Supreme Court E-Library

to be just and reasonable compensation for the expropriated lands of respondent.

WHEREFORE, we *DENY* the petition. We *AFFIRM* the 19 August 2002 Decision and 28 August 2003 Resolution of the Court of Appeals in CA-G.R. CV No. 61749.

SO ORDERED.

Puno, C.J. (Chairperson), Corona, Leonardo-de Castro, and *Bersamin, JJ.,* concur.

FIRST DIVISION

[G.R. No. 162103. June 19, 2009]

MARYLOU B. TOLENTINO, M.D., *petitioner, vs.* **SHENTON REALTY CORP.,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; VERIFICATION OF A PLEADING; SUBSEQUENT SUBSTANTIAL COMPLIANCE RULE, APPLIED.— The corporate powers of a corporation, including the power to sue and be sued in its corporate name, are exercised by the board of directors. The physical acts of the corporation, like the signing of documents such as verification and certification of non-forum shopping, can only be performed by natural persons duly authorized for the purpose by corporate by-laws or by a specific act of the board of directors. In this case, although Virgilio Sintos, Jr. initially failed to show that he was authorized to sign the verification for the *Ex-Parte* Motion for Issuance of Writ of Possession, respondent submitted a Secretary's Certificate to the Court confirming that Virgilio Sintos, Jr. was indeed

Supreme Court E-Library

authorized by the board of directors. In the interest of justice, the Court may allow the relaxation of procedural rules where there is subsequent substantial compliance.

2. CIVIL LAW; MORTGAGE; REDEMPTION; A DEBTOR CANNOT BE GRANTED POSSESSION OF THE PROPERTY BY MERE FILING OF AN ACTION FOR JUDICIAL REDEMPTION WITHOUT PAYING OR CONSIGNING THE REDEMPTION PRICE WITH THE COURT.— [T]he debtor may redeem his property sold at an auction sale in an extrajudicial foreclosure of mortgage within one year from the date of registration of the certificate of sale. Under Article 13 of the Civil Code, a year consists of 365 days. Since the certificate of sale was annotated on the certificate of title (TCT No. 11637) only on 7 February 2001, petitioner could exercise her right to redeem the property until 7 February 2002. Although petitioner filed a complaint for judicial redemption on 6 February 2002, the records are bereft of any indication that petitioner ever paid or consigned with the trial court the redemption price. Furthermore, in all her pleadings, petitioner never indicated that she has already paid or consigned with the trial court the redemption price. x x x Considering the lack of consignation of the redemption price since the petitioner's filing of the action for judicial redemption on 6 February 2002, it would be unfair to deny respondent the possession of the property which it bought for ₱3,958,539.92 in a public auction on 24 September 1999. Between petitioner who has not paid or consigned with the trial court the redemption price, and respondent who bought the property as the highest bidder in the auction sale, the latter is more entitled to have possession of the property. Petitioner cannot be granted possession of the property by the mere expediency of filing an action for judicial redemption without ever paying or consigning the redemption price with the trial court.

APPEARANCES OF COUNSEL

Conrado C. Marquez for petitioner.

Felipe Atienza De Lumen Coloma & Associates for respondent.

Supreme Court E-Library

D E C I S I O N

CARPIO, *J.*:

The Case

This is a petition for review[1] of the Resolution dated 28 October 2003 and the Order dated 29 January 2004 of the Regional Trial Court of Mandaluyong City, Branch 213, in LRC Case No. MC-03-237.

The Facts

On 27 November 1996, petitioner obtained a ₱3,700,000 loan from the Bank of Southeast Asia, secured by a real estate mortgage over petitioner's property (property) covered by TCT No. 11637.[2] Upon petitioner's default in the payment of her obligation, the bank instituted extra-judicial foreclosure of real estate mortgage under Act 3135,[3] as amended by Act 4118.[4] During the public auction on 24 September 1999, the property was sold for ₱3,958,539.92 to respondent as the highest bidder. On 5 October 1999, respondent was issued a Certificate of Sale, which was annotated on the transfer certificate of title (TCT No. 11637) on 7 February 2001.

Meanwhile, on 6 February 2002, petitioner filed with the Regional Trial Court of Mandaluyong City, Branch 212, Civil Case No. MC-02-1736[5] against Bank of Southeast Asia (now merged with BPI Family Bank), Atty. Jimmy D. Lacebal, and the Register of Deeds of Mandaluyong City for Judicial Redemption, Equity on Accounting, Damages with Prayer for

---

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] *Rollo*, pp. 36-37.

[3] AN ACT TO REGULATE THE SALE OF PROPERTY UNDER SPECIAL POWERS INSERTED IN OR ANNEXED TO REAL-ESTATE MORTGAGES. Approved on 6 March 1924.

[4] Approved on 7 December 1933.

[5] Records, pp. 72-80.

Supreme Court E-Library

a Temporary Restraining Order or a Writ of Preliminary Injunction. Petitioner subsequently amended her complaint to implead respondent and BPI Family Bank.[6]

On 18 November 2002, respondent executed an Affidavit of Consolidation of Ownership.[7] Respondent then filed an *Ex-Parte* Motion for Issuance of Writ of Possession on 10 March 2003. LRC Case No. MC-03-237 was raffled to the Regional Trial Court of Mandaluyong City, Branch 213 (trial court).

On 3 June 2003, petitioner filed with the trial court a Motion with Leave to Intervene. In a Resolution dated 28 October 2003, the trial court denied the motion for lack of merit, holding that:

> This Court holds that intervention is not proper when there is no pending litigation. x x x [I]ntervention contemplates a suit, and is therefore, exercisable during a trial and, is one which envisions the introduction of evidence by the parties, leading to the rendition of the decision in the case. This concept is not contemplated by Section 7 of Act 3135, whereby under settled jurisprudence, the judge has to order the immediate issuance of a writ of possession (1) upon the filing of the proper motion and (2) the approval of the corresponding bond. The rationale for the mandate is to allow the purchaser to have possession of the foreclosed property without delay, such possession being founded on his right of ownership. A trial which entails delay is obviously out of the question.
>
> x x x x x x x x x
>
> Therefore, the order for a writ of possession issues as a matter of course upon the filing of the proper motion, no discretion is left to the court and any question regarding the equity in accounting (and subsequent cancellation of the writ) is left to be determined in a separate action x x x.[8]

---

[6] *Id.* at 144-152.

[7] *Rollo,* pp. 51-52.

[8] *Id.* at 22-24.

Supreme Court E-Library

Petitioner filed a motion for reconsideration, which the trial court denied in its Order dated 29 January 2004. The trial court also ordered the issuance of the writ of possession.

On 2 March 2004, petitioner filed this petition for review. Meanwhile, the trial court, acting on the *ex-parte* manifestation of respondent praying for immediate possession of the property, issued an Order[9] dated 19 May 2004 directing the immediate issuance of a writ of possession. On 24 May 2004, the writ of possession was issued commanding the trial court Sheriff to place respondent in possession of the property.

On 26 May 2004, petitioner filed a motion for the issuance of a temporary restraining order or writ of preliminary injunction. In a Resolution[10] dated 31 May 2004, the Court issued a temporary restraining order enjoining the trial court from implementing the Order dated 19 May 2004 in LRC Case No. MC-03-237, upon petitioner's filing of a bond in the amount of ₱20,000. Upon receipt of the Court's Resolution, petitioner posted the ₱20,000 cash bond on 7 June 2004.[11] On 14 June 2004, the Court approved the bond and issued the temporary restraining order.[12]

However, it appears that on 2 June 2004, the Sheriff already conducted an inventory and turned over the property to respondent. In his comment,[13] the Sheriff stated that the trial court received a copy of the Court's Resolution dated 31 May 2004 only on 3 June 2004, a day after the writ of possession was implemented.

The Issue

Petitioner alleges that the trial court erred in issuing the writ of possession despite the defective *ex-parte* motion for issuance

---

[9] *Id.* at 65.

[10] *Id.* at 69-71.

[11] *Id.* at 72.

[12] *Id.* at 80.

[13] *Id.* at 127-136.

of writ of possession and the lack of bond as mandated under Act 3135.

The Ruling of the Court

We find the petition without merit.

Authority of Corporate Officer to File the Petition for Writ of Possession

Petitioner alleges that Virgilio Sintos, Jr., who signed the verification for the *Ex-Parte* Motion for Issuance of Writ of Possession, failed to show that he was duly authorized to represent respondent. Virgilio Sintos, Jr. was the Assistant Vice President of BPI Family Savings Bank, Inc. and the Attorney-in-Fact of respondent. Respondent claims that Virgilio Sintos, Jr. was duly authorized by the board of directors as shown by the Secretary's Certificate[14] dated 25 November 2002, which respondent attached to its memorandum submitted to the Court.

The corporate powers of a corporation, including the power to sue and be sued in its corporate name, are exercised by the board of directors.[15] The physical acts of the corporation, like the signing of documents such as verification and certification of non-forum shopping, can only be performed by natural persons duly authorized for the purpose by corporate by-laws or by a specific act of the board of directors.[16]

In this case, although Virgilio Sintos, Jr. initially failed to show that he was authorized to sign the verification for the *Ex-Parte* Motion for Issuance of Writ of Possession, respondent submitted a Secretary's Certificate to the Court confirming that Virgilio Sintos, Jr. was indeed authorized by the board of directors. In the interest of justice, the Court may allow the

---

[14] *Id.* at 225. It stated that Virgilio Sintos, Jr. is the Vice President of Shenton Realty Corp.

[15] See Sections 23 and 36 of the Corporation Code.

[16] *Spouses Firme v. Bukal Enterprises & Devt. Corp.*, 460 Phil. 321 (2003).

Supreme Court E-Library

relaxation of procedural rules where there is subsequent substantial compliance.[17]

Judicial Redemption Without Consignation of Redemption Price

In extrajudicial foreclosures, the requisites for a valid redemption are provided under Section 6 of Act 3135, as amended, thus:

> 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 the sale; and such redemption shall be governed by the provisions of sections four hundred and sixty-four to four hundred and sixty-six, inclusive, of the Code of Civil Procedure [now Rule 39, Section 28 of the 1997 Rules of Civil Procedure], in so far as as these are not inconsistent with the provisions of this Act.

Section 28, Rule 39 of the 1997 Rules of Civil Procedure provides:

> SEC. 28. *Time and manner of, and amounts payable on, successive redemptions; notice to be given and filed.* — **The judgment obligor, or redemptioner, may redeem the property from the purchaser, at any time within one (1) year from the date of the registration of the certificate of sale, by paying the purchaser the amount of his purchase, with one *per centum* per month interest thereon in addition, up to the time of redemption, together with the amount of any assessments or taxes which the purchaser may have paid thereon after purchase, and interest on such last named amount at the same rate**; and if the purchaser be also a creditor having a prior lien to that of the redemptioner, other than the judgment under which such purchase was made, the amount of such other lien, with interest. (Emphasis supplied)

---

[17] *Pasricha v. Don Luis Dison Realty, Inc.*, G.R. No. 136409, 14 March 2008, 548 SCRA 273; *Novelty Phils., Inc. v. Court of Appeals*, 458 Phil. 36 (2003).

Supreme Court E-Library

Thus, the debtor may redeem his property sold at an auction sale in an extrajudicial foreclosure of mortgage within one year from the date of registration of the certificate of sale. Under Article 13 of the Civil Code, a year consists of 365 days. Since the certificate of sale was annotated on the certificate of title (TCT No. 11637) only on 7 February 2001, petitioner could exercise her right to redeem the property until 7 February 2002.

Although petitioner filed a complaint for judicial redemption on 6 February 2002, the records are bereft of any indication that petitioner ever paid or consigned with the trial court the redemption price. Furthermore, in all her pleadings, petitioner never indicated that she has already paid or consigned with the trial court the redemption price. In *Tolentino v. Court of Appeals*,[18] the Court held:

> It should, however, be noted that in *Hi-Yield Realty, Inc. v. Court of Appeals*, we held that the action for judicial redemption should be filed on time and in good faith, the redemption price is finally determined and paid within a reasonable time, and the rights of the parties are respected. Stated otherwise, the foregoing interpretation has three critical dimensions: (1) timely redemption or redemption by expiration date; (2) good faith as always, meaning, the filing of the action must have been for the sole purpose of determining the redemption price and not to stretch the redemptive period indefinitely; and (3) **once the redemption price is determined within a reasonable time, the redemptioner must make prompt payment in full**.[19] (Emphasis supplied)

Considering the lack of consignation of the redemption price since the petitioner's filing of the action for judicial redemption on 6 February 2002, it would be unfair to deny respondent the possession of the property which it bought for ₱3,958,539.92 in a public auction on 24 September 1999. Between petitioner who has not paid or consigned with the trial court the redemption price, and respondent who bought the property as the highest bidder in the auction sale, the latter is more entitled to have

---

[18] G.R. No. 171354, 7 March 2007, 517 SCRA 732.

[19] *Id.* at 744-745.

Supreme Court E-Library

possession of the property. Petitioner cannot be granted possession of the property by the mere expediency of filing an action for judicial redemption without ever paying or consigning the redemption price with the trial court.

WHEREFORE, the petition is *DENIED*.

SO ORDERED.

Puno, C.J. (Chairperson), Corona, Leonardo-de Castro, and *Bersamin, JJ.,* concur.

SPECIAL THIRD DIVISION

[G.R. No. 164648. June 19, 2009]

ERIC L. LEE, *petitioner, vs.* **HON. HENRY J. TROCINO, Presiding Judge of the Regional Trial Court, Sixth Judicial Region, Branch 62, Bago City, THE OFFICE OF THE *EX-OFFICIO* SHERIFF of the Regional Trial Court, Sixth Judicial Region, Branch 62, Bago City, and MAGDALENO M. PEÑA,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; JUDGMENTS; EFFECT OF AN AMENDED DECISION; AMENDED AND SUPPLEMENTAL JUDGMENT, DISTINGUISHED.— The August 18, 2000 Amended Decision is an entirely new decision which superseded and extinguished the original January 12, 2000 decision. There is a difference between an amended judgment and a supplemental judgment. In an amended and clarified judgment, the lower court makes a thorough study of the original judgment and renders