

**PAMECA WOOD TREATMENT PLANT, INC., HERMINIO G. TEVES,
VICTORIA V. TEVES AND HIRAM DIDAY R. PULIDO, PETITIONERS, VS.
HON. COURT OF APPEALS AND DEVELOPMENT BANK OF THE
PHILIPPINES...**

G.R. No. 106435. July 14, 1999

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

Before Us for review on certiorari is the decision of the respondent Court of Appeals in CA G.R. CV No. 27861, promulgated on April 23, 1992,[1] affirming in toto the decision of the Regional Trial Court of Makati[2] to award respondent bank's deficiency claim, arising from a loan secured by chattel mortgage.

The antecedents of the case are as follows:

On April 17, 1980, petitioner PAMECA Wood Treatment Plant, Inc. (PAMECA) obtained a loan of US\$267,881.67, or the equivalent of P2,000,000.00 from respondent Bank. By virtue of this loan, petitioner PAMECA, through its President, petitioner Herminio C. Teves, executed a promissory note for the said amount, promising to pay the loan by installment. As security for the said loan, a chattel mortgage was also executed over PAMECA's properties in Dumaguete City, consisting of inventories, furniture and equipment, to cover the whole value of the loan.

On January 18, 1984, and upon petitioner PAMECA's failure to pay, respondent bank extrajudicially foreclosed the chattel mortgage, and, as sole bidder in the public auction, purchased the foreclosed properties for a sum of P322,350.00. On June 29, 1984, respondent bank filed a complaint for the collection of the balance of P4,366,332.46[3] with Branch 132 of the Regional Trial Court of Makati City against petitioner PAMECA and private petitioners herein, as solidary debtors with PAMECA under the promissory note.

On February 8, 1990, the RTC of Makati rendered a decision on the case, the dispositive portion of which we reproduce as follows:

"WHEREFORE, judgment is hereby rendered ordering the defendants to pay jointly and severally plaintiff the (1) sum of P4,366,332.46 representing the deficiency claim of the latter as of March 31, 1984, plus 21% interest per annum and other charges from April 1, 1984 until the whole amount is fully paid and (2) the costs of the suit. SO ORDERED."[4]

The Court of Appeals affirmed the RTC decision. Hence, this Petition.

The petition raises the following grounds:

"1. Respondent appellate court gravely erred in not reversing the decision of the trial court, and in not holding that the public auction sale of petitioner PAMECA's chattels were tainted with fraud, as the chattels of the said petitioner were bought by private respondent as sole bidder in only 1/6 of the market value of the property,

hence unconscionable and inequitable, and therefore null and void.

2. Respondent appellate court gravely erred in not applying by analogy Article 1484 and Article 2115 of the Civil Code by reading the spirit of the law, and taking into consideration the fact that the contract of loan was a contract of adhesion.

3. The appellate court gravely erred in holding the petitioners Herminio Teves, Victoria Teves and Hiram Diday R. Pulido solidarily liable with PAMECA Wood Treatment Plant, Inc. when the intention of the parties was that the loan is only for the corporation's benefit."

Relative to the first ground, petitioners contend that the amount of P322,350.00 at which respondent bank bid for and purchased the mortgaged properties was unconscionable and inequitable considering that, at the time of the public sale, the mortgaged properties had a total value of more than P2,000,000.00. According to petitioners, this is evident from an inventory dated March 31, 1980[5], which valued the properties at P2,518,621.00, in accordance with the terms of the chattel mortgage contract[6] between the parties that required that the inventories "be maintained at a level no less than P2 million". Petitioners argue that respondent bank's act of bidding and purchasing the mortgaged properties for P322,350.00 or only about 1/6 of their actual value in a public sale in which it was the sole bidder was fraudulent, unconscionable and inequitable, and constitutes sufficient ground for the annulment of the auction sale.

To this, respondent bank contends that the above-cited inventory and chattel mortgage contract were not in fact submitted as evidence before the RTC of Makati, and that these documents were first produced by petitioners only when the case was brought to the Court of Appeals.[7] The Court of Appeals, in turn, disregarded these documents for petitioners' failure to present them in evidence, or to even allude to them in their testimonies before the lower court.[8] Instead, respondent court declared that it is not at all unlikely for the chattels to have sufficiently deteriorated as to have fetched such a low price at the time of the auction sale.[9] Neither did respondent court find anything irregular or fraudulent in the circumstance that respondent bank was the sole bidder in the sale, as all the legal procedures for the conduct of a foreclosure sale have been complied with, thus giving rise to the presumption of regularity in the performance of public duties.[10]

Petitioners also question the ruling of respondent court, affirming the RTC, to hold private petitioners, officers and stockholders of petitioner PAMECA, liable with PAMECA for the obligation under the loan obtained from respondent bank, contrary to the doctrine of separate and distinct corporate personality.[11] Private petitioners contend that they became signatories to the promissory note "only as a matter of practice by the respondent bank", that the promissory note was in the nature of a contract of adhesion, and that the loan was for the benefit of the corporation, PAMECA, alone.[12]

Lastly, invoking the equity jurisdiction of the Supreme Court, petitioners submit that Articles 1484[13] and 2115[14] of the Civil Code be applied in analogy to the instant case to preclude the recovery of a deficiency claim.[15]

Petitioners are not the first to posit the theory of the applicability of Article 2115 to foreclosures of chattel mortgage. In the leading case of *Ablaza vs. Ignacio*[16], the lower court dismissed the complaint for collection of deficiency judgment in view of Article 2141 of the Civil Code, which provides that the provisions of the Civil Code on pledge shall also apply to chattel mortgages, insofar as they are not in conflict with the Chattel Mortgage Law. It was the lower court's opinion that, by virtue of Article 2141, the provisions of Article 2115 which deny the creditor-pledgee the right to recover deficiency in case the proceeds of the foreclosure sale are less than the amount of the principal obligation, will apply.

This Court reversed the ruling of the lower court and held that the provisions of the Chattel Mortgage Law

regarding the effects of foreclosure of chattel mortgage, being contrary to the provisions of Article 2115, Article 2115 in relation to Article 2141, may not be applied to the case.

Section 14 of Act No. 1508, as amended, or the Chattel Mortgage Law, states:

"x x x

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 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." (Emphasis supplied)

It is clear from the above provision that the effects of foreclosure under the Chattel Mortgage Law run inconsistent with those of pledge under Article 2115. Whereas, in pledge, the sale of the thing pledged extinguishes the entire principal obligation, such that the pledgor may no longer recover proceeds of the sale in excess of the amount of the principal obligation, Section 14 of the Chattel Mortgage Law expressly entitles the mortgagor to the balance of the proceeds, upon satisfaction of the principal obligation and costs.

Since the Chattel Mortgage Law bars the creditor-mortgagee from retaining the excess of the sale proceeds there is a corollary obligation on the part of the debtor-mortgagee to pay the deficiency in case of a reduction in the price at public auction. As explained in *Manila Trading and Supply Co. vs. Tamaraw Plantation Co.*[17], cited in *Ablaza vs. Ignacio*, supra:

"While it is true that section 3 of Act No. 1508 provides that 'a chattel mortgage is a conditional sale', 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 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 that 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 the 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.' 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."

We find no reason to disturb the ruling in *Ablaza vs. Ignacio*, and the cases reiterating it[18]

Neither do We find tenable the application by analogy of Article 1484 of the Civil Code to the instant case. As correctly pointed out by the trial court, the said article applies clearly and solely to the sale of personal property the price of which is payable in installments. Although Article 1484, paragraph (3) expressly bars any further action against the purchaser to recover an unpaid balance of the price, where the vendor opts to foreclose the chattel mortgage on the thing sold, should the vendee's failure to pay cover two or more installments, this provision is specifically applicable to a sale on installments.

To accommodate petitioners' prayer even on the basis of equity would be to expand the application of the provisions of Article 1484 to situations beyond its specific purview, and ignore the language and intent of the Chattel Mortgage Law. Equity, which has been aptly described as "justice outside legality", is applied only in the absence of, and never against, statutory law or judicial rules of procedure.[19]

We are also unable to find merit in petitioners' submission that the public auction sale is void on grounds of fraud and inadequacy of price. Petitioners never assailed the validity of the sale in the RTC, and only in the Court of Appeals did they attempt to prove inadequacy of price through the documents, i.e., the "Open-End Mortgage on Inventory" and inventory dated March 31, 1980, likewise attached to their Petition before this Court. Basic is the rule that parties may not bring on appeal issues that were not raised on trial.

Having nonetheless examined the inventory and chattel mortgage document as part of the records, We are not convinced that they effectively prove that the mortgaged properties had a market value of at least P2,000,000.00 on January 18, 1984, the date of the foreclosure sale. At best, the chattel mortgage contract only indicates the obligation of the mortgagor to maintain the inventory at a value of at least P2,000,000.00, but does not evidence compliance therewith. The inventory, in turn, was as of March 31, 1980, or even prior to April 17, 1980, the date when the parties entered into the contracts of loan and chattel mortgage, and is far from being an accurate estimate of the market value of the properties at the time of the foreclosure sale four years thereafter. Thus, even assuming that the inventory and chattel mortgage contract were duly submitted as evidence before the trial court, it is clear that they cannot suffice to substantiate petitioners' allegation of inadequacy of price.

Furthermore, the mere fact that respondent bank was the sole bidder for the mortgaged properties in the public sale does not warrant the conclusion that the transaction was attended with fraud. Fraud is a serious allegation that requires full and convincing evidence,[20] and may not be inferred from the lone circumstance that it was only respondent bank that bid in the sale of the foreclosed properties. The sparseness of petitioners' evidence in this regard leaves Us no discretion but to uphold the presumption of regularity in the conduct of the public sale.

We likewise affirm private petitioners' joint and several liability with petitioner corporation in the loan. As found by the trial court and the Court of Appeals, the terms of the promissory note unmistakably set forth the solidary nature of private petitioners' commitment. Thus:

"On or before May 12, 1980, for value received, PAMECA WOOD TREATMENT PLANT, INC., a corporation organized and existing under the laws of the Philippines, with principal office at 304 El Hogar Filipina Building, San Juan, Manila, promise to pay to the order of DEVELOPMENT BANK OF THE PHILIPPINES at its office located at corner Buendia and Makati Avenues, Makati, Metro Manila, the principal sum of TWO HUNDRED SIXTY SEVEN THOUSAND EIGHT HUNDRED AND EIGHTY ONE & 67/100 US DOLLARS (US\$ 267,881.67) with interest at the rate of three per cent (3%) per annum over DBP's borrowing rate for these funds. Before the date of maturity, we hereby bind ourselves, jointly and severally, to

make partial payments as follows:"

xxx

"In case of default in the payment of any installment above, we bind ourselves to pay DBP for advances xxx "

xxx

"We further bind ourselves to pay additional interest and penalty charges on loan amortizations or portion thereof in arrears as follows:"

xxx

"In addition to the above, we also bind ourselves to pay for bank advances for insurance premiums, taxes xxx "

xxx

"We further bind ourselves to reimburse DBP on a pro-rata basis for all costs incurred by DBP on the foreign currency borrowings from where the loan shall be drawn xxx "

xxx

"In case of non-payment of the amount of this note or any portion of it on demand, when due, or any other amount or amounts due on account of this note, the entire obligation shall become due and demandable, and if, for the enforcement of the payment thereof, the DEVELOPMENT BANK OF THE PHILIPPINES is constrained to entrust the case to its attorneys, we jointly and severally bind ourselves to pay for attorney's fees as provided for in the mortgage contract, in addition to the legal fees and other incidental expenses. In the event of foreclosure of the mortgage securing this note, we further bind ourselves jointly and severally to pay the deficiency, if any." (Emphasis supplied)[21]

The promissory note was signed by private petitioners in the following manner:

"PAMECA WOOD TREATMENT PLANT, INC.

By:

(Sgd) HERMINIO G. TEVES

(For himself & as President of above-named corporation)

(Sgd) HIRAM DIDAY PULIDO

(Sgd) VICTORIA V. TEVES"[22]

From the foregoing, it is clear that private petitioners intended to bind themselves solidarily with petitioner PAMECA in the loan. As correctly submitted by respondent bank, private petitioners are not made to answer for the corporate act of petitioner PAMECA, but are made liable because they made themselves co-makers with PAMECA under the promissory note.

IN VIEW OF THE FOREGOING, the Petition is DENIED and the Decision of the Court of Appeals dated April 23, 1992 in CA G.R. CV No. 27861 is hereby AFFIRMED. Costs against petitioners.

SO ORDERED.

Romero (Chairman), Vitug, Panganiban, and Purisima, JJ., concur.

[1] Penned by Justice Lorna S. Lombos-dela Fuente, with the concurrence of Justices Salome A. Montoya and Quirino D. Abad-Santos, Jr.

[2] Civil Case No. 7734, Branch 132, presided over by Judge Herminio I. Benito.

- [3] Representing the deficiency claim of respondent bank, inclusive of interest charges, as of March 31, 1984.
- [4] Rollo, 47; Decision of the RTC, 4.
- [5] Rollo, 11; Annex "F" of the Petition.
- [6] Ibid., Open-End Mortgage on Inventory, Annex "G" of the Petition, 1.
- [7] Ibid., 69; Comment of Private Respondents, 2.
- [8] Ibid., 28; Decision of the Court of Appeals, 3.
- [9] Ibid.
- [10] Ibid., 28-29; Decision of the Court of Appeals, 3-4.
- [11] Ibid., 18-21; Petition, 13-16.
- [12] Ibid.
- [13] "Art. 1484. In a contract of sale of personal property the price of which is payable in installments, the vendor may exercise the following remedies:
- (1) Exact fulfillment of the obligation, should the vendee fail to pay;
 - (2) Cancel the sale, should the vendee's failure to pay cover two or more installments;
 - (3) Foreclose the chattel mortgage on the thing sold, if one has been constituted, should the vendee's failure to pay cover two or more installments. In this case, he shall have no further action against the purchaser to recover any unpaid balance of the price. Any agreement to the contrary shall be void." (Emphasis supplied)
- [14] "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 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 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." (Emphasis supplied)
- [15] Rollo, 14-18; Petition, 9-13.
- [16] G.R. No. L-11466, May 23, 1958 (unpublished).
- [17] 47 Phil. 513.
- [18] See Garrido vs. Tuason, 133 Phil. 717; Philippine National Bank vs. Manila Investment and Construction, Inc., 38 SCRA 462.
- [19] Conte vs. Commission on Audit, 264 SCRA 19; Mendiola vs. Court of Appeals, 258 SCRA 492; Causapin vs. Court of Appeals, 233 SCRA 615.
- [20] P.T. Cerna Corporation vs. Court of Appeals, 221 SCRA 19; Benitez vs. Intermediate Appellate Court, 154 SCRA 41; Filinvest Corporation vs. Relova, 117 SCRA 420.
- [21] Rollo, 29-30, 34-35; Annex "C" of the Petition; Decision of the CA, 4-5.
- [22] Rollo, 35; Annex "C" of the Petition; Decision of the CA, 5.22

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