

FIRST DIVISION

[G.R. No. 169135, June 18, 2010]

JOSE DELOS REYES, PETITIONER, VS. JOSEPHINE ANNE B. RAMNANI, RESPONDENT.

DECISION

DEL CASTILLO, J.:

A judgment debt is enforced by the levy and sale of the debtor's property.^[1] The issuance of the final certificate of sale to the purchaser at the execution sale is a mere formality upon the debtor's failure to redeem the property within the redemption period.

This Petition for Review on *Certiorari* seeks to reverse and set aside the May 13, 2005 Decision^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 87972, which affirmed the August 19, 2004^[3] and November 10, 2004^[4] Orders of the Regional Trial Court (RTC) of Pasig City, Branch 159 in Civil Case No. 24858. Also assailed is the August 3, 2005 Resolution^[5] denying petitioner's motion for reconsideration.

Factual Antecedents

On October 11, 1977, the trial court rendered a Decision in Civil Case No. 24858 in favor of respondent Josephine Anne B. Ramnani. Thereafter, a writ of execution was issued by the trial court. On June 6, 1978, then Branch Sheriff Pedro T. Alarcon conducted a public bidding and auction sale over the property covered by Transfer Certificate of Title (TCT) No. 480537 (subject property) during which respondent was the highest bidder. Consequently, a certificate of sale was executed in her favor on even date. On November 17, 1978, a writ of possession was issued by the trial court. On March 8, 1990, the certificate of sale was annotated at the back of TCT No. 480537. Thereafter, the taxes due on the sale of the subject property were paid on September 26, 2001.

On February 17, 2004, respondent filed a motion (subject motion) for the issuance of an order directing the sheriff to execute the final certificate of sale in her favor. Petitioner opposed on the twin grounds that the subject motion was not accompanied by a notice of hearing and that the trial court's October 11, 1977 Decision can no longer be executed as it is barred by prescription.

Ruling of the Regional Trial Court

In its August 19, 2004 Order, the trial court granted the motion:

WHEREFORE, premises considered, the motion is hereby GRANTED; and this Court hereby directs the Branch Sheriff of this Court to issue the

corresponding Final Certificate of Sale in the above-entitled case in accordance with the rules immediately upon receipt hereof.

SO ORDERED.^[6]

The trial court ruled that the prescription for the issuance of a writ of execution is not applicable in this case. Less than a year from the October 11, 1977 Decision, respondent exercised her right to enforce the same through the levy and sale of the subject property on June 6, 1978. Although the certificate of sale was annotated on TCT No. 480537 only on March 8, 1990, petitioner did not exercise his right to redeem the subject property within one year from said registration. Thus, what remains to be done is the issuance of the final certificate of sale which was, however, not promptly accomplished at that time due to the demise of the trial court's sheriff. The issuance of the final certificate of sale is a ministerial duty of the sheriff in order to complete the already enforced judgment.

Petitioner moved for reconsideration which was denied by the trial court in its November 10, 2004 Order. Petitioner thereafter sought review via *certiorari* before the CA.

Ruling of the Court of Appeals

The CA denied the petition in its assailed May 13, 2005 Decision:

WHEREFORE, premises considered, the petition is hereby **DENIED**. The orders dated August 19, 2004 and November 10, 2004 of the RTC, Branch 159, Pasig City in Civil Case No. 24858 are hereby **AFFIRMED**.

SO ORDERED.^[7]

In affirming the ruling of the trial court, the CA noted that the subject motion is a non-litigious motion, hence, the three-day notice rule does not apply. Further, it agreed with the trial court that the issuance of the final certificate of sale is not barred by prescription, laches or estoppel because the October 11, 1977 Decision was already executed through the levy and sale of the subject property on June 6, 1978. Respondent is entitled to the issuance of the final certificate of sale as a matter of right because petitioner failed to redeem the subject property.

Issues

1. Whether the trial court acted with grave abuse of discretion amounting to lack or excess of jurisdiction in taking cognizance of the fatally defective motion and the subsequent issuance of the Orders dated August 19, 2004 and November 10, 2004;
2. Whether respondent is barred by prescription, laches or estoppel.^[8]

Petitioner's Arguments