

RURAL BANK OF CALINOG (ILOILO), INC., PETITIONER, VS. COURT OF APPEALS, SPOUSES GREGORIO CERBAÑA AND FILMA CERBO-CERBAÑA, RESPONDENTS.

G.R. No. 146519. July 08, 2005

Ponente: TINGA, J.

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TINGA, J.:

In this Petition[1] dated January 16, 2000, Rural Bank of Calinog (Iloilo), Inc. assails the Decision[2] of the Court of Appeals dated November 18, 1999, which granted the petition for certiorari filed by private respondents, reversed and set aside the order of dismissal issued by the trial court,[3] and reinstated the complaint filed against petitioner, and its Resolution[4] dated November 24, 2000, which denied petitioner's motion for reconsideration.

The antecedents, quoted from the assailed Decision, are as follows:

Petitioners and Carmen Cerbo represented by petitioners filed Civil Case No. 97016 for annulment of the certificate of sale at public auction, accounting and damages against private respondents.

Petitioners alleged that Carmen D. Cerbo executed a real estate mortgage over her property covered by Transfer Certificate of Title No. T-118033, in favor of private respondent Rural Bank of Calinog (Calinog Bank for brevity); that the mortgage was foreclosed and the subject property was sold at public auction with private respondent Calinog Bank as the highest bidder; that petitioners redeemed the subject property by depositing the amount of P18,000.00 to private respondent Calinog Bank; that to complete payment of the total redemption price of the subject property, petitioners obtained a loan from private respondent Rural Bank of Dingle, Iloilo, (Dingle Bank, for brevity) in the amount of P109,000.00; that to secure payment of the loan obtained from private respondent Dingle Bank petitioners mortgaged the subject property in favor [of] private respondent Dingle Bank; that petitioners have paid the loan obtained from private respondents; that on September 26, 1996, petitioners received a Notice of Sale at public auction of the subject property allegedly for failure to pay the mortgage debt; that petitioners demanded from private respondents an accounting of all payments made and the holding in abeyance by private respondent Dingle Bank of the public sale; that the public sale proceeded as scheduled and the subject property was adjudicated in favor of private respondent Calinog Bank; that because of the failure of the private respondents to account all payments made by and for petitioners the mortgaged property was unjustly foreclosed.

On October 21, 1998, private respondent Calinog Bank moved for the dismissal of the petitioners' complaint.

Private respondent Calinog Bank contended that Carmen Cerbo is the only one who has a cause of action against it because she was the one who executed the Contract of Real Estate Mortgage; that since Carmen Cerbo is already dead, the case should be dismissed against private respondent Calinog Bank; that petitioners do not have the legal personality to represent the late Carmen Cerbo; that petitioners lack cause of action against private respondent Calinog Bank.

Petitioners opposed the motion to dismiss filed by private respondent Calinog Bank. Petitioners contended that as heirs of Carmen Cerbo, they have the personality and the cause of action to institute the action against

private respondent Calinog Bank.

On February 2, 1999, assailed order was issued granting private respondent Calinog Bank's motion to dismiss.

Petitioners filed a motion for reconsideration of the order granting private respondent Calinog Bank's motion to dismiss. The same was denied by public respondent.[5]

Aggrieved by the order of the trial court, the Spouses Cerbaña, private respondents herein, filed with the appellate court a petition for certiorari contending that the dismissal of the case was improper and that they are the real parties-in-interest in the case being children of the late Carmen Cerbo and having paid the redemption price to petitioner Rural Bank of Calinog.

In granting the petition, the Court of Appeals distinguished between lack of capacity to sue and lack of personality to sue. The first refers to the plaintiff's general disability to sue, such as on account of minority, incompetence, lack of juridical personality or other disqualifications; the second refers to the fact that the plaintiff is not the real party in interest. Since private respondents filed the civil suit not just as representatives of Carmen Cerbo but also for and in their own behalf, the appellate court found them to have both capacity and personality to sue.

The appellate court further ruled that the allegations of the complaint furnish sufficient basis to maintain the same and should not have been dismissed by the trial court. Private respondents need not be parties to the mortgage contract in order to have a cause of action to recover the payments which they allege to have paid the bank in excess of the redemption price.

Moreover, the case falls under the recognized exceptions to the rule that certiorari cannot take the place of appeal since the trial court dismissed the complaint only because Carmen Cerbo was already dead at the time of the filing of the complaint. According to the Court of Appeals, this is tantamount to clear abuse of discretion.

Petitioner asserts that private respondents do not have a cause of action against it because they did not claim that they were instituting an action as heirs of Carmen Cerbo; petitioner has the right to demand payment of the redemption price; there was no undue delivery of money to petitioner because private respondents merely paid the redemption price; and the appellate court did not declare that the trial court committed grave abuse of discretion but merely a clear abuse of discretion.

In their Comments[6] dated March 11, 2003, private respondents aver that the instant petition is merely a restatement of the issues already passed upon by the Court of Appeals. They reiterate that they instituted the complaint independent of Carmen Cerbo.

We gave due course to the petition and required the parties to submit their respective memoranda.[7] In compliance with the Court's resolution, petitioner and private respondents filed their memoranda respectively dated May 20, 2003[8] and May 21, 2003.[9]

The principal legal question raised in the instant petition is whether the complaint filed by private respondents with the trial court states a cause of action.

A cause of action exists if the following elements are present: (1) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; (2) an obligation on the part of the named defendant to respect or not to violate such right; and (3) an act or omission on the part of such defendant violative of the right of plaintiff or constituting a breach of the obligation of defendant to the plaintiff for which the latter may maintain an action for recovery of damages.[10]

In determining whether the allegations of a complaint are sufficient to support a cause of action, it must be borne in mind that the complaint does not have to establish or allege the facts proving the existence of a cause of action

at the outset; this will have to be done at the trial on the merits of the case. If the allegations in a complaint can furnish a sufficient basis by which the complaint can be maintained, the same should not be dismissed regardless of the defenses that may be assessed by the defendants. To sustain a motion to dismiss for lack of cause of action, the complaint must show that the claim for relief does not exist rather than that a claim has been defectively stated or is ambiguous, indefinite or uncertain.[11] Moreover, a defendant moving to dismiss a complaint on the ground of lack of cause of action is regarded as having hypothetically admitted all the averments thereof.[12]

An examination of the complaint reveals that it sufficiently alleges a cause of action against petitioner. The pertinent portions of the complaint are reproduced below:

- That Carmen D. Cerbo executed that Real Estate Mortgage on April 5, 1988 involving her property covered by Transfer Certificate of Title No. T-118033 of the Registry of Deeds for the Province of Iloilo, in favor of Rural Bank of Calinog, Inc., a copy of said Real Estate Mortgage is hereto attached as Annex "A";
- That for failure to pay the mortgage indebtedness of Carmen D. Cerbo to Rural Bank of Calinog, Inc., foreclosed the mortgaged property and adjudicated the same in its favor as the highest bidder at the time of public auction sale for a price of P63,616.65 as shown by Certificate of Sale at Public Auction hereto attached as Annex "B";
- That sometime in August 28, 1991, plaintiff Gregorio N. Cerbaña made a deposit of P18,000.00 to Rural Bank of Calinog, Inc., as deposit on asset acquired from Felimon Cerbo/Carmen Cerbo, machine copy of Official Receipt No. 22356 dated August 28, 1991 is hereto attached as Annex "C";
- That sometime in January 20, 1992, plaintiff Spouses Gregorio Cerbaña and Filma Cerbaña secured that agricultural loan from defendant Community Rural Bank of Dingle (Iloilo), Inc., in the amount of P109,000.00 and obtained a net proceeds of P83,392.47 as shown in the Discount Statement dated January 20, 1992 hereto attached as Annex "D";
- That for the net proceeds of P83,392.47, defendant Community Rural Bank of Dingle (Iloilo), Inc., issued check No. 16925 dated January 20, 1992 for P43,392.47 and Far East Bank Check No. C1853959 dated January 20, 1992 for P40,000.00, copies of said checks are hereto attached as Annexes "E" and "F" respectively;
- That aforesaid checks (Annexes "E" and "F") were paid to defendant Rural Bank of Calinog (Iloilo), Inc. and the latter issued its Official Receipt No. 22977 dated January 20, 1992 for P76,000.00 with notation below of P7,000.00 as attorney's fees, or for a total amount of P83,000.00. Copy of said receipt is hereto attached as Annex "G";
- That the excess amount of P392.47 was not accounted for by defendant Rural Bank of Calinog (Iloilo), Inc., to Spouses Gregorio and Filma Cerbaña, neither was the P18,000.00 deposit made by said spouses and covered by Annex "C" hereof, deducted from the repurchase price of the property of Carmen Cerbo;
- That the loan of P109,000.00 with defendant Community Rural Bank of Dingle, (Iloilo), Inc. was settled by spouses by paying P80,000.00 on May 8, 1992 for which they were issued O.R. No. 9105 A and the P89,000.00 was subject of a re-loan on October 19, 1992 with defendant Rural Bank of Dingle (Iloilo), Inc.;
- That sometime in December 22, 1991, plaintiff Gregorio Cerbaña, paid in full the account with defendant Community Rural Bank of Dingle (Iloilo), Inc., as shown by Official Receipt hereto attached as Annex "H";
- That plaintiff spouses Gregorio and Filma Cerbaña, were not properly informed of the handling [of] their loan account with Community Rural Bank of Dingle (Iloilo), Inc., such that they were in the dark of the application of payments they [sic] were made;
- That on September 26, 1996 the plaintiff Spouses Gregorio and Filma Cerbaña were caught in surprise to

receive that Sheriff's Notice of Sale at Public Auction, copy of which is hereto attached as Annex "I";

- That because of the notice (Annex "I") Spouses Gregorio and Filma Cerbaña sought the assistance of an accountant/lawyer to examine their account with Community Rural Bank of Dingle (Iloilo), Inc., and their lawyer/accountant sent that [sic] letters dated October 17, 1996 and October 21, 1996 respectively to defendants rural banks, copies of which are hereto attached as Annexes "J" and "K", respectively;
- That said letters were inserted to inform the defendant rural banks to account for the claims of plaintiff spouses, and for Community Rural Bank of Dingle (Iloilo), Inc., to defer foreclosure of the mortgaged property, but those letters were unavailing as defendants Community Rural Bank of Dingle (Iloilo), Inc., proceeded with the sale at public auction of the mortgaged property as scheduled;
- That the foreclosure and outright sale at public auction of the mortgaged properties of plaintiffs are shocking to conscience considering that per computation of an accountant, the obligation of plaintiff Spouses amounts to only P1,153.02 when all their payments made are accounted for by both defendant rural banks;
- That for failure of defendant rural banks to account for the payments of plaintiffs which resulted to the foreclosure and sale at public auction of mortgaged properties of plaintiffs, the latter was obliged to engage the services of counsel at an agreed fee of P25,000.00 plus P1,500.00 per court appearance to defend and protect their rights herein transgressed by defendants;
- That the unconscionable acts of defendants brought about moral anxiety on plaintiffs who likewise claim moral damages in an amount which may be assessed by this Honorable Court as proper in the circumstances;
- That in the filing of this instant case, the plaintiffs incurred actual expenses of P5,000.00 and they are bound to suffer additional actual expenses until this case is finally terminated.[13]

It is enough that private respondents allege that they made a deposit in the amount of P18,000.00 after the mortgaged property was sold to petitioner at public auction; that they subsequently applied for and obtained an agricultural loan from another rural bank, the net proceeds of which they paid to petitioner in order to discharge the obligation under the mortgage constituted on Carmen Cerbo's property; that the excess amount of P392.47 was not accounted for by petitioner; and that the P18,000.00 deposit was not deducted from the repurchase price of the property. In fine, private respondents contend that they were the ones who paid Carmen Cerbo's loan obligation with petitioner. Whether these allegations entitle private respondents to the reliefs prayed for is a question which can best be resolved after trial on the merits at which each party can present evidence to prove their respective allegations and defenses.

It is significant to note that petitioner already filed an answer to the complaint at which it admitted that private respondent Gregorio Cerbaña made a deposit of P18,000.00 as initial payment on the redemption price, and that the latter made a total payment of P101,000.00. Petitioner, therefore, had acknowledged that it was Gregorio Cerbaña, Carmen Cerbo's son-in-law,[14] who was making payments on the loan obligation. In fact, petitioner referred to Gregorio Cerbaña as the redemptioner of the foreclosed property.[15] This admission cannot be disavowed by petitioner's allegation in its motion to dismiss filed eight (8) months after its answer,[16] that private respondents do not have a cause of action against it just because Carmen Cerbo had already passed away.

While the death of Carmen Cerbo certainly extinguished whatever cause of action she had against petitioner, private respondents' cause of action, based on the allegations in the complaint, was not thereby similarly extinguished. Indeed, assuming the allegations of the complaint to be true, private respondents, having paid the redemption price, have the right to demand an accounting, to be refunded for whatever excess payments they made, and even to redeem the property. Correlatively, petitioner, having accepted payment from private respondents, has the obligation to account for such payment, to return the excess, if any, and to allow redemption.

As regards the ancillary procedural question concerning the propriety of certiorari in lieu of appeal, we find that private respondents' resort to certiorari is warranted under the circumstances. While it is true that certiorari is not a substitute for appeal, jurisprudence exempts from the application of this rule cases when the trial court's decision or resolution was issued without jurisdiction or with grave abuse of discretion.^[17] Considering that the trial court in this case completely disregarded the fact that private respondents also filed the complaint on their own behalf and in so doing prevented the latter from having their day in court, it gravely abused its discretion justifying private respondents' petition for certiorari.

Given these circumstances, a remand of the instant case is in order to allow private respondents to have their day in court, and to give the trial court an opportunity to evaluate the evidence, apply the law, and make an appropriate decree.

WHEREFORE, the petition is DENIED. The Decision and Resolution of the Court of Appeals dated November 18, 1999 and November 24, 2000 are hereby AFFIRMED. The case is REMANDED to the Regional Trial Court of Iloilo City for trial on the merits. Costs against petitioner.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Rollo, pp. 9-18.

[2] Id. at 18-A-28; Penned by Associate Justice Eugenio S. Labitoria and concurred in by Associate Justices Marina L. Buzon and Edgardo P. Cruz.

[3] RTC, Branch 68, Iloilo City; Civil Case No. 97-016.

[4] Rollo, p. 29.

[5] Supra note 2 at 18-A-20.

[6] Id. at 64-69.

[7] Resolution dated March 17, 2003.

[8] Rollo, pp. 117-132.

[9] Id. at 154-162.

[10] Dulay v. Court of Appeals, 313 Phil. 9 (1995), citing Del Bros Hotel Corporation v. Court of Appeals, 210 SCRA 33 (1992); Development Bank of the Philippines v. Pundogar, 218 SCRA 118 (1993).

[11] Ibid citing Rava Development Corporation v. Court of Appeals, 211 SCRA 152 (1992); Azur v. Provincial Board, 27 SCRA 50 (1960).

[12] Parañaque Kings Enterprises, Inc. v. Court of Appeals, G.R. No. 111538, February 26, 1997, 268 SCRA 727.

[13] Rollo, pp. 69-71.

[14] Gregorio Cerbaña is married to Filma Cerbo-Cerbaña, Carmen Cerbo's daughter.

[15] Answer of petitioner; CA Rollo, p. 81.

[16] The answer was filed on February 17, 1998, while the motion to dismiss was filed on October 27, 1998; CA

Records, pp. 81-83 and 87-90.

[17] Sanchez v. Court of Appeals, 345 Phil. 155 (1997).

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