

SECOND DIVISION

[G.R. No. 190106, January 15, 2014]

MAGDALENA T. VILLASI, PETITIONER, VS. SPOUSES FILOMENO GARCIA AND ERMELINDA HALILI-GARCIA, RESPONDENTS.

DECISION

PEREZ, J.:

This is a Petition for Review on *Certiorari*^[1] filed pursuant to Rule 45 of the Revised Rules of Court, assailing the 19 May 2009 Decision^[2] rendered by the Sixth Division of the Court of Appeals in CA-G.R. SP No. 92587. The appellate court affirmed the Order^[3] of the Regional Trial Court (RTC) of Quezon City, Branch 77, directing the Deputy Sheriff to suspend the conduct of the execution sale of the buildings levied upon by him.

The Facts

Sometime in 1990, petitioner Magdalena T. Villasi (Villasi) engaged the services of respondent Fil-Garcia Construction, Inc. (FGCI) to construct a seven-storey condominium building located at Aurora Boulevard corner N. Domingo Street, Cubao, Quezon City. For failure of Villasi to fully pay the contract price despite several demands, FGCI initiated a suit for collection of sum of money before the RTC of Quezon City, Branch 77. In its action docketed as Civil Case No. Q-91-8187, FGCI prayed, among others, for the payment of the amount of P2,865,000.00, representing the unpaid accomplishment billings. Served with summons, Villasi filed an answer specifically denying the material allegations of the complaint. Contending that FGCI has no cause of action against her, Villasi averred that she delivered the total amount of P7,490,325.10 to FGCI but the latter accomplished only 28% of the project. After the pre-trial conference was terminated without the parties having reached an amicable settlement, trial on the merits ensued.

Finding that FGCI was able to preponderantly establish by evidence its right to the unpaid accomplishment billings, the RTC rendered a Decision^[4] dated 26 June 1996 in FGCI's favor. While the trial court brushed aside the allegation of Villasi that an excess payment was made, it upheld the claim of FGCI to the unpaid amount of the contract price and, thus, disposed:

WHEREFORE, judgment is hereby rendered:

1. Ordering [Villasi] to pay [FGCI] the sum of P2,865,000.00 as actual damages and unpaid accomplishment billings;
2. Ordering [Villasi] to pay [FGCI] the amount of P500,000.00 representing the value of unused building materials;

3. Ordering [Villasi] to pay [FGCI] the amount of P100,000.00, as moral damages and P100,000.00 as attorney's fees.^[5]

Elevated on appeal and docketed as CA-GR CV No. 54750, the Court of Appeals reversed the disquisition of the RTC in its Decision^[6] dated 20 November 2000. The appellate court ruled that an overpayment was made by Villasi and thereby directed FGCI to return the amount that was paid in excess, *viz*:

WHEREFORE, premises considered, the present appeal is hereby GRANTED and the appealed decision in Civil Case No. Q-91-8187 is hereby REVERSED and SET ASIDE and judgment is hereby rendered ordering the [FGCI] to return to [Villasi] the sum of P1,244,543.33 as overpayment under their contract, and the further sum of P425,004.00 representing unpaid construction materials obtained by it from [Villasi]. [FGCI] is likewise hereby declared liable for the payment of liquidated damages in the sum equivalent to 1/10 of 1% of the contract price for each day of delay computed from March 6, 1991.

No pronouncement as to costs.^[7]

Unrelenting, FGCI filed a Petition for Review on *Certiorari* before this Court, docketed as G.R. No. 147960, asseverating that the appellate court erred in rendering the 20 November 2000 Decision. This Court, however, in a Resolution dated 1 October 2001, denied the appeal for being filed out of time. The said resolution became final and executory on 27 November 2001, as evidenced by the Entry of Judgment^[8] made herein.

To enforce her right as prevailing party, Villasi filed a Motion for Execution of the 20 November 2000 Court of Appeals Decision, which was favorably acted upon by the RTC.^[9] A Writ of Execution was issued on 28 April 2004, commanding the Sheriff to execute and make effective the 20 November 2000 Decision of the Court of Appeals.

To satisfy the judgment, the sheriff levied on a building located at No. 140 Kalayaan Avenue, Quezon City, covered by Tax Declaration No. D-021-01458, and built in the lots registered under Transfer Certificates of Title (TCT) Nos. 379193 and 379194. While the building was declared for taxation purposes in the name of FGCI, the lots in which it was erected were registered in the names of the Spouses Filomeno Garcia and Ermelinda Halili-Garcia (Spouses Garcia). After the mandatory posting and publication of notice of sale on execution of real property were complied with, a public auction was scheduled on 25 January 2006.

To forestall the sale on execution, the Spouses Garcia filed an Affidavit of Third Party Claim^[10] and a Motion to Set Aside Notice of Sale on Execution,^[11] claiming that they are the lawful owners of the property which was erroneously levied upon by the sheriff. To persuade the court *a quo* to grant their motion, the Spouses Garcia argued that the building covered by the levy was mistakenly assessed by the City Assessor in the name of FGCI. The motion was opposed by Villasi who insisted that its ownership belongs to FGCI and not to the Spouses Garcia as shown by the tax

declaration.

After weighing the arguments of the opposing parties, the RTC issued on 24 February 2005 an Order^[12] directing the Sheriff to hold in abeyance the conduct of the sale on execution, to wit:

WHEREFORE, premises considered, the Court hereby orders Deputy Sheriff Angel Daroni to suspend or hold in abeyance the conduct of the sale on execution of the buildings levied upon by him, until further orders from the Court.^[13]

The motion for reconsideration of Villasi was denied by the trial court in its 11 October 2005 Order.^[14]

Arguing that the RTC gravely abused its discretion in ordering the suspension of the sale on execution, Villasi timely filed a Petition for *Certiorari* before the Court of Appeals. In a Decision^[15] dated 19 May 2009, the appellate court dismissed the petition. In a Resolution^[16] dated 28 October 2009, the Court of Appeals refused to reconsider its decision.

Villasi is now before this Court via this instant Petition for Review on *Certiorari* assailing the adverse Court of Appeals Decision and Resolution and raising the following issues:

The Issues

I.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS GRIEVOUSLY ERRED IN UPHOLDING THE DECISION OF THE TRIAL COURT TO SUSPEND AND HOLD IN ABEYANCE THE SALE ON EXECUTION OF THE BUILDINGS LEVIED UPON ON THE BASIS OF RESPONDENTS' AFFIDAVIT OF THIRD-PARTY CLAIM[;]

II.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS GRIEVOUSLY ERRED WHEN IT HELD THAT THERE IS NO REASON TO PIERCE THE VEIL OF [FGCI'S] CORPORATE FICTION IN THE CASE AT BAR[;] [AND]

III.

WHETHER OR NOT THE BRANCH SHERIFF OF THE REGIONAL TRIAL COURT OF QUEZON CITY, BRANCH 77 SHOULD BE DIRECTED TO FILE THE APPROPRIATE NOTICE OF LEVY WITH THE REGISTER OF DEEDS OF QUEZON CITY.^[17]

The Court's Ruling

It is a basic principle of law that money judgments are enforceable only against the property incontrovertibly belonging to the judgment debtor, and if the property belonging to any third person is mistakenly levied upon to answer for another man's indebtedness, such person has all the right to challenge the levy through any of the remedies provided for under the Rules of Court. Section 16,^[18] Rule 39 specifically provides that a third person may avail himself of the remedies of either *terceria*, to determine whether the sheriff has rightly or wrongly taken hold of the property not belonging to the judgment debtor or obligor, or an independent "separate action" to vindicate his claim of ownership and/or possession over the foreclosed property. However, the person other than the judgment debtor who claims ownership or right over levied properties is not precluded from taking other legal remedies to prosecute his claim.^[19]

Indeed, the power of the court in executing judgments extends only to properties unquestionably belonging to the judgment debtor alone. An execution can be issued only against a party and not against one who did not have his day in court. The duty of the sheriff is to levy the property of the judgment debtor not that of a third person. For, as the saying goes, one man's goods shall not be sold for another man's debts.^[20]

Claiming that the sheriff mistakenly levied the building that lawfully belongs to them, the Spouses Garcia availed themselves of the remedy of *terceria* under Section 16, Rule 39 of the Revised Rules of Court. To fortify their position, the Spouses Garcia asserted that as the owners of the land, they would be deemed under the law as owners of the building standing thereon. The Spouses Garcia also asserted that the construction of the building was financed thru a loan obtained from Metrobank in their personal capacities, and they merely contracted FGCI to construct the building. Finally, the Spouses Garcia argued that the tax declaration, based on an erroneous assessment by the City Assessor, cannot be made as basis of ownership.

For her part, Villasi insists that the levy effected by the sheriff was proper since the subject property belongs to the judgment debtor and not to third persons. To dispute the ownership of the Spouses Garcia, Villasi pointed out that the levied property was declared for tax purposes in the name of FGCI. A Certification issued by the Office of the City Engineering of Quezon City likewise showed that the building permit of the subject property was likewise issued in the name of FGCI.

We grant the petition.

The right of a third-party claimant to file a *terceria* is founded on his title or right of possession. Corollary thereto, before the court can exercise its supervisory power to direct the release of the property mistakenly levied and the restoration thereof to its rightful owner, the claimant must first unmistakably establish his ownership or right of possession thereon. In *Spouses Sy v. Hon. Discaya*,^[21] we declared that for a third-party claim or a *terceria* to prosper, the claimant must first sufficiently establish his right on the property:

[A] third person whose property was seized by a sheriff to answer for the obligation of the judgment debtor may invoke the supervisory power of the court which authorized such execution. Upon due application by the third person and after summary hearing, the court may command that the property be released from the mistaken levy and restored to the rightful owner or possessor. What said court can do in these instances, however, is limited to a determination of whether the sheriff has acted rightly or wrongly in the performance of his duties in the execution of judgment, more specifically, if he has indeed taken hold of property not belonging to the judgment debtor. The court does not and cannot pass upon the question of title to the property, with any character of finality. It can treat of the matter only insofar as may be necessary to decide if the sheriff has acted correctly or not. It can require the sheriff to restore the property to the claimant's possession if warranted by the evidence. **However, if the claimant's proofs do not persuade the court of the validity of his title or right of possession thereto, the claim will be denied.**^[22] (Emphasis and underscoring supplied).

Our perusal of the record shows that, as the party asserting their title, the Spouses Garcia failed to prove that they have a *bona fide* title to the building in question. Aside from their postulation that as title holders of the land, the law presumes them to be owners of the improvements built thereon, the Spouses Garcia were unable to adduce credible evidence to prove their ownership of the property. In contrast, Villasi was able to satisfactorily establish the ownership of FGCI thru the pieces of evidence she appended to her opposition. Worthy to note is the fact that the building in litigation was declared for taxation purposes in the name of FGCI and not in the Spouses Garcias'. While it is true that tax receipts and tax declarations are not incontrovertible evidence of ownership, they constitute credible proof of claim of title over the property.^[23] In *Buduhan v. Pakurao*,^[24] we underscored the significance of a tax declaration as proof that a holder has claim of title, and, we gave weight to the demonstrable interest of the claimant holding a tax receipt:

Although tax declarations or realty tax payment of property are not conclusive evidence of ownership, nevertheless, they are good indicia of possession in the concept of owner for no one in his right mind would be paying taxes for a property that is not in his actual or at least constructive possession. They constitute at least proof that the holder has a claim of title over the property. The voluntary declaration of a piece of property for taxation purposes manifests not only one's sincere and honest desire to obtain title to the property and announces his adverse claim against the State and all other interested parties, but also the intention to contribute needed revenues to the Government. Such an act strengthens one's *bona fide* claim of acquisition of ownership.^[25]

It likewise failed to escape our attention that FGCI is in actual possession of the building and as the payment of taxes coupled with actual possession of the land covered by tax declaration strongly supports a claim of ownership.^[26] Quite significantly, all the court processes in an earlier collection suit between FGCI and Villasi were served, thru the former's representative Filomeno Garcia, at No. 140