

SECOND DIVISION

[G.R. No. 163785, December 27, 2007]

KKK FOUNDATION, INC., PETITIONER, VS. HON. ADELINA CALDERON-BARGAS, IN HER CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 78 OF MORONG, RIZAL, SHERIFF IV SALES T. BISNAR, THE REGISTER OF DEEDS FOR MORONG, RIZAL, AND IMELDA A. ANGELES, RESPONDENTS.

DECISION

QUISUMBING, J.:

In this petition for review under Rule 45 of the Rules of Court, petitioner urges this Court to reverse and set aside the Decision^[1] dated November 28, 2003, and the Resolution^[2] dated May 26, 2004, of the Court of Appeals in CA-G.R. SP No. 73965.

The antecedent facts are as follows:

On March 1, 2002, petitioner KKK Foundation, Inc. filed a complaint for Annulment of Extra-judicial Foreclosure of Real Estate Mortgage and/or Nullification of Sheriff's Auction Sale and Damages with Prayer for the Issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction.^[3] Petitioner alleged that: (1) the auction sale was made with fraud and/or bad faith since there was no public bidding; (2) the sheriff did not post the requisite Notice of Sheriff's Sale; (3) the petition for extrajudicial foreclosure was fatally defective since it sought to foreclose properties of two different entities; (4) the foreclosed properties were awarded and sold to Imelda A. Angeles for an inadequate bid of only P4,181,450; and (5) the auction sale involved eight parcels of land covered by individual titles but the same were sold *en masse*.

On March 7, 2002, Judge Adelina Calderon-Bargas issued a temporary restraining order preventing Angeles from consolidating her ownership to the foreclosed properties. On even date, petitioner and Angeles executed a Compromise Agreement wherein petitioner agreed to pay Angeles the bid price of the eight parcels of land within 20 days. The parties then filed a Motion to Approve Compromise Agreement.^[4]

On April 1, 2002, petitioner filed an Urgent *Ex-Parte* Motion to Recall Compromise Agreement^[5] since the other property owner and other trustees of petitioner were not consulted prior to the signing of the agreement. Angeles opposed the motion.

On May 2, 2002, Judge Calderon-Bargas issued an Order,^[6] which reads in part:

x x x x

Record shows that the Urgent Ex-Parte Motion to Recall Compromise Agreement and Motion to Approve Compromise Agreement both failed to comply with Sec[s]. 4 and 5, Rule 15 of the Civil Procedure. Both proceedings have no specific date of hearing. The reason why the Motion to Approve Compromise Agreement up to now has not yet been acted upon was that it has no date of hearing.

WHEREFORE, the Urgent Ex-Parte Motion to Recall Compromise Agreement and the Motion to [Approve] Compromise Agreement are considered mere scrap[s] of paper.

SO ORDERED.

In its Decision^[7] dated June 28, 2002, the trial court approved the Compromise Agreement, as follows:

The parties, duly assisted by their respective counsels, submitted before this Court a Compromise Agreement, as follows:

x x x x

[1.] The plaintiff shall pay to the defendant, Imelda Angeles, the amount of P5,500,000.00 representing the bid price for all the eight titles (TCT Nos. M-95417, 95419, 95418, 95420, 95421, 50889, 50890 and 50893) subject of the auction sale dated March 7, 2001 plus whatever taxes [and/or] assessments and expenses of the public auction as prescribed under Act 3135, within twenty (20) days from the signing of this compromise agreement. Said payment shall be considered full settlement of all obligations stated under that Real Estate Mortgage, dated July 15, 1997...and that Deed of Assumption of Mortgage dated August 11, 1999....

2. Upon the payment of the afore-stated amount, the defendant shall make, sign, execute and deliver to the plaintiff a Certificate of Deed of Redemption of all the above titles, and shall surrender and deliver to the plaintiff all the eight titles mentioned above. The defendant shall also make, sign, execute and deliver to the plaintiff a Deed of Cancellation of Mortgage annotated at the back of all the eight titles above-mentioned. The defendant shall also return to the plaintiff all checks issued by the plaintiff to the defendant as payment of its obligations.

x x x x

Finding the Compromise Agreement quoted above to be not contrary to law, morals, good customs and public policy, the same is hereby APPROVED.

x x x x

Angeles then moved for the issuance of a writ of execution. On September 9, 2002, the trial court required petitioner to comment on the motion within ten (10) days. [8] On October 3, 2002, the trial court directed the Clerk of Court to issue a writ of execution. [9] On the same date, the trial court received petitioner's Motion for Extension of Time to File Comment with Entry of Appearance which was denied on October 10, 2002. [10] Petitioner then moved for reconsideration of the October 3, 2002 Order.

Petitioner came to the Court of Appeals *via* petition for certiorari alleging that Judge Calderon-Bargas committed grave abuse of discretion amounting to lack or excess of jurisdiction when: (1) she issued the October 3, 2002 and the October 10, 2002 Orders even before petitioner could file its comment; (2) she granted the Motion for Issuance of Writ of Execution although it lacked the requisite notice of hearing; and (3) the writ of execution changed the tenor of the decision dated June 28, 2002.

In dismissing the petition, the appellate court ruled that petitioner was not deprived of due process when the trial court issued the October 3, 2002 and the October 10, 2002 Orders since it was given sufficient time to file its comment. The appellate court did not rule on the second and third issues after noting that petitioner's motion for reconsideration of the October 3, 2002 Order had not yet been resolved by the trial court. It did not resolve the issues even after the trial court denied petitioner's motion for reconsideration on December 12, 2003, [11] ratiocinating that the trial court's denial of petitioner's motion for reconsideration did not operate to reinstate the petition because at the time it was filed, petitioner had no cause of action.

In the instant petition before us, petitioner alleges that the appellate court seriously erred:

I.

... IN NOT HOLDING THAT PETITIONER WAS DENIED THE REQUISITE PROCEDURAL DUE PROCESS WHEN PUBLIC RESPONDENT ISSUED THE QUESTIONED ORDERS OF OCTOBER 3, 2002 AND OCTOBER 10, 2002 EVEN BEFORE PETITIONER COULD FILE ITS COMMENT AND IN FURTHER ISSUING THE WRIT OF EXECUTION EVEN BEFORE THE RESOLUTION OF THE PETITIONER'S MOTION FOR RECONSIDERATION OF THE ORDER OF OCTOBER 3, 2002.

II.

... IN NOT HOLDING THAT PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT GRANTED PRIVATE RESPONDENT'S MOTION FOR ISSUANCE OF WRIT OF EXECUTION ALTHOUGH THE SAME WAS FILED WITHOUT AN ACCOMPANYING NOTICE OF HEARING.

III.

... IN NOT HOLDING THAT PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION IN NOT HOLDING THAT EVEN ASSUMING THAT THE DECISION RENDERED IN ACCORDANCE WITH THE COMPROMISE