

SECOND DIVISION

[G.R. No. 178911, September 17, 2014]

**EDUARDO D. MONSANTO, DECOROSO D. MONSANTO, SR., AND
REV. FR. PASCUAL D. MONSANTO, JR., PETITIONERS, VS.
LEONCIO LIM AND LORENZO DE GUZMAN, RESPONDENTS.**

D E C I S I O N

DEL CASTILLO, J.:

"Filing the appropriate initiatory pleading and the payment of the prescribed docket fees vest a trial court with jurisdiction over the subject matter."^[1]

Assailed in this Petition for Review on *Certiorari*^[2] are the March 12, 2007 Decision^[3] of the Court of Appeals (CA) which denied the Petition for *Certiorari* in CA-G.R. CEB-SP No. 01343 and its July 6, 2007 Resolution^[4] denying the herein petitioners' Motion for Reconsideration.^[5]

Factual Antecedents

In a letter^[6] dated February 18, 2004, Flordelis B. Menzon, Regional Director of the Home Development Mutual Fund (Pag-IBIG), requested the intervention of Executive Judge Sinforiano A. Monsanto (Executive Judge Monsanto) of the Regional Trial Court (RTC) of Catbalogan, Samar on the alleged anomalous auction sale conducted by Sheriff IV Lorenzo De Guzman (De Guzman). According to Pag-IBIG, De Guzman previously acceded to its request to move the date of the auction sale to January 20, 2004; however, to its surprise, the sale proceeded as originally scheduled on January 15, 2004. Pag-IBIG also claimed that the winning bid of Leoncio Lim (Leoncio) in the amount of P500,000.00 was grossly disadvantageous to the government considering that the outstanding loan obligations of the mortgagor, Eduardo Monsanto (Eduardo), was more than the bid amount. Pag-IBIG thus manifested that –

It is for this reason that we are making this protest. Sheriff de Guzman failed to comply with our request for deferment despite his [acquiescence]. We are requesting for your intervention to nullify the results of the auction sale conducted last January 15, 2004. This will give our office a chance to be able to participate and recoup our investment.

We trust that you will give this matter preferential attention.^[7]

Executive Judge Monsanto refrained from acting on the letter considering that

Eduardo is his relative; instead he re-assigned the same to Judge Sibanah E. Usman (Judge Usman)^[8] of Branch 28.

In an Order^[9] dated May 3, 2004 and captioned "*In the Matter of the Extra-judicial Foreclosure of Mortgage Filed by the Home Development Mutual Fund (Pag-IBIG Fund)*," Judge Usman declared that on even date, RTC-Branch 28 conducted a hearing; that Atty. Cesar Lee argued on behalf of Pag-IBIG; and that Pascual Monsanto (Pascual) appeared on behalf of Eduardo. However, Judge Usman noted that no formal petition or complaint was actually filed which presents a judicial issue; moreover, the acts complained of partake of administrative matter. Consequently, Judge Usman referred the matter to the Office of the Court Administrator (OCA) for further action.

Subsequently, Pascual filed with the OCA, copy furnished the RTC-Catbalogan, Samar, Branches 27 and 28, a *Motion to Lift Writ of Execution and Notice to Vacate*^[10] dated March 13, 2004. Pascual alleged that on March 5, 2005, De Guzman, Sheriff of Branch 27, issued a Notice to Vacate; that the same is being enforced with grave threats and harassment; that the protest of Pag-IBIG remains pending with and unresolved by OCA; that the trial court did not transmit the records of the case to the OCA; that the winning bid of P500,000.00 submitted by Leoncio is disadvantageous to the government; that Eduardo's loan with Pag-IBIG is being proposed for restructuring; and that the writ of execution and notice to vacate would gravely prejudice their rights. Pascual thus prayed that:

- A. An order be issued lifting the Writ of Execution and the Notice to Vacate;
- B. An order be issued enjoining or restraining the subject Sheriff from enforcing the said Notice to vacate; and
- C. Court officials or personnel above mentioned be made to explain respecting the handling of the above captioned case as cited above, and if found negligent be so sanctioned in accordance with the law.^[11]

Acting on the aforesaid *Motion to Lift Writ of Execution and Notice to Vacate*, the OCA, in a letter^[12] dated May 9, 2005 directed Judge Usman to –

- (1) conduct an investigation on the missing records of 'Home Development Mutual Fund (Pag-IBIG) vs. Eduardo Monsanto' and to report thereon within THIRTY (30) days from notice; and (2) take action on (a) Items A and B of the 'Motion to Lift Writ of Execution and Notice to Vacate' and (b) the letter of Home Development Mutual Fund dated 18 February 2004, a copy of which is annexed to the 'Motion to Lift Writ of Execution and Notice to Vacate', herewith attached.^[13]

Pursuant to the above directive, Judge Usman notified Pag-IBIG, Eduardo, and Leoncio of a hearing scheduled on June 14, 2005.^[14] This time, the case was captioned as "*Home Development Mutual Fund (Pag-IBIG Fund), mortgagee, v. Eduardo Monsanto, mortgagor.*"

In a Manifestation^[15] dated June 7, 2005 and filed before Branch 28, Pag-IBIG informed the trial court that the loan of Eduardo had been restructured and that Eduardo had commenced paying monthly amortizations; that as a result of the restructuring, Pag-IBIG is withdrawing its Petition for Extra-judicial Foreclosure; and that it is no longer interested in pursuing an administrative action against De Guzman.

Leoncio opposed Pag-IBIG's manifestation.^[16]

Meanwhile, the record shows that on April 11, 2005, Leoncio filed with Branch 27 a Manifestation with *Ex-Parte Motion for Issuance of Writ of Possession*^[17] claiming that the reglementary period had elapsed without Eduardo redeeming the subject property; as such, he is already entitled to the issuance of a writ of possession.

On July 15, 2005, Decoroso D. Monsanto and Pascual moved to intervene in the case.^[18] Both claimed that they are co-owners and actual possessors of the subject property.

Ruling of the Regional Trial Court – Branch 28

In an Order^[19] dated July 1, 2005, the RTC-Branch 28, Catbalogan, Samar resolved two pending motions, i.e., (1) the motion for issuance of writ of possession filed by Leoncio with Branch 27; and (2) the motion to lift writ of execution and notice to vacate filed by Pascual with the OCA but copy furnished the RTC Catbalogan, Samar, Branches 27 and 28^[20] viz:

After careful and judicious scrutiny of the records of this case, this Court is highly convinced that the public auction sale conducted by Mr. De Guzman and Atty. Ma. Luz Lampasa-Pabilona, Clerk of Court whereby Mr. Leoncio Lim emerged as the highest bidder and purchaser of the subject property in good faith, and also given a Certificate of Sale issued by the Sheriff and the same was registered with the Registry of Deeds on March 5, 2004 are in order. The impugned Sheriff De Guzman had accordingly performed his functions. Accordingly, there is no showing that he has abuse[d] his authority during the conduct of the public auction. Such being the case, this Court is further convinced that the motion filed by Leoncio Lim through counsel Atty. Labid being meritorious should be given due course. On the other hand, the motion to lift writ of execution and notice to vacate filed by Rev. Fr. Pascual D. Monsanto, Jr. being devoid of merit should be denied.

Atty. Cesar E. Lee filed a manifestation dated June 7, 2005, praying that an order be issued directing Lorenzo de Guzman, Sheriff to make the necessary notice to all concern[ed] of the fact that the mortgagee has restructured his loan with the mortgagor, and in effect, redeemed his obligation subject matter of this foreclosure proceeding.

Mr. De Guzman explained that even assuming that there was restructuring of the [mortgage] loan it is very clear that it was done after

the lapse of the one (1) year redemption period and also there was no notice given to the Office of the Clerk of Court. Moreover, if there was actual payment the Office of the Clerk of Court was never x x x informed by Mr. Monsanto.

WHEREFORE, premises considered, this Court finds that the instant motion to lift writ of execution and notice to vacate the [premises] is devoid of merit, hence denied; likewise the manifestation of Atty. Cesar Lee dated June 7, 2005 being devoid of merit is also denied. The motion for issuance of writ of possession filed by Leoncio Lim through counsel Atty. Labid being meritorious is hereby ordered GRANTED, hence let a writ of possession be issued immediately in favor of Mr. Leoncio Lim purchaser in good faith.

Let a copy of this order be furnished the Hon. Presbitero J. Velasco, Jr., Court Administrator for his information and guidance.

SO ORDERED.^[21]

Eduardo, Pascual, and Pag-IBIG filed motions for reconsideration; however, the same were denied by the trial court in its August 30, 2005 Order. ^[22]

Ruling of the Court of Appeals

Petitioners thus filed a Petition for *Certiorari*^[23] with the CA, which was docketed as CA-G.R. CEB SP No. 01343. They claimed that the RTC committed grave abuse of discretion in denying their Motion to Lift Writ of Execution and Notice to Vacate and in granting Lim's Ex Parte Motion for Issuance of Writ of Possession through its July 1, 2005 Order, arguing that Lim's motion was not made under oath; that there are third parties in possession of the subject property; that they were not notified of the confirmation of the sale; that the mere filing of the Certificate of Sale with the Register of Deeds without presenting the owner's duplicate copy is not tantamount to registration; that since the Certificate of Sale was not registered, then the period to redeem did not begin to run; that De Guzman's March 7, 2005 Notice to Vacate was illegal, since at the time, no writ of possession was yet issued; that De Guzman's actions in enforcing the writ of possession on July 8 and 15, 2005 – while their motion for reconsideration was pending – is inhuman and violated their constitutional rights; and that out of justice and equity, they should be allowed to redeem the property. Petitioners prayed for the reversal of the RTC's July 1, 2005 and August 30, 2005 Orders and for the CA to restore the *status quo ante*.

On March 12, 2007, the CA issued the assailed Decision finding no grave abuse of discretion on the part of the RTC and affirming its July 1, 2005 and August 30, 2005 Orders, *viz*:

ACCORDINGLY, in line with the foregoing disquisitions, the petition is hereby DENIED. The assailed Orders dated 1 July 2005 and 30 August 2005 are AFFIRMED IN TOTO.

SO ORDERED.^[24]

Petitioners filed their Motion for Reconsideration, which the CA denied in its assailed July 6, 2007 Resolution.

Hence, the present Petition.

Issues

Petitioners raise the following grounds for the Petition:

1. THE HONORABLE COURT OF APPEALS 20TH DIVISION, CEBU CITY ERRED IN RULING THAT NO GRAVE ABUSE OF DISCRETION WAS COMMITTED BY THE HONORABLE REGIONAL TRIAL COURT BRANCH 27, EIGHTH JUDICIAL REGION, CATBALOGAN, SAMAR IN ITS ISSUANCE OF THE WRIT OF POSSESSION AND ITS ISSUANCE DOES NOT NEED A MOTION FOR THE CONFIRMATION OF SALE WHICH REQUIRES A HEARING;
2. THE HONORABLE COURT OF APPEALS 20TH DIVISION, CEBU CITY ERRED IN FINDING THAT THE CERTIFICATE OF SALE WAS REGISTERED OR THAT THE MERE FILING WITH THE REGISTER OF DEEDS OF THE SAME IS TANTAMOUNT TO ITS REGISTRATION, THUS THE REDEMPTION PERIOD HAD STARTED TO RUN, ON THE COURT'S CONJECTURE THAT P.D. 1529 IMPLIEDLY REPEALED ACT NO. 3135, PARTICULARLY SECTION 6, THEREOF;
3. THE HONORABLE COURT OF APPEALS 20TH DIVISION, CEBU CITY ERRED IN AFFIRMING THE COURT A QUO'S FINDINGS THAT ALL THE PETITIONERS WERE DULY NOTIFIED BUT FAILED TO APPEAR DURING THE HEARING ON THE MOTION FOR THE ISSUANCE OF THE WRIT OF POSSESSION. IT ERRED IN ALLUDING THAT IN THE COURSE OF THE PROCEEDINGS OF THIS INSTANT CASE, PETITIONERS WERE NOT DENIED DUE PROCESS OF LAW; AND
4. THE HONORABLE COURT OF APPEALS 20TH DIVISION, CEBU CITY ERRED IN RULING THAT PETITIONERS DECOROSO AND FR. PASCUAL, JR. DO NOT HOLD THE FORECLOSED PROPERTY ADVERSELY TO THAT OF THE PETITIONER-MORTGAGOR, FOR BEING MERE ASSIGNEES, THEY DERIVED THEIR POSSESSORY RIGHTS FROM PETITIONER-MORTGAGOR.^[25]

Petitioners' Arguments

Praying that the assailed CA Decision and Resolution be set aside, petitioners reiterate in their Petition and Reply^[26] the points they raised in their CA Petition. Thus, they argue that the ex parte motion for the issuance of a writ of possession should be under oath, and requires prior notice and hearing; that the mere filing of the sheriff's certificate of sale with the Register of Deeds is not equivalent to registration as required in order for the one-year redemption period to commence; that Presidential Decree No. 1529 did not repeal Act No. 3135; that the occupants of