

THIRD DIVISION

[G. R. No. 184005, August 04, 2009]

TOP ART SHIRT MANUFACTURING, INCORPORATED, MAXIMO AREJOLA AND TAN SIU KHENG, PETITIONERS, VS. METROPOLITAN BANK AND TRUST COMPANY AND THE COURT OF APPEALS, RESPONDENTS.

D E C I S I O N

CHICO-NAZARIO, J.:

This Petition for Review on *Certiorari*^[1] under Rule 45 of the Revised Rules of Court seeks the review of the *Decision*^[2] dated 29 April 2008 and *Resolution*^[3] dated 31 July 2008 of the Court of Appeals in CA-G.R. SP No. 98617, entitled "*Metropolitan Bank and Trust Company v. Hon. Rogelio M. Pizarro in his capacity as the Presiding Judge, Branch 22, RTC-Quezon City, Spouses Maximo Arejola and Tan Shiu Kheng, and Top Art Manufacturing, Inc.*," which issued the writ of *certiorari* annulling and setting aside the *Orders* dated 9 November 2006 and 2 February 2007 of the Regional Trial Court (RTC), Branch 222, Quezon City, in LRC Case No. Q17996 (04) entitled "*In re: Issuance of Writ of Possession, Metropolitan Bank and Trust Company.*"

As culled from the record of the present petition, the facts of the case are as follows:

On 21 April 2004, respondent Metropolitan Bank and Trust Company (Metrobank) filed before the RTC a Petition for Issuance of a Writ of Possession of a 480-square-meter real property (subject property) located at Mayon Street, Quezon City, which was covered by Transfer Certificate of Title (TCT) No. RT-105885 (243642) registered in the names of petitioner-spouses Maximo Arejola and Tan Siu Kheng (Spouses Arejola). The Petition was docketed as **LRC Case No. Q17996 (04)**. Said Petition was anchored on the allegations that on 26 March 2000, petitioner Top Art Shirt Manufacturing, Inc. (Top Art) obtained two (2) U.S. dollar-denominated loans from Metrobank in the amounts of US\$1,411,000.00 and US\$536,000.00; that both amounts of indebtedness were collectively secured by several real estate mortgages executed by Maximo Arejola, as President of Top Art, and his wife, Tan Siu Kheng, over their real properties; that one of the real properties mortgaged to secure the indebtedness of Top Art was the subject property; that despite repeated demands from Metrobank, Top Art failed to settle its loan obligations with the bank; that, as a consequence, Metrobank instituted extrajudicial foreclosure proceedings over the subject property; that the subject property was sold at a public auction on 15 May 2001, to Metrobank, the highest bidder; that a *Certificate of Sale* was issued to Metrobank on 15 May 2001, the date of the auction, and it was duly registered on 11 September 2001; that the fact of sale was annotated at the back of TCT No. RT-105885 (243642), covering the subject property; that the Spouses Arejola failed to redeem the foreclosed property within the statutory period for the mortgagor to

exercise his/her right of redemption; and that title over the same was eventually consolidated and a new certificate of title, TCT No. N-266564, was issued in the name of Metrobank.

In a Decision dated 25 May 2005, the RTC granted the Petition of Metrobank and ordered the issuance of a writ of possession in the latter's favor, to wit:

WHEREFORE, premises considered, the instant petition is hereby GRANTED. Accordingly, let a Writ of Possession issue in favor of [herein respondent] bank and the Sheriff IV of this Branch or his duly authorized deputy is directed to cause the eviction of Spouses Maximo Arejola and Tan Siu Kheng and all persons claiming rights under them from the subject property TCT No. N-266564 of the Registry of Deeds of Quezon City and forthwith place [respondent] bank in possession of the said subject premises.^[4]

Accordingly, a writ of possession was issued on 3 April 2006, commanding the RTC Sheriff to place Metrobank "in possession of the subject property covered by TCT No. N-266564 x x x and to eject therefrom all adverse occupants."^[5]

On 19 May 2006, Top Art filed with the RTC a *Motion to Quash Writ of Possession*^[6] praying for the recall of the writ of possession earlier issued. Top Art alleged that Metrobank violated Section 5, Rule 7 of the Rules of Court by failing to inform the RTC that there was a civil case pending before another court, *i.e.*, **Civil Case No. Q-04-52965**, filed by one Walter Santillan (Santillan) against Maximo Arejola and Metrobank, also over the subject property. Civil Case No. Q-04-52965 involves a complaint for *Specific Performance with Application for Temporary Restraining Order and/or Preliminary Injunction* to compel Metrobank to recognize the 10-year lease of the subject property executed between the Spouses Arejola, as lessors, and Santillan, as lessee. In its *Supplemental Arguments to Motion to Quash Writ of Possession*, Top Art further argued that the failure of Metrobank to post a bond as required in Act No. 3135 tainted the validity of the writ of possession issued by the RTC in LRC Case No. Q17996 (04).

In an Order dated 9 November 2006, the RTC cancelled and set aside the writ of possession it earlier issued and directed the Sheriff "to immediately restore within a reasonable period of ten (10) days herefrom the movant Top Art x x x and/or Walter Santillan in possession of the subject property."^[7]

Metrobank moved for the reconsideration of the aforequoted Order arguing that (1) "the manner by which the Writ of Possession was cancelled or set aside was not in accordance with Section 8 of Act No. 3135, as amended, which provides that a petition or complaint, not a mere motion, should be filed in order to have the Writ of Possession cancelled"; and (2) "Walter Santillan, the purported lessee [of the subject property], not Top Art x x x is the proper party who should have questioned the issuance of [the] Writ of Possession as he is the one supposedly adversely affected by the Writ of Possession." Moreover, it clarified that Top Art was not the lessor of the subject property, as the lease contract was executed between Maximo Arejola and Walter Santillan; hence, Top Art had "no interest whatsoever in the subject property." And Metrobank insisted that "[t]here is simply no factual and

legal basis to even restore possession [thereof] to Top Art x x x when it had never acquired possession of the subject property at any time by lease or in whatever manner."^[8]

The Motion for Reconsideration of Metrobank was subsequently denied by the RTC in an *Order*^[9] dated 2 February 2007.

Aggrieved, Metrobank filed a Petition for *Certiorari* with the Court of Appeals imputing grave abuse of discretion, amounting to lack or excess of jurisdiction, to Hon. Rogelio M. Pizarro, the Presiding Judge of the RTC, Branch 222, Quezon City, for recalling and setting aside, in his Orders dated 9 November 2006 and 2 February 2007 in LRC Case No. Q17996 (04), the writ of possession he earlier directed to be issued in the said case. The Petition was docketed as CA-G.R. SP No. 98617.

In a Decision promulgated on 29 April 2008, the Court of Appeals granted the Petition by issuing the writ of *certiorari* Metrobank prayed for. Consequently, the assailed Orders were annulled and set aside for having been issued in grave abuse of discretion amounting to lack or excess of jurisdiction and the RTC Decision dated 25 May 2005 was reinstated. The appellate court reasoned thus:

The trial court exceeded its jurisdiction in entertaining Top Art's motion to quash, considering that the same was neither formally a verified petition nor a stranger's complaint-in-intervention. The trial court simply closed its eyes and neglected to address the fact that Top Art, while being a loan beneficiary of Metrobank, was not a redemptioner nor the debtor-mortgagor contemplated by Section 8 who, having a direct interest (possessory and otherwise) in the realty, may cause the annulment of the writ of possession, under any of only two specified circumstances - (1) because the mortgage (contract) was not violated, or (2) the sale was not made in accordance with the provisions of Art. 3135. It is well to note that in here, the trial court anomalously authorized Top Art's ground for cancellation of an already-implemented, a *fait accompli* no less, grant of possession: failure to disclose the pendency of a subsequently-filed action for specific performance.

x x x x

Coming now to the question of Metrobank's alleged awareness of an existing lease between the spouses-mortgagors and Walter Santillan, it was erroneous for the trial court to attribute knowledge to Metrobank allegedly due to the latter's failure to deny the statements contained in the *Complaint* in Civil Case No. Q-04-52965 x x x [because] Top Art is not a party to the said case, x x x [and] the trial court may not take judicial notice of the records or the proceedings in another case, unless the parties themselves agree thereto (citation omitted).^[10]

The Court of Appeals did not fault Metrobank for not declaring in the Certification against Forum Shopping, appended to its Petition in LRC Case No. Q17996 (04), the existence of Civil Case No. Q-04-52965, finding that:

Metrobank could not have stated in its *Certification against Forum shopping* (sic) the fact of another pending case related to its petition for a writ of possession, because the said petition was filed ahead of Civil Case No. Q-04-52965.^[11]

All in all, the Court of Appeals concluded that:

In sum, the trial court gravely abused its discretion and exceeded its jurisdiction in issuing the twin orders assailed through this petition.^[12]

The *fallo* of the Decision of the Court of Appeals reads:

WHEREFORE, in view of the foregoing, the petition is GRANTED, and the assailed Orders of the trial court dated 9 November 2006 and 2 February 2007, are ANNULLED and SET ASIDE and in lieu thereof, the previous Decision dated 25 May 2005 which granted the writ of possession in favor of Metrobank is hereby reinstated.^[13]

Top Art and the Spouses Arejola's Motion for Reconsideration was denied by the Court of Appeals in a *Resolution* dated 31 July 2008.

Hence, this Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court based on the following assignment of errors:

I.

THE HONORABLE COURT OF APPEALS COMMITTED A GRAVE ERROR IN NOT HOLDING THAT PETITIONER TOP ART MANUFACTURING, INC. HAS THE LEGAL STANDING TO QUASH THE WRIT OF POSSESSION;

II.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN NOT SUSTAINING AND AFFIRMING THE ASSAILED ORDERS OF THE TRIAL COURT (RTC-QUEZON CITY, BRANCH 222) WHICH QUASHED AND SET ASIDE THE PREVIOUSLY ISSUED WRIT OF POSSESSION CONSIDERING THAT PRIVATE RESPONDENT METROBANK HAD PRIOR KNOWLEDGE OF THE SUBSISTING LEASE OVER THE MORTGAGED PROPERTY; and

III

THE HONORABLE COURT OF APPEALS GRAVELY ERRED WHEN IT RULED THAT THE TRIAL COURT (RTC-QUEZON CITY, BRANCH 222) MISAPPLIED THE DOCTRINE ENUNCIATED BY THE SUPREME COURT IN THE CASES OF

IBASCO VS. CAGUIOA (143 SCRA 538) [AND] CASTRO, JR. VS. COURT OF APPEAS (250 SCRA 661).

Top Art and the Spouses Arejola insist that Top Art has "legal standing to question and/or to quash the writ of possession earlier issued by the trial court in favor of Metrobank"^[14] for the simple reason that its Motion to Quash "also included its co-petitioners, the Spouses Maximo Arejola and Tan Siu Kheng, the registered owners of the 480-sq.m. real property. Petitioner Maximo Arejola was the one who entered in the subject lease contract with Walter Santillan over the subject property."^[15]

On the other hand, Metrobank maintains that Sec. 8 of Act No. 3135, as amended, is clear in that a writ of possession may be set aside only through the filing of a complaint or petition for that purpose and not by mere unverified motion. Likewise, it persistently disputes the contention that Top Art was joined in its Motion to Quash Writ of Possession by the Spouses Arejola. Metrobank submits that "[a] simple reading of all the pleadings filed by Top Art x x x shows that they were filed solely on behalf of Top Art x x x." The bank contends as well that "[t]he issue of whether or not Metrobank had prior knowledge of the lease contract, which was purportedly raised by Walter Santillan in the separate civil action x x x is one properly left to the Regional Trial Court before which the said civil case [Civil Case No. Q-04-52965] was filed to resolve, not the Trial Court Judge in LRC Case No. Q17996 (04) before whom Walter Santillan has not even appeared as an oppositor."

Considering all the foregoing, We determine that the basic issue to be resolved in the present Petition is whether the Presiding Judge of the RTC, Branch 222, Quezon City, erred in recalling the writ of possession earlier issued in favor of Metrobank on the basis of the Motion to Quash filed by Top Art.

We rule in the affirmative.

The procedure for extrajudicial foreclosure of real estate mortgage is governed by Act No. 3135, as amended, entitled "An Act to Regulate the Sale of Property Under Special Powers Inserted in or Annexed to Real Estate Mortgages." Sec. 7 of Act No. 3135, as amended, provides that the purchaser at the public auction sale of an extrajudicially foreclosed real property may seek possession thereof, thus:

SEC. 7. In any sale made under the provisions of this Act, the **purchaser may petition** the Court of First Instance of the province or place where the property or any part thereof is situated, **to give him possession** thereof during the redemption period, furnishing bond in an amount equivalent to the use of the property for a period of twelve months, to indemnify the debtor in case it be shown that the sale was made without violating the mortgage or without complying with the requirements of this Act. **Such petition shall be made under oath and filed in form or an ex parte motion** in the registration or cadastral proceedings if the property is registered, or in special proceedings in the case of property registered under the Mortgage Law or under section one hundred and ninety-four of the Administrative Code, or of any other real property encumbered with a mortgage duly registered in the office of any register