BPI FAMILY SAVINGS BANK, INC., PETITIONER, VS. MA. ARLYN T. AVENIDO & PACIFICO A. AVENIDO, RESPONDENTS.

G.R. No. 175816. December 07, 2011

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

This Petition for Review on Certiorari under Rule 45 of the Rules of Court assails the Decision [1] dated March 31, 2006 of the Court of Appeals in CA-G.R. CV No. 79008, which affirmed the Decision [2] dated November 13, 2002 of the Regional Trial Court (RTC), Branch 58 of Cebu City, in Civil Case No. CEB-25629. The RTC dismissed the Complaint for Collection of Deficiency of Mortgage Obligation with Damages filed by petitioner BPI Family Savings Bank (BPI Family) against respondent spouses Pacifico A. Avenido and Ma. Arlyn T. Avenido (spouses Avenido), following the extrajudicial foreclosure of the property given by the latter as security for their loan. The instant Petition likewise challenges the Resolution [3] dated November 16, 2006 of the Court of Appeals in the same case denying the Motion for Reconsideration of BPI Family.

The controversy arose from the following facts.

On September 20, 2000, BPI Family filed with the RTC a Complaint for Collection of Deficiency of Mortgage Obligation with Damages against the spouses Avenido, docketed as Civil Case No. CEB-25629.

BPI Family alleged in its Complaint that pursuant to a Mortgage Loan Agreement [4] dated April 25, 1996, the spouses Avenido obtained from the bank a loan in the amount of P2,000,000.00, secured by a real estate mortgage on a parcel of land situated in Bais City, which is covered by Transfer Certificate of Title (TCT) No. T-1216 (mortgaged/foreclosed property). The spouses Avenido failed to pay their loan obligation despite demand, prompting BPI Family to institute before the Sheriff of Bais City extrajudicial foreclosure proceedings over the mortgaged property, in accordance with Act No. 3135, otherwise known as an Act to Regulate the Sale of Property under Special Powers Inserted in or Annexed to Real Estate Mortgages. At the public auction sale held on March 8, 1999, BPI Family was the highest bidder for the foreclosed property. The bid price of P2,142,616.00 of BPI Family was applied as partial payment of the mortgage obligation of the spouses Avenido, which had amounted to P2,917,381.43 on the date of the public auction sale, thus, still leaving an unpaid amount of P794,765.43. The Certificate of Sale dated March 8, 1999 was registered on TCT No. T-1216 on May 25, 1999. [5]

BPI Family prayed that the RTC order the spouses Avenido to pay the deficiency of their mortgage obligation amounting to P794,765.43, plus legal interest thereon from the date of the filing of the Complaint until full payment; 15% as contractual attorney’s fees; P50,000.00 as litigation expenses; and costs of the suit. [6]

The spouses Avenido filed their Answer with Special/Affirmative Defenses and Counterclaims on September 18, 2001. The spouses Avenido averred therein that they had already paid a substantial amount to BPI Family, which could not be less than P1,000,000.00, but due to the imposition by BPI Family of unreasonable charges and penalties on their principal obligation, their payments seemed insignificant. Per the Notice of Extrajudicial Sale

dated February 4, 1999, the spouses Avenido's indebtedness to BPI Family only amounted to less than P2,000,000.00, and such amount was already fully covered when the foreclosed property was sold at the public auction for P2,142,616.00. The spouses Avenido sought the dismissal of the Complaint for lack of merit, plus the award of P500,000.00 as moral damages and P300,000.00 as exemplary damages given the prejudice and unnecessary expenses they suffered because of the unjustified suit of BPI Family. [7]

Failing to reach an amicable settlement during the pre-trial conference, trial ensued.

BPI Family submitted the following computation in support of its claim for deficiency mortgage obligation from the spouses Avenido:

AUCTION SALE: MARCH 8, 1999

Principal Balance

P 1,918,722.47

Interest

266,754.66

Fire Insurance 1997-1998

6,725.00

1998-1999

6,725.00

Unpaid MRI

10,720.00

Late Charges

37,425.46

Less: Unapplied

(0.18)

Sub-total

2,247,072.41

Foreclosure Expenses

Filing Fee P 5,719.60

Sheriff's Fee 1,500.00

Cost of Publication 5,000.00

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Interest on Litigation Expenses 232.17

12,451.77

2,259,524.18

Contractual Penalties

Attorney’s fees

338,928.63

Liquidated Damages

338,928.63

Total

2,937,381.43

Total Appraised Value as of 03/05/99

2,678,270.00

80% of TAV

2,142,616.00

Summary:

Total Exposure as of 03/08/99

Bid Price

2,937,381.43

(lower amt. between total exposure or 80% of TAV)

2,142,616.00

Deficiency

794,765.43

Portion of Principal covered by bid price to be retained in IL

0.00 [8]

BPI Family presented as witness Alfred Rason (Rason), the Assistant Manager for Operation, who was in charge of keeping track and collecting unpaid obligations of the bank. Rason testified that in the Petition for Extrajudicial Foreclosure, BPI Family reported that the loan obligation of the spouses Avenido amounted to P1,918,722.47, inclusive of interest, penalty charges, insurance, foreclosure expenses, and others, as of November 16, 1998. However, as of the public auction sale of the foreclosed property on March 8, 1999, the total loan obligation of the spouses Avenido already reached P2,937,381.43. The foreclosed property was awarded to BPI Family as the highest bidder at the public auction sale for P2,142,616.00. The bid price was arrived at by BPI Family following bank policy, i.e., total exposure of claim or 80% of the total appraised value of the foreclosed property, whichever is lower. In a letter dated July 8, 2000, sent to the spouses Avenido through registered mail, counsel for BPI family demanded payment of the deficiency balance of P794,766.43 on the loan obligation of said spouses. [9]

When respondent Ma. Arlyn T. Avenido (Arlyn) took the witness stand, she admitted that she and her husband, co-respondent Pacifico A. Avenido (Pacifico), obtained from BPI Family a Motor Vehicle Loan in 1995 and a Home Mortgage Loan in 1996. The Home Mortgage Loan was for P2,000,000.00, payable in 15 years through debit memos (or automatic debit arrangement), instead of post-dated checks. The spouses Avenido failed to make some payments in 1998. The spouses Avenido subsequently deposited with their account at BPI Family branch in Bais City, Negros Occidental, the amount of P250,000.00, which would have been sufficient to cover their arrears; as well as made arrangements with Dumaguete City Rural Bank to buy out their loan from BPI Family. Yet, in February 1999, the spouses Avenido learned of the foreclosure proceedings over their mortgaged property only from court personnel. BPI Family never communicated with the spouses Avenido about the foreclosure proceedings except when the former sent the latter a demand letter in July 2000 for the P700,000.00 deficiency. Counsel for the spouses Avenido answered BPI Family through a letter dated August 2, 2000, stating that the demand of the bank for deficiency was not only surprising, but lacked basis in fact and in law, for the mortgaged property was already foreclosed and sold at the public auction for P2,142,616.00, which was more than the P1,918,722.47 loan obligation of the spouses Avenido. Next thing the spouses Avenido knew, BPI Family had filed Civil Case No. CEB-25629 against them. In addition, the spouses Avenido had already fully paid their Motor Vehicle Loan in 1999, but BPI Family refused to release the Hi-Lux from the mortgage constituted thereon. BPI Family attached the Hi-Lux to cover the deficiency of the spouses Avenido on their home loan obligation. Due to the aforementioned acts of BPI Family, Arlyn suffered sleepless nights and humiliation. Hence, she prayed for the award of moral and exemplary damages and attorney’s fees and the release of the Hi-Lux. [10]

The RTC rendered its Decision on November 13, 2002.

According to the RTC, the principal issue to be resolved was “whether or not [BPI Family] is entitled to deficiency judgment,” which includes “a determination of the existence of the right to recover deficiency, and how much, if any.” [11]

At the outset, the RTC recognized that in an extrajudicial foreclosure, the mortgagee has a right to recover deficiency where the proceeds of the sale are insufficient to cover the debt:

> Although Act 3135 is silent on the mortgagee’s right to recover the deficiency where the proceeds of the sale is insufficient to cover the debt, it is now well-settled that said mortgagee has the right to recover the deficiency. (PB Com v. De Vera, 6 SCRA 1026; DBP v. Vda. de Noel, 43 SCRA 82; DBP v. Zaragosa, 84 SCRA 668.). The reasons advanced are 1) Although Act 3135 discusses nothing as to the mortgagee’s right to recover such deficiency, neither is there any provision thereunder which expressly or impliedly prohibits such recovery; and 2) now Rule 68 on judicial foreclosure expressly grants to the mortgagee the right to recover

> deficiency and the underlying principle is the same for extra-judicial foreclosure that the mortgage is but a security and not a satisfaction of indebtedness.
>
> In the case of DBP v. Tomeldon, 101 SCRA 171, the Supreme Court ruled that the action to recover the deficiency prescribes after ten (10) years from the time the right to action accrues x x x.
>
> Thus, in the case at bar the mortgagee's right and the period the said right is enforced are not contested. What is essentially in controversy is whether there is a deficiency and how much. [12]

The RTC then determined the total amount of the loan obligation of the spouses Avenido as follows:

> In the Mortgage Loan Agreement (Exhibits A and I) the due execution and genuineness of which are admitted by both parties, the [spouses Avenido] obligated themselves as Borrower-Mortgagor to pay [BPI Family] the aggregate principal amount of TWO HUNDRED TWO MILLION PESOS (P202,000,000.00) and interest on the unpaid balance from the date thereof until paid in full on the repayment dates. It further provides that in case the mortgagee fails to pay any of the sums secured, the mortgagor has the right to declare the entire obligation due and payable and to foreclose the mortgage. Moreover, Exhibit "A-2" shows that the proceeds of sale of the mortgaged property shall be applied as follows: "a) to the payment of the expenses and cost of foreclosure and sale, including the attorney's fees as herein provided; b) to the satisfaction of all interest and charges accruing upon the obligation herein and hereby secured; c) to the satisfaction of the principal amount of the obligation herein and hereby secured; d) to the satisfaction of all other obligation then owed to the bank or any of its subsidiaries. The balance, if any, to be due to the mortgagor." Finally, the attorney's fees stipulated is 15% of the total amount claimed by the bank (Exhibit A-3). The Court, however, finds no stipulation as regards liquidated damages.
>
> x x x x
>
> This Court is not convinced that [spouses Avenido's] total indebtedness should only be ONE MILLION NINE HUNDRED EIGHTEEN THOUSAND SEVEN HUNDRED TWENTY[-]TWO [PESOS] AND FORTY[-]SEVEN [CENTAVOS] (P1,918,722.47) because the Notice of Extra-Judicial Sale (Exhibit "3") itself states "x x x to satisfy the mortgaged indebtedness which as of November 16, 1998 amount to ONE MILLION NINE HUNDRED EIGHTEEN THOUSAND SEVEN HUNDRED TWENTY[-]TWO AND FORTY[-]SEVEN CENTAVOS (P1,918,722.47) plus interest and penalty charges thereon from June 30, 1998 to date of the foreclosure sale, attorney's fees and necessary expenses for foreclosure x x x."
>
> Foreclosure is not a single process and it is not therefore correct to conclude that what is material is the petition for extra-judicial sale nor the date of the filing of the application.
>
> Thus, the Court gives credence to [BPI Family's] Exhibit "C" but not including the claim for liquidated damages in the sum of THREE HUNDRED THIRTY[-]EIGHT THOUSAND NINE HUNDRED TWENTY PESOS AND SIXTY[-]THREE CENTAVOS (P330,920.63) because it has no basis whatsoever. Thus the total amount due is TWO MILLION FIVE HUNDRED NINETY[-]EIGHT THOUSAND FOUR HUNDRED FIFTY[-]TWO PESOS AND EIGHTY CENTAVOS (P2,598,452.80). x x x. [13]

More than just reducing the total loan obligation of the spouses Avenido to P2,598,452.80, the RTC, in the end, denied the claim for deficiency of BPI Family based on the following ratiocination:

> [T]he Court finds very significant the admission by [BPI Family's] witness that the appraised value of the foreclosed property is actually TWO MILLION SIX HUNDRED SEVENTY[-]EIGHT THOUSAND TWO HUNDRED SEVENTY PESOS (P2,678,270.00) but [BPI Family] bidded only for 80% of the value as a matter of bank policy (TSN Afredo Rason, Aug. 6, 2002, p. 17). In other words, the actual market value of the property is more than the amount of TWO MILLION FIVE HUNDRED NINETY[-]EIGHT THOUSAND FOUR HUNDRED FIFTY[-]TWO PESOS AND EIGHTY CENTAVOS (P2,598,452.80).

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> Under this circumstance, it would be inequitable to still grant the [BPI Family's] prayer for deficiency as it will be in effect allowing it to unjustly enrich itself at the expense of the [spouses Avenido]. [14]

Hence, the RTC decreed:

> Accordingly, the [BPI Family's] complaint and [spouses Avenido's] counterclaim are DISMISSED. [15]

Aggrieved by the RTC judgment, BPI Family filed an appeal before the Court of Appeals, docketed as CA-G.R. CV No. 79008, with a lone assignment of error, to wit:

> THE LOWER COURT ERRED IN NOT HOLDING [THE SPOUSES AVENIDO] LIABLE TO [BPI FAMILY] FOR DEFICIENCY OF THE MORTGAGE OBLIGATION. [16]

In its Decision promulgated on March 31, 2006, the Court of Appeals ruled:

> A careful scrutiny of the arguments presented in the case at bar yields no substantial and convincing reason for us to depart from the ruling found by the trial court x x x.
>
> x x x x
>
> Indubitably, mortgagors whose properties a foreclosed and are purchased by the mortgagee as highest bidder at the auction sale are decidedly at a great disadvantage because almost invariably, mortgagors forfeit their properties at a great loss as they are purchased at a nominal cost by the mortgagee himself, who ordinarily bids in no more than his credit or the balance thereof at the auction sale.
>
> More importantly, the mortgage contract is also one of adhesion as it was prepared solely by [BPI Family] and the only participation of the [spouses Avenido] was the affixing of their signatures or adhesion thereto. Under such contracts, which are common in the Philippines and elsewhere, the lending institutions are free to require borrowers to provide assets, like real property, of much higher value than the desired loan amount, as collateral. Being a contract of adhesion, the mortgage is to be strictly construed against [BPI Family], the party which prepared the agreement.
>
> In the case at bar, the intent of [BPI Family] is manifest that the [spouses Avenido] shall assume liability not only for the entire obligation mentioned in the mortgage but beyond, which is improper, as it will defeat the purpose of the foreclosure proceedings which is to answer or satisfy the principal obligation in case of default or non payment thereof.
>
> Moreover, for all intents and purposes, we hold that [spouses Avenido] shall not be liable to pay for the deficiency of their mortgage obligation because it will be at their great disadvantage considering that their property was purchased at a nominal cost by [BPI Family] at the auction sale. As a matter [of] fact, there was an admission made by [BPI Family's] witness that the amount of the bid was only 80% of the actual price of the property. This is unfair on the part of the [spouses Avenido].
>
> Besides, if mortgagees were allowed such right, the debtors would be at the mercy of their creditors considering the summary nature of extrajudicial foreclosure proceedings. It is also worthy to note the limited readership of auction sale notices which lead to the sale.
>
> Accordingly, We upheld the ruling of the court a quo in absolving the [spouses Avenido] from any liability corresponding to the amount of deficiency of mortgage obligation as it will in effect be allowing [BPI Family] to unjustly enrich itself at the expense of the [spouses Avenido]. [17]

The dispositive of the Court of Appeals judgment reads:

> WHEREFORE, premises considered, the assailed Decision dated November 13, 2002 of the Regional Trial Court, Cebu City, 7th Judicial Region, Branch 58, in Civil Case No. CEB-25629, is hereby AFFIRMED. No pronouncement as to costs. [18]

In its Resolution dated November 16, 2006, the Court of Appeals denied the Motion for Reconsideration of BPI Family since the arguments set forth therein were but a rehash, repetition and/or reinstatement of the arguments/matters already passed upon and extensively discussed by the appellate court in its earlier decision.

Hence, the present Petition for Review of BPI Family with the following assignment of errors:

> I
>
> WITH ALL DUE RESPECT, THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN RENDERING ITS DECISION (ANNEX "A") AND RESOLUTION (ANNEX "B") DECLARING THAT [BPI FAMILY] IS NOT ENTITLED TO ITS CLAIM AGAINST THE [SPOUSES AVENIDO] FOR DEFICIENCY OF MORTGAGE OBLIGATION DESPITE THE EXPRESS PROVISIONS OF THE MORTGAGE LAW AND NUMEROUS JURISPRUDENCE ENTITLING THE MORTGAGEE-[BPI FAMILY] TO THE SAME.
>
> II
>
> WITH ALL DUE RESPECT, THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN IT BASED ITS FINDING THAT THERE IS NO MORE DEFICIENCY OF MORTGAGE OBLIGATION BY COMPARING THE MARKET VALUE OF THE FORECLOSED PROPERTY AGAINST THE LOAN OBLIGATION OF THE MORTGAGORS-RESPONDENTS INSTEAD OF COMPARING THE ACTUAL BID PRICE AT THE AUCTION SALE AGAINST THE LOAN OBLIGATION OF THE MORTGAGORS-[SPOUSES AVENIDO]. [19]

The primary issue posed before us is whether or not BPI Family is still entitled to collect the deficiency mortgage obligation from the spouses Avenido in the amount of P455,836.80, plus interest.

We answer in the affirmative.

It is settled that if "the proceeds of the sale are insufficient to cover the debt in an extrajudicial foreclosure of mortgage, the mortgagee is entitled to claim the deficiency from the debtor. While Act No. 3135, as amended, does not discuss the mortgagee's right to recover the deficiency, neither does it contain any provision expressly or impliedly prohibiting recovery. If the legislature had intended to deny the creditor the right to sue for any deficiency resulting from the foreclosure of a security given to guarantee an obligation, the law would expressly so provide. Absent such a provision in Act No. 3135, as amended, the creditor is not precluded from taking action to recover any unpaid balance on the principal obligation simply because he chose to extrajudicially foreclose the real estate mortgage." [20]

It is no longer challenged before us that the outstanding loan obligation of the spouses Avenido amounted to P2,598,452.80, inclusive of interests, penalties, and charges, by March 8, 1999. The controversy herein now only revolves around the value to be attributed to the foreclosed property, which would be applied against the outstanding loan obligation of the spouses Avenido to BPI Family. BPI Family insists that it should be P2,142,616.00, its winning bid price for the foreclosed property at the public auction sale, which, being less than the outstanding loan obligation of the spouses Avenido, will still leave a deficiency collectible by BPI Family from the spouses Avenido in the amount of P455,836.80. The spouses Avenido maintain that, as the RTC and the Court of Appeals ruled, it should be P2,678,270.00, the fair market value of the foreclosed property, which, being more than the outstanding loan obligation of the spouses Avenido, will already fully settle their indebtedness.

The spouses Avenido, the RTC, and the Court of Appeals may not have said it outright, but they actually consider the winning bid of BPI Family for the foreclosed property at the public auction sale to be insufficient. They took exception to the fact that the winning bid of BPI Family was equivalent to "only" 80% of the appraised value of

the mortgaged property. The RTC and the Court of Appeals even went as far as to refer to the amount of the winning bid of BPI Family as “nominal” and “unfair” and would “unjustly enrich” the bank at the expense of the spouses Avenido. So the RTC and the Court of Appeals disregarded the winning bid of BPI Family and applied instead the fair market value of the foreclosed property against the outstanding loan obligation of the spouses Avenido.

According to Section 4 of Act No. 3135, an extrajudicial foreclosure sale of a mortgaged real property shall be conducted as follows:

> SEC. 4. Public Auction. - The sale shall be made at public auction, between the hours of nine in the morning and four in the afternoon; and shall be under the direction of the sheriff of the province, the justice or auxiliary justice of the peace of the municipality in which such sale has to be made, or a notary public of said municipality, who shall be entitled to collect a fee of five pesos for each day of actual work performed, in addition to his expenses.

Notably, the aforequoted provision does not mention any minimum bid at the public auction sale. There is no legal basis for requiring that the bid should at least be equal to the market value of the foreclosed property or the outstanding obligation of the mortgage debtor.

We have consistently held in previous cases that unlike in an ordinary sale, inadequacy of the price at a forced sale is immaterial and does not nullify the sale. In fact, in a forced sale, a low price is more beneficial to the mortgage debtor for it makes redemption of the property easier.

Section 6 of Act No. 3135 provides for the redemption of an extrajudicially foreclosed property within a one-year period, to wit:

> Sec. 6. Redemption. – In all cases in which an extrajudicial sale is made under the special power herein before referred to, the debtor, his successors-in-interest or any judicial creditor or judgment creditor of said debtor, or any person having a lien on the property subsequent to the mortgage or deed of trust under which the property is sold, may redeem the same at any time within the term of one year from and after the date of the sale; and such redemption shall be governed by the provisions of sections four hundred and sixty-four to four hundred and sixty-six, inclusive, of the Code of Civil Procedure, in so far as these are not inconsistent with the provisions of this Act. (Emphasis ours.)

Republic Act No. 337, the General Banking Act, as amended, in force at the time of the herein transactions, had a specific provision on the redemption of property extrajudicially foreclosed by banks, which reads:

> Sec. 78. Loans against real estate security shall not exceed seventy percent (70%) of the appraised value of the respective real estate security, plus seventy percent (70%) of the appraised value of the insured improvements, and such loans shall not be made unless title to the real estate shall be in the mortgagor. 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 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. However, the purchaser at the auction sale concerned in a judicial foreclosure shall have the right to enter upon and take possession of such property immediately after the date of the confirmation of the auction sale by the court and administer the same in accordance with law. (Emphasis ours.)

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If the foreclosed property is registered, the mortgagor has one year within which to redeem the property from and after registration of sale with the Register of Deeds.
[21]

We explained in Prudential Bank v. Martinez [22] that:

> [T]he fact that the mortgaged property is sold at an amount less than its actual market value should not militate against the right to such recovery. We fail to see any disadvantage going for the mortgagor. On the contrary, a mortgagor stands to gain with a reduced price because he possesses the right of redemption. When there is the right to redeem, inadequacy of price should not be material, because the judgment debtor may reacquire the property or also sell his right to redeem and thus recover the loss he claims to have suffered by the reason of the price obtained at the auction sale. Generally, in forced sales, low prices are usually offered and the mere inadequacy of the price obtained at the sheriff's sale unless shocking to the conscience will not be sufficient to set aside a sale if there is no showing that in the event of a regular sale, a better price can be obtained. [23] (Citations omitted.)

We elucidated further in New Sampaguita Builders Construction Inc. v. Philippine National Bank [24] that:

> In the accessory contract of real mortgage, in which immovable property or real rights thereto are used as security for the fulfillment of the principal loan obligation, the bid price may be lower than the property's fair market value. In fact, the loan value itself is only 70 percent of the appraised value. As correctly emphasized by the appellate court, a low bid price will make it easier for the owner to effect redemption by subsequently reacquiring the property or by selling the right to redeem and thus recover alleged losses. x x x. [25]

In Hulst v. PR Builders, Inc., [26] we reiterated that:

> [G]ross inadequacy of price does not nullify an execution sale. In an ordinary sale, for reason of equity, a transaction may be invalidated on the ground of inadequacy of price, or when such inadequacy shocks one's conscience as to justify the courts to interfere; such does not follow when the law gives the owner the right to redeem as when a sale is made at public auction, upon the theory that the lesser the price, the easier it is for the owner to effect redemption. When there is a right to redeem, inadequacy of price should not be material because the judgment debtor may re-acquire the property or else sell his right to redeem and thus recover any loss he claims to have suffered by reason of the price obtained at the execution sale. Thus, respondent stood to gain rather than be harmed by the low sale value of the auctioned properties because it possesses the right of redemption. x x x. [27]

In line with the foregoing jurisprudence, we refuse to consider the question of sufficiency of the winning bid price of BPI Family for the foreclosed property; and affirm the application of said winning bid in the amount of P2,142,616.00 against the total outstanding loan obligation of the spouses Avenido by March 8, 1999 in the sum of P2,598,452.80, thus, leaving a deficiency of P455,836.80. BPI Family may still collect the said deficiency without violating the principle of unjust enrichment, as opined by the Court of Appeals.

"There is unjust enrichment when a person unjustly retains a benefit to the loss of another, or when a person retains money or property of another against the fundamental principles of justice, equity and good conscience. Article 22 of the Civil Code provides that every person who through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him. The principle of unjust enrichment under Article 22 requires two conditions: (1) that a person is benefited without a valid basis or justification, and (2) that such benefit is derived at another's expense or damage." [28] There is no unjust enrichment to speak of in this case. There is strong legal basis for the claim of BPI Family against the spouses Avenido for the deficiency of their loan obligation.

BPI Family made an extrajudicial demand upon the spouses Avenido for the deficiency mortgage obligation in a

letter dated July 8, 2000 and received by the spouses Avenido on July 17, 2000. Consequently, we impose the legal interest of 12% per annum on the deficiency mortgage obligation amounting to P455,836.80 from July 17, 2000 until the finality of this Decision. Thereafter, if the amount adjudged remains unpaid, it will be subject to interest at the rate of 12% per annum computed from the time the judgment became final and executory until fully satisfied.

WHEREFORE, the Petition is hereby GRANTED. The assailed Decision dated March 31, 2006 and Resolution dated November 16, 2006 of the Court of Appeals in CA-G.R. CV No. 79008, affirming the Decision dated November 13, 2002 of the Regional Trial Court, Branch 58 of Cebu City, in Civil Case No. CEB-25629, is REVERSED and SET ASIDE. Respondent spouses Ma. Arlyn T. Avenido and Pacifico A. Avenido are ORDERED to pay petitioner BPI Family Savings Bank, Inc. the deficiency of their mortgage obligation in the amount of P455,836.80, plus legal interest of 12% per annum from July 17, 2000 until the finality of this Decision. Thereafter, the amount adjudged shall be subject to legal interest of 12% per annum from the finality of this Decision up to its satisfaction. No cost.

SO ORDERED.

Corona, C.J., (Chairperson), Bersamin, Del Castillo, and Villarama, Jr., concur.

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[1] Rollo, pp. 27-34; penned by Associate Justice Pampio A. Abarintos with Associate Justices Enrico A. Lanzanas and Apolinario D. Bruselas, concurring.

[2] Id. at 72-78; penned by Judge Gabriel T. Ingles.

[3] Id. at 35.

[4] Id. at 57-58.

[5] Id. at 61.

[6] Id. at 53-56.

[7] Id. at 62-69.

[8] Id. at 60.

[9] TSN, May 6, 2002, pp. 2-17.

[10] TSN, June 21, 2002, pp. 1-17.

[11] Rollo, p. 75.

[12] Id. at 75-76.

[13] Id. at 76-77.

[14] Id. at 77-78.

[15] Id. at 78.

[16] Id. at 81.

[17] Id. at 32-33.

[18] Id. at 34.

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[19] Id. at 15-16.

[20] Cuñada v. Drilon, 476 Phil. 725, 734 (2004).

[21] Union Bank of the Philippines v. Court of Appeals, 370 Phil. 837, 847 (1999).

[22] G.R. No. 51768, September 14, 1990, 189 SCRA 612.

[23] Id. at 617.

[24] 479 Phil. 483 (2004).

[25] Id. at 514-515.

[26] G.R. No. 156364, September 3, 2007, 532 SCRA 74.

[27] Id. at 103-104.

[28] Car Cool Philippines, Inc. v. Ushio Realty and Development Corporation, G.R. No. 138088, January 23, 2006, 479 SCRA 404, 412.

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