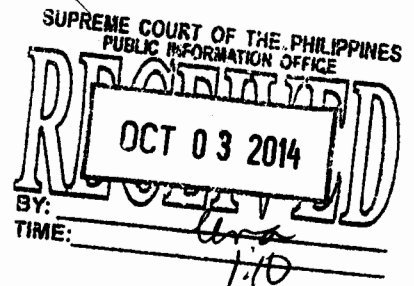




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **September 17, 2014** which reads as follows:*

“G.R. No. 213588 — SPOUSES VIRGILIO JACINTO AND BEATRIZ JACINTO, Petitioners v. PHILIPPINE NATIONAL BANK, LINO CRISANTO G. YAO AND SERGIA G. YAO, Respondents.

This is a Petition for Review on *Certiorari* under Rule 45 filed by Spouses Virgilio Jacinto and Beatriz Jacinto asserting error on the part of the appellate court when it ruled that Philippine National Bank (PNB) still has the legal capacity to sue as a purchaser of the property.

On 29 April 2011, Lino Crisanto G. Yao and his mother Sergia Yao (Yaos) filed an *Ex-Parte Petition for Issuance of Writ of Possession* against Spouses Virgilio Jacinto and Beatriz Jacinto (Spouses Jacinto) over a parcel of land located in Makati City bought conditionally from PNB. It was alleged in their petition that subject parcel of land is one of the properties covered by Real Estate Mortgages executed by Spouses Jacinto in favor of PNB. When Spouses Jacinto failed to settle their loan obligation, PNB foreclosed the contested property and it was sold at public auction in favor of the bank. In turn, a Certificate of Sale was issued to PNB. Upon failure of Spouses Jacinto to redeem the property, the title was consolidated in favor of the bank. On 5 October 2010, a Deed of Conditional Sale was executed between PNB and the Yaos wherein the property was sold in favor of the latter subject to a condition that the bank retains ownership of and title to the property until all obligations of the Yaos under the Deed shall have been paid. It is only upon satisfaction of the condition that PNB shall execute and deliver the final and absolute deed of sale.

- over – four (4) pages

On 16 March 2012, the petition was amended to include PNB as the highest bidder in public auction and duly registered owner of the property with additional motions (1) to adopt Yaos' formal offer of evidence, and (2) to submit the *ex-parte* petition for resolution (omnibus motion).

On 19 March 2012, Regional Trial Court (RTC) Makati City issued an Omnibus Order granting the reliefs prayed for in the amended petition and omnibus motion. On the same date, the trial court rendered a Decision based on the evidence *ex-parte* submitted granting the issuance of a writ of possession in favor of PNB and ordering the sheriff to place them in actual possession and control.

On 20 March 2012, a writ of possession and notice to vacate were issued by the court.

On 23 March 2012, Spouses Jacinto filed a *Motion for Reconsideration and Motion to Hold Implementation of the Writ of Possession/Notice to Vacate*. They contended that PNB had already sold its rights as an owner over the property to the Yaos, thus, it has no legal personality to sue. They also maintained that the Yaos are not entitled to a writ of possession since they were not the original purchaser at the public auction.

PNB, on its part, asserted that it remains to be the absolute owner of the property since the Yaos have yet to comply with all the conditions of the sale, and the title over the property still remains with the bank. Further, the issuance of writ of possession becomes a matter of right and a ministerial function on the part of the trial court to consolidate the title in the name of the bank as the purchaser.

On 23 April 2012, RTC of Makati City issued its assailed Omnibus Order dismissing the contentions of Spouses Jacinto. It ruled that PNB rightfully possesses legal right over the subject property since the sale between PNB and the Yaos is conditional subject to the performance of certain conditions. Further, it is ministerial on the part of the court to issue writ of possession in favor of the purchaser of the property under Act No. 3135.

On 27 January 2014, the Court of Appeals dismissed the appeal filed by Spouses Jacinto and affirmed the Omnibus Order dated 23 April 2012 of RTC Makati City. The motion for reconsideration was denied on 3 July 2014.

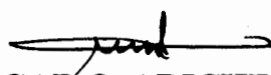
We deny the petition.

Despite the execution of a Conditional Deed of Sale, which is actually a Contract to Sell, PNB remains as the legal owner of the property. Taking a closer look at Section 9 of the Deed, it was expressly provided that the vendor (PNB) shall retain ownership and title to the property until all the obligations of the vendees have been paid and satisfied. Since the obligation of the Yaos remains, PNB continues to be the absolute owner of the property. Hence, PNB possesses the legal personality to pray for issuance of writ of possession over the property pursuant to Section 7 of Act No. 3135.¹

WHEREFORE, the instant petition is **DENIED**. The Court of Appeals' Decision and Resolution dated 27 January 2014 and 3 July 2014 in CA-G.R. CV No. 99306 are hereby **AFFIRMED**.

SO ORDERED."

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court *m 9175*

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¹ Act No. 3135, Sec. 7, as amended by Act 4118, provides —

Sec. 7. In any sale made under the provisions of this Act, the purchaser may petition the Court of First Instance of the province or place where the property or any part thereof is situated, to give him possession thereof during the redemption period, furnishing bond in an amount equivalent to the use of the property for a period of twelve months, to indemnify the debtor in case it be shown that the sale was made without violating the mortgage or without complying with the requirements of this Act. Such petition shall be made under oath and filed in form of an *ex-parte* motion in the registration or cadastral proceedings if the property is registered, or in special proceedings in the case of property registered under the Mortgage Law or under sec. [194] of the Administrative Code, or of any other real property encumbered with a mortgage duly registered in the office of any register of deeds in accordance with any existing law, and in each case the clerk of court shall, upon the filing of such petition, collect the fees specified in par. [11] of sec. [114] of Act No. [496], as amended by Act No. [2866], and the court shall, upon approval of the bond, order that a writ of possession issue, addressed to the sheriff of the province in which the property is situated, who shall execute said order immediately.

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(CA-G.R. CV No. 99306)

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Judgment Division (x)
Supreme Court

The Hon. Presiding Judge
Regional Trial Court, Br 58
1200 Makati City
(LRC Case No. M-5507)

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