

## THIRD DIVISION

[ G.R. No. 187606, March 09, 2015 ]

**NORMA V. JAVATE, PETITIONER, VS. SPOUSES RENATO J. TIOTUICO AND LERMA C. TIOTUICO, RESPONDENTS.**

### DECISION

**PERALTA, J.:**

Before the Court is a petition for review on *certiorari* seeking to reverse and set aside the Decision <sup>[1]</sup> and Resolution <sup>[2]</sup> of the Court of Appeals (CA), dated December 18, 2008 and April 13, 2009, respectively, in CA-G.R. SP No. 104833.

The facts are as follows:

Petitioner was the owner of a one thousand square meter parcel of land in Mabalacat, Pampanga, which she mortgaged to Guagua Rural Bank (*Bank*) as security for the loan she obtained from the said Bank. Petitioner failed to pay her obligation and the Bank foreclosed the mortgage. The subject lot was sold at public auction where the Bank was the highest bidder. A certificate of sale was then issued in favor of the Bank. After the one-year redemption period has expired without petitioner having redeemed the disputed property, the Bank consolidated its ownership over the same. As a consequence, the title covering the said lot was canceled, and in lieu thereof, a new title was issued in the name of the Bank. Subsequently, herein respondent spouses bought the subject lot from the Bank. A new title was later issued in the name of respondent spouses.

On December 9, 2004, respondent spouses filed a Petition for the Issuance of a Writ of Possession with the Regional Trial Court (RTC) of Angeles, City, Pampanga. On July 15, 2005, the RTC ruled in respondent spouses' favor and ordered the issuance of the writ prayed for. Petitioner appealed the RTC order on August 11, 2005.

Prior to the resolution of petitioner's appeal, respondent spouses filed a motion for the issuance of a writ of possession pending appeal. On March 28, 2006, the RTC issued an Order granting respondent spouses' motion. Petitioner filed a motion for reconsideration but the RTC denied it.

Petitioner then filed a petition for *certiorari* with the CA questioning the issuance of the above writ. <sup>[3]</sup> In its Decision which was promulgated on March 18, 2008, the CA denied petitioner's petition. Petitioner's subsequent motion for reconsideration was likewise denied.

Petitioner then filed a petition for review on *certiorari* with this Court, which was docketed as G.R. No. 185266. <sup>[4]</sup> On June 8, 2009, this Court's First Division issued a Resolution denying the petition for review on *certiorari* for petitioner's failure to sufficiently show that the CA committed any reversible error in the challenged CA

decision and resolution as to warrant the exercise of this Court's discretionary appellate jurisdiction. A motion for reconsideration was filed by petitioner, but the Court in a Resolution dated August 24, 2009 denied the motion. Thereafter, the Court issued an Entry of Judgment, stating that the decision in G.R. No. 185266 had become final and executory on October 8, 2009.

Meanwhile, on April 1, 2008, respondent spouses filed with the RTC a motion to implement the Writ of Possession which was earlier issued by the said court. In its Order dated June 27, 2008, the RTC granted respondent spouses' motion. Petitioner filed a motion for reconsideration, but the RTC denied it in its Order dated August 4, 2008.

Petitioner then filed with the CA a special civil action for *certiorari* ascribing grave abuse of discretion on the part of the RTC in allowing the implementation of the questioned writ. [5] In the presently assailed Decision, the CA dismissed petitioner's *certiorari* petition. The CA found that petitioner has resorted to the filing of a petition for *certiorari* as a scheme to delay the implementation of the disputed writ of possession. In any case, the CA held that, as owners of the subject property, respondents are entitled to its possession as a matter of right and that the issuance of the questioned writ is merely a ministerial function on the part of the RTC.

Petitioner filed a Motion for Reconsideration, but the CA denied it in its Order dated April 13, 2009.

Hence, the present petition for review on *certiorari* raising a sole issue, to wit:

Whether or not the respondents are entitled, as a matter of right, to the issuance of a writ of possession when they merely bought the subject property through private transaction and NOT through land registration proceedings, judicial foreclosure and extrajudicial foreclosure. [6]

Petitioner's basic contention is that respondents cannot obtain possession of the subject lot by the mere expedient of filing a petition for the issuance of a writ of possession. Petitioner argues that under the law, the Bank, being the buyer of the disputed lot during foreclosure sale, is the only one who is entitled, as a matter of right, to the issuance of the said writ; that respondents, being subsequent buyers of the subject property, should instead, resort to the appropriate judicial remedy, which is ejectment or *accion reivindicatoria* in order to gain possession thereof.

The Court does not agree.

Petitioner is correct in saying that respondents must resort to "judicial process" in order for them to obtain possession of the disputed lot. However, petitioner is wrong in positing that the only appropriate judicial actions or proceedings that should have been taken by respondents are either ejectment or a reivindicatory suit. On the other hand, respondents were correct in asking the court to issue a writ of possession.

In the recent case of *Okabe v. Saturnino*, [7] the RTC issued a writ of possession to enable a third-party purchaser to obtain possession of the subject property which