G.R. No. 141256

THIRD DIVISION

[G.R. NO. 141256, August 15, 2005]

ESTANISLAO PADILLA, JR. PETITIONER, VS. PHILIPPINE PRODUCERS' COOPERATIVE MARKETING ASSOCIATION, INC., RESPONDENT.

D E C I S I O N

CORONA, J.:

In implementing the involuntary transfer of title of real property levied and sold on execution, is it enough for the executing party to file a motion with the court which rendered judgment, or does he need to file a separate action with the Regional Trial Court?

This is a petition for review on certiorari[1] from a decision

of the Court of Appeals in CA-G.R. CV No. 53085,[2] and its resolution denying reconsideration,[3] both of which affirmed the orders of the Regional Trial Court of Bacolod City, Branch 51.[4]

The undisputed facts of the case follow.[5]

Petitioner and his wife are the registered owners of the following real properties: Lot Nos. 2904-A (covered by TCT No. T-36090), 2312-C-5 (covered by TCT No. T-3849), and 2654 (covered by TCT No. T-8053), all situated in Bago City.

Respondent is a marketing cooperative which had a money claim against petitioner.

On April 24, 1987, respondent filed a civil case against petitioner for collection of a sum of money in the Regional Trial Court of Bacolod City.[6] Despite receipt of summons on May 18, 1987, petitioner (then defendant) opted not to file an answer.[7] On March 3, 1988, respondent (then plaintiff) moved to have petitioner-defendant declared in default, which the trial court granted on April 15, 1988.[8] Respondent presented its evidence on October 9, 1989.[9] On November 28, 1989, the trial court rendered a decision in respondent's favor.[10] Petitioner was furnished a copy of this decision by mail on November 29, 1989 but, because of his failure to claim it, the copy was returned.[11]

On May 31, 1990, the Court issued a writ of execution. On June 4, 1990, the three lots (Lot 2904-A, Lot 2312-C-5 and Lot 2654), all of the Bago Cadastre and registered in petitioner's name, were levied by virtue of that writ. On July 4, 1990, sheriff Renato T. Arimas auctioned off the lots to satisfy the judgment, with respondent as the only bidder. On July 10, 1990, ex-officio provincial sheriff and

clerk of court Antonio Arbis executed a certificate of sale in favor of respondent. On August 13, 1990, the certificate of sale was recorded in the Register of Deeds.[12]

When petitioner failed to exercise his right of redemption within the 12-month period allowed by law, the court, on motion of respondent, ordered on February 5, 1992 the issuance of a writ of possession for the sheriff to cause the delivery of the physical possession of the properties in favor of respondent.[13]

On May 17, 1995, respondent filed a motion to direct the Register of Deeds to issue new titles over the properties in its name, alleging that the Register of Deeds (RD) of Bago City would not issue new titles (in respondent's name) unless the owner's copies were first surrendered to him. Respondent countered that such surrender was impossible because this was an involuntary sale and the owner's copies were with petitioner.[14]

On July 3, 1995, the trial court issued an order granting the motion. In a subsequent order dated August 8, 1995, it denied petitioner's motion for reconsideration. Petitioner appealed. Four years later, the Court of Appeals rendered the assailed decision affirming the order of the trial court.

Petitioner contends that respondent's motion for the RD to cancel the existing certificates of title and issue new ones in its name was in fact a real action and that the motion was procedurally infirm because respondent did not furnish him a copy.[15] He also claims that under Section 6 of Rule 39 of the 1997 Rules of Civil Procedure, the execution of the judgment was barred by prescription, given that the motion was filed more than 5 years after the writ of execution was issued on March 23, 1990.[16] He also argues that respondent failed to follow the correct procedure for the cancellation of a certificate of title and the issuance of a new one, which is contained in Section 107 of PD 1529.[17]

In its comment,[18] respondent claims that the motion dated May 15, 1995 to direct the RD to issue new certificates of title was but a continuation of the series of events that began with the decision in its favor on November 28, 1989, and from there, the auction of the properties and the issuance of a certificate of sale in 1990.

The two principal issues for consideration are:

> (1) whether or not respondent's right to have new titles issued in its name is now barred by prescription and
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> (2) whether or not the motion in question is the proper remedy for cancelling petitioner's certificates of title and new ones issued in its name.

On the first issue, we rule that the respondent's right to petition the court for the issuance of new certificates of title has not yet prescribed.

In Heirs of *Blancaflor vs. Court of Appeals*,[19] Sarmiento Trading Corporation, predecessor-in-interest of the private respondent Greater Manila Equipment Marketing Corporation, secured a writ of execution in 1968 by virtue of which it levied real property belonging to petitioners' predecessor-in-interest, Blancaflor.

When the property was auctioned, Sarmiento Trading bid successfully and, in 1970, after the lapse of the one-year redemption period, consolidated its ownership over the lot.

Sarmiento Trading then filed a petition with the Court of First Instance to order the cancellation of Blancaflor's title and the issuance of a new one in its name. In 1972, Sarmiento Trading sold the lot to private respondent which, at the time, went by the name Sarmiento Distributors Corporation.

In 1988, the Deputy Register of Deeds of Iloilo wrote to Blancaflor requesting him to surrender his owner's duplicate copy of the TCT. Blancaflor did not comply and the RD refused to issue a new title. On May 25, 1989, private respondent filed a petition in the Regional Trial Court praying that the petitioners be ordered to surrender the owner's duplicate copy of the title. The petitioners refused, claiming that respondent's cause of action had already prescribed. Ruling otherwise, we stated:

> **It is settled that execution is enforced by the fact of levy and sale.** The result of such execution sale—with Sarmiento Trading Corporation as the highest bidder—was that title to Lot No. 22 of TCT No. 14749 vested immediately in the purchaser subject only to the judgment debtor's right to repurchase. **Therefore, upon Sarmiento Trading Corporation's purchase of Lot No. 22 covered by TCT No. 14749 at the auction sale, private respondent's successor-in-interest had acquired a right over said title.**
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> The right acquired by the purchaser at an execution sale is inchoate and does not become absolute until after the expiration of the redemption period without the right of redemption having been exercised. But inchoate though it be, it is like any other right, entitled to protection and must be respected until extinguished by redemption. **Gaudencio Blancaflor was not able to redeem his property after the expiration of the redemption period, which was 12 months after the entry or annotation of the certificate of sale made on the back of TCT No. 14749. Consequently, he had been divested of all his rights to the property**. (underscoring ours)

In this case, the rule being invoked by petitioner[20] states:

> SEC. 6. Execution by motion or by independent action.—A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations.

As should be evident from *Blancaflor,* petitioner Padilla's reliance on Section 6 of Rule 39 of the 1997 Revised Rules of Civil Procedure is misplaced. The fact of levy and sale constitutes execution, and not the action for the issuance of a new title. Here, because the levy and sale of the properties took place in June and July of 1990, respectively, or less than a year after the decision became final and executory, the respondent clearly exercised its rights in timely fashion.