

FIRST DIVISION

[G.R. No. 121703, November 29, 2001]

**NATIVIDAD T. TANGALIN, PETITIONER, VS. COURT OF APPEALS,
DR. RAMON L. COCSON, JOSEFINA G. COCSON, EDITHA G.
TIGLAO, FE F. GOMEZ, AND ATTY. PEDRO F. MARTINEZ,
RESPONDENTS.**

D E C I S I O N

PARDO, J.:

The Case

In this petition for certiorari,^[1] petitioner seeks to annul the Decision^[2] of the Court of Appeals as well as its resolution^[3] denying reconsideration.

The Facts

The facts, as found by the Court of Appeals, are as follows:

"On March 5, 1970, the spouses Dr. Ramon L. Cocson and Josefina G. Cocson (spouses Cocson, for brevity) obtained a P3,200.00 loan from Atty. Pedro Martinez, to finance their children's college studies. To secure payment of said loan, the spouses Cocson executed in favor of Atty. Martinez a Contract of Mortgage and Promissory Note, dated March 5, 1970, over their two parcels of land, as follows:

"1. a parcel of unirrigated rice land declared in the name Ramon Cocson with an area of 6,336 sq. meters assessed at P316.00, bounded on the North by Pedro Florendo; on the West by Barrio Road; on the East by a ditch; on the South by Pedro Florendo, covered by Tax Declaration No. 29245.

"2. a residential lot declared in the name of Josefina G. Cocson with an area of 391.75 sq. meters more or less assessed at P540.00 bounded on the North (sic) Leona A. Cacdac, et al.; on the West by Calle Aglipay; on the East by Fely Gomez; on the South by Edita Tiglao; covered by Tax Declaration No. 28471.

"The spouses defaulted in the payment of their mortgage obligation. Atty. Martinez caused the extra-judicial foreclosure of the mortgaged properties and was the only bidder for P8,359.75 at the public auction conducted on December 10, 1971. The Provincial Sheriff *Ex-Oficio* of La Union, Alfredo A. Talavera, issued the corresponding Certificate of Sale which was duly registered under Entry No. 74716 and Inscription No. 74519 on January 28, 1972.

"No redemption was made within the reglementary period. On December 10, 1975, Sheriff Talavera issued the Certificate of Absolute Definitive Sale over the aforesaid properties in favor of Atty. Martinez.

"On January 22, 1972, the spouses Cocson executed a Deed of Absolute Sale covering (sic) parcels of land, different from the subject of the foreclosure proceedings, and which Atty. Martinez registered with the Register of Deeds of La Union. On the basis thereof, Tax Declarations Nos. 39220 and 39221 were issued in his name.

"On September 9, 1975, Atty. Martinez sold to Natividad T. Tangalin the property covered by Tax Declaration No. 39220, evidenced by a Deed of Absolute Sale of Real Estate.

"On September 29, 1975, the spouses Cocson filed the complaint for annulment of sales plus damages with *writ* of preliminary injunction against Atty. Pedro Martinez and the spouses Mario Go and Natividad T. Tangalin.

"On October 13, 1975, the spouses Mario Go and Natividad T. Tangalin filed their Answer with Cross Claim against Atty. Pedro Martinez, claiming that they bought the property from Pedro Martinez in good faith and were not aware of any defect in the ownership of Atty. Martinez over said property.

"Atty. Martinez filed his Answer, first on October 28, 1975, and another on December 8, 1975.

"On June 1, 1976, the spouses Cocson filed an Amended Complaint attached to an Urgent Motion to Admit the same which included, as additional defendants, Alfredo A. Talavera and Emilio Lacsamana, the Provincial Sheriff *Ex-Oficio* and Deputy Provincial Sheriff of La Union, respectively. The amended complaint was admitted per Order, dated March 23, 1976.

"On July 22, 1988, the court *a quo* rendered the assailed decision, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered as follows:

"1. (a) The Contract of Mortgage and Promissory Note is declared valid; and

"(b) Ordering the Cocsons to pay the remaining unpaid balance of P1,900.00 plus penalty in accordance with the stipulation in the Mortgage Contract and Promissory Note and to pay the legal rate of interest in accordance with this decision.

"2. Declaring the Extra-judicial Foreclosure of Mortgaged real property irregular, and, therefore, the Certificate of Sale of Mortgage Real Estate Properties dated December 11, 1971 signed by Carias and the

Certificate of Absolute Definitive Deed of Sale dated November 10, 1975 signed by Sheriff Alfredo Talavera are declared null and void.

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"3. (a) Declaring the Deed of Sale dated January 22, 1972 null and void. However, considering that one of the properties subject of said sale was acquired under a Deed of Sale dated September 9, 1975 by Natividad T. Tangalin who is a 'bona fide' purchaser and for value, the latter sale should be respected; and

"(b) Ordering the Cocsons to deliver the possession of the land previously declared under Tax Declaration No. 284-72 in the name of Editha Tiglao to Natividad T. Tangalin. And if the land is in the possession of Editha the latter shall deliver the possession thereof to Natividad T. Tangalin.

"4. Ordering the plaintiffs Cocsons to refund to Pedro F. Martinez and Natividad T. Tangalin attorney's fees and expenses of litigation in the amount of P5,000 each.

"5. Ordering plaintiffs Cocsons to refund to Pedro Martinez the sum of P3,277.87 which is one-half (1/2) of the purchase price corresponding to the land belonging to Fe Gomez, the land being in their possession, and to pay interest as stated earlier in this decision.

"6. With pronouncement as to costs against the plaintiffs Cocsons.

"SO ORDERED."^[4]

In time, both the spouses Cocson and Atty. Martinez filed separate notices of appeal.^[5] However, for failure of the spouses Cocson to pay the docket fee within the reglementary period, the Court of Appeals dismissed their appeal.^[6]

On November 18, 1992, the Clerk of Court, Court of Appeals, made a partial entry of judgment^[7] and certified that the resolution dismissing the appeal of the spouses Cocson for non-payment of docket fee had become final and executory on October 10, 1991.

On November 12, 1993, spouses Cocson filed with the Court of Appeals a "Very Urgent Ex-Parte Motion to Set Aside Entry of Judgment, etc."^[8] On December 2, 1993, the Court of Appeals denied the motion. On June 6, 1994, the spouses Cocson filed another motion for reconsideration,^[9] however, on July 29, 1994, the Court of Appeals again denied the motion.^[10]

On July 31, 1995, the Court of Appeals promulgated a decision, the dispositive portion of which reads:

"WHEREFORE, the appealed decision is AFFIRMED, with MODIFICATION as follows:

"1. Declaring as valid the Contract of Mortgage and Promissory Note;