

THIRD DIVISION

[G.R. No. 171172, November 09, 2015]

BANK OF THE PHILIPPINE ISLANDS, PETITIONER, VS. SPOUSES JOHNSON & EVELYN CO & JUPITER REAL ESTATE VENTURES, INC., RESPONDENTS.

[G.R. No. 200061]

SPOUSES JOHNSON & EVELYN CO REPRESENTED BY THEIR HEIR JOBELLE CO, PETITIONERS, VS. BANK OF THE PHILIPPINE ISLANDS (AS SUCCESSOR-IN-INTEREST OF FAR EAST BANK AND TRUST COMPANY), RESPONDENT.

D E C I S I O N

JARDELEZA, J.:

Before this Court are two consolidated petitions for review on *certiorari*. In G.R. No. 171172, the Bank of the Philippine Islands ("BPI") assails the orders of the Regional Trial Court (RTC) of Parañaque City, Branch 196 in LRC Case No. 03-0063 dated December 15, 2005^[1] and January 13, 2006;^[2] whereas in G.R. No. 200061, the Spouses Johnson and Evelyn Co ("Spouses Co") question the Decision^[3] of the Court of Appeals (CA) in CA-G.R. CV No. 86986 dated June 27, 2011, and its Resolution^[4] dated January 9, 2012.

The Antecedents

On November 13, 1997, Jupiter Real Estate Ventures, Inc. ("Jupiter") and Spouses Co obtained a loan from Far East Bank and Trust Company ("FEBTC") in the amount of P9,434,200.00.^[5] As security for the loan, Jupiter and Spouses Co mortgaged in favor of FEBTC eight parcels of land including their improvements covered by Transfer Certificates of Title (TCT) Nos. 94204, 94205, 94206, 94207, 94208, 94209, (91437) 39728, and (91438) 39729.^[6]

Meanwhile, BPI and FEBTC merged, with BPI as the surviving corporation.^[7]

Jupiter and Spouses Co defaulted on the payment of the loan. BPI, as successor-in-interest of FEBTC, foreclosed the real estate mortgage pursuant to Act No. 3135, as amended.^[8] An auction sale was held on July 12, 2000 where the mortgaged properties were sold to BPI as the highest bidder for P3,567,000.00. The Certificate of Sale was registered and annotated at the back of the certificates of title on August 22, 2000.^[9] After the expiration of the period of redemption, BPI consolidated its ownership over the real properties, and new titles were issued in its name.^[10]

On August 7, 2002, Spouses Co and Jupiter filed a complaint for the nullification of foreclosure proceedings and damages before the Regional Trial Court of Parañaque City, Branch 257 ("RTC Br. 257"), docketed as Civil Case No. 02-0331.^[11]

On April 29, 2003, BPI filed a petition for the issuance of a writ of possession before the Regional Trial Court of Parañaque City, Branch 196 ("RTC Br. 196"), docketed as LRC Case No. 03-0063.^[12]

On June 12, 2003, Spouses Co and Jupiter moved for the consolidation of LRC Case No. 03-0063 with Civil Case No. 02-0331.^[13] In an Order^[14] dated August 7, 2003, the RTC Br. 196 denied the motion, to wit:

Given the distinctiveness of the causes of action available to the parties herein a proceeding for issuance for a writ of possession can be maintained independently in relation to an action for annulment of document, without prejudice to the outcome of the latter. [Ong vs. Court of Appeals, 333 SCRA 189 (2000); Vaca vs. Court of Appeals, 234 SCRA 146 (1994); de Jacob vs. Court of Appeals, 184 SCRA 294 (1990)].

WHEREFORE, premises considered, the motion for consolidation dated June 9, 2002 is hereby DENIED for lack of merit.

SO ORDERED.

The motion for reconsideration of Spouses Co and Jupiter was also denied.^[15]

On September 22, 2003, Jupiter filed a petition for corporate rehabilitation^[16] dated September 9, 2003 with the RTC of Pasay City Br. 231 ("RTC Br. 231") docketed as RTC SEC No. 03-0006-CFM. On October 6, 2003, Spouses Co and Jupiter moved for the suspension of the proceedings before the RTC Br. 196.^[17] They alleged that on September 24, 2003, the RTC Br. 231 issued a Stay Order after Jupiter filed its petition for rehabilitation and among the properties covered were those subject of the real estate mortgage. Spouses Co and Jupiter alleged that because of the Stay Order, the writ of possession may not be issued.^[18] Spouses Co, however, admitted in their pleadings that the Stay Order was later lifted.^[19] In an Order dated March 30, 2004, the RTC Br. 196 denied the *Motion to Suspend Proceedings*.^[20]

In an Order^[21] dated September 30, 2005, the RTC Br. 196 issued a writ of possession in favor of BPI. However, the order was mistakenly addressed to spouses Trinidad P. Salazar and Ranulfo M. Salazar and not to Spouses Co.^[22] Thus, BPI filed a motion to amend the order,^[23] which was granted.^[24] In an Amended Order^[25] dated December 8, 2005, the RTC Br. 196 held:

WHEREFORE, premises considered, the Petition dated March 10, 2003 is hereby GRANTED, and, let a Writ of Possession be issued in favor of petitioner, Bank of the Philippine Islands, which writ, be made effective upon respondent, respondent Spouses Johnson A. Co & Evelyn Sy-Co, their assigns, heirs and any person deriving any interest from the latter, over the properties identified as Eot Nos. 1 to 8 of Block 3 of the subd. plan (LRC) Psd-1643, being a portion of Lot 5-A (ERC) Psd-187700, LRC

Record No. 54982, situated in Barrio Ibayo, Municipality of Parañaque and covered by Transfer Certificates of Title Nos. TCT Nos. 150405 to 150412 issued by the Register of Deeds of Pasay City.

SO ORDERED. (Underscoring in the original)

On October 21, 2005, Spouses Co and Jupiter filed a notice of appeal of the Order dated September 30, 2005.^[26] In its comment, BPI argued that the order of the trial court granting a writ of possession is merely interlocutory from which no appeal is taken.^[27] Spouses Co and Jupiter countered that based on the case of *Samson v. Rivera*,^[28] the remedy from an order granting a writ of possession is an ordinary appeal.^[29]

In an Order dated December 15, 2005, the RTC Br. 196 granted the notice of appeal of Spouses Co and Jupiter and ordered the elevation of the records of the case to the CA.^[30]

BPI filed a motion for reconsideration to set aside the Order dated December 15, 2005, but the RTC Br. 196 denied the motion for lack of merit in an Order dated January 13, 2006.^[31] The trial court held:

Considering an appeal is a substantive right of a party herein to undertake an appellate proceeding, petitioner's insistence on the nature of a writ of possession granted in its favor cannot override the substantive right of an oppositors-mortgagors to appeal.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration dated January 3, 2006 is denied for lack of merit.

Let the records of this case be elevated immediately to the appellate court.

SO ORDERED.

On March 10, 2006, BPI filed a petition for review on *certiorari* under Rule 45 with this; Court to set aside the Orders of the RTC Br. 196 dated December 15, 2006 and January 13, 2006.^[32] BPI alleged that Spouses Co and Jupiter cannot appeal the order granting the writ of possession because the same is not appealable, the proceedings being merely *ex parte* from which no appeal may be taken. BPI also alleged that as registered owner of the properties subject of the foreclosure, it has the right to the immediate possession of the property and its right to immediate possession is impaired by the grant of the appeal.

On the other hand, Spouses Co and Jupiter maintained that the proper remedy is an ordinary appeal, instead of a petition for *certiorari*, because there is no grave abuse of discretion when the court issues a writ of possession.^[33] They added that the possession of a third party in a writ of possession is an exemption to the ministerial and non-judicial proceedings in a petition for writ of possession.^[34]

Meanwhile, the CA rendered a Decision^[35] on June 27, 2011 denying the appeal of Spouses Co and Jupiter filed on October 21, 2005, and affirming the Amended Order

dated December 8, 2005. The CA held that the RTC Br. 196 acted with sound discretion when it denied appellants' motion for consolidation.^[36] It further held that when the ownership over the properties was consolidated and new certificates of title were issued in BPI's name, the possession of the real properties became an absolute right of BPI as confirmed owner. Thus, BPI was entitled to the writ of possession as a matter of right.^[37] Finally, the CA denied the appeal because the issue of consolidation had become moot and academic with the RTC Br. 196's issuance of an order granting the writ of possession in favor of BPI.^[38]

In a Resolution dated January 9, 2012, the CA denied the motion for reconsideration of Spouses Co and Jupiter.^[39] Only Spouses Co filed a *Petition for Review on Certiorari with Motion to Consolidate this Petition (G.R. No. 200061) with G.R. No. 171172* dated February 8, 2012.^[40] Spouses Co alleged that the cases of *Philippine Savings Bank v. Mañalac, Jr.*,^[41] *Bank of Commerce v. Perlas-Bernabe*^[42] *Sulit v. Court of Appeals*,^[43] and *Barican v. Intermediate Appellate Court*^[44] should apply and the CA should have considered the peculiar circumstances of the case.^[45] They claimed that there was then a petition for corporate rehabilitation pending with another court that issued a stay order.^[46] Thus, the foreclosure was null and void.^[47] Spouses Co further alleged that Act No. 3135 violates the Constitution since the law gives unbridled license to the court and purchaser to deprive the owner of the property without the opportunity to be heard.^[48]

On February 29, 2012, we issued a Resolution^[49] consolidating G.R. No. 200061 with G.R. No. 171172 since they involve similar parties and raise interrelated issues that arose from the same set of facts.

In its *Comment/Opposition*,^[50] BPI alleged that the petition for rehabilitation is not a ground to consolidate the writ of possession case and the annulment of mortgage case, as to justify the suspension of the writ of possession's implementation. Further, the petition for rehabilitation was filed later than the petition for writ of possession. BPI also claimed that the rulings in *Bank of Commerce* and *Sulit* do not apply to this case.

On February 5, 2014, BPI manifested^[51] that the properties are still in the possession of Spouses Co and the writ of possession is necessary to deliver their possession to BPI.

The Issues

The issues for resolution are:

1. Whether the writ of possession was validly issued;
2. Whether the RTC Br. 196 erred in giving due course to the *Notice of Appeal* of Spouses Co and Jupiter from its Order dated September 30, 2005 and Amended Order dated December 8, 2005 granting the writ of possession in favor of BPI;

3. Whether or not Act No. 3135, as amended, violates the Constitution; and
4. Whether the CA erred in denying the consolidation of LRC Case No. 03-0063 with Civil Case No. 02-0331.

Our Ruling

Validity of the Issuance of the Writ of Possession

Under Section 7^[52] of Act No. 3135, as amended by Act No. 4118, the purchaser in a foreclosure sale may apply for a writ of possession during the redemption period. Upon the purchaser's filing of an *ex parte* petition and posting of the appropriate bond, the RTC shall, as a matter of course, order the issuance of the writ of possession in the purchaser's favor. But equally well settled is the rule that a writ of possession will issue as a matter of course, even without the filing and approval of a bond, after consolidation of ownership and the issuance of a new TCT in the name of the purchaser.^[53]

Upon expiration of the redemption period, the right of the purchaser to the possession of the foreclosed property becomes absolute. This right to possession is based on the purchaser's ownership of the property.^[54] In like manner, the mere filing of an *ex parte* motion for the issuance of the writ of possession would suffice and the filing of a bond is no longer necessary. This is because possession has become the absolute right of the purchaser as the confirmed owner.^[55]

Spouses Co and Jupiter do not deny that they failed to redeem the properties mortgaged within the redemption period. Consequently, ownership over the properties was consolidated in the name of BPI and new titles were issued in its name. Thus, as the new registered owner, BPI is even more entitled to the possession of the properties and has the unmistakable right to file an *ex parte* motion for the issuance of a writ of possession.

Spouses Co insist that the petition for issuance of a writ of possession should have been denied because of the pendency of the petition for nullification of the foreclosure sale, and the petition for rehabilitation, and the stay order. We are not persuaded.

The mere pendency of a petition for corporate rehabilitation and the issuance of a stay order do not and cannot enjoin the courts from the enforcement of claims; neither does it make the case unique and peculiar. In *Equitable PCI Bank, Inc. v. DNG Realty and Development Corporation*,^[56] we reiterated the rule in *New Frontier Sugar Corporation v. Regional Trial Court, Branch 39, Iloilo City*^[57] that a stay order or the suspension of the enforcement of all claims against the corporation shall commence only from the time the rehabilitation receiver is appointed and a stay order is issued.

In *Town and Country Enterprises, Inc. v. Qinsumbing, Jr.*,^[58] which presents the same set of facts with this case, we held:

Considering that Metrobank acquired ownership over the mortgaged properties upon the expiration of the redemption period on 6 February