

SPOUSES SANTIAGO E. IBASCO AND MILAGROS IBASCO AND PRIME FEEDS, INC., PETITIONERS, VS. PRIVATE DEVELOPMENT CORPORATION OF THE PHILIPPINES, PROVINCIAL SHERIFF OF CAMARINES NORTE,...

G.R. No. 162473. October 12, 2009

Ponente: CARPIO, J.

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CARPIO, J.:

This resolves the petition for review[1] of the Decision,[2] dated 23 December 2003, and the Resolution, dated 12 March 2004, of the Court of Appeals. The Decision affirmed the dismissal of petitioners' complaint for an injunctive writ to stop foreclosure proceedings while the Resolution denied reconsideration.

In 1980, petitioner Santiago E. Ibasco (Ibasco) obtained a P600,000 loan from respondent Private Development Corporation of the Philippines (PDCP) to fund his business. The loan was secured by four parcels of land[3] located in Camarines Norte which Ibasco mortgaged to PDCP.[4] Ibasco defaulted in his loan payments, which, by November 1984, had ballooned to P1,077,515.58. To collect on the security, PDCP, on 23 November 1984, filed with respondent Camarines Norte Provincial Sheriff a petition for extrajudicial foreclosure of mortgage.

To enjoin the foreclosure proceedings and collect damages against PDCP, Ibasco, joined by his wife, Milagros Ibasco, and an assignee of one of the mortgaged lands (covered by TCT No. T-14584), petitioner Prime Feeds, Inc. (petitioners), sued PDCP in the Regional Trial Court of Daet, Camarines Norte, Branch 38 (trial court) for injunction and damages.[5] Petitioners anchored their cause of action on the contention that PDCP delayed the release of the loan, triggering a series of events causing Ibasco's business to flounder.

In its Answer, PDCP defended the validity of the mortgage contract and insisted on its right to collect on the security to satisfy Ibasco's debt.

After initially issuing a temporary restraining order halting the foreclosure proceedings, the trial court, in its Decision dated 27 April 1994, dismissed the complaint for lack of merit. The trial court found that PDCP released the loan on time and rejected as baseless petitioners' claim for damages.

Petitioners appealed to the Court of Appeals, which, however, affirmed the trial court's ruling in its Decision dated 23 December 2003. Petitioners' motion for reconsideration was denied in the Resolution of 12 March 2004.

Hence, this petition.

The petition lacks merit.

First. The Court of Appeals' Decision is already final, precluding this review. Petitioners received the Decision, dated 23 December 2003, on 26 January 2004. Hence, petitioners had until 10 February 2004 within which to seek reconsideration. However, petitioners sought reconsideration only on 1 March 2004, 20 days beyond the prescriptive period. Thus, in its Resolution of 12 March 2004, the Court of Appeals denied petitioners' motion for

reconsideration outright for having been filed late.[6]

Second. Even if the Court waives the jurisdictional defect to reach the merits of this petition, the Court of Appeals' ruling stands.

A writ of injunction will lie upon proof that the applicant is entitled to the relief.[7] For the writ to issue here, forever barring PDCP from collecting on the loan security, petitioners must prove the nullity of the mortgage contract. As an accessory contract, the mortgage agreement derives its validity from the principal contract of loan.[8] Petitioners assail the validity of the loan agreement on the sole ground that PDCP delayed the release of the loan proceeds. This argument is analytically weak, factually baseless, and legally indefensible.

The claim of delay in the release of the loan proceeds concerns the implementation of the loan contract, and not its intrinsic validity.[9] At any rate, PDCP, as found by the lower courts, released the loan on time. Indeed, the delay petitioners invoked covered the negotiation stage for the loan agreement, as it took sometime for PDCP to approve Ibasco's loan application.[10] Lastly, any delay PDCP may have incurred in releasing the loan was cured when Ibasco accepted the loan proceeds without protest. Thus, not only did petitioners fail to prove their entitlement to the injunctive relief, they conjured a flimsy excuse to forestall PDCP's collection of a just debt.[11]

WHEREFORE, we RESOLVED to DENY the petition for lack of merit. The Decision dated 23 December 2003 and the Resolution dated 12 March 2004 of the Court of Appeals are AFFIRMED.

SO ORDERED.

Chico-Nazario, Velasco, Jr., Nachura, and Peralta, JJ., concur.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Penned by Associate Justice Cancio C. Garcia with Associate Justices Renato C. Dacudao and Danilo B. Pine, concurring.

[3] Covered by Transfer Certificate of Title (TCT) Nos. T-12550, T-11799, T-11800 and T-14584.

[4] In the mortgage contract dated 15 October 1980 and its supplement, dated 15 April 1982 (Records, pp. 33-45).

[5] Actual, moral and exemplary.

[6] Petitioners sought an extension of time within which to seek reconsideration but the Court of Appeals denied their motion in the Resolution dated 2 March 2004.

[7] Sec. 3, Rule 58 of the 1997 Rules of Civil Procedure provides: "Grounds for issuance of preliminary injunction.

A preliminary injunction may be granted when it is established:

(a) That the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts, either for a limited period or perpetually;

x x x x" (Emphasis supplied).

[8] *Filipinas Marble Corporation v. Intermediate Appellate Court*, 226 Phil. 109 (1986).

[9] Unlike a claim for lack of consideration (see *Naguiat v. Court of Appeals*, 459 Phil. 237 [2003]).

[10] This was due in part to the misrepresentations of a PDCP employee whose services PDCP terminated.

[11] PDCP's petition for foreclosure of mortgage has been pending with respondent Camarines Norte Provincial Sheriff for more than 23 years.

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