

## SECOND DIVISION

[ G.R. No. 124326, January 22, 1998 ]

**BOYET SEMPIO, PETITIONER, VS. HON. COURT OF APPEALS AND  
AURELIA L. TUAZON, RESPONDENTS.**

### DECISION

**PUNO, J.:**

Petitioner implores this court to set aside the Decision<sup>[1]</sup> of respondent Court of Appeals dated November 29, 1993 and its Resolution<sup>[2]</sup> dated March 21, 1996 denying petitioner's Motion for Reconsideration in CA-G.R. CV No. 32744.<sup>[3]</sup> Respondent court found the dismissal, on the ground of *litis pendentia*, of respondent Aurelia L. Tuazon's complaint for injunction and damages in Civil Case No. 681-M-90 against petitioner, to be reversible error and accordingly ordered the remand of the case to the Regional Trial Court, Branch 6, Bulacan, for further proceedings.

The facts. Petitioner is the son of spouses Bernardo Sempio and Genoveva Ligot in whose name, the parcel of land subject of the instant case, is registered as evidenced by Transfer Certificate of Title No. T-6263. The land is situated in San Miguel, Bulacan and contains an area of approximately Three Thousand One Hundred Ninety-two (3,192) square meters.

Sometime before 1982, said spouses mortgaged the land to the Development Bank of the Philippines (DBP) to secure a loan of One Hundred Sixteen Thousand Seven Hundred Pesos (P116,700.00).<sup>[4]</sup> This loan was not fully paid; consequently, the DBP extrajudicially foreclosed the mortgage. At the public auction sale, the DBP emerged as the highest bidder and was correspondingly issued a Certificate of Sale dated March 1, 1982.<sup>[5]</sup>

On October 17, 1989, the DBP filed a Petition for Issuance of Writ of Possession Ex-Parte in the Regional Trial Court, Branch 15, Bulacan.<sup>[6]</sup> Docketed as Civil Case No. P-1787-89, said petition was opposed by Bernardo Sempio in an appropriate pleading filed on February 28, 1990.<sup>[7]</sup> Subsequently, respondent Tuazon filed a Complaint in Intervention claiming that she was the new owner of the land, having already purchased the same, albeit in the name of her daughter, Jeanette T. Baylon, from the DBP.<sup>[8]</sup>

On March 8, 1990, the Sempio spouses filed a Complaint for Annulment of Foreclosure, Reconveyance of Title and Damages in the Regional Trial Court, Branch 19, Bulacan. They contended, among others, that they were not notified of the foreclosure sale in violation of the notice, posting and publication requirements under Act No. 3135.<sup>[9]</sup> Said complaint was docketed as Civil Case No. 181-M-90.

In the same year, 1990, respondent Tuazon filed in the Regional Trial Court, Branch 6, Bulacan, a Complaint for Injunction and Damages, docketed as Civil Case No. 681-M-90. She invoked her exclusive right to the land as owner and accordingly asked the trial court to enjoin petitioner from digging any portion of the land and to assess against the latter the damages warranted under such circumstances.

On September 24, 1990, the extrajudicial foreclosure proceedings instituted by the DBP upon the land, were nullified by the trial court in Civil Case No. 181-M-90.

On December 21, 1990, the trial court ordered the dismissal of Civil Case No. 681-M-90 on the ground of *lis pendens* or *auter action pendant*, specifically, the pendency of Civil Case No. P-1787-89 for issuance of writ of possession filed by the DBP. The trial court also ratiocinated that respondent Tuazon should have sought protection of her right as new owner of the land in Civil Case No. 181-M-90 where the validity of the foreclosure proceedings undertaken by the DBP, her predecessor-in-interest, was at issue.

On October 21, 1991, DBP's Petition for Issuance of Writ of Possession Ex-parte was denied in Civil Case No. P-1787-89. Respondent Tuazon's Complaint in Intervention was also dismissed.

The DBP sought relief from the Court of Appeals: in Civil Case No. P1787-89, through ordinary appeal; and in Civil Case No. 181-M-90, through a Petition for Certiorari.

In a Decision dated November 26, 1993, the Court of Appeals affirmed the trial court in its refusal to issue a writ of possession in favor of the DBP or respondent Tuazon as plaintiff in intervention in Civil Case No. P-1787-89.

In contrast, the Court of Appeals annulled and set aside the decision of the trial court in Civil Case No. 181-M-90. We, however, reversed said appellate court in our Decision<sup>[10]</sup> dated October 28, 1996 in G.R. No. 115953. The dispositive portion of that decision states:

"WHEREFORE, the Resolution of the Court of Appeals of 15 February 1994 reversing its Decision of 19 February 1991 is REVERSED and SET ASIDE. Consequently, the Decision of the RTC - Br. 19, of Malolos, Bulacan, dated 24 September 1990 (in its Civil Case No. 181-M-90) (a) declaring null and void the extrajudicial foreclosure, the Sheriff's Certificate of Sale, and all consequent proceedings over the parcel of land covered by TCT No. T-6263 of the Registry of Deeds of Bulacan; (b) directing herein petitioners Genoveva Ligot and the Heirs of Bernardo Sempio to pay respondent Development Bank of the Philippines P119,320.00 with legal rate of interest effective 1 March 1982 minus P30,301.00; (c) ordering respondent Development Bank of the Philippines to cancel the mortgage upon full payment of the loan; and (d) further ordering respondent Development Bank of the Philippines to pay petitioners P5,000.00 for attorney's fees, is AFFIRMED, with the MODIFICATION that the 'legal rate of interest' is increased to eighteen percent (18%) per annum as stipulated by the parties.

SO ORDERED."<sup>[11]</sup>

In the meantime, from the decision of the trial court dismissing Civil Case No. 681-M-90, respondent Tuazon filed an appeal to respondent Court of Appeals, which docketed the same as CA-G.R. CV No. 32744.

On November 29, 1993, respondent court promulgated the Decision<sup>[12]</sup> setting aside the dismissal order of, and remanding the case to, the court a quo for further proceedings.

Petitioner Boyet Sempio, one among those substituted as heirs in place of Bernardo Sempio who died during the pendency of the instant proceedings, filed a Motion for Reconsideration<sup>[13]</sup> on January 3, 1994. In the Resolution<sup>[14]</sup> dated March 21, 1996, however, respondent Court of Appeals denied the motion.

Hence, this petition for review on certiorari.

Petitioner ascribes reversible error to respondent court for ruling that neither identity of parties nor identity of causes of action attends Civil Case No. 681-M-90 vis-à-vis Civil Cases Nos. P-1787-89 and 181-M-90 as to warrant the dismissal of the former on the ground of either *litis pendentia* or *res judicata*.

In her Comment<sup>[15]</sup> dated December 19, 1996, respondent Tuazon echoed the overriding concern of respondent Court of Appeals in the fact that the issue of whether or not she were a purchaser in good faith and for value, was never passed upon in both Civil Cases Nos. P-1787-89 and 181-M-90. Respondent court postulated:

"x x x [T]here is no identity of parties. The fact that Aurelia L. Tuazon is purported to be the successor of Development Bank of the Philippines is not enough to detract from our original pronouncement. An innocent purchaser for value may set up defenses not available to its predecessor-in-interest. The former does not necessarily step into the shoes of the latter.

Similarly, we find no identity of causes of action between the two. Civil Case No. 181-M-90 is an action for annulment of foreclosure, reconveyance of title and damages, while the instant case is an action for damages against the defendants who remain in possession of a property she purchased and who are digging the premises to the damage of the plaintiff appellant."<sup>[16]</sup>

On September 11, 1997, petitioner, by way of a Reply to Comment,<sup>[17]</sup> exhorted us to forthwith grant the instant petition in view of our Decision dated October 28, 1996, in G.R. No. 115953, ultimately upholding the nullification of the foreclosure proceedings as ordered by the Regional Trial Court, Branch 19, Bulacan, in Civil Case No. 181-M-90. No less than this court having restored the Sempios to their pre-foreclosure status as exclusive owners of the land, petitioner submits that the issue of ownership ought not to be re-litigated in Civil Case No. 681-M-90.

In our Resolution<sup>[18]</sup> dated October 6, 1997, we gave due course to the instant petition.