



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **August 31, 2022**, which reads as follows:*

“G.R. No. 251094 (*Philippine National Bank v. Spouses Rodolfo and Mildred Herman, and Raul Tabacug*). – Before this Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court filed at the instance of petitioner Philippine National Bank (PNB), seeking the review of the Decision² promulgated on October 29, 2019 of the Court of Appeals (CA) in CA-G.R. CV No. 05974, whereby the CA affirmed the Regional Trial Court’s (RTC) Decision granting spouses Rodolfo (Rodolfo) and Mildred Herman (spouses Herman), and Raul Tabacug (Raul), (collectively, respondents’) Petition to Surrender Transfer Certificate of Title (TCT) No. T-128852 filed against PNB.

The Antecedents

On May 16, 2011, respondents filed before the RTC of Kabankalan City, Negros Occidental a Petition to Surrender TCT No. T-128852 pursuant to Section 107 of Presidential Decree (P.D.) No. 1529, also known as the “Property Registration Decree.” Therein, respondents averred that spouses Herman are the registered owners of Lot 1 of the consolidation-subdivision plan (LRC) Pcs-23277, situated in Kabankalan City, Negros Occidental, covered by TCT No. T-128852 (subject lot). Spouses Herman and Raul entered into a contract of sale involving the subject lot. However, such sale could not be registered by reason of PNB’s refusal to surrender the owner’s duplicate certificate of title in its possession to the Register of Deeds (RD).³

¹ *Rollo*, pp. 25-44.

² *Id.* at 9-20; penned by Associate Justice Alfredo D. Ampuan, with Associate Justices Edgardo L. Delos Santos (now a retired Member of the Court) and Marilyn B. Lagura-Yap, concurring.

³ *Id.* at 9-10.

Respondents further alleged that prior to the sale, the subject lot was one of the properties of spouses Herman which had been mortgaged to the then Republic Planters Bank (RPB) to secure their indebtedness therefrom. Due to the lapse of time without any demand from RPB to settle their obligation, Rodolfo filed a case with the same RTC against Maybank Philippines, Inc. (Maybank), the bank which took over the business and operations of RPB, to declare the mortgages and obligations secured with the subject lot to have already prescribed and without further force and effect. This case was docketed as Civil Case No. 1077 (Cancellation of Mortgage Case). In this case, the RTC ruled in favor of Rodolfo and declared that the mortgages and obligations secured by the subject lot, and annotated in the title have prescribed and have no more force and effect. The RTC further ordered the RD to remove and cancel the encumbrances annotated on TCT No. T-128852.⁴

Thereafter, or on June 2, 2003, Rodolfo demanded from PNB's lawyer, Atty. Kenneth Alovera, who, was designated by PNB to appear in the case on behalf of Maybank, to deliver the TCT of the properties covered by the case. The demand, however, was left unheeded. Rodolfo sent another demand letter, this time, to PNB, requesting the delivery of TCT No. T-128852. PNB, however, did not take any action on it.⁵ Hence, respondents instituted a petition against PNB for the surrender of the owner's duplicate certificate of title in its possession.

In response, PNB asserted that respondents cannot demand the surrender of the owner's duplicate copy of TCT No. T-128852 as it has a claim over the subject lot covered by the title. PNB explained:

RPB was formerly owned by the national government through the Sugar Regulatory Administration and the Asset Privatization Trust (APT). Pursuant to the government's privatization program, APT adopted a privatization plan for the sale of the government's shares in RPB through public bidding with the primary objective for the [sic] restructuring of RPB's obligations with Bangko Sentral ng Pilipinas (BSP). The monetary board of BSP approved said privatization plan.

x x x x

On November 25, 1991, a public bidding was held wherein PNB was one of the bidders. Subsequently, APT recommended the bid of PNB, which the Monetary Board of BSP approved. **After the sale, RPB was then renamed to PNB-Republic Bank or PNB-RB.**

Among the conditions of the sale is for the rehabilitation of RPB and for RPB to pay off its obligation with BSP. In this regard, it was agreed that

⁴ Id. at 10-11.

⁵ Id. at 11.

PNB-RB shall transfer or convey to BSP certain loans and other asset accounts of RPB in settlement of its obligations to BSP.

Thus, PNB-RB, BSP, and PNB executed a Memorandum of Agreement (MOA) dated November 22, 1994 wherein certain rights and properties of RPB were transferred to BSP. These rights and properties were known as the "Assets Pool One" account. Further, PNB was... tasked to collect and bring suit in the name of BSP to recover the Assets Pool One accounts and to remit the proceeds to BSP.

x x x x

Subsequently, PNB requested BSP to amend certain provisions of the MOA dated November 22, 1994 in view of the planned sale of its sixty percent (60%) equity in RPB/PNB-RB to Malayan Banking Berhad. The Monetary Board approved these amendments. On April 14, 1998, BSP and PNB executed another MOA wherein PNB assumed the liabilities of RPB with BSP in the amount of Php3 Billion. PNB continued to be the collecting agent of BSP for the Assets Pool One accounts.

x x x x

On August 17, 2007, PNB and BSP executed an Amendment to the MOA dated April 14, 1998 wherein BSP released PNB from its obligations as collecting agent of BSP in the Assets Pool One accounts and transferred to PNB the sugar-related accounts under Assets Pool One accounts. **Thus, PNB now owns all Assets Pool One Accounts.**

x x x x

Among the accounts transferred under the Assets Pool One accounts were the loan accounts of Spouses Herman.⁶

In addition, PNB claimed that spouses Herman's basis for the Petition to Surrender the TCT was the decision rendered in the Cancellation of Mortgage Case, which declared that the mortgage on the subject lot annotated on the TCT No. T-128852 had already prescribed. PNB alleged that it was not made a party to that case, nor did it intervene; hence, the decision is not binding on it.⁷

The RTC Ruling

The RTC granted the Petition to Surrender TCT No. T-128852. It ruled that PNB was bound by the judgment of the RTC in the Cancellation of Mortgage Case. It explained that, though PNB was the successor-in-interest of RPB, it cannot claim to be unbound by the decision of the RTC in that case.⁸ The decretal portion of the RTC Decision reads as follows:

⁶ Id. at 11-13.

⁷ Id. at 13.

⁸ Id.

WHEREFORE, judgment is rendered in favor of the petitioners, oppositor/respondent Philippine National Bank or any of its representatives, agent or instrumentality, who is in possession of the owner's duplicate of Transfer Certificate of Title No. T-128852 is hereby directed to surrender to the Register of Deeds of Kabankalan City, within five (5) days from receipt hereof said owner's duplicate certificate. Should respondent Philippine National Bank fail or refuse to comply with the terms of this Order within the time specified, the Register of Deeds is authorized to cancel said owner's copy and issue a new one in lieu thereof.

SO ORDERED.⁹

Unsatisfied, PNB appealed the RTC Decision with the CA.

The CA Ruling

In the assailed Decision¹⁰ promulgated on October 29, 2019, the CA denied the appeal and affirmed the RTC Decision on the ground that the respondents' petition falls squarely with one of the instances when a petition for the surrender of withheld duplicate certificate of title may be availed of, that is, where a voluntary instrument cannot be registered by reason of the refusal or failure of the holder to surrender the owner's duplicate certificate of title.¹¹ On the contrary, PNB failed to present any argument which would exempt it from the application of Section 107 of P.D. No. 1529.

Furthermore, the CA concluded that the instant Petition to Surrender TCT No. T-128852 can be settled on its own merits without delving into the issue of whether PNB is the successor-in-interest of RPB in relation to the Cancellation of Mortgage Case.¹² The *fallo* of the assailed CA Decision reads:

WHEREFORE, the instant appeal is **DENIED**. The Decision dated 10 December 2015, of the Regional Trial Court, Branch 61, Kabankalan City, in Cadastral Case No. 942, is **AFFIRMED**, not on the ground relied therein, but on the ground as discussed above.

SO ORDERED.¹³

Hence, the instant Petition for Review on *Certiorari* interposing a lone error:

⁹ Id. at 13-14.

¹⁰ Id. at 9-20.

¹¹ Id. at 16.

¹² Id. at 19.

¹³ Id. at 20.

Issue

THE [CA] ERRED IN DIRECTING PETITIONER PNB TO SURRENDER THE OWNER'S DUPLICATE COPY OF TCT NO. T-128852 TO THE [RD] OF KABANKALAN CITY.¹⁴

The Court's Ruling

We dismiss the petition for lack of merit.

In the instant case, PNB insists that respondents rely on the Decision of the RTC in the Cancellation of Mortgage Case which ordered the cancellation of the annotation in the subject title as the main ground in their Petition to Surrender TCT No. T-128852; Since PNB was neither a party thereto nor a successor-in-interest of Maybank, it is not bound by such decision. PNB added that even assuming that it is bound by the decision therein, such judgment can no longer be enforced as more than 10 years had lapsed since it became final on December 27, 2002.¹⁵

Finally, PNB, while admitting that respondents have the right to petition the surrender of TCT No. T-128852 for the purpose of having the Deed of Sale executed by respondents registered with the RD, avers that being an unpaid creditor of spouses Herman, it has the right to possess and retain the owner's duplicate copy of TCT No. T-128852.¹⁶

We are not persuaded.

At the outset, We agree with the CA that the instant Petition to Surrender TCT No. T-128852 can be settled on its own merits without delving into the issues of whether PNB is the successor-in-interest of RPB or whether the Decision of the RTC in the Cancellation of Mortgage Case may still be enforced. Otherwise stated, even if We set aside the Cancellation of Mortgage Case, We can resolve the issues raised in the instant Petition to Surrender TCT No. T-128852.

Ownership of a property includes the right to enjoy and dispose of the thing owned, subject to limitations established by law. Correlatively, the right to enjoy consists: 1) *jus utendi* or the right to receive from the thing what it produces; 2) *jus abutendi* or the right to consume the thing of its use; and 3) *jus disponendi* or the right to dispose the thing, or the power of the owner to alienate, encumber, transform and even destroy the thing owned.¹⁷

¹⁴ Id. at 33.

¹⁵ Id. at 38-40.

¹⁶ Id. at 40.

¹⁷ *Archipelago Management and Marketing Corp. v. CA*, 359 Phil. 363, 377 (1998).

In the instant case, it has been established that spouses Herman are the registered owners of the subject lot covered by TCT No. T-128852. As owners thereof, despite the existence of a mortgage on the subject lot, they had the right to dispose of the same. Hence, when they sold the subject lot to Raul, they merely exercised their right as owners thereof. The sale, indubitably, is valid and in order for it to be binding to third persons, the parties thereto need to register the sale. However, it is likewise settled that no voluntary transaction affecting the land will be registered without the presentation of the owner's duplicate certificate of title.¹⁸ Despite demand, however, PNB refused and is continuously refusing to surrender the title covering the subject lot.

Section 107, P.D. No. 1529, on the other hand, provides:

Section 107. *Surrender of withhold duplicate certificates.* Where it is necessary to issue a new certificate of title pursuant to any involuntary instrument which divests the title of the registered owner against his consent or where a voluntary instrument cannot be registered by reason of the refusal or failure of the holder to surrender the owner's duplicate certificate of title, the party in interest may file a petition in court to compel surrender of the same to the Register of Deeds. The court, after hearing, may order the registered owner or any person withholding the duplicate certificate to surrender the same, and direct the entry of a new certificate or memorandum upon such surrender. If the person withholding the duplicate certificate is not amenable to the process of the court, or if for any reason the outstanding owner's duplicate certificate cannot be delivered, the court may order the annulment of the same as well as the issuance of a new certificate of title in lieu thereof. Such new certificate and all duplicates thereof shall contain a memorandum of the annulment of the outstanding duplicate.

This section of P.D. No. 1529 contemplates only two situations when a petition for surrender of withheld duplicate certificate of title may be availed of. In *Privatization and Management Office v. Quesada*,¹⁹ We discussed these two situations, thus: first, where it is necessary to issue a new certificate of title pursuant to any involuntary instrument which divests the title of the registered owner against his consent; and second, where a voluntary instrument cannot be registered by reason of the refusal or failure of the holder to surrender the owner's duplicate certificate of title.²⁰

The instant case clearly falls within the ambit of the above-quoted Section 107 of P.D. No. 1529. To recall, the Deed of Sale between respondents could not be registered due to PNB's refusal to surrender the owner's duplicate title of the subject lot. Hence, a petition in court to compel the surrender of the same to the RD is the proper remedy available to respondents.

¹⁸ PRESIDENTIAL DECREE NO. 1529, Section 53.

¹⁹ 818 Phil. 655 (2017).

²⁰ Id. at 665-666.

Notwithstanding, PNB strongly objects and refuses to surrender the title, and insists that it has the right to retain the title as spouses Herman have yet to pay the loan which is being secured by the subject lot. Simply stated, PNB fears that its interest in the subject lot would be prejudiced once the title is surrendered.

PNB's contention is untenable.

Section 59 of P.D. No. 1529 states:

Section 59. *Carry over of encumbrances.* If, at the time of any transfer, subsisting encumbrances or annotations appear in the registration book, they shall be carried over and stated in the new certificate or certificates; except so far as they may be simultaneously released or discharged.

This provision undoubtedly speaks of the ministerial duty on the part of the RD to carry over existing encumbrances to the certificates of title.²¹ Needless to state, in case of any transfer of a title, all encumbrances or annotations appearing thereon shall be carried over and stated in the new title.

In this case, the subsisting mortgage lien and obligations of spouses Herman to the then RPB appears in TCT No. T-128852. This was the finding of the CA, through the Decision of the RTC in the Cancellation of Mortgage Case, thus: "x x x the mortgages and obligations secured thereby covered by Entries Nos. 289795 and 291783 x x x and Entry No. 301213 annotated at the back of [TCT] No. T-128852 x x x."²²

Following the above-quoted Section 59 of P.D. No. 1529, if the title to the subject lot is surrendered and the sale between spouses Herman and Raul is registered or the title is transferred to Raul, the annotations and encumbrances appearing on the title would be carried over and preserved. PNB's interest over the subject lot, therefore, would not be prejudiced.

This has been Our pronouncement in the case of *Ligon v. CA*,²³ viz.:

The records of the case show that the subsisting mortgage lien of petitioner appears in the certificates of title Nos. 26520 and 26521. Hence, the order of the trial court directing the surrender of the certificates to the Register of Deeds in order that the deed of sale in favor of INK can be registered, cannot in any way prejudice her rights and interests as a mortgagee of the lots. Any lien annotated on the previous certificates of title which subsists should be incorporated in or carried over to the new transfer certificates of title. This is true even in the case of a real estate mortgage because pursuant to Art. 2126 of the Civil Code it directly and immediately

²¹ *Saberon v. Ventanilla*, 733 Phil. 275, 299 (2014).

²² *Rollo*, p. 11.

²³ 314 Phil. 689 (1995).

subjects the property upon which it is imposed, whoever the possessor may be, to the fulfillment of the obligation for whose security it was constituted. It is inseparable from the property mortgaged as it is a right in rem — a lien on the property whoever its owner may be. It subsists notwithstanding a change in ownership; in short, the personality of the owner is disregarded. Thus, all subsequent purchasers must respect the mortgage whether the transfer to them be with or without the consent of the mortgages, for such mortgage until discharged follows the property. It is clear therefore that the surrender by petitioner of the certificates of title to the Register of Deeds as ordered by the trial court will not create any substantial injustice to her. x x x²⁴ (Citation omitted)

From the foregoing, it is clear that PNB should be obliged to surrender the owner's duplicate copy of TCT No. T-128852 to the RD of Kabankalan City for the sole purpose of registering the sale between spouses Herman and Raul. Spouses Herman, however, may not insist that the Decision of the RTC in the Cancellation of Mortgage Case be enforced after PNB surrenders the title.

Section 6, Rule 39 of the Rules of Court provides:

Section 6. *Execution by motion or by independent action.* — A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations.

As held in the case of *Heirs of Tabora-Mabalot v. Gomez, Jr. (Gomez Case)*:²⁵

The prevailing party in a decided case may move for execution, as a matter of right, within five years from the finality of the decision sought to be enforced. Beyond this period, he may revive the judgment through an independent action. The Civil Code of the Philippines requires a party to bring the independent action within ten years from its finality. Otherwise, his right of action will have prescribed.²⁶ (Citations omitted)

To recall, on October 18, 2002, the RTC, in the Cancellation of Mortgage Case, ruled in favor of Rodolfo. The decretal portion of the Decision reads:

WHEREFORE, judgment is hereby rendered in favor of [Rodolfo] and against [Maybank]:

²⁴ Id. at 699.

²⁵ G.R. No. 205448, October 7, 2020.

²⁶ Id.

a) Declaring the mortgages and the obligations secured thereby covered by Entries Nos. 289795 and 291783 x x x and Entry No. 301213 annotated at the back of Transfer Certificate of Title No. T-128852 covering Lot 1 of the consolidation-subdivision plan (LRC) Pcs-23277 situated in Kabankalan City, Negros Occidental have already prescribed and have no more force and effect; and

b) Ordering the Register of Deeds of Negros Occidental to remove and cancel the aforesaid encumbrances annotated as Entries Nos. 289795 and 291783 x x x and Entry No. 301213 annotated on TCT No. T-128852 covering the lot also in Kabankaalan [sic] x x x.

SO ORDERED.²⁷

Such Decision became final and executory on December 27, 2002.²⁸

Notwithstanding, there is nothing on record that would show that Rodolfo prayed for the execution of this final Decision either by motion within the five year period or by an independent action after the lapse of the five year period but within 10 years from the finality of the said Decision as prescribed by the rules. Pursuant to the *Gomez* Case, Rodolfo may no longer enforce the Decision as his right to enforce the same had already been barred by statute of limitations. Furthermore, even assuming that the Decision may still be enforced, this is not the proper forum to seek for its execution.

Accordingly, it should be clarified that the sole purpose of the surrender of TCT No. T-128852 to the RD of Kabankalan, Negros Occidental is for the registration of the sale between Raul and spouses Herman, since as above-explained, the order of the RTC to cancel the annotations at the back of TCT No. T-128852 had already lapsed and may no longer be enforced.

All told, We find no reason to depart from the ruling of the RTC, as affirmed by the CA. It should be clarified, however, that the purpose of the surrender of the owner's duplicate copy of TCT No. T-128852 is for the registration of the sale between spouses Herman and Raul, and no other.

WHEREFORE, in view of the foregoing premises, the instant petition is **DENIED** for lack of merit. The assailed Court of Appeals Decision promulgated on October 29, 2019, in CA-G.R. CV No. 05974, is **AFFIRMED with clarification** in that the sole purpose of the surrender of the owner's duplicate copy of Transfer Certificate of Title No. T-128852 is for the registration of the sale between spouses Rodolfo and Mildred Herman, and Raul Tabacug.

²⁷ *Rollo*, pp. 10-11.

²⁸ *Id.* at 59.

SO ORDERED.”

By authority of the Court:

Misael Domingo C. Battung III
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Division Clerk of Court *10-12-22*

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