

## SECOND DIVISION

[ G.R. No. 169569, August 03, 2010 ]

**RAMON TORRES AND JESSIE BELARMINO, PETITIONERS, VS.  
SPOUSES VIHINZKY ALAMAG AND AIDA A. NGOJU,  
RESPONDENTS.**

### D E C I S I O N

**PERALTA, J.:**

This resolves the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, praying that the Decision<sup>[1]</sup> of the Court of Appeals (CA), dated June 29, 2005, reversing the judgment of the Regional Trial Court (RTC), Cebu City, Branch 8, and the CA Resolution<sup>[2]</sup> dated September 8, 2005 denying herein petitioners' motion for reconsideration, be reversed and set aside.

The undisputed facts are as follows.

Respondents are the registered owners of a parcel of land which are covered by two (2) titles, namely: TCT No. 106114 and TCT No. 106115. Said property was extrajudicially foreclosed on June 30, 1997 by the Bank of the Philippine Islands to satisfy a loan obligation. At the public auction sale of the mortgaged property, the same was awarded to the spouses Rudy and Dominica Chua, being the highest bidder for the amount of P310,000.00. They were, subsequently, issued a Certificate of Sale dated July 18, 1997, which was registered in the Office of the Register of Deeds of Cebu City on January 8, 1998.

Meanwhile, in a separate case for ejectment (Civil Case No. R-39051) filed by petitioner Ramon Torres against respondent Alamag, the Municipal Trial Court in Cities (MTCC), Branch 1, Cebu City, rendered a Decision dated March 27, 1998 in favor of herein petitioner Ramon Torres. The MTCC ordered herein respondent Vihinzky Alamag (1) to vacate the premises subject of the ejectment case, and (2) to pay herein petitioner Torres the sum of P75,250.00 as rental arrearages, P20,000.00 as attorney's fees, P5,000.00 as litigation expenses, and costs of suit. Said MTCC Decision became final and executory and pursuant to a writ of execution, a Notice of Levy was annotated on the titles of respondents Alamag's and Ngoju's properties on June 26, 1998. These are the properties subject of the present case.

Thereafter, in a letter request dated December 4, 1998, respondent Alamag asked petitioner Sheriff Jessie Belarmino for confirmation of the initial computation of the estimated redemption price of P389,570.00. On December 28, 1998, petitioner Torres likewise requested for an estimate of the redemption price.

On December 29, 1998, petitioner Torres redeemed the two lots from the Spouses Chua by paying, through the Office of the Clerk of Court of the Regional Trial Court of Cebu City, the amount of P402,993.60. An additional P22,000.00 for interest and

taxes was paid by petitioner Torres on January 8, 1999.

However, respondent Alamag also deposited P404,000.00 as redemption money with the Office of the Clerk of Court on January 7, 1999, as evidenced by an Official Receipt and a Notice of Tender, both bearing the same date. The Office of the Clerk of Court did not issue a certificate of redemption to respondent Alamag for the reason that a prior redemption had purportedly been made by petitioner Torres on December 29, 1998.

On January 12, 1999, Sheriff Jessie Belarmino issued a Certificate of Redemption to petitioner Torres.

Respondents Alamag and Ngoju then filed a case for Redemption and Injunction with Prayer for the issuance of a Temporary Restraining Order with the RTC, praying that they be declared to be the rightful persons to redeem the disputed foreclosed properties from the Spouses Chua, and that a certificate of redemption be issued in their favor by petitioner Sheriff Belarmino. Petitioner Torres countered that he is a valid redeemer under Section 27(b), Rule 39 of the Rules of Court; hence, the issuance to him of a certificate of redemption was only proper.

The RTC then issued its Decision dated April 2, 2001, ruling that petitioner Torres, who is a creditor having a lien by judgment on the subject property, which is subsequent to the lien under which the property was sold, is a valid redeemer under Section 27(b), Rule 39 of the Rules of Court, and disposed as follows:

IN VIEW OF THE FOREGOING, judgment is hereby rendered ordering:

1. That the complaint be dismissed; and
2. That plaintiffs [herein respondents Alamag and Ngoju] pay the defendants [herein petitioners Torres and Belarmino] P50,000.00 as attorney's fees, litigation expenses, considering that he was forced to hire the services of counsel to protect his interest.<sup>[3]</sup>

Respondents' motion for reconsideration of the foregoing Decision was denied. On September 11, 2001, herein respondents filed a Notice of Appeal. Petitioners moved for dismissal of the appeal on the ground that it was belatedly filed. On December 14, 2001, the RTC issued an Order denying the motion to dismiss the appeal. The appeal was then given due course.

On June 29, 2005, the CA rendered the assailed Decision holding that **both** petitioner Torres, on the one hand, and respondents Alamag and Ngoju, on the other, had the right to redeem the disputed lots, but it was respondents who were the first to tender the full redemption price, so they should have been issued the certificate of redemption. The dispositive portion of the CA Decision stated, thus:

WHEREFORE, in view of the foregoing, the assailed decision of the court *a quo* is hereby REVERSED AND SET ASIDE. The certificate of redemption dated January 12, 1999 issued to defendant-appellee Ramon Torres is hereby cancelled and plaintiffs-appellants are declared to have validly redeemed subject property.

SO ORDERED.[4]

Petitioners' motion for reconsideration of the above Decision was denied *per* CA Resolution dated September 8, 2005. Hence, this petition where it is alleged that:

I.

THE COURT OF APPEALS ERRED IN ALLOWING THE APPEAL OF RESPONDENTS DESPITE FAILURE TO APPEAL ON TIME

II.

THE COURT OF APPEALS ERRED IN DEVIATING FROM THE AGREED SOLE AND LEGAL ISSUE POSED FOR RESOLUTION AS AGREED BY THE PARTIES BEFORE THE TRIAL COURT AND RESOLVING INSTEAD A FOREIGN ISSUE

III.

THE COURT OF APPEALS ALSO ERRED EVEN IN RESOLVING THE FOREIGN ISSUE IN IGNORING THE CLEAR PROVISION OF LAW AND APPLICABLE SUPPORTING JURISPRUDENCE THAT IF NO NOTICE OF PAYMENT OF TAXES IS FILED WITH THE SHERIFF AND REGISTER OF DEEDS, THERE IS NO NEED TO INCLUDE THE PAYMENT OF TAXES IN REDEMPTION PRICE.[5]

The petition merits some consideration.

The first argument must, however, be struck down. In *Neypes v. Court of Appeals*, [6] the Court declared that a party-litigant should be allowed a fresh period of 15 days within which to file a notice of appeal in the RTC, counted from receipt of the order dismissing or denying a motion for new trial or motion for reconsideration, so as to standardize the appeal periods provided in the Rules of Court and do away with the confusion as to when the 15-day appeal period should be counted.[7] Furthermore, in *Sumiran v. Damaso*, [8] the Court again emphasized that the ruling in *Neypes*, being a matter of procedure, must be given retroactive effect and applied even to actions pending in this Court. Thus, in this case, since respondents received a copy of the Order denying their motion for reconsideration on August 29, 2001, then the last day for filing their notice of appeal was on September 13, 2001. The respondents having filed their notice of appeal on September 11, 2001 is well within the prescribed period.

Petitioners' second argument must, likewise, fail. Their contention, that the CA should have limited its ruling to the issue of whether petitioner Torres had a right to redeem the disputed lots, is incorrect. The main prayer in respondents' complaint before the RTC is for the court to order petitioner Belarmino to issue a certificate of redemption in favor of respondents. In the Pre-Trial Order, one of the issues enumerated for resolution is "[w]hether or not plaintiffs [herein respondents] have