

CONCEPCION O. CHU TE OPERATING UNDER THE NAME AND STYLE TAGUIBO WOODS AND MINI SAW MILL, PETITIONER-APPELLEE, VS. DEVELOPMENT BANK OF THE PHILIPPINES-BUTUAN BRANCH, RESPONDENT-A...

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

This is a Motion for Reconsideration[1] of this Court's Decision[2] promulgated on September 24, 2013 which granted respondent-appellant's Appeal, and reversed and set aside, the Decision[3] dated June 9, 2009 rendered by the Regional Trial Court, Tenth Judicial Region, Branch 3, Butuan City which granted petitioner-appellee's petition for prohibition and damages in Special Civil Case No. 4453.

Petitioner-appellee, in this recourse, insists that the restructuring of her loan in 1995 was based on DBP's own Board Resolution 290-92 and not just any ordinary restructured loan.

Petitioner-appellee posits, thus:

“THUS, WITH THE SAME UTMOST DUE RESPECT, IT IS UNFORTUNATE THAT THIS HONORABLE COURT OF APPEALS TREATED APPELLEE'S 1993 APPLICATION FOR RESTRUCTURING AND SUBSEQUENT PAYMENTS MADE ON THE BASIS OF DBP'S OWN BR 290-92 SIMILAR TO THE PREVIOUS ORDINARY RESTRUCTURING APPLICATIONS PRIOR TO AND IMMEDIATELY THEREAFTER 1984 AND NOT ONE PURSUANT TO DBP'S OWN BOARD RESOLUTION (BR) 0290-SERIES OF 1992.

THUS, DESPITE CLEAR SHOWING THAT APPELLEE, WHO PAID MORE THAN COMPLIED WITH THE REQUIREMENTS OF DBP BR 290-92, WHICH WAS THE PREVAILING POLICY OF DBP WHEN APPELLEE, WHO WAS QUALIFIED TO AVAIL OF RESTRUCTURING SINCE HER ACCOUNT HAD BEEN ADVERSELY CLASSIFIED AS OF AUGUST 1984, APPLIED IN 1993 FOR RESTRUCTURING AT THE INSTANCE OF DBP BUTUAN BRANCH OFFICERS, WITH THE SAME UTMOST DUE RESPECT, THIS HONORABLE COURT OF APPEALS SADLY TREATED, AS THOUGH THERE WAS NO DBP BR 290-92, APPELLEE'S APPLICATION FOR RESTRUCTURING IN 1993 AND THE SUBSEQUENT PAYMENTS MADE TO APPELLANT JUST LIKE ANY ORDINARY APPLICATION FOR RESTRUCTURING IN THE PAST AND DECIDED THIS CASE ON APPEAL IN FAVOR OF APPELLANT AND AGAINST APPELLEE.”[4] (capitalization, emphasis and underscoring in the original)

A perusal of Our Decision[5] dated September 24, 2013 reveals that the issue raised by the private respondent was already passed upon, viz:

“xxx The subsequent application for restructuring in 1995 was evidenced by a credit application only. Appellee was not able to present a promissory note showing the existence of an approved restructured loan in 1995. As correctly pointed out by appellant, the credit application merely tends to prove that indeed there was a subsequent application for restructuring and not the existence of an approved restructured loan.

xxx

Nonetheless, settled is the rule that restructuring can proceed only upon agreement of the parties. It is basic that there can be no contract in the true sense in the absence of the element of agreement, or of mutual assent of the parties. If this assent is wanting on the part of one who contracts, his act has no more efficacy than if it had been done under duress or by a person of unsound mind.

Further, as restructuring is in essence a novation of contract, it can never be presumed, and the animus novandi, whether totally or partially, must appear by express agreement of the parties, or by their acts that are too clear and unmistakable. The contracting parties must uncontrovertibly disclose that their object in executing the new contract is to extinguish the old one.”

Nonetheless, We find that the grounds relied upon by the petitioner-appellee in her motion for reconsideration have already been carefully considered, evaluated and passed upon by this Court in the assailed Decision. Consequently, the petitioner-appellee not having raised new or substantial matters, We find no compelling reason to warrant the reversal of Our decision.

WHEREFORE, premises considered, the Motion for Reconsideration is hereby DENIED.

SO ORDERED.

Borja, J., Ch and Badelles, JJ., concur.

[1] Rollo, p. 241

[2] Rollo, p. 227.

[3] Rollo, p.193.

[4] Petitioner-appellee's rejoinder, Rollo, p. 282.

[5] Rollo, p. 234.

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