

SECOND DIVISION

[G.R. No. 148595, July 12, 2004]

**SPOUSES ANTONIO S. PAHANG AND LOLITA T. PAHANG,
PETITIONERS, VS. HON. AUGUSTINE A. VESTIL, PRESIDING
JUDGE OF REGIONAL TRIAL COURT- BRANCH 56, MANDAUE
CITY, DEPUTY SHERIFF, REGIONAL TRIAL COURT-BRANCH 56
AND METROPOLITAN BANK AND TRUST COMPANY,
RESPONDENTS.**

DECISION

CALLEJO, SR., J.:

Before us is a petition for review on certiorari filed by the Spouses Antonio and Lolita Pahang, for the nullification of the Decision^[1] and Resolution^[2] of the Court of Appeals in CA-G.R. SP No. 59157.

The Antecedents

On January 5, 1996, the petitioners, Spouses Antonio and Lolita Pahang, received a short-term loan of one million five hundred thousand pesos (₱1,500,000.00) from the respondent Metropolitan Bank & Trust Company payable on December 27, 1996. The loan was covered by Non-Negotiable Promissory Note No. 190601^[3] and was, likewise, secured by a real estate mortgage on a parcel of land covered by Transfer Certificate of Title (TCT) No. 29607.^[4] As the petitioners failed to pay the loan, the interest and the penalties due thereon, the respondent foreclosed the real estate mortgage extrajudicially. As a consequence, the mortgaged property was sold at public auction on January 8, 1998 to the respondent bank as the highest bidder. A certificate of sale was executed by Pasnonito D. Antiporda as Ex-Officio Sheriff in favor of the respondent on January 14, 1998 and was registered with the Register of Deeds of Mandaue City on January 27, 1998.

On December 29, 1998, the respondent wrote the petitioners that the one-year redemption period of the property would expire on January 27, 1999.^[5] Instead of redeeming the property, the petitioners filed, on January 19, 1999, a complaint for annulment of extrajudicial sale against the respondent bank and the Sheriff in the Regional Trial Court of Cebu (Mandaue City), Branch 56, docketed as Civil Case No. MAN-3454.^[6] Therein, the petitioners alleged that the respondent bloated their obligation of ₱1,500,000.00 to ₱2,403,770.73 by including excessive past due interest, penalty charges, attorney's fees and sheriff's expense. They claimed that such exorbitant charges were made to frustrate their chance to pay the loan, and to ensure that the respondent bank would be the highest bidder during the auction sale. They also asserted that the respondent failed to remit to the Sheriff the purchase price of the property and was, likewise, guilty of fraud, collusion, breach of trust or misconduct in the conduct of the auction sale of their property. Besides

praying for injunctive relief, the petitioners prayed for the following alternative reliefs:

3. After trial on the merits, and after determination of plaintiffs' true obligation with defendant bank, to declare the foreclosure on the subject property as null and void, and to allow the plaintiffs to pay the same; as alternative prayer, to allow the plaintiffs to redeem the subject real property based on the amount determined and established as true and exact obligation of plaintiffs to defendant bank.^[7]

After the expiration of the one-year redemption period, the respondent consolidated its ownership over the foreclosed property. Consequently, TCT No. 44668 was issued by the Register of Deeds in its name. On July 23, 1999, the respondent filed a Petition for Writ of Possession before the RTC of Mandaue City (Branch 56), docketed as LRC Case No. 3.^[8]

The petitioners, citing the ruling of this Court in *Belisario v. The Intermediate Appellate Court*,^[9] opposed the petition on the ground that the core issue in their complaint in Civil Case No. MAN-3454 constituted a prejudicial question, which warranted a suspension of the proceedings before the court. The petitioners averred that the filing of their complaint within the period to redeem the foreclosed property was equivalent to an offer to redeem the same, and had the effect of preserving such right. They also asserted that the respondent acted in bad faith in procuring the title over the property despite the pendency of their complaint in Civil Case No. MAN-3454.

On March 28, 2000, the RTC of Mandaue City, Branch 56, rendered a decision in LRC Case No. 3 granting the petition and ordering the issuance of a writ of possession in favor of the respondent.^[10]

Citing the case of *Javelosa v. Court of Appeals*,^[11] and *Gawaran v. Court of Appeals*,^[12] the RTC ruled that since the petitioners failed to redeem the property within one year from the foreclosure, the respondent was entitled to a writ of possession as a necessary consequence of the readjudication of ownership and the corresponding issuance of the original certificate.^[13] The petitioners filed a motion for reconsideration of the decision, but the court issued an order denying the motion, stating that it was merely its ministerial function to issue a writ of possession.^[14]

The petitioners filed a petition for certiorari before the Court of Appeals, docketed as CA-G.R. SP No. 59157 for the nullification of the March 28, 2000 Decision and the May 19, 2000 Order of the RTC. The petitioners alleged that the RTC committed a grave abuse of its discretion amounting to excess or lack of jurisdiction in granting the petition of the respondent bank for a writ of possession in LRC Case No. 3 instead of suspending the proceedings therein based on the ruling of this Court in *Belisario vs. The Intermediate Appellate Court*.^[15]

The Ruling of the Court of Appeals

Finding that the RTC did not act with grave abuse of discretion in ordering the

issuance of the writ of possession, the CA rendered a decision on March 2, 2001, dismissing the petition.^[16] Citing the rulings of this Court in *Vda. de Jacob v. Court of Appeals*^[17] and *Navarra v. Court of Appeals*,^[18] the CA explained that the pendency of a separate proceeding questioning the validity of the mortgage and the extrajudicial foreclosure thereof cannot bar the issuance of a writ of possession in favor of the purchaser at public auction. The appellate court ruled that after a title on the property has been consolidated in the mortgagee, the issuance of a writ of possession becomes a ministerial act of the trial court. Furthermore, the right of the respondent bank to possess the property was based on its right of ownership as a purchaser of the properties in the foreclosure sale. The CA explained that the ruling in the *Belisario* case was inapplicable because it involved a complaint to enforce the repurchase of the foreclosed property within the period of redemption, whereas, the complaint filed by the petitioners in Civil Case No. MAN-3454 was for the annulment of the mortgage or extrajudicial sale which was not equivalent to an offer to redeem the property.^[19]

The Present Petition

The motion for reconsideration of the petitioners of the decision, having been denied by the appellate court, the petitioners filed this instant petition, assigning the following errors:

1. THE HONORABLE COURT OF APPEALS ERRED IN FINDING PETITIONERS' RIGHT OF REDEMPTION OVER THEIR FORECLOSED PROPERTY AS HAVING EXPIRED ON JANUARY 26, 1999, IN THE LIGHT OF THEIR PENDING COMPLAINT TO ANNUL THE FORECLOSURE FILED BEFORE THE EXPIRATION OF THE ONE-YEAR REDEMPTION PERIOD, ON THE GROUND OF FRAUD, AND CONSIDERING FURTHER THEIR SPECIFIC PRAYER THEREOF FOR DETERMINATION OF THEIR TRUE OBLIGATION WITH PRIVATE RESPONDENT, AND TO ALLOW THEM TO PAY THE SAME AND/OR TO REDEEM THEIR FORECLOSED PROPERTY.^[20]
2. PETITIONERS' COMPLAINT FOR ANNULMENT OF THE FORECLOSURE OF THEIR PROPERTY WITH A PRAYER FOR TEMPORARY RESTRAINING ORDER AND INJUNCTION TO STOP THE ISSUANCE OF A DEFINITE DEED OF SALE AND CONSOLIDATION OF TITLE OF THEIR PROPERTY IN FAVOR OF PRIVATE RESPONDENT, WHILE GIVING PREFERENCE AND ACTING WITH DISPATCH ON PRIVATE RESPONDENT'S PETITION FOR ISSUANCE OF WRIT OF POSSESSION ON THE SAME PROPERTY, BY GRANTING THE WRIT OF POSSESSION THEREON THEREBY RENDERING MOOT AND ACADEMIC PETITIONERS' PRAYERS IN THEIR COMPLAINT FOR ANNULMENT OF FORECLOSURE.^[21]

3. THE HONORABLE COURT OF APPEALS ERRED IN FINDING THE DECISION OF THIS HONORABLE SUPREME COURT IN THE CASE OF BELISARIO VS. THE INTERMEDIATE APPELLATE COURT, G.R. NO. L-73503, WHEREBY "THE FILING OF THE COMPLAINT TO ENFORCE REPURCHASE WITHIN THE PERIOD FOR REDEMPTION IS EQUIVALENT TO AN OFFER TO REDEEM AND HAS THE EFFECT OF PRESERVING THE RIGHT OF REDEMPTION" INAPPLICABLE TO THE CASE OF PETITIONERS.^[22]
4. THE HONORABLE COURT OF APPEALS ERRED IN NOT APPRECIATING THE FACT THAT THE ISSUE OR ISSUES JOINED IN THE COMPLAINT FOR ANNULMENT BEFORE RESPONDENT JUDGE DOCKETED AS CIVIL CASE NO. MAN-4353 (*sic*) IS A PREJUDICIAL QUESTION TO THE ISSUE RAISED IN THE PETITION FOR WRIT OF POSSESSION IN LRC CASE NO. 3.^[23]
5. THE HONORABLE COURT OF APPEALS ERRED IN HAVING FAILED TO CONSIDER THE VALID CAUSES OF ACTION OF PETITIONERS IN THEIR COMPLAINT FOR ANNULMENT IN CIVIL CASE NO. MAN-4354 (*sic*).^[24]

The threshold issues are as follows: (a) whether or not the complaint of the petitioners in Civil Case No. MAN-3454 for annulment of extrajudicial sale is a prejudicial question to the petition of the respondent bank for the issuance of a writ of possession in LRC Case No. 3; and, (b) whether or not the RTC committed a grave abuse of its discretion amounting to excess or lack of jurisdiction in granting the petition of the respondent in LRC Case No. 3 and in issuing the writ of possession in its favor.

The issues being interrelated, the Court shall resolve the same simultaneously.

The petitioners contend that their complaint in Civil Case No. MAN-3454 and the respondent's petition for a writ of possession in LRC Case No. 3 were raffled to Branch 56 of the RTC. Although their complaint in Civil Case No. MAN-3454 was for the nullification of the extrajudicial sale at public auction on the ground of fraud, they also prayed, as an alternative remedy, that they be allowed to redeem the property based on the amount to be determined by the court after trial. Hence, they assert, the filing of their complaint before the expiry of the redemption period to enforce their right of redemption was equivalent to a formal offer to redeem the property and had the effect of preserving their right of redemption. They argue that the RTC should have suspended the proceedings in LRC Case No. 3 pending the final resolution of Civil Case No. MAN-3454 so as not to render moot and academic the latter case, conformably with the ruling of the Court in *Belisario vs. The Intermediate Appellate Court*,^[25] after all, the two cases were pending before the same court. The petitioners, thus, aver that the trial court committed grave abuse of discretion amounting to excess or lack of jurisdiction in granting the petition of the respondent bank for a writ of possession in LRC Case No. 3. They, likewise, aver