

## FIRST DIVISION

[ G.R. No. 125560, December 04, 2003 ]

**ELIZA FRANCISCO BAGGENSTOS, PETITIONER, VS. COURT OF APPEALS, REGIONAL TRIAL COURT OF ANTIPOLO, RIZAL, REGISTER OF DEEDS OF RIZAL, JOSEFINO DE GUZMAN AND PACIFICO MAGNO, JR., RESPONDENTS.**

### DECISION

**CARPIO, J.:**

#### The Case

This is a petition for review on *certiorari*<sup>[1]</sup> of the Resolution<sup>[2]</sup> of the Court of Appeals dated 2 July 1996 in CA-G.R. SP No. 40579. The Court of Appeals denied due course and dismissed petitioner Eliza Francisco Baggenstos' ("Baggenstos") *Petition for Annulment of Judgments, Orders and Writs with Damages* for being insufficient in form and substance.

#### The Antecedents

On 6 September 1991, private respondent Josefino de Guzman ("De Guzman") filed a complaint against Baggenstos to collect P85,000 representing the unpaid balance for the renovation of a house in Ponderosa Heights, Golden Hills, Antipolo, Rizal. The case was raffled to Branch 73 of the Regional Trial Court of Antipolo, Rizal ("trial court") and docketed as Civil Case No. 91- 2143.

On De Guzman's motion, the trial court declared Baggenstos in default for failure to file an answer within the reglementary period and allowed De Guzman to present his evidence *ex parte*. The trial court rendered judgment in favor of De Guzman on 27 December 1991, disposing as follows:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff ordering the defendant to pay the plaintiff:

1. P85,610.72 with legal interest to be computed from August 10, 1991 until the amount is fully paid;
2. Attorney's fees of P15,000.00 plus P1,000.00 per court appearance;
3. Cost of suit.

SO ORDERED.

On 3 April 1992, the trial court issued a writ of execution after the judgment had become final and executory. Sheriff Eusebio J. Villaran levied on execution a parcel of land with an area of 490 square meters in Antipolo, Rizal, registered in Baggenstos' name under Transfer Certificate of Title No. 171720 ("TCT No. 171720") of the Marikina Register of Deeds. On 5 May 1992, the sheriff sold the parcel of

land at public auction with private respondent Pacifico Magno, Jr. ("Magno") as the highest bidder at the price of P153,210.72, equivalent to the total money judgment of P153,210.72 under the writ of execution. The certificate of sale issued to Magno on 6 May 1992 was registered with the Marikina Register of Deeds on 16 October 1992. After the lapse of the one-year redemption period, the sheriff executed on 18 November 1993 an Officer's Deed of Sale in Execution in Magno's favor.

On 19 January 1994, Magno filed with the trial court a *Petition to Compel Surrender Of Withheld Duplicate Certificate And for Issuance Of Writ Of Possession* since Baggenstos refused to surrender the owner's duplicate copy of TCT No. 171720. Baggenstos filed a *Comment and Opposition* to Magno's petition claiming that the default judgment rendered against her by the trial court was void. Baggenstos claimed that the trial court did not acquire jurisdiction over her person due to improper service of summons. She contended that a purchaser at a sale pursuant to a void judgment is without title and redress. Baggenstos prayed that the trial court issue an order declaring the default judgment dated 27 December 1991 void and dismissing Magno's petition for lack of factual and legal basis.

In an Order dated 30 March 1995, the trial court granted Magno's *Petition to Compel Surrender Of Withheld Duplicate Certificate And for Issuance Of Writ of Possession*. The trial court held that substituted service of summons was validly made on Baggenstos resulting in the court's acquisition of jurisdiction over her person. The dispositive portion of the Order reads as follows:

WHEREFORE, premises considered and pursuant to Section 107 of P.D. 1529, the court hereby orders defendant Eliza Francisco Baggenstos to surrender Transfer Certificate of Title No. 171721<sup>[3]</sup> to the Register of Deeds for Marikina, Metro Manila within fifteen (15) days from receipt of this order. Upon such surrender, the Register of Deeds concerned is hereby ordered to enter a new certificate or memorandum in the name of herein petitioner.

In the meantime, let the corresponding writ of possession be issued in the above-entitled case in favor of the petitioner.

SO ORDERED.<sup>[4]</sup>

On 19 June 1995, the trial court issued a Writ of Possession<sup>[5]</sup> ordering Deputy Sheriff Paulo M. Gatlabayan ("Sheriff Gatlabayan") to place Magno in physical possession of "the subject property." On the same date, Sheriff Gatlabayan issued a Notice to Vacate<sup>[6]</sup> giving Baggenstos two days to vacate voluntarily the parcel of land. On 23 June 1995, Sheriff Gatlabayan submitted a report, which stated:

This is to certify that on the 19<sup>th</sup> day of June 1995, the undersigned was directed to enforce and implement the Writ of Possession, issued in the above-entitled case:

That specifically, the undersigned was ordered to place the petitioner, Pacifico T. Magno, Jr., in physical possession of a parcel of land including all the improvements existing thereon, covered by TCT No. 171720 and situated in Ponderosa Heights, Golden Hills, Antipolo, Rizal;

That at about 4:00 p.m. on the same date (June 19, 1995), the undersigned together with some companions, proceeded to the subject premises; the outer gate was not padlocked, so we were able to enter the area surrounding the house; that the main door was locked and all the windows were closed; that no one was inside the house; the latter woman showed up in the premises and informed me that she was the caretaker (bantay) of Eliza Francisco Baggenstos; the said caretaker gave her name as Myla Abenales;

That I was informed by the afore-named caretaker that the subject premises is presently not being inhabited or occupied and that she (the caretaker) only takes orders from relatives of Eliza Francisco Baggenstos who resides in Quezon City;

That the undersigned and my companions left the subject premises at about 4:30 P.M. after leaving a copy of my NOTICE TO VACATE to the said caretaker whom I determined to be a person of sufficient discretion to receive the same. Attached is a copy of my NOTICE TO VACATE where I gave Eliza Francisco Baggenstos and all persons claiming rights under her two (2) days notice to vacate the premises and remove her belongings from the house and should she fail to do so, then I would take those belongings out;

That I, together with some companions, went back to the subject premises yesterday, June 22, 1995, at about 10:00 A.M.; that my entry into the premises was obstructed by a padlocked main gate; that the afore-named caretaker informed me that the day immediately following my service of my NOTICE TO VACATE, a certain relative of Eliza Francisco Baggenstos arrived in the premises and padlocked the main gate.

That I could not place the winning party in possession of the premises because my entry into the subject premises was (illegible) or obstructed by padlocked main gate and main door under lock and key.<sup>[7]</sup>

On the same date, Magno filed an *Urgent Ex Parte Motion For Issuance of Break-Open Order*<sup>[8]</sup> to authorize Sheriff Gatlabayan to use reasonable force to enforce the writ of possession. On 3 July 1995, Baggenstos filed a *Manifestation and/or Motion for Clarification*<sup>[9]</sup> stating that she owns two (2) adjoining lots in Ponderosa Subdivision, Antipolo, Rizal. One lot has an area of 490 square meters under TCT No. 171720, while the other lot has an area of 233 square meters under TCT No. 96923. Baggenstos alleged that the vacant lot covered by TCT No. 171720 was the one sold by the sheriff to satisfy a judgment debt and not the other lot covered by TCT No. 96923 where her house stands.

Subsequently, Magno filed a *Very Urgent Manifestation*<sup>[10]</sup> informing the trial court that execution proceedings in Civil Case No. 91-2341 have grounded to a halt. Magno prayed that the trial court correct the clerical error in the dispositive portion of its 30 March 1995 Order to read as TCT No. 171720 instead of TCT No. 171721. Magno pointed out that fortunately, the writ of execution correctly states that the property sold at public auction is covered by TCT No. 171720.

On 10 August 1995, the trial court issued an Order<sup>[11]</sup> granting Magno's motion to issue a break-open order and denying Baggenstos' motion for clarification.

Baggenstos filed a motion to reconsider the Orders dated 30 March 1995, 10 August 1995, and the Notice to Vacate dated 19 June 1995. Baggenstos reiterated that while it was her vacant lot covered by TCT No. 171720 that was sold at public auction to Magno, the sheriff sought to enforce the assailed Orders against her other lot covered by TCT No. 96923. She prayed that the court set aside the questioned orders insofar as they affect the lot covered by TCT No. 96923.

At the hearing of Baggenstos' motion for reconsideration, Magno's counsel agreed that the court should enforce the writs of execution and possession, as well as the notice to vacate, against the vacant lot under *TCT No. 171720* and not against the lot with house covered by *TCT No. 96923*.

On 15 November 1995, the trial court issued an Order amending the 30 March 1995 Order, as follows:

Acting on the motion dated July 20, 1995 filed by petitioner through counsel and after finding the reasons cited therein to be meritorious, the same is hereby GRANTED.

Wherefore, the dispositive portion of the order of the court dated March 30, 1995 is hereby amended to read as follows with the amendments as underlined below:

"WHEREFORE, premises considered and pursuant to Section 107 of P.D. 1529, the Court hereby orders defendant Eliza Francisco Baggenstos to surrender Transfer Certificate of Title No. 171720 within fifteen (15) days from receipt of this order. Upon such surrender or non-surrender, the Register of Deeds concerned is hereby ordered to enter a new certificate or memorandum in the name of the herein petitioner.

SO ORDERED."

SO ORDERED.<sup>[12]</sup>

Dissatisfied, Baggenstos filed on 3 May 1996 a *Petition for Annulment of Judgments, Orders and Writs with Damages*<sup>[13]</sup> docketed as CA-G.R. No. SP 4057. Baggenstos sought to annul the Orders dated 30 March 1995, 10 August 1995, and 15 November 1995 ("Questioned Orders"), as well the writ of possession and sheriff's notice to vacate dated 19 June 1995, "insofar as the Baggenstos' lot with a house under TCT No. 96923 is concerned."

The Court of Appeals denied due course and dismissed Baggenstos' petition.

Hence, the instant petition.

### **The Court of Appeals' Ruling**

The Court of Appeals pointed out that Baggenstos' *Petition for Annulment of*