

## FIRST DIVISION

[ G.R. NO. 164740, July 31, 2006 ]

**SPOUSES EDUARDO AND ELSA VERSOLA, PETITIONERS, VS.  
HON. COURT OF APPEALS, SHERIFF REYNALDO B. MADOLARIA,  
JUDGE LYDIA QUERUBIN LAYOSA, BOTH OF THE REGIONAL  
TRIAL COURT OF QUEZON CITY, BRANCH 217, REGISTER OF  
DEEDS OF QUEZON CITY AND DR. VICTORIA T. ONG OH,  
RESPONDENTS.**

### DECISION

**CHICO-NAZARIO, J.:**

This Petition for Review under Rule 45 of the Rules of Court, filed by petitioners spouses Eduardo and Elsa Versola, seeks to nullify and set aside the 28 April 2004 Decision<sup>[1]</sup> and 28 July 2004 Resolution of the Court of Appeals in CA-G.R. SP No. 79300, which affirmed the Orders dated 6 January 2003 and 14 July 2003 of the Regional Trial Court (RTC) of Quezon City, Branch 217, in Civil Case No. Q-93-16003.

This case has its genesis from a loan transaction entered into by private respondent Dr. Victoria T. Ong Oh and a certain Dolores Ledesma, wherein the former granted a P1,000,000.00 loan to the latter. As a security for said loan, Ledesma issued to private respondent a check for the same amount dated 10 February 1993 and promised to execute a deed of real estate mortgage over her house and lot located at Tandang Sora, Quezon City, covered by Transfer Certificate of Title (TCT) No. RT-51142. The execution of the deed of real estate mortgage did not materialize, but Ledesma delivered the owner's duplicate copy of the TCT No. RT-51142 to private respondent.

Thereafter, Ledesma sold the said house and lot to petitioners for P2,500,000.00. Petitioners paid Ledesma P1,000,000.00 as downpayment, with the remaining balance of P1,500,000.00 to be paid in monthly installments of P75,000.00<sup>[2]</sup> starting 15 March 1993. Even before the monthly installments became due, Ledesma already asked petitioners to pay the remaining balance of P1,500,000.00. Petitioners, however, were only able to pay the amount of P50,000.00 to Ledesma. To raise the full amount that Ledesma demanded, petitioners applied for a loan with Asiatruster Bank, Inc. (Asiatruster) in the amount of P2,000,000.00. In the course of the application for said loan, petitioners, private respondent, and Ledesma convened with Asiatruster to arrive at a scheme to settle the obligation of Ledesma to private respondent and the obligation of petitioners to Ledesma. After the meeting, the following agreement<sup>[3]</sup> was arrived at: (1) private respondent would grant Ledesma an additional loan of P450,000.00, making the latter's loan from the former amount to P1,450,000.00 (the amount of P1,450,000.00 would then be credited to petitioners as full settlement of the purchase price of the property); (2) Ledesma would execute a Deed of Sale transferring ownership over her house and lot,

covered by TCT No. RT-51142, to petitioners; (3) private respondent would then deliver the duplicate copy of TCT No. RT-51142 to Asiatrust; (4) once petitioners had secured a title to the said house and lot in their names, they would execute a real estate mortgage over it in favor of Asiatrust to secure their loan of P2,000,000.00; and (5) Asiatrust would then grant a loan of P2,000,000.00 to petitioners with a written guarantee that the P1,500,000.00 would be given directly by Asiatrust to private respondent after the mortgage lien of Asiatrust would have been annotated on the title of the said property.

In keeping with the foregoing agreement, private respondent granted Ledesma an additional loan of P450,000.00. Ledesma, in turn, executed a Deed of Sale transferring the title of the subject property to petitioners. Private respondent then delivered the title of the said property to Asiatrust. The Deed of Sale was registered and TCT No. RT-51142 in the name of Ledesma was cancelled and a new one, TCT No. 83104, was issued in the names of petitioners. Thereafter, Asiatrust approved the loan application of petitioners, after which the latter issued a check in the amount of P1,500,000.00 to private respondent. However, when Asiatrust tried to register the Real Estate Mortgage covering the subject property executed in its favor by petitioners, it discovered a notice of levy on execution was annotated on the title in connection with Ledesma's obligation to a certain Miladay's Jewels, Inc., in the amount of P214,284.00. Because of this annotated encumbrance, Asiatrust did not register said Real Estate Mortgage and refused to release the P2,000,000.00 loan of petitioners. When private respondent presented Ledesma's check for payment, the same was dishonored for the reason that the account was already closed. Subsequently, when private respondent presented for payment the check issued by petitioners, the said check was likewise dishonored because there was a stop payment order. With the dishonor of the checks and with Asiatrust's refusal to release the P2,000,000.00 loan of petitioners, private respondent came away empty-handed as she did not receive payment for the P1,500,000.00 loan she granted to Ledesma that was assumed by petitioners. As a result, private respondent filed a Complaint for Sum of Money against Ledesma, petitioners, and Asiatrust before the RTC, Branch 217, Quezon City, docketed as Civil Case No. Q-93-16003.

After trial, the RTC, in a Decision dated 31 May 1996, rendered a verdict in favor of private respondent and against petitioners, the dispositive portion of which reads:

Wherefore, in view of the foregoing, judgment is hereby rendered in favor of the plaintiff Dr. Victoria Ong Oh and against defendant-spouses Eduardo and Elsa Versola. The appellants Versolas are hereby ordered to pay to Dr. Victoria Ong Oh the following:

- a) the sum of one million five hundred thousand pesos (P1,500,000.00) plus legal interest to be computed from the time of judicial demand;
- b) one hundred thousand pesos (P100,000.00) as moral damages and fifty thousand pesos (P50,000.00) as exemplary damages; and,
- c) attorney's fees of one hundred thousand pesos (P100,000.00).<sup>[4]</sup>

Undaunted, petitioners appealed the trial court's Decision to the Court of Appeals, with the appeal docketed as CA-G.R. CV No. 54399.

In a Decision dated 30 August 1999, the Court of Appeals rendered a judgment affirming the Decision of the trial court, but modifying the award of moral, exemplary damages and attorney's fees by deleting the same, to wit:

WHEREFORE, the appealed Decision is hereby MODIFIED in this wise: the Court orders appellants spouses Eduardo and Elsa Versola to pay appellee Victoria T. Ong Oh One Million Five Hundred Thousand (P1,500,000.00) Pesos with legal interest from March 24, 1993.<sup>[5]</sup>

No appeal having been filed, the foregoing Decision attained finality.

On 3 April 2000, private respondent filed a Motion for Execution with the trial court, the latter granted the same in an Order dated 14 April 2000. On 23 June 2000, the property covered by TCT No. 83104, in the names of petitioners, was levied upon. The sheriff set the sale of the property at public auction on 19 September 2000. Petitioners were served a copy of the notice of the sale. On 18 September 2000, petitioners filed with the sheriff an "Objection/Exception to the Sheriff's Sale of Defendant Sps. Eduardo and Elsa Versola's Family Home Pending Court Order or Clearance." Despite petitioners' objections, however, the property was still sold at public auction on 19 September 2000 and was awarded to private respondent at the bid price of P2,835,000.00.

For failure of petitioners to redeem the property during the redemption period, a Sheriff's Final Deed of Sale was issued in favor of private respondent on 19 March 2002.

On 5 August 2002, private respondent filed with the trial court an Ex-parte Motion for Issuance of Confirmation of Judicial Sale of Real Property of Sps. Eduardo and Elsa Versola. Petitioners opposed the said motion on the following grounds: (1) the property sold at the public auction is the family home of petitioners which is exempt from execution pursuant to Article 155 of the Family Code; (2) no application was made by private respondent for the determination of the value of their family home to be subjected to execution, as required under Article 160 of the Family Code; and (3) there were serious defects in the conduct of the execution sale.

In an Order dated 6 January 2003, the trial court debunked petitioners' arguments, and granted private respondent's Ex-parte Motion and confirmed the Sheriff's Final Deed of Sale.

In an Order dated 14 July 2003, the trial court denied the Motion for Reconsideration filed by petitioners.

Petitioners then filed a Petition for *Certiorari* before the Court of Appeals, docketed as CA-G.R. SP No. 79300, alleging grave abuse of discretion on the part of the trial court Judge in confirming the judicial sale of their family home.

In a Decision dated 28 April 2004, the Court of Appeals dismissed the Petition for lack of merit. A Motion for Reconsideration thereof was filed, but was denied by the Court of Appeals in a Resolution dated 28 July 2004.

Hence, the instant Petition.

Petitioners submit the following issues for the Court's consideration:

- A. WHETHER OR NOT COMPLIANCE ON (sic) THE PROVISIONS OF THE FAMILY CODE SPECIFICALLY ARTICLES 152 TO 160 IN RELATION TO THE PROVISION OF ARTICLE III SECTION 1 OF THE CONSTITUTION, IS MANDATORY; and
- B. WHETHER OR NOT THE PROVISION UNDER ARTICLE 160 REQUIRING AN APPLICATION TO THE COURT FOR AN ORDER DIRECTING THE AUCTION SALE OF A FAMILY HOME IS MANDATORY AND A CONDITION *SINE QUA NON* THAT MUST BE COMPLIED WITH PRIOR TO THE AUCTION SALE. [6]

Petitioners aver that prior to the auction sale of their family home, they registered their opposition and objection to the same by filing with the trial court an "Urgent Motion to Suspend Auction Sale on the Property of Defendants under TCT No. 83104 located at Sunville Subdivision, Quezon City," dated 12 September 2000 which was admittedly treated by the court as a "mere scrap of paper and is deemed not filed." They also claim that a day before the scheduled auction sale, they filed with the sheriff of the trial court an "Objection/Exception to the Sheriff's Sale of Defendant Sps. Eduardo and Elsa Versola's Family Home Pending Court Order or Clearance" which the latter disregarded. Petitioners maintain that said objection to the sale was based on the fact that there was no order or clearance from the trial court for the sheriff to proceed with the auction sale, in clear violation of Article 160 of the Family Code, which requires an application by the creditor and a determination of the actual value of the family home by the court ordering the sale of property under execution.

It was likewise contended by petitioners that there were serious defects in the conduct of the execution sale, namely, the sheriff based the execution on the dispositive portion of the Decision of the RTC and not the modified Decision of the Court of Appeals, and that there were no documents proving the amount of execution sale and the determination of the proceeds.

On the other hand, the trial court found that the allegations of serious defects in the sheriff's conduct of the execution sale are unfounded. According to the trial court, although the sheriff inadvertently quoted the decision of the trial court in the "Sheriff's Final Deed of Sale" dated 19 March 2002, the "Statement of Accounts" submitted by private respondent, as well as the computation of the sheriff showed that the auction sale was based on the decision of the Court of Appeals. The bid price amounted to P2,835,000.00, P1,500,000.00 thereof representing the principal amount owed by petitioners to private respondent while the remaining P1,335,000.00 represented the legal interest of 12% counted from 24 March 1993 up to 24 August 2000.

As to the allegation that the sheriff failed to act on petitioners' Objection/Exception to Sheriff's Sale of Defendant Sps. Eduardo and Elsa Versola's Family Home, the trial court ratiocinated that such inaction of the sheriff was justified since petitioners never filed any motion before the said court to hold in abeyance the impending auction sale. Accordingly, it held that it was correct for the sheriff to proceed with the auction sale as there will be no order forthcoming to suspend the sale absent