



**Republic of the Philippines  
Supreme Court  
Manila**

**SECOND DIVISION**

**RURAL BANK OF STA. G.R. No. 200667  
BARBARA (ILOILO), INC.,**

Petitioner, Present:

-versus-

**GERRY CENTENO,**

Respondent.

CARPIO, J., Chairperson,  
BRION,  
DEL CASTILLO,  
VILLARAMA, JR.,\* and  
PERLAS-BERNABE, JJ.

Promulgated:

MAR 11 2013

*Atty. Cabalag Perfecto*

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**RESOLUTION**

**PERLAS-BERNABE, J.:**

Assailed in this Petition for Review on *Certiorari*<sup>1</sup> is the January 31, 2012 Decision<sup>2</sup> of the Cebu City Court of Appeals (CA) in CA-G.R. CV No. 78398 which set aside the October 8, 2002 Decision of the Regional Trial Court of Barotac Viejo, Iloilo City, Branch 66 (RTC) in Cadastral Case No. 98-069<sup>3</sup> and denied the issuance of a writ of possession for Cadastral Lot Nos. 964, 958 and 959 of the Ajuy, Iloilo Cadastre (subject lots) in petitioner's favor.

**The Facts**

Spouses Gregorio and Rosario Centeno (Sps. Centeno) were the previous owners of the subject lots. During that time, they mortgaged the

\* Designated Acting Member per Special Order No. 1426 dated March 8, 2013.

<sup>1</sup> *Roll*, pp. 9-29.

<sup>2</sup> *Id.* at 35-43. Penned by Associate Justice Pampio A. Abarintos, with Associate Justices Eduardo B. Peralta, Jr. and Gabriel T. Ingles, concurring.

<sup>3</sup> *Id.* at 116-119. Penned by Judge Rogelio J. Amador.

foregoing properties in favor of petitioner Rural Bank of Sta. Barbara (Iloilo), Inc. as security for a ₱1,753.65 loan. Sps. Centeno, however, defaulted on the loan, prompting petitioner to cause the extrajudicial foreclosure of the said mortgage. Consequently, the subject lots were sold to petitioner being the highest bidder at the auction sale. On October 10, 1969, it obtained a Certificate of Sale at Public Auction<sup>4</sup> which was later registered with the Register of Deeds of Iloilo City on December 13, 1971.<sup>5</sup>

Sps. Centeno failed to redeem the subject lots within the one (1) year redemption period pursuant to Section 6<sup>6</sup> of Act No. 3135.<sup>7</sup> Nonetheless, they still continued with the possession and cultivation of the aforesaid properties. Sometime in 1983, respondent Gerry Centeno, son of Sps. Centeno, took over the cultivation of the same. On March 14, 1988, he purchased the said lots from his parents. Accordingly, Rosario Centeno paid the capital gains taxes on the sale transaction and tax declarations were eventually issued in the name of respondent.<sup>8</sup> While the latter was in possession of the subject lots, petitioner secured on November 25, 1997 a Final Deed of Sale thereof and in 1998, was able to obtain the corresponding tax declarations in its name.<sup>9</sup>

On March 19, 1998, petitioner filed a petition for the issuance of a writ of possession before the RTC, claiming entitlement to the said writ by virtue of the Final Deed of Sale covering the subject lots.<sup>10</sup> Respondent opposed the petition, asserting that he purchased and has, in fact, been in actual, open and exclusive possession of the same properties for at least fifteen (15) years.<sup>11</sup> He further averred that the foreclosure sale was null and void owing to the forged signatures in the real estate mortgage. Moreover, he claims that petitioner's rights over the subject lots had already prescribed.<sup>12</sup>

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<sup>4</sup> Id. at 36.

<sup>5</sup> Id. at 12.

<sup>6</sup> Section 6 of Act No. 3135 provides:

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, in so far as these are not inconsistent with the provisions of this Act. (Emphasis supplied)

<sup>7</sup> "AN ACT TO REGULATE THE SALE OF PROPERTY UNDER SPECIAL POWERS INSERTED IN OR ANNEXED TO REAL-ESTATE MORTGAGES."

<sup>8</sup> *Rollo*, p. 36.

<sup>9</sup> Id.

<sup>10</sup> Id. at 13.

<sup>11</sup> Id. at 37.

<sup>12</sup> Id.

### **Ruling of the RTC**

On October 8, 2002, the RTC rendered its Decision<sup>13</sup> in Cadastral Case No. 98-069, finding petitioner to be the lawful owner of the subject lots whose rights became absolute due to respondent's failure to redeem the same. Consequently, it found the issuance of a writ of possession ministerial on its part.<sup>14</sup> Dissatisfied, respondent appealed to the CA.

### **Ruling of the CA**

The CA, through its January 31, 2012 Decision,<sup>15</sup> reversed the RTC and ruled against the issuance of a writ of possession. It considered respondent as a third party who is actually holding the property adverse to the judgment obligor and as such, has the right to ventilate his claims in a proper judicial proceeding *i.e.*, an ejectment suit or rein vindicatory action.<sup>16</sup> Aggrieved, petitioner filed the instant petition.

### **Issue Before The Court**

The sole issue in this case is whether or not petitioner is entitled to a writ of possession over the subject lots.

### **The Court's Ruling**

The petition is meritorious.

It is well-established that 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, to a purchaser in an extrajudicial foreclosure sale becomes merely a ministerial function,<sup>17</sup> unless it appears that the property is in possession of a third party claiming a right adverse to that of the mortgagor.<sup>18</sup> The foregoing rule is contained in Section 33, Rule 39 of the Rules of Court which partly provides:

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<sup>13</sup> Id. at 116-119.

<sup>14</sup> Id. at 117.

<sup>15</sup> Id. at 35-43.

<sup>16</sup> Id. at 40-42.

<sup>17</sup> *Sagarbarria v. Philippine Business Bank*, G.R. No. 178330, July 23, 2009, 593, SCRA 645, 653.

<sup>18</sup> *Bank of the Philippine Islands v. Icot*, G.R. No. 168601, October 12, 2009, 603 SCRA 322, 331-332.

Sec. 33. *Deed and possession to be given at expiration of redemption period; by whom executed or given.* —

x x x x

Upon the expiration of the right of redemption, the purchaser or redemptioner shall be substituted to and acquire all the rights, title, interest and claim of the judgment obligor to the property as of the time of the levy. **The possession of the property shall be given to the purchaser or last redemptioner by the same officer unless a third party is actually holding the property adversely to the judgment obligor.** (Emphasis and underscoring supplied)

In *China Banking Corporation v. Lozada*,<sup>19</sup> the Court held that the phrase “a third party who is actually holding the property adversely to the judgment obligor” contemplates a situation in which a third party holds the property by adverse title or right, such as that of a co-owner, tenant or usufructuary. The co-owner, agricultural tenant, and usufructuary possess the property in their own right, and they are **not merely the successor or transferee of the right of possession** of another co-owner or the owner of the property.<sup>20</sup> Notably, the property should not only be possessed by a third party, but also held by the third party *adversely to the judgment obligor*.<sup>21</sup>

In this case, respondent acquired the subject lots from his parents, Sps. Centeno, on March 14, 1988 after they were purchased by petitioner and its Certificate of Sale at Public Auction was registered with the Register of Deeds of Iloilo City in 1971. It cannot therefore be disputed that respondent is a mere successor-in-interest of Sps. Centeno. Consequently, he cannot be deemed as a “third party who is actually holding the property adversely to the judgment obligor” under legal contemplation. Hence, the RTC had the ministerial duty to issue – as it did issue – the said writ in petitioner’s favor.

On the issue regarding the identity of the lots as raised by respondent in his Comment,<sup>22</sup> records show that the RTC had already passed upon petitioner’s title over the subject lots during the course of the proceedings. Accordingly, the identity of the said lots had already been established for the purpose of issuing a writ of possession. It is hornbook principle that absent any clear showing of abuse, arbitrariness or capriciousness committed by the lower court, its findings of facts are binding and conclusive upon the Court,<sup>23</sup> as in this case.

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<sup>19</sup> G.R. No. 164919, July 4, 2008, 557 SCRA 177.

<sup>20</sup> Id. at 202-204. Citations omitted; emphasis supplied.

<sup>21</sup> *BPI Family Savings Bank, Inc. v. Golden Power Diesel Sales Center, Inc.*, G.R. No. 176019, January 12, 2011, 639 SCRA 405, 416.

<sup>22</sup> *Rollo*, pp. 157-160.

<sup>23</sup> See *Castillo v. CA*, G.R. No. 106472 August 7, 1996, 260 SCRA 374, 382.

Finally, anent the issue of laches, it must be maintained that the instant case only revolves around the issuance of a writ of possession which is merely ministerial on the RTC's part as above-explained. As such, all defenses which respondent may raise including that of laches should be ventilated through a proper proceeding.

**WHEREFORE**, the petition is **GRANTED**. The January 31, 2012 Decision of the Cebu City Court of Appeals in CA-G.R. CV No. 78398 is **REVERSED** and **SET ASIDE**. Accordingly, the October 8, 2002 Decision of the Regional Trial Court of Barotac Viejo, Iloilo City, Branch 66 in Cadastral Case No. 98-069 is hereby **REINSTATED**.

**SO ORDERED.**

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

  
**ARTURO D. BRION**  
Associate Justice

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

**ATTESTATION**

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**ANTONIO T. CARPIO**

Associate Justice  
Chairperson, Second 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 Resolution 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