

METROPOLITAN BANK & TRUST COMPANY, PETITIONER, VS. SPOUSES EDMUNDO MIRANDA AND JULIE MIRANDA, RESPONDENTS.*G.R. No. 187917. January 19, 2011*

Ponente: NACHURA, J.

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On appeal is the June 30, 2008 Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 87775, affirming the June 16, 2006 Decision[2] of the Regional Trial Court (RTC) of Santiago City, Branch 35, as well as its subsequent Resolution dated May 7, 2009,[3] denying petitioner's motion for reconsideration.

Respondents, spouses Edmundo Miranda and Julie Miranda, applied for and obtained a credit accommodation from petitioner Metropolitan Bank & Trust Company (Metrobank). On August 27, 1996, respondents obtained a P4,000,000.00 loan from Metrobank and executed a real estate mortgage[4] over a parcel of land in Poblacion, Santiago, Isabela, covered by Transfer Certificate of Title (TCT) No. 202288. Upon respondents' request, Metrobank increased the loan from P4,000,000.00 to P5,000,000.00. The real estate mortgage executed on August 27, 1996 was thus amended[5] to increase the principal amount of loan secured by the mortgage to P5,000,000.00.

Subsequently, respondents obtained additional loans from Metrobank - P1,000,000.00 on December 3, 1996, and P1,000,000.00 on May 8, 1997. The additional loans were secured by mortgage[6] over lands situated in Dubinan and Mabini, Santiago, Isabela, covered by TCT Nos. T-202288, T-180503, T-260279, and T-272664.

Respondents encountered difficulties in paying their loans. They requested for a longer period to settle their account and further requested for the restructuring of their loans, which requests Metrobank granted. Respondents then signed Promissory Note (PN) No. 599773[7] for P6,400,000.00, and PN No. 599772[8] for P950,000.00, both payable on February 24, 2002, with interest at 17.250% per annum. They also amended the deeds of real estate mortgage they executed in favor of Metrobank to increase the amount of loans secured by mortgage to P6,350,000.00. The amendment was inscribed on TCT Nos. T-202288,[9] T-260279,[10] and T-180503.[11]

On August 25, 2000, Metrobank sent respondents a demand letter[12] to settle their overdue account of P8,512,380.15, inclusive of interest and penalties; otherwise, the bank would initiate "the necessary legal proceedings x x x, without further notice." Respondents, however, failed to settle their account. Consequently, Metrobank caused the extrajudicial foreclosure and auction sale of the mortgaged properties on November 16, 2000. The Clerk of Court and Ex-Officio Sheriff of Santiago City sold the mortgaged properties at public auction for the sum of P9,284,452.00 to Metrobank, as the highest bidder. A Certificate of Sale[13] was issued in favor of Metrobank on November 27, 2000, which was registered with the Registry of Deeds on November 29, 2000.

Claiming that the extrajudicial foreclosure was void, respondents filed a complaint for Nullification of the Foreclosure Proceedings and Damages with Prayer for Temporary Restraining Order/Injunction[14] with the RTC of Santiago City. They alleged non-compliance with the provisions of Presidential Decree No. 1079[15] and Act No. 3135,[16] particularly the publication requirement. Respondents further asserted that Metrobank required them to sign blank promissory notes and real estate mortgage, and that they were not furnished with copies of

these documents. Later, they discovered that the terms and conditions of the promissory notes and of the mortgage were entirely different from what was represented to them by the bank. The right to fix the interest rates, they added, was exclusively given to the bank. Respondents, thus, prayed for the annulment of the extrajudicial foreclosure proceedings.

Metrobank answered the complaint, denying its material allegations and asserting the validity of the foreclosure proceedings. Specifically, it averred compliance with the posting and publication requirements. Thus, it prayed for the dismissal of the complaint.[17]

Meanwhile, on December 20, 2001, Metrobank caused the cancellation of the TCTs in the name of respondents and the issuance of new ones in its name. On December 21, 2001, the Ex-Officio Sheriff executed a Final Deed of Sale.[18]

On June 16, 2006, the RTC rendered a decision[19] annulling the extrajudicial foreclosure proceedings. The RTC reviewed the records of the foreclosure proceedings and found no proof of publication of the sheriff's notice of sale; there was no affidavit of publication attached to the records. This fatal defect, it held, invalidated the auction sale and the entire foreclosure proceedings. The RTC further held that, when Metrobank foreclosed the mortgaged properties, respondents' loan account was still outstanding for there was an overpayment of interests amounting to P1,529,922.00. Thus, the foreclosure proceedings were without factual and legal basis. The RTC further noted that Metrobank consolidated its title even before the issuance of the sheriff's Final Deed of Sale. The trial court considered it an irregularity sufficient to invalidate the consolidation.

The dispositive portion of the RTC decision reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of [respondents] and against [petitioner] Metrobank as follows:

- 1) DECLARING as null and void the Sheriff's Certificate of Sale, dated November 27, 2000, Exhibit "11";
- 2) DECLARING as null and void the Sheriff's Final Deed of Sale, dated December 21, 2000, Exhibit "12";
- 3) CANCELLING [Metrobank's] TCT Nos. T-319236 (Exhibit "13"); T-319235 over Lot 6-B-18 (Exhibit "14"); T-T-319235 over Lot 4-F (Exhibit "15"); and T-319237 (Exhibit "16");
- 4) RESTORING [respondents'] TCT Nos. T-260279 (Exhibit "E"); T-202288 (Exhibit "F"); T-180503 (Exhibit "G"); and T- 272664 (Annex "E"); and
- 5) ORDERING x x x Metrobank to pay PHP50,000.00 as attorney's fees, and the cost of suit.

SO ORDERED. [20]

Metrobank filed a motion for reconsideration, but the RTC denied it on July 31, 2006.

Metrobank then appealed to the CA, faulting the RTC for annulling the foreclosure proceedings. It insisted that the bank complied with the publication requirement. Metrobank also disagreed with the trial court's finding of overpayment of interests amounting to P1,529,922.00, claiming that the applicable interest rates on respondents' loans were 17% and not 12% as computed by the trial court. It further asserted that a final deed of sale is not necessary for purposes of consolidating its ownership over the subject properties. Finally, Metrobank assailed the award of attorney's fees for lack of basis.

On June 30, 2008, the CA resolved Metrobank's appeal in this wise:

WHEREFORE, the appeal is DISMISSED. The assailed decision dated June 16, 2006 of the RTC of Santiago

City, Branch 35, in Civil Case No. 35-3022 is AFFIRMED.

SO ORDERED.[21]

Metrobank's motion for reconsideration also suffered the same fate, as the CA denied it on May 7, 2009.[22]

Before us, Metrobank insists on the validity of the foreclosure proceedings. Essentially, it argues that foreclosure proceedings enjoy the presumption of regularity, and the party alleging irregularity has the burden of proving his claim. Metrobank asserts that, in this case, the presumption of regularity was not disputed because respondents failed to prove that the notice of sale was not published as required by law.

At the outset, it must be stated that only questions of law may be raised before this Court in a Petition for Review under Rule 45 of the Revised Rules of Civil Procedure. This Court is not a trier of facts, and it is not the function of this Court to reexamine the evidence submitted by the parties.[23]

It has been our consistent ruling that the question of compliance or non-compliance with notice and publication requirements of an extrajudicial foreclosure sale is a factual issue, and the resolution thereof by the trial court is generally binding on this Court. The matter of sufficiency of posting and publication of a notice of foreclosure sale need not be resolved

by this Court, especially when the findings of the RTC were sustained by the CA. Well-established is the rule that factual findings of the CA are conclusive on the parties and carry even more weight when the said court affirms the factual findings of the trial court.[24]

The unanimity of the CA and the trial court in their factual ascertainment that there was non-compliance with the publication requirement bars us from supplanting their findings and substituting them with our own. Metrobank has not shown that they are entitled to an exception to this rule. It has not sufficiently demonstrated any special circumstances to justify a factual review.

Metrobank makes much ado of respondents' failure to present proof of non-compliance with the publication requirement. It insists that respondents failed to discharge the requisite burden of proof.

Apparently, Metrobank lost sight of our ruling in *Spouses Pulido v. CA*,[25] *Sempio v. CA*,[26] and, recently, in *Philippine Savings Bank v. Spouses Dionisio Geronimo and Caridad Geronimo*,[27] viz.:

While it may be true that the party alleging non-compliance with the requisite publication has the burden of proof, still negative allegations need not be proved even if essential to one's cause of action or defense if they constitute a denial of the existence of a document the custody of which belongs to the other party.

It would have been a simple matter for Metrobank to rebut the allegation of non-compliance by producing the required proof of publication. Yet, Metrobank opted not to rebut the allegation; it simply relied on the presumption of regularity in the performance of official duty.

Unfortunately, Metrobank's reliance on the presumption of regularity must fail because it did not present any proof of publication of the notice of sale. As held by this Court in *Spouses Pulido v. Court of Appeals*: [28]

[P]etitioners' reliance on the presumption of regularity in the performance of official duties falls in the face of a serious imputation on non-compliance. The presumption of compliance with official duty is rebutted by failure to present proof of posting.

Further, in *Philippine Savings Bank v. Spouses Dionisio Geronimo and Caridad Geronimo*, [29] this Court rejected a similar contention, viz.:

Petitioner's invocation of the presumption of regularity in the performance of official duty on the part of

Sheriff Castillo is misplaced. While posting the notice of sale is part of a sheriff's official functions, the actual publication of the notice of sale cannot be considered as such, since this concerns the publisher's business. Simply put, the sheriff is incompetent to prove that the notice of sale was actually published in a newspaper of general circulation.

As correctly found by the RTC and the CA, the records[30] of the foreclosure proceedings lacked any proof of publication. This explains why Metrobank could not present any proof of publication.

We take this occasion to reiterate that the object of a notice of sale is to inform the public of the nature and condition of the property to be sold, and of the time, place, and terms of the sale. Notices are given for the purpose of securing bidders and preventing a sacrifice sale of the property.

The goal of the notice requirement is to achieve a "reasonably wide publicity" of the auction sale. This is why publication in a newspaper of general circulation is required. The Court has previously taken judicial notice of the "far-reaching effects" of publishing the notice of sale in a newspaper of general circulation. Thus, the publication of the notice of sale was held essential to the validity of foreclosure proceedings.[31] In this case, Metrobank failed to establish compliance with the publication requirement. The RTC and the CA cannot, therefore, be faulted for nullifying the foreclosure proceedings.

Metrobank next questions the authority of the RTC and the CA to take cognizance of the records of the foreclosure proceedings as basis for annulling the auction sale. It claims that the trial court may not take judicial notice of the records of proceedings in another case, unless the parties themselves agreed to it. Metrobank asserts that it did not give its consent to the trial court's examination of the records of the extrajudicial foreclosure proceedings. Further, the RTC did not even set a hearing for the purpose of declaring its intention to take judicial notice of the records of the extrajudicial proceedings, as required by Section 3[32] of Rule 129. Metrobank, thus, contends that the RTC exceeded its authority in taking cognizance of the records of the extrajudicial proceedings.

We disagree.

As a rule, courts do not take judicial notice of the evidence presented in other proceedings, even if these have been tried or are pending in the same court or before the same judge. This rule, however, is not absolute.

In *Juaban v. Espina*[33] and *"G" Holdings, Inc. v. National Mines and Allied Workers Union Local 103 (NAMAWU)*,[34] we held that, in some instances, courts have also taken judicial notice of proceedings in other cases that are closely connected to the matter in controversy. These cases may be so closely interwoven, or so clearly interdependent, as to invoke a rule of judicial notice.

The RTC, therefore, acted well within its authority in taking cognizance of the records of the extrajudicial foreclosure proceedings, and the CA cannot be faulted for sustaining the RTC.

Metrobank further questions the trial court's finding of overpayment of interests. But like the issue on compliance with the publication requirement, the issue on overpayment of interests involves the ascertainment of facts not subject of review by this Court. We reiterate that our jurisdiction is limited to reviewing and revising errors of law imputed to the lower court, the latter's findings of fact being conclusive and not reviewable by this Court.[35]

Besides, we find nothing erroneous in this factual finding of the RTC. As explained by the RTC in its decision:

[T]he Court notes that the original promissory notes evidencing the various loans of the plaintiffs were not presented in court by either party; they are needed to determine the stipulated interest rate. The Court is thus left to determine the same based on the testimony of the plaintiffs that the agreed interest rate is 12% per annum; amazingly, this was not denied or refuted by the [petitioner] bank, in which case, 12% interest rate is applied at least for the period beginning 1997 until 1999, when the loan was renewed under the two (2) new

promissory notes which indicated a higher rate of interest of 17.250% per annum. As mentioned above, the interest payments made by the [respondents] were already admitted by [Metrobank] in its answer to the complaint as well as in its comment to [respondents'] formal offer of evidence, and such interest payments are duly reflected and contained in the passbook account of the [respondents], Exhibit "H," "H-1" to "H-10." But, in order to determine whether [respondents'] account has become past due or not, as the [petitioner] bank represents, the Court deems it necessary to undertake some mathematical computation the result of which would decisively guide the Court to arrive at a rightful conclusion, thus:

1) Total interest payments by [respondents]

from May 7, 1997 to June 30, 1999 - P3,332,422.00

2) Interest due

from May 7, 1997 to June 30, 1999 - P1,802,500.00

computed as follows:

1)

Total interest payments by [respondents]

-

P3,332,422.00

from May 7, 1997 to June 30, 1999

Interest due

2)

from May 7, 1997 to June 30, 1999

-

P1,802,500.00

computed as follows:

a)

1[st] year ($P7\text{ M} \times 12\%$), from May 7, 1997 to May 28, 1998

-

P 840,000.00

b)

2[nd] year

i)

from June 3, 1998 to Feb. 24, 1999 (8 mos.)

-

P 560,000.00

ii)

from March, 1999 to June 30, 1999 (4 mos.)

-

P 402,500.00

3)

Total Interest paid - P 3,332,422.00

Less Interest due - P 1,802,500.00

Overpaid interest - P 1,529,922.00

From the foregoing, it is evident that [respondents] overpaid interests for the period of two (2) years, from May 1997 to June 1999, in the total amount of Php. 1,529,922.00. Thus, the Court is convinced that it is just and equitable that such an overpayment be construed as advance interest payments which should be applied for the succeeding period or year of their contract. Otherwise, [Metrobank] would unjustly enrich itself at the expense of [respondents]. In such a case, it was premature then for [Metrobank] to declare [respondents'] account as past due, because at that juncture[, respondents'] loan obligation was outstanding and in declaring otherwise, [Metrobank's] action was without basis as there was no violation of their loan contract. Consequently, it follows that the foreclosure proceedings subsequently held on November 26, 2000 was without factual and legal basis, too. For, indeed, when the foreclosure proceedings in question was conducted, [respondents'] loan account with [Metrobank], as it is said, was still outstanding, because [respondents] were able to pay the interest due. Therefore, the Court is again convinced that the nullification prayed for is in order.[36]

We need not say more.

In fine, the right of a bank to foreclose a mortgage upon the mortgagor's failure to pay his obligation must be exercised according to its clear mandate, and every requirement of the law must be complied with, or the valid exercise of the right would end. The exercise of a right ends when the right disappears, and it disappears when it is abused especially to the prejudice of others.[37]

As further declared by this Court in *Philippine Savings Bank v. Spouses Dionisio Geronimo and Caridad Geronimo*:[38]

While the law recognizes the right of a bank to foreclose a mortgage upon the mortgagor's failure to pay his obligation, it is imperative that such right be exercised according to its clear mandate. Each and every requirement of the law must be complied with, lest, the valid exercise of the right would end. It must be remembered that the exercise of a right ends when the right disappears, and it disappears when it is abused especially to the prejudice of others.

We, therefore, affirm the CA and sustain the RTC in nullifying the extrajudicial foreclosure of real estate mortgage and sale, including Metrobank's title.

With this disquisition, we find no necessity to discuss the issue of the validity of the consolidation of title by Metrobank.

WHEREFORE, the petition is DENIED. The challenged Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 87775 are AFFIRMED.

Carpio, (Chairperson), Peralta, Abad, and Mendoza, JJ., concur.

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- [1] Penned by Associate Justice Hakim S. Abdulwahid, with Associate Justices Rodrigo V. Cosico and Mariflor P. Punzalan Castillo, concurring, rollo, pp. 25-37.
- [2] Id. at 166-176.
- [3] Id. at 39-40.
- [4] Exhibit "2"; records, p. 265.
- [5] Exhibit "3"; id. at 266.
- [6] See Exhibits "4" and "5"; id. at 267, 268.
- [7] Exhibit "17"; id. at 285.
- [8] Exhibit "18"; id. at 286.
- [9] Id. at 353.
- [10] Id. at 356-357.
- [11] Id. at 359.
- [12] Exhibit "10"; id. at 273.
- [13] Exhibit "11"; id. at 274-276.
- [14] Id. at 1-8.
- [15] Revising and Consolidating All Laws and Decrees Regulating Publication of Judicial Notices, Advertisements for Public Biddings, Notices of Auction Sales and Other Similar Notices.
- [16] An Act to Regulate the Sale of Property under Special Powers Inserted in or Annexed to Real Estate Mortgages.
- [17] Records, pp. 30-34.
- [18] Id. at 348-350.
- [19] Supra note 2.
- [20] Id. at 416-417.
- [21] Rollo, p. 36.
- [22] CA rollo, pp. 117-118.
- [23] *Langkaan Realty & Devt., Inc. v. UCPB*, 400 Phil. 1349, 1356-1357 (2000).
- [24] Id. at 1357, citing *Reyes v. Court of Appeals*, No. L-52043, August 31, 1981, 107 SCRA 126, 129.
- [25] 321 Phil. 1064, 1069 (1995).
- [26] 331 Phil. 912, 925 (1996).
- [27] G.R. No. 170241, April 19, 2010.
- [28] Supra note 25, at 1070.

[29] Philippine Savings Bank v. Spouses Dionisio Geronimo and Caridad Geronimo, supra note 27.

[30] Records, pp. 348-405.

[31] Philippine Savings Bank v. Spouses Dionisio Geronimo and Caridad Geronimo, supra note 27, citing Metropolitan Bank and Trust Company, Inc. v. Peñafiel, G.R. No. 173976, February 27, 2009, 580 SCRA 352, 357.

[32] Section 3. Judicial notice, when hearing necessary. -- During the trial, the court, on its own initiative, or on request of a party, may announce its intention to take judicial notice of any matter and allow the parties to be heard thereon. (Rule 129, Revised Rules on Evidence).

[33] G.R. No. 170049, March 14, 2008, 548 SCRA 588, 611.

[34] G.R. No. 160236, October 16, 2009, 604 SCRA 73, 91.

[35] Cuenca v. Atas, G.R. No. 146214, October 5, 2007, 535 SCRA 48, 84-85.

[36] Records, pp. 414-416.

[37] PNB v. Nepomuceno Productions, Inc., 442 Phil. 655, 665 (2002).

[38] Supra note 27, citing Metropolitan Bank v. Wong, 412 Phil. 207, 220 (2001).

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