

**EL MONTE DE PIEDAD Y CAJA DE AHORROS DE MANILA, PLAINTIFF
AND APPELLEE, VS. JOSE FERNANDO RODRIGO AND POTENCIANA
DE YUPANGCO, JUDICIAL ADMINISTRATRIX OF THE DECEASED
JUANA MARIA...***G. R. No. 35132. November 25, 1931*

Ponente: IMPERIAL, J.

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El Monte de Piedad y Caja de Ahorros de Manila, an institution organized under the laws in force in the Philippines, brought this action to foreclose a certain mortgage on real estate executed by the defendants to secure the payment of a debt contracted by their co-defendant Jose Fernando Rodrigo.

The latter appealed from the judgment of the Court of First Instance of Manila ordering the defendants to pay the plaintiff entity within the period of three months, or to deposit with the clerk of the court, the sums of P17,481.17, ^98, and P1,500 with interest at 10 per cent per annum upon the sum of P15,000 computed from October 4, 1930; and in default thereof the mortgaged property described in the amended complaint and in Exhibits A, A-1, B, and C, shall be sold at public auction; and also to pay the costs.

Juana Gatmaitan obtained a loan of P15,000 from the appellee, El Monte de Piedad y Caja de Ahorros de Manila; and in order to guarantee the fulfilment of the obligation she mortgaged her share in the property described in certificate of title No. 22559 issued to her and Juana M. Torres, in favor of said appellee; Juana M. Torres, as co-owner, also mortgaged, by the same deed, all her share in the property described in said certificate of title. Juana Gatmaitan having assigned all her rights, interests, and share in the property described in said certificate of title to the appellant Rodrigo, the latter assumed her obligation as to the P15,000 loan, and together with his co-owner Juana M. Torres, again mortgaged, in favor of the creditor, all the property described in transfer certificate of title No. 29292 which was substituted for the original certificate of title. In this mortgage the appellant included another piece of property belonging to him, described in Exhibit C, registered in the registry of deeds in accordance with Act No. 2837.

During the pendency of the action Juana M. Torres died and was substituted by her judicial administratrix, the codefendant Potenciana de Yupangco. The essential conditions of the mortgage having been violated, the creditor brought an action to foreclose the mortgage, and the judgment appealed from awarded to it the amounts set forth at the beginning of this opinion, which represent the principal and interest remaining unpaid on October 4, 1930, the date of the liquidation by the appellee, plus the amount advanced as a fire insurance premium, and the amount stipulated in the penal clause.

The appellant assigns the following as errors: (a) The court erred in rejecting the agreement of November 15, 1930 entered into by counsel for both parties and in not rendering judgment in accordance therewith; and (b) the court erred in exercising jurisdiction over the case after the disapproval of the aforesaid agreement and rendering judgment therein notwithstanding the fact that one of the mortgaged lands is in the Province of Bulacan.

On November 15, 1930, before the case was heard, counsel for both parties entered into a written agreement whereby appellant Rodrigo acquiesced to the complaint and consented that a judgment be rendered against himself alone according to the petition contained therein, and, in turn, the appellee obligated itself to grant him a period of six months to pay the sums claimed, with the understanding that if the payment was made within the period thus stipulated the interest would be remitted and the penalty of P1,500 would be reduced to half. The agreement was reduced to writing and signed by counsel for both parties but without the direct or indirect intervention of the parties themselves. Later on counsel for the appellee realized that the co-defendant judicial administratrix was thereby entirely relieved from the judgment prayed for, which they claimed was contrary to what had been agreed upon, which was to relieve her only of the personal obligation to pay the loan, thus leaving in force her liability as mortgagor. For this reason they withdrew their consent, regarded the agreement as null and void and returned to the appellant the check for P1,500 which they had received in consideration of said agreement. When the case came up for hearing counsel for the appellant submitted the agreement in writing and prayed that judgment be rendered in accordance therewith. Appellee's counsel objected to its admission and alleged that it had already been cancelled for the reasons heretofore stated. The court after hearing counsel for both parties declared it null and void and rejected it.

Considering all the foregoing facts with reference to the written agreement, we are of the opinion that the trial court rightly declared it null and void, and therefore did not commit the alleged error in rejecting it and not basing its judgment thereon. It is obvious that the agreement could have no legal effect inasmuch as it was not signed either by the parties themselves or by their attorneys acting as their duly authorized agents. An examination of the document shows that said attorneys signed it as such, without the proper authority from their clients or as their duly authorized agents. To compound or compromise their clients' rights, lawyers must have special authority or secure the direct intervention of the parties themselves. (Art. 1809, Civil Code and sec. 27, Code of Civil Procedure.) Another ground supporting the court's judgment is the no less certain fact that the agreement did not reflect the real intention, at least of the attorneys for the appellee. They maintain that they had agreed that the judicial administratrix would answer for the judgment foreclosing the mortgage, although she was relieved from the payment of the principal obligation. As said agreement relieved her of both liabilities, counsel for the appellee were within their rights in refusing to recognize its validity and in attacking it as incorrect and void. It would have been evidently prejudicial to the appellee's rights had not a judgment been rendered against the judicial administratrix as to the foreclosure of the mortgage, in as much as it would prevent the sale of all the mortgaged property, and would constitute a violation of the principle of the indivisibility of a mortgage obligation. For these reasons the first assignment of error is untenable.

With reference to the last, it is sufficient to state that two out of the three parcels of land mortgaged, are situated in the City of Manila. Section 254 of the Code of Civil Procedure permits the bringing of an action for foreclosure of a mortgage in the court wherein the land or some part thereof lies. Therefore the court of Manila, as well as that of Bulacan, had jurisdiction over the subject matter of the case, and, consequently, the last error assigned is likewise unfounded and without merit.

The judgment appealed from is affirmed, with costs of this instance against the appellant. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Villamor, Ostrand, Romualdez, and Villa-Real, JJ., concur.

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