

LUIS G. ABLAZA, PLAINTIFF AND APPELLANT, VS. GABRIEL A. IGNACIO, DEFENDANT AND APPELLEE.

G.R. No. L-11466. May 23, 1958

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is an action for deficiency arising from a foreclosure of a chattel mortgage instituted when the new Civil Code has already taken effect.

Defendant, after having been served with the summons and the complaint, failed to answer within the reglementary period. Upon motion of plaintiff, defendant was declared in default. Then plaintiff presented his evidence and submitted the case for decision.

On August 30, 1956, the court rendered decision dismissing the complaint on the ground that, under the provisions of Articles 2141 and 2115 of the new civil Code, "plaintiff is not entitled to deficiency judgment notwithstanding defendant being declared in default for the reason that it is manifestly against the law." Hence the present appeal.

It appears that defendant borrowed from plaintiff the amount of 52,250, payable after sixty days, with interest at 12% per annum, and to secure the loan, he executed a chattel mortgage on an Oldsmobile car. Defendant failed to pay the indebtedness on its date of maturity, thereby violating one of the conditions of the mortgage. Thereupon, plaintiff proceeded to foreclose the mortgage extrajudicially and the mortgaged chattel was sold at public auction for the amount of P700.00. Deducting this amount from, the total obligation, in addition to the interest and liquidated damages agreed upon, the remaining balance was P2,675. To collect this balance, plaintiff instituted the present action.

The lower court dismissed this case in spite of the fact that defendant was declared in default and plaintiff presented enough evidence to support his claim because, being an action for deficiency oh a chattel mortgage, it opined that the mortgage creditor is no longer entitled to it under the provisions of the new Civil Code. Said the lower court:

"It is clear from the evidence presented that plaintiff in the instant case seeks deficiency judgment on a chattel mortgage.

"The Civil Code provides:

'Art. 2141.—The provisions of this Code on pledge insofar as they are not in conflict with the Chattel Mortgage Law, shall be applicable to chattel mortgages.'

"Art. 2115.—The sale of the thing pledged shall extinguish the principal obligation, whether or not the proceeds of the sale are equal to the amount of the principal obligation, interest and expenses in a proper case. If the price of the sale is more than said amount, the debtor shall not be entitled to the excess, unless it is otherwise agreed, if the price of the sale is less neither shall the creditor be entitled to recover the deficiency,

notwithstanding any stipulation to the contrary.'

"With the above-quoted provisions of the Civil Code, this Court is of the opinion that plaintiff is not entitled to deficiency judgment notwithstanding defendant being declared in default for the reason that it is manifestly against the law."

We are of the opinion that the trial court is in error. It is clear from Article 2141 that the provisions of the new Civil Code on pledge shall apply to a chattel mortgage only in so far as they are not in conflict with the Chattel Mortgage Law. In other words, the provisions of the new Civil Code on pledge can only apply if they do not run counter to any provision of the Chattel Mortgage Law, otherwise, the provisions of the latter law shall apply. Here we find tint the provisions of the Chattel Mortgage Law with regard to the effects of the foreclosure of a chattel mortgage are precisely contrary to the provisions of Article 2115 which were applied by the trial court. This can be seen from a perusal of Section 14 of said law, which we quote:

"SEC. 14. The mortgagee, his executor, administrator, or assign, may, after thirty days from the time of condition broken, cause the mortgaged property, or any part thereof, to be sold at public auction by a public officer at a public place in the municipality where the mortgagor resides, or where the property is situated, provided at least ten days notice of the time, place, and purpose of such sale has been posted at two or more public places in such municipality, and the mortgagee, his executor, administrator, or assign, shall notify the mortgagor or person holding under him and the person holding subsequent mortgages of the time and place of sale, either by notice in writing direct to him or left at his abode, if within the municipality, or sent by mail if he does not reside in such municipality at least ten days previous to the sale.

"The officer making the sale shall, within thirty days thereafter, make in writing a return of his doings and file the same; in the office of the Registry of Deeds where the mortgage is recorded, and the Register of Deeds shall record the same. The fees of the officer for selling the property shall be the same as the case of sale on execution as provided in Act numbered one hundred and ninety, and the amendments thereto, and the fees of the Register of Deeds for registering the officer's return shall be taxed as a part of the costs of sale, which the officer shall pay to the Register of Deeds. The return shall particularly describe the articles sold, and state the amount received for each article, and shall operate as a discharge of the lien thereon created by the mortgage. The proceeds of such sale shall the be applied to the payment, first, of the costs and expenses of keeping and sale, and then to the payment of the demand or obligation secured by such mortgage, and the residue shall be paid to persons holding subsequent; mortgages in their order, and the balance, after paying the mortgage, shall be paid to the mortgagor or persons holding under him on demand." (Underlining supplied)

Interpreting the nature of a chattel mortgage and the effects of its foreclosure in case of non-payment of the obligation, this Court made the following pronouncement:

"While it is true that section 3 of Act no. 1508 provides that 'a chattel mortgage is a conditional sale,¹ it further provides that it 'is a conditional sale of personal property as security for the payment of a debt, or for the performance of some other obligation specified therein.' The lower court overlooked the fact that the chattels included in the chattel mortgage are only given as a security and not as a payment of the debt, in case of a failure of payment.

"The theory of the lower court would lead to the absurd conclusion that if the chattels mentioned in the mortgage, given as security, should sell for more than the amount of the indebtedness secured, that the creditor would be entitled to the full amount for which it might be sold, even though the amount was greatly in excess of the indebtedness. Such a result certainly was not contemplated by the legislature when it adopted Act no. 1508. There seems to be no reason supporting that theory under the provision of the law. The value of chattels changes greatly from time to time, and sometimes very rapidly. If, for example, the chattels should greatly increase in value and a sale under that condition should result in largely overpaying the indebtedness, and if the creditor is not permitted to retain the excess, then the same token would require the debtor to pay the

deficiency in case of a reduction in the price of the chattels between, the date of the contract and a breach of the condition.

"Mr. Justice Kent, in the 12th Edition of his Commentaries, as well as other authors on the question of chattel mortgages, have said, that 'in case of a sale under a foreclosure of a chattel mortgage, there is no question that the mortgagee or creditor may maintain an action for the deficiency, if any should occur.¹ And the fact that Act No. 1508 permits a private sale, such sale is not, in fact, a satisfaction of the debt, to any greater extent than the value of the property at the time of the sale. The amount received at the time of the sale, of course, always requiring good faith and honesty in the sale, is only a payment, pro tanto, and an action may be maintained for a deficiency in the debt.'" (Manila Trading and Supply Co. vs. Tamaraw Plantation Co., 47 Phil., 513; Underlining supplied)

Considering that the provisions of the Chattel Mortgage law regarding the effects of the foreclosure of a chattel mortgage are contrary to the provisions of Article 2115 of the new Civil Code, we find no plausible reason why the latter should apply to the present case.

Wherefore, the decision appealed from is reversed. Judgment is hereby rendered ordering defendant to pay to plaintiff the amount of P2,675, with interest thereon from January 3, 1955, and the costs of action.

Paras, C.J., Bengzon, Montemayor, Reyes, A., Labrador, Concepcion, Reyes, J.B.L., Edencia, and Felix, JJ., concur.

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