

SECOND DIVISION

[G.R. No. 226272, September 16, 2020]

PANACAN LUMBER CO., ANTONIO B. GO, MA. TERESA C. GO AND DOROTEA B. GO, PETITIONERS, VS. SOLIDBANK CORP., (NOW METROPOLITAN BANK & TRUST COMPANY),^[1] RESPONDENT.

DECISION

HERNANDO, J.:

Challenged in this Petition^[2] is the July 31, 2015 Decision^[3] and August 12, 2016 Resolution^[4] of the Court of Appeals (CA) in CA-G.R. CV No. 99342 which reversed and set aside the February 13, 2012 Decision^[5] of the Regional Trial Court (RTC), Branch 42 of Manila in Civil Case No. 99-95722. The CA affirmed the following obligations of petitioner Panacan Lumber Co. (PLC), Antonio B. Go (Antonio), Ma. Teresa C. Go (Teresa) and Dorotea B. Go (Dorotea) in favor of respondent Solidbank Corp. (Solidbank), now Metropolitan Bank & Trust Company (MBTC): (a) PLC's remaining loan obligation under the Foreign Letter of Credit (FLC) in the amount of US\$108,000.00 subject to 6% interest rate per *annum* from May 1997 until the date of foreclosure sale in October 1999; and (b) PLC's loan obligation of P700,000.00 under renewal promissory note (PN) subject to 6% interest rate per *annum* from November 1997 until the date of foreclosure sale in October 1999.

The appellate court further 1) declared the title over the mortgaged property consolidated in the name of Solidbank as null and void for having been issued in violation of the writ of preliminary injunction issued by the trial court; 2) granted to mortgagors, petitioners PLC, Antonio, Teresa and Dorotea, a period of one (1) year from the finality of the decision within which to redeem the subject property by paying the redemption price plus one percent (1%) interest per month from the time of foreclosure until the actual redemption; 3) deleted the award of temperate damages of P400,000.00 and attorney's fees of P100,000.00 for lack of sufficient basis and merit; and 4) affirmed the dismissal of MBTC's counterclaims for lack of merit.

The Antecedents

On March 7, 1997, Solidbank issued a FLC^[6] worth US\$168,000.00 in favor of PLC to finance the latter's importation of lumber which was allegedly secured by a Domestic Letter of Credit (DLC)^[7] dated February 14, 1997 valued at P4,240,000.00 issued by Philippine Commercial and Industrial Bank (PCIB). However, when the shipment arrived in Davao City, Solidbank refused to release the shipping documents necessary for the discharge of the goods for failure of PLC to pay the amount of US\$168,000.00 under the FLC. In April 1997, PLC made partial payments of US\$60,000.00 on its obligation under the FLC.^[8]

Meanwhile, on March 27, 1997, PLC obtained a loan from Solidbank in the amount of P700,000.00 under PN No. 96000251 which would pay for the taxes, duties and insurance premium on said lumber importation. As a security for the said loan, petitioners Antonio and Teresa executed a real estate mortgage (REM) over the property covered by Transfer Certificate of Title (TCT) No. T-217531. They were allegedly made to sign blank forms purporting to be a deed of REM with a principal amount of P2,000,000.00^[9]

On October 24, 1997, Solidbank agreed to renew PLC's loan for another P700,000.00 after payment of interests and other charges by petitioners. However, petitioners failed to pay the balance of the total obligation which resulted in the extra-judicial foreclosure of mortgage over the property covered by TCT No. T-217531 with a principal obligation of P700,000.00. Solidbank later amended its Petition for Extra-Judicial Foreclosure of Mortgage to increase the loan obligation to P1,140,245.10. It then filed a Second Amended Petition to include petitioner PLC's obligation under the FLC which resulted in the total loan obligation of P9,151,667.89.^[10]

On October 4, 1999, a public auction was held where Solidbank was adjudged as the highest bidder for the bid price of P2,637,600.00. Consequently, on November 22, 1999, petitioners filed a complaint^[11] against Solidbank, the Clerk of Court and Ex-Officio Sheriff of Manila, and Mario P. Villanueva (Villanueva), Sheriff-in-Charge, with prayer for the issuance of a temporary restraining order and writ of preliminary injunction. Petitioners claimed that they suffered damages by way of unrealized profits on account of Solidbank's refusal to release the shipping documents pertaining to the lumber importation and that they were prejudiced by the subsequent foreclosure of mortgage over the property covered by TCT No. T-217531, which wrongfully included the obligation under the FLC.

Solidbank opposed petitioners' application for a temporary restraining order and writ of preliminary injunction. In its Answer with Compulsory Counterclaim,^[12] Solidbank argued that it acted within its rights when it did not release the shipping documents pertaining to PLC's lumber importation as the latter failed to submit the documents required to effect payment on its PCIB's DLC despite several extensions given. As to the foreclosure of the REM, Solidbank insisted that it included "any and all existing indebtedness of, and such other Loans and Credit facilities which may hereafter be granted to Panacan Lumber Company". In addition, the bank contended that it has fully and substantially complied with the legal and procedural requirements to foreclose the REM. It denied any liability for any unrealized profits or damages the petitioners may have suffered when it withheld the release of the shipping documents. It further asserted that the interest and other charges are reasonable and based on the prevailing interest rate at the time the loan was granted and that the dollar-to-peso conversion rate was computed at the time of payment pursuant to law and prevailing jurisprudence.

On October 31, 2000, the trial court issued an Order^[13] which granted petitioners' prayer for the issuance of a writ of preliminary injunction and enjoined respondent from further executing acts towards consolidating Solidbank's ownership over the property covered by TCT No. T-217531. Thereafter, trial on the merits ensued.

Despite the issuance of a preliminary injunction, Solidbank proceeded to consolidate its ownership over the subject property. Thus, petitioners filed a Motion to Admit Supplemental Complaint^[14] to include Solidbank's successor-in-interest, MBTC, the registered owner of the subject property. The trial court granted the said motion in its February 17, 2005 Order.^[15]

However, Solidbank failed to present any of its witnesses and file its memorandum within the reglementary period. Thus, petitioners moved that the case be submitted for decision. Nonetheless, the trial court allowed Solidbank to present its witness in its March 20, 2009 Order^[16] over the objection of petitioners. Petitioners moved for the reconsideration of the said Order and for the inhibition of Judge Gregorio B. Clemeña (Judge Clemeña). Consequently, Judge Clemeña inhibited from the case but denied petitioners' motion for reconsideration in his May 11, 2009 Order.^[17]

Hence, petitioners elevated the case on *certiorari*^[18] under Rule 65 before the CA docketed as CA-G.R. SP No. 109777. The appellate court subsequently granted the petition in its March 29, 2010 Decision^[19] and set aside the March 20, 2009 and May 11, 2009 Orders issued by Judge Clemeña of the RTC of Manila, Branch 51. The appellate court also enjoined the Presiding Judge of RTC of Manila, Branch 42, to which the case was re-raffled, from further receiving evidence for Solidbank and considered the case submitted for decision. Solidbank's motion for reconsideration was likewise denied by the CA in its August 13, 2010 Resolution.^[20] Thus, it brought the matter to this Court via a petition for review on *certiorari* which was however denied in Our September 27, 2010^[21] and January 12, 2011^[22] Resolutions.

Meanwhile, Solidbank presented its bank manager, Teresita Javellana, as witness and filed its formal offer of evidence. However, the trial court in its April 19, 2011 Order^[23] refused to act on the said formal offer upon notice of this Court's ruling on the petition for review on *certiorari*. Solidbank moved for the reconsideration thereof which was however denied by the trial court in its July 4, 2011 Order.^[24] Hence, Solidbank simply tendered its excluded evidence.

Ruling of the Regional Trial Court:

On February 13, 2012, the trial court rendered its Decision^[25] which ordered Solidbank to pay petitioners the amount of P400,000.00 as temperate damages and P100,000.00 as attorney's fees plus costs. The trial court likewise nullified the foreclosure proceedings and sale of the subject property and TCT No. T-251604 registered under MBTC. Lastly, the trial court ordered the dismissal of Solidbank's counterclaims.

Ruling of the Court of Appeals:

Upon appeal, the appellate court in its July 31, 2015 Decision,^[26] partially granted Solidbank's appeal. It reversed and set aside the RTC's February 13, 2012 Decision, to wit:

WHEREFORE, premises considered, the instant appeal is PARTIALLY GRANTED.

The Decision dated February 13, 2012, of Branch 42 of the Regional Trial Court of Manila in Civil Case No. 99-95722 is REVERSED and SET ASIDE. Judgement is hereby rendered as follows:

(I) Affirming the remaining balance of loan obligation under the letter of credit in the amount of US\$108,000.00 subject to 6% interest per *annum* from May 1997 until the date of the foreclosure sale in October 1999 and applying the current exchange rate at the time payment is to be made;

(II) Affirming the loan obligation of P700,000.00 under renewal promissory note subject to 6% interest per *annum* from November 1997 until the date of the foreclosure sale, October 1999;

(III) Declaring the consolidation of title over the mortgaged property now in the name of defendant-appellant Metropolitan Bank & Trust Company, as null and void, for being in violation of the writ of preliminary injunction issued by the trial court and granting to the mortgagors, plaintiffs-appellees herein, a period of one (1) year from the finality of this Decision within which to redeem the subject property by paying the redemption price, following the computation in paragraphs I and II hereof, plus one percent (1%) interest per month thereon, from the time of foreclosure up to the time of the actual redemption, pursuant to Section 28, Rule 39 of the 1997 Rules of Civil Procedure.

(IV) Deleting the award of temperate damages of P400,000.00 for the claim of unrealized profits and attorney's fees of P100,000.00 for lack of sufficient basis and for lack of merit.

(V) Affirming the dismissal of defendant-appellant Solidbank Corporation's (now Metropolitan Bank & Trust Company) counterclaims for lack of merit.

No pronouncement as to costs.

SO ORDERED.^[27]

Petitioners moved for the reconsideration of the appellate court's assailed Decision but the same was denied by the CA in its August 12, 2016 Resolution.^[28] Hence, petitioners filed this Petition for Review on *Certiorari*^[29] under Rule 45.

ISSUES

The issues to be resolved in this case are the following:

1. Whether or not the extra-judicial foreclosure of the [REM] is null and void due to the lack of personal notice to petitioners of the two amended petitions for extra-judicial foreclosure filed by Solidbank.
2. Whether or not the PCIB's [DLC] was issued for the purpose of securing the transaction covered by the [FLC].
3. Whether or not the mortgage contract includes PLC's other loan obligations.
4. Whether or not Solidbank committed a breach of contract when it amended the petition for foreclosure of [REM] to include PLC's other loan obligations.
5. Whether or not the appellate court erred when it granted Solidbank's counterclaim despite its failure to adduce evidence and when it adjudicated matters not litigated nor raised by the parties in their pleadings.

Petitioners argue that the foreclosure proceedings should be declared null and void due to Solidbank's failure to notify them of the two amended petitions for extra-judicial foreclosure of the REM. They contend that although Section 3 of Act No. 3135,^[30] as amended by Act No. 4118,^[31] requires only posting of sale in three public places and the publication of that notice in a newspaper of general circulation, however, the parties may stipulate with respect to notices of the foreclosure. Petitioners assert that they agreed that all correspondence relative to the mortgage shall be sent by Solidbank to PLC. Nonetheless, Solidbank failed to notify petitioners of its two amended petitions for extra-judicial foreclosure as well as the foreclosure sale.

Petitioners further argue that the appellate court did not act on the issue of the nullity of the foreclosure on the pretext that it was not raised as a cause of action and/or on appeal. Petitioners insist that lack of notice to them of the two amended petitions was a judicially admitted fact, thus, it was grievous error on the part of the appellate court not to rule on the issue of nullity of foreclosure due to lack of personal notice.

Moreover, petitioners contend that they submitted the PCIB's DLC to Solidbank as a security for the FLC. The testimony of Antonio is undisputed that PLC applied for a FLC to finance its lumber importation and as required by Solidbank, PLC submitted PCIB's DLC as a collateral security. However, Solidbank was remiss in its duty when it did not ensure that it can draw from the PCIB's DLC to protect its interest before it issued the FLC to PLC. Thus, Solidbank committed a breach of contract when it refused to release the shipping documents in favor of PLC despite the presence of a collateral security. In addition, Solidbank had no valid reason to withhold the bill of lading as the agreement states that it shall have a lien on the goods, or shipment in case of default in payment.

Petitioners further argue that the REM only covers the loan obligation in the amount of P700,000.00 and not the loan obligation under the FLC in the amount of