

## FIRST DIVISION

[ G.R. No. 154826, July 31, 2003 ]

**ROMY AGAG,<sup>[\*]</sup> PETITIONER, VS. ALPHA FINANCING CORPORATION, RESPONDENT.**

### D E C I S I O N

**YNARES-SANTIAGO, J.:**

The rule that a purchaser or mortgagee of land is not required to look further than what appears on the face of the title does not apply to banks and other financial institutions.<sup>[1]</sup> These entities are required to exercise more care and prudence in dealing even with registered lands for their business is one affected with public interest.<sup>[2]</sup> The ascertainment of the status and condition of properties offered to it must be a standard and indispensable part of its operations.<sup>[3]</sup>

This is a petition for review under Rule 45 of the 1997 Rules of Civil Procedure assailing the April 30, 2002 decision<sup>[4]</sup> of the Court of Appeals in CA-G.R. SP No. 58635 which set aside the November 19, 1999 decision<sup>[5]</sup> of the Regional Trial Court of Malolos, Bulacan, Branch 8, in Civil Case No. 426-M-99, and the February 17, 1999 judgment<sup>[6]</sup> of the Municipal Trial Court of San Miguel, Bulacan, in Civil Case No. 2327.

The records reveal that on March 15, 1977, petitioner Romy Agag and Teresita Vda. De Castro executed a document denominated as "*Pinagtibay na Pagpapatibay*"<sup>[7]</sup> whereby the latter sold to petitioner, in consideration of the amount of P36,120.00, payable on installment basis, three parcels of land located at Camias, San Miguel, Bulacan and covered by Transfer Certificate of Title (TCT) No. T-239887, TCT No. T-239888, and TCT No. 239889. On the same date, petitioner took possession of and occupied said lots after paying a down payment of P10,000.00.<sup>[8]</sup> He was able to pay a total of P37,295.78, the last payment being made on November 29, 1978.<sup>[9]</sup> Meanwhile, he introduced improvements on the subject lots consisting of fruit trees and, in 1985, a residential house worth more or less P500,000.00.<sup>[10]</sup> He repeatedly demanded from De Castro the delivery to him of the title of the lots but the latter failed to do so.<sup>[11]</sup>

On January 30, 1997, petitioner received a letter from respondent Alpha Financing Corporation requesting him to vacate the disputed lots. Respondent claimed that it is the lawful owner of the subject parcels of land occupied by petitioner, having purchased the same in a foreclosure sale after Teresita Vda. De Castro, the original owner thereof failed to pay her loan with a mortgagee bank. Thereafter, the certificates of title in the name of De Castro were cancelled, and TCT Nos. 306607, 306608 and 306609 were issued in the name of respondent on December 4, 1986.<sup>[12]</sup> In view of petitioner's refusal to vacate the premises, respondent filed an

ejectment case with the Municipal Trial Court of San Miguel, Bulacan.<sup>[13]</sup>

During the preliminary conference, the parties agreed on the following stipulation of facts, to wit - "(1) That defendant (petitioner herein) has been occupying and in possession of the lots in question since March 15, 1977; (2) That defendant received on January 30, 1997 a letter dated November 25, 1996 where plaintiff (respondent herein) claimed to be the owner [of the lots]; and (3) That the property being claimed by the plaintiff is the same property having been purchased on installment by the defendant from Teresita de Castro on March 15, 1977."<sup>[14]</sup>

On February 17, 1999, the Municipal Trial Court rendered a decision in favor of petitioner. It held that the mortgage and the foreclosure sale from which respondent allegedly derived his rights are inferior to the prior unregistered deed of absolute sale executed by De Castro, the original owner in favor of petitioner. Since De Castro was no longer the owner of the property at the time of the mortgage, respondent acquired no right from her. The Municipal Trial Court further ruled that respondent was not a purchaser in good faith because it failed to exercise the degree of diligence required of financing institutions in dealing with registered lands. The dispositive portion of the said decision, reads:

WHEREFORE, the Court finds the defendant as having a better right of possession over the subject parcels of land as against the plaintiff and hereby orders this case be dismissed.

For lack of evidence to prove bad faith on the part of the plaintiff in the filing of this case; and in line with the Court's policy not to put penalty on the right to litigate, the counterclaim of the defendant is likewise dismissed.

With no pronouncement as to costs.

SO ORDERED.<sup>[15]</sup>

Respondent appealed<sup>[16]</sup> the decision to the Regional Trial Court of Malolos, Bulacan,<sup>[17]</sup> which affirmed *in toto* the decision of the Municipal Trial Court.<sup>[18]</sup> Thus, respondent filed a petition for review with the Court of Appeals which reversed the decision of the Regional Trial Court and ordered petitioner to vacate the lots in favor of respondent. It held that the latter had a better right to possess the lots because the best proof of ownership is the indefeasible and incontrovertible title registered in its name. The decretal portion of the Court of Appeals' decision states:

WHEREFORE, finding the instant petition to be impressed with merit, the same is hereby GRANTED. The decisions of the Municipal Trial Court and the Regional Trial Court are SET ASIDE. Respondents are ORDERED to VACATE the properties subject of this petition in favor of the petitioner who has better right to possess the premises.

SO ORDERED.<sup>[19]</sup>

Petitioner's motion for reconsideration was denied in a resolution dated August 20, 2002.<sup>[20]</sup> Hence, the instant petition.

The principal issue to be resolved in the instant petition is: Who, between petitioner and respondent, has a better right to possess the disputed lots?

The settled rule is that in an action for ejectment, the only question involved is possession *de facto*. However, when the issue of possession cannot be decided without resolving the issue of ownership, the court may receive evidence on the question of title to the property,<sup>[21]</sup> but the resulting judgment would be conclusive only with respect to the possession, but not the ownership of the property.<sup>[22]</sup>

In the case at bar, the resolution of the issue of ownership is indispensable because respondent's cause of action and petitioner's defense are both grounded on ownership of the questioned lots. Respondent invokes good faith and the indefeasibility of the transfer certificates of title issued in its name, while petitioner anchors his claim on prior possession as well as on the unregistered sale in his favor of subject lots as embodied in the "*Pinagtibay na Pagpapatibay*".

When the terms of a contract are clear and unambiguous about the intention of the contracting parties, the literal meaning of its stipulations shall control. The real nature of a contract may be determined from the express terms of the agreement, as well as from the contemporaneous and subsequent acts of the parties thereto.<sup>[23]</sup> An examination of the "*Pinagtibay na Pagpapatibay*" in the case at bar shows that the document is indeed an absolute sale and not a contract to sell. In a contract to sell, ownership is by agreement, reserved in the vendor and is not to pass to the vendee until full payment of the purchase price. However, such is not the case here. Although the purchase price is to be paid in installments, the "*Pinagtibay na Pagpapatibay*" contains no stipulation conditioning the transfer of ownership upon the full payment of the purchase price. In fact, after paying a down payment of P10,000.00 on March 15, 1977, petitioner immediately took possession of the lots and introduced improvements thereon. The terms of the sale having been reduced to writing is considered as containing all the stipulations agreed upon by petitioner and Teresita Vda. De Castro, and the Court cannot add therein a proviso subjecting petitioner's ownership to the full payment of the purchase price.<sup>[24]</sup> Hence, the Municipal Trial Court correctly found that petitioner's actual occupation of the controverted lots vested in him ownership thereof. Verily, ownership was transferred not by the contract alone, but by tradition or delivery, *i.e.*, by placing the property in the control and possession of the vendee.<sup>[25]</sup>

Likewise, the Municipal Trial Court did not err in sustaining the claim of petitioner that the sale of the questioned lots preceded the mortgage and foreclosure sale claimed by respondent. Petitioner had repeatedly challenged respondent to produce documentary evidence which would substantiate the mortgage and foreclosure sale, but the latter failed to produce any. Neither did respondent question the finding of the Municipal Trial Court that the sale occurred prior to the mortgage, nor did it give the name of the mortgagee bank which foreclosed and sold the lots at public auction, assuming that the said bank exists. Finally, respondent failed to show that the properties were indeed mortgaged, and that the mortgage was foreclosed and the lots sold at public action.

Even granting that the lots were indeed mortgaged by the original owner, the sale in favor of petitioner would still be superior to the mortgage. In *Dela Merced v. Government Service Insurance System*,<sup>[26]</sup> a case involving a suit for annulment of

a foreclosure sale instituted by the successor-in-interest of the mortgagor, against the mortgagee and the buyer of the lots at the foreclosure sale, it was held that the unrecorded sale is preferred for the reason that the original owner's act of parting with his ownership of the thing sold, as in the case at bar, divested him of ownership and free disposal of that thing so as to be able to mortgage it again. Conformably, the unregistered sale of the lots to petitioner should be upheld over the mortgage and foreclosure sale from which respondent allegedly derived its rights.

As a general rule, where there is nothing on the certificate of title to indicate any cloud or vice in the ownership of the property, or any encumbrance thereon, the purchaser is not required to explore further than what the Torrens Title indicates on its face, in quest for any hidden defect or inchoate right that may subsequently defeat his right thereto.<sup>[27]</sup> This rule, however, applies only to innocent purchasers for value and in good faith. An innocent purchaser for value or any equivalent phrase shall be deemed, under Section 39 of Act 496 (Land Registration Act),<sup>[28]</sup> to include an innocent lessee, mortgagee or any other encumbrancer for value.<sup>[29]</sup> It excludes a purchaser or mortgagee who has knowledge of a defect or lack of title in the vendor, or of facts sufficient to induce a reasonably prudent man to inquire into the status of the property.<sup>[30]</sup>

In *Sunshine Finance and Investment Corp. v. Intermediate Appellate Court*,<sup>[31]</sup> we ruled that when the purchaser or mortgagee is a financing institution, the general rule that a purchaser or mortgagee of land is not required to look further than what appears on the face of the title does not apply. Thus -

Nevertheless, we have to deviate from the general rule because of the failure of petitioner in this case to take the necessary precautions to ascertain if there was any flaw in the title of the Nolascos and to examine the condition of the property they sought to mortgage. The petitioner is an investment and financing corporation. We presume it is experienced in its business. Ascertainment of the status and condition of properties offered to it as security for the loans it extends must be a standard and indispensable part of its operations. Surely it cannot simply rely on an examination of a Torrens certificate to determine what the subject property looks like as its condition is not apparent in the document. The land might be in a depressed area. There might be squatters on it. It might be easily inundated. It might be an interior lot without convenient access. These and other similar factors determine the value of the property and so should be of practical concern to the petitioner.

So also, in *Cruz v. Bancom Finance Corporation*,<sup>[32]</sup> a case for reconveyance of property against a purchaser in a foreclosure sale, it was stressed that the due diligence required of banks extended even to persons regularly engaged in the business of lending money secured by real estate mortgages. Their expertise or experience in dealing with encumbrances on lands, not to mention the public interest affecting their business, require them to exercise more care and prudence in dealing even with registered lands.

Respondent, being a financial institution, cannot claim good faith considering that neither it nor the alleged mortgagee bank was in possession of the lots prior and after the foreclosure sale. Had respondent conducted an ocular inspection of the