

SPOUSES WILFREDO PALADA AND BRIGIDA PALADA, PETITIONERS, VS. SOLIDBANK CORPORATION AND SHERIFF MAYO DELA CRUZ, RESPONDENTS.

G.R. No. 172227. June 29, 2011

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

Allegations of bad faith and fraud must be proved by clear and convincing evidence. [1]

This Petition for Review on Certiorari [2] under Rule 45 of the Rules of Court assails the January 11, 2006 Decision [3] of the Court of Appeals (CA) in CA-G.R. CV No. 84236 which dismissed the complaint filed by the petitioners against the respondents and declared as valid the real estate mortgage and certificate of sale. Also assailed is the April 12, 2006 Resolution [4] which denied the motion for reconsideration thereto.

Factual Antecedents

In February or March 1997, petitioners, spouses Wilfredo and Brigida Palada, applied for a P3 million loan broken down as follows: P1 million as additional working capital under the bills discounting line; P500,000.00 under the bills purchase line; and P1.5 million under the time loan from respondent Solidbank Corporation (bank). [5]

On March 17, 1997, petitioners received from the bank the amount of P1 million as additional working capital evidenced by a promissory note [6] and secured by a real estate mortgage [7] in favor of the bank covering several real properties situated in Santiago City. [8]

Due to the failure of petitioners to pay the obligation, the bank foreclosed the mortgage and sold the properties at public auction. [9]

On August 19, 1999, petitioners filed a Complaint [10] for nullity of real estate mortgage and sheriff's certificate of sale [11] with prayer for damages, docketed as Civil Case No. 35-2779, against the bank and respondent Sheriff Mayo dela Cruz (sheriff) before the Regional Trial Court (RTC) of Santiago City, Branch 35. [12] Petitioners alleged that the bank, without their knowledge and consent, included their properties covered by Transfer Certificate of Title (TCT) Nos. T-225131 and T-225132, [13] among the list of properties mortgaged; that it was only when they received the notice of sale from the sheriff in August 1998 that they found out about the inclusion of the said properties; that despite their objection, the sheriff proceeded with the auction sale; and that the auction sale was done in Santiago City in violation of the stipulation on venue in the real estate mortgage. [14]

The bank, in its Answer, [15] denied the material allegations of the Complaint and averred that since petitioners were collaterally deficient, they offered TCT Nos. T-237695, T-237696, T-225131 and T-225132 as additional collateral; [16] that although the said properties were at that time mortgaged to the Philippine National Bank (PNB), the bank accepted the offer and caused the annotation of the mortgage in the original copies with the

Register of Deeds with the knowledge and consent of petitioners; [17] and that when petitioners' obligation to PNB was extinguished, they delivered the titles of the four properties to the bank. [18]

Ruling of the Regional Trial Court

On October 21, 2004, the RTC rendered a Decision [19] declaring the real estate mortgage void for lack of sufficient consideration. According to the RTC, the real estate mortgage lacks consideration because the loan contract was not perfected due to the failure of the bank to deliver the full P3 million to petitioners. [20] The RTC also found the bank guilty of fraud and bad faith, thereby ordering it to pay petitioners moral and exemplary damages, and attorney's fees. The RTC ruled:

Furthermore, it appears that the defendant unilaterally changed the term and condition of their loan contract by releasing only P1M of the P3M approved loan. The defendant, in so doing, violated their principal contract of loan in bad faith, and should be held liable therefor.

Likewise, the defendant bank acted in bad faith when it made it appear that the mortgage was executed by the plaintiffs on June 16, 1997, when the document was acknowledged before Atty. German Balot, more so, when it made it appear that the mortgage was registered with the Register of Deeds allegedly on the same date, when in truth and in fact, the plaintiffs executed said mortgage sometime [in] March, 1997, obviously much earlier than June 16, 1997; for, if indeed the mortgage was executed on said date, June 16, 1997, it should have been written on the mortgage contract itself. On the contrary, the date and place of execution [were left blank]. Amazingly, defendant claims that it was the plaintiffs who [had the] mortgage notarized by Atty. Balot; such claim however is contrary or against its own interest, because, the defendant should be the most interested party in the genuineness and due execution of material important papers and documents such as the mortgage executed in its favor to ensure the protection of its interest embodied in said documents, and the act of leaving the notarization of such a very important document as a mortgage executed in its favor is contrary to human nature and experience, more so against its interest; hence, the claim is untrue.

Moreover, the defendant also appears to have been motivated by bad faith amounting to fraud when it was able to register the mortgage with the Register of Deeds at the time when the collateral certificates of titles were still in the custody and possession of another mortgagee bank (PNB) due also to an existing/subsisting mortgage covering the same. Definitely, the defendant resorted to some machinations or fraudulent means in registering the contract of mortgage with the Register of Deeds. This should not be countenanced.

Thus, on account of defendant's bad faith, plaintiffs suffered mental anguish, serious anxiety, besmirched reputation, wounded feelings, moral shock and social humiliation, which entitle them to the award of moral damages, more so, that it was shown that defendants' bad faith was the proximate cause of these damages plaintiffs suffered.

x x x x

WHEREFORE, with all the foregoing considerations, judgment is hereby rendered in favor of the plaintiffs and against the defendant as follows:

1. DECLARING as null and void the undated real estate mortgage between the plaintiffs and the defendant, appearing as Doc. No. 553; Page No. 29; Book No. 28; Series of 1997; (Exhibits "B" for the plaintiffs, Exhibit "1" for the defendant);
2. Likewise DECLARING as null and void the Sheriff's Foreclosure and the Certificate of Sale, dated October 7, 1998 (Exhibit "F" to "F-3");
3. ORDERING the defendant to pay the plaintiffs the following damages:
 - a) Php 1,000,000.00, moral damages;

b) Php 500,000.00, exemplary damages; and

c) Php 50,000.00, Attorney's fee; and

4. ORDERING the defendant to pay the cost of litigation, including plaintiffs' counsel's court appearance at Php1,500.00 each.

SO ORDERED. [21]

Ruling of the Court of Appeals

On appeal, the CA reversed the ruling of the RTC. The CA said that based on the promissory note and the real estate mortgage contract, the properties covered by TCT Nos. T-225131 and T-225132 were mortgaged to secure the loan in the amount of P1 million, and not the P3 million loan applied by petitioners. [22] As to the venue of the auction sale, the CA declared that since the properties subject of the case are in Santiago City, the holding of the auction sale in Santiago City was proper [23] pursuant to Sections 1 [24] and 2 [25] of Act No. 3135. [26] The CA likewise found no fraud or bad faith on the part of the bank to warrant the award of damages by the RTC, thus:

The List of Properties Mortgaged printed at the dorsal side of the real estate mortgage contract particularly includes the subject parcels of land covered by TCT No. T-225132 and TCT No. T-225131. Below the enumeration, the signatures of [petitioners] clearly appear. The document was notarized before Notary Public German M. Balot. We therefore find no cogent reason why the validity of the real estate mortgage covering the two subject properties should not be sustained.

Settled is the rule in our jurisdiction that a notarized document has in its favor the presumption of regularity, and to overcome the same, there must be evidence that is clear, convincing and more than merely preponderant; otherwise the document should be upheld. Clearly, the positive presumption of the due execution of the subject real estate mortgage outweighs [petitioners'] bare and unsubstantiated denial that the parcels of land covered by TCT Nos. T-225132 and T-225131 were among those intended to secure the loan of One Million Pesos. Their imputation of fraud among the officials of [the bank] is weak and unpersuasive. x x x

x x x x

We also note why despite the alleged non-approval of [petitioners'] application for additional loan, the owner's copy of TCT Nos. T-225131 and T-225132 remained in the possession of [the bank]. [Petitioners'] claim that they were still hoping to obtain an additional loan in the future appears to this court as a weak explanation. The continued possession by the bank of the certificates of title merely supports the bank's position that the parcels of land covered by these titles were actually mortgaged to secure the payment of the One Million Peso loan.

x x x x

WHEREFORE, in view of the foregoing, the assailed decision of the Regional Trial Court, Branch 35 of Santiago City in Civil Case No. 35-2779 is hereby ANNULLED and SET ASIDE and a new one entered:

(1) DISMISSING the complaint filed by the plaintiffs-appellees against the defendants-appellants; and

(2) Declaring VALID the questioned real estate mortgage and certificate of sale.

SO ORDERED. [27]

On February 1, 2006, petitioners moved for reconsideration but the CA denied the same in its Resolution dated April 12, 2006. [28]

Issues

Hence, the present recourse, where petitioners allege that:

(A)

THE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION IN ANNULING OR REVERSING THE FINDINGS OF BRANCH 35, REGIONAL TRIAL COURT OF SANTIAGO CITY THEREBY IN EFFECT DISMISSING THE COMPLAINT FILED BY THE PETITIONERS AGAINST RESPONDENTS SOLIDBANK CORPORATION AND SHERIFF MAYO DELA CRUZ.

(B)

THE COURT OF APPEALS ERRED IN DECLARING VALID THE REAL ESTATE MORTGAGE EXECUTED BETWEEN THE PETITIONERS AND RESPONDENT SOLIDBANK CORPORATION AND IN SUSTAINING THE VALIDITY OF THE CERTIFICATE OF SALE ISSUED BY RESPONDENT SHERIFF MAYO DELA CRUZ.

(C)

THE COURT OF APPEALS ERRED IN MISAPPRECIATING THE FINDINGS OF FACTS OF BRANCH 35, REGIONAL TRIAL COURT OF SANTIAGO CITY. [29]

Simply put, the core issue in this case is the validity of the real estate mortgage and the auction sale.

Petitioners' Arguments

Petitioners echo the ruling of the RTC that the real estate mortgage and certificate of sale are void because the bank failed to deliver the full amount of the loan. They likewise impute bad faith and fraud on the part of the bank in including TCT Nos. T-225131 and T-225132 in the list of properties mortgaged. They insist that they did not sign the dorsal portion of the real estate mortgage contract, which contains the list of properties mortgaged, because at that time the dorsal portion was still blank; [30] and that TCT Nos. T-225131 and T-225132 were not intended to be included in the list of mortgaged properties because these titles were still mortgaged with the PNB at the time the real estate mortgage subject of this case was executed. [31] Moreover, they claim that they delivered the titles of these properties to the bank as additional collateral for their additional loans, and not for the P1 million loan. [32]

Respondent bank's Arguments

The bank denies petitioners' allegations of fraud and bad faith and argues that the real estate mortgage which was properly notarized enjoys the presumption of regularity. [33] It maintains that TCT Nos. T-225131 and T-225132 were mortgaged as additional collateral for the P1 million loan. [34]

Our Ruling

The petition is bereft of merit.

The loan contract was perfected.

Under Article 1934 [35] of the Civil Code, a loan contract is perfected only upon the delivery of the object of the contract.

In this case, although petitioners applied for a P3 million loan, only the amount of P1 million was approved by the bank because petitioners became collaterally deficient when they failed to purchase TCT No. T-227331 which had an appraised value of P1,944,000.00. [36] Hence, on March 17, 1997, only the amount of P1 million was released by the bank to petitioners. [37]

Upon receipt of the approved loan on March 17, 1997, petitioners executed a promissory note for the amount of P1 million. [38] As security for the P1 million loan, petitioners on the same day executed in favor of the bank a

real estate mortgage over the properties covered by TCT Nos. T-237695, T-237696, T-237698, T-143683, T-143729, T-225131 and T-225132. Clearly, contrary to the findings of the RTC, the loan contract was perfected on March 17, 1997 when petitioners received the P1 million loan, which was the object of both the promissory note and the real estate mortgage executed by petitioners in favor of the bank.

Claims of fraud and bad faith are unsubstantiated.

Petitioners claim that there was fraud and bad faith on the part of the bank in the execution and notarization of the real estate mortgage contract.

We do not agree.

There is nothing on the face of the real estate mortgage contract to arouse any suspicion of insertion or forgery. Below the list of properties mortgaged are the signatures of petitioners. [39] Except for the bare denials of petitioner, no other evidence was presented to show that the signatures appearing on the dorsal portion of the real estate mortgage contract are forgeries.

Likewise flawed is petitioners' reasoning that TCT Nos. T-225131 and T-225132 could not have been included in the list of properties mortgaged as these were still mortgaged with the PNB at that time. Under our laws, a mortgagor is allowed to take a second or subsequent mortgage on a property already mortgaged, subject to the prior rights of the previous mortgages. [40]

As to the RTC's finding that "the x x x bank acted in bad faith when it made it appear that the mortgage was executed by the [petitioners] on June 16, 1997, when the document was acknowledged before Atty. German, x x x when in truth and in fact, the [petitioners] executed said mortgage sometime in March, 1997 x x x," we find the same without basis. A careful perusal of the real estate mortgage contract would show that the bank did not make it appear that the real estate mortgage was executed on June 16, 1997, the same day that it was notarized, as the date of execution of the real estate mortgage contract was left blank. [41] And the mere fact that the date of execution was left blank does not prove bad faith. Besides, any irregularity in the notarization or even the lack of notarization does not affect the validity of the document. Absent any clear and convincing proof to the contrary, a notarized document enjoys the presumption of regularity and is conclusive as to the truthfulness of its contents. [42]

All told, we find no error on the part of the CA in sustaining the validity of the real estate mortgage as well as the certificate of sale.

WHEREFORE, the petition is hereby DENIED. The assailed January 11, 2006 Decision of the Court of Appeals and its April 12, 2006 Resolution in CA-G.R. CV No. 84236 are hereby AFFIRMED.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Villarama, Jr., JJ., concur.

[*] In view of the demise of petitioner Brigada Palada, the title of the instant case should have been "Wilfredo Palada and Heirs of Brigada Palada" (See Transcript of Stenographic Notes [TSN] dated September 9, 2003, pp. 2-3).

[1] Cathay Pacific Airways, Ltd. v. Sps. Vazquez, 447 Phil. 306, 321 (2003).

[2] Rollo, pp. 9-21.

[3] Id. at 23-33; penned by Associate Justice Rodrigo V. Cosico and concurred in by Associate Justices Regalado E. Maambong and Lucenito N. Tagle.

[4] CA rollo, pp. 84-85.

[5] Rollo, p. 40.

[6] Records, p. 7. Although the promissory note is dated June 16, 1997, both parties admit that the promissory note was executed on March 17, 1997 (Complaint, id. at 2 and Answer, id. at 23).

[7] Id. at 8.

[8] Rollo, pp. 23-24; TSN dated July 17, 2000, pp. 6-9, Direct Examination of Wilfredo Palada.

[9] Id. at 24.

[10] Records, pp. 1-6.

[11] Id. at 11-14.

[12] Rollo, p. 34.

[13] Indicated as T-225152 and T-221512 in the Complaint; see records, p. 2.

[14] Id. at 3-4.

[15] Id. at 23-26.

[16] Id. at 24.

[17] Id.

[18] Id.

[19] Rollo, pp. 34-46; penned by Judge Efren M. Cacatian.

[20] Id. at 43.

[21] Id. at 44-46.

[22] Id. at 29-30.

[23] Id. at 31.

[24] SECTION 1. When a sale is made under a special power inserted in or attached to any real-estate mortgage hereafter made as security for the payment of money or the fulfillment of any other obligation, the provisions of the following sections shall govern as to the manner in which the sale and redemption shall be effected, whether or not provision for the same is made in the power.

[25] SECTION 2. Said sale cannot be made legally outside of the province in which the property sold is situated; and in case the place within said province in which the sale is to be made is the subject of stipulation, such sale shall be made in said place or in the municipal building of the municipality in which the property or part thereof is situated.

[26] An Act To Regulate The Sale Of Property Under Special powers Inserted In Or Annexed To Real-Estate Mortgages.

[27] Rollo, pp. 30-32.

[28] Id. at 10-11.

[29] Id. at 14-15.

[30] Id. at 110.

[31] Id.

[32] Id. at 114.

[33] Id. at unpagued-129 and 131-132.

[34] Id. at 127.

[35] Art. 1934. An accepted promise to deliver something by way of commodatum or simple loan is binding upon the parties, but the commodatum or simple loan itself shall not be perfected until the delivery of the object of the contract.

[36] TSN dated July 17, 2000, pp. 21-22, Direct Examination of Wilfredo Palada; TSN dated July 31, 2000, pp. 7 and 25-26, Cross-examination and Re-direct examination of Wilfredo Palada; TSN dated August 25, 2003, p. 22, Direct Examination of Julieta Ayala.

[37] TSN dated July 17, 2000, p. 5; Direct Examination of Wilfredo Palada.

[38] Id. at 5-7.

[39] Rollo, p. 30.

[40] Cinco v. Court of Appeals, G.R. No. 151903, October 9, 2009, 603 SCRA 108,118.

[41] Records, p. 8.

[42] Ocampo v. Land Bank of the Philippines, G.R. No. 164968, July 3, 2009, 591 SCRA 562, 571-572.

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