

## **FIRST DIVISION**

**[ G.R. No. 137739, March 26, 2001 ]**

**ROBERTO B. TAN, PETITIONER, VS. PHILIPPINE BANKING CORP., HELEN LEONTOVICH VDA. DE AGUINALDO AND REGISTRAR OF DEEDS OF MARIKINA, RESPONDENTS.**

### **D E C I S I O N**

**KAPUNAN, J.:**

This is a petition for review on certiorari filed by Roberto Tan (petitioner) seeking to reverse and set aside the resolutions, dated 28 August 1998 and 23 February 1999, of the Court of Appeals in CA-G.R. SP No. 39903. In the said resolutions, the CA directed the Register of Deeds of Marikina to reinstate the Transfer Certificates of Title (TCT) Nos. 194096 and 194098 in the name of Philippine Banking Corporation (respondent bank) over the same parcel of land already covered by petitioner's valid and subsisting TCT No. 296945.

The antecedent facts of the case as culled from the decision<sup>[1]</sup> of the CA are as follows: On 29 December 1995, petitioner bought from Helen L. Aguinaldo (respondent Aguinaldo) a parcel of land at the Valley Golf Subdivision in Antipolo, Rizal. The lot was then covered by TCT No. 294192 in the name of respondent Aguinaldo. No claims, liens or encumbrances appeared on the said title. After payment of the agreed purchase price, TCT No. 294192 was cancelled and a new one (TCT No. 296945) in the name of petitioner was issued.

On 29 February 1996, two (2) months after he bought the property, petitioner was served a copy of the petition for certiorari filed by respondent bank in CA-G.R. SP No. 39903. Said petition stated that petitioner was "being sued here as a nominal party as the new registered owner of Transfer Certificate of Title No. 296945." It was only then that petitioner learned that the lot he bought from respondent Aguinaldo was subject of legal dispute between her and respondent bank.

It appears that respondent Aguinaldo and her husband Daniel R. Aguinaldo obtained a loan in the amount of two hundred thousand pesos (P200,000.00) from respondent bank some time in December 1977. To secure the payment of this obligation, the Aguinaldos executed in favor of respondent bank a real estate mortgage over three parcels of land situated in Antipolo and Cainta, Rizal covered by TCT Nos. 234903, 153844 and 151622. In January of 1985, Daniel Aguinaldo obtained three more loans from respondent PBC totalling over five hundred thousand pesos (P500,000.00). He died without having paid these loans.

Upon maturity of these loans, respondent bank sent a demand letter to respondent Aguinaldo, as administratrix of the estate of her husband. Despite said demand, the loans remained unpaid. Respondent bank thus initiated extra-judicial foreclosure proceedings on the real estate mortgage. In the public auction sale, the mortgaged

properties were sold to respondent bank as the highest bidder.

On 15 February 1990, before the expiration of the redemption period of one year, respondent Aguinaldo filed a complaint for the nullification of the aforesaid foreclosure proceedings, docketed as Civil Case No. 90-1705-A, with Branch 71, Regional Trial Court, Antipolo, Rizal. In said proceedings, the parties (respondent Aguinaldo and respondent bank) entered into a Joint Partial Stipulation of Facts stating, among others, that they "agree that the decision to be rendered by this Honorable Court [RTC] shall be final and unappealable, subject only to the filing within the reglementary period of the usual motion for reconsideration."

On 20 April 1995, the trial court rendered its decision the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered as follows:

(1) The Notice of Sheriff's Sale dated February 10, 1989, Certificate of Sale dated March 10, 1989, Affidavit of Consolidation executed by the defendant bank, and the deed of sale dated February 1, 1995 executed by the bank in favor of the Terraces Realty & Development Corporation are hereby declared null and void and of no legal force and effect;

(2) The Register of Deeds of Marikina, Metro Manila is hereby ordered to cancel Transfer Certificates of Title No. 194096 and 194098 in the name of the bank and Transfer Certificate of Title No. 275504 in the name of Terraces Realty & Development Corporation, and to issue, in lieu thereof, new titles in the name of the plaintiff or her successor-in-interest upon proof by the latter of the payment to be made by them to the bank or by similar proof that such amount is deposited by the plaintiff in trust for the bank.

The plaintiff shall pay to the bank or deposit the amount in trust for the bank within fifteen (15) days from receipt of a copy of this decision the amounts as follows:

(a) on the promissory note for P176,623.24 - The amount of P176,623.24 plus the stipulated 12% interest per annum from January 24, 1985 until March 10, 1989; and 12% interest per annum on said amount of P176,623.24 from March 11, 1989 until fully paid.

(b) on the promissory note for P380,000.00 - The amount of P380,000.00 plus 14% interest per annum from January 24, 1985 until March 10, 1989; and 12% interest per annum on said amount of P380,000.00 from March 11, 1989 until fully paid; and

(c) on the promissory note of P31,000.00 - The amount of P31,000.00 14% interest per annum from January 24, 1985 until March 10, 1989; and 12% interest per annum of said amount of P31,000.00 from March 11, 1989 until fully paid.

(3) The claim of plaintiff for damages and attorney's fees is hereby denied.

No pronouncement as to costs.<sup>[2]</sup>

Respondent bank filed a motion for reconsideration of the said decision. Pending resolution thereof, respondent bank moved for the inhibition of the presiding judge. The motion for inhibition was granted, thus, the case was re-raffled to Branch 72. The presiding judge thereof subsequently denied respondent bank's motion for reconsideration. Respondent bank then filed a notice of appeal but the same was denied on the ground that it (respondent bank) already waived its right to appeal pursuant to the joint stipulation. The decision was declared final and executory.

On 6 October 1995, the Clerk of Court of Branch 72 issued a certification that the decision had become final. Upon presentation of the trial court's decision and certification, the Register of Deeds of Marikina canceled respondent bank's TCT No. 194096 and 194098 and Terraces Realty & Development Corporation's TCT No. 275504 and issued new titles in lieu thereof, all in the name of respondent Aguinaldo. She subsequently sold the lot covered by one of these titles to petitioner who was then issued TCT No. 296945 therefor.

Respondent bank filed a motion for reconsideration of the decision of the trial court but the same was denied. It then brought the case to the CA by way of *certiorari*. In its decision, dated 27 February 1998, the CA substantially granted the reliefs prayed for by respondent bank and directed the trial court to, among others, give due course to respondent bank's appeal and elevate the records of the case to the CA for review. The CA, however, denied respondent bank's prayer for the reinstatement of its TCTs stating that the averments as against petitioner are insufficient to make up a cause of action against the latter.<sup>[3]</sup>

Respondent bank thereafter moved for a partial reconsideration of the CA decision insofar as it denied its prayer for the reinstatement of its TCTs. For his part, petitioner filed a motion to cancel notice of *lis pendens* while respondent Aguinaldo filed a motion for reconsideration. Acting on these motions, the CA issued the assailed resolution of 28 August 1998 the dispositive portion of which reads:

WHEREFORE, the Motion to Cancel Notice of *Lis Pendens* dated 23 March 1998 filed by respondent Roberto B. Tan and the motion for reconsideration filed by respondent Helen Leontovich Vda. De Aguinaldo dated 23 March 1998 are hereby **DENIED**, for lack of merit.

Petitioner's Motion for Partial Reconsideration dated 20 March 1998 is hereby **GRANTED** and par.(d) of the dispositive portion of our decision promulgated on 27 February 1998 is hereby **MODIFIED** to read as follows:

Directing the Registrar of Deeds to reinstate the cancelled Transfer Certificates of Title Nos. 194096 & 194098 in the name of petitioner and Transfer Certificate of Title No. 275504 in the name of Terraces Realty & Development Corporation, or issue new ones in the event this is not legally feasible in their favor, pending review of the case on appeal.

SO ORDERED.<sup>[4]</sup>