

**SPOUSES LORETO CLARAVALL AND VICTORIA CLARAVALL,
PETITIONERS, VS. HON. FLORENIO E. TIERRA, IN HIS CAPACITY AS
PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 16, ILAGAN,
ISABELA, ...**

G.R. No. 105756. May 31, 1993

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

Claiming that the respondent Judge acted without jurisdiction and/or with grave abuse of discretion in issuing the 25 March 1992 Resolution of the motion for execution in Civil Case No. 2143 and the 22 April 1992 Order denying the motion for reconsideration of the said Resolution, petitioners come before Us in this petition for certiorari and mandamus under Rule 65 of the Revised Rules of Court seeking the annulment of the Resolution and Order, and praying for the issuance of a writ of mandamus directing the respondent Judge to execute the decision of this Court in G.R. No. L-47120 promulgated on 15 October 1990.

The antecedent facts of this case are not disputed.

Petitioners obtained a loan in the amount of P75,000.00 from the private respondent and her husband Francisco Ramirez. Subsequently, they executed on 29 December 1965 a deed of sale of a real property situated in the Municipality of Ilagan, Isabela in favor of the Ramirezes. On the same date, the Ramirezes executed an instrument granting the petitioners, for and in consideration of the sum of P10,000.00, an option to repurchase the property within two (2) years therefrom. Petitioners failed to repurchase the property within the stipulated period and their subsequent offer to buy back the property was refused by the Ramirezes.

The petitioners then brought suit against the Ramirezes to compel the latter to sell back the property to them. The case was filed with the Regional Trial Court (RTC) of Ilagan, Isabela. It was docketed as Civil Case No. 2143 and raffled off to Branch 16 of the same court. On 25 August 1969, the trial court rendered a judgment adverse to the petitioners which, on appeal, was affirmed in toto by the Court of Appeals in a decision dated 22 April 1976. The petitioners filed a petition for review with this Court which was docketed as G.R. No. L-47120. On 21 October 1990, this Court, per Mr. Justice Abdulwahid A. Bidin, rendered therein a decision^[1] reversing the judgment of the Court of Appeals and holding that the transaction between the parties, although denominated as a deed of sale with an option to repurchase, was one of equitable mortgage. The dispositive portion of the decision reads:

"WHEREFORE, the decision of respondent Court promulgated on April 22, 1976 and its resolution of June 22, 1977 are hereby Reversed and Set Aside. The deed of absolute sale between the parties with the option to repurchase is declared as an equitable mortgage and, petitioners are declared entitled to redeem the mortgage property which shall be effected upon payment of their mortgage debt to private respondents in the total amount of P85,000.00 with legal rate of interest from December 31, 1967, the time the loan matured until it is fully paid."^[2]

After the decision had become final and executory, the petitioners filed in Civil Case No. 2143 a motion for execution of judgment[3] and deposited with the Clerk of Court of the trial court a manager's check in the amount of P207,825.00 representing the redemption price which they had computed in this wise:

"Principal Indebtedness P85,000.00

Interest of 6% p.a. on

the P85,000.00 from

December 31, 1967 to

December 31, 1991 P122,400.00

Interest of 6% p.a. on

the P85,000.00 from

January 1, 1992 to

January 31, 1992 P 425.00

T O T A L P207,825.00"

On 5 March 1992, the trial court ordered the issuance of the corresponding writ of execution.[4]

On 19 March 1992, the Ramirezes filed an opposition[5] to the petitioners' Motion for Execution and to Deposit Redemption Price on the grounds that (a) the redemption money offered by the petitioners is insufficient because the legal interest was computed at the rate of six percent (6%) per annum instead of twelve percent (12%) per annum in accordance with Central Bank (CB) Circular No. 416 and the ruling in *Reformina vs. Tomol*,[6] and (b) the redemption price should include the value of the improvements on the property and the escalation of the dollar based on the exchange rate of the dollar vis-a-vis the peso at the time of actual repurchase.

The petitioners filed their reply[7] to the opposition contending that (a) CB Circular No. 416 cannot be applied to an equitable mortgage; (b) CB Circular No. 416, which became effective on 29 July 1974, cannot retroact to 31 December 1967, the date granted to the petitioners for the repurchase of the property; and (c) the Ramirezes cannot recover the value of the improvements on the property or any alleged dollar escalation, both of which had not been provided for in the decision.

On 25 March 1992, the trial court issued the questioned Resolution[8] which held that "the amount stated in the said decision corresponds to the sum of money involved in the execution of the 'deed of absolute sale between the parties with the option to repurchase.'" The trial court stated that the amount, therefore, "cannot be characterized other than a loan," and, hence, covered by CB Circular No. 416. It accordingly decreed that the principal amount of P85,000.00 to be paid by the petitioners should bear interest at the rate of twelve percent (12%) per annum from 31 December 1967 until it is fully paid. The court a quo passed sub silentio on the private respondents' prayer for payment of the value of the improvements on the property and did not touch the issue of the escalated dollar rate of exchange vis-a-vis the peso because "the same is not an incident or arising (sic) out of the decision" in G.R. No. L--47120. The dispositive portion of the resolution reads:

"IN VIEW OF THE FOREGOING, Circular No. 416 of the Central Bank, dated July 29, 1974 should be applied

in the decision of the instant case -- -that is the amount of P85,000.00 to be paid by the plaintiffs-petitioners to the respondents-defendants should be charged with interest rate of 12% per annum from December 31, 1967 until fully paid."

The petitioners' motion for reconsideration[9] was denied by the trial court on 22 April 1992.

Hence, the instant petition. Only Carolina Ramirez is impleaded as private respondent since Francisco Ramirez had earlier died.[10]

Petitioners allege as grounds for the petition the following, to wit:

"1. THE RESPONDENT JUDGE ACTED WITHOUT OR IN EXCESS OF THE JURISDICTION AND/OR WITH GRAVE ABUSE OF DISCRETION IN APPLYING CIRCULAR NO. 416 DATED JULY 29, 1974 RETROACTIVELY AS OF DECEMBER 31, 1967 WHEN SAID CIRCULAR NO. 416 WAS NOT YET EXISTING AND THE LEGAL RATE OF INTEREST WAS 6% PER ANNUM; AND

2. THE RESPONDENT JUDGE ACTED WITHOUT OR IN EXCESS OF HIS JURISDICTION AND/OR WITH GRAVE ABUSE OF DISCRETION IN APPLYING CIRCULAR NO. 416 DATED JULY 29, 1974 IN A CONTRACT OF DEED OF SALE WITH RIGHT TO REPURCHASE WHICH WAS DECLARED BY THIS HONORABLE (sic) COURT AS AN EQUITABLE MORTGAGE NOT COVERED BY SAID CB CIRCULAR NO. 416."[11]

The second ground raises the primary issue of the applicability of CB Circular No. 416 to the instant case. Petitioners advance the view that it does not because the transaction between the parties in this case is a deed of sale with an option to repurchase, although declared an equitable mortgage in G.R. No. L-47120, and an equitable mortgage is not strictly a loan, or a forbearance of money, goods or credits which is covered by the circular.

Indeed, it is settled that CB Circular No. 416, which took effect on 29 July 1974, applies only to interest on (a) loans; (b) forbearance of any money, goods or credits; and (c) judgments in cases involving loans or forbearances of any money, goods or credits.[12]

In *Reformina vs. Tomol*,[13] We held:

"Central Bank Circular No. 416 which took effect on July 29, 1974 was issued and promulgated by the Monetary Board pursuant to the authority granted to the Central Bank by P.D. No. 116, which amended Act No. 2655, otherwise known as the Usury Law. The amendment from which said authority emanated reads as follows --

‘Section 1-a. The Monetary Board is hereby authorized to prescribe the maximum rate or rates of interest for the loan or renewal thereof or the forbearance of any money, goods or credits, and to change such rate or rates whenever warranted by prevailing economic and social conditions: Provided, That such changes shall not be made oftener than once every twelve months.

In the exercise of the authority herein granted, the Monetary Board may prescribe higher maximum rates for consumer loans or renewals thereof as well as such loans made by pawnshops, finance companies and other similar credit institutions although the rates prescribed for these institutions need not necessarily be uniform.’ (Italics supplied)

Acting pursuant to this grant of authority, the Monetary Board creased the rate of legal interest from that of six (6%) percent per annum originally allowed under Section 1 of Act 2655 to twelve (12%) percent per annum.

It will be noted that Act No. 2655 deals with interest on (1) loans; (2) forbearances of any money, goods or credits; and (3) rate allowed in judgments."

Petitioners had argued that the deed of absolute sale in relation to the option to repurchase was in reality an equitable mortgage, and in G.R. No. L-47120, this Court categorically stated this to be the main issue, thus:

"The main issue in this case is whether or not the Deed of Absolute Sale and Option to Repurchase executed by the parties must be considered as an equitable mortgage and not the absolute sale it purports to be." [14]

The dispositive portion of Our decision therein, quoted earlier, leaves no doubt that the real transaction was, in fact, one of loan, for We declared the petitioners "entitled to redeem the mortgaged property which shall be effected upon payment of their mortgage debt to private respondents in the total amount of P85,000.00 with legal rate of interest from December 31, 1967, the time the loan matured until it is fully paid." [15] In fine, We ruled therein that the principal transaction between the parties was one of loan and the so-called deed of absolute sale was intended as a security for the payment of the loan.

An equitable mortgage "arises from a transaction, regardless of its form, which resolves into a security, or an offer or attempt to pledge land as security for a debt or liability." [16] Otherwise stated, the "essential feature or essence of an equitable mortgage is the intent of the parties to create a mortgage, lien, or charge on property sufficiently described or identified to secure an obligation, which intent must be clearly established in order that such a mortgage may exist." [17]

Petitioners cannot, now, execute a volte-face and argue that CB Circular No. 416 is inapplicable to this case. The second ground for the petition must then be resolved against the petitioners.

There is, however, merit in their first ground.

The trial court erred in charging the petitioners with interest on the redemption amount of P85,000.00 at the rate of twelve percent (12%) per annum as prescribed by CB Circular No. 416, from 31 December 1967 until full payment of the said redemption amount. The legal rate of interest before 29 July 1974 was only six percent (6%) per annum and it was only on that date when the said rate was increased to twelve percent (12%) per annum by CB Circular No. 416. We held in *Viloria vs. Court of Appeals* [18] that CB Circular No. 416 should not be given retrospective effect. Respondent trial court, therefore, acted with grave abuse of discretion when it imposed a twelve percent (12%) per annum interest on the redemption amount before 29 July 1974.

WHEREFORE, the instant petition for certiorari is PARTIALLY GRANTED. The 25 March 1992 Resolution of the trial court is affirmed insofar as it held that the redemption amount in G.R. No. L-47120 is covered by CB Circular No. 416 and partially set aside insofar as it orders the petitioners to pay the private respondent interest thereon at the rate of twelve percent (12%) per annum from 31 December 1967 until 28 July 1974. The interest should be six percent (6%) per annum from 31 December 1967, when the loan matured, until 28 July 1974, and at the rate of twelve percent (12%) per annum from 29 July 1974, the date when CB Circular No. 416 took effect, until full payment of the said redemption amount. The writ of execution must then be amended in conformity with this Decision.

Costs against the private respondent.

SO ORDERED.

Feliciano, (Chairman), Bidin, Romero, and Melo, JJ., concur.

[1] Annex "A" of Petition; Rollo, 19-33.

[2] Rollo, 32-33.

[3] Annex "B" of Petition; Id., 34-36.

[4] Annex "D", Id.; Id., 40.

[5] Annex "E" of Petition; Rollo, 41-42.

[6] 139 SCRA 260 [1985].

[7] Annex "F", Petition, op. cit.; Rollo, op. cit., 43-52.

[8] Annex "G", Id.; Id., 53-55.

[9] Rollo, 65.

[10] Id., 3.

[11] Rollo, 8.

[12] Reformina vs. Tomol, supra.; Philippine Rabbit Bus Lines, Inc. vs. Cruz, 143 SCRA 158 [1986]; Meridian Assurance Corp. vs. Dayrit, 184 SCRA 20 [1990]; Philippine Virginia Tobacco Administration vs. Tensuan, 188 SCRA 628 [1990]; FNCB Finance vs. Estavillo, 192 SCRA 514 [1990]; GSIS vs. Court of Appeals, G.R. 103590, 29 January 1993.

[13] Supra.

[14] Rollo, 26.

[15] Underscoring supplied for emphasis.

[16] 59 C.J.S. 42.

[17] Id., 43.

[18] 123 SCRA 259 [1983]. See also, Buiser vs. Court of Appeals, 154 SCRA 438 [1987].

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