

THIRD DIVISION

[G.R. No. 110055, August 20, 2001]

**ASUNCION SAN JUAN, PETITIONER, VS. COURT OF APPEALS AND
YOUNG AUTO SUPPLY CO., RESPONDENTS.**

D E C I S I O N

PANGANIBAN, J.:

Can courts validly order the Register of Deeds to annotate a final Certificate of Sale in the Original Certificate of Title and to register such sale, even if the registered owner-mortgagor refuses to surrender the owner's duplicate Certificate of Title?

The Case

This is the main question raised in the Petition for Review before us, assailing the November 20, 1992 Decision^[1] of the Court of Appeals^[2] (CA) in CA-GR CV No. 18444. The CA affirmed the May 25, 1988 Order^[3] of the Regional Trial Court (RTC) of Negros Occidental (Branch 52),^[4] which voided the owner's duplicate copy of TCT No. T-120163 and ordered the Register of Deeds to annotate, in the Original Certificate of Title, the final Certificate of Sale in favor of private respondent, without the need of presenting the owner's duplicate copy.

The decretal portion of the CA Decision reads as follows:

"Pursuant therefore to the foregoing, in order for the Register of Deeds to issue a new certificate of title, the existing certificate of title shall first be declared null and void or cancelled if the same has not been delivered by the registered owner to the vendee in the foreclosure sale. As the appellant failed to comply with the order of the court dated May 12, 1988, the subsequent order of the court a quo dated May 25, 1988 declaring Certificate of Title No. T-120163 of oppositor San Juan as null and void, and directing further the Register of Deeds to annotate the Final Certificate of Sale in favor of petitioner without the necessity of presenting the owner's copy of the aforementioned certificate of title was proper and consistent with the law governing the same.

"**ACCORDINGLY**, the decision appealed from is hereby **AFFIRMED**, and the instant appeal is **DISMISSED**.^[5]

Petitioner's Motion for Reconsideration was denied by the CA in its Resolution dated April 6, 1993.^[6]

The Facts

The subject of the present controversy is Lot No. 14-B, Bacolod Cadastre, which was formerly covered by Transfer Certificate of Title (TCT) No. T-120163 registered in the name of Petitioner Asuncion San Juan. The property was mortgaged to Private Respondent Young Auto Supply Co., Inc., through petitioner's attorney-in-fact, Rafael Alducente. Upon default in the payment of the principal loan secured by the mortgage, an extrajudicial foreclosure proceeding was instituted by private respondent before the city sheriff of Bacolod City. Since private respondent was the sole bidder in the auction sale held on June 5, 1985, the corresponding Certificate of Sale was issued in its favor. On September 13, 1985, the Certificate was registered with the Office of the Register of Deeds of Bacolod City.^[7]

After the lapse of the one-year redemption period, a final Certificate of Sale was issued on September 22, 1986.^[8] However, private respondent could not register it, because petitioner refused to surrender her duplicate Certificate of Title.

Thus, on March 11, 1988, private respondent filed, before the Regional Trial Court of Negros Occidental, a Petition^[9] for the registration and the annotation of the final Certificate of Sale. During the trial, petitioner manifested that the owner's duplicate Certificate of Title to the property, subject of the foreclosure sale, was in her possession. Thus, the trial court issued an Order^[10] directing petitioner to deliver to private respondent within seventy-two (72) hours therefrom the owner's duplicate copy.

Because of petitioner's failure to comply with the Order, the trial court issued another Order dated May 25, 1988, the dispositive portion of which reads:

"In view of the above, the Register of Deeds of Bacolod City is hereby directed to annotate in the original Certificate of Title kept in its file the Final Certificate of Sale duly entered as Doc. No. 254; Page No. 51; Book No. 61; Series of 1986, of Ex-Oficio Notary Public Judge Vivencio Ibrado, MTCC, Bacolod City, executed by Atty. Leopoldo Cioco, Ex-Oficio City Sheriff on September 22, 1986 in favor of the [herein private respondent] without the necessity of presenting the owner's copy of the aforementioned transfer certificate of title."^[11]

Petitioner filed a Motion for Reconsideration and/or Opposition to the Petition, pummeling for the first time the validity and the regularity of the issuance of the final Certificate of Sale. Likewise, petitioner belatedly asserted that she had already revoked the Special Power of Attorney she had admittedly issued in favor of Rafael Alducente.^[12] However, the trial court denied the Motion on June 27, 1988.^[13]

Ruling of the Court of Appeals

The appellate court held that "the final Certificate of Sale was properly and regularly issued by the *ex officio* city sheriff of Bacolod City. This was done by virtue of the alleged failure of the oppositor, Asuncion San Juan, to exercise her right of redemption that expired on June 26, 1986 x x x. The Certificate of Sale was dated June 5, 1985, and it was not until September 22, 1986, that the final Certificate of Sale was executed, yet she never redeemed the property or questioned the

regularity of the transaction in the intervening period except when the appellant filed the instant Motion for Reconsideration of June 9, 1988."^[14]

The Court of Appeals added that "the fact of the mortgage, its release and the Certificate of Sale are matters of record in the Office of the Register of Deeds of Bacolod City. It cannot be, therefore, said that these instruments were irregularly executed. For being public documents, they are entitled to the presumption of regularity. To counteract all this, which appellant now seeks to do, there must be convincing, not merely preponderant proof. Hence, the issuance of the new Certificate of Title in favor of petitioner as a consequence of the registration of the final Certificate of Sale and the execution of the other instruments relative thereto are presumed regular."^[15]

Disagreeing with the CA, petitioner elevated the matter to this Court via the Petition earlier mentioned.^[16]

Issue

The Petition submits this sole issue for the Court's consideration: "the petitioner was denied her day in court in gross violation of due process of law."^[17]

The Court's Ruling

The Petition is utterly without merit.

Sole Issue:

Petitioner's Right to Due Process

Petitioner contends that "(i)t is a matter of record that the [trial] court x x x, as sustained by the respondent court, ordered herein petitioner to surrender her owner's duplicate certificate of title without considering her opposition, in gross violation not only of her basic rights but also of the provisions of Sec. III of Act 496 (the Land Registration Act), now Sec. 107 of PD 1529, having proceeded without priorly determining whether or not the petitioner had been lawfully divested of her title to the subject property, pursuant to the aforecited law." We do not agree.

Citing the constitutional provision on due process, petitioner begs for justice. However, she has no one else to blame but herself for being remiss in protecting and defending her property rights over the contested lot. To defend her title over the property, she should have filed the necessary court action from the moment she discovered the mortgage.

A careful examination of the records^[18] shows that on July 27, 1985, petitioner received a copy of the July 17, 1985 Order issued by the Regional Trial Court, Negros Occidental, Branch 51, in which the foreclosure and sale proceedings were instituted. The Order directed the registration of the June 5, 1985 Certificate of Sale covering the subject property.

From that moment, she should have exerted and exhausted all possible judicial remedies to protect her property rights over the contested land. Yet, it took almost three (3) years -- well beyond the lapse of the redemption period -- and the