

SECOND DIVISION

[G.R. No. 205785, January 20, 2016]

HELEN B. LUKBAN, PETITIONER, VS. OPTIMUM DEVELOPMENT BANK, RESPONDENT.

DECISION

CARPIO, J.:

The Case

Before the Court is a petition for review on certiorari assailing the 28 August 2012 Decision^[1] and the 7 February 2013 Resolution^[2] of the Court of Appeals in CA-G.R. CV No. 95150.

The Antecedent Facts

On 18 August 2005, the City Treasurer's Office of Marikina (City Treasurer) conducted an auction sale of tax delinquent real properties, which included the real property of Melba T. Atienza (Atienza) under Transfer Certificate of Title (TCT) No. 234408 particularly described as follows:

A parcel of land (Lot 8 of the conso-subd., plan (LRA) Pcs-30783, approved as non subd., project, being a portion of the conso- of Lots 7 & 9, Blk. 87, Pcs-4259, LRC Rec. No. 7672), in the Bo. of Concepcion, (Bayanbayan), Mun. of Marikina, MM., Is. of Luzon. Bounded on the NE., points 4-1 by Lot 5, Blk. 87, Pcs-4259; on the SE., points 1-2 by Lot 9; on the SW., points 2-3 by Lot 6; both of the conso-subd., plan; on the NW, points 4-5 by ST. Lot 66, Pcs-4259 (Katipunan St.). Beginning at a point marked "1" on plan, being S. 45 deg. 39' E., 1704.37 m. from BLBM 1, Bayanbayan, Marikina, MM., thence S. 20 deg. 06' W., 8.00 m. to point 2; thence N. 69 deg. 54' W., 12.75 m. to point 3; thence [N]. 20 deg. 06' E., 8.00 m. to point 4; thence S. 69 deg. 54' E., 12.75 m. to (OVER) MELBA T. ATIENZA, of legal age, Filipino, married to Franco Mariano Atienza, the point of beginning; containing an area of ONE HUNDRED TWO (102) SQUARE METERS, more or less. All points referred to are indicated on the plan and are marked on the ground by as follows: point 4, by Old PLS/Ps cyl.conc. [m]ons., 15x60 bearings true; date of the original survey, De[c]. 1910-June 1911 and that of the conso-subd., survey, executed by D.F. Caparas, GE on June 22, 1991.^[3]

Petitioner Helen B. Lukban (Lukban) was the highest and winning bidder of the property during the public auction. She paid the amount of P47,265.60^[4] inclusive of penalties and publication fees. On 25 August 2005, the City Treasurer issued

Lukban a Certificate of Sale of Delinquent Real Property to Purchaser, acknowledging receipt of her payment. Lukban then paid the realty taxes, capital gains tax, documentary stamp tax, and all other internal revenue taxes due on the property.

On 10 June 2008, Lukban filed a petition for the cancellation of TCT No. 234408 and the issuance by the Register of Deeds of Marikina City (Marikina Register of Deeds) of a new TCT in her favor. The case was raffled to the Regional Trial Court of Marikina City, Branch 272 (trial court) and docketed as LRC Case No. R-08-1010-MK. In an Order^[5] dated 22 July 2008, the trial court found that there was an entry on TCT No. 234408 annotating a prior Notice of Levy in favor of Capitol Bank, denominated as Entry No. 285574/T-No. 234408 - Mortgage. It was annotated more than 12 years ahead of the Notice of Levy for tax delinquency. The trial court noted that there was a possibility that the owner's duplicate certificate of title was not with Atienza but with Capitol Bank. The trial court further noted that while Lukban provided it with Atienza's address, she did not furnish the trial court with Capitol Bank's address. The trial court ordered Lukban to provide it with Capitol Bank's correct address so that it could be notified of the case as a party in interest. Lukban sought the help of the Marikina Register of Deeds but it could not provide her with Capitol Bank's address.

On 23 October 2008, Atty. Aleta I. Lopez (Atty. Lopez) appeared as counsel of Rizal Commercial Banking Corporation (RCBC) and manifested that RCBC had acquired a portion of the shares of Capitol Bank. Atty. Lopez further manifested that RCBC did not have the TCT of the property in its possession. Atty. Lopez informed the trial court that Capitol Bank already changed its name to Optimum Development Bank (Optimum Bank). During the hearing, Atty. Felix S. Caballes, Lukban's counsel, moved for the marking of exhibits to establish jurisdictional requirements. The exhibits included the following:

- (1) Order of the trial court dated 22 July 2008;
- (2) Order dated 9 September 2008 setting the initial hearing on 23 October 2008;
- (3) Registry return slips showing that Lukban, Lukban's counsel, the Marikina Register of Deeds, and RCBC separately received copies of the 9 September 2008 Order and the petition; and
- (4) Certificate of posting.

The trial court then issued an Order setting the continuance of the proceedings on 27 November 2008 and the initial presentation of evidence on 3 December 2008.

After the termination of the lone witness' testimony but before Lukban's offer of evidence, Optimum Bank filed an Urgent Manifestation and Motion to Admit as well as its Opposition to Lukban's petition on the ground that its rights would be affected should the petition be granted. Optimum Bank alleged that while it was the registered mortgagee of the property, it was not aware that it was sold by the City Treasurer in a public auction and that Lukban was the highest bidder. Optimum Bank further alleged that the bid was too low compared to the actual market value of the

property and the mortgage debt amounting to P340,000. Optimum Bank manifested that it had the original duplicate title of the property in its possession. Optimum Bank also reserved its right to present documentary evidence of its rights as mortgagee.

On 4 February 2009, Optimum Bank filed a motion for extension of time to submit its supplemental opposition and to attach proof of its interest in the property. On 4 March 2009, Lukban filed her Formal Offer of Evidence. On 25 March 2009, Optimum Bank filed a certified true copy of the Loan and Mortgage Agreement in its favor. During the hearing of 25 June 2009, Atty. Restituto Mendoza (Atty. Mendoza), Optimum Bank's counsel, failed to appear for the presentation of Optimum Bank's evidence. The hearing was reset to 17 July 2009. However, on 15 July 2009, Atty. Mendoza filed an Urgent Motion to Reset date of hearing from 17 July 2009 to 28 August 2009. The trial court denied the motion in its 17 July 2009 Order, deemed Optimum Bank to have waived its right to present evidence, and submitted the case for decision. Optimum Bank filed a motion for reconsideration but the trial court denied the motion in its Order of 30 October 2009.

Optimum Bank filed a petition for certiorari and prohibition before the Court of Appeals assailing the 17 July 2009 and 30 October 2009 Orders of the trial court. The case was docketed as CA-G.R. SP No. 111764. In a Decision^[6] dated 30 November 2010, the Court of Appeals dismissed the petition and upheld the trial court's ruling that Optimum Bank had waived its right to present evidence.

Meanwhile, the trial court granted Lukban's petition.

The Decision of the Trial Court

In its Decision^[7] dated 16 February 2010, the trial court granted Lukban's petition. The trial court ruled that Lukban was able to satisfactorily prove that she acquired the property from a public auction sale, that the one-year redemption period lapsed without Atienza redeeming the property, and that a Final Deed of Sale was issued in her favor. The trial court noted that the City of Marikina complied with the requirements of notice and publication in accordance with Republic Act No. 7160^[8] (R.A. No. 7160). The trial court further noted that Lukban paid the capital gains tax and that the Bureau of Internal Revenue issued a Tax Clearance and a Certificate Authorizing Registration in her favor.

The dispositive portion of the Decision reads:

WHEREFORE, finding merit in the herein petition, the same is hereby GRANTED. Pursuant to Section 107 of PD 1529 also known as the Property Registration Decree, Melba T. Atienza married to Franco Mariano Atienza, the registered owner of the property covered by TCT No. 234408 of the Registry of Deeds of Marikina City, or any person withholding the same is hereby ordered to surrender the said title to the Register of Deeds of Marikina City within THIRTY (30) DAYS upon receipt hereof. In case of non-compliance, the Register of Deeds of Marikina City is hereby ordered to cancel TCT No. 234408 and to issue, in lieu thereof, a new title in the name of herein petitioner, HELEN B. LUKBAN of No. 6 Remuda

St., Rancho I, Marikina City, upon payment of the prescribed taxes and fees therefor. The mortgage annotated on the subject title shall be incorporated in or carried over to the new transfer certificate of title and its duplicates and shall also contain a memorandum of the annulment of the outstanding duplicate.

SO ORDERED.^[9]

Optimum Bank appealed from the trial court's Decision.

The Decision of the Court of Appeals

In its assailed 28 August 2012 Decision, the Court of Appeals granted the appeal and set aside the trial court's 16 February 2010 Decision.

The Court of Appeals ruled that actual notice to the registered owner of the real property is a condition *sine qua non* for the validity of the auction sale. The Court of Appeals ruled that the records of the case did not show that Atienza actually received a notice of the auction sale. According to the Court of Appeals, such failure invalidated the auction sale and as a consequence, Lukban did not acquire any right therefrom. However, Optimum Bank, not being the registered owner of the property, was not entitled to the notice of sale. The Court of Appeals then ruled that it was no longer necessary to rule on Optimum Bank's arguments that the issuance of a new TCT to Lukban would impair its rights as a mortgagee and that Lukban had the burden to prove that the mortgage debt had been paid.

The dispositive portion of the Decision reads:

WHEREFORE, the Appeal is hereby GRANTED. The Decision dated 16 February 2010 of the Regional Trial Court of Marikina City, Branch 272 granting the Petition for Cancellation of Transfer Certificate of Title (TCT) No. 234408 and Issuance of a New One and ordering the issuance of a new TCT in favor of appellee Helen B. Lukban, in LRC Case No. 08-1010-MK, is SET ASIDE. The public auction sale conducted on 18 August 2005 is declared VOID for lack of notice to Melba T Atienza, the registered owner of the subject property.

SO ORDERED.^[10]

Lukban filed a motion for reconsideration. In its 7 February 2013 Resolution, the Court of Appeals denied the motion for lack of merit.

Hence, the petition before this Court.

Lukban argued that:

A. The Honorable Court of Appeals committed serious error of law in setting aside the 16 February 2010 Decision of the Honorable Regional Trial Court and declaring void the public auction sale conducted on 18 August 2005 by the City Treasurer of Marikina City because the Decision