

METROPOLITAN BANK AND TRUST COMPANY, PETITIONER, VS. TAN CHUAN LEONG OR RAMON C. L. TAN PALANCA, GILBERT K. TAN PALANCA, CHEN SIY YUAN, B & I REALTY COMPANY, INC., AND THE HONOR...

G.R. No. L-46539. June 25, 1986

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition to review on certiorari the decision of the Court of Appeals, now the Intermediate Appellate Court, rendered in CA-G.R. No. 51715-R entitled "Metropolitan Bank and Trust Company, Inc. v. Tan Chuan Leong or Ramon C. L. Palanca, Gilbert K. Tan Palanca, Chen Siy Yuan, and B & I Realty Company, Inc." modifying the decision of the Court of First Instance of Manila, Branch IV, and declaring the sale of the subject real property as void, affirming, however, the lower court's grant of attorney's fees in favor of herein respondents. The petitioner now assails this award of attorney's fees against it.

The facts are not disputed:

"It appears that on August 12, 1963, Tan Chuan Leong also known as Ramon C. L. Palanca, in his capacity as President of the Pan-Philippine Trading Corporation, applied with the plaintiff, Metropolitan Bank & Trust Co. for an overdraft line of P300,000.00 to help finance its copra business. The application was approved only on March 4, 1965 (Exh. D).

"On May 10, 1965, the overdraft line was used for the first time and was availed of until June 31, 1965 when a balance of P63,561.11 remained unliquidated in favor of the bank up to this date, despite repeated demands (Exhs. G & H). Hence, the filing of the Civil Case No. 69884 in the CFI of Manila by the bank against Tan Chuan Leong and the Pan-Philippine Trading Corp. in which the latter as defendants were ordered to pay certain amounts as prayed for in the complaint. The judgment which was rendered on December 27, 1967, however, has remained unsatisfied up to the filing of the instant case.

"It also appears that on April 22, 1965, Tan Chuan Leong sold his only known asset which is a parcel of land of 1,260.70 sq. m. together with the house and improvements therein, covered by TCT No. 26058/T-408 of the Registrar of Deeds of Manila, to his son, Gilbert K. Tan Palanca in whose name a new TCT No. 79171 (Exh. K) was issued. The same property was mortgaged on April 21, 1965, to the defendant B & I Realty, Inc. for P40,000.00 with 1% monthly interest, payable within one year. It was also mortgaged in favor of the other defendant Chen Siy Yuan, by way of second mortgage on February 11, 1966."

The sale and mortgages were, thereafter, sought to be annulled in the action for rescission brought before the Court of First Instance of Manila. It was alleged in the complaint that both transactions were in fraud of creditors, the sale being fictitious and simulated and the mortgage entered into in bad faith.

The trial court dismissed the plaintiff's complaint and ordered the plaintiff to pay defendants B & I Realty Co., Inc. and Chen Siy Yuan, on counterclaim, attorney's fees in the amount of P5,000.00 each, it clearly appearing

that said parties were compelled to litigate and defend themselves against the plaintiff's unfounded claim against them. Defendants Tan Chuan Leong and Gilbert K. Tan Palanca's counterclaim was dismissed for insufficiency of evidence.

The petitioner interposed an appeal before the respondent court which rendered the decision dated July 6, 1977 sought to be reviewed. The dispositive portion of the decision reads"

"WHEREFORE, the judgment appealed from should be, as it is hereby, modified by declaring the sale of the property described in par. 6 of the complaint, null and void for being simulated and fictitious, and affirmed in all other respects. No pronouncement as to costs."

Within the extended period for the filing of a petition for review of the decision of the respondent Court of Appeals, the counsel for the Palancas filed a Manifestation dated October 7, 1977, informing this Court of an amicable settlement entered into between petitioner bank and respondents Tan Chuan Leong and Gilbert K. Tan, Palanca, to wit:

"COMPROMISE AGREEMENT

"COME NOW PETITIONERS TAN CHUAN LEONG or RAMON C. L. TAN PALANCA and GILBERT K. TAN PALANCA and Private Respondent METROPOLITAN BANK & TRUST COMPANY, through their duly authorized undersigned counsel, and to this Honorable Court, respectfully submit the following Compromise Agreement to be embodied in the Decision of this Honorable Court:

"1. That petitioners shall pay to private respondent Metropolitan Bank & Trust Company, the compromise amount of THIRTY THOUSAND PESOS (P30,000.00) in full settlement of private respondent Metropolitan Bank & Trust Company's claim against petitioners set forth in its Complaint in Civil Case No. 73608 entitled 'Metropolitan Bank & Trust Co. v. Tan Chuan Leong or Ramon C. L. Tan Palanca, et al.' and the further sum of THREE THOUSAND PESOS (P3,000.00) as full payment of the stipulated attorney's fees, upon the signing of this Compromise Agreement;

"2. That upon receipt of the aforesaid total sum of P33,000.00, respondent Metropolitan Bank & Trust Company shall have no claim whatsoever against petitioners Tan Chuan Leong or Ramon C. L. Tan Palanca and Gilbert K. Tan Palanca in connection with or arising out of the Complaint in Civil Case No. 73608 entitled 'Metropolitan Bank & Trust Company v. Tan Chuan Leong or Ramon C. L. Tan Palanca, et al.'

"3. That the parties agree that this Compromise Agreement, once approved by this Honorable Supreme Court and embodied in its Decision, shall modify the decision of the Court of Appeals subject matter of the instant Petition, insofar as they are inconsistent with each other.

"WHEREFORE, Petitioners and Private Respondent respectfully pray that this Honorable Supreme Court approve the foregoing Compromise Agreement and embody it in its Decision.

"They further pray for such other relief just and equitable under the premises."

It appearing that the above compromise agreement was in order and provided for the full satisfaction of petitioner bank's money claim against the private respondents, this Court approved the same and rendered judgment in accordance therewith on November 29, 1977. However, the question of attorney's fees in favor of respondents B & I Realty and Chen Siy Yuan remained. Hence, this petition.

The trial court's award of attorney's fees and its affirmation by the respondent court is predicated on Paragraph 4, Article 2208 of the Civil Code which provides:

"Article 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

xxx xxx xxx

"(4) In cases of clearly unfounded civil action or proceeding against plaintiff;

xxx xxx xxx

On this matter, the trial court ruled:

"Plaintiff likewise impleaded B & I Realty Co., Inc. and Chen Siy Yuan as party-defendants. The evidence however, do not disclose that said defendants acted in bad faith as party-mortgagees. In fact, the mortgage in favor of defendant B & I Realty Co., Inc. had long been discharged prior to the institution of this present action, more particularly on September 21, 1966, long before the alleged judgment in favor of the plaintiff against defendant Tan Chuan Leong was rendered. Clearly then, this (B & I Realty Co., Inc.) defendant's inclusion in this suit as party defendant is without basis, and having been compelled to defend itself, plaintiff may be held liable for damages to the latter, even by way of Attorney's Fees, which also holds true insofar as defendant Chen Siy Yuan is concerned."

The facts and circumstances of the case lead us to the same conclusion as that of the appellate court.

In the decision, now under review, the Court of Appeals held:

"It appearing that the mortgage in favor of B & I Realty Co., Inc. had already been cancelled long before this action was filed, appellant has no cause of action against the former."

Indeed, the records show that on September 21, 1966 or more than a year before the rendition of the decision against Tan Chuan Leong in Civil Case No. 69844 for recovery of sum of money and long before the filing of the case for rescission of sale and mortgage on July 15, 1968, the property in question had already been released from the encumbrance in favor of B & I Realty Co., Inc. Thus, the mortgage did not in any way affect petitioner's rights. It were as if said mortgage had never even existed.

However, the petitioner cites respondent court's ruling on B & I Realty's alleged bad faith, to wit:

xxx xxx xxx

"x x x Furthermore, the mortgage was effected with B & I Realty Co., Inc. in a manner tending also to show that Gilbert K. Tan Palanca was only a passive factor in the transaction with absolutely no personal interest therein. x x x.

"From the foregoing, it is also known that appellee B & I Realty Co., Inc. could not have been without knowledge of the simulated character of the sale in favor of Gilbert K. Tan Palanca. it should have excited its curiosity, if not suspicion, why the land was being sold by a father to a young son, barely over the age of majority' and on the same day have it mortgaged."

xxx xxx xxx

Although the respondent corporation may have had knowledge of the simulated sale between Tan Chuan Leong and his son and had entered into the contract of mortgage pursuant to a design to defraud Leong's creditors, no damage or prejudice appears to have been suffered by the petitioner thereby. Absent damage or prejudice, no right of action arises in favor of the petitioner. Actio non datur non damnificato. No right of action is given where no injury is sustained. A wrongful violation of a legal right is not a sufficient element of a cause of action unless it has resulted in an injury causing loss or damages. There must be, therefore, both wrongful violation and damages. The one without the other is not sufficient (1 CJS 1005). As no man may be punished for his thoughts, bad faith alone, when not translated into injurious action, is not punishable by law. With the mortgage no longer existing, the same could not be cited as reason for the petitioner's failure to collect his credit. The cancellation of

respondent B & I Realty's lien over the property had rendered the issues of rescissibility and bad faith moot and academic. The fact that petitioner, nonetheless, impleaded B & I Realty in its complaint, unnecessarily compelling the latter to litigate to protect its rights and interests justifies the award of attorney's fees (*Flordelis v. Mar*, 114 SCRA 41; *Sarsosa Vda. de Barsobia v. Cuenco*, 113 SCRA 547; *Mutual Paper, Inc. v. Eastern Scott Paper Co., Inc.*, 110 SCRA 481; and *PAL v. Court of Appeals*, 106 SCRA 391).

As to the second mortgage in favor of Chen Siy Yuan, the same is, as found by the respondent appellate court, valid and subsisting. The petitioner failed to present evidence to convince this Court of bad faith on the part of Chen Siy Yuan. As held by the appellate court:

"No circumstance may be found to indicate knowledge on his part that the sale was simulated, specially considering the fact that when the second mortgage was executed in his favor, the property had been previously mortgaged to B & I Realty Co., Inc. Appellant has not pointed to any such circumstance, simply stating in its brief (p. 17) that 'Chen Siy Yuan did not present any evidence to overcome the presumption that it acted in bad faith.'"

Nor do we find any evidence that would substantiate the petitioner's imputation of bad faith. At the time that this second mortgage was entered into, the certificate of title stood in the name of respondent Gilbert K. Tan Palanca, without any annotation of encumbrance in favor of the petitioner or any one else. The mortgagee Yuan then had every right to rely upon what appeared in that certificate of title and there being nothing to excite suspicion, did not have to inquire further. (*Roxas v. Dinglasan*, 28 SCRA 430; *Morales Development Co., Inc. v. Court of Appeals, et al.*, 27 SCRA 484)

The petitioner asserts that since the conveyance between Tan Chuan Leong and his son was decreed null and void, the mortgagee Chen Siy Yuan can have no better rights than the fictitious vendee, Gilbert K. Tan Palanca. In *Duran v. Intermediate Appellate Court* (138 SCRA 489), we held:

xxx xxx xxx

"x x x [E]ven on the supposition that the sale was void, the general rule that the direct result of a previous illegal contract cannot be valid (on the theory that the spring cannot rise higher than its source) cannot apply here for We are confronted with the functionings of the Torrens System of Registration. The doctrine to follow is simple enough: a fraudulent or forged document of sale may become the ROOT of a valid title if the certificate of title has already been transferred from the name of the true owner to the name of the forger or the name indicated by the forger."

Also -

"x x x While it is true that under Art. 2085 of the Civil Code, it is essential that the mortgagor be the absolute owner of the property mortgaged and while as between the daughter and the mother, it was the daughter who still owned the lots, STILL insofar as innocent third persons are concerned the owner was already the mother (*Fe S. Duran*) inasmuch as she had already become the registered owner (*Transfer Certificates of Title Nos. 2418 and 2419*). The mortgagee had the right to rely upon what appeared in the certificate of title, and did not have to inquire further."

Hence,

"Guided by previous decisions of this Court, good faith consists in the possessor's belief that the person from whom he received the thing was the owner of the same and could convey his title (*Arriola v. Gomez dela Serna*, 14 Phil. 627). Good faith, while it is always to be presumed in the absence of proof to the contrary, requires a well-founded belief that the person from whom title was received was himself the owner of the land, with the right to convey it (*Santiago v. Cruz*, 19 Phil. 145). There is good faith where there is an honest

intention to abstain from taking any unconscientious advantage from another (Fule v. Legare, 7 SCRA 351). Otherwise stated, good faith is the opposite of fraud and it refers to the state of mind which is manifested by the acts of the individual concerned."

Thus, being in good faith, respondent Chen Siy Yuan stands as an innocent mortgagee for value with the rights of an innocent purchaser for value (Domingo v. Mayon Realty Corporation, 102 Phil. 32; Flores v. Plasina, 94 Phil. 327). No intention on the part of respondent Chen Siy Yuan to participate in any design to defraud petitioner appears in the records. In fact, he also stands as a creditor of the respondent Leong. It was upon Leong's failure to meet his obligation under the judgment in Civil Case No. 69844 (for recovery of sum of money) that petitioner had sought to rescind, as in fraud of creditors, all conveyances of the debtor's "only known asset", such as the mortgage in favor of Chen Siy Yuan secured by it. However, said mortgage having been found to be legitimate and binding, the same must remain undisturbed. It is petitioner's own failing that, insofar as the property in question satisfying Leong's obligations is concerned, Chen Siy Yuan should now be a preferred creditor. Petitioner was negligent of its own interests in entering into a contract of unsecured mortgage. It is, however, fortunate that a compromise agreement had been entered into between Tan Chuan Leong and petitioner Metropolitan Bank. If there were none, petitioner, who has no recourse over the property and no cause of action against Chen Siy Yuan, would be left without remedy. The award of attorney's fees in Chen Siy Yuan's favor should be beyond question.

WHEREFORE, the petition is hereby DISMISSED for lack of merit. The award of attorney's fees in favor of respondents B & I Realty Co., Inc. and Chen Siy Yuan is AFFIRMED.

SO ORDERED.

Feria (Chairman), Fernan, Melencio-Herrera, and Paras, JJ., concur.
Alampay, J., no part.

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