

SECOND DIVISION

[G.R. No. 216124, July 19, 2017]

RIZAL COMMERCIAL BANKING CORPORATION, PETITIONER, VS. FEDERICO A. SERRA, SPOUSES EDUARDO AND HENEDINA ANDUEZA, ATTY. LEOMAR R. LANUZA, MR. JOVITO C. SORIANO, ATTY. EDWIN L. RANA, ATTY. PARIS G. REAL, ATTY. PRUDENCIO B. DENSING, JR., HON. JUDGE MAXIMINO R. ABLES, AND ATTY. ERWIN S. OLIVA, RESPONDENTS.

DECISION

CARPIO, J.:

The Case

Before the Court is a petition for indirect contempt^[1] with prayer for the issuance of a temporary restraining order (TRO) filed by petitioner Rizal Commercial Banking Corporation (RCBC) against respondents Federico A. Serra, et al., for acts allegedly disregarding this Court's final and executory decisions in G.R. Nos. 103338,^[2] 182478,^[3] 182664,^[4] and 203241.^[5]

The Facts

On 25 August 2011, RCBC filed a motion for execution before the Regional Trial Court, Makati, Branch 134 (RTC-Makati), in Civil Case No. 10054. RCBC sought to execute the RTC-Makati's Order dated 5 January 1989, which directed respondent Federico A. Serra (Serra) to sell to RCBC a parcel of land in Masbate covered by Original Certificate of Title (OCT) No. 0-232 on which the Masbate Business Center of RCBC is located (subject property).

During the pendency of Civil Case No. 10054, Serra mortgaged the subject property to respondent Spouses Eduardo M. Andueza and Henedina V. Andueza (Spouses Andueza) on 21 September 2011. On 26 September 2011, Spouses Andueza had the real estate mortgage annotated on OCT No. 0-232 under Entry No. 2011000513.^[6]

In an Order dated 16 February 2012,^[7] the RTC-Makati denied RCBC's motion for execution for lack of basis. The RTC-Makati found that it had been almost 18 years after the 5 January 1989 Order had become final and executory that RCBC filed the motion for execution. Neither did RCBC file an action to revive judgment within ten years from the date the Order became final.

In an Order dated 26 July 2012, the RTC-Makati denied RCBC's motion for reconsideration.

On 11 October 2012, RCBC filed a petition for review with this Court assailing the

RTC-Makati's Orders dated 16 February 2012 and 26 July 2012. The petition was docketed as G.R. No. 203241. In its petition, RCBC prayed for the issuance of a TRO to prevent any attempt to remove it from the subject property, since Serra and Atty. Gina Besa-Serra had already caused the service of a notice to vacate and demand for the payment of accrued back rentals, dated 6 September 2012, on RCBC.

On 3 December 2012, the Court issued a TRO, which restrained Serra and the RTC-Makati from implementing and enforcing the Orders dated 16 February 2012 and 26 July 2012 and from performing any act to remove or threaten RCBC from the subject property.

On 14 February 2013, RCBC had the TRO issued by this Court annotated on OCT No. 0-232 under Entry No. 2013000087.

On 10 July 2013, the Court issued a Decision in G.R. No. 203241 which reads:

WHEREFORE, we GRANT the petition. We SET ASIDE the assailed Orders of the Regional Trial Court of Makati dated 16 February 2012 and 26 July 2012. The Temporary Restraining Order issued by this Court on 3 December 2012 is made permanent. The Regional Trial Court of Makati City is DIRECTED to issue the writ of execution in Civil Case No. 10054 for the enforcement of the decision therein. Costs against petitioner.

SO ORDERED.^[8]

The Decision became final and executory on 27 November 2013.^[9]

Meanwhile, Andueza filed a petition for extrajudicial foreclosure of real estate mortgage,^[10] dated 13 August 2013, with the Provincial Sheriff of Masbate since Serra defaulted on his loan obligation.

Pursuant to the Decision in G.R. No. 203241, RCBC filed on 27 February 2014 a new motion for execution before the RTC-Makati.

Andueza, a non-party to the case, filed an opposition to the motion for execution with affirmative reliefs.

In an Order dated 14 May 2014,^[11] the RTC-Makati granted the motion for execution and dismissed the opposition of Andueza. The RTC-Makati held that the real estate mortgage is inferior to RCBC's right since the mortgage was constituted when Serra no longer had ownership and free disposal of the subject property. Accordingly, the RTC-Makati ordered the issuance of a writ of execution.

Andueza did not file a motion for reconsideration of the RTC-Makati's execution order. Neither did he file an appeal before the Court of Appeals. Thus, the Order of 14 May 2014 became final.

On 23 June 2014, the RTC-Makati issued a writ of execution.^[12]

Based on his Report,^[13] Sheriff Roberto V. Harina (Sheriff Harina) of the RTC-Makati attempted to serve on Serra a copy of the Notice to Comply and a copy of the Writ

of Execution. However, Serra was not in his office so Sheriff-Harina left with Serra's caretaker copies of the Notice to Comply and the Writ of Execution, who returned such copies by leaving them at the information table of the Bulwagan ng Katarungan, Masbate City.

Meanwhile, acting on the petition for extrajudicial foreclosure, respondents Atty. Leomar R. Lanuza (Atty. Lanuza), Clerk of Court and ExOfficio Provincial Sheriff of the RTC-Masbate, and Jovito C. Soriano (Soriano), Sheriff of the RTC-Masbate, scheduled the public auction of the subject property on 26 June 2014 at 2:00 in the afternoon.^[14]

On 14 June 2014, RCBC filed a petition for injunction^[15] before the RTC-Masbate, docketed as Civil Case No. 6971, to enjoin the extrajudicial foreclosure sale and public auction of the subject property. Respondent Judge Maximino R. Ables (Judge Ables), as Executive Judge of the RTC Masbate, issued a 72-hour TRO on 25 June 2014.

In a Notice of Extrajudicial Foreclosure and Sale of Real Estate Mortgage dated 18 August 2014,^[16] Soriano scheduled anew the public auction sale of the subject property on 24 September 2014 at 2:00 in the afternoon.

In the meantime, RCBC filed before the RTC-Makati a motion to divest Serra of his title, invoking Section 1 O(a), Rule 39 of the Rules of Court.^[17]

In a Resolution dated 23 September 2014,^[18] the RTC-Masbate denied RCBC's motion for the issuance of a 20-day TRO.

The public auction sale of the subject property proceeded on 24 September 2014, with Andueza being the highest bidder.^[19]

On 25 September 2014, a Certificate of Sale^[20] was issued by Soriano, noted by Atty. Lanuza and approved by Judge Ables. The certificate of sale showed that the subject property was sold to Andueza.

In an Order dated 26 September 2014,^[21] the RTC-Makati granted RCBC's motion to divest Serra of his title. The RTC-Makati also granted RCBC's prayer to have the Registry of Deeds for Masbate cancel Entry No. 2011000513, representing the mortgage of the subject property. The RTCMakati stated:

In the same vein, the Court resolves to grant plaintiff's prayer to remove or cancel the mortgage annotation on OCT No. 0-232, specifically Entry No. 2011000513. As held by this Court in its Order dated 14 May 2014, defendant no longer had ownership and free disposal of the property by the time he fraudulently mortgaged the property to the Spouses Eduardo M. Andueza and Dina Andueza. Clearly, mortgagees-spouses Andueza do not have any right or interest over the property and the title to be transferred to plaintiff must be free from invalid encumbrances, such as that of Entry No. 2011000513 of the Real Estate Mortgage in favor of the Spouses Andueza.^[22]

In his Comment dated 7 October 2014,^[23] Serra asserted that due to the public auction sale on 24 September 2014, where the subject property was sold to Andueza for being the highest bidder, he could no longer sell the subject property to RCBC.

In a motion dated 10 December 2014,^[24] Spouses Andueza pleaded that the RTC-Makati vacate its 26 September 2014 Order. Spouses Andueza claimed that the RTC-Makati erred in cancelling the real estate mortgage without the trial court conducting any full-blown hearing. They also alleged that they were not parties in Civil Case No. 10054; thus, they are not bound by whatever decision or order the trial court issued in the case. RCBC opposed the motion.^[25]

On 22 December 2014, RCBC had the Decision in G.R. No. 203241 annotated on OCT No. 0-232 under Entry No. 2014000568.

On 27 January 2015, Andueza, through his counsels respondents Atty. Paris G. Real (Atty. Real) and Atty. Prudencio B. Densing, Jr. (Atty. Densing) filed before the RTC-Masbate an ex-parte motion for issuance of writ of possession,^[26] which was granted by Judge Ables in an Order dated 28 January 2015.^[27]

On 29 January 2015, respondent Atty. Edwin L. Rana (Atty. Rana), Clerk of Court of RTC-Masbate, Branch 47 and Assistant Provincial Sheriff of RTC-Masbate, issued a writ of possession,^[28] directing the provincial sheriff to place Andueza in possession of the subject property, and to eject all persons claiming rights under Serra.

On the same day, Atty. Rana issued a Notice to Vacate,^[29] directed against Serra and RCBC, and all persons claiming any right under Serra. The Notice to Vacate was served on RCBC on 30 January 2015. The Notice to Vacate directed RCBC to "vacate the subject property and to peaceably turn-over its possession in favor of the mortgagee within five (5) working days from receipt hereof."^[30] The Notice to Vacate also stated that RCBC will be forcibly evicted from the subject property should it refuse to vacate.

On 4 February 2015, RCBC filed the present petition for indirect contempt with prayer for a TRO to enjoin respondents from enforcing the Notice to Vacate and the Writ of Possession issued by RTC-Masbate, and to enjoin the respondent Register of Deeds from annotating on OCT No. 0-232 the Notice to Vacate and Writ of Possession. RCBC pleaded that respondents be declared guilty of indirect contempt for disregarding the Court's decisions in G.R. Nos. 103338, 182478, 182664, and 203241, as well as the permanent restraining order in G.R. No. 203241.

On 11 February 2015, the Court issued a TRO,^[31] enjoining respondents, the RTC-Masbate, the Register of Deeds of Masbate City, their agents, representatives, and all other persons acting on their behalf from (1) enforcing or causing the enforcement of the Notice to Vacate and the Writ of Possession, and (2) annotating on OCT No. 0-232 the Notice to Vacate and Writ of Possession.

In its petition for indirect contempt, RCBC argues that Serra is liable for indirect contempt of court for refusing to obey the Court's restraining order and Decision in G.R. No. 203241, the RTC-Makati's 5 January 1989 Order, and for colluding with

Spouses Andueza for the illegal mortgage and foreclosure of the subject property.

Respondents filed their respective Comments to the petition.

In his Corrected Comment filed on 13 March 2015,^[32] Serra alleged that he is not liable for indirect contempt of court. He stated:

As it is, the enforcement of the aforesaid Supreme Court Resolution dated July 10, 2013 was directed by the Supreme Court to the RTC of Makati, Branch 134. In tum, the enforcement of the RTC of Makati, Branch 134's May 14, 2014 Order of Execution and Writ of Execution dated June 23, 2014, were directed to be enforced by Sheriff Roberto V. Harina. Such being the case, Atty. Serra, to whom the power and authority to enforce the aforesaid Order and Writ of Execution is not being directed to, cannot be held liable for indirect contempt of court. x x x.^[33]

Serra further claimed that he did not collude with Spouses Andueza in having the subject property mortgaged in 2011. Serra alleged he was a mortgagor in good faith and the Spouses Andueza were mortgagees in good faith when they executed a real estate mortgage over the subject property on 15 August 2011. Spouses Andueza validly annotated the mortgage on the title of the subject property with the Register of Deeds for Masbate City on 26 September 2011. At the time of the execution of the mortgage, OCT No. O-232 had no notice of *lis pendens*, no adverse claim, and there was no other lien annotated on the title of the subject property. In addition, Serra alleged that RCBC is guilty of forum-shopping. RCBC filed a petition for certiorari before the Court of Appeals assailing the RTC-Masbate's denial of RCBC's application for TRO. Meanwhile, RCBC filed with this Court the instant petition for indirect contempt seeking a similar relief.

In their Comment filed on 19 March 2015,^[34] Spouses Andueza^[35] and Atty. Real contended that they are not guilty of indirect contempt considering that the writ of execution issued by the RTC-Makati was directed to Sheriff Roberto V. Harina, and not to Spouses Andueza; and the Decision in G.R. No. 203241 was not directed to Spouses Andueza, who are not parties in the case. Spouses Andueza accused RCBC and its counsels of negligence and lack of prudence in failing to annotate for almost 18 years RCBC's supposed rights over the subject property on OCT No. 0-232. Spouses Andueza claimed good faith in executing the real estate mortgage with Serra, after checking with the Register of Deeds of Masbate City that OCT No. 0-232 was free from any lien. RCBC and its counsels allegedly did not exercise prudence to protect RCBC's interests even after the annotation of the real estate mortgage on OCT No. 0-232 on 26 September 2011. Neither did RCBC and its counsels inform Spouses Andueza of RCBC's rights over the subject property. RCBC and its counsels also failed to oppose Andueza's petition for extrajudicial foreclosure, which Andueza filed after Serra defaulted on his loan obligation. They also failed to file any action to cancel the real estate mortgage with application for TRO to possibly enjoin the foreclosure proceedings. Spouses Andueza also claimed that RCBC committed forum-shopping when it filed the present petition since it had a pending petition for certiorari before the Court of Appeals seeking practically the same relief, which is to prevent the foreclosure of the real estate mortgage and auction sale of the subject property. Likewise, RCBC violated the doctrine of hierarchy of courts when it filed the present petition directly with this Court, when it should have been filed with the