

## THIRD DIVISION

[ G.R. No. 185644, March 02, 2010 ]

**HEIRS OF ESTELITA BURGOS-LIPAT, NAMELY: ALAN B. LIPAT AND ALFREDO B. LIPAT, JR., PETITIONERS, VS. HEIRS OF EUGENIO D. TRINIDAD, NAMELY: ASUNCION R. TRINIDAD, VICTOR R. TRINIDAD, IMACULADA T. ALFONSO, CELESTINA T. NAGUIAT, FERNANDO R. TRINIDAD, MICHAEL R. TRINIDAD AND JOSEFINA T. NAGUIAT, RESPONDENTS.**

### DECISION

#### **CORONA, J.:**

On April 16, 1979, petitioners Estelita Burgos-Lipat and Alfredo Lipat (spouses Lipat) [1] obtained a P583,854 loan from Pacific Banking Corporation (PBC), secured by a real estate mortgage on their Quezon City property. [2] The mortgage was eventually extended to secure additional loans, discounting lines, overdrafts and credit accommodations that petitioners subsequently obtained from PBC.

Due to petitioners' failure to pay their loans, PBC foreclosed on the subject property. Eugenio D. Trinidad [3] was declared the highest bidder during the public auction and was issued a certificate of sale on January 31, 1989. The certificate of sale was registered on April 12, 1989.

On November 28, 1989, petitioners filed a complaint for annulment of mortgage, extra-judicial foreclosure and certificate of sale in the Regional Trial Court (RTC) of Quezon City, Branch 84 against PBC, Eugenio D. Trinidad and the Registrar of Deeds and *ex-officio* sheriff of Quezon City.

In a decision dated February 10, 1993, the RTC dismissed the complaint but granted petitioners five months and 17 days from the finality of the decision to exercise their right of redemption over the foreclosed property. We affirmed this decision on April 30, 2003 in *Lipat v. Pacific Banking Corporation*. [4]

Meanwhile, petitioners assigned their rights over the contested property to Partas Transporation Co., Inc. (PTCI). On June 16, 2004, within the given period left for redemption, [5] PTCI exercised the right of redemption and paid the redemption amount computed by the sheriff. However, respondent heirs of Trinidad refused to claim the redemption money and surrender the certificate of title covering the foreclosed property, claiming the amount tendered was inadequate, i.e., the interest of 1% per month was computed only for a one-year period. Ultimately, the RTC upheld the exercise of redemption and directed respondents to surrender the certificate of title in an order dated May 17, 2005. [6] Respondents' motion for reconsideration was denied in an order dated September 28, 2005. [7]

Respondents filed a notice of appeal which was denied by the RTC on February 6, 2006.

Petitioners subsequently moved for execution of the May 17, 2005 order and the RTC granted the same in an order dated August 22, 2006.<sup>[8]</sup> Without filing a motion for reconsideration of the order, respondents immediately filed a petition for certiorari<sup>[9]</sup> in the CA.

In a decision dated July 31, 2008,<sup>[10]</sup> the CA granted respondents' petition and set aside the August 22, 2006 RTC order. It held that the right to redemption should have been exercised within one year from the date of registration of the certificate of sale.

Petitioners filed a motion for reconsideration<sup>[11]</sup> but the CA denied the same in a resolution dated December 5, 2008.<sup>[12]</sup>

Hence, this petition.<sup>[13]</sup>

The one-year redemption period applied by the CA is the rule that generally applies to foreclosure of mortgage by a bank.<sup>[14]</sup> The period of redemption is not tolled by the filing of a complaint or petition for annulment of the mortgage and the foreclosure sale conducted pursuant to the said mortgage.<sup>[15]</sup> However, considering the exceptional circumstances surrounding this case, we will not apply the rule in this instance *pro hac vice*.

In *Lipat*,<sup>[16]</sup> this Court upheld the RTC decision giving petitioners five months and 17 days from the finality of the trial court's decision to redeem their foreclosed property. *Lipat*, already final and executory, has therefore become the law of the case between the parties, including their heirs who are petitioners and respondents in this case. In *Union Bank of the Philippines v. ASB Development Corporation*,<sup>[17]</sup> we explained:

Law of the case has been defined as "the opinion delivered on a former appeal. More specifically, it means that whatever is already irrevocably established as the controlling legal rule or decision between the same parties in the same case continues to be the law of the case, whether correct on general principles or not, so long as the facts on which such decision was predicated continue to be the facts of the case before the court."<sup>[18]</sup>

Consequently, petitioners had five months and 17 days from the finality of *Lipat* to exercise their right of redemption, even though this period was beyond one year from the date of registration of the sale.

Thus, the CA erred (and even committed a grave abuse of discretion) when it insisted on a contrary ruling. The CA had no power to reverse this Court's final and executory judgment. The CA overstepped its authority when it held that the right of redemption had already expired one year after the date of the registration of the