



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PHILIPPINE NATIONAL BANK,
Petitioner,

G.R. No. 187882

Present:

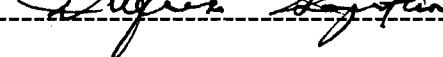
-versus-

VELASCO, JR., *J.*, Chairperson,
LEONARDO-DE CASTRO,^{*}
PERALTA,
PEREZ,^{**} and
JARDELEZA, *JJ.*

SPOUSES HIPPOCRATES
and MELANIE PIMENTEL,
Respondents.

Promulgated:

August 24, 2015

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DECISION

PERALTA, *J.*:

This deals with the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court praying that the Decision¹ of the Court of Appeals (CA), promulgated on February 27, 2009, and the Resolution² dated May 14, 2009, denying petitioner's motion for reconsideration thereof, be reversed and set aside.

The antecedent facts are as follows:

* Designated Acting member in lieu of Associate Justice Martin S. Villarama, Jr., per Special Order No. 2144 dated August 10, 2015.

** Designated Acting member in lieu of Associate Justice Bienvenido L. Reyes, per Special Order No. 2112 dated July 16, 2015.

¹ Penned by Associate Justice Andres B. Reyes, Jr., with Associate Justices Jose C. Reyes, Jr. and Normandie B. Pizarro, concurring; *rollo*, pp. 101-115.

² *Id.* at 146-147.

Respondents obtained a loan from petitioner Philippine National Bank (PNB) in the amount of Seven Million Four Hundred Forty Thousand Pesos (PhP7,440,000.00). As security for the loan, respondents executed a mortgage over their property, covered by TCT No. RT-106886, in favor of PNB. Respondents, however, defaulted and failed to pay despite repeated demands. Hence, PNB instituted extrajudicial foreclosure proceedings.

At the public auction, PNB was the highest bidder and, eventually, it was able to consolidate title in its name after the one-year redemption period expired on November 5, 1998. On July 6, 2001, TCT No. RT-106886 was cancelled and a new one, TCT No. N-225774, was issued in the name of PNB. PNB then demanded that respondents vacate and surrender the subject property, but the latter refused to comply with said demand. This prompted PNB to file an *Ex-Parte* Petition for the Issuance of Writ of Possession on November 27, 2001 with the Regional Trial Court (RTC) of Quezon City, Branch 222.

Meanwhile, on March 9, 2001, respondents had also filed a complaint for Annulment of Foreclosure of Mortgage, docketed as Civil Case No. Q-01-43625, raffled to the RTC of Quezon City, Branch 97. Herein parties, however, amicably settled said case and entered into a Compromise Agreement dated October 10, 2002. Pursuant to said Compromise Agreement, respondents withdrew the case against PNB and the parties executed a Deed of Conditional Sale, whereby respondents repurchased subject property from PNB for the consideration of Seven Million Five Hundred Thousand Pesos (PhP7,500,000.00). After a little more than a year, respondents again failed to pay amortizations as stipulated in the Deed of Conditional Sale. PNB then cancelled the Deed of Conditional Sale through a Notarial Notice of Rescission dated February 26, 2004.

Subsequently, PNB applied for a writ of possession with the RTC, which then ordered the issuance of said writ of possession in a Decision dated August 22, 2005, and the writ was eventually issued on March 27, 2006. However, respondents moved for reconsideration of the Decision dated August 22, 2005. On August 24, 2006, the RTC set aside the August 22, 2005 Decision, along with the Writ of Possession dated March 27, 2006.

PNB then filed a motion for reconsideration of said Order dated August 24, 2006, but said motion was denied. Aggrieved by the RTC's orders, PNB appealed to the CA. However, the appellate court, in its Decision dated February 27, 2009, affirmed the RTC Order setting aside the Decision granting the issuance of the Writ of Possession. The CA ruled that "the execution of a Deed of Conditional Sale between appellant and appellees had defeated the appellant's right to the issuance of a Writ of

Possession.”³ Petitioner's motion for reconsideration of the CA Decision was denied per Resolution dated May 14, 2009.

Elevating the matter to this Court *via* a petition for review on *certiorari*, petitioner now raises the following issues:

- I. The Honorable Court of Appeals erred in upholding the findings of the trial court that the petitioner could no longer invoke [the] provisions of Act No. 3135 when it entered into a Compromise Agreement with the private respondents in LRC Case No. 01-43625.
- II. The Honorable Court of Appeals erred in upholding the findings of the lower court when it set aside the Writ of Possession despite the fact that its issuance is ministerial on its part.
- III. The Honorable Court of Appeals erred in upholding the lower court in that the execution of the Deed of Conditional Sale between PNB and Spouses Pimentel has defeated PNB's right to the issuance of a Writ of Possession.
- IV. The Honorable Court of Appeals erred in upholding the lower court's findings that with the execution of the Deed of Conditional Sale between the PNB and Spouses Pimentel, a new relationship was created between the parties and what applies to this new relationship is no longer the law on extra-judicial foreclosure but the law on lease.⁴

Stripped down to its very essence, the only question to be resolved in this case is, whether the subsequent execution of the Deed of Conditional Sale effectively deprived PNB of its right to a writ of possession under the law on extra-judicial foreclosure.

The Court finds no merit in the petition.

At the outset, it must be pointed out that this case does not involve the concept of novation, which presupposes that the original contract is still valid and subsisting when another contract supplanted the previous one. That is not the situation in this case. Once the mortgaged property was sold at public auction and title to the property has passed and had been consolidated in the name of the winning bidder, the duties and obligations of the parties under the loan and mortgage contract had been fulfilled and the contract extinguished. The original loan and mortgage contract had been extinguished through payment or performance.⁵

³ *Rollo*, p. 107.

⁴ *Id.* at 14.

⁵ Article 1231 of the Civil Code of the Philippines provides: Obligations are extinguished: (1) By payment or performance x x x.

This is especially clear, if we consider the scenario where the winning bidder was some entity other than the creditor itself/himself. If some other entity emerged as the winning bidder at the public auction and became the new absolute owner after the debtor failed to redeem the property, it would be obvious that the mortgage contract would no longer hold sway. Evidently, the mortgagor-mortgagee regime, or the first contract, was extinguished and terminated once the winning bidder at the public auction became the absolute owner of the subject property. Thus, by the time PNB and respondents entered into the subsequent contract of conditional sale, the mortgage contract was no longer existing.

The pertinent portions of the Deed of Conditional Sale between herein parties state, thus:

1. Subject to the Vendee's compliance with the terms and conditions herein set forth, the Vendor [PNB] hereby agrees to sell, transfer and convey unto and in favor of the Vendee [herein respondents], his heirs, assigns, and successors-in-interest, all of the Vendor's rights, title and interests over and with respect to the Property.

2. The consideration of the sale is hereby fixed at the Principal amount of PHILIPPINE PESOS SEVEN MILLION FIVE HUNDRED THOUSAND ONLY (₱7,500,000.00) payable in accordance with the following schedule of payment:

X X X X

3. In the event the Vendee fails to pay any amount due on the dates specified in Section 2(b) hereof, any amount paid by the Vendee to the Vendor in consideration of the sale shall be deemed forfeited. In such event, the Vendor is hereby authorized to sell the property to other interested parties.

X X X X

5. The Vendee hereby waives his right to be placed in actual possession of the Property and agrees that upon execution hereof, he is deemed to have been constructively placed in possession thereof. The Vendee further agrees to undertake, at his own expense, to eject any occupants of the Property.

X X X X

9. Should the Vendee falls (sic) to pay any of the monthly amortizations or installments as and when due or any advances made by the Vendor as authorized herein, or to comply with any of the terms and conditions thereof, then the Vendor may, at its option and by written notice to the Vendee with respect thereto (i) consider the whole obligation due and demandable and defaulted; or (ii) cancel and/or rescind this Deed.

In case the Vendor opts to rescind this Deed, all improvements made and/or erected by the Vendee on the Property subject of this Deed shall automatically become property of the Vendor, without any obligation to indemnify the Vendee for their value, the same being considered as payment for the use or occupancy of the Property. In addition, all payments made by the Vendee to the Vendor pursuant hereto, shall be considered also as rentals for the occupancy and/or use of the Property as liquidated and ascertained damages. Moreover, the Vendor may immediately take actual possession of the Property and sell the same to other party/ies. In the event of a subsequent sale and the Vendor obtains a price less than the sale price above specified, the Vendee shall pay the difference to the Vendor as additional damages.

10. The Vendor shall retain ownership of and title to the Property subject of this sale until all the obligations of the Vendee under this Deed shall have been paid or complied with to the satisfaction of the Vendor. The Vendor shall then execute and deliver to the Vendee the final and absolute deed of sale covering the Property.

x x x⁶

A perusal of the foregoing contract would show that respondents, by entering into said contract, already acknowledged and admitted PNB's absolute ownership of subject property, and PNB's right to possession, as it is provided in Section 5 that respondents, as vendees, accept that PNB had constructively placed them in possession of the property upon execution of the contract. From such admissions and acknowledgment, there can be no other conclusion but that, even before the execution of the Deed of Conditional Sale, the regime of a mortgagor-mortgagee relationship between herein parties had already been extinguished.

Thus, at this point, where PNB is already the absolute owner of subject property and entitled to its possession, it had all the right to dispose of subject property by entering into a NEW contract of sale. This new contract is now an entirely distinct and separate one, considering that, as discussed above, the mortgagor-mortgagee relationship between herein parties had already been terminated and extinguished by the fulfillment of all the duties and obligations of the parties under said mortgage contract. In fact, as such absolute owner, PNB could have rightfully transacted the contract of sale with any party other than herein respondents. Verily, therefore, this is not a case of novation, but the commencement of another contractual relation between herein parties.

The next question then is, since there was an alleged breach of the subsequent contract of conditional sale, may PNB still regain possession of the subject property by applying for a writ of possession under Act No. 3135? The Court answers in the negative.

⁶ *Rollo*, pp. 58-59.

Section 7 of Act No. 3135 only provides for the procedure by which possession may be expeditiously turned over to the new owner, that is, the winning bidder at the public auction. It distinctly states that said rule of procedure for the issuance of a writ of possession applies only to “any sale made under the provisions of this Act x x x.”⁷ The rule is meant to benefit **only** the winning bidder at the public auction conducted in accordance with the provisions of Act No. 3135.

Plainly, when PNB executed the deed of conditional sale in favor of herein respondents, the transaction is no longer a sale under the provisions of Act No. 3135. On this ground alone, it is evident that PNB could no longer obtain a writ of possession under the provisions of Act No. 3135.

Moreover, when herein parties executed the Deed of Conditional Sale, where it was stipulated that PNB was constructively placing respondents in possession of subject property, the parties, in effect, admitted that PNB already had legal possession at that time. Upon execution of the contract, however, PNB voluntarily transferred possession to respondents. Pursuant to the terms of the Deed of Conditional Sale, respondents gained valid possession of the property, but ownership remained with PNB. Thus, when the Deed of Conditional Sale was rescinded, respondents' right to possess subject property became questionable.

What then is the proper course of action that an absolute owner should undertake to regain possession of his property? Section 1, Rule 70 of the Rules of Court provides that –

x x x a lessor, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied, or the legal representatives or assigns of any such lessor, vendor, or other person at any time within one (1) year after such unlawful deprivation or withholding of possession, bring an action in the proper Municipal Trial Court against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs.

As simplified by the Court in *Piedad v. Gurieza*,⁸ to wit:

Unlawful detainer is an action to recover possession of real property from one who unlawfully withholds possession thereof after the expiration or termination of his right to hold possession under any contract, express or implied. The possession of the defendant is unlawful

⁷ Emphasis supplied.

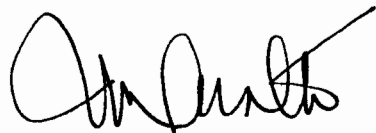
⁸ G.R. No. 207525, June 18, 2014, 727 SCRA 71.

detainer is originally legal but became illegal due to the expiration or termination of the right to possess. x x x⁹

Clearly, the foregoing is applicable to the case of PNB, it being the owner of the property against whom its possession was being withheld after the Deed of Conditional Sale had been rescinded. This action for unlawful detainer should have been the remedy resorted to by petitioner. Unfortunately, by this time, the one (1) year period for PNB to file a case for ejectment has lapsed, and, thus, its only recourse is to go through an action for recovery of possession.


WHEREFORE, the petition is **DENIED**. The Decision of the Court of Appeals dated February 27, 2009, and the Resolution dated May 14, 2009 in CA-G.R. CV No. 89413 are **AFFIRMED**.

SO ORDERED.



DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:



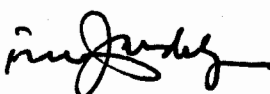
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice




FRANCIS H. JARDELEZA
Associate Justice

⁹ *Piedad v. Gurieza, supra*, at 76.

ATTESTATION

I attest 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.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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
Chief Justice