

BIENVENIDO C. TEOCO AND JUAN C. TEOCO, JR., PETITIONERS, VS. METROPOLITAN BANK AND TRUST COMPANY, RESPONDENT.

G.R. No. 162333. December 22, 2008

Ponente: REYES, R.T., J.

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REYES, R.T., J.:

REAL creditors are rarely unwilling to receive their debts from any hand which will pay them.[1] Ang tunay na may pautang ay bihirang tumanggi sa kabayaran mula kaninuman.

This is a petition for review on certiorari seeking the reversal of the Decision[2] of the Court of Appeals (CA) in CA-G.R. CV No. 58891 dated February 20, 2004 which annulled and set aside the decision of the Regional Trial Court (RTC) of Catbalogan, Samar on July 22, 1997 in Cadastral

Record No. 1378. The RTC originally dismissed the petition for writ of possession filed by respondent Metropolitan Bank and Trust Company (Metrobank) on the ground that intervenors and present petitioners, the brothers Bienvenido Teoco and Juan Teoco, Jr. (the brothers Teoco), have redeemed the subject property. The CA reversed this dismissal and ordered the issuance of a writ of possession in favor of respondent Metrobank.

Culled from the records, the facts are as follows:

Lydia T. Co, married to Ramon Co, was the registered owner of two parcels of land situated in Poblacion, Municipality of Catbalogan, Province of Samar under Transfer Certificate of Title (TCT) Nos. T-6220 and T-6910.[3] Ramon Co mortgaged the said parcels of land to Metrobank for a sum of P200,000.00.

On February 14, 1991, the properties were sold to Metrobank in an extrajudicial foreclosure sale under Act No. 3135. One year after the registration of the Certificates of Sale, the titles to the properties were consolidated in the name of Metrobank for failure of Ramon Co to redeem the same within the one year period provided for by law. TCT Nos. T-6220 and T-6910 were cancelled and TCT Nos. T-8482 and T-8493 were issued in the name of Metrobank.

On November 29, 1993, Metrobank filed a petition for the issuance of a writ of possession against Ramon Co and Lydia Co (the spouses Co). However, since the spouses Co were no longer residing in the Philippines at the time the petition was filed, the trial court ordered Metrobank, on January 12, 1994 and again on January 26, 1994 to effect summons by publication against the spouses Co.

On May 17, 1994, the brothers Teoco filed an answer-in-intervention alleging that they are the successors-in-interest of the spouses Co, and that they had duly and validly redeemed the subject properties within the reglementary period provided by law. The brothers Teoco thus prayed for the dismissal of Metrobank's petition for a writ of possession, and for the nullification of the TCTs issued in the name of Metrobank. The brothers Teoco further prayed for the issuance in their name of new certificates of title.

Metrobank, in its reply, alleged that the amount deposited by the brothers Teoco as redemption price was not sufficient, not being in accordance with Section 78 of the General Banking Act. Metrobank also said the

assignment of the right of redemption by the spouses Co in favor of the brothers Teoco was not properly executed, as it lacks the necessary authentication from the Philippine Embassy.

On February 24, 1995, the trial court was informed that the brothers Teoco had deposited the amount of P356,297.57 to the clerk of court of the RTC in Catbalogan, Samar. The trial court ordered Metrobank to disclose whether it is allowing the brothers Teoco to redeem the subject properties. Metrobank refused to accept the amount deposited by the brothers Teoco, alleging that they are obligated to pay the spouses Co's subsequent obligations to Metrobank as well. The brothers Teoco claimed that they are not bound to pay all the obligations of the spouses Co, but only the value of the property sold during the public auction.

On February 26, 1997, the trial court reiterated its earlier order directing Metrobank to effect summons by publication to the spouses Co. Metrobank complied with said order by submitting documents showing that it caused the publication of summons against the spouses Co. The brothers Teoco challenged this summons by publication, arguing that the newspaper where the summons by publication was published, the Samar Reporter, was not a newspaper of general circulation in the Philippines. The brothers Teoco furthermore argued that Metrobank did not present witnesses to identify the documents to prove summons by publication.

RTC Disposition

On July 22, 1997, the RTC rendered its decision in favor of the brothers Teoco, to wit:

WHEREFORE, judgment is hereby rendered dismissing the petition for a writ of possession under Section 7 of Act 3135 it appearing that intervenor Atty. Juan C. Teoco, Jr. and his brother Atty. Bienvenido C. Teoco have legally and effectively redeemed Lot 61 and 67 of Psd-66654, Catbalogan, Cadastre, from the petitioner Metropolitan Bank and Trust Company.

Accordingly, Metrobank may now withdraw the aforesaid redemption money of P356,297.57 deposited by Juan C. Teoco, Jr., on February 10, 1992 with the clerk of court and it is ordered that the Transfer Certificate of Title Nos. T-8492 and T-8493 of Metropolitan Bank and Trust Company be and are cancelled and in their place new transfer certificates of title be issued in favor of Intervenors Attys. Bienvenido C. Teoco and Juan C. Teoco, Jr., of legal age, married, and residents of Calbiga, Samar, Philippines, upon payment of the prescribed fees therefore. No pronouncement as to costs.[4]

According to the RTC, the case filed by Metrobank should be dismissed since intervenor Juan C. Teoco, Jr., by his tender of P356,297.57 to Metrobank on February 10, 1992, within the reglementary period of redemption of the foreclosed property, had legally and effectively redeemed the subject properties from Metrobank. This redemption amount is a fair and reasonable price and is in keeping with the letter and spirit of Section 78 of the General Banking Act because Metrobank purchased the mortgaged properties from the sheriff of the same court for only P316,916.29. In debunking the argument that the amount tendered was insufficient, the RTC held:

It is contended for Metrobank that the redemption money deposited by Juan C. Teoco, Jr., is insufficient and ineffective because the spouses Ramon Co and Lydia T. Co owe it the total amount of P6,856,125 excluding interest and other charges and the mortgage contract executed by them in favor of Metrobank in 1985 and 1986 (Exh. A and B) are not only security for payment of their obligation in the amount of P200,000 but also for those obligations that may have been previously and later extended to the Co couple including interest and other charges as appears in the accounts, books and records of the bank.

Metrobank cites the case of *Mojica v. Court of Appeals*, 201 SCRA 517 (1991) where the Supreme Court held that mortgages given to secure future advancements are valid and legal contracts; that the amounts named as consideration in said contract do not limit the amount for which the mortgage may stand as security; that a mortgage given to secure the advancements is a continuing security and is not discharged by repayment of the amount named in the mortgage until the full amount of the advancements are paid. In the opinion of this court,

it is not fair and just to apply this rule to the case at bar. There is no evidence offered by Metrobank that these other obligations of Ramon Co and his wife were not secured by real estate mortgages of other lands. If the other indebtedness of the Co couple to Metrobank are secured by a mortgage on their other lands or properties the obligation can be enforced by foreclosure which the court assumes Metrobank has already done. There is no proof that Metrobank asked for a deficiency judgment for these unpaid loans.

The Supreme Court in the Mojica case was dealing with the rights of the mortgagee under a mortgage from an owner of the land. It determined the security covered by the mortgage the intention of the parties and the equities of the case. What was held in that case was hedged about so as to limit the decision to the particular facts. It must be apparent that the Mojica ruling cannot be construed to give countenance or approval to the theory that in all cases without exception mortgages given to secure past and future advancements are valid and legal contracts.

In construing a contract between the bank and a borrower such a construction as would be more favorable to the borrower should be adopted since the alleged past and future indebtedness of Ramon Co to the bank was not described and specified therein and that the addendum was made because the mortgage given therefore were not sufficient or that these past and future advancements were unsecured. That being the case the mortgage contracts, Exh. A and B should be interpreted against Metrobank which drew said contracts. A written contract should, in case of doubt, be interpreted against the party who has drawn the contract (6 R.C.L. 854; H.E. Heacock Co. vs. Macondray & Co., 42 Phil. 205). Here, the mortgage contracts are in printed form prepared by Metrobank and therefore ambiguities therein should be construed against the party causing it (Yatco vs. El Hogar Filipino, 67 Phil. 610; Hodges vs. Tazaro, CA, 57 O.G. 6970).[5]

The RTC added that there is another reason for dismissing Metrobank's petition: the RTC failed to acquire jurisdiction over the spouses Co. The RTC noted that Metrobank published its petition for writ of possession, but did not publish the writ of summons issued by said court on February 16, 1994. According to the RTC:

A petition for a writ of possession of foreclosed property is in reality a possession suit. That Metrobank prayed for a writ of possession in an independent special proceeding does not alter the nature of the case as a possessory suit (Cabrera v. Sinoy, L.-12648, 23 November 1959).

The defendant or owner of the property foreclosed by the petitioner should be summoned to answer the petition. Accordingly, the publication made by the petitioner is fatally flawed and defective and on that basis alone this court acquired no jurisdiction over the person of respondents Ramon Co and his wife (Mapa vs. Court of Appeals, G.R. No. 79394, October 2, 1992; Lopez vs. Philippine National Bank, L-34223, December 10, 1982).[6]

Metrobank appealed to the CA. In its appeal, Metrobank claimed that the RTC erred in finding that the publication made by it is fatally flawed, and that the brothers Teoco had effectively redeemed the properties in question.

CA Disposition

On February 20, 2004, the CA decided the appeal in favor of Metrobank, with the following disposition:

WHEREFORE, the appeal is hereby GRANTED. The assailed Decision dated July 22, 1997 rendered by the Regional Trial Court of Catbalogan, Samar Branch 29 in Cadastral Record No. 1378 is hereby ANNULLED and SET ASIDE. Accordingly, let a writ of possession in favor of petitioner-appellant METROPOLITAN BANK AND TRUST COMPANY be issued over the properties and improvements covered by Transfer Certificates of Title Nos. T-8492 and T-8493 of the Registry of Deeds of Western Samar.

SO ORDERED.[7]

As regards the question of jurisdiction, the CA ruled that since the parcels of land in question were already

registered in the name of Metrobank at the time the petition was filed, and since the certificates of title of the spouses Co were already cancelled, there is no more need to issue summons to the spouses Co. The CA noted that the best proof of ownership of the parcel of land is a certificate of title.[8]

The CA also held that the issue of the validity of summons to the spouses Co is unimportant considering that the properties in question were mortgaged to Metrobank and were subsequently sold to the same bank after the spouses Co failed to satisfy the principal obligation. Hence, the applicable law is Act No. 3135,[9] as amended by Act No. 4118. Section 7 of said Act No. 3135 states that a petition for the issuance of a writ of possession filed by the purchaser of a property in an extrajudicial foreclosure sale may be done ex parte. It is the ministerial duty of the trial court to grant such writ of possession. No discretion is left to the trial court. Any question regarding the cancellation of the writ, or with respect to the validity and regularity of the public sale should be determined in a subsequent proceeding as outlined in Section 9 of Act No. 3135.[10]

Further, the CA held that the brothers Teoco were not able to effectively redeem the subject properties, because the amount tendered was insufficient, and the brothers Teoco have not sufficiently shown that the spouses Co's right of redemption was properly transferred to them.

Issues

In this Rule 45 petition, the brothers Teoco impute to the CA the following errors:

I

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERROR OF JUDGMENT IN HOLDING THAT PETITIONERS FAILED TO REDEEM THE SUBJECT PROPERTIES WITHIN THE REGLEMENTARY PERIOD OF ONE YEAR AND THAT THE REDEMPTION PRICE TENDERED IS INSUFFICIENT.

II

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERROR OF JUDGMENT IN HOLDING PETITIONERS TO PAY NOT ONLY THE P200,000 PRINCIPAL OBLIGATION BUT ALSO THAT PREVIOUSLY EXTENDED, WHETHER DIRECT OR INDIRECT, PRINCIPAL OR SECONDARY AS APPEARS IN THE ACCOUNTS, BOOKS AND RECORDS.

III

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT THE PETITIONERS HAVE NOT SUFFICIENTLY SHOW(N) THAT THE RIGHT OF REDEMPTION WAS PROPERLY TRANSFERRED TO THEM.

IV

THE HONORABLE COURT OF APPEALS ERRED IN REVERSING THE DECISION OF THE REGIONAL TRIAL COURT, BRANCH 29, AND GRANTING THE WRIT OF POSSESSION TO THE RESPONDENT.[11] (Underscoring supplied)

Our Ruling

Sufficiency of Amount Tendered

We find that neither petitioners, the brothers Teoco, nor respondent, Metrobank, were able to present sufficient evidence to prove whether the additional loans granted to the spouses Co by Metrobank were covered by the mortgage agreement between them. The brothers Teoco failed to present any evidence of the supposed trust

receipt agreement between Metrobank and the spouses Co, or an evidence of the supposed payment by the spouses Co of the other loans extended by Metrobank. Metrobank, on the other hand, merely relied on the stipulation on the mortgage deed that the mortgage was intended to secure "the payment of the same (P200,000.00 loan) and those that may hereafter be obtained." [12] However, there was no mention whatsoever of the mortgage agreement in the succeeding loans entered into by the spouses Co.

While we agree with Metrobank that mortgages intended to secure future advancements are valid and legal contracts, [13] entering into such mortgage contracts does not necessarily put within its coverage all loan agreements that may be subsequently entered into by the parties. If Metrobank wishes to apply the mortgage contract in order to satisfy loan obligations not stated on the face of such contract, Metrobank should prove by a preponderance of evidence that such subsequent obligations are secured by said mortgage contract and not by any other form of security.

In order to prevent any injustice to, or unjust enrichment of, any of the parties, this Court holds that the fairest resolution is to allow the brothers Teoco to redeem the foreclosed properties based on the amount for which it was foreclosed (P255,441.14 plus interest). This is subject, however, to the right of Metrobank to foreclose the same property anew in order to satisfy the succeeding loans entered into by the spouses Co, if they were, indeed, covered by the mortgage contract. The right of Metrobank to foreclose the mortgage would not be hampered by the transfer of the properties to the brothers Teoco as a result of this decision, since Article 2127 of the Civil Code provides:

Art. 2127. The mortgage extends to the natural accessions, to the improvements, growing fruits, and the rents or income not yet received when the obligation becomes due, and to the amount of the indemnity granted or owing to the proprietor from the insurers of the property mortgaged, or in virtue of expropriation for public use, with the declarations, amplifications and limitations established by law, whether the estate remains in the possession of the mortgagor, or it passes into the hands of a third person. (Emphasis supplied)

Further, Article 2129 of the Civil Code provides:

Art. 2129. The creditor may claim from a third person in possession of the mortgaged property, the payment of the part of the credit secured by the property which said third person possesses, in the terms and with the formalities which the law establishes.

The mortgage directly and immediately subjects the property upon which it is imposed, whoever the possessor may be to the fulfillment of the obligation for whose security it was constituted. Otherwise stated, a mortgage creates a real right which is enforceable against the whole world. Hence, even if the mortgage property is sold or its possession transferred to another, the property remains subject to the fulfillment of the obligation for whose security it was constituted. [14]

Thus, the redemption by the brothers Teoco shall be without prejudice to the subsequent foreclosure of same properties by Metrobank in order to satisfy other obligations covered by the Real Estate Mortgage.

Transfer of Right of Redemption

The CA held that the brothers Teoco have not sufficiently shown that the spouses Co's right of redemption was properly transferred to them. The assignment of the right of redemption only stated that the spouses Co are transferring the right of redemption to their parents, brothers, and sisters, but did not specifically include the brothers Teoco, who are just brothers-in-law of Ramon Co. Furthermore, the spouses Co no longer reside in the Philippines, and the assignment of the right of redemption was not properly executed and/or authenticated.

The alleged transfer of the right of redemption is couched in the following language:

KNOW ALL MEN BY THESE PRESENTS:

That we, RAMON CO and LYDIA CO, of legal ages, for and in consideration of preserving the continuous ownership and possession of family owned properties, by these presents, hereby cede, transfer and convey in favor of my parents, brothers and sisters, the right to redeem the properties under TCT Nos. T-6910 and T-6220, located in Patag district, Catbalogan, Samar, sold by public auction sale on February 14, 1991 to the Metropolitan Bank and Trust Company.

Furthermore, we waived whatever rights we may have over the properties in favor of the successor-in-interest including that of transferring the title to whoever may redeem the aforesaid properties.

IN WITNESS WHEREOF, we have hereunto affixed our signatures this 10[th] day of January, 1992 at Vancouver, Canada.[15]

The brothers Teoco may be brothers-in-law only of Ramon Co, but they are also the brothers of Lydia Teoco Co, who is actually the registered owner of the properties covered by TCT Nos. T-6910 and T-6220. Clearly, the brothers Teoco are two of the persons referred to in the above transfer of the right of redemption executed by the spouses Co.

Anent the CA observation that the assignment of the right of redemption was not properly executed and/or authenticated, *Lopez v. Court of Appeals*[16] is instructive. In *Lopez*, this Court ruled that a special power of attorney executed in a foreign country is generally not admissible in evidence as a public document in our courts. The Court there held:

Is the special power of attorney relied upon by Mrs. Ty a public document? We find that it is. It has been notarized by a notary public or by a competent public official with all the solemnities required by law of a public document. When executed and acknowledged in the Philippines, such a public document or a certified true copy thereof is admissible in evidence. Its due execution and authentication need not be proven unlike a private writing.

Section 25, Rule 132 of the Rules of Court provides -

Sec. 25. Proof of public or official record. - An official record or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody. If the office in which the record is kept is in a foreign country, the certificate may be made by a secretary of embassy or legation consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the Philippines stationed in the foreign country in which the record is kept, and authenticated by the seal of his office.

From the foregoing provision, when the special power of attorney is executed and acknowledged before a notary public or other competent official in a foreign country, it cannot be admitted in evidence unless it is certified as such in accordance with the foregoing provision of the rules by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the Philippines stationed in the foreign country in which the record is kept of said public document and authenticated by the seal of his office. A city judge-notary who notarized the document, as in this case, cannot issue such certification.[17]

Verily, the assignment of right of redemption is not admissible in evidence as a public document in our courts. However, this does not necessarily mean that such document has no probative value.

There are generally three reasons for the necessity of the presentation of public documents. First, public documents are *prima facie* evidence of the facts stated in them, as provided for in Section 23, Rule 132 of the Rules of Court:

SEC. 23. Public documents as evidence. - Documents consisting of entries in public records made in the performance of a duty by a public officer are prima facie evidence of the facts therein stated. All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter. (Underscoring supplied)

Second, the presentation of a public document dispenses with the need to prove a document's due execution and authenticity, which is required under Section 20, Rule 132 of the Rules of Court for the admissibility of private documents offered as authentic:

SEC. 20. Proof of private document. - Before any private document offered as authentic is received in evidence, its due execution and authenticity must be proved either:

(a) By anyone who saw the document executed or written; or

(b) By evidence of the genuineness of the signature or handwriting of the maker.

Any other private document need only be identified as that which it is claimed to be. (Underscoring supplied)

In the presentation of public documents as evidence, on the other hand, due execution and authenticity are already presumed:

SEC. 23. Public documents are evidence. - Documents consisting of entries in public records made in the performance of a duty by a public officer are prima facie evidence of the facts therein stated. All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter. (Underscoring supplied)

SEC. 30. Proof of notarial documents. - Every instrument duly acknowledged or proved and certified as provided by law, may be presented in evidence without further proof, the certificate of acknowledgment being prima facie evidence of the execution of the instrument or document involved. (Underscoring supplied)

Third, the law may require that certain transactions appear in public instruments, such as Articles 1358 and 1625 of the Civil Code, which respectively provide:

Art. 1358. The following must appear in a public document:

(1) Acts and contracts which have for their object the creation, transmission, modification or extinguishment of real rights over immovable property; sales of real property or of an interest therein governed by Articles 1403, No. 2, and 1405;

(2) The cession, repudiation or renunciation of hereditary rights or of those of the conjugal partnership of gains;

(3) The power to administer property, or any other power which has for its object an act appearing or which should appear in a public document, or should prejudice a third person;

(4) The cession of actions or rights proceeding from an act appearing in a public document.

All other contracts where the amount involved exceeds five hundred pesos must appear in writing, even a private one. But sales of goods, chattels or things in action are governed by Articles 1403, No. 2, and 1405.

Art. 1625. An assignment of a credit, right or action shall produce no effect as against third person, unless it appears in a public instrument, or the instrument is recorded in the Registry of Property in case the assignment involves real property. (Underscoring supplied)

Would the exercise by the brothers Teoco of the right to redeem the properties in question be precluded by the fact that the assignment of right of redemption was not contained in a public document? We rule in the negative.

Metrobank never challenged either the content, the due execution, or the genuineness of the assignment of the right of redemption. Consequently, Metrobank is deemed to have admitted the same. Having impliedly admitted the content of the assignment of the right of redemption, there is no necessity for a prima facie evidence of the facts there stated. In the same manner, since Metrobank has impliedly admitted the due execution and genuineness of the assignment of the right of redemption, a private document evidencing the same is admissible in evidence.[18]

True it is that the Civil Code requires certain transactions to appear in public documents. However, the necessity of a public document for contracts which transmit or extinguish real rights over immovable property, as mandated by Article 1358 of the Civil Code, is only for convenience; it is not essential for validity or enforceability.[19] Thus, in *Cenido v. Apacionado*,[20] this Court ruled that the only effect of noncompliance with the provisions of Article 1358 of the Civil Code is that a party to such a contract embodied in a private document may be compelled to execute a public document:

Article 1358 does not require the accomplishment of the acts or contracts in a public instrument in order to validate the act or contract but only to insure its efficacy, so that after the existence of said contract has been admitted, the party bound may be compelled to execute the proper document. This is clear from Article 1357, viz.:

"Art. 1357. If the law requires a document or other special form, as in the acts and contracts enumerated in the following article (Article 1358), the contracting parties may compel each other to observe that form, once the contract has been perfected. This right may be exercised simultaneously with the action upon the contract." [21]

On the other hand, Article 1625 of the Civil Code provides that "[a]n assignment of a credit, right or action shall produce no effect as against third person, unless it appears in a public instrument, or the instrument is recorded in the Registry of Property in case the assignment involves real property."

In *Co v. Philippine National Bank*,[22] the Court interpreted the phrase "effect as against a third person" to be damage or prejudice to such third person, thus:

x x x In *Lichauco vs. Olegario, et al.*, 43 Phil. 540, this Court held that "whether or not x x x an execution debtor was legally authorized to sell his right of redemption, is a question already decided by this Court in the affirmative in numerous decisions on the precepts of Sections 463 and 464 and other sections related thereto, of the Code of Civil Procedure." (The mentioned provisions are carried over in Rule 39 of the Revised Rules of Court.) That the transfers or conveyances in question were not registered is of miniscule significance, there being no showing that PNB was damaged or could be damaged by such omission. When CITADEL made its tender on May 5, 1976, PNB did not question the personality of CITADEL at all. It is now too late and purely technical to raise such innocuous failure to comply with Article 1625 of the Civil Code.[23]

In *Ansaldo v. Court of Appeals*,[24] the Court held:

In its Decision, the First Division of the Appellate Tribunal, speaking through the Presiding Justice at the time, Hon. Magno S. Gatmaitan, held as regards Arnaldo's contentions, that -

x x x x

2) there was no need that the assignment be in a public document this being required only "to produce x x x effect as against third persons" (Article 1625, Civil Code), i.e., "to adversely affect 3rd persons," i.e., "a 3rd person with a right against original creditor, for example, an original creditor of creditor, - against whom surely such an assignment by his debtor (creditor in the credit assigned) would be prejudicial, because he, creditor of assigning creditor, would thus be deprived of an attachable asset of his debtor x x x;

x x x x

Except for the question of the claimed lack of authority on the part of TFC's president to execute the assignment of credit in favor of PCIB improperly raised for the first time on appeal, as observed by the Court of Appeals - the issues raised by Ansaldo were set up by him in, and after analysis and assessment rejected by, both the Trial Court and the Appellate Tribunal. This court sees no error whatever in the appreciation of the facts by either Court or their application of the relevant law and jurisprudence to those facts, inclusive of the question posed anew by Ansaldo relative to the alleged absence of authority on the part of TFC's president to assign the corporation's credit to PCIB.[25]

In the case at bar, Metrobank would not be prejudiced by the assignment by the spouses Co of their right of redemption in favor of the brothers Teoco. As conceded by Metrobank, the assignees, the brothers Teoco, would merely step into the shoes of the assignors, the spouses Co. The brothers Teoco would have to comply with all the requirements imposed by law on the spouses Co. Metrobank would not lose any security for the satisfaction of any loan obtained from it by the spouses Co. In fact, the assignment would even prove to be beneficial to Metrobank, as it can foreclose on the subject properties anew, provided it proves that the subsequent loans entered into by the spouses Co are covered by the mortgage contract.

WHEREFORE, the decision of the Court of Appeals is SET ASIDE. The decision of the Regional Trial Court in Catbalogan, Samar is REINSTATED with the following MODIFICATION: the redemption by Bienvenido C. Teoco and Juan C. Teoco, Jr. of the properties covered by TCT Nos. T-6910 and T-6220 shall be without prejudice to the subsequent foreclosure of same properties by Metropolitan Bank and Trust Company to satisfy other loans covered by the Real Estate Mortgage.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austri-Martinez, Chico-Nazario, and Leonardo-de Castro[*], JJ., concur.

[*] Designated as additional member vice Associate Justice Antonio Eduardo B. Nachura per raffle dated December 10, 2008. Justice Nachura took no part.

[1] Marshall : Brooks v. Marbury, 11 Wheat. (24 US) 79, 97.

[2] Rollo, pp. 28-42. Dated February 20, 2004. Penned by Associate Justice Perlita J. Tria Tirona, with Associate Justices Portia Aliño-Hormachuelos and Rosalinda Asuncion-Vicente, concurring.

[3] Records, pp. 23-24.

[4] Rollo, pp. 51-52.

[5] Id. at 49-51.

[6] Id. at 51.

[7] Id. at 41.

[8] Citing Halili v. Court of Industrial Relations, G.R. Nos. 24864, 27773, 30110 & 38655, May 30, 1996, 257 SCRA 174.

[9] An Act to Regulate the Sale of Property Under Special Powers Inserted in or Annexed to Real Estate Mortgages. Approved on March 6, 1924.

[10] Citing China Banking Corporation v. Ordinario, G.R. No. 121943, March 24, 2003, 399 SCRA 430.

- [11] Rollo, p. 46.
- [12] Records, p. 30.
- [13] Mojica v. Court of Appeals, G.R. No. 94247, September 11, 1991, 201 SCRA 517.
- [14] Cenas v. Santos , G.R. No. 49576, November 21, 1991, 204 SCRA 53, 58.
- [15] Exhibit "H" for petitioner; Exhibit "H" for respondents.
- [16] G.R. No. 77008, December 29, 1987, 156 SCRA 838.
- [17] Lopez v. Court of Appeals, id. at 841-842.
- [18] See Permanent Savings and Loan Bank v. Velarde, G.R. No. 140608, September 23, 2004, 439 SCRA 1; Filipinas Textile Mills, Inc. v. Court of Appeals, G.R. No. 119800, November 12, 2003, 415 SCRA 635.
- [19] Pan Pacific Industrial Sales Co., Inc. v. Court of Appeals, G.R. No. 125283, February 10, 2006, 482 SCRA 164; Pada-Kilario v. Court of Appeals, G.R. No. 134329, January 19, 2000, 322 SCRA 481; Vda. de Reyes v. Court of Appeals, G.R. No. 92436, July 26, 1991, 199 SCRA 646, 657; Thunga Chui v. Que Bentec, 2 Phil. 561, 563-564 (1903).
- [20] G.R. No. 132474, November 19, 1999, 318 SCRA 688.
- [21] Cenido v. Apacionado, id. at 705-706.
- [22] G.R. No. L-51767, June 29, 1982, 114 SCRA 842.
- [23] Co v. Philippine National Bank, id. at 862-863.
- [24] G.R. No. 47696, August 29, 1989, 177 SCRA 8.
- [25] Ansaldo v. Court of Appeals, id. at 11-13.

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