

EQUITABLE PCI BANK, INC. (NOW KNOWN AS BANCO DE ORO – EPCI, INC.) PETITIONER, VS. HEIRS OF ANTONIO C. TIU, NAMELY: ARLENE T. FU, MICHAEL U. TIU, ANDREW U. TIU, EDGAR U. TIU AND E...

G.R. No. 178529. September 04, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

To secure loans in the aggregate amount of P7 Million obtained by one Gabriel Ching from herein petitioner Equitable PCI Bank, Inc. (now known as Banco de Oro-EPCI, Inc.),[1] Antonio C. Tiu (Antonio), of which herein respondents allege to be heirs, executed on July 6, 1994 a Real Estate Mortgage (REM)[2] in favor of petitioner covering a lot located in Tacloban City. Before the words "With my Marital Consent" appearing in the REM is a signature attributed to Antonio's wife Matilde.

On October 5, 1998, Antonio executed an Amendment to the Real Estate Mortgage[3] (AREM) increasing the amount secured by the mortgage to P26 Million, also bearing a signature attributed to his wife Matilde above the words "With my Marital Consent."

The property mortgaged was covered by TCT No. T-1381 of the Tacloban Register of Deeds which, the AREM states, was "registered in the name of the Mortgagor."

Antonio died on December 26, 1999.[4]

The loan obligation having remained unsettled, petitioner filed in November 2003 before the Regional Trial Court (RTC) of Tacloban City a "Petition for Sale"[5] dated November 4, 2003, for the extrajudicial foreclosure of the AREM and the sale at public auction of the lot covered thereby. Acting on the petition, the RTC Clerk of Court and Ex-Oficio Sheriff scheduled the public auction on December 17, 2003.[6]

A day before the scheduled auction sale or on December 16, 2003, the herein respondents, Heirs of Antonio C. Tiu, namely Arlene T. Fu, Michael U. Tiu, Andrew U. Tiu, Edgar U. Tiu, and Erwin U. Tiu, filed a Complaint/Petition[7] before the RTC of Tacloban against petitioner and the Clerk of Court-Ex Oficio Sheriff, docketed as Civil Case No. 2003-12-205 for annulment of the AREM, injunction with prayer for issuance of writ of preliminary injunction and/or temporary restraining order and damages, alleging, among other things, that

x x x the said AREM is without force and effect, the same having been executed without the valid consent of the wife of mortgagor Antonio C. Tiu who at the time of the execution of the said instrument was already suffering from advance[d] Alzheimer's Disease and, henceforth, incapable of giving consent, more so writing and signing her name[.][8] (Emphasis and underscoring supplied.)

The RTC issued a temporary restraining order,[9] and subsequently, a writ of preliminary injunction.[10]

To the Complaint petitioner filed a Motion to Dismiss,[11] raising the following grounds:

I

THE PLAINTIFFS/PETITIONERS NOT BEING THE REAL PARTIES-IN-INTEREST, THEIR COMPLAINT STATES NO CAUSE OF ACTION;

II

EVEN IF THERE IS A CAUSE OF ACTION, THE SAME IS ALREADY BARRED BY THE STATUTE OF LIMITATIONS; and

III

THE PRESENT ACTION BEING A PERSONAL ONE, THE VENUE IS IMPROPERLY LAID.[12]
(Underscoring supplied)

By Resolution[13] of April 14, 2004, Branch 8 of the Tacloban RTC denied the Motion to Dismiss in this wise:

From the facts of the case, herein plaintiffs/petitioners are so situated that they will either be benefited or injured in subject action. They are therefore real parties in interest, as they will be damnified and injured or their inheritance rights and interest on the subject property protected and preserved in this action. As they are real parties in interest, they therefore have a cause of action against herein defendant.[14]

It thus ordered petitioner to file Answer within the reglementary period. Petitioner's motion for reconsideration of the said Resolution having been denied,[15] it filed a Petition[16] for Certiorari, Prohibition, and Mandamus with prayer for preliminary injunction before the Court of Appeals which it denied by Decision[17] of August 30, 2006, quoting with approval the trial court's ratio in denying petitioner's Motion to Dismiss.

Hence, the present Petition,[18] petitioner faulting the Court of Appeals in affirming the trial court's denial of its Motion to Dismiss.

Petitioner argues, in the main, that as respondents are not the real parties in interest, their complaint states no cause of action. Citing *Travel Wide Associated, Inc. v. Court of Appeals*,[19] petitioner adds that since the party in interest is respondents' mother but the complaint is not brought in her name, respondents' complaint states no cause of action.

The issue in the main thus is whether the complaint filed by respondents-children of Antonio, without impleading Matilde who must also be Antonio's heir and who, along with Antonio, was principally obliged under the AREM sought to be annulled, is dismissible for lack of cause of action.

The pertinent provision of the Civil Code on annulment of contracts reads:

Art. 1397. The action for the annulment of contracts may be instituted by all who are thereby obliged principally or subsidiarily. However, persons who are capable cannot allege the incapacity of those with whom they contracted; nor can those who exerted intimidation, violence, or undue influence, or employed fraud, or caused mistake base their action upon these flaws of the contract. (Emphasis and underscoring supplied)

Upon the other hand, the pertinent provisions of Rule 3 of the Rules of Court (Parties to Civil Actions) read:

SEC. 2 Parties in interest. "A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest. (Emphasis and underscoring supplied)

SEC. 3. Representatives as parties. "Where the action is allowed to be prosecuted or defended by a representative or someone acting in a fiduciary capacity, the beneficiary shall be included in the title of the

case and shall be deemed to be the real party in interest. A representative may be a trustee of an express trust, a guardian, an executor or administrator, or a party authorized by law or these Rules. An agent acting in his own name and for the benefit of an undisclosed principal may sue or be sued without joining the principal except when the contract involves things belonging to the principal. (Emphasis and underscoring supplied)

The AREM was executed by Antonio, with the marital consent of Matilde. Since the mortgaged property is presumed conjugal, she is obliged principally under the AREM. It is thus she, following Art. 1397 of the Civil Code vis a vis Sec. 2 of Rule 3 of the Rules of Court, who is the real party in interest, hence, the action must be prosecuted in her name as she stands to be benefited or injured in the action.

Assuming that Matilde is indeed incapacitated, it is her legal guardian who should file the action on her behalf. Not only is there no allegation in the complaint, however, that respondents have been legally designated as guardians to file the action on her behalf. The name of Matilde, who is deemed the real party in interest, has not been included in the title of the case, in violation of Sec. 3 of Rule 3 of the Rules of Court.

WHEREFORE, the petition is GRANTED. The Decision of the Court of Appeals dated August 30, 2006 is REVERSED and SET ASIDE. Civil Case No. 2003-12-205 lodged before Branch 8 of the Regional Trial Court of Tacloban City is DISMISSED for lack of cause of action.

SO ORDERED.

Quisumbing, (Chairperson), Brion, Del Castillo, and Abad, JJ., concur.

[1] Rollo, p. 46.

[2] Records, pp. 15-18.

[3] Id. at 22-23.

[4] Id. at 24.

[5] Rollo, pp. 54-56.

[6] Id. at 57.

[7] Records, pp. 1-12.

[8] Id. at 3.

[9] Id. at 29-30.

[10] Id. at 31-32.

[11] Id. at 33-47.

[12] Id. at 33-34.

[13] Id. at 157-159.

[14] Rollo, pp. 112-113.

[15] Records, p. 181.

[16] CA rollo, pp. 12-39.

[17] Penned by Court of Appeals Associate Justice Marlene Gonzales-Sison, with the concurrence of Associate Justices Arsenio J. Magpale and Agustin S. Dizon. Id. at 265-281.

[18] Rollo, pp. 3-45.

[19] G.R. No. 77356, July 15, 1991, 199 SCRA 205 (1991).

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