

## SECOND DIVISION

[ G.R. No. 181672, September 20, 2010 ]

**SPS. ANTONIO & LETICIA VEGA, PETITIONER, VS. SOCIAL SECURITY SYSTEM (SSS) & PILAR DEVELOPMENT CORPORATION, RESPONDENTS.**

### DECISION

**ABAD, J.:**

This case is about the lack of authority of a sheriff to execute upon a property that the judgment obligor had long sold to another although the registered title to the property remained in the name of the former.

#### The Facts and the Case

Magdalena V. Reyes (Reyes) owned a piece of titled land<sup>[1]</sup> in Pilar Village, Las Piñas City. On August 17, 1979 she got a housing loan from respondent Social Security System (SSS) for which she mortgaged her land.<sup>[2]</sup> In late 1979, however, she asked the petitioner spouses Antonio and Leticia Vega (the Vegas) to assume the loan and buy her house and lot since she wanted to emigrate.<sup>[3]</sup>

Upon inquiry with the SSS, an employee there told the Vegas that the SSS did not approve of members transferring their mortgaged homes. The Vegas could, however, simply make a private arrangement with Reyes provided they paid the monthly amortizations on time. This practice, said the SSS employee, was commonplace.<sup>[4]</sup> Armed with this information, the Vegas agreed for Reyes to execute in their favor a deed of assignment of real property with assumption of mortgage and paid Reyes P20,000.00 after she undertook to update the amortizations before leaving the country. The Vegas then took possession of the house in January 1981.<sup>[5]</sup>

But Reyes did not readily execute the deed of assignment. She left the country and gave her sister, Julieta Reyes Ofilada (Ofilada), a special power of attorney to convey ownership of the property. Sometime between 1983 and 1984, Ofilada finally executed the deed promised by her sister to the Vegas. Ofilada kept the original and gave the Vegas two copies. The latter gave one copy to the Home Development Mortgage Fund and kept the other.<sup>[6]</sup> Unfortunately, a storm in 1984 resulted in a flood that destroyed the copy left with them.<sup>[7]</sup>

In 1992, the Vegas learned that Reyes did not update the amortizations for they received a notice to Reyes from the SSS concerning it.<sup>[8]</sup> They told the SSS that they already gave the payment to Reyes but, since it appeared indifferent, on January 6, 1992 the Vegas updated the amortization themselves and paid P115,738.48 to the SSS, through Antonio Vega's personal check.<sup>[9]</sup> They

negotiated seven additional remittances and the SSS accepted P8,681.00 more from the Vegas.<sup>[10]</sup>

Meanwhile, on April 16, 1993 respondent Pilar Development Corporation (PDC) filed an action for sum of money against Reyes before the Regional Trial Court (RTC) of Manila in Civil Case 93-6551. PDC claimed that Reyes borrowed from Apex Mortgage and Loans Corporation (Apex) P46,500.00 to buy the lot and construct a house on it.<sup>[11]</sup> Apex then assigned Reyes' credit to the PDC on December 29, 1992,<sup>[12]</sup> hence, the suit by PDC for the recovery of the unpaid debt. On August 26, 1993 the RTC rendered judgment, ordering Reyes to pay the PDC the loan of P46,398.00 plus interest and penalties beginning April 11, 1979 as well as attorney's fees and the costs.<sup>[13]</sup> Unable to do so, on January 5, 1994 the RTC issued a writ of execution against Reyes and its Sheriff levied on the property in Pilar Village.<sup>[14]</sup>

On February 16, 1994 the Vegas requested the SSS to acknowledge their status as subrogees and to give them an update of the account so they could settle it in full. The SSS did not reply. Meantime, the RTC sheriff published a notice for the auction sale of the property on February 24, March 3 and 10, 1994.<sup>[15]</sup> He also served on the Vegas notice of that sale on or about March 20, 1994.<sup>[16]</sup> On April 5, 1994, the Vegas filed an affidavit of third party claimant and a motion for leave to admit a motion in intervention to quash the levy on the property.<sup>[17]</sup>

Still, stating that Vegas' remedy lay elsewhere, the RTC directed the sheriff to proceed with the execution.<sup>[18]</sup> Meantime, the Vegas got a telegram dated August 29, 1994, informing them that the SSS intended to foreclose on the property to satisfy the unpaid housing debt of P38,789.58.<sup>[19]</sup> On October 19, 1994 the Vegas requested the SSS in writing for the exact computation of the indebtedness and for assurance that they would be entitled to the discharge of the mortgage and delivery of the proper subrogation documents upon payment. They also sent a P37,521.95 manager's check that the SSS refused to accept.<sup>[20]</sup>

On November 8, 1994 the Vegas filed an action for consignation, damages, and injunction with application for preliminary injunction and temporary restraining order against the SSS, the PDC, the sheriff of RTC Branch 19, and the Register of Deeds before the RTC of Las Piñas in Civil Case 94-2943. Still, while the case was pending, on December 27, 1994 the SSS released the mortgage to the PDC.<sup>[21]</sup> And on August 22, 1996 the Register of Deeds issued TCT T-56657 to the PDC.<sup>[22]</sup> A writ of possession subsequently evicted the Vegas from the property.

On May 8, 2002 the RTC decided Civil Case 94-2943 in favor of the Vegas. It ruled that the SSS was barred from rejecting the Vegas' final payment of P37,521.95 and denying their assumption of Reyes' debt, given the SSS' previous acceptance of payments directly from them. The Vegas were subrogated to the rights of Reyes and substituted her in the SSS housing loan and mortgage contract. That the Vegas had the receipts show that they were the ones who made those payments. The RTC ordered the PDC to deliver to the Vegas the certificate of title covering the property. It also held the SSS and PDC solidarily liable to the Vegas for P300,000.00 in moral damages, P30,000.00 in exemplary damages, and P50,000.00 in attorney's fees and

for costs of the suit.<sup>[23]</sup>

The SSS appealed to the Court of Appeals (CA) in CA G.R. CV 77582. On August 30, 2007 the latter court reversed the RTC decision<sup>[24]</sup> for the reasons that the Vegas were unable to produce the deed of assignment of the property in their favor and that such assignment was not valid as to PDC. Their motion for reconsideration having been denied, the Vegas filed this petition for review on *certiorari* under Rule 45.<sup>[25]</sup>

### **The Issues Presented**

The issues in this case are:

1. Whether or not the Vegas presented adequate proof of Reyes' sale of the subject property to them;
2. In the affirmative, whether or not Reyes validly sold her SSS-mortgaged property to the Vegas; and
3. In the affirmative, whether or not the sheriff validly sold the same at public auction to satisfy Reyes' debt to PDC.

### **The Rulings of the Court**

**One.** The CA ruled that the Vegas were unable to prove that Reyes assigned the subject property to them, given that they failed to present the deed of assignment in their favor upon a claim that they lost it.<sup>[26]</sup> But the rule requiring the presentation of the original of that deed of assignment is not absolute. Secondary evidence of the contents of the original can be adduced, as in this case, when the original has been lost without bad faith on the part of the party offering it.<sup>[27]</sup>

Here, not only did the Vegas prove the loss of the deed of assignment in their favor and what the same contained, they offered strong corroboration of the fact of Reyes' sale of the property to them. They took possession of the house and lot after they bought it. Indeed, they lived on it and held it in the concept of an owner for 13 years before PDC came into the picture. They also paid all the amortizations to the SSS with Antonio Vega's personal check, even those that Reyes promised to settle but did not. And when the SSS wanted to foreclose the property, the Vegas sent a manager's check to it for the balance of the loan. Neither Reyes nor any of her relatives came forward to claim the property. The Vegas amply proved the sale to them.

**Two.** Reyes acquired the property in this case through a loan from the SSS in whose favor she executed a mortgage as collateral for the loan. Although the loan was still unpaid, she assigned the property to the Vegas without notice to or the consent of the SSS. The Vegas continued to pay the amortizations apparently in Reyes' name. Meantime, Reyes apparently got a cash loan from Apex, which assigned the credit to PDC. This loan was not secured by a mortgage on the property but PDC succeeded in getting a money judgment against Reyes and had it executed on the property. Such property was still in Reyes' name but, as pointed out above, the latter had disposed of it in favor of the Vegas more than 10 years