



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

ENGR. FELIPE A. VIRTUDAZO
and SPOUSE ESTELITA M.
VIRTUDAZO,

Petitioners,

- versus -

G.R. No. 229693

Present:

PERALTA, *C.J.*, *Chairperson*,
CAGUIOA, *Working Chairperson*,
REYES, J. JR.,
LAZARO-JAVIER, and
LOPEZ, *JJ.*

ALIPIO LABUGUEN AND HIS
SPOUSE DAMIANA MABUTI
and GENARA LABUGUEN,
Respondents.

Promulgated:

DEC 10 2019

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DECISION

REYES, J. JR., J.:

This Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assails the Decision² dated February 4, 2016 and Resolution³ dated January 19, 2017 of the Court of Appeals-Mindanao (CA) in CA-G.R. CV No. 03324-MIN. The CA reversed the RTC ruling, and instead affirmed herein respondents' ownership over a 270-square meter portion of the subject property.

¹ *Rollo*, pp. 28-60.

² Penned by Associate Justice Edgardo A. Camello and concurred in by Associate Justices Maria Filomena D. Singh and Perpetua T. Atal-Paño; *id.* at 62-77.

³ *Id.* at 79-80.

Facts

The present controversy involves a parcel of land owned by Spouses Gavina Sadili-Maurin and Florentino Maurin (spouses Maurin) under Original Certificate Title (OCT) No. P-10087⁴ with an area of 600 square meters (sq m) and located at Poblacion, Digos City, Davao del Sur. Spouses Maurin mortgaged this land, together with its improvements, to the Development Bank of the Philippines (DBP)⁵ as security for their loan.

On March 20, 1984, and after Gavina Sadili-Maurin's death, Florentino Maurin agreed to convey a 270-sq m portion of the land and its improvements to respondent Alipio S. Labuguen under an instrument denominated as a Memorandum of Agreement (MOA).⁶ Alipio S. Labuguen agreed to pay and, in fact, paid ₱120,000.00, and undertook to assume the obligations of spouses Maurin to DBP. Thereupon, the Labuguens occupied said portion.⁷ DBP, however, refused Alipio S. Labuguen's offer to assume the loan obligation.⁸

Nevertheless, on August 31, 1984, and while the mortgage loan with the DBP was still outstanding,⁹ the heirs of Gavina Sadili-Maurin executed an Extrajudicial Settlement of the Estate of Gavina Sadili-Maurin with Sale (EJS with Sale)¹⁰ wherein they conveyed the 270-sq m portion of the land, with the building erected on it, to Alipio S. Labuguen. Unlike the previous MOA, the EJS with Sale did not contain any obligation for Alipio S. Labuguen to assume spouses Maurins' loan with the DBP. Neither the MOA nor the EJS with Sale were registered.¹¹

Upon failure of spouses Maurin to pay their loan obligations, DBP extrajudicially foreclosed the entire property and was declared the highest bidder at the auction sale on May 9, 1986.¹² The records do not disclose when the sheriff's certificate of sale was registered. The records also do not show whether a certificate of final sale had been issued in favor of DBP.

Later, Florentino Maurin offered the entire property for sale to petitioner Engr. Felipe A. Virtudazo (Felipe Vertudazo). Felipe Virtudazo agreed to purchase the lot from DBP. Thus, on May 18, 1987, Felipe Virtudazo issued a check in the amount of ₱625,000.00 to purchase the

⁴ Id. at 85-90.

⁵ Id. at 63.

⁶ Id. at 83-84.

⁷ Id. at 94.

⁸ Id. at 64.

⁹ Id.

¹⁰ Id. at 81-82.

¹¹ Id. at 94.

¹² Id. at 64.

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property in his name. It turned out, however, that Florentino Maurin used Felipe Virtudazo's check to redeem the foreclosed lot in his name.¹³

This led Felipe Virtudazo to file a complaint for Specific Performance or Recovery of Sum of Money, Damages and Attorney's Fees with Preliminary Injunction against DBP, with spouses Maurin later on included as intervenors.¹⁴ Felipe Virtudazo initially prayed that DBP be ordered to execute a document of sale in his favor.¹⁵ In the course of trial, it was shown that Florentino Maurin refused to convey the property to Felipe Virtudazo.¹⁶ Felipe Virtudazo also testified that he was no longer interested in purchasing the property as it was "problematic," being that Alipio S. Labuguen was occupying a portion thereof.¹⁷ He thus, instead, prayed for the return of his ₱625,000.00.¹⁸

Meanwhile, on September 21, 1987, Alipio Labuguen filed a complaint for Annulment of Deeds and Damages with Request for Issuance of Writ of Preliminary Attachment against the heirs of Gavina Sadili-Maurin. He prayed that the EJS with Sale be annulled as it allegedly contravenes the 10-year prohibition against conveyances of land covered by a free patent. Allegedly, this was the reason why Alipio S. Labuguen did not register either the MOA or the EJS with Sale. Spouses Alipio S. Labuguen and Damiana Mabuti (spouses Labuguen) instead, demanded for the return of their ₱120,000.00 which Florentino Maurin refused.¹⁹ They also caused the annotation of a Notice of *Lis Pendens* on the lot's title.²⁰

Felipe Virtudazo's complaint for Specific Performance or Recovery of Sum of Money was resolved in his favor with the RTC finding that Florentino Maurin benefited from Felipe Virtudazo's money which the former used in settling his loan obligations with the DBP.²¹ Thus, the trial court ordered Florentino Maurin to return to Felipe Virtudazo the amount of ₱625,000.00. The trial court also ordered DBP to deliver the Deed of Reconveyance and the OCT over the subject property to Florentino Maurin.²² The trial court's decision read in part:

The [spouses Maurin] benefited from the money of the [spouses Virtudazo] because the property which was already foreclosed by the DBP was finally returned to them after they paid for their obligation to the DBP using the money of the [spouses Virtudazo]. There are strong evidences [sic] showing that [Florentino Maurin] refused to go on with the agreement to sell the property to the [spouses Virtudazo] before this case was filed. In fact, the

¹³ Id.

¹⁴ Id.

¹⁵ Id. at 65.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id. at 64-65.

²⁰ Id. at 65.

²¹ Id.

²² Id. at 66.

original action was that the [spouses Virtudazo] were compelling the DBP to execute a document of sale which the DBP cannot lawfully do because the DBP has no more right over the property. There is of course a final decision on the part of [Felipe Virtudazo] not to go on with the acquisition of the property but to recover the money used by [Florentino Maurin] to buy back the property. His testimony is quoted below:

- Q. Mr. Virtudazo, what do you want now with the [DBP] do [sic] in connection with this case, now?
- A. What I wanted of the [DBP] is in order that they will return to me my money in the amount of [₱]625,000.00 [sic].
- Q. Why, are you not interested anymore in acquiring that property?
- A. I am not interested anymore because there is a legal occupant or problems regarding Mr. Labuguen.

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This testimony of Felipe Virtudazo shows his decision to forego with his prayer for specific performance and go on with his prayer for recovery of sum of money. This was emphasized by his counsel Atty. Dominador N. Calamba II, which among others prayed for the return of the [₱]625,000.00.

With these evidences [sic], the court is convinced that the payment made to the [DBP] was clearly receipted in the name of intervenor Florentino Maurin because the property which was previously mortgaged to the [DBP] and subject of this case is owned by him. The DBP is not clearly shown to be a party to the agreement between [Felipe Virtudazo], the plaintiff and [Florentino Maurin], the intervenor.

WHEREFORE, premises considered, the Court finds the [intervenor] Florentino Maurin liable to return to [spouses Virtudazo] the sum of SIX HUNDRED TWENTY-FIVE THOUSAND ([₱]625,000.00) PESOS.

Further, the [DBP] is directed to deliver the Deed of Reconveyance and the Original Certificate of Title No. P-10087 to [Florentino Maurin].

SO ORDERED.²³

Pursuant to this decision, DBP executed a *Deed of Redemption* dated April 28, 1995 in favor of Florentino Maurin. Florentino Maurin, however, failed to pay the amount of ₱625,000.00 to Felipe Virtudazo. Consequently, on April 26, 1995, the subject property was levied upon for auction.²⁴ At the auction, the entire property was sold in favor of spouses Felipe A. Virtudazo and Estelita²⁵ Virtudazo (spouses Virtudazo) in the amount of ₱625,000.00, they being the highest bidder.²⁶ After the expiration of the one-year

²³ Id. at 65-66.

²⁴ Id. at 97-98.

²⁵ "Esterlita" in some parts of the *rollo*.

²⁶ Id. at 99-102.

redemption period, a new title covering the entire property was issued in the name of spouses Virtudazo.²⁷

Meantime, on March 13, 2003, spouses Labuguen complaint for Annulment of Deeds was dismissed by the RTC. The RTC held that the prohibition on the transfer or alienation of a homestead patent within 10 years no longer applied.²⁸

Because spouses Labuguen refused to vacate the 270-sq m portion of the property and to pay the accumulated rents, spouses Virtudazo filed the complaint *a quo* for Quieting of Title, Recovery of Possession, Attorney's Fees and Damages against them.

Ruling of the RTC

In ruling that spouses Virtudazo had a better right over the 270-sq m portion of the property, the court *a quo* reasoned that the MOA and the EJS with Sale were a conditional sale that was not perfected because spouses Labuguen failed to comply with the assumption of mortgage therein contained. It held that spouses Labuguen only had the right to possess the property which they lost when DBP foreclosed the mortgage. It also adjudged spouses Labuguen to be builders in bad faith since they knew that the property was mortgaged, that it was foreclosed, and that another title has been issued in the name of spouses Virtudazo. The lower court also held that when Florentino Maurin purchased the property after the foreclosure, he purchased it anew and such did not operate to restore spouses Labuguen's rights which were "cut off" at the expiration of the redemption period.

On January 7, 2013, the court *a quo* rendered judgment with the following disposition:

WHEREFORE, IN VIEW OF THE ABOVE, judgment is hereby rendered in general for the [spouses Virtudazo] and partly for the [spouses Labuguen] insofar as the improvements, viz.:

a) Declaring [spouses Virtudazo] and [their] successors-in-interest to be the true and lawful owners of the entire 600 square meters parcel of land covered by TCT No. T-34310;

b) Ordering [spouses Labuguen], their families, agents, assigns, sub-lessees, and successors-in-interest, to immediately vacate and surrender to [spouses Virtudazo] the possession of the Two Hundred Seventy (270) Square Meters portion [of the] property covered by TCT [No.] T-34310;

c) Ordering [spouses Virtudazo] to pay [spouses Labuguen] in the amount of ₱60,000.00 plus six percent (6%) per annum reckoned from May

²⁷ Id. at 103-104.

²⁸ Id. at 96.

15, 1987 as reimbursement of the improvements introduced; or at its option, the [spouses Labuguen] may remove it without destroying the property;

d) Dismissing [spouses Labuguen's] counterclaim;

e) No pronouncement as to costs.

SO ORDERED.²⁹

Spouses Labuguen appealed to the CA arguing in the main that the EJS with Sale was an absolute sale making them lawful owners of the 270-sq m portion of the property. As such, they argued that the levy in favor of spouses Virtudazo was invalid insofar as it included the 270-sq m portion owned by them.

Ruling of the CA

The CA resolved three issues on appeal: *first*, whether the EJS with Sale was an absolute sale or a conditional sale; *second*, whether the foreclosure of the mortgage by the DBP “cut off” the rights of spouses Labuguen over the 270-sq.m. portion; and *third*, whether the levy upon the entire property, including the 270-sq.m. portion, was valid.

In granting spouses Labuguen's appeal, the CA ruled that the EJS with Sale was an absolute sale by virtue of which they became owners of the 270-sq m portion of the lot together with the building. Spouses Labuguen in fact attempted to register the EJS with Sale only to be advised by their counsel that it could not be registered as the conveyance was allegedly contrary to law, thus they instituted an action against spouses Maurin to recover their ₱120,000.00.

The CA further held that the foreclosure of the entire property and the subsequent redemption thereof by Florentino Maurin did not extinguish spouses Labuguen's ownership over the 270-sq m portion. It held that Florentino Maurin's act of redeeming the entire property served to discharge the mortgage, and, thus restored spouses Labuguen's right of ownership sans any lien.³⁰

Finally, the CA held that the levy and execution sale of the property, insofar as it included the 270-sq m portion, was invalid. It held that the levy and auction should not have included the 270-sq m portion since this no longer belonged to Florentino Maurin. Finally, the CA held that spouses Virtudazo were not buyers in good faith, having known that the property had an adverse claimant.³¹

²⁹ Id. at 34.

³⁰ Id. at 73.

³¹ Id. at 75-76.

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The CA accordingly disposed:

FOR THESE REASONS, the appeal of [spouses Labuguen] is GRANTED. The assailed Decision of the RTC Branch 19 of Digos City, Davao del Sur, in Civil Case No. 4877 is REVERSED. [Spouses Labuguen] are declared the rightful owners of the 270-[sq m] portion of the lot covered by what is now presently TCT No. T-34310 and the building erected on this portion of the lot. [Spouses Virtudazo] are ordered to RECONVEY to [spouses Labuguen] the 270-square meter portion of the lot covered by TCT No. T-34310.

SO ORDERED.³²

The denial of spouses Virtudazo's motion for reconsideration led to the filing of the instant petition raising the following:

Issues

I.

The Honorable Court of Appeals gravely erred when it ruled that the EJS with Sale over the 270 [sq m] portion of lot was an absolute sale.

II.

The Honorable Court of Appeals gravely erred when it ruled that DBP's foreclosure of the property including that of the 270 [sq m] portion parcel of lot and [Florentino] Maurin's subsequent redemption did not cut off the rights of the [spouses Labuguen].

III.

The Honorable Court of Appeals gravely erred when it ruled that the levy and execution sale over the entire 600 [sq m] insofar as it included the 270 [sq m] portion was invalid.³³

Spouses Virtudazo argue that the EJS with Sale is a conditional contract of sale since the payment of the mortgage debt is a condition precedent to the transfer of ownership over the 270-sq m portion to spouses Labuguen.

Even assuming spouses Labuguen became the owner of said portion through the EJS with Sale, they argued that the eventual foreclosure by the DBP of the entire property and the expiration of the redemption period had extinguished spouses Labuguen's rights thereon. Since the redemption period already expired, when Florentino Maurin fraudulently used spouses Virtudazo's money, what was effected was a repurchase of the property. They argued that had spouses Virtudazo repurchased the property

³² Id. at 76-77.

³³ Id. at 37.

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themselves, the right of spouses Labuguen over the 270-sq m portion would not have been restored.³⁴

Spouses Virtudazo further contend that the levy on execution in their favor enjoys preference over the EJS with Sale, the former being a proceeding *in rem* which attaches against the property.³⁵

Ruling of the Court

We deny the petition.

Basic is the rule that only questions of law may be raised in a Rule 45 petition.³⁶ A recognized exception to this rule is when the findings of fact of the appellate court and the trial court are conflicting.³⁷ In this case, there is a conflicting finding as to whether the sale between Florentino Maurin and spouses Labuguen is absolute or conditional. There is also a conflicting finding as to whether the subject property was redeemed or repurchased by Florentino Maurin from DBP. These issues ultimately determine the pivotal question of who between spouses Virtudazo and spouses Labuguen have a better right to the disputed 270-sq m portion of the subject property.

The EJS with Sale is a perfected contract of sale

Spouses Virtudazo theorize that since the property was mortgaged to DBP, the sale between Florentino Maurin and spouses Labuguen was conditioned upon the payment of Florentino Maurin's debt to DBP. They argue that spouses Labuguen's ownership was not perfected since the mortgage was eventually foreclosed by DBP. On the other hand, the RTC found that under the terms of both the MOA and the EJS with Sale, the transfer of the 270-sq m portion was conditioned upon spouses Labuguen's assumption of mortgage.

³⁴ Id. at 49.

³⁵ Id. at 53.

³⁶ Rules of Court, Rule 45, Section 1 expressly provides that the petition filed shall raise only questions of law, which must be distinctly set forth.

³⁷ In *The Insular Life Assurance Company, Ltd. v. Court of Appeals*, 472 Phil. 11, 22-23 (2004), the following were cited as exceptions to this rule:

1. when the findings are grounded entirely on speculation, surmises or conjectures;
2. when the inference made is manifestly mistaken, absurd or impossible;
3. when there is grave abuse of discretion;
4. when the judgment is based on a misapprehension of facts;
5. when the findings of facts are conflicting;
6. when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee;
7. when the findings are contrary to the trial court;
8. when the findings are conclusions without citation of specific evidence on which they are based;
9. when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent;
10. when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and
11. when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.

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Article 1181 of the Civil Code provides that “[i]n conditional obligations, the acquisition of rights, as well as the extinguishment or loss of those already acquired, shall depend upon the happening of the event which constitutes the condition.” A sale is conditional where the efficacy or obligatory force of the vendor’s obligation to transfer title is subordinated to the happening of a future and uncertain event, so that if the suspensive condition does not take place, the parties would stand as if the conditional obligation had never existed.³⁸

The RTC is correct only insofar as it held that the MOA required spouses Labuguen’s assumption of the mortgage with the DBP. The assumption of mortgage is a condition to the seller’s consent.³⁹ It is not disputed that such assumption of mortgage did not take place because DBP did not give its consent thereto. Because spouses Labuguen did not comply with the condition to assume the mortgage, the sale as embodied under the MOA was not perfected.

Nevertheless, it appears that the Maurins and Labuguens intended to push thru with the sale of the 270-sq m portion of the property, thus, they entered into the EJS with Sale. As the CA correctly observed, while the MOA required that spouses Labuguen assume Florentino Maurin’s obligation with the DBP, the EJS with Sale no longer required such assumption of obligation.

It is likewise clear from the terms of the EJS with Sale that the payment of the mortgage obligation was not a condition that suspended the transfer of title over the 270-sq m portion of the property. Far from being a conditional sale, the EJS with Sale has all the elements of a contract of sale. There is consent to transfer ownership over the 270-sq m portion of the property in exchange for the price of ₱120,000.00. The EJS with Sale between Florentino Maurin and spouses Labuguen is therefore valid and binding as between them.

The fact that the property was mortgaged to DBP at the time the sale was perfected is of no moment. A mortgage does not pass title or estate to the mortgagee as it is nothing more than a lien, encumbrance, or security for a debt.⁴⁰ In a contract of mortgage, the mortgagor remains to be the owner of the property although the property is subjected to a lien.⁴¹ As such, the mortgagor retains the right to dispose of the property as an attribute of ownership.⁴² Thus, Florentino Maurin had the right to sell the mortgaged property, or a portion thereof, which he, in fact, did through the EJS with Sale.

³⁸ *Spouses Serrano and Herrera v. Caguiat*, 545 Phil. 660, 667 (2007).

³⁹ *Spouses Chua v. Gutierrez*, 652 Phil. 84, 95 (2010).

⁴⁰ *Id.*

⁴¹ *Heirs of Manlapat v. Court of Appeals*, 498 Phil. 453 (2005).

⁴² *Philippine National Bank v. Mallorca*, 128 Phil. 747 (1967).

The effect of the sale of the 270-sq m portion of the property while the mortgage in favor of DBP subsists is not to suspend the efficacy of such sale, but that the property right which spouses Labuguen have acquired is made subject to DBP's mortgage right.⁴³ The sale or transfer of the mortgaged property cannot affect or release the mortgage; thus, the purchaser or transferee is necessarily bound to acknowledge and respect the encumbrance.⁴⁴

Redemption of the entire property by Florentino Maurin benefited spouses Labuguen

Spouses Virtudazo insist that DBP's foreclosure of the property effectively "cut-off" the rights of spouses Labuguen over the 270-sq m portion. According to spouses Virtudazo, since the redemption period already expired, ownership over the property was consolidated in favor of DBP, and, when Florentino Maurin used spouses Virtudazo's money what was effected was a repurchase of the property, not redemption.

Spouses Virtudazo's argument is premised on its erroneous assumption that ownership over the property was consolidated in favor of DBP. Conspicuously missing in this case is the allegation as to when the sheriff's certificate of sale was registered by DBP so as to determine when the period to redeem should be reckoned. Thus, it was not factually settled that the period to redeem already expired. There was likewise no allegation that a certificate of final sale was issued to DBP. On the contrary, that the property was successfully redeemed by Florentino Maurin is shown by the fact that DBP itself issued a Deed of Redemption in Florentino Maurin's favor which was annotated on the property's OCT. As such, when Florentino Maurin paid the ₱625,000.00 it was clearly for purposes of redemption, not repurchase.

In fact, spouses Labuguen could not have effectively redeemed the property in their name considering that the EJS with Sale was not registered. DBP was charged with the obligation to recognize the right of redemption only of Florentino Maurin as original mortgagor.⁴⁵ Likewise, since DBP's consent to the EJS with Sale was not secured, it was not even necessary for DBP to foreclose the 270-sq m portion separately, nor, to include spouses Labuguen in the foreclosure proceedings.⁴⁶ In buying the 270-sq m portion with knowledge that it was mortgaged, Alipio Labuguen undertook to allow such property to be foreclosed and sold upon failure of Florentino Maurin to pay the debt upon maturity. Alipio Labuguen, however, did not replace

⁴³ *Santos v. Macapinlac*, 51 Phil. 224 (1927).

⁴⁴ *Garcia v. Villar*, 689 Phil. 363 (2012).

⁴⁵ *See Bonnevie v. Court of Appeals*, 210 Phil. 100 (1983).

⁴⁶ *See De la Paz v. Macondray & Co., Inc.*, 66 Phil. 402 (1938).

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Florentino Maurin in the original obligation and could not do so without DBP's consent.⁴⁷

There is also no merit to the contention that DBP's foreclosure of the mortgage "cut-off" the rights of spouses Labuguen over the 270-sq m portion.

During the redemption period, Florentino Maurin and spouses Labuguen remained to be the respective owners of the 330-sq m and 270-sq m portions of the property. DBP, meantime, merely acquires an inchoate right over the property until after the period of redemption has expired without the right having been exercised.⁴⁸ The effect of the seasonable exercise of redemption was to clear the lien over the title.⁴⁹ Thus, it is inaccurate to say that the foreclosure sale severed the ownership of Florentino Maurin and spouses Labuguen over the property as they never lost ownership thereof. Redemption merely restored the title over the property freed of the encumbrance.⁵⁰ Since Florentino Maurin redeemed the entire property, such redemption benefited spouses Labuguen insofar as their 270-sq m portion is concerned.

At the time of levy, spouses Labuguen already owned the 270 sq m-portion which ownership was known to spouses Virtudazo

Spouses Virtudazo's claim over the entire property is anchored upon the result of the levy on execution. To recall, spouses Virtudazo originally claimed that DBP should execute a deed of sale covering the entire property in their favor. Clearly, this cannot be done as spouses Virtudazo have no legal personality to redeem the property, much less compel DBP to execute such deed of sale.⁵¹ Spouses Virtudazo's recourse is obviously against Florentino Maurin to recover the amount of ₱625,000.00. Spouses Virtudazo, in fact, obtained a favorable money judgment against Florentino Maurin.

Judgments for money are enforced either by immediate payment on demand, satisfaction of levy, or garnishment of debts and credits in

⁴⁷ See *Garcia v. Villar*, supra note 43.

⁴⁸ *Medida v. Court of Appeals*, 284-A Phil. 404, 414 (1992).

⁴⁹ *Id.* at 415.

⁵⁰ *Id.*

⁵¹ Articles 1236 and 1237 of the New Civil Code provide:

ART. 1236. The creditor is not bound to accept payment or performance by a third person who has no interest in the fulfillment of the obligation, unless there is a stipulation to the contrary.

Whoever pays for another may demand from the debtor what he has paid, except that if he paid without the knowledge or against the will of the debtor, he can recover only insofar as the payment has been beneficial to the debtor.

ART. 1237. Whoever pays on behalf of the debtor without the knowledge or against the will of the latter, cannot compel the creditor to subrogate him in his rights, such as those arising from a mortgage, guaranty, or penalty.

accordance with Section 9, Rule 39 of the Rules of Court. Satisfaction by levy is carried on as follows:

SEC. 9. *Execution of judgments for money, how enforced.* –

(a) x x x x

(b) *Satisfaction by levy.* – If the judgment obligor cannot pay all or part of the obligation in cash, certified bank check or other mode of payment acceptable to the judgment obligee, the officer shall levy upon the properties of the judgment obligor of every kind and nature whatsoever which may be disposed of for value and not otherwise exempt from execution giving the latter the option to immediately choose which property or part thereof may be levied upon, sufficient to satisfy the judgment. If the judgment obligor does not exercise the option, the officer shall first levy on the personal properties, if any, and then on the real properties if the personal properties are insufficient to answer for the judgment.

The sheriff shall sell only a sufficient portion of the personal or real property of the judgment obligor which has been levied upon.

When there is more property of the judgment obligor than is sufficient to satisfy the judgment and lawful fees, he must sell only so much of the personal or real property as is sufficient to satisfy the judgment and lawful fees.

Real property, stocks, shares, debts, credits, and other personal property, or any interest in either real or personal property, may be levied upon in like manner and with like effect as under a writ of attachment. x x x

Since Florentino Maurin failed to pay the ₱625,000.00 to spouses Virtudazo, the property was levied upon for auction. However, at the time of the levy on April 26, 1995, Florentino Maurin was no longer the owner of, nor had any right, title, or interest in, the 270-sq m portion of the property. Moreover, at the time of the levy, Felipe Virtudazo already had knowledge that Alipio Labuguen was a “legal occupant” of the disputed portion. A notice of *lis pendens* was in fact annotated on Florentino Maurin’s title prior to the levy.

While it is true that at the time of the levy, the 270-sq m portion was not registered in the name of Alipio Labuguen, and that the entire property appears to still be owned by, and registered in the name of Florentino Maurin, Felipe Virtudazo nevertheless had actual notice of the existence of Alipio Labuguen’s claim over said 270-sq m portion and of his actual possession thereof. Felipe Virtudazo is necessarily bound by the outcome of the complaint for annulment of deeds, the pendency of which being duly annotated on the title. Thus, the necessity for registration of the sale in favor of Alipio Labuguen in order to bind Felipe Virtudazo as a purchaser at the execution sale does not exist.⁵²

⁵² *Vda de. Carvajal v. Coronado*, 124 Phil. 1246, 1253 (1966).

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Finally, a purchaser in an execution sale only acquires such interest that which is possessed by the debtor.⁵³ As held in *Leyson v. Tañada*:⁵⁴

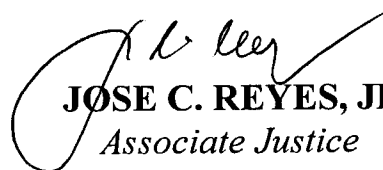
Further, this Court had held in *Pabico vs. Ong Pauco* that purchasers at execution sales should bear in mind that the rule of *caveat emptor* applies to such sales, that the sheriff does not warrant the title to real property sold by him as sheriff, and that it is not incumbent on him to place the purchaser in possession of such property. The rationale for this rule is:

At a sheriff's sale they do not sell the land advertised to sell, although that is a common acceptance, but they simply sell what interest in that land the judgment debtor has; and if you buy his interest, and it afterwards develops that he has none, you are still liable on your bid, because you have offered so much for his interest in open market, and it is for you to determine before you bid what his interest is worth. Now, even if it should appear that at a sheriff's sale one has bought the interest of the judgment debtor in a certain tract of land, and paid his money for it, and then suit is brought to recover the land, and he is defeated in the suit, he has no right to recover his money back, because he has paid that much for the interest that his particular judgment debtor had in that tract of land.⁵⁵
(Internal citations omitted)

Spouses Virtudazo did not acquire the property itself by virtue of the levy on execution but only such interest as judgment debtor Florentino Maurino had therein. As such, all that spouses Virtudazo is entitled to, is the 330-sq m portion of the property.

WHEREFORE, the petition is **DENIED**. The Decision dated February 4, 2016 and the Resolution dated January 19, 2017 of the Court of Appeals-Mindanao are **AFFIRMED**.

SO ORDERED.

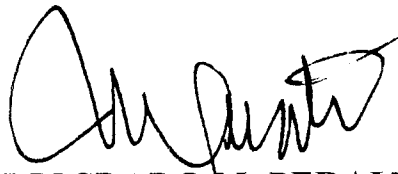

JOSE C. REYES, JR.
Associate Justice

⁵³ *Leyson v. Tañada*, 195 Phil. 634, 640 (1981).

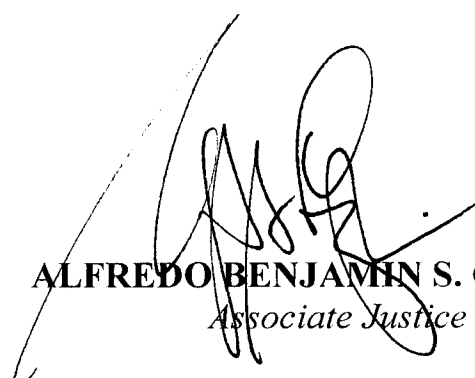
⁵⁴ *Id.* at 640-641.

⁵⁵ *Id.*

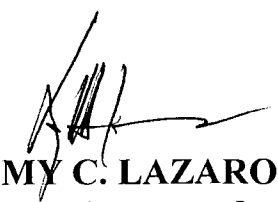
WE CONCUR:



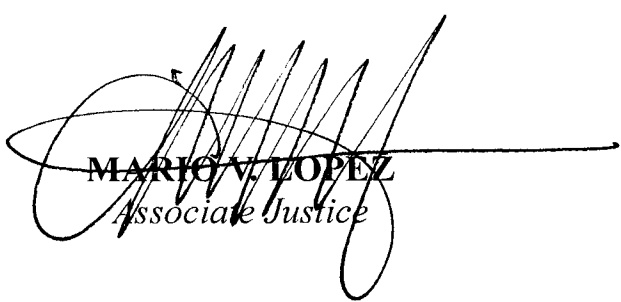
DIOSDADO M. PERALTA
Chief Justice
Chairperson



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



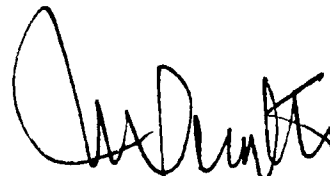
AMY C. LAZARO-JAVIER
Associate Justice



MARICEL V. LOPEZ
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.



DIOSDADO M. PERALTA
Chief Justice