

PHILIPPINE NATIONAL BANK, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND DIVINA ALIM, RESPONDENTS.

G.R. No. 60208. December 05, 1985

Ponente: ALAMPAY, J.

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ALAMPAY, J.:

Civil Case No. 7927 which is an action for Annulment of Extra-judicial Foreclosure and Sale of Real Properties and for Damages with Prayer for Preliminary Injunction was filed on April 26, 1975, by the private respondent herein against the Philippine National Bank (PNB) in the Court of First Instance of Quezon Province. On November 27, 1979 a decision was rendered by said court enjoining defendant Philippine National Bank from consolidating its title over the mortgaged properties and directing said bank to allow the private respondent, Divina B. Alim, to redeem the mortgaged properties by accepting payment from the latter; and dismissing all the claims and counterclaims that the parties may have against each other in connection with the case.

This decision which was appealed by the defendant PNB was affirmed on March 25, 1982 by the First Division of the Court of Appeals in CA-G.R. No. 67131-R.

As succinctly stated in the decision of the Court of Appeals, the following material facts are not disputed. These appear to be as follows:

"xxx On February 2, 1968 plaintiff Divina Alim obtained a loan in the total amount of P40,000 from defendant Philippine National Bank secured by three (3) parcels of land registered in the name of herein plaintiff and covered by the following title —

"(a) Transfer Certificate of Title No. 8384 of the Register of Deeds of Lucena City comprising a house of strong materials located along the National Highway, Iyam District, Lucena City, and a lot with an area of 540 square meters, more or less;

"(b) Transfer Certificate of Title Nos. T-79631 and T-79632 of the Registry of Deeds for the Province of Quezon, containing an area of 58 hectares each of a total of 116 hectares, planted with coconut trees."

"For failure of the plaintiff to pay her total obligation upon maturity date, defendant Philippine National Bank extra-judicially foreclosed the mortgaged properties and the Provincial Sheriff of Quezon sold the properties at public auction on February 12, 1973. The defendant Philippine National Bank being the only bidder in said auction sale, all the aforementioned mortgaged properties were sold to the bank for the amount of P59,320.00 which was the total obligation of the plaintiff as of the date of the sale. The said amount already included the principal obligation, attorney's fees and other charges, interests on said amounts plus costs of publication of the Sheriff's notice of auction sale.

"On April 26, 1975, plaintiff instituted the present case for the annulment of the aforesaid extrajudicial foreclosure and sale and for damages with prayer for preliminary injunction."

From the decision rendered by the Court of First Instance of Quezon Province, it can be noted that during the

pendency of the case in the said court the parties attempted to confer with the end in view of settling this case amicably and in the course thereof the plaintiff deposited with defendant bank a sufficient amount to cover the loan and interest thereon as of February 12, 1973 including reimbursement for costs of publication. Thus at the pre-trial, the parties agreed to submit the case for decision only upon the issue as to whether or not the plaintiff should still pay interest specified in the mortgage after the auction sale on February 12, 1973.

The defendant Philippine National Bank contends that the plaintiff is still obligated to pay the said interest citing the provisions of Presidential Decree No. 694, as amended by Presidential Decree No. 1478, particularly Section 25, paragraph 2 thereof.

On the other hand, plaintiff Divina Alim, the private respondent herein cites the case of the Development Bank of the Philippines versus Jovencio A. Zaragosa, et al., 84 SCRA 668, where it was therein ruled that when the foreclosure proceedings are completed all interests of the mortgagor are cut off from the property and that this principle is applicable to an extrajudicial foreclosure.

In rendering the decision in favor of plaintiff Divina Alim, the trial court reasoned out —

"xxx In the case at bar, the foreclosure and subsequent sale of the properties were valid, but because of the timely filing of this case and in view of the Order of June 9, 1975, the consolidated sale could not be made. In the light, therefore, of the above cited ruling of the Supreme Court, (DBP vs. Zaragosa, et al., supra) after the public auction sale on February 12, 1973, the defendant Philippine National Bank can no longer demand payment of interest on the property should the mortgagor exercise her right of redemption." (Annex "B" of Petition, Record on Appeal, p. 101; parenthesis supplied)

This ruling which was sustained by the then Court of Appeals is now the subject of the Petition for Review on Certiorari presented to this Court by the Philippine National Bank.

In its petition, the PNB assails the decision of the defunct appellate court and contends that the interests specified in the mortgage should still be added to the bid or purchase price computed from the time of the auction sale up to the date the mortgaged properties are redeemed as clearly authorized by law. Petitioner invokes Republic Act No. 1300, the original Charter of the PNB, Presidential Decree No. 694 (1975), Republic Act No. 337 known as the General Banking Law and Rule 39 of the Rules of Court, all of which petitioner PNB claims authorize the imposition of the interest specified in the mortgage.

What appears from the case records is that the extrajudicial foreclosure proceedings instituted by the PNB was commenced on May 25, 1972, pursuant to a petition for sale under Act No. 3135 filed by its counsel with the Provincial Sheriff for Quezon Province. By this PNB sought the foreclosure and sale of the properties of the herein private respondent and directed said Sheriff to publish the Notice of Sale in the Quezon Times, Lucena City. In consequence of said petition the Provincial Sheriff sold at public auction the properties of the herein private respondent to the Philippine National Bank, upon the latter's bid of P59,320.00. The corresponding Certificate of Sale was executed by the Sheriff in favor of the Philippine National Bank on February 16, 1973.

Considering that the very step initiated by the Petitioner was a petition for Sale under Act No. 3135 (Annex F. Complaint, Record on Appeal, Rollo, p. 26), the applicable law then would be no other than the said statute. Act No. 3135 being a special law that governs particularly extra-judicial foreclosures, it necessarily excludes the application in this instance of the General Banking Act and the provisions on redemption under the Revised Charter of PNB, Presidential Decree No. 694, which was enacted only in 1975. In the case at bar the mortgage contract was entered into in 1968. In 1968, the governing law on PNB operations was Republic Act No. 1300 but it has been held that "Republic Act 1300 does not contemplate extrajudicial foreclosure" (Co vs. PNB, L-51767, June 29, 1982, 114 SCRA 842, 855).

Since the applicable law is Act 3135, the provisions of Section 30, Rule 39, Rules of Court shall be determinative of the sole issue presented in this case. Section 6 of Act 3135, as amended by Act 4018, provides:

"Sec. 6. — 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, inclusive, of the Code of Civil Procedure, in so far as these are not inconsistent with the provision of this Act." (Underlining supplied).

Section four hundred sixty-four to four hundred sixty-six inclusive, of the Code of Civil Procedure, became Sections 29, 30, and 34 of Rule 39 of our Rules of Court. The same sections were reiterated in the Revised Rules of Court in July 1964 (Co vs. PNB, *supra*).

Pursuant to Section 30 of Rule 39, the redemptioner, who is the private respondent herein, "may redeem the property from the purchaser at any time within twelve (12) months after the sale, on paying the purchaser the amount of his purchase, with one per centum per month interest thereon in addition, up to the time of redemption, together with the amount of any assessments or taxes which the purchaser may have paid therein after purchase and interest on such last named amount at the same interest rate; xxx".

Very clearly then, the interests contemplated under the provisions of Act 3135, as amended, should be limited and restricted to that expressly specified in the aforestated Section 30 of Rule 39 of our Rules of Court.

This would rightfully be so because, as stated in the case of DBP vs. Zaragosa, *supra*, when the foreclosure proceedings are completed and the mortgaged property is sold to the purchaser then all interests of the mortgagor are cut off from the property. Prior to the completion of the foreclosure, the mortgagor is liable for the interests on the mortgage. However, after the foreclosure proceedings and the execution of the corresponding certificate of sale of the property sold at public auction in favor of the successful bidder, the redemptioner mortgagor would be bound to pay only for the amount of the purchase price with interests thereon at the rate of one per centum per month in addition, up to the time of redemption, together with the amount of any assessments or taxes which the purchaser may have paid thereon after the purchase and interest on such last named amount at the same rate.

WHEREFORE, the petition in this case is hereby granted. The decision appealed from is affirmed with modification, so as to read as follows:

- (a) Making the writ of preliminary injunction issued by this Court in its Order of June 9, 1975, permanent and irrevocable;
- (b) Allowing the plaintiff to redeem the mortgaged properties by paying the amount of the purchase with interests thereon at the rate of one per centum per month up to the date of her deposit of the redemption price and ordering the defendant to accept payment from the plaintiff;
- (c) Dismissing all the claims and counterclaims that the parties may have against each other in connection with this case.

No costs.

SO ORDERED.

Aquino, C.J., Concepcion, Jr., Plana, Relova, Gutierrez, Jr., De La Fuente, and Patajo, JJ., concur.

Teehankee, J., in the result.

Abad Santos, Escolin, and Cuevas, JJ., no part.

Melencio-Herrera, J., on leave.

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