

SANDIGAN SAVINGS BANK, INC., PLAINTIFF-APPELLEE, VS. SPOUSES ERIC T. CALDERON AND ELIZABETH EUSEBIO-CALDERON, DEFENDANTS-APPELLANTS.

Ponente: DICDICAN, J.

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DICDICAN, J.:

Before this Court is an appeal[1], under Rule 44 of the Revised Rules of Court, seeking the reversal of the Decision, dated August 1, 2011[2], issued by the Regional Trial Court, Branch 12 of Malolos City, Bulacan in Civil Case No. 251-M-2003, the dispositive of which states as follows:

“WHEREFORE, judgment is hereby rendered in favor of the Plaintiff. The Defendant/s are hereby ordered to surrender to the Plaintiff, the owner's duplicate copy of their title KATIBAYAN NG ORIHINAL NA TITULO BLG. P-5317, and to execute a document transferring the said title to the Plaintiff.

“Should the Defendant/s fail or refuse to surrender the title herein mentioned, the said title is considered canceled and the Register of Deeds, Guguinto, Bulacan, is hereby directed to issue a duplicate owner's copy of the same title in the name of the Plaintiff, upon payment of the required fees.

“The defendant/s are likewise directed jointly and severally to pay the Plaintiff, the amount of P50,000.00 as attorney's fees and P1,500.00 as appearance fees for every hearing that the Plaintiff's lawyer actually appeared, and costs.

“SO ORDERED.”[3]

The antecedent facts are the following:

On March 31, 2003, plaintiff-appellee Sandigan Savings Bank, Inc. filed a Complaint[4] for specific performance against defendants-appellants spouses Eric Calderon and Elizabeth E. Calderon who were the registered owner of a mortgaged property situated in Pulilan, Bulacan which was covered by Original Certificate of Title No. P-5317. In the complaint, plaintiff-appellee prayed that defendants-appellants be ordered to deliver and surrender the owner's duplicate copy of Original Certificate of Title No. P-5317 to plaintiff-appellee and that defendants-appellants be further directed to execute the necessary document to transfer the title of the said property to plaintiff-appellee.

Plaintiff-appellee alleged in the complaint that on February 8, 1993, defendants-appellants obtained a loan from it in the sum of P500,000.00. The said loan was secured by a real estate mortgage[5] wherein defendants-appellants mortgaged their parcel of land covered by Tax Declaration No. 2929 in favor of plaintiff-appellee. It was a condition of the contract that, once a title to the property has been issued, the same shall be surrendered to the plaintiff-appellee. The mortgage contract thus bore a note which reads as follows:

“NOTE: (Upon issue, the title of this land should be surrendered to SSLB)”

Plaintiff-appellee further alleged that, on February 7, 1994, defendants-appellants obtained an additional loan from plaintiff-appellee in the sum of P125,000.00 while, on February 22, 1996, defendants-appellants obtained

another P34,000.00 loan. Corresponding mortgage agreements[6] over the same property, carrying the same notation above-quoted, were executed for the two additional loans.

Defendants-appellants failed to pay their loans even after demand for payment was made by plaintiff-appellee upon defendants-appellants. Consequently, the mortgage of the property covered by Tax Declaration No. 2929 was extra-judicially foreclosed and sold to plaintiff-appellee as the highest bidder. A Certificate of Sale[7], dated September 4, 2007, was then issued to plaintiff-appellee. After consolidating the property in its name, plaintiff-appellee was issued a new Tax Declaration No. 99-19-001-18-030 while defendants-appellants failed to exercise their right of redemption within the one-year allowed period. To plaintiff-appellee's surprise, however, it soon discovered at the Register of Deeds of Bulacan that an Original Certificate of Title No. P-5317 covering the subject property was already issued in the name of defendants-appellants as early as on June 9, 1997. Contrary to the agreement of the parties in the mortgage contract, defendants-appellants did not surrender the copy of the title to plaintiff-appellee when they were issued the Original Certificate of Title No. P-5317 by the Register of Deeds. Upon demand made by plaintiff-appellee, the defendants-appellants continually refused to surrender the owner's duplicate copy of the title to the subject property.

In response to the complaint filed by plaintiff-appellee, defendants-appellants filed an Answer with Compulsory Counterclaim with Special and Affirmative Defenses[8], praying for payment of damages and for nullity and/or annulment of the real estate mortgage contracts, foreclosure sale, certificate of sale and tax declaration issued in favor of plaintiff-appellee. Defendants-appellants claimed that the real estate mortgage contracts were signed by them in blank while the subsequent foreclosure of mortgage was carried out without their knowledge and consent. Although a free patent was indeed registered in the name of defendant-appellant Atty. Eric Calderon, it was lost by a third person to whom he had entrusted the same sometime in December of 1997.

After the issues were joined, the court a quo issued an Order setting the case for pre-trial on August 25, 2003. This pre-trial date was however canceled and reset fourteen times, mostly at the instance of the defendants-appellants who continually requested for a chance and time to dialogue with the plaintiff-appellee. Pre-trial finally proceeded almost three years later, or on June 26, 2006, and the parties subsequently presented their witnesses and evidence in support of their respective claims.

In the assailed Decision dated August 1, 2011, the Regional Trial Court, Branch 12 of Malolos, Bulacan ruled in favor of plaintiff-appellee. The court a quo observed that it was improbable that someone highly educated and with judicial experience as a Judge would sign a document in blank or without reading it first. Moreover, it was further observed that, despite defendants-appellants' protestation of the amount of the loan and lack of notice of the foreclosure, he never questioned the contracts and foreclosure sale in court but, instead, repeatedly manifested his willingness to pay his obligations. The court a quo also noted that, even as they were claiming that their title was lost, they never executed an affidavit of loss nor annotated the loss in the title or petitioned the court for issuance of another owner's duplicate. The court a quo went on to notice that, if the free patent was indeed a nullity, as alleged by defendants-appellants, then they should not have tried to use the title to borrow some more money from the Rural Bank of Bocaue where it was allegedly lost. In view of the foregoing, the court a quo additionally ruled that defendants-appellants acted in bad faith.

Defendant-appellant Atty. Eric Calderon filed a Motion for Reconsideration[9] of the Decision dated August 1, 2011 and plaintiff-appellee filed a Comment/Objection[10] to the said motion. In an Order dated April 20, 2012[11], the Regional Trial Court denied the motion for reconsideration. The fallo of the Order reads:

“WHEREFORE, the “Motion for Reconsideration” filed by Defendant Eric Calderon is hereby DENIED for lack of merit and the August 1, 2011 Decision of this Court stands.

“Notify the Plaintiff SSBI, PDIC, and Defendant Eric Calderon of this Order.

“SO ORDERED.”

Hence, this appeal.

Defendant-appellant Atty. Eric Calderon who, from the tenor of the appeal brief, appears to be a widower, assigns seven errors committed by the Regional Trial Court, to wit :

“The lower court gravely erred amounting to grave abuse of discretion amounting to lack of jurisdiction in rendering the assailed decision and in NOT finding and ruling that:

A. Defendant Eric Calderon actually has no personal knowledge that the subject property would be foreclosed on August 25, 1997 in violation of the Constitution that no person shall be deprived of property without due process of law.

B. Sandigan had committed continuous violation of The Truth in Lending Act and existing rules and regulations of the Bangko Sentral ng Pilipinas in not apprising defendants-appellants of their alleged outstanding monetary obligations in its (Sandigan's) favor by wittingly and unwittingly failing to furnish copies of the alleged real estate mortgage contracts in favor of the defendants-appellants.

C. The defendants and appellants have no obligation under the law to deliver the alleged free-patent title so issued in their favor to Sandigan because the Supreme Court jurisprudence rules that a private property covered by free-patent title is a nullity.

D. Defendant Eric Calderon acted with utmost good faith in offering to Sandigan settlement of his wife's monetary obligation in its favor.

E. The subject property being a family home is not subject to execution, alienation and foreclosure.

F. Assuming that the foreclosure of the mortgaged subject property was valid, it is the duty of Sandigan to return the surplus in the selling price to spouses Calderon after applying the proceeds of the sale of the mortgaged property to the obligation of Mrs. Calderon.

G. The extra-judicial foreclosure of the subject property on August 25, 1997 was null and void and should be set aside because there was fraud, collusion, accident, mutual mistake, breach of trust or misconduct by the purchase; or that the sale has not been fairly and regularly conducted; or that the price was inadequate and the inadequacy is so great as to shock the conscience of the court.”[12]

The appeal has no merit and is not only dismissible on its substantial aspect but on a technical one. As correctly pointed out by the plaintiff-appellee, Section 13 of Rule 44 of the Revised Rules of Court provides as follows:

“Sec. 13. Contents of appellant’s brief.

The appellant’s brief shall contain, in the order herein indicated, the following:

(a) A subject index of the matter in the brief with a digest of the arguments and page references, and a table of cases alphabetically arranged, textbooks and statutes cited with references to the pages where they are cited;

xxx xxx xxx

(d) Under the heading "Statement of Facts," a clear and concise statement in a narrative form of the facts admitted by both parties and of those in controversy, together with the substance of the proof relating thereto in sufficient detail to make it clearly intelligible, with page references to the record;”

In his Appellant's Brief, defendant-appellant Eric Calderon did not place a statement of facts as defined above.

Also, the subject index of the appellant's brief had incomplete page references. Hence, under Section 1 of Rule 50 of the Revised Rules of Court, an appeal may be dismissed in the absence of page references to the record as required in Section 13, paragraphs (a), (c), (d) and (f) of Rule 44.

Meanwhile, on the substantial aspect, the appeal must similarly be dismissed. It is herein further noted that most of the assignment of errors submitted by defendant-appellant Atty. Eric Calderon for resolution were not accompanied by any discussion on the matter, following the citation of the alleged error.

In his first assignment of alleged errors, defendant-appellant Atty. Eric Calderon contends that he was deprived of his constitutional and statutory right to participate and bid on August 25, 1997 when his capital property was foreclosed as he was not notified of the sale.

We apply the fundamental and settled rule that conclusions and findings of fact by the trial court are entitled to great weight on appeal and should not be disturbed unless for strong and cogent reasons because the trial court is in a better position to examine real evidence, as well as to observe the demeanor of the witnesses while testifying in the case.[13] Hence, as properly appreciated by the court a quo, defendants-appellants presented the Sheriff as a witness and said witness showed a registry return card confirming that defendants-appellants received a notice of Sheriff's Auction Sale, Affidavit of Posting and publication in a newspaper. Besides, defendant-appellant Atty. Eric Calderon wrote a letter addressed to the Provincial Sheriff, requesting that the auction sale of August 25, 1997 be postponed.[14]

In connection with this and contrary to the second assignment of purported error presented by defendant-appellant stating that he was not apprised of his outstanding monetary obligation and was not furnished a copy of the mortgage contract, we find that the court a quo also properly appreciated the testimony of one Agnes Esguerra, along with several letters of defendant-appellant wherein he acknowledged his obligation, sought copies of statement of account and promised to redeem the subject property, as proof that defendant-appellant had knowledge of his outstanding monetary obligations and that he had been furnished a copy of the real estate mortgage contracts.

As to the third issue involving free patent, defendant-appellant again argues that the subject property is a private property and thus the free-patent title is a nullity. Granting that a free patent issued for a private land is a nullity, the records do not bare any substantial evidence in support of defendant-appellant Atty. Eric Calderon's claim. In fact, not only was there no evidence submitted, but there was also no argument offered as regards such claim. At any rate, whether or not the free patent was a nullity is beside the point as the case is for specific performance in that the plaintiff-appellee prayed that the owner's duplicate of title of the subject property be delivered to it by defendant-appellant. All that is incumbent for the defendant-appellant to do is to turn over the owner's duplicate of title to plaintiff-appellee, as agreed upon in the mortgage contract. An attack on the validity of his own title does not provide an avenue for escape from his obligation.

Having been found to have acted in bad faith by the court a quo, the defendant-appellant lays down as his fourth assignment of error such ruling. Absent any valid reason and justification, we find no cogent reason to reverse the findings of bad faith by the court a quo on the part of defendant-appellant. It is evident that, instead of attempting to comply with his obligation to surrender and deliver the owner's duplicate copy of the title to plaintiff-appellee, defendant-appellant Atty. Eric Calderon has continuously delayed the proceedings. Bad faith is defined as a state of mind affirmatively operating with furtive design or with some motive of self-interest or ill will or for ulterior purpose. It implies a conscious and intentional design to do a wrongful act for a dishonest purpose or moral obliquity.[15] This definition is in all fours with the acts of defendant-appellant.

The fifth and sixth issues raised by defendant-appellant -- stating that the subject property is a family home not

subject to execution and that the plaintiff-appellee should return the surplus in the selling price-- are both issues raised for the first time on appeal. It is well-settled that no question will be entertained on appeal unless it has been raised in the proceedings below. Points of law, theories, issues and arguments not brought to the attention of the lower court, administrative agency or quasi-judicial body, need not be considered by a reviewing court, as they cannot be raised for the first time at that late stage. Basic considerations of fairness and due process impel this rule. Any issue raised for the first time on appeal is barred by estoppel.[16]

As to the last issue raised by defendant-appellant as to the validity of the foreclosure sale, suffice it to say that the issue is vague and unsubstantiated to the point of not being understood as to what the "fraud, collusion, accident, mutual mistake, breach of trust or misconduct by the purchase" refers to. The allegation that the sale of the subject property has not been fairly conducted and that the price was inadequate was likewise not properly discussed and, more importantly, utterly lacks evidence to stand on.

WHEREFORE, in view of the foregoing premises, the appeal is hereby DENIED. The Decision, dated August 1, 2011, issued by the Regional Trial Court, Branch 12, Malolos City, Bulacan in Civil Case No. 251-M-2003, is hereby AFFIRMED.

SO ORDERED.

Elbinias and Paredes, JJ., concur.

[1] Rollo, Brief for Defendants and Appellant, pp. 59-70

[2] Ibid., Decision, pp. 71-97

[3] Id., page 97

[4] Records, Complaint, pp. 3-6

[5] Ibid., Mortgage Contract, page 9

[6] Ibid., Mortgage Contract, pp. 12-13

[7] Ibid., Certificate of Sale, pp. 14 and 281

[8] Ibid., Answer, pp. 22-33

[9] Ibid., Motion for Reconsideration, pp. 410-413

[10] Ibid., Comment/Objection, pp. 416-421

[11] Rollo, Order, pp. 98-101

[12] Rollo, pp.61-63

[13] Dihiansan vs Court of Appeals, G.R. No. L-49539, September 14, 1987

[14] Rollo, Decision page 94

[15] Lambert Pawnbrokers and Jewelry Corporation vs Binamira, G.R. No. 170464, July 12, 2010

[16] S.C. Megaworld Construction and Development Corporation vs Parada, G.R. No. 183804, September 11, 2013

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