judicial foreclosure of real estate mortgage which he instituted against the Avilas. In addition, Fallarme cannot demand for equity of redemption as she was neither the mortgagor nor a transferee of such mortgagor. She also failed to exercise her equity of redemption within a reasonable time.<sup>[14]</sup>

### **CA Ruling in CA-GR CV No. 108155**

On May 2, 2018, the CA, this time through Ninth Division, granted the appeal and reversed and set aside RTC Branch 7 in Civil Case No. 7821-R:

WHEREFORE, the instant appeal is GRANTED. The assailed Decision of the Regional Trial Court of Baguio City, Branch 7, in Civil Case No. 7821-R, is REVERSED and SET ASIDE. Judgment is rendered dismissing the case.

SO ORDERED.<sup>[15]</sup>

The CA held that since what was involved in this case was a judicial foreclosure of mortgage, there is only equity of redemption in accordance with Rule 68 of the Rules of Court. When Fallarme purchased the 1/2 portion of the subject parcel of land at the execution sale held on July 12, 2006, she acquired the same subject to the encumbrance (real estate mortgage constituted in favor of Pagedped) annotated on TCT No. T-61200 on June 1, 1999. The equity of redemption which Fallarme acquired over the IA portion of the subject land subsequent to the real estate mortgage in favor of Pagedped may be divested or barred only by making Fallarme a party to the proceedings to foreclose.<sup>[16]</sup>

Still, the C A ruled that it was reversible error on the part of the RTC in allowing Fallarme to redeem 1/2 portion of the subject parcel of land. The CA noted that while she was not impleaded as a defendant in the judicial foreclosure of the real estate mortgage instituted by Pagedped, she was, however, joined as a respondent in the subsequent case for cancellation of encumbrances, docketed as LRC Adm. Case No. 167-R, filed in 2010 before RTC Baguio City, Branch 6. In said case, while Fallarme initially filed an Opposition, she later withdrew the same giving both Pagedped and the RTC the impression that there was no legal impediment to the cancellation of the annotations sought and that she was abandoning or waiving whatever rights she might have acquired in connection therewith.<sup>[17]</sup>

It was only after the January 10, 2013 Decision of the RTC that Fallarme, through a letter, informed Pagedped that she intended to redeem the IA portion of the subject property. When Pagedped rejected her offer, it was only then that she filed the case before the RTC. The CA held that for failure of Fallarme to seasonably invoke her equity of redemption, she is precluded from doing so by reason of estoppel.<sup>[18]</sup>

Fallarme filed a Motion for Reconsideration which the CA denied on February 14, 2019.<sup>[19]</sup>

Hence, the present petition.