

EQUITABLE SAVINGS BANK, PLAINTIFF-APPELLEE, VS. ROSALINDA C. PALCES, DEFENDANT-APPELLANT.

Ponente: GARCIA-FERNANDEZ, J.

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GARCIA-FERNANDEZ, J.:

This resolves the two separate motions for partial reconsideration of this Court's decision dated February 13, 2014 filed by plaintiff-appellee on March 6, 2014 and by defendant-appellant on March 14, 2014.

In its motion for partial reconsideration, plaintiff-appellee contends that Art. 1484 of the Civil Code is applicable only to a contract of sale of personal property on installment and not a contract of loan secured by a mortgage; and that it was not barred from further accepting payments or recovering any unpaid balance from defendant-appellant after it recovered possession of the subject vehicle. Thus, plaintiff-appellee prays that this Court's decision dated February 13, 2014 with respect to reimbursement of the amounts of P70,000.00 and P33,000.00 be set aside and that the decision of the RTC of Pasay City dated May 2010 be affirmed in toto.[1]

On the other hand, defendant-appellant in her motion contends that this Court erred in not dismissing the complaint and failing to direct plaintiff-appellee to return the subject motor vehicle, return all her payments thereto, and pay moral and exemplary damages and attorney's fees.[2]

The issues raised by defendant-appellant in her motion are mere rehash of those already given due consideration and resolved in her appeal, thus, this Court finds no new or substantial matter presented to justify a modification or reversal of the assailed decision.

Anent plaintiff-appellee's motion, this Court also finds the issues raised bereft of merit. As borne by the records, what was signed by defendant-appellant was an integrated promissory note with deed of chattel mortgage over the subject vehicle in favor of plaintiff-appellee. A contract of chattel mortgage, which is the transaction involved in the present case, is in the nature of a conditional sale of personal property given as a security for the payment of a debt, or the performance of some other obligation specified therein, the condition being that the sale shall be void upon the seller paying to the purchaser a sum of money or doing some other act named. If the condition is performed according to its terms, the mortgage and sale immediately become void, and the mortgagee is thereby divested of his title. On the other hand, in case of non payment, foreclosure is one of the remedies available to a mortgagee by which he subjects the mortgaged property to the satisfaction of the obligation to secure that for which the mortgage was given. Foreclosure may be effected either judicially or extrajudicially, that is, by ordinary action or by foreclosure under power of sale contained in the mortgage. It may be effected by the usual methods, including sale of goods at public auction. Extrajudicial foreclosure is attained by causing the mortgaged property to be seized by the sheriff, as agent of the mortgagee, and have it sold at public auction in the manner prescribed by Section 14 of Act No. 1508, or the Chattel Mortgage Law.[3]

In this case, after defendant-appellant failed to heed the demand by plaintiff-appellee to pay the remaining balance of the loan, the latter filed the complaint for recovery of possession with replevin with alternative prayer for payment of sum of money and damages and prayed as follows: "1) To forthwith issue a writ of replevin ordering

the seizure of the motor vehicle above-described, and direct the delivery thereof to plaintiff in accordance with law, and after due hearing, to confirm the said seizure; and 2) Or, as an alternative prayer, in the event that manual delivery of said motor vehicle cannot be effected, to render judgment in favor of plaintiff and against defendants, ordering them to pay jointly and severally the sum of SIX HUNDRED SIXTY FOUR THOUSAND FIVE HUNDRED PESOS ONLY (P664,500.00), exclusive of penalty, past due charges and interest accruing after January 18, 2007 until fully paid; xxx"[4] Thereafter, plaintiff-appellee recovered possession of the subject vehicle pursuant to a writ of replevin issued by the trial court on April 24, 2007. Perusing the complaint, plaintiff-appellee under its prayer number 2, sought to exact fulfillment of the obligation from defendant-appellant through payment of the balance on the loan. At the same time, plaintiff-appellee prayed in the alternative that defendant-appellant be ordered to surrender possession of the subject vehicle. Thus, plaintiff-appellee is bound by its election and may not be allowed to change what it has opted for nor to ask for more.[5] Moreover, plaintiff-appellee cannot claim in its present motion that it was still entitled to recover any unpaid balance or deficiency on the loan considering that plaintiff-appellee did not opt to foreclose on the mortgage in the same proceeding. Plaintiff-appellee should bear in mind that a deficiency claim can only be determined after extrajudicial foreclosure.[6] Moreover, it is settled that courts cannot grant a relief not prayed for in the pleadings or in excess of what is being sought by the party.[7]

WHEREFORE, the motions for partial reconsideration filed by plaintiff-appellee and defendant-appellant are DENIED for lack of merit.

SO ORDERED.

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

[1] Rollo, pp. 102-109.

[2] Id. at pp. 134-138.

[3] Magna Financial Services Group, Inc. vs. Colarina, G.R. NO. 158635, December 09, 2005.

[4] Record, pp. 10-15.

[5] See Note 3.

[6] PCI Leasing & Finance, Inc. vs. Spouses George Dai and Divina Dai, G.R. No. 148980, September 21, 2007.

[7] Leticia Diona, et al., vs. Balangue, et al., G.R. No. 173559, January 7, 2013.

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