RIZAL COMMERCIAL BANKING CORPORATION, PETITIONER, VS. PEDRO P. BUENAVENTURA, RESPONDENT.

G.R. No. 176479. October 06, 2010

Ponente: NACHURA, J.

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NACHURA, J.:

Before this Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court. Petitioner Rizal Commercial Banking Corporation (RCBC) assails the Decision[1] dated November 21, 2006 and the Resolution[2] dated January 30, 2007 of the Court of Appeals (CA) in CA-G.R. CV No. 82079.

Respondent Pedro P. Buenaventura and his first wife (now deceased) owned a townhouse unit in Casa Nueva Manila Townhouse, Quezon City. On December 27, 1994, they obtained a loan from petitioner. As security for the loan, they mortgaged the townhouse to petitioner.[3] Under the loan agreement, respondent was to pay RCBC a fixed monthly payment with adjustable interest for five years. For this purpose, respondent opened an account with RCBC's Binondo branch from which the bank was to deduct the monthly amortizations.[4]

On April 19, 1999, respondent received a Notice of Public Auction of the mortgaged townhouse unit. He wrote Atty. Saturnino Basconcillo, the notary public conducting the auction sale, demanding the cancellation of the auction sale. However, the notary public proceeded with the public sale on May 25, 1999, where RCBC emerged as the highest bidder. The Notary Public's Certificate of Sale was registered with the Register of Deeds on September 28, 2000.

On September 18, 2001, respondent filed with the Regional Trial Court (RTC) of Quezon City a complaint for Annulment of Sale and Damages against RCBC, notary public Saturnino Basconcillo, and the Registrar of Deeds of Quezon City. Respondent prayed that the RTC (1) annul the extra-judicial foreclosure and sale of the property; (2) cancel the Certificate of Sale; and (3) direct the payment of P170,000.00 as actual damages, P100,000.00 as moral damages, P50,000.00 as exemplary damages, P70,000.00 as attorney's fees, plus P2,500.00 for every court appearance of his counsel, and the costs of the suit.

RCBC failed to timely file an Answer and was declared in default. Based on respondent's evidence, the RTC rendered a decision,[5] the dispositive portion of which reads:

> WHEREFORE, judgment is rendered:
>
> 1. Declaring the foreclosure sale of the plaintiff's (respondent's) property covered by Transfer Certificate of Title No. 39234 of the Registry of Deeds of Quezon City conducted on May 25, 1999 by notary public ATTY. SATURNINO M. BASCONCILLO, and the resulting certificate of sale issued by said notary public on May 27, 1999 null and void and of no effect; and
>
> 2. Ordering RIZAL COMMERCIAL BANKING CORPORATION to pay to the plaintiff P100,000.00 as moral damages; P50,000.00 as exemplary damages; P70,000.00 as actual damages; and the costs of suit; and
>
> 3. Dismissing the complaint as against ATTY. SATURNINO M. BASCONCILLO and the REGISTRAR OF

DEEDS OF QUEZON CITY.

SO ORDERED.[6]

The RTC found that respondent made regular payments of the monthly amortizations as they fell due, as evidenced by his passbooks and the various deposit slips acknowledged by RCBC.[7] The RTC also found that RCBC's own computer-generated amortization schedule showed that no balance was due respondent after his last payment on March 27, 2000.[8]

RCBC filed a motion for reconsideration. It was denied in a resolution[9] dated February 11, 2004.

RCBC then appealed to the CA. In the assailed November 21, 2006 Decision,[10] the CA affirmed the RTC's decision with modification, deleting the award of moral and exemplary damages.

The CA ruled that the foreclosure sale was premature. It held that respondent made valid and sufficient payments on his loan obligation. It found respondent's evidence as sufficient proof to negate default on his part in paying the monthly amortizations. It noted that sometime in September 1996, RCBC sent respondent a letter informing the latter of past due accounts since January 27, 1996, which would warrant the application of the acceleration clause. The CA, however, deemed the same to have been "cured" by a subsequent Amortization Schedule given by the bank to respondent stating that, as of March 27, 2000, he no longer had an unpaid balance on his loan. The CA said this clearly suggests the uninterrupted receipt by RCBC of the installments, thus, negating the claim that respondent was in default. It also noted respondent's evidence (his passbooks) which indicated that he had sufficient funds to cover the remaining balance of his loan at the time of the foreclosure sale. Moreover, the CA said that based on the term of the loan (April 27, 1995 to March 27, 2000), the loan was not yet due and demandable at the time of the foreclosure.

On the other hand, the CA found the award of moral and exemplary damages unwarranted. It held that since respondent irregularly paid his monthly amortizations, RCBC did not act maliciously and in bad faith when it initiated the foreclosure proceedings.

RCBC moved for reconsideration of the Decision, but it was denied in a Resolution dated January 30, 2007.

In this petition, RCBC argues that the CA Decision is not in accord with law and applicable jurisprudence. In particular, it assails the CA's finding that respondent was not in default at that time of the foreclosure of the mortgage. It says that the foreclosure sale was done in the lawful exercise of its right as mortgagee of the property as, at the time of the foreclosure sale, respondent had unpaid amortizations. The bank points out that respondent made payments until March 2000, but these payments were not withdrawn by the bank and credited to respondent's loan payments but remained in his account.

In his Comment, respondent avers that he never received a copy of petitioner's Motion for Extension of Time to file the Petition for Review in violation of Rule 45, Section 2. Thus, he argues that the motion is without legal effect, and therefore, the petition has been filed out of time. He also alleges that the petition lacks the requisite affidavit of material dates. Respondent likewise posits that the petition does not raise questions of law. He argues that the issue raised by petitioner, while purportedly a question of law, in reality questions the sufficiency of evidence relied upon by both the trial court and the CA, which this Court has held in the past to be a question of fact.

In its Reply, petitioner counters respondent's arguments by saying that the issue it raised - whether respondent's subsequent payment of unpaid amortizations done after the foreclosure and public sale of the property invalidates the extra-judicial foreclosure and public sale proceedings - is a purely legal question.

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The petition lacks merit and must be denied.

Clearly, the petition disputes the factual findings of the CA,[11] which, in turn, merely affirmed the factual findings of the RTC.

It is settled that factual findings of the trial court, when adopted and confirmed by the CA, are binding and conclusive on this Court and will generally not be reviewed on appeal. Inquiry into the veracity of the CA's factual findings and conclusions is not the function of the Supreme Court, because this Court is not a trier of facts. Neither is it our function to reexamine and weigh anew the respective evidence of the parties.[12]

While it is true that there are well-established exceptions to this principle, petitioner in this case has failed to show that this case falls under one of such exceptions.

The RTC and the CA both found that respondent was not in default on the monthly payments of his loan obligation.

These findings are supported by the evidence on record.

At the time of foreclosure - April 1999 - respondent's savings account deposits showed a balance of P852,913.26.[13] This was more than enough to cover whatever amortizations were due from him at that time. Moreover, the Amortization Schedule shows that, as of April 27, 1999, respondent's loan account with the bank totaled only P269,023.38.[14] The same schedule shows that, by March 27, 2000, he had "0.00" balance left to pay,[15] meaning he had paid his loan in full.

Foreclosure is valid only when the debtor is in default in the payment of his obligation.[16] It is a necessary consequence of non-payment of mortgage indebtedness. As a rule, the mortgage can be foreclosed only when the debt remains unpaid at the time it is due.[17]

In a real estate mortgage, when the principal obligation is not paid when due, the mortgagee has the right to foreclose on the mortgage, to have the property seized and sold, and to apply the proceeds to the obligation.[18]

RCBC's own Amortization Schedule readily shows the applicability of Article 1176 of the Civil Code, which states:

> Art. 1176. The receipt of the principal by the creditor, without reservation with respect to the interest, shall give rise to the presumption that the said interest has been paid.
>
> The receipt of a later installment of a debt without reservation as to prior installments, shall likewise raise the presumption that such installments have been paid.[19]

Respondent's passbooks indicate that RCBC continued to receive his payments even after it made demands for him to pay his past due accounts, and even after the auction sale.

RCBC cannot deny receipt of the payments, even when it claims that the deposits were "not withdrawn."[20] It is not respondent's fault that RCBC did not withdraw the money he deposited. His obligation under the mortgage agreement was to deposit his payment in the savings account he had opened for that purpose, in order that RCBC may debit the amount of his monthly liabilities therefrom. He complied with his part of the agreement.

This bolsters the conclusion of the CA that respondent had no unpaid installments and was not in default as would warrant the application of the acceleration clause and the subsequent foreclosure and auction sale of the property.

WHEREFORE, the foregoing premises considered, the petition is DENIED. The Decision dated November 21, 2006 and the Resolution dated January 30, 2007 of the Court of Appeals in CA-G.R. CV No. 82079 are hereby

AFFIRMED.

SO ORDERED.

Velasco, Jr.,[*] Peralta, Mendoza, and Sereno,[***] JJ., concur.

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[*] Additional member in lieu of Associate Justice Antonio T. Carpio per Special Order No. 897 dated September 28, 2010.

[**] In lieu of Associate Justice Antonio T. Carpio per Special Order No. 898 dated September 28, 2010.

[***] Additional member in lieu of Associate Justice Roberto A. Abad per Special Order No. 903 dated September 28, 2010.

[1] Penned by Associate Justice Jose C. Reyes, Jr., with Associate Justices Edgardo P. Cruz and Enrico A. Lanzana, concurring; rollo, pp. 41-52.

[2] Id. at 54.

[3] Id. at 9.

[4] CA rollo, p. 45.

[5] Penned by Judge Lucas P. Bersamin (now a member of this Court); id. at 45-48.

[6] Id. at 48.

[7] Id. at 46.

[8] Id.

[9] Penned by Judge Hilario L. Laqui; id. at 49-51.

[10] Supra note 1.

[11] Rollo, p. 29.

[12] Development Bank of the Philippines v. Licuanan, G.R. No. 150097, February 26, 2007, 516 SCRA 644, 651. (Citations omitted.)

[13] Records, p. 224.

[14] Id. at 225.

[15] Id.

[16] Development Bank of the Philippines v. Licuanan, supra note 12, at 650, citing State Investment House, Inc. v. Court of Appeals, 215 SCRA 734, 744 (1992).

[17] Producers Bank of the Phil. v. Court of Appeals, 417 Phil. 646, 656 (2001).

[18] BPI Family Savings Bank, Inc. v. Sps. Veloso, 479 Phil. 627, 632 (2004); China Banking Corp. v. CA, 333 Phil. 158, 171 (1996).

[19] Emphasis supplied.

[20] Rollo, p. 33.

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