

HEIRS OF CECILIO C. DALOMIAS, SR., NAMELY, LOURDES DE GUIA WALLACE AND CECILIO O. DALOMIAS, JR., AS REPRESENTED BY LOURDES DE GUIA WALLACE, PLAINTIFFS-APPELLEES, VS. SPS. JULIE ...

Ponente: GARCIA-FERNANDEZ, J.

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GARCIA-FERNANDEZ, J.:

This is an appeal by defendant-appellant Bank of Philippine Islands Family Savings Bank (BPIFSB) from the decision dated January 18, 2012 of the Regional Trial Court, Branch 91 of Quezon City (RTC) in Civil Case No. Q-06-58760 for annulment of deed of donation, transfer certificate of title, deed of mortgage, certificate of sale and damages.

Spouses Cecilio Dalomias, Sr. and Soledad Dalomias were owners of a 400-square meter property upon which they built their family home located at No. 30 Masikap Street, Diliman, Quezon City and covered by Transfer Certificate of Title (TCT) No. 3354 (87239) issued in their names.[1] Cecilio Dalomias, Sr. died on November 8, 2002, while Soledad died on January 29, 2004.[2] They were survived by their biological son Cecilio Dalomias, Jr., who is mentally disabled, having been diagnosed with schizophrenia and confined at Nazal Halfway Home for custodial care; and Lourdes de Guia Wallace, a recognized illegitimate daughter of Cecilio Dalomias, Sr.[3] Lourdes de Guia Wallace was appointed judicial guardian of Cecilio Jr. by virtue of a court order dated September 10, 2008 in Special Proceeding No. Q-06-58684.[4]

Defendant Julie Escandor is the niece of Cecilio Dalomias, Sr. by his youngest sister.[5] She was raised by the Spouses Dalomias and has lived in their home since 1968.[6] She is married to co-defendant Ernie Escandor.

Sometime in 2005, plaintiffs-appellees discovered that by virtue of a notarized deed of donation dated August 30, 2004 purportedly executed by the Spouses Dalomias in favor of the Spouses Escandor,[7] the latter succeeded in causing the cancellation of TCT No. 3354 over the subject property and issuance of TCT No. 266610 in their names on August 31, 2004.[8]

Plaintiffs-appellees also found out that on July 15, 2005, Spouses Escandor obtained a loan from BPIFSB in the amount of P3,300,000.00 using the subject property as security for their loan.[9] The mortgage loan agreement was annotated at the back of TCT No. 266610 on July 20, 2005 under Entry No. 6400.[10] When Spouses Escandor failed to pay their obligation on due date, BPIFSB initiated extra-judicial foreclosure proceedings and emerged as the highest bidder when the subject property was sold by public auction. The certificate of sale dated March 30, 2006 in favor of BPIFSB was also annotated on the title on April 10, 2006 under Entry No. 3392.[11]

On September 6, 2006, plaintiffs-appellees filed a complaint against defendants Spouses Escandor, the Register of Deeds of Quezon City and defendant-appellant BPIFSB for annulment of the deed of donation dated August 30, 2004, TCT No. 266610, deed of real estate mortgage and certificate of sale and damages.[12]

On January 8, 2009, plaintiffs-appellees filed an amended complaint alleging that the deed of donation dated

August 30, 2004 was falsified and forged because the Spouses Dalomias were both deceased on even date; that cancellation of TCT No. 3354 based on the falsified/forged deed of donation dated August 30, 2004 was invalid; that the transfer of title and issuance of TCT No. 266610 in the name of Spouses Escandor were likewise invalid; and that Spouses Escandor illegally obtained the loan of P3,300,000.00 from BPIFSB because they were not the real owners of the mortgaged property. Plaintiffs-appellees contended that BPIFSB failed to exercise due diligence in granting Spouses Escandor's loan application because of its failure to investigate and determine the true ownership of the mortgaged property, the circumstances surrounding the issuance of the title was issued and the existence or absence of a legitimate business or source of income; that the certificate of sale in favor of BPIFSB over the subject property sold by public auction was likewise null and void; that plaintiffs-appellees filed a criminal complaint against Spouses Escandor for falsification of public document; that by reason of the unjustified, illegal and immoral criminal acts of Spouses Escandor and the active connivance and evident bad faith of BPIFSB, plaintiffs-appellees suffered mental anguish, fright, serious anxiety and moral shock; and that plaintiffs-appellees prayed for the court to hold defendants liable for the following: moral damages of P300,000.00; exemplary damages of P300,000.00; attorney's fees of P200,000.00 plus appearance fees of P3,000.00 per hearing; and litigation expenses of P50,000.00.[13]

Defendant Spouses Escandor failed to file their answer and were declared in default by the trial court in its resolution dated February 26, 2007.[14]

BPIFSB filed an answer with counterclaim contending that the complaint filed by plaintiffs-appellees against them was baseless; that the extra-judicial foreclosure of the subject property was a lawful exercise of the bank's rights under the mortgage loan agreement; that Spouses Escandor defaulted on their loan obligation to the bank; that the bank was a mortgagee in good faith having no knowledge of any infirmities in Spouses Escandor's title; and that the bank conducted a survey, investigation and appraisal of the subject property before approving the Spouses Escandor's loan application. BPIFSB prayed that the complaint be dismissed for lack of merit; and that plaintiffs-appellees be ordered to pay exemplary damages in such amount as the trial court may fix; P50,000.00 as attorney's fees; P3,000.00 as appearance fees; and litigation expenses.[15]

On June 27, 2008, the RTC conducted pre-trial where plaintiffs-appellees and BPIFSB stipulated on the following issues to be resolved: 1) Whether or not the Spouses Dalomia executed the deed of donation dated August 20, 2004; 2) Whether TCT No. 266610 in the name of defendant Sps. Escandor has legal effects under the law; 3) Whether the deed of mortgage dated July 20, 2006 and issuance of the certificate of sale in favor of BPIFSB are valid; and 4) Whether plaintiffs and/or defendants are entitled to actual, moral and exemplary damages and attorney's fees.[16]

On January 18, 2012, the RTC rendered a decision, the dispositive portion of which reads:

“WHEREFORE, premises considered, judgment is hereby rendered ordering the following:

- the Deed of Donation dated August 20, 2004 is declared as NULL and VOID.
- TCT No. 266610 is declared NULL and VOID;
- The Mortgage Loan Agreement is declared NULL and VOID.

The Register of Deeds of Quezon City is hereby ordered to reinstate TCT No. 3354 in the name of Cecilio Dalomias, Sr. and Soledad Dalomias.

SO ORDERED.”[17]

In its decision the trial court held that BPIFSB was not a mortgagee in good faith. First, the trial court found that

the Sps. Dalomias were both deceased at the time the deed of donation was signed and executed on August 30, 2004. Hence, TCT No. 266610 transferred in the name of Sps. Escando and obtained by means of a fictitious deed of donation, was a nullity. Second, the trial court found that BPIFSB failed to exercise due diligence in granting the loan application of Sps. Escandor and hastily approved the Mortgage Loan Agreement dated July 15, 2004, because it should have discovered the irregularities in the supporting documents submitted by the Sps. Escandor, i.e., the short period of one (1) day covering the execution of the deed of donation on August 30, 2004 and the issuance of TCT No. 266610 on August 31, 2004; the dubious and unauthenticated photocopies of Income Tax Returns for 2002, 2003 and 2004 – which turned out to be fake per verification with the Bureau of Internal Revenue (BIR); and the absence of proof showing Sps. Escandor's capacity to pay and credit-worthiness. Lastly, the trial court held that BPIFSB was negligent in embarking on unsound and unsafe banking practices and in simply relying on the TCT to determine the real status of the subject property. However, while the trial court held that the mortgage agreement between BPIFSB and Sps. Escandor was not valid, the latter was still liable to pay the loan of P3,300,000.00 plus interest.

On February 17, 2012, defendant-appellant BPIFSB filed a notice of appeal.[18] In this appeal, defendant-appellant assigns the following errors to the trial court:

- THE LOWER COURT ERRED IN DECLARING THAT DEFENDANT-APPELLANT WAS NOT A MORTGAGEE IN GOOD FAITH; and,
- THE LOWER COURT ERRED IN ANNULING THE EXTRA-JUDICIAL FORECLOSURE AND CONSOLIDATED TITLE UNDER THE NAME OF THE BANK.[19]

This Court finds no cogent reason to reverse the trial court in declaring the deed of donation dated August 30, 2004 spurious and void. While it is true that the questioned deed of donation was a notarized document, and that as a general rule, documents acknowledged before a notary public have in their favor the presumption of regularity, this presumption is not absolute and may be rebutted by clear and convincing evidence to the contrary. Not all notarized documents are exempted from the rule on authentication. The presumption of regularity attached to notarized documents can be affirmed only so long as it is beyond dispute that the notarization was regular.[20] The presumption cannot be made applicable in this case, considering the highly questionable circumstances surrounding the execution of the deed of donation. The Spouses Dalomias could not have validly signed and executed the deed of donation in favor of Julie Escandor on August 30, 2004 using community tax certificates (CTC's) issued on January 25 and 29, 2004, because the evidence on record clearly proved that Cecilio Dalomias, Sr. died on November 8, 2002 and Soledad died on January 29, 2004. Hence, their signatures on the questioned deed of donation were forgeries.

This Court also affirms the trial court in declaring TCT No. 266610 issued in the name of Sps. Escandor on August 31, 2004 void. The cancellation of TCT No. 3354 (87239) in the name of Sps. Dalomias was effected by means of a spurious and forged deed of donation in favor of Sps. Escandor, and therefore, all derivative titles emanating therefrom are likewise void. It is a well-entrenched rule that a forged or fraudulent deed is a nullity and conveys no title.[21]

Anent the issues raised, defendant-appellant BPIFSB contends that contrary to the ruling of the trial court, it is a mortgagee in good faith and therefore entitled to protection under the law. It asserts that it is an innocent party who had no knowledge that the right of defendant Sps. Escandor to mortgage the subject property was merely simulated. The contention is untenable.

In *Cavite Development Bank vs. Spouses Lim*,[22] the doctrine of mortgagee in good faith was explained thus:

“There is, however, a situation where, despite the fact that the mortgagor is not the owner of the mortgaged

property, his title being fraudulent, the mortgage contract and any foreclosure sale arising there from are given effect by reason of public policy. This is the doctrine of "the mortgagee in good faith" based on the rule that all persons dealing with property covered by the Torrens Certificates of Title, as buyers or mortgagees, are not required to go beyond what appears on the face of the title. The public interest in upholding the indefeasibility of a certificate of title, as evidence of lawful ownership of the land or of any encumbrance thereon, protects a buyer or mortgagee who, in good faith, relied upon what appears on the face of the certificate of title."

Indeed, a mortgagee has a right to rely in good faith on the certificate of title of the mortgagor of the property given as security, and in the absence of any sign that might arouse suspicion, the mortgagee has no obligation to undertake further investigation. This doctrine pre-supposes, however, that the mortgagor, who is not the rightful owner of the property, has already succeeded in obtaining Torrens title over the property in his name and that, after obtaining the said title, he succeeds in mortgaging the property to another who relies on what appears on the title.[23]

However, this is not the case with respect to defendant-appellant BPIFSB. While it is true that a mortgagee is not expected to conduct an exhaustive investigation of the history of the mortgagor's title before he extends a loan, it should be borne in mind that defendant-appellant BPIFSB is not an ordinary mortgagee; it is a mortgagee bank. Banks are expected to be more cautious than ordinary individuals in dealing with lands, even registered ones, since the business of banks is imbued with public interest.[24] A banking institution is expected to exercise due diligence before entering into a mortgage contract. The ascertainment of the status or condition of a property offered to it as security for a loan must be a standard and indispensable part of its operations.[25]

This Court affirms the trial court in finding that defendant-appellant BPIFSB was guilty of negligence when it hastily approved the loan application of defendant Sps. Escandor. Had defendant-appellant BPIFSB complied with strict requirements of verification and investigation in banking practice, it would have easily discovered and known that defendant Sps. Escandor submitted fictitious documents in support of their loan application. For one, it failed to ascertain the authenticity of defendant Sps. Escandor's income tax returns (ITR's) for the years 2002-2005.[26] Apparently, the BIR issued a Certification dated May 28, 2009 that Julie Escandor's Tax Identification Number 153-042-852-000 with registered address at No. 30 Masikap Street, Diliman, Quezon City had no record of annual income tax for the taxable years 2002, 2003 and 2004.[27] This fact alone should have easily driven defendant-appellant BPIFSB to further conduct an investigation regarding the genuineness of the title to the property offered as collateral, the validity of the deed of conveyance and to determine the real owners thereof. These circumstances debunk the presumption of good faith claimed by defendant-appellant BPIFSB, for anyone who deliberately ignores a significant fact that would create suspicion in an otherwise reasonable person cannot be considered as an innocent mortgagee for value.[28] Such persons cannot subsequently claim to have acted in good faith in the belief that there was no defect in the vendor's certificate of title, and their mere refusal to face that possibility will not make them innocent purchasers for value, if it later becomes clear that the title was indeed defective, and that they would have discovered the fact, had they acted with the measure of precaution required of a prudent person in a like situation.[29]

WHEREFORE, the appeal is DENIED. The decision dated January 18, 2012 of the Regional Trial Court of Quezon City in Civil Case No. Q-06-58760 is AFFIRMED.

SO ORDERED.

Lampas Peralta, F., (Chairperson) and Acosta, F. P., JJ., concur.

[1] Record, pp. 211-212.

[2] Id. at pp. 334 & 335.

- [3] Id. at p. 79 & p. 86.
- [4] Id. at pp. 433-437; 438-440; 336-337.
- [5] TSN, April 17, 2009, p. 23.
- [6] Record, p. 23.
- [7] Id. at pp. 350-351.
- [8] Id. at pp. 209-210; and p. 211 (dorsal portion).
- [9] Id. at pp. 34-349.
- [10] Id. at p. 343.
- [11] Id. at p. 344.
- [12] Id. at p. 1.
- [13] Id. at pp. 78-84.
- [14] Id. at 53-54.
- [15] Id. at pp. 28-31.
- [16] Record, pp. 129-130.
- [17] Id. at pp. 540-544.
- [18] Id. at pp. 546-547 & 548.
- [19] Rollo, p. 24.
- [20] Alejandra Lazaro, et al. vs. Modesta Agustin, et al., G.R. No. 152364, April 15, 2010.
- [21] Land Bank of the Philippines vs. Poblete, G.R. No. 196577, February 25, 2013.
- [22] G.R. No. 131679, February 1, 2000.
- [23] Bank of Commerce vs. Sps. San Pablo, G.R. No. 167848, April 27, 2007.
- [24] Philippine National Bank, et al. vs. Corpus, G.R. No. 180945, February 12, 2010.
- [25] Note 23.
- [26] Record, pp. 216-220.
- [27] Id. at p. 445.
- [28] Note 24.
- [29] Spouses Danilo and Alberta Domingo, et al., vs. Guillermo Reed, G.R. No. 157701, December 9, 2005.

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