

CANELAND SUGAR CORPORATION, PETITIONER, VS. HON. REYNALDO M. ALON, LAND BANK OF THE PHILIPPINES, AND ERIC B. DE VERA, RESPONDENTS.

G.R. No. 142896. September 12, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

On July 15, 1999, Caneland Sugar Corporation (petitioner) filed with the Regional Trial Court (RTC) of Silay City, Branch 40, a complaint for damages, injunction, and nullity of mortgage against the Land Bank of the Philippines (respondent) and Sheriff Eric B. de Vera, docketed as Civil Case No. 2067-40, praying for the following reliefs: issuance of a temporary restraining order enjoining respondent and the Sheriff from proceeding with the auction sale of petitioner's property; declaration of nullity of any foreclosure sale to be held; declaration of nullity of the mortgage constituted over petitioner's property covered by TCT No. T-11292 in favor of respondent; and award of damages.[1]

On July 21, 1999, the RTC issued an Order holding in abeyance the auction sale set on July 23, 1999, as agreed upon by the parties.[2] Notwithstanding said directive, another foreclosure sale was scheduled on October 15, 1999. Per RTC Order dated October 14, 1999, the October 15 scheduled sale was held in abeyance; but re-scheduled the sale on November 15, 1999, for the following reasons:

However, P.D. 385 provides that it shall be mandatory for government financial institution to foreclose collaterals and/or securities for any loan, credit accommodations and/or guarantees granted by them whenever the arrearages on such account, including accrued interest and other charges amount to at least 20% of the total outstanding obligation as appearing in the books of the financial institution. Moreover, no restraining order, temporary or permanent injunction shall be issued by the court against any government financial institution in any action taken by such institution in compliance with the mandatory foreclosure provided by said law. x x x The defendant Land Bank of the Philippines and Eric B. De Vera, Sheriff of this Court, are hereby authorized to proceed with the extrajudicial foreclosure sale on November 15, 1999.[3]

Petitioner filed a Motion for Reconsideration of the trial court's Order, but this was denied per Order dated November 8, 1999.[4]

Petitioner then filed with the Court of Appeals (CA) a Petition for Certiorari and Prohibition with Injunction, docketed as CA-G.R. SP No. 56137. In a Decision[5] dated March 22, 2000, the CA, finding that the RTC did not commit any grave abuse of discretion, denied due course and dismissed the petition for lack of merit.[6] Petitioner sought reconsideration of the Decision, which was eventually denied by the CA in a Resolution dated April 17, 2000.[7]

Hence, the present Petition for Review on Certiorari under Rule 45 of the Rules of Court.

Petitioner contends in the main that the RTC's act of authorizing the foreclosure of its property amounts to a prejudgment of the case since it amounts to a ruling that respondent has a valid mortgage in its favor. Petitioner

also argues, among others, that Presidential Decree (P.D.) No. 385 is not applicable inasmuch as at the time of the lease to Sunnix, Inc., the management and control of its operations has already been virtually taken over by respondent.

On the other hand, respondent maintains that: P.D. No. 385 prohibits the issuance of an injunctive order against government financial institutions; the CA did not commit any grave abuse of discretion; the RTC Order merely dealt with the propriety of the injunctive order and not the validity of the mortgage; and the issue of the propriety of the injunctive order has been rendered moot and academic by the foreclosure sale conducted and the issuance of a certificate of sale by the sheriff.[8]

Based on the arguments of the parties, the principal issue is whether the CA erred in finding that the RTC did not commit grave abuse of discretion in not enjoining the extrajudicial foreclosure of the properties subject of this case.

Without first resolving the foregoing issue, the Court finds that the petition should be denied for the sole reason that the act sought to be enjoined by petitioner is already *fait accompli*. In *Transfield Philippines, Inc. v. Luzon Hydro Corporation*,[9] the Court held that -

[I]njunction would not lie where the acts sought to be enjoined have already become *fait accompli* or an accomplished or consummated act. In *Ticzon v. Video Post Manila, Inc.* this Court ruled that where the period within which the former employees were prohibited from engaging in or working for an enterprise that competed with their former employer-- the very purpose of the preliminary injunction --has expired, any declaration upholding the propriety of the writ would be entirely useless as there would be no actual case or controversy between the parties insofar as the preliminary injunction is concerned.[10]

Records show that the foreclosure sale which petitioner sought to be enjoined by the RTC has already been carried out by the Sheriff, and in fact, a Certificate of Sale dated June 26, 2000 was issued to respondent.[11] There is, therefore, no more actual case or controversy between the parties insofar as the RTC's refusal to enjoin the sale is concerned, and any resolution by the Court of the impropriety or propriety of the RTC's refusal to issue any restraining or injunctive relief against the foreclosure sale will serve no purpose but merely lend further addle to Civil Case No. 2067-40 pending before the RTC.

Nevertheless, even if petitioner's quest for the issuance of an injunctive relief has been rendered moot and academic by the holding of the foreclosure sale and issuance of Certificate of Sale, the Court finds it necessary to resolve the merits of the principal issue raised for the future guidance of both bench and bar. As the Court stated in *Acop v. Guingona, Jr.*,[12] "courts will decide a question otherwise moot and academic if it is 'capable of repetition, yet evading review.'"

Petitioner does not dispute its loan obligation with respondent. Petitioner's bone of contention before the RTC is that the promissory notes are silent as to whether they were covered by the Mortgage Trust Indenture and Mortgage Participation on its property covered by TCT No. T-11292.[13] It does not categorically deny that these promissory notes are covered by the security documents. These vague assertions are, in fact, negative pregnant, i.e., denials pregnant with the admission of the substantial facts in the pleading responded to which are not squarely denied. As defined in *Republic of the Philippines v. Sandiganbayan*,[14] a negative pregnant is a "form of negative expression which carries with it an affirmation or at least an implication of some kind favorable to the adverse party. It is a denial pregnant with an admission of the substantial facts alleged in the pleading. Where a fact is alleged with qualifying or modifying language and the words of the allegation as so qualified or modified are literally denied, has been held that the qualifying circumstances alone are denied while the fact itself is admitted."

Petitioner's allegations do not make out any justifiable basis for the granting of any injunctive relief. Even when the mortgagors were disputing the amount being sought from them, upon the non-payment of the loan, which was secured by the mortgage, the mortgaged property is properly subject to a foreclosure sale. This is in consonance with the doctrine that to authorize a temporary injunction, the plaintiff must show, at least prima facie, a right to the final relief.[15]

The foregoing conclusion finds greater force in light of the provisions of P.D. No. 385,[16] Section 1 of which, provides for a mandatory foreclosure, viz.:

Section 1. It shall be mandatory for government financial institutions, after the lapse of sixty (60) days from the issuance of this Decree, to foreclose the collaterals and/or securities for any loan, credit, accommodation, and/or guarantees granted by them whenever the arrearages on such account, including accrued interest and other charges, amount to at least twenty (20%) of the total outstanding obligations, including interest and other charges, as appearing in the books of account and/or related records of the financial institution concerned. This shall be without prejudice to the exercise by the government financial institution of such rights and/or remedies available to them under their respective contracts with their debtors, including the right to foreclose on loans, credits, accommodations, and or guarantees on which the arrearages are less than twenty percent (20%).

while Section 2 prohibits the issuance of restraining orders or injunctions against government financial institutions in any foreclosure action taken by such institutions, to wit:

Section 2. No restraining order, temporary or permanent injunction shall be issued by the court against any government financial institution in any action taken by such institution in compliance with the mandatory foreclosure provided in Section 1 hereof whether such restraining order, temporary or permanent injunction is sought by the borrower(s) or any third party or parties, except after due hearing in which it is established by the borrower and admitted by the government financial institution concerned that twenty percent (20%) of the outstanding arrearages had been paid after the filing of foreclosure proceedings.

Petitioner cannot find any solace in its contention that the case of *Filipinas Marble Corporation v. Intermediate Appellate Court*[17] is applicable to the present case. In *Filipinas Marble*, it was the DBP-imposed management of FMC that brought the corporation to ruin, not to mention that there were prima facie findings of mismanagement and misappropriation of the loan proceeds by DBP and Bancom. Moreover, the liability of FMC for the loan, which was the basis of the mortgage being foreclosed, was not yet settled. These circumstances prompted the Court to grant an injunction against the foreclosure sale. The Court ruled -

x x x P.D. 385 was never meant to protect officials of government lending institutions who take over the management of a borrower corporation, lead that corporation to bankruptcy through mismanagement or misappropriation of its funds, and who, after ruining it, use the mandatory provisions of the decree to avoid the consequences of their misdeeds.

The designated officers of the government financing institution cannot simply walk away and then state that since the loans were obtained in the corporation's name, then P.D. 385 must be peremptorily applied and that there is no way the borrower corporation can prevent the automatic foreclosure of the mortgage on its properties once the arrearages reach twenty percent (20%) of the total obligation no matter who was responsible.[18]

In the case at bench, petitioner does not deny its liability. While petitioner alleged that the management and control of its operations has already been virtually taken over by respondent, thus, implying that it was respondent that caused petitioner's present miserable financial state, this allegation is obviously merely an attempt to place itself under the *Filipinas Marble* situation in order to preempt the operation of P.D. No. 385. Petitioner's claim is more appropriately threshed out and determined after trial on the merits.

The Court likewise cannot sustain petitioner's argument that the RTC's refusal to grant any injunctive relief amounts to a prejudgment of the issues before it. The RTC's sole basis for allowing the foreclosure sale to proceed is P.D. No. 385. It did not make any finding or disposition on the issue of the validity of the mortgage.

In any event, such issue of the validity of the mortgage, not to mention the issue of the nullity of the foreclosure sale as well as petitioner's prayer for damages, still has to be resolved in the trial court.

As ruled in *Philippine National Bank v. Court of Appeals*,^[19] to wit:

In the instant case, aside from the principal action for damages, private respondent sought the issuance of a temporary restraining order and writ of preliminary injunction to enjoin the foreclosure sale in order to prevent an alleged irreparable injury to private respondent. It is settled that these injunctive reliefs are preservative remedies for the protection of substantive rights and interests. Injunction is not a cause of action in itself but merely a provisional remedy, an adjunct to a main suit. When the act sought to be enjoined ha[d] become fait accompli, only the prayer for provisional remedy should be denied. However, the trial court should still proceed with the determination of the principal action so that an adjudication of the rights of the parties can be had.^[20] (Emphasis supplied)

WHEREFORE, the petition is DENIED.

Costs against petitioner.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Nachura, and Reyes, JJ., concur.

[1] Rollo, pp. 90-102.

[2] Id. at 172.

[3] Id. at 86-87.

[4] Id. at 88-89.

[5] Penned by Associate Justice Martin S. Villarama, Jr., with Associate Justices Cancio C. Garcia (now a Member of this Court) and Andres B. Reyes, Jr., concurring.

[6] Rollo, pp. 38-42.

[7] Id. at 44.

[8] Id. at 208-211.

[9] G.R. No. 146717, November 22, 2004, 443 SCRA 307.

[10] Id. at 339-340.

[11] Rollo, pp. 213-249.

[12] 433 Phil. 62, 68 (2002).

[13] Rollo, p. 92.

[14] 453 Phil. 1059, 1107 (2003).

[15] *Selegna Management and Development Corporation v. United Coconut Planters Bank*, G.R. No. 165662,

May 3, 2006, 489 SCRA 125, 144.

[16] Entitled, "Requiring Government Financial Institutions to Foreclose Mandatorily All Loans with Arrearages, Including Interest and Charges, Amounting to At Least Twenty Percent (20%) of the Total Outstanding Obligation."

[17] 226 Phil. 109 (1986).

[18] Id. at 116.

[19] 353 Phil. 473 (1998).

[20] Id. at 479.

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