

## PHILIPPINE NATIONAL BANK, PETITIONER, VS. FILEMON REMIGIO AND THE HON. COURT OF APPEALS, RESPONDENTS.

*G.R. No. 78508. March 21, 1994*

Ponente: VITUG, J.

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### VITUG, J.:

Questioned in this appeal instituted by petitioner Philippine National Bank is the decision, dated 05 May 1987, of the appellate court, which has reversed the decision of the then Court of First Instance ("CFI" and now Regional Trial Court) of Isabela, Branch 5, Echague, by ruling in favor of private respondent Filemon Remigio.

The facts, by and large, are undisputed. In chronology, the events leading to this appeal may be recited, thus:

(1) On 25 August 1967, private respondent obtained from petitioner a P65,000.00 loan secured by a real estate mortgage covering five (5) parcels of land in Isabela described in and embraced by Transfer Certificates of Title ("TCT") No. T-11326, T-681, T--100, and T-27 and Original Certificate of Title No. I--1673.

(2) Private respondent defaulted; hence, on 17 November 1970, petitioner bank extrajudicially foreclosed on the mortgage, and it acquired the encumbered assets for the sum of P87,082.00. The sheriff's sale was registered with the Office of the Register of Deeds of Isabela only on 11 October 1972.

(3) In its letter-offer of 15 February 1971, petitioner bank invited private respondent to repurchase the foreclosed property for P87,082.00 plus interest and other charges. Before that, or on 18 November 1970 (or one day after the foreclosure sale), private respondent already had paid an initial P10,000.00 to redeem the property. Subsequently, additional payments were made by private respondent, i.e., P10,000.00 on 26 April 1971 and another P20,000.00 on 17 May 1971.

(4) On 21 October 1972, Presidential Decree ("P.D.") No. 27 was enacted into law that mandated an agrarian reform. Pursuant thereto, an "Operation Land Transfer Program" was launched; among the areas it covered were the parcels of land under TCT No. T-100, T-11326 and T-681.

(5) On 17 April 1974, private respondent offered to buy the foreclosed property for P284,000.00 which was the market and appraised value thereof fixed by petitioner bank. On 24 December 1974, the Deed of Promise to Sell was executed between petitioner bank and private respondent.

(6) In a letter, dated 25 August 1978, sent to and received by petitioner bank on even date, private respondent, through counsel, inquired why he was still being made to buy the property for P284,000.00 when, in truth, he had already paid P40,000.00 of the P87,082.00 previously offered by petitioner for the redemption of the property. There was no reply or response from petitioner. As of 02 November 1977, private respondent had paid petitioner the total sum of P207,243.85, itemized, as follows:

1. 18 November 1970

-

P10,000.00

609324-E

2. 26 April 1971

-

10,000.00

614980-E

3. 14 May 1971

-

20,000.00

615701-E

4. 17 April 1974

-

5,000.00

898926-F

5. 23 May 1974

-

16,000.00

902110-F

6. 27 May 1974

-

15,000.00

902305-F

7. 14 June 1974

-

10,000.00

903771-F

8. 20 December 1974

-

14,000.00

40135-H

9. 17 December 1976

-

40,030.75

165395-I

10. 7 January 1977

-

22,213.10

166579-I

11. 2 November 1977

-

45,000.00

32641

(7) Private respondent, on 20 September 1978, instituted an action for "Annulment of Foreclosure Deed, Breach of Contract, Sum of Money and Damages" at the CFI, Echague, Isabela, against petitioner bank and its Branch Manager Leuterio Genato.

(8) On 19 March 1980, while the case was yet pending with the trial court, petitioner bank additionally received from the Land Bank of the Philippines P26,348.12 in cash and P160,000.00 worth of Land Bank Bonds in payment of the foreclosed parcels covered by TCT No. T-100, T-11326, and T-681.

On 05 December 1981, after trial, the court a quo rendered judgment in favor of petitioner bank, the dispositive portion of which read:

"WHEREFORE, in the light of the foregoing considerations, judgment is hereby rendered:

"1. DECLARING the foreclosure sale of the plaintiff's mortgaged properties, covered by and embraced in Original Certificate of Title No. I-1673 and Transfer Certificates of Title Nos. T-11326, T-681, T-100 and T-27, all of the Registry of Deeds of Isabela, as valid;

"2. DECLARING the right of the plaintiff to redeem his foreclosed properties as forever lost;

"3. DECLARING the deed of promise to sell executed between the plaintiff and the defendant bank as valid;

"4. DECLARING that the outstanding obligation of the plaintiff to the bank is P186,874.16 from which shall be deducted whatever payments are made and/or to be made by the Land Bank of the Philippines as a result of its Operation Land Transfer Program;

"5. ORDERING that whatever balance thereof shall be paid by the plaintiff to the defendant bank with twelve per cent (12%) interest until fully paid and conversely, whatever excess thereof shall be refunded by the defendant bank to the plaintiff;

"6. ORDERING the defendant bank to execute the corresponding deed of conveyance of the lands to and in favor of the plaintiff after payment is made in accordance with the above;

"7. ORDERING the defendant bank to deliver to the plaintiff the certificates of title covering the properties mentioned above;

"8. DISMISSING the complaint, with costs against the plaintiff;

"9. ORDERING the plaintiff to pay to the defendant, Leuterio Genato, the sum of TEN THOUSAND PESOS

(P10,000.00) as attorney's fees and FIVE THOUSAND PESOS (P5,000.00) as expenses of litigation; and

"10. DENYING the defendant bank's counterclaim." (pp. 128-129, Rollo.)

Private respondent went to the Court of Appeals, which, on 05 May 1987, rendered a decision, reversing the trial court and entering a new one in favor of private respondent. The appellate court adjudged, as follows:

"WHEREFORE, the decision appealed from is set aside and a new one entered declaring the foreclosure of the mortgaged properties to be without force and effect; ordering the defendant bank to release the properties and the plaintiff to transfer the rights to the tenants-beneficiaries in favor of the Land Bank of the Philippines; declaring the deed of promise to sell executed by the plaintiff and the defendant bank rescinded; ordering the defendant bank and the Land Bank of the Philippines to recalculate the amounts of payments due for the transfer of the subject properties in accordance with this Decision subject to the provisions of P.D. No. 27 and in accordance with the mechanics of the Operation Land Transfer; and, annulling the order of the lower court for the plaintiff to pay the defendant the expenses of litigation and attorney's fees."

Hence, this petition for review on certiorari.

The petition cannot be sustained.

When Presidential Decree No. 27, "Decreeing the Emancipation of Tenants from the Bondage of the Soil, Transferring to them the Ownership of the Land They Till and Providing the Instruments and Mechanism therefor," was enacted on 21 October 1972, the parcels of land in dispute were clearly still subject to private respondent's right of redemption. In the foreclosure of real property by banking institutions, as well as in the extrajudicial foreclosure by any other mortgagee, the mortgagor could redeem the property within one year from date of registration of the deed of sale in the appropriate Registry of Deeds (*Santos vs. Register of Deeds of Manila*, 38 SCRA 42; *Reyes vs. Noblejas*, 21 SCRA 1027). In *Medida vs. Court of Appeals* (208 SCRA 887), we ruled that the "title to the land sold under a mortgage foreclosure remains with the mortgagor or his grantee until the expiration of the redemption period x x x." The Court of Appeals committed no error when it thereby held:

"x x x. The foreclosure proceedings were instituted in 1970, and on this, there appears to be no question. The registration of the sheriff's sale was, however, effected only on October 11, 1972. From this date, therefore, the period of redemption begins to run since, according to judicial construction, the period of redemption begins to run not from the date of the sale but from the date of registration of the sale in the office of the Register of Deeds, applying this rule not only to an execution sale but also to an extrajudicial foreclosure sale of registered land (*Salazar vs. Meneses*, 118 Phil. 512; *Reyes vs. Noblejas and Santos*, 65 O.G. 21, May 26, 1969; *Santos vs. RFC*, 101 Phil. 980; *Reyes vs. Tolentino*, G.R. NO. L--29142, Nov. 29, 1971) as required under Section 27 of Rule 39 of the Rules of Court in relation to Section 50 of Act No. 496. For this reason, the foreclosure proceedings were not completed since the period of redemption, counted from October 11, 1972, would expire on October 12, 1973. This would thereby bring the disputed properties under the operation and under the ambit of the said Opinion which interprets Operation Land Transfer under P.D. No. 27. x x x." (Rollo, pp. 87-88.)

It was not thus all that consequential for the appellate court to still rule on the efficacy or inefficacy of the foreclosure.

In passing, the Secretary of the Department of Justice has himself opined thus:

"I am aware that a ruling that lands covered by P.D. No. 27 may not be the object of the foreclosure proceedings after the promulgation of said decree on October 21, 1972, would concede that P.D. No. 27 had the effect of impairing the obligation of the duly executed mortgage contracts affecting said lands. There is no question, however, that the land reform program of the government as accelerated under P.D. NO. 27 and mandated by the Constitution itself (Art. XIV, Sec. 12), was undertaken in the exercise of the police power of the state. It is settled in a long line of decisions of the Supreme Court that the Constitutional guaranty of

non-impairment of obligations of contract is limited by the exercise of the police power of the state (citations omitted). One limitation on the contract clause arises from the police power, the reason being that public welfare is superior to private rights (citation omitted). The situation here, is like that in eminent domain proceedings, where the state expropriates private property for public use, and the only condition to be complied with is the payment of just compensation. Technically, the condemnation proceedings do not impair the contract to destroy its obligations, but merely appropriate or take for public use (citation omitted). As the Land Bank is obliged to settle the obligations secured by the mortgage, the mortgagee is not left without any compensation." (Opinion No. 92, Series of 1978; Rollo, pp. 88-89.)

The opinion deserves respect (42 Am. Jur. p. 421; *Cagayan Valley Enterprises, Inc. vs. Court of Appeals*, 179 SCRA 218; *Ramon Salaria vs. Hon. Carlos R. Buenviaje, et al.*, 81 SCRA 722). This Court, likewise, in a number of cases has expressed the dictum that police power subordinates the non-impairment clause of the Constitution (*Ortigas & Co. Ltd. Partnership vs. Feati Bank and Trust Co.*, 94 SCRA 533; *Kabiling vs. National Housing Authority*, 156 SCRA 623; *Anglo-Fil Trading Corporation vs. Lazaro*, 124 SCRA 494).

Petitioner contends that the Court of Appeals has erred in holding that the bank is entitled only to P87,012.00, and not to P284,000.00, which it considers to be the fair market value of the property foreclosed. Here, the Court of Appeals has explained:

"We come to the respective liabilities and obligations of the parties. To date, the defendant bank has received P207,243.85 from the plaintiff (Stipulation of Facts, No. 15). In addition, the defendant bank has also been the recipient of bonds worth P160,000.00 and cash in the amount of P26,348.12 from the Land Bank in payment for the properties covered by TCTs Nos. T-100, T-11326 and T-681 or a total amount of P186,348.12. The defendant bank has accepted payment of the latter amount at P170,348.12. All in all, the bank has received payments in cash and bonds in the amount of P377,591.97 as compensation for the plaintiff's original obligation of P65,000.00. The total amounts paid by plaintiff represent the consideration in part of the market price of the properties as found by the Loans and Discount Section of the defendant bank irrespective of whether or not the lands are covered by Operation Land Transfer. The cash and bonds payments made by the Land Bank to the PNB on the other hand, represent payments for the lands covered by Operation Land Transfer, namely T--100, T-11326 and T-681. For its part, the lower court ruled that the plaintiff's obligation to the defendant bank amounts to P186,874.16 based on the market price as determined by the Loans and Discount Section of the defendant bank which market price amounts to P284,000.00. In view of Our conclusion that the subject mortgaged properties fall under the ambit and purview of Operation Land Transfer under P.D. No. 27, it appears that said adjudged amount is in excess of the rightful amount that is due the defendant bank by the plaintiff. We hold, therefore, that the defendant bank is entitled to a payment of P87,012.00 representing the offer of the defendant bank to the plaintiff in the same bank's letter to the plaintiff dated February 15, 1971. The plaintiff is, therefore, entitled to a refund of whatever over payments were made by him in favor of the defendant bank. The amount of P87,012.00 represents the redemption price of the foreclosed properties and as a release of the said properties for redistribution to qualified tenants." (pp. 89-90, Rollo.)

In *Development Bank of the Philippines vs. Mirang*, 66 SCRA 141, we have ruled that the right of redemption by the mortgagor could be exercised by paying to the creditor bank all the amounts owing to the latter "on the date of the sale, with interest on the total indebtedness at the rate agreed upon in the obligation from said date." In the case of foreclosures by the Philippine National Bank particularly, Section 20 of its own charter provides:

""SEC. 20. Right of Redemption of property foreclosed. - The mortgagor shall have the right, within the year after the sale of real estate as a result of the foreclosure of a mortgage, to redeem the property by paying the amount fixed by the court in the order of execution, with interest thereon at the rate specified in the mortgage, and all the costs and other judicial expenses incurred by the Bank by reason of the execution and sale and for the custody of said property." (Republic Act No. 1300).

Accordingly, the appellate court did not commit any reversible error in ordering petitioner bank and the Land Bank of the Philippines to recalculate the amounts of payments due for the transfer of the foreclosed property.

WHEREFORE, the appealed decision is AFFIRMED.

**SO ORDERED.**

Feliciano, (Chairman), Bidin, Romero, and Melo, JJ., concur.

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