

SPOUSES RAMON R. NACU AND LOURDES I. NACU, PETITIONERS, VS. THE COURT OF APPEALS AND PILIPINAS BANK, RESPONDENTS.

G.R. No. 108638. March 11, 1994

Ponente: NOCON, J.

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NOCON, J.:

The pith of the issues in this petition is the question of whether or not the real estate mortgage undertaken by Spouses Ramon R. Nacu and Lourdes Nacu, in favor of Home Construction – Joint Venture was extended, amplified or modified to cover the loan transaction of Ramon R. Nacu, in his capacity as one of the executive officers of the Joint Venture of JBS Construction, Inc. and P.I. Construction and Services Co., Inc., by virtue alone of the comprehensive provision in the mortgage contract that:

"x x x it shall also stand as security for the payment of the said promissory note or notes, and/or accommodations without the necessity of executing a new contract and this mortgage shall have the same force and effect as if the said promissory note or notes and/or accommodations were existing as of the date thereof. x x x." [1]

Briefly, the facts established below show that petitioners spouses are the registered owners of the subject property covered by Transfer Certificate of Title No. 276891 of the Registry of Deeds for Quezon City, located at 12 Yakan Street, La Vista Subdivision, Quezon City.

On July 12, 1982, respondent Pilipinas Bank extended to Home Construction-Joint Venture, represented by Horacio Mendoza, Julio Matias and Ramon Nacu, Irrevocable Stand-by LC No. 82/408-HO in the amount of P4,400,000.00 to guarantee the ten per cent (10%) mobilization fund to be released by the Ministry of Public Works and Highways in connection with a Lucena Fishing Port and Construction Project.

To secure this Home Construction-Joint Venture credit accommodation, petitioners spouses, together with Spouses Horacio S. Mendoza and Leonisa D. Mendoza and Spouses Julio D. Matias and Lydia Sison constituted real estate mortgages on five (5) distinct properties in favor of respondent Bank.

The subject deed of real estate mortgage dated June 7, 1982 executed by petitioners spouses, together with the aforementioned co-mortgagors, provides, among other things, that the mortgage shall secure the payment of the said loan and those others that the mortgagee may extend to the mortgagor including interest thereon and expenses incurred incidental thereto and other obligations owing by the mortgagor to the mortgagee, whether direct or indirect, principal or secondary as appearing in the accounts, books and records of the mortgagee.

In due time, the principal obligation mentioned in the said real estate mortgage extended to the Home Construction - Joint Venture was fully paid and extinguished.

Upon request, respondent Bank effected the cancellation/release of the titles subject of the said real estate mortgage, particularly the properties of the co-mortgagors, Horacio Mendoza and Julio Matias.

Petitioners spouses did not immediately request for the issuance of the corresponding certificate of

cancellation/release of mortgage of TCT No. 276891 from respondent Bank.

On February 24, 1983, two (2) corporations under the Joint Venture - JBS Construction, Inc., represented by its president, Jose B. Sahagun and P.I. Construction and Services Co., Inc., represented by its president, petitioner Nacu secured from respondent Bank, under letters of credit (L/C) Nos. 83/13786-HO and 83/13801-HO, a loan accommodation for the importation of several pieces of construction machinery and equipment to be used by said joint venture in a construction project, located at Mindanao.

In consideration of this JBS and PI Construction Joint Venture credit accommodation, Jose Sahagun and petitioner Nacu executed in their capacities as executive officers thereof, a Continuing Security Agreement in favor of respondent Bank. Said debtor corporations, represented by their respective presidents, were also made to sign trust receipts in favor of respondent Bank.

Later, petitioners spouses requested from respondent Bank the issuance of the Certificate of Cancellation/Release of the Real Estate Mortgage on TCT No. 276891. The respondent Bank refused despite its admission that the Home Construction loan had been fully paid and despite the release of the properties of the co-mortgagors, Horacio Mendoza and Julio Matias.

The demands in writing for the release of the questioned encumbrance were not heeded. Petitioners spouses thereby decided to file an action against respondent Bank before the Regional Trial Court of Quezon City docketed as Civil Case No. 49233 for cancellation of the encumbrance on TCT No. 276891.

After trial on the merits, the trial court, through Presiding Judge Ignacio L. Salvador, rendered its decision in Civil Case No. 49233, the pertinent portions of which, are quoted herein:

"x x x, as correctly pointed out by the plaintiffs, this loan accommodation which was subsequently contracted by J.B.S. Construction Corporation on April 19, 1983 and in which TCT 272689 is allegedly made to answer is not duly annotated on said title. And it is fundamental that real property constituted to secure an obligation by way of mortgage, must be registered and shall take effect upon the title only from the time of registration. (Sec. 60, Act 496)

"Furthermore, co-plaintiff, Lourdes Nacu (co-owner of the property covered by TCT No. 276891) was not privy to the subsequent transactions aforesaid.

"Since the principal obligation covered by LC No. 82/408-HO in the amount of P4,400,000.00 had subsequently been fully paid and the obligation extinguished, as expressly admitted by defendant bank the real estate mortgage is discharged, (Art. 2135) and consequently the defendant bank may now be compelled to release x x x plaintiffs Transfer Certificate of Title No. 276891.

"PREMISES CONSIDERED', judgment is hereby rendered in favor of the plaintiffs and against the defendant, ordering said defendant bank to immediately release/discharge the second encumbrance annotated on TCT No. 276891-Registry of Deeds of Quezon City and ordering said defendant bank to pay plaintiffs attorney's fees in the amount of P5,000.00."[2]

The respondent Bank appealed from the aforesaid decision of the trial court before respondent Court of Appeals on June 15, 1990.

On October 28, 1992, respondent Court rendered its decision reversing the judgment of the trial court, the pertinent portions stating, thus:

"Everything considered, plaintiffs' property stands as continuing security for the subject credit accommodations guaranteed by plaintiff Ramon Nacu, and the mortgage lien thereon cannot be discharged until these obligations are fully settled.

"WHEREFORE, judgment is hereby rendered reversing the appealed decision and dismissing the complaint. Costs against appellees."[3]

On November 18, 1992, petitioners spouses seasonably filed a motion for reconsideration of the said assailed decision.

On January 25, 1993, respondent Court promulgated its resolution denying petitioners spouses' motion for reconsideration. Hence, this instant petition of petitioners spouses assigning the following as errors:

“A

"THE RESPONDENT HONORABLE COURT OF APPEALS ERRED IN FINDING THAT PETITIONERS SPOUSES' LA VISTA PROPERTY WAS ENCUMBERED AS SECURITY NOT ONLY FOR THE (1982) HOME CONSTRUCTION LOAN, BUT ALSO FOR THE (1983) JBS & PIC JOINT VENTURE LOAN;

“B

"THE RESPONDENT HONORABLE COURT OF APPEALS ERRED IN FINDING THAT JBS CONSTRUCTION, INC. IS THE ONLY DEBTOR CORPORATION, AND AS SUCH, IT COULD NOT HAVE SIMULTANEOUSLY ASSUMED THE ROLE OF A SURETY/GUARANTOR OF THE LOAN OBLIGATION WHICH ITSELF CONTRACTED;

“C

"THE RESPONDENT HONORABLE COURT OF APPEALS ERRED IN FINDING THAT EXHIBITS 'C'; '5'; '9'; AND, '10' CLEARLY REVEAL THAT PETITIONER RAMON NACU SIGNED SAID DOCUMENTS IN HIS PERSONAL CAPACITY AND NOT AS A REPRESENTATIVE OR EXECUTIVE OFFICER OF THE DEBTOR CORPORATIONS;

“D

"THE RESPONDENT HONORABLE COURT OF APPEALS ERRED IN GIVING WEIGHT AND CREDENCE TO EXHIBIT '4'; MINUTES OF THE MEETING OF RESPONDENT BANK'S BOARD OF DIRECTORS AND THE REPORT SUBMITTED BY THE BANK'S PRESIDENT PERTAINING TO THE APPLICATION FOR LETTERS OF CREDIT BY THE DEBTOR CORPORATIONS SHOWING THAT A SECOND REAL ESTATE MORTGAGE ON PETITIONERS' LA VISTA PROPERTY WAS INTENDED TO SECURE SAID (1983) JBS & PIC JOINT VENTURE OBLIGATION;

“E

"RESPONDENT HONORABLE COURT OF APPEALS ERRED IN NOT SUSTAINING THE TRIAL COURT'S DECISION THAT PETITIONERS SPOUSES ARE NOT PRIVY TO THE SUBSEQUENT TRANSACTIONS, PARTICULARLY THE CONTRACTS ENTERED INTO BY (1983) JBS-PIC CONSTRUCTION – JOINT VENTURE, THE DEBTOR CORPORATIONS (JBS & PIC) BEING SEPARATE AND DISTINCT JURIDICAL PERSONALITIES FROM PETITIONERS SPOUSES;

“F

"RESPONDENT HONORABLE COURT OF APPEALS ERRED IN FINDING THAT PETITIONER RAMON NACU SIGNED THE CONTINUING SURETY AGREEMENT AND TRUST RECEIPTS IN HIS PERSONAL CAPACITY;

“G

"RESPONDENT HONORABLE COURT ERRED IN FINDING THAT THE (1983) JBS-PIC JOINT VENTURE BOUND THE JUNE 7, 1982 REAL ESTATE MORTGAGE DESPITE THE FACT THAT PETITIONER LOURDES NACU DID NOT GIVE HER CONSENT THERETO;

“H

"RESPONDENT HONORABLE COURT OF APPEALS ERRED IN FINDING THAT THERE WAS NO NEED TO ANNOTATE THE JULY 1983 LOAN ACCOMMODATION ALLEGEDLY GUARANTEED BY PETITIONER RAMON NACU ON TCT NO. 276891 SINCE THE SAME HAVE BEEN EXPRESSLY COVERED BY THE MORTGAGE CONTRACT; AND,

“I

"RESPONDENT HONORABLE COURT OF APPEALS ERRED AND ACTED IN GRAVE ABUSE OF DISCRETION WHEN IT 'CREATED' AN OBLIGATION ON THE PART OF PETITIONERS WHERE NONE EXISTED."[4]

Arising from the foregoing assignments of errors are the following issues:

“1) Whether or not the (1983) JBS & PIC JOINT VENTURE loan transaction is another direct or indirect, principal or secondary obligation owing by the MORTGAGOR (HOME CONSTRUCTION - JOINT VENTURE to the MORTGAGEE (RESPONDENT BANK);

“2) Whether or not the 1983 LOAN DOCUMENTS, Surety Agreement and Trust Receipts were executed by Petitioner Ramon Nacu in his personal capacity or in behalf of a corporate entity;

“3) Whether or not the TRUST RECEIPT is an extension of the Real Estate Mortgage dated June 7, 1982;

“4) Whether or not the JBS CONSTRUCTION, INC. is the only DEBTOR CORPORATION in the 1983 loan transaction, and as such, it could not have simultaneously assumed the role of a surety/guarantor of the loan obligation which itself contracted;

“5) Whether or not weight and credence to Exhibit '4', the minutes of the meeting of Respondent Bank's Board of Directors and the Report submitted by the bank's president pertaining to the application for letters of credit by the debtor corporation, showing that a second real estate mortgage on Petitioners' La Vista property was intended to secure said obligation, could be given evidentiary weight and credence;

“6) Whether or not the July 1983 loan accommodation allegedly guaranteed by Petitioner Ramon Nacu should have been annotated on Petitioners' TCT to bind their subject property;

“7) Whether or not the want of Petitioner Lourdes Nacu's consent in the 1983 loan agreements signed by Petitioner Ramon Nacu renders the same voidable;

“8) Whether or not Petitioner Spouses are privy to the 1983 loan transactions entered into by JBS-PI CONSTRUCTION JOINT VENTURE, the debtor corporations being separate and distinct juridical personalities from that of Spouses Petitioners; and,

“9) Whether or not the ambiguity in the interpretation of the intention of the parties in the case at bar should be resolved in favor of the Petitioners Spouses."[5]

The assailed decision of respondent Court held that in view of the provisions of the real estate mortgage more particularly that which provides that the real estate mortgage secures ". . . other obligations owing by the Mortgagor to the Mortgagee, whether direct or indirect, principal or secondary, as appearing in the accounts,

books and records of the Mortgagee," the bank may legally refuse to release the second mortgage on TCT No. 276891 considering that the same was used as security for another loan accommodation extended to P.I. Construction and Services Co., Inc. headed by plaintiff Ramon R. Nacu, and J.B.S. Construction, Inc., headed by Jose B. Sahagun, a joint venture.

True, the real estate mortgage categorically provides that it shall also stand as security for the payment of the said promissory note or notes; and/or accommodations without the necessity of executing a new contract and that the mortgage shall have the same force and effect as if the said promissory note or notes and/or accommodations were existing on the date thereof.

However, the July 12, 1982 Home Construction loan transaction and the February 24, 1983 JBS and P.I. Construction - Joint Venture loan transaction are totally alien to each other. Noteworthy is the fact that the 1982 loan transaction was extended to Home Construction - Joint Venture, represented by Spouses Horacio S. Mendoza and Leonisia D. Mendoza; Spouses Julio D. Matias and Lydia Sison and Spouses Ramon R. Nacu and Lourdes I. Nacu. On the other hand, the 1983 loan transaction was applied for and extended to the Joint Venture--JBS Construction, Inc., represented by its president Jose B. Sahagun and P.I. Construction and Services Co., Inc., represented by its president, Ramon Nacu.

Clearly, the two (2) loan transactions involved different sets of parties. While it is true that petitioner Nacu is a party in both transactions, he acted in totally different capacities.

Thus, we find the findings of facts of the trial court accurate as they are positively supported by documentary evidence, to wit:

"x x x. A careful reading of the Continuing Surety Agreement (Exhibit '5') will reveal the fact that plaintiff Ramon R. Nacu, and Jose B. Sahagun signed said Continuing Surety Agreement in their capacities as Executive Officers of the J.B.S. Construction Corporation. It is therefore the J.B.S. Construction Corporation that is the Surety. The plaintiff Ramon N. Nacu, and/or Jose B. Sahagun cannot be made answerable for the liability or obligation of the corporation. If at all said Ramon R. Nacu and Jose B. Sahagun can be liable only to the extent of their stocks in the corporation. In other words, this contract (Exhibit '5') entered into by J.B.S. Construction Corporation with defendant bank is a distinct contract and cannot in any way be related to the provisions of the Real Estate Mortgage (Exhibit 'C' and Exhibit '6') because the parties thereto are different." [6]

To allow the 1982 mortgage contract to be amplified to include the 1983 Continuing Surety Agreement would be stretching too far the former contract's extent. Interpreting the same as respondent Bank would want us to do would make the provision too comprehensive and all-encompassing as to amount to absurdity.

Besides, there is nothing in the loan accommodation subsequently contracted that TCT 276891 is mortgaged. Said loan was not even duly annotated on said title. Under Section 60 of Act No. 496, a mortgage deed and all instruments assigning, discharging and otherwise dealing with the mortgage are required to be registered. Without registration, they cannot have any effect on the title.

The respondent Court in reversing the decision of the trial court, linked the trust receipts, signed by petitioner Nacu, together with Jose Sahagun, with the real estate mortgage dated June 7, 1982 by finding that under the express terms of the trust receipts in favor of respondent Bank, petitioner Nacu again bound himself "jointly and severally" with the Trustees (JBS Corporation and PI Construction) for the value of the goods covered by the instruments.

Rather than support the position of respondent Bank, the trust receipt agreement shows that the 1982 real estate mortgage is no longer operative because otherwise, there would have been no need for the execution of said trust

agreement to secure the second loan.

Under pertinent laws, the trust receipt is a separate and independent security transaction intended to aid in financing importers whereby the imported goods are held as security by the lending institution for the loan obligation.

In the case and *Vintola v. Insular Bank of Asia and America*[7] this Court explained the nature and usage of trust receipts as follows:

"x x x. A letter of credit-trust receipt arrangement is endowed with its own distinctive features and characteristics. Under that set-up, a bank extends a loan covered by the letter of credit, with the trust receipt as a security for the loan. In other words, the transaction involves a loan feature represented by the letter of credit, and a security feature which is in the covering trust receipt. x x x.

"A trust receipt, therefore, is a security agreement, pursuant to which a bank acquires a security interest in the goods. It secures an indebtedness and there can be no such thing as security interest that secures no obligation.

"x x x. A trust receipt is considered as a security transaction intended to aid in financing importers and retail dealers who do not have sufficient funds or resources to finance the importation or purchase of merchandise, and who may not be able to acquire credit except through utilization, as collateral, of the merchandise imported or purchased. x x x."

Moreover, by virtue of the trust receipt agreement, respondent Bank should proceed against the same because the trust receipt theoretically transferred the ownership of the imported personal property to respondent Bank.

Worth mentioning is also the fact that the trust receipts and the Continuing Surety Agreement were signed only by petitioner Nacu. Assuming that both documents duly constituted a real estate mortgage on the property of petitioners spouses, they are voidable for want of petitioner Lourdes Nacu's acquiescence and/or consent thereto. Article 166 of the Civil Code, the law then applicable, provides that unless the wife has been declared a non compos mentis, a spendthrift, is under civil interdiction or is confined in a leprosarium, the husband cannot alienate or encumber any real property of the conjugal partnership without the wife's consent.

In resolving in favor of respondent Bank, respondent Court likewise appreciated the weight of Exhibit "4," the purported minutes of the meeting of respondent Bank's Board of Directors and Report pertaining to the application for letters of credit by the JBS and P.I. Construction Joint Venture. In giving evidentiary weight thereto, the decision of respondent Court said:

"Still another important consideration negates the trial court's finding that plaintiffs' property could not be held as continuing security for the obligations of the debtor corporation. The minutes of the meeting of defendant bank's Board of Directors (Exhibit 4) and the report submitted by the bank's president pertaining to the application for letters of credit by the debtor corporation show that a second real estate mortgage on plaintiffs' La Vista property was intended to secure such obligation. From the evidence adduced, there is ample basis to hold plaintiff Ramon Nacu liable as surety for the accommodation extended to the debtor corporation, and consequently gives defendant bank reason to hold on to the subject mortgaged property until the obligations are fully settled." [8]

However, petitioners spouses were not privy to Exhibit "4" as these documents are internal to respondent Bank. Whether or not they gave their consent thereto cannot be ascertained.

Finally, if the parties intended the 1982 real estate mortgage to apply to the 1983 loan transaction, respondent Bank should have required petitioners spouses to execute the proper loan documents clearly and categorically constituting upon the same property a real estate mortgage. The respondent Bank failed in this regard and must

therefore suffer the consequences. In *Orient Air Services and Hotel Representatives v. Court of Appeals*,^[9] this Court upheld the doctrine that any ambiguity in a contract whose terms are susceptible of different interpretation, must be read against the party who drafted it.

Indisputably, respondent Bank was the party responsible for the preparation of the 1982 and 1983 loan agreements which are contracts of adhesion. Consequently, any ambiguity in the loan agreement should be construed against it on the assumption that it could have avoided it by the exercise of a little more care.

More emphatic and appropriate is our pronouncement in *La Insular v. Machuca Go Tanco, et al.*^[10] where we held:

"It is undoubtedly true that the law looks upon the contract of suretyship with a jealous eye, and the rule is settled that the obligation of the surety cannot be extended by implication beyond specified limits."

It is crystal clear from the foregoing that respondent Bank's actuation in refusing to cancel the encumbrance annotated on petitioners spouses' Transfer Certificate of Title on the ground that the latter's property is still liable for an unpaid loan obligation of J.B.S. Construction, Inc. and P.I. Construction and Services Co., Inc. was a clever attempt to extend by implication, beyond the terms of the real estate mortgage contract, the latter's force and effect. Respondent Bank should not be allowed to take this "short-cut" to collect an indebtedness due it. Principles of fair play demand that it should not resort to the expedience of enforcing a real estate mortgage when there is none duly constituted.

WHEREFORE, the petition is GRANTED. The assailed decision of the respondent Court of Appeals in CA-G.R. No. CV 276693 is hereby REVERSED and the decision of the trial court in Civil Case No. Q-49223 ordering, among other things, respondent Pilipinas Bank to release and/or discharge the encumbrance on Transfer Certificate of Title No. 276891 of the Registry of Deeds of Quezon City is hereby REINSTATED in toto.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, and Puno, JJ., concur.
Padilla, J., took no part.

[1] Rollo, p. 61.

[2] Rollo, p. 34.

[3] Penned by Associate Justice Alfredo L. Benipayo and concurred in by Associate Justices Luis A. Javellana and Fermin A. Martin, Jr., Rollo, p. 45.

[4] Rollo, pp. 116-118.

[5] Rollo, pp. 118-119.

[6] Rollo, p. 34.

[7] G.R. No. 73271, 150 SCRA 578 (1987)

[8] Rollo, p. 44.

[9] G.R. No. 76931, 197 SCRA 645 (1991)

[10] 39 Phil. 571.

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