

THIRD DIVISION

[G.R. No. 111737, October 13, 1999]

**DEVELOPMENT BANK OF THE PHILIPPINES, PETITIONER, VS.
THE HONORABLE COURT OF APPEALS AND SPOUSES TIMOTEO
AND SELFIDA S. PIÑEDA, RESPONDENTS.**

D E C I S I O N

GONZAGA-REYES, J.:

Before us is a Petition for Review on Certiorari of the decision of the Court of Appeals^[1] in CA-G.R. CV No. 28549 entitled "SPOUSES TIMOTEO PIÑEDA, ET. AL. vs. DEVELOPMENT BANK OF THE PHILIPPINES" which affirmed the decision of the Regional Trial Court (RTC), Branch 16^[2], Roxas City in Civil Case No. V-4590, for cancellation of certificate of title and/or specific performance, accounting and damages with a prayer for the issuance of a writ of preliminary injunction.

The records show that respondent spouses Piñeda (PIÑEDAS) are the registered owners of a parcel of land (Lot 11-14-1-14) situated at barangay Astorga Dumarao, Capiz containing an area of 238,406 square meters, more or less, and covered by Homestead Patent No. 0844 and Original Certificate of Title No. P-1930. On March 7, 1972, the PIÑEDAS mortgaged the above described parcel of land to petitioner, Development Bank of the Philippines (DBP) to secure their agricultural loan in the amount of P20,000.00. The PIÑEDAS failed to comply with the terms and conditions of the mortgage compelling DBP to extrajudicially foreclose on February 2, 1977. In the foreclosure sale, DBP was the highest bidder and a Sheriff Certificate of Sale was executed in its favor. In the corresponding Certificate of Sale, the sheriff indicated that "This property is sold subject to the redemption within five (5) years from the date of registration of this instrument and in the manner provided for by law applicable to this case". The certificate of sale was registered in the Register of Deeds of Capiz on April 25, 1977. On March 10, 1978, after the expiration of the one-year redemption period provided for under Section 6, ACT 3135, DBP consolidated its title over the foreclosed property by executing an Affidavit of Consolidation of Ownership. Subsequently, a Final Deed of Sale was executed in DBP's favor, which was registered together with the Affidavit of Consolidation of Ownership with the Register of Deeds of Capiz on May 30, 1978. Consequently, Original Certificate of Title No. P-1930 was cancelled and TCT No. T-15559 was issued in the name of DBP. Thereafter, DBP took possession of the foreclosed property and appropriated the produce thereof.

On July 5, 1978, the Ministry of Justice issued Opinion No. 92, Series of 1978^[3] which declared that lands covered by P.D. No. 27^[4], like the herein subject property, may not be the object of foreclosure proceedings after the promulgation of said decree on Oct. 21, 1972.

On August 24, 1981, the PIÑEDAS offered to redeem the foreclosed property by offering P10,000.00 as partial redemption payment. This amount was accepted by DBP who issued O.R. No. 1665719 and through a letter, conditionally approved the offer of redemption considering the P10,000.00 as down payment.^[5] However, on November 11, 1981, DBP sent the PIÑEDAS another letter informing them that pursuant to P.D. 27, their offer to redeem and/or repurchase the subject property could not be favorably considered for the reason that said property was tenanted.^[6] On November 16, 1981, in deference to the above-mentioned opinion, DBP through Ramon Buenaflor sent a letter to the Acting Register of Deeds of Capiz requesting the latter to cancel TCT No. T-15559 and to restore Original Certificate of Title No. P-1930 in the name of the PIÑEDAS. The Acting Register of Deeds, in reply to such request, suggested that DBP file a petition in court pursuant to Section 108 of Presidential Decree 1529^[7]. In compliance with said suggestion, DBP petitioned for the cancellation of TCT No. T-15559 with then Court of First Instance of Capiz, Branch II, docketed as Special Case No. 2653. The petition was favorably acted upon on February 22, 1982. Thus, the foreclosure proceeding conducted on February 2, 1977 was declared null and void and the Register of Deeds of Capiz was ordered to cancel TCT No. 15559; OCT No. 1930 was ordered revived.

Meanwhile, on December 21, 1981, the PIÑEDAS filed the instant complaint against DBP for cancellation of certificate of title and/or specific performance, accounting and damages with a prayer for the issuance of a writ of preliminary injunction averring that DBP, in evident bad faith, caused the consolidation of its title to the parcel of land in question in spite of the fact that the 5-year redemption period expressly stated in the Sheriff's Certificate of Sale had not yet lapsed and that their offer to redeem the foreclosed property was made well within said period of redemption.^[8]

After trial, the RTC ruled in favor of the PIÑEDAS stating that DBP violated the stipulation in the Sheriff's Certificate of Sale which provided that the redemption period is five (5) years from the registration thereof in consonance with Section 119^[9] of CA No. 141^[10]. DBP should therefore assume liability for the fruits that said property produced from said land considering that it prematurely took possession thereof. The dispositive portion of the decision reads:

"WHEREFORE, judgment is hereby rendered in favor of plaintiffs and against the defendant Development Bank of the Philippines as follows:

1. Condemning the defendant DBP to pay the plaintiffs P201,138.28 less whatever amount the plaintiffs still have to pay the said defendant DBP as balance of their loan account reckoned up to the date of this decision; P20,000.00 as attorney's fees; P5,000.00 as litigation expenses and costs.

SO ORDERED."^[11]

DBP appealed to the Court of Appeals, which affirmed the decision of the RTC. The Court of Appeals stated that since DBP was in evident bad faith when it unlawfully took possession of the property subject of the dispute and defied what was written on the Sheriff's Certificate of Sale, the PIÑEDAS were entitled to recover the fruits produced by the property or its equivalent valued at P72,000.00 per annum or a total of P216,000.00 for the three-year period. Respondent court stated that said

amount was not rebutted by DBP and was fair considering the size of the land in question. The court added that any discussion with respect to the redemption period was of little significance since the foreclosure proceeding was declared null and void in Special Civil Case No. 2653^[12] on February 22, 1982. Thus, the right of the PIÑEDAS to redeem the property has become moot and academic. Finally, the award of attorney's fees amounting to P10,000.00^[13] was justified considering that the PIÑEDAS were compelled to protect their interests.^[14]

DBP's Motion for Reconsideration^[15] was denied; hence this petition where it assigns the following errors:

"Ground No. 1 - The Honorable Court Of Appeals Gravely Erred In Affirming The Court A Quo's Decision Awarding Actual Damages In The Amount Of P216,000.00 In Favor Of The Private Respondents Notwithstanding The Absence Of Evidence Substantiating Said Award. Thus, The Honorable Court Of Appeals Had Decided This Instant Case In A Way Not In Accord With Applicable Law And Jurisprudence.

2. Ground No. 2 - The Honorable Court Of Appeals Gravely Erred In Affirming The Court A Quo's Finding That DBP Was In Bad Faith When It Took Possession Of The Property In Question Notwithstanding the Contrary Evidence Adduced By Petitioner DBP. Thus, The Honorable Court Of Appeals Departed From The Accepted And Usual Course of Judicial Proceedings.

3. Ground No. 3 - The Honorable Court Of Appeals Gravely Erred In Affirming The Court A Quo's Decision Awarding Attorney's Fees And Litigation Costs In Favor Of The Private Respondents Notwithstanding Absence Of Evidence Proving the Same. Clearly, The Lower Court Committed Misapprehension Of Facts That Can Be Considered A Question Of Law."^[16]

DBP maintains that the valuation of the income derived from the property in dispute allegedly amounting to P216,000.00 was not proven by the PIÑEDAS. DBP argues that they granted the PIÑEDAS a loan of P20,000.00 in March 7, 1972 and up to the time of the foreclosure of the property, the PIÑEDAS have paid only P2,000.00 on their principal. The failure of the PIÑEDAS to pay this loan is attributable to the fact that said property did not produce income amounting to P72,000.00 per annum. According to DBP, in the absence of receipts or other evidence to support such a claim, the Court of Appeals should not have granted said amount considering that the PIÑEDAS had the burden of proving actual damages. Furthermore, Selfida Piñeda herself admitted that the property never produced income amounting to P72,000.00 per annum. At any rate, the actual amount earned by the property in terms of rentals turned over by the tenant-farmers or caretakers of the land were duly receipted and were duly accounted for by the DBP.

DBP also alleges that the mere fact that DBP took possession and administration of the property does not warrant a finding that DBP was in bad faith. First, records show that the PIÑEDAS consented to and approved the takeover of DBP. Second, Sec. 7^[17] of Act No. 3135^[18] allows the mortgagee-buyer to take possession of the mortgaged property even during the redemption period. Third, DBP's act of consolidating the title of the property in its name does not constitute bad faith as

there is no law which prohibits the purchaser at public auction from consolidating title in its name after the expiration of the one (1) year redemption period reckoned from the time the Certificate of Sale was registered; and neither is there any law or jurisprudence which prohibits the PIÑEDAS from exercising their right of redemption over said property within five (5) years even if title is consolidated in the name of the purchaser. When DBP consolidated title over the property in its name, the new TCT issued in its favor was subject to the lien i.e. the right of redemption of the PIÑEDAS; if there was a failure to register this in the TCT, DBP should not be faulted. Besides, even if the five (5) year period of redemption was not indicated therein, Sec. 44^[19] and 46^[20] of Presidential Decree No. 1529^[21] attaches such lien by operation of law even in the absence of an annotation in the title. Moreover, Sec. 119 of CA No. 141 also makes said right of redemption a statutory lien, which subsists and binds the whole world despite the absence of registration.

DBP also could not have been in bad faith when it denied the PIÑEDAS' offer to redeem the property since the denial was premised on Opinion No. 92 of the Minister of Justice series of 1978 which stated that said land was covered under P.D. 27 and could not be the subject of foreclosure proceedings. For this reason, DBP immediately filed a petition to nullify the foreclosure proceedings which was favorably acted upon prior to the service of summons and the complaint in the present case on DBP on June 30, 1982. If DBP was really in bad faith, it would not have filed said petition for said petition was against its own interests.

Further, DBP asserts that PIÑEDAS appointed DBP as their attorney-in-fact or agent in case of foreclosure of the property under Section 4 of the mortgage contract, which provides:

"4. xxx In case of foreclosure, the Mortgagor hereby consents to the appointment of the mortgagee or any of its employees as receiver, without any bond, to take charge of the mortgage property at once, and to hold possession of the case and the rents and profits derived from the mortgaged property before the sale. xxx"^[22]

DBP was therefore entitled to take possession of the property pursuant to the mortgage contract.

Finally, considering that DBP lawfully had material possession of the property after it consolidated its title, DBP was entitled to the fruits and income thereof pursuant to Section 34, Rule 39 of the Rules of Court:

"Sec. 34. Rents and Profits Pending Redemption. Statement thereof and credit therefor on redemption. – The purchaser, from the time of the sale until a redemption, and a redemptioner, from the time of his redemption until another redemption, is entitled to receive the rents of the property sold or the value of the use or occupation thereof when such property is in the possession of a tenant. xxx"

Taking all this into consideration, DBP cannot be faulted for taking over possession of the property in question.

The core issue in this case is whether DBP was in bad faith when it took possession of the disputed lot.

We rule in the negative and find DBP's contentions meritorious.

A possessor in good faith is one who is not aware that there exists in his title or mode of acquisition any flaw, which invalidates it.^[23] Good faith is always presumed, and upon him who alleges bad faith on the part of a possessor rests the burden of proof.^[24] It was therefore incumbent on the PIÑEDAS to prove that DBP was aware of the flaw in its title i.e. the nullity of the foreclosure. This, they failed to do.

Respondent PIÑEDAS argue that DBP's bad faith stems from the fact that DBP consolidated title over the disputed property despite the statement in the Sheriff's Certificate of Sale to the effect that said land was subject to a five year redemption period. The period of redemption of extrajudicially foreclosed land is provided under Section 6 of ACT No. 3135 to wit:

"Sec. 6. In all cases in which an extrajudicial sale is made under the special power hereinbefore referred to, the debtor, his successors in interest or any judicial creditor or judgment creditor of said debtor, or any person having a lien on the property subsequent to the mortgage or deed of trust under which the property is sold, may redeem the same at any time within the term of one year from and after the date of sale; and such redemption shall be governed by the provisions of section four hundred and sixty-four to four hundred and sixty-six, inclusive, of the Code of Civil Procedure^[25] , in so far as these are not inconsistent with the provisions of this Act."

If no redemption is made within one year, the purchaser is entitled as a matter of right to consolidate^[26] and to possess^[27] the property.^[28] Accordingly, DBP's act of consolidating its title and taking possession of the subject property after the expiration of the period of redemption was in accordance with law. Moreover, it was in consonance with Section 4 of the mortgage contract between DBP and the PIÑEDAS where they agreed to the appointment of DBP as receiver to take charge and to hold possession of the mortgage property in case of foreclosure. DBP's acts cannot therefore be tainted with bad faith.

The right of DBP to consolidate its title and take possession of the subject property is not affected by the PIÑEDAS' right to repurchase said property within five years from the date of conveyance granted by Section 119 of CA No. 141. In fact, without the act of DBP consolidating title in its name, the PIÑEDAS would not be able to assert their right to repurchase granted under the aforementioned section. Respondent PIÑEDAS are of the erroneous belief that said section prohibits a purchaser of homestead land in a foreclosure sale from consolidating his title over said property after the one-year period to redeem said property has expired. Section 119 does not contain any prohibition to convey homestead land but grants the homesteader, his widow or legal heirs a right to repurchase said land within a period of five years in the event that he conveys said land. This is in consonance with the policy of homestead laws to distribute disposable agricultural lands of the State to land-destitute citizens for their home and cultivation.^[29] The right to repurchase under Section 119 aims to preserve and keep in the family of the homesteader that portion of public land which the State had gratuitously given him.^[30] Such right is based on the assumption that the person under obligation to reconvey the property has the full title to the property because it was voluntarily conveyed to him or that he consolidated his title thereto by reason of a redemptioner's failure to exercise his right of redemption.^[31] It is also settled that "the five-year period of redemption