



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

NATIONAL HOME MORTGAGE
FINANCE CORPORATION,
Petitioner,

G.R. No. 206345

Present:

- versus -

CARPIO, J., *Chairperson*,
PERALTA,
MENDOZA,
LEONEN, and
JARDELEZA,* JJ.

FLORITA C. TAROBAL,
Respondent.

Promulgated:

23 JAN 2017

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DECISION

PERALTA, J.:

Before us is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court which seeks the reversal of the Decision² dated May 22, 2012, and Resolution³ dated March 7, 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 118824. The CA found no grave abuse of discretion on the part of the Regional Trial Court (RTC), Branch 73, Antipolo City, in issuing the Writ of Possession in favor of National Home Mortgage Finance Corporation (NHMFC) on a house and lot covered by Transfer Certificate of Title (TCT No. 580124) located at Lot 15, Block 20, Phase I, Golden City Subdivision, Brgy. Dolores, Taytay, Rizal.

The factual antecedents are as follows:

* Designated Additional Member per Special Order No. 2416, dated January 4, 2017.

¹ Rollo, pp.3-14.

² Penned by Associate Justice Rosmari D. Carandang, with Associate Justices Ricardo R. Rosario and Danton Q. Bueser, concurring; *id.* at 15-26.

³ *Id.* at 27-29.

Joy M. Dela Cruz (*Dela Cruz*) was the registered owner of a house and lot covered by TCT No. 580124 with an area of 103.60 square meters.⁴ On May 15, 1990, she obtained a housing loan from China Banking Corporation (*CBC*) in the amount of ₱257,400.00.⁵ To secure the loan, she executed a Loan and Mortgage Agreement covering the said property in favor of the bank. Dela Cruz also issued a Promisory Note covering the amount of the loan.

On December 5, 1990, through a Purchase of Loan Agreement, the bank assigned the loan of Dela Cruz to petitioner.⁶ Because of Dela Cruz's failure to pay her monthly amortization and arrearages, petitioner filed an Application for Extra-Judicial Foreclosure of Real Estate Mortgage to foreclose the mortgage account of Dela Cruz. Notice of Sheriff's Sale was issued and published in a newspaper of general circulation for three (3) consecutive weeks.⁷

On the date of the public auction on September 30, 1994, petitioner was the highest bidder. A Certificate of Sale was thereafter issued and registered with the Register of Deeds for the Province of Rizal on February 8, 2008.⁸ Despite receipt of the demand to surrender and turn over the possession of the foreclosed property, Dela Cruz failed to heed the demand.⁹ She also failed to redeem the property within the one-year period of redemption from the date of the registration of the sale. The period of redemption expired on February 8, 2009.¹⁰

In 2007,¹¹ petitioner conducted a Housing Fair¹² and a third party had applied for the subject property. Petitioner published in the newspaper, one month prior to the housing fair, all inventories of its foreclosed properties.¹³

On April 23, 2010, petitioner, upon the initiative of the buyer in the Housing Fair, filed an *Ex-Parte* Petition for Writ of Possession before the RTC, Branch 73, Antipolo City, for an issuance of a writ of possession on the subject property.¹⁴

⁴ *Id.* at 18.

⁵ *Id.* at 4.

⁶ *Id.*

⁷ *Id.* at 21.

⁸ *Id.* at 22.

⁹ *Id.* at 16.

¹⁰ *Id.* at 4.

¹¹ *Id.* at 4 and 95.

¹² In the Housing Fair Program of 2007, petitioner was authorized to sell, transfer and convey its rights, interests and participation on foreclosed properties mortgaged to it by different individual borrowers for Public and Private Sector Employees and Overseas Filipino Workers (OFW's); *id.* at 101.

¹³ *Rollo*, p. 18.

¹⁴ *Id.* at 4-5.

In an Order dated January 17, 2011, the RTC granted the petition.¹⁵ The RTC ratiocinated that the period of redemption had already expired with no redemption having been made, there was no justifiable ground why the writ of possession should not be issued.¹⁶

On February 15, 2011, a Motion for Reconsideration was filed by respondent Florita C. Tarobal. She alleged that sometime in May 2005, she bought the subject property as a result of the broker-assisted negotiation with the authorized unit holders. Upon acquisition, respondent and her relatives, took immediate control of the subject property and made the same their family home. Respondent claimed that she was neither notified of the public auction nor was a party to the foreclosure proceedings in violation of her right to due process. Hence, the certificate of sale cannot be enforced against her. She averred that she was lawfully occupying the subject property even at the time of the purported sale. She had introduced improvements, constructions or structures on the subject property in the amount of ₱250,000.00.¹⁷

On March 17, 2011, a Contract to Sell covering the subject property was executed between petitioner and Gilda J. Torres, the buyer in the Housing Fair Program of petitioner.¹⁸

On March 28, 2011, the RTC issued a Writ of Possession ordering the deputy sheriff to place petitioner in physical possession of the subject property. On March 30, 2011, the Sheriff's Notice to Vacate was issued ordering Dela Cruz and all persons claiming rights under her to voluntarily vacate the property on or before April 3, 2011. On April 5, 2011, the sheriff executed the writ of possession by ejecting Dela Cruz from the subject property, and all persons claiming rights under her as mortgagor, including herein respondent. The subject property was then delivered and turned over to petitioner as the mortgagee,¹⁹ and subsequently to Gilda J. Torres.²⁰

On April 6, 2011, respondent, who is a transferee of mortgagor Dela Cruz, filed a Petition for *Certiorari* before the CA. Respondent contended that there was grave abuse of discretion on the part of the RTC when it issued the writ of possession without resolving first her motion for reconsideration in violation of her right to due process.²¹ In a Decision dated May 22, 2012, the CA denied the petition for *certiorari*. The *fallo* of the Decision states:

WHEREFORE, finding no grave abuse of discretion amounting to lack or excess of jurisdiction on the part of public respondent, the instant

¹⁵ *Id.* at 16.

¹⁶ *Id.* at 17.

¹⁷ *Id.* at 17.

¹⁸ *Id.* at 101.

¹⁹ Turn-Over/ Delivery of Possession signed by Rolando P. Palmares, Sheriff IV, RTC, Branch 73, Antipolo City, *id.* at 109; *id.* at 18-19.

²⁰ *Rollo*, p. 5.

²¹ *Id.* at 20.



petition is **DENIED**. The assailed Order dated January 17, 2011, the Writ of Possession dated March 28, 2011 and the Notice to Vacate dated March 30, 2011 are **AFFIRMED**. However, respondent National Home Mortgage Finance Corporation is hereby ordered to give priority to herein petitioner Flora C. Tarobal to re-acquire to (sic) subject property under the provisions of the laws and rules related.

SO ORDERED.²²

A motion for reconsideration/clarification was filed by the petitioner with regard to the last sentence in the dispositive portion of the Decision ordering petitioner to give priority to herein respondent to reacquire the subject property under the provisions of the laws and rules related. Petitioner argued that re-acquisition by respondent of the subject property would adversely affect or defeat the rights of the buyer in the Housing Fair. It will allegedly violate the rights and interest of the buyer and invalidate whatever binding agreement or contract forged by petitioner and the said buyer. Further, petitioner averred that the Order giving priority to petitioner to re-acquire the subject property “clashes” with the CA’s Decision sustaining the propriety of the issuance of the writ of possession.²³

On March 7, 2013, the motion for reconsideration/clarification was denied by the CA. The CA ratiocinated:

The propriety of the issuance of the writ of possession is a different matter from the order giving petitioner the priority right to re-acquire the subject property. There is no incompatibility between the two (2) orders. It should be stressed that the writ of possession was properly issued as the period to redeem had lapsed with no redemption having been made by the mortgagor. A Certificate of Sale had been issued to respondent NHMFC being the highest bidder in the public auction sale of the foreclosed property. Hence, it was merely ministerial on the part of the RTC, Branch 73, Antipolo City to issue the writ of possession.

In ordering the respondent NHMFC to give priority to petitioner to re-acquire the subject property, this Court gave **due consideration to the fact that petitioner** who is **presently occupying the subject property** and has introduced improvements, constructions and structures thereon, has vigorously manifested her desire to recover the property by paying the full amount stated at the Housing Fair. Even the Housing and Urban Development Coordinating Council favorably acted on her request that she be given priority to re-acquire the subject property. Petitioner claimed that even before the foreclosure and the Housing Fair, she has been communicating with respondent NHMFC to pay and settle the price of the said property. But the same fell ion (sic) deaf ears. Respondent NHMFC did not refute this assertion of petitioner. It is but fair and just fair that petitioner be given priority to re-acquire the subject property under the provisions of the laws and rules related.²⁴

²² *Id.* at 56.

²³ *Id.* at 28.

²⁴ *Id.* at 28-29. (Emphasis supplied)

Hence, this petition, raising the following issues:

- A.) WHETHER OR NOT THE ASSAILED PORTION OF THE COURT OF APPEALS' DECISION IS WITHIN THE FUNCTION, OFFICE AND SCOPE OF THE WRIT OF CERTIORARI UNDER RULE 65 OF THE RULES OF COURT;
- B.) WHETHER OR NOT THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN ORDERING PETITIONER TO GIVE PRIORITY TO RESPONDENT TO REACQUIRE THE FORECLOSED PROPERTY GIVEN THE FACTS AND CIRCUMSTANCES OBTAINING.²⁵

It is the contention of the petitioner that the assailed portion of the CA Decision is beyond the issues which are proper in a petition for *certiorari* under Rule 65 of the Rules of Court. Petitioner argued that the CA should have limited itself to whether or not the RTC committed grave abuse of discretion in issuing the assailed Order granting the writ of possession in its favor. According to petitioner, while the CA Decision affirmed its right to possess the subject property, the recognition of respondent's right to re-acquire the subject property is unwarranted and beyond the issues raised in the petition for *certiorari*. As to the endorsement of the Housing and Urban Development Coordinating Council (HUDCC), petitioner averred that it is not a directive to petitioner, nor an assurance to respondent, that her request would be acted upon by petitioner, because allegedly there is no more basis to prioritize the request of respondent.

In her Comment,²⁶ respondent insisted that she be given priority rights to reacquire the subject property and that she would deliver to petitioner the required acquisition price. According to respondent, the endorsement of the HUDCC of her request to acquire the subject property may be considered as a directive to petitioner because HUDCC has the power of supervision over petitioner.

In its Reply,²⁷ petitioner stated that when respondent filed the petition for *certiorari* with the CA on April 6, 2011, petitioner was already in possession of the subject property since the writ of possession had been implemented. As in fact, respondent prayed that she be restored to the possession and enjoyment of the subject property. It was during the pendency of the case with the CA that respondent sent a written request to the HUDCC offering to reacquire the subject property. Petitioner reiterated that the HUDCC's action on respondent's letter requests merely partakes of an endorsement that respondent be given priority to reacquire the subject property. It is a mere request for a kind and favorable action on respondent's concern, and not an order for the petitioner to accede to respondent's request.

²⁵ *Id.* at 6.

²⁶ *Id.* at 68-82.

²⁷ *Id.* at 93-100.

We grant the petition.

The doctrine is that *certiorari* will issue only to correct errors of jurisdiction and that no error or mistake committed by a court will be corrected by *certiorari* unless said court acted without jurisdiction or in excess thereof or with such grave abuse of discretion as would amount to lack of jurisdiction. The writ is available only for these purposes and not to correct errors of procedure or mistake in the findings or conclusions of the judge.²⁸ It is strictly confined to the determination of the propriety of the trial court's jurisdiction whether it has jurisdiction over the case and if so, whether the exercise of its jurisdiction has or has not been attended by grave abuse of discretion amounting to lack or excess of jurisdiction.²⁹

The issue brought by respondent before the CA is whether or not there was grave abuse of discretion on the part of the RTC when it issued the writ of possession without resolving first the motion for reconsideration filed by respondent allegedly in violation of her right to due process. Hence, the subject of the petition for *certiorari* filed by respondent is the questioned Order of the RTC dated July 17, 2011 which granted the *ex parte* petition for the issuance of writ of possession in favor of petitioner. Therefore, the CA erred when it passed judgment on the right of respondent to reacquire the subject property. It overstepped the bounds of its authority in ordering the petitioner to give priority to respondent to repossess the subject property.

In the case of *Chua v. Court of Appeals*,³⁰ wherein the CA passed upon an issue way beyond its competence in a *certiorari* proceeding, We held, thus:

Indeed, respondent Court of Appeals acted *ultra jurisdiction* in affirming the judgment rendered by the Regional Trial Court on the ejectment and consignment cases. Elevated by petitioner to the Court of Appeals was only the propriety of the issuance of the writ of execution of the judgment by the trial court. The decision on the merits affirming the judgment of the Metropolitan Trial Court was never appealed, and rightfully so since petitioner earlier filed a motion for reconsideration with the trial court and was awaiting resolution thereof. Therefore, the authority of respondent appellate court was confined only to ruling upon the issue of whether the Regional Trial Court committed grave abuse of discretion in issuing the order directing the issuance of a writ of execution against petitioner. Whether the trial court committed a mistake in deciding the case on the merits is an issue way beyond the competence of respondent appellate court to pass upon in a *certiorari* proceeding.³¹

In the case at bar, respondent purchased the subject property from Dela Cruz through a Deed of Sale with Assumption of Mortgage dated May 3, 2005. She possessed the subject property as a transferee of Dela Cruz and any

²⁸ *Chua v. Court of Appeals*, 338 Phil. 262 (1997).

²⁹ *Ysidoro v. Doller*, 681 Phil. 1 (2012).

³⁰ *Supra* note 28.

³¹ *Id.* at 553-554.

right she had over the subject property was derived from Dela Cruz. She merely stepped into the shoes of Dela Cruz. Respondent is, therefore, the successor of interest of Dela Cruz to whom the latter had conveyed her interest in the property for the purpose of redemption.³²

The CA, in finding that there was no grave abuse of discretion on the part of the RTC, thereby affirmed the issuance on March 28, 2011 of the writ of possession ordering the RTC Deputy Sheriff to place petitioner in physical possession of the subject property. The CA likewise affirmed the issuance on March 30, 2011 of the Notice to Vacate against Dela Cruz, the owner/mortgagor of the subject property, and against all persons claiming rights under her as mortgagor, including herein respondent, to voluntarily vacate the property on or before April 3, 2011. The CA also affirmed the sheriff's execution of the writ of possession on April 5, 2011, by ejecting Dela Cruz from the subject property, and all persons claiming rights under her as mortgagor, including herein respondent.

The affirmance of the CA of the issuance of the aforesaid Orders by the RTC in favor of petitioner would then become meaningless, if not ineffectual, since a possible reacquisition of the subject property by respondent would prejudice the buyer in petitioner's Housing Fair Program for whose benefit the petition was filed. The priority given to respondent who reneged in the payment of her loan to petitioner will affect the vested right of the new buyer.

As correctly argued by petitioner, delving into the issue on whether respondent has a right over the property is not for the CA to pass upon. Not even the sale involving the subject property between petitioner and its buyer in the Housing Fair Program was made an issue in the petition before the CA which could have a bearing and materiality; neither its nullity was sought which could justify a reacquisition by respondent. Because in the petition for *certiorari*, the authority of the CA was limited to ruling upon the issue of whether or not the RTC committed grave abuse of discretion in issuing the Order dated January 17, 2011 granting the petition for the issuance of writ of possession in favor of the petitioner of the subject property.³³

In the case of *Municipality of Biñan, Laguna v. Court of Appeals*,³⁴ We reiterated that a special civil action for *certiorari* under Rule 65 is limited only to challenges against errors of jurisdiction, to wit:

Respondent Court of Appeals has no jurisdiction in a *certiorari* proceeding involving an incident in a case to rule on the merits of the main case itself which was not on appeal before it. The validity of the order of the regional trial court, dated December 14, 1989, authorizing the issuance

³² Rollo, p. 23.

³³ *Municipality of Biñan, Laguna v. Court of Appeals*, G.R. No. 94733, February 17, 1993, 219 SCRA 69, 77.

³⁴ *Supra*.

of a writ of execution during the pendency of the appeal therein was the sole issue raised in the petition for certiorari filed in respondent Court of Appeals.⁹The allegation that the decision of the municipal trial court was improvidently and irregularly issued was raised by private respondent only as an additional or alternative argument to buttress his theory that the issuance of a discretionary writ of execution was not in order, as can be gleaned from the text of said petition itself, to wit:

V. ERRORS/ISSUES

x x x x

Besides, when the respondent Judge issued the writ, it (*sic*) failed to consider that the judgment rendered by the inferior court was improvidently and irregularly issued, when said court failed to resolve first the pending Motion to Dismiss, a procedural process before any judgment on the merit(s) may be had.

Further, even assuming that the said issue was squarely raised and sufficiently controverted, the same cannot be considered a proper subject of a special civil action for certiorari under Rule 65 which is limited only to challenges against errors of jurisdiction.³⁵

In the instant case, respondent raised as an additional issue before the CA – the validity of the foreclosure sale for failure to allegedly comply with the notice requirement. The CA correctly ruled that any question regarding the validity of the mortgage or its foreclosure cannot be a legal ground for the refusal to issue a writ of possession, and the issue as to whether there was compliance with the notice requirement in the conduct of foreclosure sale is not proper in the petition for certiorari.³⁶

Ironically, the CA ruled on the priority right of the respondent to repossess the subject property. Apparently, this Order of the CA to give priority to respondent was based on its findings that respondent is presently occupying the subject property, and because of the endorsement from HUDCC. The ratiocination for the assailed portion of the Decision is hereunder reproduced:

The foregoing disquisition notwithstanding, We recognize the right of herein petitioner to re-acquire the subject property at the price offered during the Housing Fair, which is P300,000.00 more or less. **It should be stressed that petitioner is presently occupying the property** and has introduced improvements, constructions and structures thereon. Through her letter dated August 21, 2011, addressed to NHMFC, **petitioner has manifested her desire to recover the subject property which was being applied by a third party at the Housing Fair.** She is ready to pay the full amount stated at the Housing Fair. Likewise, petitioner is ready to reimburse the minimal deposit or down payment which was given by the private buyer

³⁵ *Id.* at 74-75.

³⁶ *Rollo*, p. 24, citing the case of *Torbela v. Spouses Rosario*, 678 Phil. 1 (2011).



during the housing fair. We take note that **this request of petitioner was favorably endorsed by the Housing and Urban Development Coordinating Council** to the President of NHMFC. Thus, petitioner should be given the priority to re-acquire the subject property.

The aforesaid finding of the CA is incorrect. The respondent has been ejected from the subject property as evidenced by the "*Turn-Over/ Delivery of Possession*"³⁷ signed by Rolando P. Palmares, Sheriff IV of the RTC. The sheriff executed the writ of possession on April 5, 2011 by ejecting Dela Cruz from the subject property, and all persons claiming rights under her as mortgagor, including herein respondent. The subject property was then delivered and turned over to petitioner as the mortgagee,³⁸ which was then subsequently turned over to the buyer in the Housing Fair Program who is presently in actual possession of the subject property.³⁹ Petitioner stressed that respondent never averred in her pleadings filed with the CA that she was still in possession of the subject property.

As in fact, in her Comment to the instant petition, respondent prayed that she be immediately restored to the possession and enjoyment of the subject property:

PRAYER

WHEREFORE, it is most respectfully prayed of this Honorable Court, after due hearing, to:

1. The Petition filed by NHMFC be DISMISSED;
2. Declare the Petitioner as having priority as endorsed by the concerned government agency, and that she has valid and legal right of possession over the property subject of this case;

Upon her settlement of the price, **that Petitioner** be declared entitled to and **be immediately restored to the possession and enjoyment of the subject of the said property.**

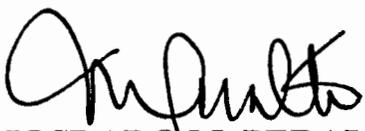
3. Other reliefs just and equitable are also prayed for under the premises.

Lastly, We note the manifestation of petitioner that respondent had the chance to settle her account with petitioner in 2005 but failed to file any application to reacquire the subject property. The respondent did not tender any amount as reservation while the subject property had not been sold to the public yet. Nor did she exercise her right to redeem the subject property during the period of redemption.

³⁷ *Rollo*, p. 109.
³⁸ *Id.* at 18-19.
³⁹ *Id.* at 98.

WHEREFORE, the petition at bar is **GRANTED**. The Decision of the Court Appeals dated May 22, 2012, and its Resolution dated March 7, 2013 in CA-G.R. SP No. 118824, insofar as it ordered petitioner National Home Mortgage Finance Corporation to give priority to respondent Florita C. Tarobal to reacquire the subject property covered by Transfer Certificate of Title No. 580124 under the provisions of the laws and rules related, are hereby **REVERSED** and **SET ASIDE**.

SO ORDERED.

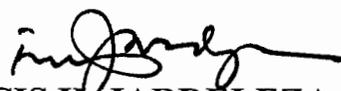

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


JOSE CATRAL MENDOZA
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice

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.



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 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

