

REPUBLIC PLANTERS BANK (NOW KNOWN AS MAYBANK PHILIPPINES, INC.) AND PHILMAY PROPERTY, INC., PETITIONERS, VS. VIVENCIO T. SARMIENTO, JESUSA N. SARMIENTO, JOSE N. SARMIENTO AND EL...

G.R. NO. 170785. October 19, 2007

Ponente: TINGA, J.

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TINGA, J.:

This is an appeal by certiorari under Rule 45 of the 1997 Rules of Civil Procedure assailing the Decision[1] of the Court of Appeals in CA-G.R. CV No. 74451. The Court of Appeals' decision affirmed the decision[2] of the Regional Trial Court (RTC) of Parañaque City, Branch 258, which ordered petitioner Maybank Philippines, Inc. (Maybank) to execute in favor of respondents a deed of redemption covering two pieces of mortgaged realty and rescinded the deeds of sale executed by Maybank in favor of petitioner Philmay Property, Inc. (Philmay) and Clara Fabra (Fabra).

As found by the Court of Appeals, the factual antecedents are as follows:

On 13 March 1979, respondents spouses Vivencio and Jesusa Sarmiento, their son, Jose, and the latter's spouse, Elizabeth, executed a promissory note, obligating themselves to pay Maybank, then known as Republic Planters Bank, the amount of P80,000.00 due 360 days after date plus interest at the rate of 12 percent per annum.[3]

Earlier, on 9 March 1979, all four respondents executed a Real Estate Mortgage over two parcels of land covered by OCT No. 5781 and TCT No. 145850 and registered under the names of respondents Jesusa and Jose, respectively. The mortgage secured the payment of the principal loan of P80,000.00 and all other obligations, overdrafts and other credit accommodations obtained and those that may be obtained in the future from Maybank.[4]

On 8 April 1980, Vivencio for himself and as attorney-in-fact of Jesusa and Jose, executed a promissory note in which he undertook to pay the amount of P100,000.00 plus 14% interest per annum on or before April 1981.[5] In the same month, all four respondents executed an amendment to the real estate mortgage changing the consideration of the mortgage from P80,000.00 to P100,000.00 but adopting all the terms and conditions of the previous mortgage as integral parts of the later one.[6]

Vivencio was the owner of V. Sarmiento Rattan Furniture, a sole proprietorship engaged in export business. On various occasions in 1981, he incurred loan obligations from Maybank by way of export advances. As of 08 September 1982, the debts incurred under the export bills transactions totaled P1,281,748.03.

On 3 September 1981, Vivencio, Jose and Elizabeth executed a Suretyship Agreement,[7] whereby they agreed to be solidarily liable with V. Sarmiento Rattan Furniture for the payment of P100,000.00 plus all obligations which the latter incurred or would incur from Maybank.

Respondents defaulted in the payment of the export advances, prompting Maybank to institute an extrajudicial foreclosure of the real estate mortgage on 9 November 1982. At the foreclosure sale, Maybank was awarded the property for its bid of P254,000.00 and issued a certificate of sale. The certificate of sale was registered with the Register of Deeds on 04 March 1983.[8]

Maricel Sarmiento, sister of respondent Jose, purchased a manager's check from Maybank in the amount of P300,000.00 on 21 July 1983.[9] A week later, respondent Jesusa deposited the amount of P12,000.00.[10] Maybank treated the total amount of P312,000.00 as a deposit and did not grant respondents' request for certificate of redemption releasing the foreclosed property. Sometime in November 1983, Maybank demanded the payment of all outstanding loans under the export bills transactions. On 3 December 1983, respondents tendered the amount of P302,333.33 in the name of V. Sarmiento Rattan Furniture.

On 4 July 1990, Maybank consolidated its ownership over the foreclosed property. On 12 November 1997, Maybank and Philmay executed a deed of absolute sale, transferring ownership of the foreclosed property to the latter. On 15 July 1998, Philmay sold the same to Fabra.

On 3 September 1998, respondents Vivencio and Jose instituted an action for specific performance against Maybank, Philmay and Fabra. The Complaint,[11]docketed as Civil Case No. 98-0323, prayed for judgment directing Maybank to execute a deed of redemption in favor of respondents and revoking the subsequent sale of the property to Philmay and Fabra. During the pendency of the trial, Fabra died and was substituted by Kim Caro as the legal representative of the former's heirs.

On 8 January 2002, the RTC rendered a Decision, the dispositive portion of which reads:

WHEREFORE, viewed in the light of the foregoing, the plaintiffs having been able to preponderantly prove their case against the defendants, judgment for specific performance is hereby rendered ordering defendant Maybank to execute in favor of the plaintiffs a Deed of Redemption covering the two (2) parcels of land formerly embraced in and covered by Transfer Certificates of Title Nos. 5281 and 145850 of the Register of Deeds of the City of Parañaque together with all the improvements existing thereon free from all liens and encumbrances and once accomplished, to immediately deliver the said document to plaintiffs.

Likewise, the Deed of Sale executed by Republic Planters Bank, now Maybank, in favor of Philmay Property, Inc., and thereafter, from Philmay Property, Inc. to Clara Fabra, are hereby revoked and rescinded as well as Certificate of Title No. 139161 registered in the latter's name for being null and void.

So also, Philmay Property is hereby directed to reimburse Clara Fabra, now represented by Kim Caro, the amount of P4,200,000.00[,] representing the purchase price of the property plus interest thereon at the legal rate computed from the filing of the complaint until fully paid.

Defendants are likewise ordered to pay plaintiffs jointly and severally the following, to wit:

- The amount of P100,000.00 as moral damages;
- The amount of P50,000.00 as exemplary damages;
- The amount of P100,000.00 as and by way of attorney's fees; and
- The cost of suit.

The counterclaims of the defendants are DISMISSED.

SO ORDERED.[12]

The RTC based its finding that respondents were able to tender to Maybank within the redemption period the

redemption price of P312,000.00 on the testimony of respondent Jose on and the official bank receipts evidencing the separate payments totaling said amount made by Maricel Sarmiento and respondent Jesusa. Upon this finding, the trial court held that Maybank had no justifiable legal reason to refuse the execution of documents reconveying the titles of the mortgaged property to respondents. Thus, the trial court concluded that the subsequent transfers of the mortgaged property to Philmay and then to Fabra were void because Maybank had not acquired any rights thereto in the first place. The trial court, however, declared Fabra as a purchaser in good faith and, therefore, entitled to reimbursement of the purchase price.

The RTC rejected Maybank's defense that the suretyship agreement signed by respondents Vivencio, Jose and Elizabeth also constituted the mortgaged property as security for the export advances incurred in the name of V. Sarmiento Rattan Furniture because the real estate mortgage documents were signed by respondents in their personal capacity, whereas the suretyship agreement was signed by Vivencio in his capacity as manager of V. Sarmiento Rattan Furniture. The trial court noted that the suretyship agreement was not even annotated in the titles of the mortgaged property.

On 12 December 2005, the Court of Appeals rendered the assailed Decision affirming the trial court's judgment, particularly the latter's finding that respondents made a valid tender of the redemption price and that the export advances in the name of V. Sarmiento Rattan Furniture did not belong to the species of obligations secured by the real estate mortgage. Furthermore, the appellate court construed as a contract of adhesion the proviso in the mortgage contract that included "interest and expenses or any other obligation owing to the Mortgagee, whether direct or indirect, principal or secondary, as appears in the accounts, books and records of the Mortgagee." [13] Describing the same as a "dragnet clause," the appellate court held that it should be carefully scrutinized and strictly construed.

Only petitioners Maybank and Philmay appealed from the decision of the Court of Appeals. In the instant petition, they raise the following arguments:

THE TRIAL COURT AND THE COURT OF APPEALS ERRED IN FINDING THAT PETITIONERS HAVE PROPERLY REDEEMED THE FORECLOSED PROPERTIES.

THE TRIAL COURT AND COURT OF APPEALS ERRED IN NOT TREATING RESPONDENTS' EXPORT ADVANCES AS SECURED BY THE REAL ESTATE MORTGAGE AND THUS SHOULD ALSO BE PAID.

THE TRIAL COURT AND COURT OF APPEALS ERRED IN NOT RULING THAT THE RESPONDENTS' CLAIM IS ALREADY BARRED BY LACHES.

THE TRIAL COURT AND COURT OF APPEALS ERRED IN NOT CONSIDERING AND FINDING THAT PHILMAY AND DEFENDANT CLARA FABRA ARE BUYERS IN GOOD FAITH.

THE LOWER COURT AND THE COURT OF APPEALS ERRED IN FINDING THAT MAYBANK ACTED IN BAD FAITH.

RESPONDENTS ARE NOT ENTITLED TO MORAL AND EXEMPLARY DAMAGES AS WELL AS ATTORNEY'S FEES.[14]

In a nutshell, the instant petition raises the issue of whether the deposits made by respondents constituted a valid tender of the redemption price. Essential to the resolution of this issue is the determination of the amount of indebtedness that respondents were legally obligated to satisfy in order to consider the payment thereof as a valid redemption of the foreclosed property.

Maybank argues that respondents' outstanding obligation amounted to more than P1 million as of the date of the

foreclosure sale. Hence, the tender by respondents of an amount less than that did not constitute a valid redemption of the foreclosed property. For their part, respondents contend that the factual finding of both the trial court and the Court of Appeals to the effect that they were able to make a valid tender of the redemption price, is binding on this Court.

The petition is meritorious.

The crux of the controversy pertains not to the amount of redemption price tendered by respondents but rather to the sufficiency of the amount tendered that would warrant the redemption of the foreclosed property. The determination of whether the amount tendered by respondents was enough to redeem the foreclosed property calls for the ascertainment of the liabilities covered and secured by the mortgage based on the text of the mortgage deed. Both the trial court and the appellate court concurred in concluding that the export advances obtained by respondent Vivencio from Maybank did not belong to the species of obligations secured by the mortgage and that, hence, respondents' tender of an amount exceeding the principal loan of P100,000.00 was sufficient. Whether or not this conclusion is correct is a question of law^[15] that is within the purview of a Rule 45 petition.

The real estate mortgage provides:

x x x

That, for and in consideration of certain loans, overdrafts and other credit accommodations obtained from the Mortgagee, and to secure the payment of the same and those that may hereafter be obtained, the principal of all of which is hereby fixed as EIGHTY THOUSAND ONLY Pesos (P80,000.00), Philippine Currency, as well as those that the Mortgagee may extend to the Mortgagor, including interest and expenses or any other obligation owing to the Mortgagee, whether direct or indirect, principal or secondary, as appears in the accounts, books and records of the Mortgagee, the Mortgagor does hereby transfer and convey by way of mortgage unto the Mortgagee, its successor or assigns, the parcels of land which are described in the list inserted on the back of this document, and/or appended hereto; x x x (Emphasis supplied)^[16]

The aforementioned clause is a "blanket mortgage clause." A blanket mortgage clause, also known as a dragnet clause in American jurisprudence, is one that is specifically phrased to subsume all debts of past or future origins. Such clauses are carefully scrutinized and strictly construed. Mortgages of this character enable the parties to provide continuous dealings, the nature or extent of which may not be known or anticipated at the time, and they avoid the expense and inconvenience of executing a new security on each new transaction. A dragnet clause operates as a convenience and accommodation to the borrowers as it makes available additional funds without their having to execute additional security documents, thereby saving time, travel, loan closing costs, costs of extra legal services, recording fees, etc.^[17]

It is basic in the interpretation and construction of contracts that the literal meaning of the stipulations shall control if the terms of the contract are clear and leave no doubt on the intention of the contracting parties.^[18] It is only when the words appear to contravene the evident intention of the parties that the latter shall prevail over the former. The real nature of a contract may be determined from the express terms of the agreement and from the contemporaneous and subsequent acts of the parties thereto.^[19]

Although at the time of the execution of the real estate mortgage the export advances had not yet been incurred and the principal obligation was fixed at P80,000.00 and thereafter amended to P100,000.00, the express tenor of the mortgage contract contemplated the inclusion of future loans and obligations obtained from Maybank to be secured by the mortgaged property. Nothing in the mortgage contract would suggest that the parties actually intended to limit the security to only the principal amount of the loan fixed therein. The stipulations of the mortgage contract being clear, there is no necessity to ascertain the real intention of the parties. Be that as it may,

nothing in the records would reveal that by the parties' acts contemporaneous and subsequent to the execution of the real estate mortgage, they intended to be bound by terms and conditions other than those provided in the mortgage contract.

The trial court reached the conclusion that the export advances were excluded from the security of the real estate mortgage based on the theory that respondent Vivencio agreed to be bound as surety for the payment of the export advances in his capacity as manager of V. Sarmiento Rattan Furniture, whereas he signed the real estate mortgage in his personal capacity.

This theory is defensible if V. Sarmiento Rattan Furniture were a corporation having a personality distinct and separate from its corporate officers and Vivencio signed merely as a corporate representative of V. Sarmiento Rattan Furniture. Even then, a corporate officer may still be held personally liable for the debts of the corporation if he bound himself to pay the debt of the corporation under a separate contract of surety or guaranty.

For its part, the Court of Appeals opined that the dragnet clause in the subject real estate mortgage should be strictly construed and, therefore, the subsequent export advances obtained from Maybank should not be included in the obligation secured by the mortgage contract.

It is well settled that mortgages given to secure future advancements or loans are valid and legal contracts, and that the amounts named as consideration in said contracts do not limit the amount for which the mortgage may stand as security if from the four corners of the instrument the intent to secure future and other indebtedness can be gathered.[20] A mortgage given to secure 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 is paid.[21]

At the time of the foreclosure sale of the mortgaged property, the outstanding obligation arising from the export bills transactions had already amounted to more than P1 million. In accordance with Section 78 of the General Banking Act, as amended,[22] then governing the foreclosure of the mortgaged property, redemption may only be made by paying the amount due under the mortgage deed within one year from the sale of the property. Since respondents failed to satisfy the full amount of the indebtedness to Maybank, the latter was justified in refusing to grant respondents' demand for redemption of the foreclosed property.

WHEREFORE, the instant petition for review on certiorari is GRANTED and the Decision of the Court of Appeals in CA-G.R. CV No. 74451 is hereby REVERSED and SET ASIDE. The complaint in Civil Case No. 98-0323 before the Regional Trial Court, Branch 258, Parañaque City is DISMISSED. Costs against respondents.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio-Morales, and Velasco, Jr., JJ., concur.

[1] Rollo, pp. 44-49. Penned by Associate Justice Eliezer R. De Los Santos, and concurred in by Associate Justices Eugenio S. Labitoria and Jose C. Reyes, Jr.

[2] Id. at 50-61.

[3] Records, Vol. 1, p. 39.

[4] Rollo, pp. 79-82.

[5] Records, Vol. 1, p. 44.

[6] Id. at 45.

[7] Rollo, pp. 105-106.

[8] Id. at 23.

[9] Records, Vol. 1, p. 260.

[10] Id.

[11] Records, Vol. 1, pp. 1-6.

[12] Rollo, pp. 60-61.

[13] Id. at 48.

[14] Id. at 26-38.

[15] There is a question of law when the issue does not call for an examination of the probative value of evidence presented, the truth or falsehood of facts being admitted and the doubt concerns the correct application of law and jurisprudence on the matter. On the other hand, there is a question of fact when the doubt or controversy arises as to the truth or falsity of the alleged facts. When there is no dispute as to fact, the question of whether or not the conclusion drawn therefrom is correct is a question of law. *Gomez v. Sta. Ines*, G.R. No. 132537, 14 October 2005, 473 SCRA 25, 37.

[16] Rollo, p. 79.

[17] *Prudential Bank v. Alviar*, G.R. No. 150197, 28 July 2005, 464 SCRA 353, 363.

[18] *Almira v. Court of Appeals*, 447 Phil. 467, 477 (2003).

[19] *Dela Cruz v. Dela Cruz*, G.R. No. 146222, January 15, 2004, 419 SCRA 648, 655.

[20] *China Banking Corporation v. Court of Appeals*, 333 Phil. 158, 170 (1996).

[21] *Mojica v. Court of Appeals*, G.R. No. 94247, 11 September 1991, 201 SCRA 517, 522.

[22] SECTION 78. x x x In the event of foreclosure, whether judicially or extrajudicially, of any mortgage on real estate which is security for any loan granted before the passage of this Act or under the provisions of this Act, the mortgagor or debtor whose real property has been sold at public auction, judicially or extrajudicially, for the full or partial payment of an obligation to any bank, banking or credit institution, within the purview of this Act shall have the right, within one year after the sale of the real estate as a result of the foreclosure of the respective mortgage, to redeem the property by paying the amount fixed by the court in the order of execution, or the amount due under the mortgage deed, as the case may be, with interest thereon at the rate specified in the mortgage, and all the costs, and judicial and other expenses incurred by the bank or institution concerned by reason of the execution and sale and as a result of the custody of said property less the income received from the property. x x x Presidential Decree No. 1828 (1981), Sec. 78, Amendments to R.A. No. 337 As Amended (General Banking Act).

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