



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

**METROPOLITAN BANK & TRUST
COMPANY,**

G.R. No. 175768

Petitioner,

Present:

- versus -

SERENO, *CJ*, Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, *JJ*.

**SPOUSES EDGARDO M.
CRISTOBAL and MA. TERESITA S.
CRISTOBAL,**

Promulgated:

DEC 11 2013

Respondents.

X ----- X

DECISION

SERENO, *CJ*:

This is a Rule 45 appeal¹ dated 26 December 2006 assailing the Decision² and Resolution³ of the Court of Appeals (CA) in CA-G.R. SP No. 80874, which affirmed the Decision⁴ of the Regional Trial Court (RTC), Branch 13, Malolos, Bulacan in LRC Case No. P-65-2003, denying the Petition for Issuance of a Writ of Possession filed by the Metropolitan Bank & Trust Company (petitioner).

The antecedent facts are as follows:

On 14 September 1998, respondents Spouses Edgardo M. Cristobal and Ma. Teresita S. Cristobal obtained a loan from petitioner Metropolitan Bank and Trust Company in the amount of ₱4,500,000.00. The loan was secured by two real estate mortgages and its three amendments, which respondents executed in favor of petitioner.⁵

¹ *Rollo*, pp. 3-25.

² *Id.* at 26-36; CA Decision dated 10 August 2006, penned by Presiding Justice Ruben T. Reyes, and concurred in by Associate Justices Rebecca De Guia-Salvador and Vicente Q. Roxas.

³ *Id.* at 37-38; CA Resolution dated 6 December 2006.

⁴ *Id.* at 87-88; RTC Order dated 5 March 2003, penned by Presiding Judge Andres B. Soriano.

⁵ *Id.* at 27.

Despite demand, respondents failed to pay their loan, resulting in the extrajudicial foreclosure and auction sale of their mortgaged properties (subject properties). In the auction sale, petitioner emerged as the highest bidder, so a Certificate of Sale was issued in its name. This certificate was duly registered in the Registry of Deeds of Bulacan on 11 September 2002.⁶

Consequently, petitioner demanded that respondents vacate the properties covered by the mortgage. However, this went unheeded, forcing petitioner to file with the trial court a petition seeking a Writ of Possession over the foreclosed properties.⁷

On 30 June 2003, the RTC issued an Order⁸ to wit:

It is uncontroverted that the 12 month redemption period has not yet expired hence it is incumbent upon the petitioner bank to post bond in an amount equivalent to the use of the property for a period of twelve months. However, petitioner did not proffer any evidence from whence the Court could base the bond required under Section 7 of Act 3135.

WHEREFORE, in view of the foregoing, the application is **DENIED**.

SO ORDERED. (Emphasis in the original)

In disposing of the application, the lower court ruled that petitioner did not submit sufficient evidence from which it could base the amount of bond required in an application for a writ of possession done within the 12 month redemption period.⁹

Petitioner seasonably moved to reconsider the judgment,¹⁰ but this was also denied in an Order¹¹ dated 22 September 2003, herein quoted as follows:

Acting on the “Ex-Parte Motion for Reconsideration (to the Decision dated June 30, 2003) with Motion for Leave of Court to Recall Petitioner’s Witness” and taking note that the 12-month period for redemption in this case has already expired as of September 11, 2003, the Court finds no useful purpose nor compelling reason to reconsider its decision dated June 30, 2003, the motion is DENIED.

SO ORDERED.

Aggrieved, petitioner appealed via a Petition for Certiorari on 4 December 2003.¹² Petition argued that “granting *arguendo* that petitioner

⁶ Id.

⁷ Id.

⁸ Supra note 4.

⁹ Id. at 88.

¹⁰ Id. at 89-91.

¹¹ Id. at 92.

¹² Id. at 93-111.

should have presented evidence for the purpose of fixing the bond, the redemption period already expired on September 11, 2003; hence, posting of a bond is no longer necessary.”¹³ This appeal was however dismissed by the CA in a Decision dated 10 August 2006, the relevant portion of which is herein quoted as follows:¹⁴

Indeed, while the posting of a bond is no longer necessary upon the expiration of the redemption period, it is however required that ownership over the property be consolidated with the purchaser of the foreclosed property. Verily, the presentation of a transfer certificate of title in the name of the purchaser is a condition *sine qua non* for the issuance of a writ of possession.

We have examined the record *vis-à-vis* petitioner’s insistence on its entitlement to the writ and found that the claim is premature. The record is bereft of any indication that petitioner bank has consolidated its ownership over the subject parcels of land. x x x.

WHEREFORE, the petition is **DENIED** for lack of merit.

SO ORDERED.

In affirming the RTC, the CA explained that in accordance with Section 7 of Act 3135, the trial court has the duty to issue a writ of possession before the lapse of the 12-month redemption period; but this is qualified by the receipt of an ex-parte application and the posting of the required bond.¹⁵ In this case, the trial court denied the application because petitioner failed to discharge its burden of providing ample information upon which the amount of the bond could be based.¹⁶

Moreover, even if the 12-month redemption period had already expired and the need for a bond already dispensed with, possession could not yet be given to petitioner until the ownership is consolidated and a new transfer certificate of title issued in its name.¹⁷

On 24 August 2006, petitioner filed a Motion for Reconsideration,¹⁸ arguing that “the grounds upon which We [the CA] anchored the denial of the petition has [sic] since disappeared in light of the consolidation of titles over the subject properties by the petitioner.”¹⁹ In a Resolution promulgated on 6 December 2006,²⁰ the CA denied petitioner’s Motion in the following wise:

x x x Anent the claims of a supervening event, petitioner should be minded that it is not precluded from re-filing the petition for a writ of

¹³ Id. at 106.

¹⁴ Supra note 2.

¹⁵ Id. at 30-32.

¹⁶ Id.

¹⁷ Id. at 33-34.

¹⁸ Id. at 40-42.

¹⁹ Id. at 38.

²⁰ Supra note 3.

possession in the Court *a quo* especially so since it now meets the grounds for the issuance of the said writ.

ACCORDINGLY, the motion for reconsideration is **DENIED**.

SO ORDERED. (Emphasis in the original)

Hence, the instant Petition.

This Court noted the following pleadings: (a) respondent's Comment dated 21 March 2007;²¹ (b) petitioner's Reply dated 10 July 2007;²² (c) respondent's Memorandum dated 20 November 2007;²³ and (d) petitioner's Memorandum dated 24 November 2007.²⁴

ISSUE

Considering that the 12-month redemption period has already lapsed and the need for a bond already dispensed with, we reduce the issue to whether or not consolidation of title is necessary before possession may be automatically given to petitioner.

THE COURT'S RULING

Petitioner insists that a review of Act 3135 will reveal that there is "absolutely nothing therein which provides that consolidation of ownership over the foreclosed property is required before a writ of possession may be issued."²⁵ Moreover, even assuming that consolidation is indeed required, petitioner faults the CA for refusing to recognize the fact that it had already consolidated its ownership over the subject properties, resulting in the issuance of Transfer Certificate of Title Nos. T-432045 (M) and T-432046 (M) in its name on 6 April 2004.²⁶

On the other hand, respondent alleges that the consolidated titles under petitioner's name were not submitted in the trial court. As such, petitioner cannot raise it as an issue for the first time in appeal.²⁷

We rule that a remand of this case to the trial court is necessary for the reception of evidence to determine if consolidation has taken place, this being a necessary requisite to the issuance of a writ of possession.

²¹ Id. at 140-143.

²² Id. at. 146-152.

²³ Id. at 177-187.

²⁴ Id. at 158-176.

²⁵ Id. at 12.

²⁶ Id. at 14.

²⁷ Id. at 182.

Petitioner can only demand possession after the consolidation of ownership in his name and the issuance to him of a new transfer certificate of title.

Jurisprudence articulates that “[t]he purchaser can demand possession at any time **following** the consolidation of ownership in his name and the issuance to him of a new transfer certificate of title. **After the consolidation of title in the buyer’s name for failure of the mortgagor to redeem the property, the writ of possession becomes a matter of right.**”²⁸ In fact, in *Sps. Edralin v. Philippine Veterans Bank*,²⁹ we have held that:

Consequently, the purchaser, who has a right to possession after the expiration of the redemption period, becomes the absolute owner of the property when no redemption is made. In this regard, the bond is no longer needed. The purchaser can demand possession at any time following the consolidation of ownership in his name and the issuance to him of a new TCT. After consolidation of title in the purchaser’s name for failure of the mortgagor to redeem the property, the purchaser’s right to possession ripens into the absolute right of a confirmed owner. At that point, the issuance of a writ of possession, upon proper application and proof of title becomes merely a ministerial function. Effectively, the court cannot exercise its discretion.

Hence, for petitioner to be issued a writ of possession, it must first clearly show that it has consolidated ownership of the subject properties in its name. It is only at this point that issuance of the writ becomes a ministerial function of the courts.

The issue of whether or not petitioner has consolidated ownership in its name is a question of fact best left to the determination of the lower court.

On this score, petitioner insists that we must take cognizance of a supervening event –that it has already consolidated the property’s title in its name, as evidenced by Transfer Certificate of Title Nos. T-432045 (M) and T-432046 (M).³⁰ While the Court has “ample authority to review and resolve matters not assigned and specified as errors by either of the parties in the appeal if it finds the consideration and determination of the same essential

²⁸ *Espinoza v. United Overseas Bank Phils.*, G.R. No. 175380, 22 March 2010, 616 SCRA 353, 360 citing *De Vera v. Agloro*, 489 Phil. 185 (2005). See also *Sps. Sarrosa v. Dizon*, G.R. No. 183027, 26 July 2010, 625 SCRA 556 citing *Metropolitan Bank & Trust Company v. Santos*, G.R. No. 157867, 15 December 2009, 608 SCRA 222; *Sps. Tolosa v. United Coconut Planters Bank*, G.R. No. 183058, 3 April 2013, 695 SCRA 138 citing *Sps. Lam v. Metropolitan Bank & Trust Company*, 569 Phil. 531, 536 (2008); and *Torbela v. Rosario*, G.R. No. 140528, 7 December 2011, 661 SCRA 633, 683.

²⁹ G.R. No. 168523, 9 March 2011, 645 SCRA 75, 85-86 citing *Saguan v. Philippine Bank of Communications*, 563 Phil. 696, 706-707 (2007).

³⁰ *Rollo*, pp. 44-45.

and indispensable in order to arrive at a just decision in the case,”³¹ we agree with the respondents that the Court cannot automatically accede to the alleged consolidation, for the matter is essentially a question of fact best left to the determination of the lower court. In *Republic v. Malabanan*,³² we held that:

[T]his Court has differentiated a question of law from a question of fact. A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts. For a question to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them. The resolution of the issue must rest solely on what the law provides on the given set of circumstances. Once it is clear that the issue invites a review of the evidence presented, the question posed is one of fact. Thus, the test of whether a question is one of law or of fact is not the appellation given to such question by the party raising the same; rather, it is whether the appellate court can determine the issue raised without reviewing or evaluating the evidence, in which case, it is a question of law; otherwise it is a question of fact.

Here, no question of law is involved, for it is clear that petitioner has the right to possession once it has established that ownership has been consolidated in its name. Consolidation is essentially factual in nature, as it requires the presentation of evidence.³³

Consequently, and in the interest of substantial justice, a remand of this case to the lower court is necessary to receive evidence if indeed consolidation has taken place, for the issuance of a writ of possession.

WHEREFORE, this case is hereby **REMANDED** to the Regional Trial Court, Branch 13, Malolos, Bulacan, for further proceedings in accordance with this Decision.

SO ORDERED.



MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

³¹ *Philippine Commercial and Industrial Bank v. Court of Appeals*, 242 Phil. 497, 504 (1988), citing *Insular Life Assurance Co., Ltd. Employees Association-NATU v. Insular Life Assurance Co., Ltd.*, 166 Phil. 505, 518 (1977).

³² G.R. No. 169067, 6 October 2010, 632 SCRA 338, 345, citing *Leoncio v. De Vera*, 569 Phil. 512 (2008). See also *Binay v. Odeña*, 551 Phil. 681, 689 (2007), citing *Velayo-Fong v. Velayo*, 539 Phil. 377, 386-387 (2006).

³³ *Id.*

WE CONCUR:

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Martin S. Villarama, Jr.
MARTIN S. VILLARAMA, JR.
Associate Justice

Bienvenido L. Reyes
BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Maria Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
Chief Justice