

## **SECOND DIVISION**

**[ G.R. No. 173171, July 11, 2012 ]**

**PHILIPPINE CHARITY SWEEPSTAKES OFFICE (PCSO),  
PETITIONER, VS. NEW DAGUPAN METRO GAS CORPORATION,  
PURITA E. PERALTA AND PATRICIA P. GALANG, RESPONDENTS.**

### **D E C I S I O N**

**REYES, J.:**

This is a petition for review under Rule 45 of the Rules of Court, assailing the Decision<sup>[1]</sup> dated September 29, 2005 and Resolution<sup>2</sup> dated September 29, 2005 and Resolution<sup>[2]</sup> June 9, 2006 of the Court of Appeals (CA) in CA-G.R. CV No. 59590.

In the assailed Decision, the CA affirmed the Decision<sup>[3]</sup> dated January 28, 1998 of the Regional Trial Court (RTC), Branch 42 of Dagupan City in Civil Case No. 94-00200-D, ordering petitioner Philippine Charity Sweepstakes Office (PCSO) to surrender the owner's duplicate of Transfer Certificate of Title (TCT) No. 52135 to the Register of Deeds of Dagupan City for cancellation and issuance of a new certificate of title in the name of respondent New Dagupan Metro Gas Corporation (New Dagupan).

In its Resolution<sup>[4]</sup> dated June 9, 2006, the CA denied PCSO's motion for reconsideration.

### **The Factual Antecedents**

Respondent Purita E. Peralta (Peralta) is the registered owner of a parcel of land located at Bonuan Blue Beach Subdivision, Dagupan City under TCT No. 52135. On March 8, 1989, a real estate mortgage was constituted over such property in favor of PCSO to secure the payment of the sweepstakes tickets purchased by one of its provincial distributors, Patricia P. Galang (Galang). The salient provisions of the Deed of Undertaking with First Real Estate Mortgage,<sup>[5]</sup> where Galang, PCSO and Peralta were respectively designated as "principal", "mortgagee" and "mortgagor", are as follows:

WHEREAS, the PRINCIPAL acknowledges that he/she has an outstanding and unpaid account with the MORTGAGEE in the amount of FOUR HUNDRED FIFTY THOUSAND (P450,000.00), representing [the] balance of his/her accountabilities for all draws;

WHEREAS, the PRINCIPAL agrees to liquidate or pay said account ten (10) days after each draw with interest at the rate of 14% per annum.

x x x x

The PRINCIPAL shall settle or pay his/her account of FOUR HUNDRED FIFTY THOUSAND PESOS (P450,000.00) PESOS with the MORTGAGEE, provided that the said balance shall bear interest thereon at the rate of 14% per annum;

To secure the faithful compliance and as security to the obligation of the PRINCIPAL stated in the next preceding paragraph hereof, the MORTGAGOR hereby convey unto and in favor of the MORTGAGEE, its successor and assigns by way of its first real estate mortgage, a parcel/s of land together with all the improvements now or hereafter existing thereon located at BOQUIG, DAGUPAN CITY, covered by TCT No. 52135, of the Register of Deeds of DAGUPAN CITY, and more particularly described as follows:

x x x x

4. During the lifetime of this mortgage, the MORTGAGOR shall not alienate, sell, or in any manner dispose of or encumber the above-mentioned property, without the prior written consent of the MORTGAGEE; x x x x

15. Upon payment of the principal amount together with interest and other expenses legally incurred by the MORTGAGEE, the above undertaking is considered terminated.<sup>[6]</sup>

On July 31, 1990, Peralta sold, under a conditional sale, the subject property to New Dagupan, the conveyance to be absolute upon the latter's full payment of the price of P800,000.00. New Dagupan obliged to pay Peralta P200,000.00 upon the execution of the corresponding deed and the balance of P600,000.00 by monthly installments of P70,000.00, the first installment falling due on August 31, 1990. Peralta showed to New Dagupan a photocopy of TCT No. 52135, which bore no liens and encumbrances, and undertook to deliver the owner's duplicate within three (3) months from the execution of the contract.<sup>[7]</sup>

New Dagupan withheld payment of the last installment, which was intended to cover the payment of the capital gains tax, in view of Peralta's failure to deliver the owner's duplicate of TCT No. 52135 and to execute a deed of absolute sale in its favor. Further, New Dagupan, through its President, Julian Ong Cuña (Cuña), executed an affidavit of adverse claim, which was annotated on TCT No. 52135 on October 1, 1991 as Entry No. 14826.<sup>[8]</sup>

In view of Peralta's continued failure to deliver a deed of absolute sale and the owner's duplicate of the title, New Dagupan filed a complaint for specific performance against her with the RTC on February 28, 1992. New Dagupan's complaint was raffled to Branch 43 and docketed as Civil Case No. D-10160.

On May 20, 1992, during the pendency of New Dagupan's complaint against Peralta, PCSO caused the registration of the mortgage.<sup>[9]</sup>

On February 10, 1993, PCSO filed an application for the extrajudicial foreclosure sale of the subject property in view of Galang's failure to fully pay the sweepstakes she purchased in 1992.<sup>[10]</sup> A public auction took place on June 15, 1993 where PCSO was the highest bidder. A certificate of sale was correspondingly issued to PCSO.<sup>[11]</sup>

The certified true copy of TCT No. 52135 that New Dagupan obtained from the Register of Deeds of Dagupan City for its use in Civil Case No. D10160 reflected PCSO's mortgage lien. New Dagupan, claiming that it is only then that it was informed of the subject mortgage, sent a letter to PCSO on October 28, 1993, notifying the latter of its complaint against Peralta and its claim over the subject property and suggesting that PCSO intervene and participate in the case.

On January 21, 1994, the RTC Branch 43 rendered a Decision, approving the compromise agreement between Peralta and New Dagupan. Some of the stipulations made are as follows:

3. For her failure to execute, sign and deliver a Deed of Absolute Sale to plaintiff by way of transferring TCT No. 52135 in the name of the latter, defendant hereby waives and quitclaims the remaining balance of the purchase price in the amount of [P]60,000.00 in favor of the plaintiff, it being understood that the said amount shall be treated as a penalty for such failure;

x x x x

6. Upon the signing of this compromise agreement, possession and ownership of the above described property, together with all the improvements existing thereon, are hereby vested absolutely upon, and transferred to the plaintiff whom the defendant hereby declares and acknowledges to be the absolute owner thereof, now and hereafter;

7. This compromise agreement shall be without prejudice to whatever rights and remedies, if any, that the Philippine Charity Sweepstakes [O]ffice has against the herein defendant and Patricia P. Galang under the Deed of Undertaking adverted to under par. 2(f) hereof.<sup>[12]</sup>

As the RTC Branch 43 Decision dated January 21, 1994 became final and executory, New Dagupan once again demanded Peralta's delivery of the owner's duplicate of TCT No. 52135. Also, in a letter dated March 29, 1994, New Dagupan made a similar demand from PCSO, who in response, stated that it had already foreclosed the mortgage on the subject property and it has in its name a certificate of sale for being the highest bidder in the public auction that took place on June 15, 1993.

Thus, on June 1, 1994, New Dagupan filed with the RTC a petition against PCSO for the annulment of TCT No. 52135 or surrender of the owner's duplicate thereof.<sup>[13]</sup> The petition was docketed as Civil Case No. 94-00200-D and raffled to Branch 43.

In an Answer<sup>[14]</sup> dated March 7, 1995, PCSO alleged that: (a) New Dagupan was a buyer in bad faith; (b) New Dagupan and Peralta colluded to deprive PCSO of its rights under the subject mortgage; (c) New Dagupan is estopped from questioning the superior right of PCSO to the subject property when it entered into the compromise agreement subject of the RTC Branch 43 Decision dated January 21, 1994; and (d) New Dagupan is bound by the foreclosure proceedings where PCSO obtained title to the subject property.

In a Motion for Leave to File Third-Party Complaint<sup>[15]</sup> dated April 17, 1995, PCSO sought the inclusion of Peralta and Galang who are allegedly indispensable parties. In its Third-Party Complaint,<sup>[16]</sup> PCSO reiterated its allegations in its Answer dated March 7, 1995 and made the further claim that the sale of the subject property to New Dagupan is void for being expressly prohibited under the Deed of Undertaking with First Real Estate Mortgage.

In their Answer to Third-Party Complaint with Counterclaims<sup>[17]</sup> dated January 2, 1996, Peralta and Galang claimed that: (a) the provision in the Deed of Undertaking with First Real Estate Mortgage prohibiting the sale of the subject property is void under Article 2130 of the Civil Code; (b) PCSO's failure to intervene in Civil Case No. D-10160 despite notice barred it from questioning the sale of the subject property to New Dagupan and the compromise agreement approved by the RTC Branch 43; (c) it was due to PCSO's very own neglect in registering its mortgage lien that preference is accorded to New Dagupan's rights as a buyer of the subject property; and (d) PCSO no longer has any cause of action against them following its decision to foreclose the subject mortgage.

On March 6, 1996, Civil Case No. 94-00200-D was transferred to Branch 42, after the presiding judge of Branch 43 inhibited himself.

On January 28, 1998, the RTC Branch 42 rendered a Decision<sup>[18]</sup> in New Dagupan's favor, the dispositive portion of which states:

WHEREFORE, judgment is hereby rendered in favor of the petitioner and against the defendant, ordering PCSO to deliver the owner's duplicate copy of TCT No. 52135 in its possession to the Registry of Deeds of Dagupan City for the purpose of having the decision in favor of the petitioner annotated at the back thereof. Should said defendant fail to deliver the said title within 30 days from the date this decision becomes final and executory, the said owner's duplicate certificate of title is hereby cancelled and the Register of Deeds can issue a new one carrying all the encumbrances of the original owner's duplicate subject of this case. Further, the defendant is ordered to pay to petitioner the sum of Ten Thousand Pesos (P10,000.00) as attorney's fees. It is also ordered to pay costs.

SO ORDERED.<sup>[19]</sup>

The RTC Branch 42 ruled that New Dagupan is a buyer in good faith, ratiocinating

that:

In other words, the evidence of the petitioner would show that although the Deed of Undertaking with First Real Estate Mortgage was executed on March 8, 1989 its annotation was made long after the conditional sale in favor of the petitioner was executed and annotated at the back of the title in question. Because of the said exhibits, petitioner contended that it was a buyer in good faith and for value.

Defendant, to controvert the aforementioned evidence of the plaintiff, alleged that Exhibits C, C-1 to C-1-C was contrary to the testimony of Mr. Julian Ong Cuña to the effect that when defendants sold the property to petitioner only the xerox copy of the title was shown and petitioner should have verified the original as it was a buyer in bad faith. Defendant also alleged that the decision in Civil Case D-10160 dated January 21, 1994 would show that there was a collusion between the petitioner and the third-party defendants.

The Court cannot go along with the reasoning of the defendant because what was shown to Mr. Cuña by the third-party defendants was Exhibit "C" which did not carry any encumbrance at the back of the subject title and the annotation made on May 20, 1992 in favor of the PCSO. Mr. Cuña verified the title x x x but the encumbrance on the title was not still there at [that] time. One thing more, there was nothing indicated in the decision in Civil Case No. D-10160 that petitioner already knew that there was already a mortgage in favor of the PCSO. Worst, defendant did not even introduce any oral evidence to show that petitioner was in bad faith except the manifestations of counsel. Unfortunately, manifestations could not be considered evidence.

x x x x

Defendant should not be allowed to profit from its negligence of not registering the Deed of Undertaking with First Real Estate Mortgage in its favor.<sup>[20]</sup>

Also, the RTC Branch 42 ruled that the prohibition on the sale of the subject property is void. Specifically:

Suffice it to say that there is no law prohibiting a mortgagor from encumbering or alienating the property mortgaged. On the contrary, there is a law prohibiting an agreement forbidding the owner from alienating a mortgaged property. We are referring to Article 2130 of the New Civil Code which provides as follows:

"A stipulation forbidding the owner from alienating the immovable mortgage shall be void."<sup>[21]</sup>

Moreover, the RTC Branch 42 ruled that PCSO had no right to foreclose the subject