

## SECOND DIVISION

[ G.R. No. 143687, July 31, 2001 ]

**SPOUSES RAMON ESTANISLAO, JR. AND DINA TEOTICO  
ESTANISLAO, PETITIONERS, VS. COURT OF APPEALS, HI-YIELD  
REALTY, INC., HUMBERTO BASCO, AND NORBERTO VASQUEZ,  
RESPONDENTS.**

### D E C I S I O N

**MENDOZA, J.:**

This is a petition for review of the decision,<sup>[1]</sup> dated March 20, 2000, of the Court of Appeals, affirming the decision of the Regional Trial Court, Branch 128, Caloocan City, which dismissed petitioners' complaint for annulment of private respondent Hi-Yield Realty, Inc.'s title and instead ordered petitioners to pay damages and attorney's fees to private respondents, and the appeals court's resolution,<sup>[2]</sup> dated June 20, 2000, denying petitioners' motion for reconsideration.

The antecedent facts are as follows:

In 1985, spouses Ramon Estanislao, Jr. and Dina Teotico Estanislao, petitioners herein, mortgaged to respondent Hi-Yield Realty, Inc. a parcel of land, registered in their name under TCT No. 120717, together with the buildings and improvements thereon. The mortgage was constituted to secure a loan of P200,000.00. For petitioners' failure to comply with some of its conditions, the mortgage was extra-judicially foreclosed and the property was sold on December 9, 1988 for P445,000.00 to Hi-Yield Realty, Inc. as the highest bidder. The Certificate of Sale issued to the highest bidder was registered with the Registry of Deeds of Caloocan City on June 9, 1992.

On June 4, 1993, petitioner Ramon Estanislao, Jr. offered to redeem the property by tendering to Atty. Humberto Basco, the notary public who conducted the sale, a PCIB manager's check in the amount of P445,000.00 (Exh. E). The amount covered the auction price alone as petitioner Estanislao allegedly did not know the amount of interest and other charges/assessments. In his letter of June 4, 1993 enclosing the manager's check, petitioner Estanislao requested that a purchaser's statement of interest and other charges be furnished to him.

However, on June 15, 1993, Atty. Basco returned the PCIB check to petitioner Estanislao on the ground that its amount did not include the interests, charges, and penalties. In his letter (Exh. G; Exh. 24), Atty. Basco stated that no certificate of redemption could be issued unless the amount was fully paid and settled.

Without waiting for purchaser's statement of interest and other charges which he had requested, petitioner Estanislao again tendered to private respondents on June 21, 1993 the PCIB check for P445,000.00 and another PCIB manager's check (Exh.

H) for P81,521.27 to cover the interest. The checks were, however, rejected by private respondents for being inadequate.

On July 14, 1993, petitioner Estanislao found from the records of the Registry of Deeds of Caloocan City that their property had been transferred in the name of private respondent Hi-Yield Realty, Inc. The Affidavit of Consolidation of Ownership, dated June 10, 1993 (Exh. I), was notarized by Atty. Basco and filed with the Registry of Deeds on June 14, 1993. On June 15, 1993, private respondent Norberto Vasquez, Acting Registrar of Deeds, ordered the annotation of the Affidavit of Consolidation of Ownership, the cancellation of TCT No. 120717 (Exh. A), and the issuance of TCT No. 265782 (Exh. J) in the name of Hi-Yield Realty, Inc.

On August 13, 1993, petitioner spouses brought suit against private respondents in the Regional Trial Court of Caloocan City, seeking the annulment of the Affidavit of Consolidation of Ownership, the cancellation of TCT No. 265782, and the payment of damages and attorney's fees.

On December 7, 1995, the Regional Trial Court, Branch 128, Caloocan City, dismissed petitioners' suit and ordered them to pay damages to private respondents. The dispositive portion of its decision reads:

WHEREFORE, in view of the foregoing premises, this Court decides in favor of defendants and ordering plaintiff-spouses Ramon Estanislao, Jr. and Dina Teotico Estanislao the following:

1. To pay defendant Norberto Vasquez P50,000.00 as moral damages and P20,000.00 as attorney's fees;
2. To pay defendant Hi-Yield Realty, Inc. P20,000.00 as attorney's fees; and
3. To pay defendant Humberto B. Basco P20,000.00 as attorney's fees.

Cost against the plaintiff.

SO ORDERED.<sup>[3]</sup>

Petitioners appealed to the Court of Appeals which rendered a decision on March 20, 2000 affirming *in toto* the decision of the trial court. On June 20, 2000, it denied petitioners' motion for reconsideration. Hence, this petition for review on *certiorari*.

Petitioners contend that the respondent Court of Appeals erred:

41.1. when it made findings and conclusions in its Decision not within the issues raised before the trial court, and not supported by the evidence on record;

41.2. when it erroneously included as part of the redemption price the "other charges" (taxes and assessments) although the petitioner was not aware thereof, and no notice of taxes and assessment was filed with the Registry of Deeds;

41.3. when it had evidently and utterly disregarded the doctrines laid

down by this Honorable Court in the cases of Rosario vs. Tayug Rural Bank, Inc., 22 SCRA 1220, and Castillo vs. Nagtalon, 4 SCRA 48, as regards liberal interpretation of redemption rules, without even discussing, even in passing, why those cases decided by this Honorable court are not applicable in the case at bar;

41.4. when it also absolutely disregarded the doctrine laid down by this Honorable Court in the case of Rosales vs. Yboa, 120 SCRA 869, that interests of 1% monthly on the redemption price shall commence to run only from the date of registration of the certificate of sale, also without discussing, even in passing, why the said case is not applicable in the case at bar;

41.5. when it misapplied the case of Conejero, et al. vs. Court of Appeals, et al., 16 SCRA 775, apropos the necessity of consigning the redemption price, in the case at bar;

41.6. when it ruled that the appellants failed to present any evidence whatsoever in support of the allegation of "fraudulent collusion and unholy alliance" among the defendants-appellees with respect to the registration of the Affidavit of Consolidation of Ownership and the issuance of the new TCT in favor of Hi-Yield Realty;

41.7. when it awarded moral damages and attorney's fees in favor of the respondents contrary to the prevailing jurisprudence; and

41.8. when it failed to grant the relief prayed for by the petitioners including damages and attorney's fees.<sup>[4]</sup>

We find the petition to be without merit.

*First.* Section 6 of Act No. 3135 provides:

In all cases in which an extrajudicial sale is made under the special power hereinbefore referred to, the debtor, his successors in interest or any judicial creditor or judgment creditor of said debtor, or any person having a lien on the property subsequent to the mortgage or deed of trust under which the property is sold, may redeem the same at any time within the term of one year from and after the date of the sale; and *such redemption shall be governed by the provisions of sections four hundred and sixty-four to four hundred and sixty-six, inclusive, of the Code of Civil Procedure, in so far as these are not inconsistent with the provisions of this Act.*<sup>[5]</sup>

The references to §§464-466 of the Code of Civil Procedure must be understood to be to §§29-31 of Rule 39 of the 1964 Rules of Court, which was the applicable law at the time material to this case. It will be noted that while Act No. 3135, §6 speaks of the right of a debtor to redeem property sold at auction sale in extrajudicial foreclosure of mortgage "within the term of one year from and after the date of the sale," which means within a period of 365 days, Rule 39, §30 of the 1964 Rules of Court spoke of the right of a judgment debtor to redeem property sold at auction "within twelve (12) months after the sale," which means within 360 days on the

basis of 30 days in a month. This is because Art. 13 of the Civil Code provides that "When the laws speak of years, months, days or nights, it shall be understood that years are of three hundred sixty-five days each; months, of thirty days; days, of twenty-four hours; and nights, from sunset to sunrise." The discrepancy was corrected in Rule 39, §28 of the 1997 Rules of Court, effective July 1, 1997, which changed the period from "twelve (12) months" to "one (1) year."

Although the prevailing law at the time of the auction sale in this case was the 1964 Rules of Court, the question is actually merely of academic interest in this case, because even if the period of redemption is 365 days, the tender of the full redemption price made by petitioners on June 21, 1993 was 12 days late counted from the expiration of the redemption period on June 9, 1993.

The right of redemption should be exercised within the period prescribed by law. As explained by this Court in *Basbas v. Entena*:<sup>[6]</sup>

. . . . [T]he right of legal redemption must be exercised within specified time limits; and the statutory periods would be rendered meaningless and of easy evasion unless the redemptioner is required to make an actual tender in good faith of what he believed to be the reasonable price of the land sought to be redeemed. The existence of the right of redemption operates to depress the market value of the land until the period expires, and to render that period indefinite by permitting the tenant to file a suit for redemption, with either party unable to foresee when final judgment will terminate the action, would render nugatory the period of two years fixed by the statute for making the redemption and virtually paralyze any efforts of the landowner to realize the value of his land. No buyer can be expected to acquire it without any certainty as to the amount for which it may be redeemed, so that he can recover at least his investment in case of redemption. In the meantime, the landowner's needs and obligations cannot be met. It is doubtful if any such result was intended by the statute, absent clear wording to that effect.

Moreover, the tender of payment must be for the full amount of the purchase price. Otherwise, to allow payment by installments would be to allow the indefinite extension of the redemption period.<sup>[7]</sup> Consequently, the payment tendered by petitioners on June 4, 1993, while made within the period of redemption (365 days), was ineffective since the amount offered did not include the interest but was limited to the purchase price.

Indeed, Rule 39, §30 of the 1964 Rules of Court (now Rule 39, §28 of the 1997 Rules of Civil Procedure) provided:

The judgment debtor, or redemptioner, may redeem the property from the purchaser, at any time within twelve (12) months after the sale, on paying the purchaser the amount of his purchase, with one *per centum* per month interest thereon in addition, up to the time of redemption, together with the amount of any assessment or taxes which the purchaser may have paid thereon after purchase, and interest on such last-named amount at the same rate . . . .