

## THIRD DIVISION

[ G.R. No. 124347, July 21, 1997 ]

**CMS STOCK BROKERAGE, INC., PETITIONER-APPELLANT, VS. COURT OF APPEALS, HONORABLE RAMON R. BUENAVENTURA IN HIS CAPACITY AS RESIDING JUDGE OF RTC, NATIONAL CAPITAL JUDICIAL REGION, BRANCH 154, PASIG CITY, ATTY. GRACE BELVIS AND ALBERTO VALINO, EX-OFFICIO SHERIFF AND DEPUTY SHERIFF RESPECTIVELY OF THE RTC, PASIG CITY, AND CAROLINA INDUSTRIES, INC., RESPONDENTS-APPELLEES.**

### D E C I S I O N

**MELO, J.:**

Petitioner, as judgment debtor, seeks to redeem two parcels of land sold on execution nine years earlier upon the contention that the pendency of an action involving ownership thereof suspended the 12-month period of redemption<sup>[1]</sup> provided by the Rules.

On December 7, 1992, petitioner tendered the amount of P2,341,166.48 to Deputy Sheriff Alberto Valino. When the deputy sheriff refused to execute a deed of redemption, petitioner went to the Regional Trial Court of the National Capital Judicial Region at Pasig City and the case was raffled to Branch 154 thereof presided over by herein respondent Judge Ramon P. Buenaventura who thereafter ruled against petitioner on the ground that the right of redemption had long expired.

Dissatisfied with this ruling which sustained the deputy sheriff's action, petitioner filed a petition for certiorari and mandamus, with a prayer for a writ of preliminary injunction with respondent Court of Appeals. On May 29, 1995, the appellate court dismissed the petition (Martinez, Yanares-Santiago (P), and Reyes, R., JJ.).

Hence, the instant petition for review on certiorari.

The facts of the case were summarized by respondent Court of Appeals, adopting pertinent facts as found and summarized by the same court in A.C. G.R. No. CV-03269 entitled "Rosario Sandejas vs. Carolina Industries, Inc., et al." (April 3, 1986), involving the very same parcels of land, as follows:

The facts of this case are stated in the order of the lower court dated March 21, 1984, which we quote with approval, as follows:

"As may be gleaned from the documents submitted by the herein parties in support of their respective postures, the following facts appear incontrovertible, viz.:

"01. Plaintiff (Rosario Sandejas) is the registered owner of two (2) parcels of land, which are covered by and more particularly described in TCT Nos. 117995 and 189984 of the Registry of Deeds of Rizal.

"02. A FIRST mortgage was constituted on the subject properties on 28 April 1969 in favor of the BANK OF THE PHILIPPINE ISLANDS for the sum of P150,000.00 and annotated on the corresponding Transfer Certificate of Title as Entry No. 65222/T-117995 on 2 May 1969.

"03. A SECOND mortgage was constituted on the subject properties on 09 July 1969 in favor of SISON, LUZ & JALBUENA (now CMS STOCK BROKERAGE, INC.), the sum of P200,000.00, and annotated on the corresponding Transfer Certificate of Title as Entry No. 75685/T-117995 on 30 July 1969.

"04. By virtue of the extra-judicial foreclosure of the SECOND mortgage, the subject properties were sold at public auction on 10 May 1971 to SISON, LUZ & JALBUENA, INC. (now CMS STOCK BROKERAGE, INC.) for the sum of P255,948.49, and the Certificate of Sale Issued by the Provincial Sheriff of Rizal was duly annotated on the corresponding Transfer Certificate of Title on 19 May 1971. (Vide Exhs. 1-B and 2-B, pp. 31 and 35 id., respectively).

"05. On 15 November 1972, plaintiff addressed a letter to her brother 'Carling' (Atty. Carlos Moran Sison) requesting for a period of three (3) years within which to redeem the subject properties. (Vide Annex A of Plaintiff's Third-Party Claim, p. 39, id.).

"06. On 24 November 1972, Atty. Carlos Moran Sison informed the plaintiff that she has five (5) years to redeem the subject properties. (Vide Annex B of Plaintiff's Third-Party Claim, p. 40, id.).

"07. In the meantime, the FIRST mortgage in favor of the Bank of the Philippine Islands was extra-judicially foreclosed and the subject properties were sold at public auction on 02 February 1973 to CMS STOCK BROKERAGE, INC. for the sum of P71,995.00. (Vide Annex G of Motion to Dismiss, p. 45 id., and Annexes A and 2 of Defendant's Manifestation and Motion dated 09 January 1984, pp. 219 and 200, id., respectively).

"08. On 22 June 1974, Atty. Carlos Moran Sison issued a receipt which reads: 'Received from Rosario S. Sandejas a diamond ring and a pair of earrings in redemption of her land located at Muntinlupa, s/t CARLOS MORAN SISON'.

"09. In the audited Statement of Financial Conditions as of 31 December 1978, 31 December 1979, 31 December 1980 and 30 June 1981 of CMS STOCK BROKERAGE, INC., the subject properties were listed as one of the 'ASSETS' of said corporation, with an equity valuation of P327,943.49 and P71,995.00 paid by CMS STOCK BROKERAGE, INC. in the foreclosure sales of the SECOND and FIRST mortgages, respectively.

"10. The subject properties were levied on execution by the defendant sheriff on 01 March 1982.

"11. On 02 June 1982, plaintiff filed a Third-Party Claim with the defendant sheriff wherein it is alleged, among others:

`5. That on June 22, 1974 I redeemed above-mentioned properties from CMS

STOCK BROKERAGE by paying said Brokerage a diamond ring and a pair of earrings in redemption for above properties, xxx;

`6. That since then, I have neglected to request for the cancellation of the annotation in my title of the Certificate of Sale issued in favor of SISON, LUZ & JALBUENA by reason of the fact that I was very busy attending to other more pressing obligations after which I suffered a stroke as a consequence of which I no longer was able to attend to the cancellation of said annotation.'

"12. Plaintiff instituted this action for `quieting ownership of real property injunction and damages' on 22 April 1983.

"13. On 1 December 1983, the defendant Sheriff proceeded with the scheduled public auction sale of the subject properties after the Supreme Court, by its Resolution adopted on 26 November 1983 in G.R. No. 64510, entitled `Dr. Romeo Gustilo, et al., versus The Intermediate Appellate Court, et al.' LIFTED the temporary restraining order issued on 21 November 1983 enjoining the Sheriff of Rizal from proceeding with the public auction sale of the garnished and levied properties of the petitioners therein, particularly the two parcels of land, as scheduled on 01 December 1983 at 10:00 A.M."

As culled from the records, at the public auction held on December 1, 1983, respondent Deputy Sheriff sold the parcels of land in question to herein private respondent (now, also private respondent in the instant petition) as the highest bidder and issued the corresponding certificate of sale to the latter.

Several days later on December 12, 1983, respondent Deputy Sheriff issued an Amended Certificate of Sale containing the following notations:

"xxx subject to the result and effect of Civil Case No. 1508, entitled `Rosario S. Sandejas vs. Carolina Industries, Inc., et al.', Regional Trial Court of Makati, Metro Manila, Branch 137 it being a third-party complaint.

"The period of redemption of the real property/properties described above will expire one (1) year from and after the date of registration of this Certificate of Sale."

and this was registered on December 16, 1983 in the Office of the Register of Deeds.

On December 18, 1984, the Sheriff's Final Deed of Sale was issued.

On April 16, 1986, title to the property was consolidated in the private respondent's name and a writ of possession was issued in its favor.

On April 16, 1986, title to the parcels of land was registered in private respondent's name.

In a decision dated October 16, 1991 in G.R. No. 101351, the Supreme Court declared petitioner as the real owner of the subject parcel of land and not Rosario S. Sandejas who initiated the proceedings for "quieting

of ownership of real property, injunction and damages” which was docketed as Civil Case No. 1508.

On December 18, 1991, a final entry of the decision in G.R. No. 101351 was entered in the Supreme Court’s Book of Judgments.

On December 7, 1992, petitioner made an offer to redeem the parcels of land in question.

Subsequently, on December 15, 1992, it filed a notice to redeem and tendered the redemption money amounting to P2,341,166.48 with the Office of the Clerk of Court. Petitioner also paid an additional sum of P11,905.83 as Sheriff’s Commission or deposit fee.

In a letter dated December 16, 1992 respondents Sheriffs informed petitioner that they can not execute and issue the certificate of redemption as requested in the absence of a court order directing them to do so. Respondents Sheriffs further informed the latter that they accepted the tendered amounts for safekeeping.

On January 13, 1993, petitioner filed a “Motion to require Sheriff to Execute Certificate of Redemption”.

On January 20, 1994, respondent Judge issued the challenged order denying petitioner’s motion requiring the Sheriff to execute a certificate of redemption.

A motion for reconsideration dated February 16, 1994 was denied by respondent Judge in an order dated July 12, 1994.

The petition is anchored on the following assignment of errors :

**(1) RESPONDENT COURT OF APPEALS IS GUILTY OF GRAVE ABUSE OF DISCRETION AND COMMITTED SERIOUS AND REVERSIBLE ERRORS IN NOT UPHOLDING THE UNQUESTIONABLE RIGHT OF PETITIONER TO REDEEM THE SUBJECT PROPERTY CONSIDERING THAT THE PENDENCY OF THE ACTION INVOLVING THE QUESTION OF OWNERSHIP NECESSARILY INTERRUPTS OR SUSPENDS THE PERIOD OF REDEMPTION.**

**(2) RESPONDENT COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN BASING ITS FINDING THAT PETITIONER IS ALREADY THE OWNER OF THE SUBJECT PROPERTIES AT THE TIME THEY WERE LEVIED UPON ON ITS OWN PREVIOUS DECISION IN ANOTHER CASE INVOLVING THE SAME PARTIES (C.A. G.R. CV NO. 03209) DATED APRIL 3, 1986, WHICH DECISION WAS SUBSEQUENTLY RECONSIDERED AND THEREFORE NO LONGER EXIST IN LEGAL CONTEMPLATION.**

**(3) RESPONDENT COURT OF APPEALS GRAVELY AND SERIOUSLY ERRED IN RULING THAT THE PENDENCY OF CIVIL CASE NO. 1508**