MYLONA SUZETTE AYALA, PLAINTIFF-APPELLANT, VS. THE RURAL BANK OF SAN JACINTO (PANGASINAN) INC., DEFENDANT-APPELLEE.

Ponente: SADANG, J.

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SADANG, J.:

This is an ordinary appeal from the Decision[1] of the Regional Trial Court, Branch 44, Dagupan City, dated October 1, 2010, dismissing the complaint for annulment of documents with damages in Civil Case No. 99-03135-D.

Antecedents of the Appeal
In her complaint against the Rural Bank of San Jacinto (Pangasinan), Inc. (the Bank), plaintiff-appellant Mylona Suzette Ayala (Ayala) alleged that she is the registered owner of a lot in Dagupan City, covered by Transfer Certificate of Title No. 66940. To fund the renovation of her family's ancestral house built on the lot, she decided to mortgage said property to the bank. The Bank's manager, Rufino Arzadon, came to her house bringing with him documents for her to sign. As she was very excited, she signed the papers without reading them and she relied on the representation of Rufino that the loan will be released in due time. She entrusted her title to Rufino. A year later, she was told by an officer of the Bank that the Real Estate Mortgage (REM) on her house and lot will be foreclosed because of her failure to pay the loan that she obtained in the amount of P350,000.00. This surprised Ayala because she never received the loan proceeds. Later, she discovered that checks were issued purporting to be releases from the loan proceeds but she never saw or encashed said checks.

Ayala prayed that the REM and the promissory notes be annulled.[2]

In its Answer with Compulsory Counterclaim,[3] the Bank countered that in December 1996, Ayala obtained a loan of P350,000.00 as shown by promissory notes and executed a REM, dated December 6, 1996. The net proceeds of the loan was received by Ayala under Check Nos. 452-54876 and 452-54898, dated December 12 and 13, 1996, respectively. Ayala paid the loan and other charges as shown by Official Receipt No. 51441, dated March 16, 1998. On the same day, Ayala renewed her loan in the amount of P450,000.00, the net proceeds of which was received by Ayala as shown by the Receipt, dated March 16, 1998, and Ayala executed a mortgage in the amount of P100,00.00 as additional security for the first REM. The principal amount of P450,000.00 became due on October 2, 1998 but Ayala failed and refused to pay in spite of several demands. As of January 30, 2000, Ayala's total obligation was P682,258.55.

At the trial, Ayala offered her and Rafaelito Okol's testimonies to prove her allegations. On the other hand, the Bank offered the testimonies of Philippine Deposit Insurance Corporation Deputy Liquidator Oliver Ileto and Assistant Manager/Cashier Dolores Espinoza-Arzadon, as well as documentary evidence.

On October 1, 2010, the RTC rendered its Decision[4] dismissing the complaint. The fallo reads:

> WHEREFORE, judgment is hereby rendered dismissing the case at bench for lack of cause of action.
>
> With costs against the plaintiffs.

SO ORDERED.

Appellant's motion for reconsideration was denied in the June 27, 2011 Resolution[5] of the RTC; hence, this appeal raising this alleged error:

> The lower court erred in holding that plaintiff Mylona Suzette Ayala cannot feign ignorance of the approval of the agricultural loan she applied for and of the release by the Bank of the proceeds thereof, thus no cause of action to file the case.[6]

The Bank did not file appellee's brief, thus, the case was deemed submitted for resolution.[7]

RULING

The issues in this appeal are: 1) whether Ayala applied for a loan and received the proceeds thereof; and 2) whether there was a valid REM.

In this jurisdiction, the party who alleges an affirmative fact has the burden of proving it because mere allegation of the fact is not evidence thereof.[8] Verily, the party who asserts, not he who denies, must prove his assertion.[9] Under Section 1, Rule 133[10] of the Rules of Court, the required quantum of evidence in civil actions is preponderance of evidence. This refers to evidence that is of greater weight, or more convincing, than the evidence offered in opposition to it.[11] It is proof that leads the trier of facts to find that the existence of the contested fact is more probable than its non-existence.[12]

Considering that Ayala denied that she received the proceeds of the loan and executed a REM to secure the loan, the Bank had the burden of proving, by preponderance of evidence, its affirmative assertion that Ayala obtained a loan and mortgaged her property. The evidence shows that the Bank successfully discharged that burden.

Thus, the Bank presented these documents, all bearing the signature of Mylona Suzette Ayala, to prove Ayala's loan and mortgage, viz.: Exhibit 1 - Application for Loan; Exhibit 2 - Agricultural Loan Application; Exhibit 3 – Promissory Note, dated December 12, 1996; Exhibit 4 – Promissory Note, dated December 13, 1996; Exhibit 5 – Promissory Note, dated December 16, 1998; Exhibit 6 – Receipt, dated December 13, 1996; Exhibit 7 – Receipt, dated December 1, 1996; Exhibit 8 – Receipt, dated March 16, 1998; Exhibit 13 - Additional Real Estate Mortgage dated December 6, 1996; and Exhibit 14 – Real Estate Mortgage.[13]

The Bank also presented the following: Exhibit 9 – Rural Bank of San Jacinto Check No. 452 54876, payable to Ayala, dated December 12, 1996, signed by Dolores Arzadon; Exhibit 10 – Rural Bank of San Jacinto Check No. 452 54898, payable to Ayala, dated December 13, 1996, signed by Dolores Arzadon; Exhibit 11 – Rural Bank of San Jacinto Check No. 452 56747, dated March 16, 1998, payable to Ayala, signed by Dolores Arzadon; Exhibit 12 – Ledger Account of Mylona Suzette Ayala; and Exhibit 15 – copy of TCT 66940.[14]

The foregoing documents were identified by the Bank's assistant manager and cashier, Dolores Espinoza-Arzadon, who had personal knowledge of the loan and mortgage transactions. The authenticity and due execution of the documents were never challenged by Ayala. If Ayala honestly believed that her signatures on the documents are forgeries, she could have easily resorted to compulsory process and presented expert testimony to prove her allegation. Her failure to do so only gives rise to the logical conclusion that her signatures on the documents are genuine and the documents are what they purport to be. In fact, the RTC noted that Ayala did not deny that the signatures appearing in the Application for Loan, dated December 13, 1996, Application for Agricultural Loan, dated March 16, 1998, and Promissory Notes dated December 12, 2996, December 13, 1996, and March 16, 1998 are her signatures.[15] The RTC likewise noted that the signatures on said documents and the signatures on the Receipts, dated December 12, 1996, December 13, 1996 and March 16, 1998 “are exactly the same.”[16]

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Through the foregoing documents and the testimony of Espinoza-Arzadon, the Bank has shown, by preponderance of evidence, that Ayala had indeed applied for a loan, received the proceeds thereof, and executed a REM over her property to secure payment of her obligation. Surely, such evidence must prevail over Ayala's evidence which consists merely of her bare and self-serving denial of the transactions.

Ayala contends that the delivery of the checks did not result in the perfection of the contract of loan because checks produce the effect of payment only when they are encashed.[17] She argues that the checks were not signed by her and were therefore not encashed. There being no perfected contract of loan, there can be no valid mortgage, which is only an accessory contract.[18] To support her contention, Ayala cites Naguiat v. Court of Appeals.[19] The contention is unmeritorious.

It is true that a loan is a real contract, not consensual, and as such it is perfected only upon the delivery of the object of the contract.[20] Delivery is the act by which the res or substance thereof is placed within the actual or constructive possession or control of another.[21]

In Naguiat, it was held that a loan, being a real contract, cannot be deemed perfected by the delivery of a check pursuant to Art. 1249[22] of the Civil Code. However, the facts of Naguiat are different from this case. In Naguiat, the checks issued as loan proceeds were never received by the debtor-mortgagee as they were withheld from her by the creditor-mortgagor and turned over to the latter's agent with the instruction that the checks should be given to the debtor-mortgagee only upon the surrender of additional collateral.[23] In short, there was no delivery of the loan proceeds. Such is not the case here.

On this point, Espinoza-Arzadon testified that upon approval of the loan by the Bank, in accordance with the standard operating procedure of the Bank, cashier's checks were prepared for the loan releases. Thereafter, the cash proceeds of the checks were released to Ayala who signed receipts therefor. After the loan became past due, Ayala asked Rufino for more time within which to pay. Thus, Ayala was given a chance to renew her loan upon payment of the charges. Rufino then instructed Espinoza-Arzadon to receive Ayala's payment and Ayala was granted a renewed loan. The net proceeds of the renewed loan were not actually received by Ayala because it was applied to the original loan. The renewed loan also became past due and Ayala did not pay in spite of demands therefor.[24]

It is clear from Espinoza-Arzadon's testimony and the documentary evidence that Ayala received the cash proceeds of the loan. Even if she did not sign the cashier's checks, nevertheless, the receipts which she signed indubitably show that she received the cash proceeds of her loan. As stated earlier, the authenticity and due execution of the receipts were never challenged by competent evidence. The delivery of the cash proceeds, as shown by the receipts, perfected the contract of simple loan (mutuum). Moreover, it does not matter that Ayala did not actually receive the proceeds of the renewed loan. It is clear from the evidence that the consideration of said loan is the same as the original loan the proceeds of which had been received by Ayala.

Considering that there was a perfected contract of loan, the accessory mortgage contract is also valid. The RTC correctly ruled that Ayala has no cause of action to declare the REM and promissory notes null and void. Ayala failed to prove her allegation that there was no loan and mortgage and that the loan documents are fraudulent. Her appeal must fail.

WHEREFORE, the appeal is DENIED. The Decision dated dated October 1, 2010 of the Regional Trial Court, Branch 44, Dagupan City in Civil Case No. 99-03135-D is AFFIRMED.

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SO ORDERED.

Librea-Leagogo, J., Chairperson, and [*]Hernando, JJ., concur.

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[*] Vice J. Javier, per Office Order No. 51-15-RSF dated February 16, 2015.

[1] Record, pp. 390-398.

[2] Record, pp. 1-4.

[3] Id pp. 29-33.

[4] Id, pp. 390-398.

[5] Id. at 413-414.

[6] Rollo, p. 15.

[7] Resolution dated January 18, 2013.

[8] Far East Bank & Trust Company v. Robert Mar Chante, G.R. No. 170598, October 9, 2013 citing Luxuria Homes, Inc. v. Court of Appeals, G.R. No. 125986, January 28, 1999, 302 SCRA 315, 325; Coronel v. Court of Appeals, G.R. No. 103577, October 7, 1996, 263 SCRA 15, 35.

[9] Id. citing Martin v. Court of Appeals, G.R. No. 82248, January 30, 1992, 205 SCRA 591, 596; Luxuria Homes, Inc. v. Court of Appeals, supra, at 327.

[10] Section 1. In civil cases, the party having the burden of proof must establish his case by a preponderance of evidence. In determining where the preponderance or superior weight of evidence on the issues involved lies, the court may consider all the facts and circumstances of the case, the witnesses' manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they are testifying, the nature of the facts to which they testify, the probability or improbability of their testimony, their interest or want of interest, and also their personal credibility so far as the same may legitimately appear upon the trial. The court may also consider the number of witnesses, though the preponderance is not necessarily with the greater number.

[11] Far East Bank & Trust Co. v. Chante, supra citing Jison v. Court of Appeals, G.R. No. 124853, February 24, 1998, 286 SCRA 495, 532.

[12] Id. citing 2 McCormick on Evidence, Fifth Edition, §422.

[13] Formal Offer of Evidence, Record, pp. 231-234.

[14] Id.

[15] Decision, Record, 390, at 397.

[16] Id.

[17] Art. 1249. X x x The delivery of promissory notes payable to order, or bills of exchange or other mercantile documents shall produce the effect of payment only when they have been cashed, or when through the fault of the creditor they have been impaired. x x x (1170)

[18] Rollo, pp. 15-19.

[19] G.R. No. 118375, October 3, 2003, 412 SCRA 591.

[20] Carolyn Garcia v. Rica Marie Thio, G.R. No. 154878, March 16, 2007 citing Naguiat v. Court of Appeals, supra.

“Art. 1934. An accepted promise to deliver something by way of commodatum or simple loan is binding upon the parties, but the commodatum or simple loan itself shall not be perfected until the delivery of the object of the contract.”

[21] Id. citing Buenaflor v. Court of Appeals, G.R. No. 142021, 29 November 2000, 346 SCRA 563, 569, citing Black's Law Dictionary, 5th ed.

[22] Art. 1249. The payment of debts in money shall be made in the currency stipulated, and if it is not possible to deliver such currency, then in the currency which is legal tender in the Philippines.

The delivery of promissory notes payable to order, or bills of exchange or other mercantile documents shall produce the effect of payment only when they have been cashed, or when through the fault of the creditor they have been impaired.

In the meantime, the action derived from the original obligation shall be held in abeyance. (1170) (Underscoring supplied)

[23] Naguiat v. Court of Appeals, supra (see Footnote 6 and 7).

[24] TSN, June 19, 2006, pp. 4-13.

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