

**SPOUSES RUMIL C. DELOS REYES AND YOLANDA O. DELOS REYES,
PETITIONERS, VS. HONORABLE JUDGE ROMMEL O. BAYBAY,
PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 143, MAKATI
CITY AND BA...**

Ponente: REYES, JR., J.C., J.

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REYES, JR., J.C., J.:

This resolves the Petition for Certiorari with Prayer for Temporary Restraining Order and Preliminary Injunction assailing the Order (Rollo, p. 33) dated June 15, 2012 issued by the Regional Trial Court (RTC) of Makati City, Branch 143, in Civil Case No. 11-936, the pertinent portion of which reads as follows:

“Acting on the Motion for Reconsideration filed by defendants thru Atty. Jerome Norman Tacorda on 06 March 2012 finding no cogent reason why this Court should disturb or reconsider its Order of 15 February 2012, the same is hereby ordered DENIED.” (Rollo, p. 3).

The instant case arose from a Complaint for Sum of Money/Judgment on the Deficiency (Rollo, pp. 50-52) filed by private respondent BPI Family Savings Bank, Inc. (private respondent BPI)[1] against petitioner Spouses Rumil and Yolanda Delos Reyes before the RTC of Makati City, Branch 143 which prays for the payment of Php13,519,082.54 plus interest at a rate of 7.992% per annum from September 14, 2010 until fully paid and to pay the cost of suit.

The said Complaint alleged that on May 29, 2006, January 8, 2007 and June 26, 2008, petitioners Spouses executed and delivered in favor of private respondent BPI, Mortgage Loan Agreements, whereby the former obtained from the BPI term loans in the amount of Php9,446,400.00; Php1,567,000.00 and Php7,252,243.54. As a security for the loan, petitioners spouses were required to mortgaged a parcel of land, including the improvements thereon, with a total lot area of 629.76 square meters located at Lot 1, Manggahan Road corner Aurora Boulevard, Cubao, Quezon City covered by Transfer Certificate of Title No. N-290221.

Allegedly on May 24, 2010, private respondent BPI filed a Petition for Extra-judicial Foreclosure of the Real Estate and Improvements. Petitioners were never notified nor served with the Complaint and Court processes. On September 14, 2010, with defective Notice and Publication, the Clerk of Court/Ex-Officio Sheriff of the RTC of Quezon City irregularly foreclosed and sold at public auction the subject property without the observance of Mortgage Law and due process. It was awarded to an alleged highest bidder, the Green Earth Building and Homes Corporation.

At the auction sale, petitioner spouses were surprised to learn that the entire obligations ballooned to Php26,319,082.54, inclusive of charges which were never part of the agreement and in violation of the Truth and Lending Act.

Instead of filing an Answer to the Complaint, petitioners spouses filed a Motion for Bill of Particulars on the following matters:

- (1) the date of default and legal breakdown of the amount of Php16,593,015.84 (par. 3 of the Complaint);
- (2) Proof of Notice and Publication of the Petition for Extra- Judicial Foreclosure (par. 4 of the Complaint);
- (3) the specific details and legal charges imputed in the deficiency amount of Php13,519,082.54 (par. 5 of the Complaint);
- (4) the meanings of the abbreviations in the Statement of Account (Annex C of the Statement of Account);
- (5) particularity of the legal charges of the contractual penalties (Attorney's Fees of Php4,621,598.31 and Liquidated Damages of Php2,772,958.99) (Annex C of the Complaint);
- (6) particularity of the asset acquired expenses (Annex C of the Complaint);
- (7) basis of the bid price (Annex C of the Complaint);
- (8) designation of Ms. Francisca Marie T. Timula, the authorized signatory of private respondent BPI (Annex D of the Complaint).

On February 15, 2012, public respondent RTC issued an Order denying petitioner spouses' Motion reasoning out that the items sought to be clarified or stated with definiteness are not within the function of a Bill of Particular and is evidentiary in nature (See: Rollo, p. 49).

Dissatisfied with the denial of their motion, petitioners spouses filed a 'Motion for Reconsideration with Urgent Ex-parte Motion to Reduce Unlawful Attorney's Fees Demanded by Plaintiff' (Rollo, pp. 34-40) praying that an Order be issued requiring private respondent BPI to particularize with definiteness the above-stated deficiencies in order that they (petitioners) can intelligently prepare a responsive pleading.

On June 15, 2012, public respondent RTC issued the now assailed Order denying petitioners Spouses' Motion for Reconsideration. Left with no other recourse, petitioners spouses filed the instant petition, raising the following issues:

“I.

WHETHER OR NOT THE COURT A QUO GRAVELY ERRED IN DENYING THE BILL OF PARTICULARS WHICH IN EFFECT VIOLATED THE SANCROSANCT RIGHT OF THE PETITIONERS TO SUBSTANTIAL AND PROCEDURAL DUE PROCESS OF LAW.

II.

WHETHER OR NOT TRO AND WRIT OF PRELIMINARY INJUNCTION WILL BE ISSUED TO RESTRAIN THE CONDUCT OF HEARINGS IN ORDER TO PROTECT THE PETITIONERS FROM POSSIBLE SURPRISE IN THE TRIAL.

III.

WHETHER OR NOT THE RESPONDENTS ABUSED [THEIR] RIGHT IN ENFORCING [THEIR] CHARGES, WHICH WERE NOT CONTAINED ITEMIZED CHARGES SUCH THAT THE PETITIONERS CANNOT INTELLIGENTLY PREPARE [THEIR] ANSWER.” (sic) (Rollo, p. 11).

The issue in the instant case essentially revolves on whether or not public respondent RTC committed grave abuse of discretion in denying petitioners' Motion for Bill of Particulars.

A complaint is sufficient if it contains sufficient notice of the cause of action even though the allegations may be vague or indefinite, for, in such case, the recourse of the defendant is to file a motion for a bill of particulars (Cometa vs. Court of Appeals, 301 SCRA 459, 469 [1999]). Thus, Section 1, Rule 12 of the Rules of Court

provides:

"SECTION 1. When applied for; purpose. — Before responding to a pleading, a party may move for a more definite statement or for a bill of particulars of any matter which is not averred with sufficient definiteness or particularity to enable him properly to prepare his responsive pleading. If the pleading is a reply, the motion must be filed within ten (10) days from service thereof. Such motion shall point out the defects complained of, the paragraphs wherein they are contained, and the details desired."

As explained by the Supreme Court in the case of *Virata vs. Sandiganbayan*, 221 SCRA 52, 62-63 (1993):

"It is the office or function, as well as the object or purpose, of a bill of particulars to amplify or limit a pleading, specify more minutely and particularly a claim or defense set up and pleaded in general terms, give information, not contained in the pleading, to the opposite party and the court as to the precise nature, character, scope, and extent of the cause of action or defense relied on by the pleader, and apprise the opposite party of the case which he has to meet, to the end that the proof at the trial may be limited to the matters specified, and in order that surprise at, and needless preparation for, the trial may be avoided, and that the opposite party may be aided in framing his answering pleading and preparing for trial. It has also been stated that it is the function or purpose of a bill of particulars to define, clarify, particularize, and limit or circumscribe the issues in the case, to expedite the trial, and assist the court. A general function or purpose of a bill of particulars is to prevent injustice or do justice in the case when that cannot be accomplished without the aid of such a bill.

It is not the office of a bill of particulars to supply material allegations necessary to the validity of a pleading, or to change a cause of action or defense stated in the pleading, or to state a cause of action or defense other than the one stated. Also it is not the office or function, or a proper object, of a bill of particulars to set forth the pleader's theory of his cause of action or a rule of evidence on which he intends to rely, or to furnish evidential information whether such information consists of evidence which the pleader proposes to introduce or of facts which constitute a defense or offset for the other party or which will enable the opposite party to establish an affirmative defense not yet pleaded (*supra*, citing the case of *Tan vs. Sandiganbayan*, 180 SCRA 34, 42-43 [1989])."

In other words, the office of a bill of particulars is limited to making more particular or definite the ultimate facts in a pleading and not to supply evidentiary matters (See: *Fortune Corporation vs. Court of Appeals*, 229 SCRA 355, 364 [1994]; cited case omitted).

In petitioners' Motion for Bill of Particulars, they prayed that an order be issued to clarify and to particularize the total amount being claimed by private respondent BPI, specifically the breakdown of the amount which it was collecting, including the corresponding supporting documents, as well as the designation of the signatory. A careful reading of the complaint would show that the allegations contained therein are adequate to constitute private respondent BPI's cause of action. As can be gleaned therefrom, the specific amounts being claimed and what they represent, were all clearly stated. Indeed, the complaint sufficiently apprised petitioners of private respondent BPI's cause of action. To require more details and accompanying documents from private respondent BPI would be to ask for information on matters of evidentiary nature. The details which petitioners were asking for, such as the date of default, the notice and publication of the foreclosure, the abbreviations in the statement of account, the various charges and the capacity of the signatory can be obtained through other means. As held by the Supreme Court:

"x x x a motion for bill of particulars will not be granted if the complaint, while not very definite, nonetheless already states a sufficient cause of action. A motion for bill of particulars may not call for matters which should form part of the proof of the complaint upon trial (*Salita vs. Magtolis*, 233 SCRA 100, 105 [1994])."

Considering that the complaint sufficiently states the ultimate facts which indicates the character, precise nature,

scope and extent of private respondent BPI's cause of action, then petitioners can already properly prepare their responsive pleading, raise their intelligent answer on the complaint and confront the claims and allegations of the opposing party.

On this score, We cannot ascribe grave abuse of discretion on the part of public respondent RTC for denying petitioners spouses' Motion for Bill of Particulars. At any rate, whether to grant or deny the motion for a more definite statement of facts rests with the sound discretion of the court. As usual in matters of a discretionary nature, the ruling of the trial court will not be reversed unless there has been a palpable abuse of discretion or a clearly erroneous order (See: Republic vs. Sandiganbayan, 540 SCRA 431, 454 [2007]). There is none, in the instant case.

WHEREFORE, the Petition for Certiorari is DENIED. The assailed Order dated June 15, 2012 of the Regional Trial Court of Makati City, Branch 143, in Civil Case No. 11-936, is AFFIRMED. Petitioners are hereby ordered to file their Answer within fifteen (15) days from receipt of this Decision.

SO ORDERED.

Lopez, M.V., and Inting, S.B., JJ., concur.

[1] This Court took note of the correction made by private respondent on its corporate name (See: Comment, Rollo, p. 82)

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