

## THIRD DIVISION

[ G.R. NO. 155698, January 31, 2006 ]

**PHILIPPINE NATIONAL OIL COMPANY, PETITIONER, VS.  
NATIONAL COLLEGE OF BUSINESS AND ARTS, RESPONDENT.**

### DECISION

**QUISUMBING, J.:**

Before us is an appeal by *certiorari* seeking to annul the **Decision**<sup>[1]</sup> dated June 21, 2002 of the Court of Appeals in CA-G.R. CV No. 53466, affirming *in toto* the **Decision** of the Regional Trial Court of Manila, Branch 30, in Civil Case No. 83-16617 which, among others, declared the respondent as the owner in fee simple of the contested property.

This case is related to the decisions of this Court in **G.R. Nos. 112282** and **107909**.

#### **G.R. No. 112282**

In G.R. No. 112282, Felipe and Enrique Monserrat were owners of seven parcels of land at V. Mapa St., Manila (V. Mapa properties).<sup>[2]</sup> On September 12, 1969, Felipe and Enrique mortgaged the V. Mapa properties to the Development Bank of the Philippines (DBP) as part of the security for the loan incurred by their companies, Manila Yellow Taxicab Co., Inc. (MYTC) and Monserrat Enterprises Co. (MEC). The Deed of Mortgage was registered on September 25, 1969.<sup>[3]</sup>

On April 30, 1972, Enrique, Felipe and Rosario Vda. de Monserrat jointly and severally executed two promissory notes to cover the obligation of MYTC to Filoil Marketing Corporation (Filoil). For failure to pay the notes, Filoil filed before the Court of First Instance (CFI) of Manila, a complaint for collection of sum of money, docketed as Civil Case No. 89462, against MYTC, Felipe and Rosario. On May 22, 1974, the CFI decided in favor of Filoil.<sup>[4]</sup>

Filoil moved for the execution of the judgment pending appeal. Filoil's motion was granted and upon posting of the required bond, the sheriff levied on certain properties of the defendants, including the V. Mapa properties.

DBP filed a third-party claim stating that the V. Mapa properties were mortgaged to them and thus could not be subjected to attachment or levy pursuant to Commonwealth Act No. 459 (An Act Creating the Agricultural and Industrial Bank) and Republic Act No. 85 (An Act Creating the Rehabilitation Finance Corporation). However, upon motion of Filoil, the CFI quashed the claim. DBP's subsequent motion for reconsideration was also denied as the CFI found no provision in Rep. Act No. 85, or in other laws that transferred the powers and duties of the Rehabilitation Finance Corporation (RFC) to DBP, expressly stating that property mortgaged to or subject

to a lien in favor of RFC or DBP shall not be subjected to levy or attachment. DBP did not assail this order.<sup>[5]</sup>

In the meantime, Felipe and Rosario filed their appeal. On May 12, 1977, the Court of Appeals affirmed *in toto* the CFI Manila decision. The decision became final and executory on May 30, 1977.<sup>[6]</sup>

On April 29, 1985, the one-half undivided interest of Felipe in the V. Mapa properties which was levied on by Filoil was sold to Petrophil Corporation (Petrophil) in a public auction. Upon the expiration of the period of redemption, a new Transfer Certificate of Title (TCT) and writ of possession were granted despite opposition of the National College of Business and Arts (NCBA), claiming that it was the new owner of the properties.

On appeal by NCBA, the Court of Appeals ruled that the Deed of Final Sale to Petrophil takes precedence and priority over the Deed of Absolute Sale to NCBA.<sup>[7]</sup> It however, limited the sale to Petrophil only to the one-half undivided interest of Felipe. The Supreme Court denied NCBA's petition in **G.R. No. 112282** and entry of judgment was made on March 28, 1994.<sup>[8]</sup>

### **G.R. No. 107909**

The pertinent facts in G.R. No. 107909 are as follows:

On May 21, 1984, Petrophil, the successor-in-interest of Filoil, filed a collection suit against Enrique docketed as Civil Case No. 7285 at the Regional Trial Court of Makati (RTC Makati). The action was based on the unpaid balance of promissory notes jointly and severally executed by Enrique, Felipe and Rosario Vda. de Monserrat to Filoil, Petrophil's predecessor-in-interest. The trial court rendered a decision in favor of Petrophil. By virtue of a writ of execution, Petrophil levied on the one-half undivided interest of Enrique in the V. Mapa properties.<sup>[9]</sup> On February 28, 1985, the levy in execution was inscribed in the TCTs.

Enrique's interest was auctioned and sold to Petrophil as the highest bidder. After the lapse of the period of redemption, the RTC Makati issued a writ of possession on February 29, 1988. Petron Corporation (Petron), as successor-in-interest of Petrophil acquired actual possession of the V. Mapa properties on April 22, 1992.

NCBA filed a third-party claim and filed a motion to quash the writ of possession. The motion was denied.

On appeal by NCBA, the appellate court declared that the issue of ownership over the one-half undivided interest of Felipe in the property had been ruled with finality in CA-G.R. CV No. 31349 (now SC G.R. No. 112282).<sup>[10]</sup> The Court of Appeals also voided the sale by Felipe of the one-half undivided interest of Enrique to NCBA. The Court of Appeals observed that the Special Power of Attorney upon which Felipe based his alleged authority to sell Enrique's share was a falsified and forged document.<sup>[11]</sup> Thus, the petition was dismissed.<sup>[12]</sup> NCBA appealed before this Court. We denied said appeal, in **G.R. No. 107909**, on December 16, 1992 and the motion for reconsideration was also denied on May 5, 1993. The denial became final

on June 17, 1993.

**G.R. No. 155698**

The pertinent facts of the instant case, G.R. No. 155698, are as follows:

To settle its obligation with DBP, MYTC executed, on June 18, 1981, a Deed of Cession of Real Properties in Payment of Debt (*Dacion en Pago*) which covered four parcels of land located at Arlegui, Quiapo, Manila (Arlegui Properties).<sup>[13]</sup> The deed was registered only on August 12, 1982.

Meantime, on May 21, 1982, Felipe and Enrique Monserrat sold the V. Mapa properties to National College of Business and Arts (NCBA) despite partial levy by Filoil. Enrique, who was then in Australia, was allegedly represented by Felipe in the transaction by virtue of a Special Power of Attorney.<sup>[14]</sup> The Deed of Absolute Sale provided that the Monserrats shall deliver the property, with all its improvements, free from any lien or encumbrance. The period for the discharge of the "liens" expired without the Monserrats fulfilling their undertaking. Thus, on February 3, 1983, NCBA caused the annotation of an adverse claim on the TCT of the V. Mapa properties. On March 29, 1983, it filed an action for specific performance or rescission and damages docketed as Civil Case No. 83-16617, against the Monserrats with the Regional Trial Court of Manila (RTC Manila).

Felipe admitted the sale to NCBA. Enrique, on the other hand, denied that he authorized Felipe to sell his share, claiming that his signature in the Special Power of Attorney was a forgery.

NCBA was initially unaware of the *dacion en pago* agreement between DBP and the Monserrats. Upon learning about it, NCBA made several demands on DBP to release the mortgage. Since DBP did not, NCBA amended its complaint and impleaded DBP. NCBA prayed that the mortgage be extinguished through the *dacion en pago* agreement so that the properties may be released.

Petron intervened claiming a right over the V. Mapa properties as the successor-in-interest of Petrophil, the buyer in the execution sales. NCBA countered that Filoil's levy in execution, to which Petron based its right, is void ab initio as the properties were then mortgaged to DBP and therefore exempt from execution. It also argued that Petron was a buyer in bad faith and not for value, because it did not pay for its bid. As to Enrique's interest in the properties, NCBA maintained that Enrique was no longer the owner at the time of the levy in execution since it has already been sold to NCBA.

DBP, for its part, asserted that the mortgage was not extinguished by the *dacion en pago* because the Monserrats committed fraud and did not fulfill certain conditions stipulated in the mortgages. It also asserted that the levies in execution were inoperative as the properties were exempt from execution having been mortgaged to it.

On October 2, 1995, summons and copy of the Second Amended Complaint were served on Philippine National Oil Company (PNOC) as successor-in-interest of Petron. PNOC filed a motion to dismiss on the ground of *res judicata*. NCBA opposed

and argued that the pronouncement of the Court of Appeals in CA-G.R. CV No. 31349 was obiter dictum as the trial court's decision in Civil Case No. 89462 made no mention of ownership over the subject property.

Instead of allowing the trial court to rule on PNOC's motion to dismiss, NCBA moved to drop PNOC as a defendant, which the trial court did. On March 11, 1996, the trial court rendered judgment as follows:

WHEREFORE, judgment is rendered in favor of plaintiff NCBA and against defendants and intervenor, as follows:

1. Declaring plaintiff NCBA the owner in fee simple of the properties in question, now covered by TCT Nos. 199394 to 199400 of the Registry of Deeds of Manila in the name of intervenor Petrophil Corporation (now PETRON);
2. Declaring fully extinguished the mortgage of the property in question in favor of defendant Development Bank of the Philippines (DBP);
3. Ordering the Register of Deeds of Manila to cancel Transfer Certificates of Title Nos. 199394 to 199400 of said Registry and/or all transfer certificates of title derived or issued subsequent thereto and to issue, in lieu thereof, new transfer certificates of title in the name of plaintiff NCBA free from the mortgage in favor of defendant Development Bank of the Philippines [DBP];
4. Declaring the owner's duplicate copies of Transfer Certificates of Title No. 199394 to 199400 of the Registry of Deeds of Manila and all certificates of title issued subsequent thereto null and void;
5. Ordering defendants Felipe [M]onserrat, Enrique Monserrat and Development Bank of the Philippines and intervenor and third-party plaintiff Petrophil (now known as PETRON) jointly and severally to pay to plaintiff NCBA the amounts of P100,000.00 as exemplary damages and P150,000.00 as attorney's fees, in addition to the costs of suit.
6. Dismissing the defendants' counterclaims and cross-claims, and the intervention and third party complaint of Petrophil (now PETRON).

SO ORDERED.<sup>[15]</sup>

PNOC, as intervenor-appellant, Petron, DBP, and Enrique elevated the matter to the Court of Appeals. On June 21, 2002, the Court of Appeals declared that *res judicata* did not apply since a judgment issuing a writ of possession is not a judgment on the merits.<sup>[16]</sup> It upheld the validity of sale of Enrique's one-half undivided interest in the properties to NCBA since the petitioners therein failed to overcome the presumption of regularity of the notarized Special Power of Attorney.<sup>[17]</sup> The appellate court also ruled that the Monserrats' obligation to DBP was fully extinguished by the *dacion en pago*.<sup>[18]</sup> The dispositive portion of the decision reads: