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THIRD DIVISION

[G.R. No. 58281. November 13, 1991]

DIONISIO GOMEZ, FE GOMEZ, JUAN GEALONE, LUZ GOMEZ, AQUINO GUETA, DIONISIO GOMEZ, JR., LYDIA ANGELES, MILAGROS GOMEZ, EMILIO T. TRAILGALGAL, CESAR GEALONE, AMADA GOMEZ, RICARDO MANDANAS, ROSE GOMEZ, CONSOLACION ESPELA, NORMA GOMEZ, and CORAZON GOMEZ, *plaintiffs-appellees, vs.* **MARCELO GEALONE, LUCIA G. ESBER, ZOILO ESBER, ODEN BONTIGAO, HONORATO BONTIGAO, BENITO GEALONE, CESAR GEALONE, SEVERINO GERONA, TITO GERMEDIA, AURELIO GOBRIS, NEMESIO FORTES, PONCIANO GOBRIS, FLOSERFIDA GONA, and GORGONIO BONTIGAO,** *defendants-appellants*.

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; EXECUTION OF JUDGMENT; PROPERTIES EXEMPTED THEREFROM INCLUDE DEBTORS' FAMILY HOUSE CONSTITUTED IN ACCORDANCE WITH THE CIVIL CODE OR IN THE ABSENCE THEREOF THE HOMESTEAD IN WHICH HE RESIDES AND LAND NECESSARILY USED THEREAT; REASONS THEREFOR. — Among the properties which are exempt from execution is the debtor's family house constituted in accordance with the Civil Code, or in the absence thereof, the homestead in which he resides, and land necessarily used in connection therewith, both not exceeding in value of three thousand pesos (₱3,000.00). The reason for this exemption was expressed by the Supreme Court of Alabama in *Watts vs. Gordon*, 65 Ala. 546 quoted by this Court seventy (70) years ago in *Young vs. Olivares*, 41 Phil. 391, 395 (1921), thus: "The great controlling purpose and policy of the Constitution, is the protection, the preservation of the homestead, — the dwelling place. A houseless, homeless population, is a burden upon the energy and industry, and corrupting to the morals of the

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community, of which they may be members. No greater calamity, not tainted with crime, can befall a family, than to be expelled from the roof under which it has been gathered and sheltered. Protection of an estate or interest in lands, whatever may be its dignity or inferiority, merely because it is an estate or interest in lands, is not the purpose of the Constitution, or of the statutes. x x x It is the house, the dwelling place, — not of necessity, an estate or interest in lands, — which must be protected and preserved. x x x"

2. **ID.; ID.; ID.; ID.; HOMESTEAD AS AN EXEMPTION; RULE. —** A "homestead" refers to the dwelling house of the judgment debtor in which he resides and the land necessarily used in connection therewith. It is exempt from execution pursuant to Section 12 of Rule 39 if its value at the time of the execution sale was not more than ₱3,000.00. In *Cabuhat vs. Ansay*, (42 Phil. 170 174-175), We held: "When reference is had to 'value,' in the statute cited, it must be understood that the law-making body meant the amount which the property might reasonably be expected to bring if sold under the conditions prevailing at the time; and in a case where the property has actually been exposed to public sale, the price which it then brought is of necessity conclusive between the parties to the execution as to its value.

3. **ID.; ID.; ID.; ID.; RIGHT TO CLAIM EXEMPTION MUST BE EXERCISED WITHIN A REASONABLE PERIOD OF TIME. —** Although the Rules of Court does not prescribe the period within which to claim the exemption, the rule is, nevertheless, well-settled that the right of exemption is a personal privilege granted to the judgment debtor and as such, it must be claimed not by the sheriff, but by the debtor himself at the time of the levy or within a reasonable period thereafter: "In the absence of express provision it has variously held that claim [for exemption] must be made at the time of the levy if the debtor is present, that it must be made within a reasonable time, or promptly, or before the creditor has taken any step involving further costs, or before advertisement of sale, or at any time before sale, or within a reasonable time before the sale, or before the sale has commenced, but as to the last there is contrary authority."

4. **ID.; ID.; ID.; ID.; PURPOSE. —** Reasonable time, for purposes of the law on exemption, does not mean a time after the

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expiration of the one-year period provided for in Section 30 of Rule 39 of the Rules of Court for judgment debtors to redeem the property sold on execution, otherwise it would render nugatory final bills of sale on execution and defeat the very purpose of execution - to put an end to litigation. We said before, and We repeat it now, that litigation must end and terminate sometime and somewhere, and it is essential to an effective administration of justice that, once a judgment has become final, the winning party be not, through a mere subterfuge, deprived of the fruits of the verdict. We now rule that claims for exemption from execution of properties under Section 12 of Rule 39 of the Rules of Court must be presented before its sale on execution by the sheriff.

5. ID.; ID.; ID.; INADEQUACY OF THE PRICE, NOT A GROUND FOR SETTING ASIDE AN EXECUTION SALE. — The inadequacy of the price is not a ground for setting aside an execution sale unless the inadequacy is so great as to shock the conscience. As early as in the case of *Warner Barnes and Co. vs. Santos*, (14 Phil. 446), We held: "A judicial sale of real estate will not be set aside for inadequacy of price unless the inadequacy be so great as to shock the conscience or unless there be additional circumstances against its fairness." Besides, gross inadequacy of the purchase price is not material "when the law gives the owner the right to redeem as when a sale is made at public auction, upon the theory that the lesser the price the easier it is for the owner to effect the redemption.

APPEARANCES OF COUNSEL

Benjamin C. Gratela for plaintiffs-appellees.
Mario G. Fortes for defendants-appellants.

D E C I S I O N

DAVIDE, JR., *J.*:

May a sheriff's sale on execution of properties of a judgment debtor be set aside after the period of redemption had expired on the ground that either the properties are exempt from execution or that their value is grossly in excess of the judgment debt and

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costs, thereby resulting in an iniquitous transaction amounting to a deprivation of property without due process of law?

This is the principal issue in this case which was spawned by the trial court's denial of a motion to set aside an execution sale filed six (6) months after the lapse of the one-year redemption period. The denial order was appealed to the Court of Appeals. However, on 26 August 1981, or nearly four (4) years after it considered the case submitted for decision,[1] the Court of Appeals handed down a Resolution elevating the case to this Court on the ground that the errors raised in the appeal involved "purely questions of law."[2]

As gathered from the Amended Record on Appeal,[3] the following are the material operative facts and procedural antecedents in this case:

Plaintiffs-appellees filed with Branch II (Gubat) of the then Court of First Instance (now Regional Trial Court) of Sorsogon, a complaint, docketed as Civil Case No. 383, to recover from defendants-appellants a parcel of land with an area of 82,862 square meters located in Otavi, Bulan, Sorsogon. This property corresponds to Lot No. 6790 of the Bulan Cadastre. On 12 March 1971, the trial court rendered a decision in favor of plaintiffs-appellees, the dispositive portion of which reads:

"IN VIEW OF ALL THE FOREGOING, judgment is hereby rendered in favor of the plaintiffs and against the defendants by:

1. declaring plaintiffs as the lawful owners of the land described in paragraph 3 of the second amended complaint;
2. ordering each and everyone of the defendants to vacate immediately the portions of the land which they are positively occupying actually;
3. ordering defendants Lucia G. de Esber and Zoilo Esber to pay jointly and severally to plaintiffs the amount of ₱2,800.00 in terms of actual damages;

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[1] *Rollo,* 19.

[2] *Id.,* 24-28.

[3] *Id.,* 8, *et seq.*

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4. ordering all the defendants to pay the proportionate share of the cost of this suit."

Defendants-appellants appealed the above decision to the Court of Appeals which, however, dismissed the appeal on 5 December 1972 for failure of defendants-appellants to pay the docket fees within the reglementary period.

The trial court's decision became final and executory on 23 January 1973. On 29 March 1973, plaintiffs-appellees filed a motion for its execution which the trial court granted in its Order of 13 April 1973. On 17 April 1973, the Deputy Provincial Sheriff of Sorsogon delivered the land in dispute to plaintiffs-appellees.

Defendants-appellants Lucia G. de Esber and Zoilo Esber, however, failed to pay the ₱2,800.00 actual damages and their shares in the costs of the suit. For its satisfaction, the Provincial Sheriff levied on 4 May 1973 on the following properties of Lucia and Zoilo: (1) an agricultural land, Lot No. 8275, with an area of 12.2278 hectares located in Marinab, Bulan, Sorsogon and assessed at ₱1,220.00 under Tax Declaration No. 2248 in the name of Zoilo Esber; and (2) a residential land, Lot No. 360, with an area of 458 square meters, including the residential house thereon, located in Poblacion, Bulan, Sorsogon and assessed at ₱1,830 under a Tax Declaration in the name of Zoilo Esber.

On 26 May 1973, the Provincial Sheriff issued a Sheriff's Notice of Public Auction Sale of the foregoing properties, copy furnished defendant-appellant Zoilo Esber and the heirs of plaintiff-appellee Dionisio Gomez. The auction sale was scheduled for 21 June 1973, between 9:00 o'clock in the morning and 4:00 o'clock in the afternoon.

Plaintiffs-appellees Fe Gomez Gealone, Luz Gomez Gueta, and Aquino Gueta, for themselves and on behalf of the other plaintiffs, whose bid was ₱3,522.50, were the highest bidders for the properties.

On 23 June 1973, the Provincial Sheriff issued a Sheriffs Certificate of Sale to the above highest bidders, incorporating

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the statement that the sale is subject to the right of legal redemption within one year from the date of sale. Thereafter, on 27 June 1973, the Provincial Sheriff submitted to the trial court a Return of Service summarizing the proceedings of the 21 June 1973 auction sale.

On 27 June 1974, or after the lapse of the one-year redemption period, the Provincial Sheriff issued a Final Bill of Sale in favor of the highest bidders. Plaintiffs-appellees filed, on 11 July 1974, an *Ex-Parte* Motion for Issuance of Writ of Possession, which the trial court granted on 21 August 1974. The writ was issued on 4 September 1974.

The Provincial Sheriff then delivered the auctioned properties to plaintiffs-appellees on 9 September 1974. On 12 September 1974, he submitted a Return of Service.

On 14 September 1974, defendants-appellants Zoilo Esber and Lucia de Esber, through counsel, filed with the trial court an "Appearance and Manifestations" taking exceptions "on the proceedings in this case from the levy on execution of the real properties owned by the defendants, the auction sale, the issuance of the certificate and final sale, the writ of delivery of possession and consequent delivery of possession of the properties" arguing that (1) the real properties levied on execution and later sold in the auction sale have prior and registered liens in favor of third persons, and (2) the residential house and the land (on) which the building was constructed is a family home or homestead exempt from execution.

Consequently, plaintiffs-appellees filed, on 5 November 1974, a Petition To Declare Defendants In Contempt arguing that defendants Lucia G. de Esber and Zoilo Esber, despite the service of the writ and the warning of the Deputy Provincial Sheriff not to infringe and disobey the order of this Honorable Court, not to mention repeated demands made by the plaintiffs, failed and refused and continue to fail and refuse to vacate the properties described in the writ in open violation and disobedience of the order of the Court and to plaintiffs' damage and prejudice.

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Acting on the petition for contempt, the trial court issued an order on 27 November 1974 which, *inter alia*, directed Mr. Jesus G. Gaerlan, special deputy sheriff of the court, "to repair to the twelve-hectare portion which have (sic) been executed and for which a Bill of Sale has been issued, and then and there place the plaintiffs in immediate possession" thereof and to make a report to the court immediately after accomplishing the assignment, and warned that, hereafter, "any complaint by the winning party in regard to disturbance of their (sic) possession as well as enjoyment of the right of ownership of this twelve-hectare portion of land will be deemed an act of contempt for which the defendants and/or their agents shall be held responsible." It further stated that it will entertain a proper motion contesting the right to levy upon the property where defendant's house stands on the ground that it is exempt from execution under Rule 39 of the Rules of Court.

On 2 December 1974, special deputy sheriff Jesus G. Gaerlan submitted to the trial court a Report stating that plaintiffs-appellees were actually placed in possession of the 12-hectare land on 29 November 1974 at about 2:00 o'clock in the afternoon. This was followed by a Supplemental Report submitted on 5 December 1974 stating that on the very day of submission, Juan Gealone, one of the plaintiffs, and Anatolia Berjerano, informed him (Gaerlan) and the Clerk of Court that defendant Zoilo Esber is not the real owner of the land subject of the previous report, and that the true owner and actual possessor thereof is Anatolia Berjerano who inherited the same from her mother, Vicenta Siminaino. In support of her claim of ownership, Anatolia presented Tax Declaration No. 13966 in her name covering Lots Nos. 8274 and 8275, with an area of 13.6408 Has., which area appears to be more or less identical, as to location, with that covered by Tax Declaration No. 1524 of Zoilo Esber.

Consequently, defendants-appellants filed a Motion to Set Aside Execution Sale on 12 December 1974 on the grounds:

"1. That the property described and covered by Tax (Declaration) No. 2249, Lot No. 360 of the Bulan Cadastre in the Sheriffs Notice of Public Auction Sale is exempt from execution.

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2. That the execution sale violated Section 15, Rule 39 of the Revised Rules of Court in that the Sheriff sold more property tha(n) what was sufficient to pay the judgment debt and costs.

3. That the execution violated Section 21, Rule 39 of the Revised Rules of Court in that:

(a) The properties being of several known lots (but) the sheriff sold the whole property en masse, and

(b) The judgment debtor was not given a chance to direct the order or choose which property should be sold.

4. The value of defendants' properties as described in the Sheriff's Notice of Sale is materially and grossly in excess of the judgment debt and costs.

5. That the value of defendants' properties described in the Sheriff's Notice of Sale is grossly in excess of the judgment debt and costs so that enforcement of which amounted to fraud and abuse of discretion."

On 28 December 1974, plaintiffs-appellees filed their opposition to the above motion alleging therein that the failure to assert or claim the right to the exemption granted under Section 12 (a) of Rule 39 of the Revised Rules of Court within a reasonable time constituted an abandonment or waiver thereof, and that there is no merit to the other contentions of defendants.

The trial court issued an Order on 26 June 1975 denying defendants-appellants' Motion to Set Aside Execution Sale saying:

x x x x x x x x x

"In regard to the first ground, the defendants maintain that the parcel of residential land located at Poblacion, Bulan, Sorsogon, with an area of 485 square meters, together with a residential house of strong materials, with cement flooring, GI roofing and wooden walling, declared under Tax Declaration No. 2249 in the name of the defendant Zoilo Esber and assessed at ₱1,830.00 is a 'homestead' within the contemplation of Section 12, Par. (a) of Rule 39 of the Rules of Court.

Granting, *arguendo*, that such property is indeed a homestead and therefore exempt from execution, the rule nevertheless states that

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the right to claim exemption must be made by the one in whose favor it exists, a claim that rests primarily on the judgment debtor (22 Am. Jur. 90), which must be made at the time of levy if the debtor is present, or 'within the reasonable time, or promptly, or before the creditor has taken any step involving further questions, or before advertisement of sale, or before the sale, or within a reasonable time before sale, or before the sale has commenced' (35 CJS, 157, cited in Francisco, The Revised Rules of Court in the Phil., Vol. II, 1966, pp. 668 & 669).

In the case of *Cruz Herrera vs. McMicking*, 14 Phil. 641, the Supreme Court held:

> 'It is questionable whether it is the duty of a sheriff, when he has an execution to serve, to present the objection that the property of the judgment debtor is exempt from execution. The exemption provided for by the law is a right accorded to debtors, and a right which must be insisted upon or it may be lost. It would therefore seem to be the duty of the sheriff, whenever he finds property belonging to a judgment debtor when (he) has an execution to serve, to serve said execution upon said property and allow the judgment debtor to claim his right under the statute.'

Also, in the case of *Agatep vs. Taguinod*, 36 Phil. 435, it was held that:

> 'Before a debtor can take advantage of the exemption he must bring himself within the terms thereof. The burden of showing his right to the exemption is upon him and he must show himself entitled to it by satisfactorily evidence. If he fails to do so the right to exemption does not become effective and the property may be sold.'

Having asserted this claim for exception only after more than a year and a half had elapsed from the execution sale and about six months from and after the issuance of the Final Bill of Sale, this protest of the defendants comes too late.

The second question has reference to the sale at auction of an agricultural Zoilo Esber's Tax Declaration No. 1524 this property is mainly cogon and thicket land assessed at ₱1,960.00 and with a true market value of ₱4,890.00. And these valuations were made pursuant to Presidential Decree No. 76. Under the circumstances the Court

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finds that the disparity between the value at which the property has been sold at public auction to satisfy the judgment credit of ₱3,522.50 and that given in Tax Declaration No. 1524 is not so great as to shock the conscience of an ordinary prudent man."

Not satisfied with this Order, defendants-appellants appealed therefrom to the Court of Appeals.

In their Brief[4] filed on 26 May 1977 with the Court of Appeals, defendants-appellants made the following assignments of errors:

"I

THE LOWER COURT ERRED IN DETERMINING THE TIME THE JUDGMENT DEBTOR MAY CLAIM EXEMPTION FROM EXECUTION OF HIS RESIDENTIAL HOUSE AND LOT.

II

THE LOWER COURT ERRED IN RECKONING THE PRICE/ PROPERTIES SOLD IN AN EXECUTION SALE TO THEIR REAL OR TRUE VALUES TO SHOW IT IS EXCESSIVE AND INEQUITOUS (SIC).

III

THE LOWER COURT ERRED BY FAILING TO CONSIDER THE VIOLATIONS OF SECTION 15 AND 21, RULE 39, OF THE REVISED RULES OF COURT AS GROUNDS TO SET ASIDE THE EXECUTION SALE."

Plaintiffs-appellees did not file their Brief. On 2 September 1977, the Court of Appeals considered the case submitted for decision; thereafter, it certified the case to this Court on 26 August 1981.

Purged of unnecessary embellishments, the assigned errors merely recommend the issues We stated in the opening paragraph of this Decision.

1. Among the properties which are exempt from execution is the debtor's family house constituted in accordance with the Civil Code, or in the absence thereof, the homestead in which he resides, and land necessarily used in connection therewith,

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[4] *Rollo*, 13.

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both not exceeding in value of three thousand pesos (₱3,000.00).[5] The reason for this exemption was expressed by the Supreme Court of Alabama in *Watts vs. Gordon*,[6] quoted by this Court seventy (70) years ago in *Young vs. Olivares*,[7] thus:

> "The great controlling purpose and policy of the Constitution, is the protection, the preservation of the homestead, the dwelling place. A houseless, homeless population, is a burden upon the energy and industry, and corrupting to the morals of the community, of which they may be members. No greater calamity, not tainted with crime, can befall a family, than to be expelled from the roof under which it has been gathered and sheltered. Protection of an estate or interest in lands, whatever may be its dignity or inferiority, merely because it is an estate or interest in lands, is not the purpose of the Constitution, or of the statutes. x x x It is the house, the dwelling place, — not of necessity, an estate or interest in lands, — which must be protected and preserved. x x x"

The "homestead" which defendants-appellants Zoilo Esber and Lucia G. de Esber sought to be exempted from execution is a residential land with an area of 458 square meters, together with the house constructed thereon, located in the municipality of Bulan, Sorsogon with an assessed value of ₱1,830.00.

A "homestead" refers to the dwelling house of the judgment debtor in which he resides and the land necessarily used in connection therewith.[8] It is exempt from execution pursuant to Section 12 of Rule 39 if its value at the time of the execution sale was not more than ₱3,000.00. In *Cabuhat vs. Ansay*,[9] We held:

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[5] Section 12 (a), Rule 39, Rules of Court.

[6] 65 Ala. 546.

[7] 41 Phil. 391, 395 (1921).

[8] MORAN, M.V., *Comments on the Rules of Court*, Vol. II, 1979 ed., 290.

[9] 42 Phil. 170, 174-175 (1921).

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"When reference is had to 'value,' in the statute cited,[10] it must be understood that the law-making body meant the amount which the property might reasonably be expected to bring if sold under the conditions prevailing at the time; and in a case where the property has actually been exposed to public sale, the price which it then brought is of necessity conclusive between the parties to the execution as to its value."

The pleadings of the parties fail to disclose both the actual value of the property, which appellants claim to be a homestead, at the time of the execution sale, and the specific price for which it was sold on execution. What appears clearly is that this property and the 12-hectare lot were sold to the highest bidders for the consideration of ₱3,522.50. In the light of Cabuhat and, taking into account the declared value of the subject property (₱1,830.00) and the declared value of the 12-hectare lot (₱1,220.00), the "value" of the claimed homestead was less than ₱3,000.00 at the time of the execution sale. Consequently, it should have been excluded from execution.

Unfortunately, however, it was only on 12 December 1974, or nearly six (6) months after the execution of the Final Bill of Sale on 24 June 1974, that appellants filed their motion to set aside the execution sale. They did not object to both the levy on the property and the auction sale thereof. Neither did they oppose the execution of the certificate of sale and the Final Bill of Sale by the Sheriff. In short, they did not assert their right to claim exemption until six (6) months after the lapse of the one-year period to redeem the property.[11]

Although the Rules of Court does not prescribe the period within which to claim the exemption, the rule is, nevertheless, well-settled that the right of exemption is a personal privilege granted to the judgment debtor and as such, it must be claimed

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[10] Section 1 of Section 452 of the Code of Civil Procedure on exemption of a homestead from execution.

[11] Section 30, Rule 39, Rules of Court.

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not by the sheriff, but by the debtor himself at the time of the levy or within a reasonable period thereafter:[12]

"In the absence of express provision it has variously held that claim [for exemption] must be made at the time of the levy if the debtor is present, that it must be made within a reasonable time, or promptly, or before the creditor has taken any step involving further costs, or before advertisement of sale, or at any time before sale, or within a reasonable time before the sale, or before the sale has commenced, but as to the last there is contrary authority."[13]

In the light of the facts above summarized, it is self-evident that appellants did not assert their claim of exemption within a reasonable time. Certainly, reasonable time, for purposes of the law on exemption, does not mean a time after the expiration of the one-year period provided for in Section 30 of Rule 39 of the Rules of Court for judgment debtors to redeem the property sold on execution, otherwise it would render nugatory final bills of sale on execution and defeat the very purpose of execution to put an end to litigation. We said before, and We repeat it now, that litigation must end and terminate sometime and somewhere, and it is essential to an effective administration of justice that, once a judgment has become final, the winning party be not, through a mere subterfuge, deprived of the fruits of the verdict.[14] We now rule that claims for exemption from execution of properties under Section 12 of Rule 39 of the Rules of Court must be presented before its sale on execution by the sheriff.

2. The trial court did not err in holding that the price for which the lots were sold in the execution sale was not grossly inadequate. The assessed value of the 12-hectare lot (Tax Declaration No. 2248) is ₱1,220.00, and the assessed value of the other lot and the residential house thereon (Tax Declaration

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[12] MORAN, *op cit*., 294, citing *Young vs. Olivares, supra*; *Cruz Herrera vs. McMicking,* 14 Phil. 641; 25 C.J.S. 133.

[13] 25 C.J.S. 133.

[14] *Li Kim Tho vs. Sanchez*, 82 Phil 776; *Aguinaldo vs. Aguinaldo*, 36 SCRA 137.

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No. 2249) is ₱1,830.00. The combined assessed value is ₱3,050.00. Appellants, however, claim that the total assessed value is ₱3,790.00. Granting the latter to be correct, and conceding further, for the sake of argument, to the statement of appellants that the assessed value of real property for taxation purposes is 30% of the market value such that the market value then is ₱12,633.50,[15] still the price for which they were sold at the execution sale — ₱3,522.50 — is not grossly inadequate.

The inadequacy of the price is not a ground for setting aside an execution sale unless the inadequacy is so great as to shock the conscience. As early as in the case of *Warner Barnes and Co. vs. Santos*,[16] We held:

"A judicial sale of real estate will not be set aside for inadequacy of price unless the inadequacy be so great as to shock the conscience or unless there be additional circumstances against its fairness."

Besides, gross inadequacy of the purchase price is not material "when the law gives the owner the right to redeem as when a sale is made at public auction, upon the theory that the lesser the price the easier it is for the owner to effect the redemption."[17]

WHEREFORE, *judgment* is *hereby rendered AFFIRMING* <u>*in toto*</u> the Order appealed from, with costs against defendants-appellants.

IT IS SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Bidin, and *Romero, JJ.*, concur.

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[15] Brief for Appellants, 7.

[16] 14 Phil. 446; see also *Barrozo vs. Macaraeg*, 83 Phil. 378; *Jalandoni vs. Ledesma*, 64 Phil. 1058; *Pingol vs. Tigno*, 108 Phil. 623; *Pascua, et al. vs. Heirs of Simeon, et al.*, 161 SCRA 1 (1988).

[17] *Velasquez vs. Coronel*, 5 SCRA 985; *Vda. de Gordon vs. Court of Appeals*, 109 SCRA 388; *Francia vs. IAC*, 162 SCRA 753.