

THIRD DIVISION

[G.R. No. 222078, April 01, 2019]

**ROGACIANO L. OROPEZA AND AMELDA S. OROPEZA,
PETITIONERS, VS. ALLIED BANKING CORPORATION (NOW
PHILIPPINE NATIONAL BANK) AND REGISTER OF DEEDS FOR
CITY OF DAVAO, RESPONDENTS.**

DECISION

PERALTA, J.:

This is to resolve the Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court, dated December 21, 2015, of petitioners Rogaciano L. Oropeza and Amelda S. Oropeza that seeks to reverse and set aside the Decision^[2] dated August 27, 2014 and the Resolution^[3] dated November 25, 2015 of the Court of Appeals (CA) in CA-G.R. CV No. 02451-MIN denying petitioners' "Petition for Cancellation of Derivative Titles and Their Reversion/Reinstatement to the Original Registered Owner/s and the Cancellation of Annotations on the Title of their Original Owners and/or Issuance of New Title In Lieu of Cancelled Ones, Clean and Clear of Subject Annotations" on the basis of laches.

The facts follow.

Petitioners, on November 30, 2006, filed a "Petition for Cancellation of Derivative Titles and Their Reversion/Reinstatement to the Original Registered Owner/s and the Cancellation of Annotations on the Title of their Original Owners and/or Issuance of New Title In Lieu of Cancelled Ones, Clean and Clear of Subject Annotations" against respondents Allied Banking Corporation (now Philippine National Bank) and Register of Deeds for City of Davao, with the following allegations:

2.0 That PETITIONERS were two of the defendants in Civil Case No. 19,634-89 entitled ALLIED BANKING CORPORATION vs. ROGACIANO OROPEZA, et al[.], which pended and was tried before the Regional Trial Court, Branch 9, Davao City;

3.0 That on October 26, 1992[,], the Honorable Regional Trial Court, Branch 09, Davao City rendered a Decision, in the above- mentioned case in favor of herein PETITIONERS and against the RESPONDENT x x x;

3.01 That RESPONDENT BANK appealed the abovementioned Decision to the Court of Appeals which rendered its Decision on May 2, 2000, dismissing the appeal and affirming the said judgment *in toto* x x x;

3.02 The RESPONDENT BANK moved for the reconsideration of the above-mentioned Decision of the Court of Appeals, which

DENIED said motion for reconsideration in its Resolution dated February 16, 2001 x x x;

3.03 That per ENTRY OF JUDGMENT issued by the Division Clerk of Court of the Court of Appeals, the said Decision on May 2, 2000, "has on March 18, 2001 become final and executory and is hereby recorded in the Book of Entries of Judgments."

4.0 But, a twin or companion Complaint/case for Sum of Money was also filed by RESPONDENT BANK (which under the present rules would have been a violation of the Non-forum Shopping Rule), which was docketed as Civil Case No. 19,325-88 before the Regional Trial Court, Branch 15, Davao City.

4.01 This second case was based on the same Promissory Note, dated October 12, 1982, which was declared VOID and of NO FORCE AND EFFECT by the Regional Trial Court, Branch 9, Davao City, in Civil Case No. 19,634-89. It is worthy to note that this second case was not denominated as a case for deficiency judgment. It was simply a complaint for a "Sum of Money."

4.02 This second case was ultimately rightly and judiciously DISMISSED by the said Regional Trial Court, Branch 15, on February 21, 1994 x x x;

4.03 On appeal by RESPONDENT BANK to the Court of Appeals, however, said decision was reversed by the First Division, Court of Appeals in CA-G.R. CV No. 4775, on March 13, 1997. PETITIONERS moved for the reconsideration of the said decision of the Court of Appeals. Said PETITIONERS' motion for reconsideration, however, was DENIED.

4.04 But on a petition for review on appeal by certiorari to the Supreme Court, PETITIONERS' petition was granted on December 3, 2002 by the Second Division, Supreme Court in G.R. No. 129788, setting aside the said Decision and Order of the Court of Appeals x x x;

4.05 That per ENTRY OF JUDGMENT in G.R. No. 129788 issued by the Clerk of Court, Second Division, Supreme Court, that the above decision has on January 24, 2003 become final and executory as is hereby recorded in the Book of Entries of Judgments.

5.0 That by virtue of the Judgment of the Regional Trial Court of Davao City, Branch 9, in Civil Case No. 19634-89 (which was AFFIRMED AND REITERATED by the Court of Appeals and cited/adjudged as "conclusive upon the parties" by the Supreme Court in G.R. No. 129788) that -

(2) Individual defendants' accounts have been satisfied, paid and set-off by their deposit and receivables from General

Banking Corporation evidenced by Exhibits "46", "46-A" and "46-B";

(3) The promissory note dated October 12, 1982 executed by the defendants spouses is declared void and of no force and effect;

the annotations of the necessary contract of mortgage securing then the accounts with General Bank and Trust Corporation and, as importantly, the alleged principal obligation under the Promissory Note of October 12, 1982, on the back of or on the Memorandum of Encumbrances on the thirty-seven (37) Transfer Certificates of Title, hereinafter enumerated, registered in the name of [PETITIONERS], should be NULLIFIED and CANCELLED.

6.0 But, apparently, the RESPONDENT BANK had surreptitiously caused the foreclosure of the said mortgages and, eventually, succeeded in transferring and registering the foreclosed properties in its name, in the meantime. Because of this fact, PETITIONERS cannot simply and directly request of the RESPONDENT REGISTER OF DEEDS to cancel the entries in relation to the accounts with General Banking Corporation and, as importantly, the alleged principal obligation under the Promissory Note of October 12, 1982 and the alleged mortgage/s that secured it, on the back of or on the Memorandum of Encumbrances on the thirty-seven (37) Transfer Certificates of Title, hereinafter enumerated, registered in the name of PETITIONERS;

7.0 That because of the adjudged nullity of the Promissory Note, dated October 12, 1982, and necessarily the nullity, too, of the accessory contract/s of mortgage, there was no existing obligation to pay, neither mortgage to breach, nor mortgaged property to foreclose. Any foreclosure of the said void and inexistent mortgages as well as the proceedings conducted thereon were, and still are, completely without legal basis, unauthorized, illegal and also void. The extrajudicial foreclosure, therefore, of the properties subject hereof, as hereinunder enumerated, as well as all the proceedings taken thereon, should be DECLARED illegal and void *ab initio*. As a necessary consequence, the transfer certificates of title over said real properties now in the name of RESPONDENT BANK should be CANCELLED and REVERTED to their respective original registered owner/s or that PETITIONERS should be REINSTATED therein, as the original owner/s.

[8.0] To accomplish the above-stated REVERSION and REINSTATEMENT, it is most respectfully moved and prayed of this Honorable Court to ORDER the RESPONDENT BANK to immediately SURRENDER and DELIVER all the above-mentioned thirty-seven (37) derivative Transfer Certificates of Title to this Honorable Court or to the REGISTER OF DEEDS FOR THE CITY OF DAVAO;

[8.01] And thereafter for this Honorable Court to further issue an ORDER to the RESPONDENT REGISTER OF DEEDS to CANCEL, VOID, and NULLIFY said derivative transfer

certificates of title in the name of RESPONDENT BANK and/or such other derivative title/s and to RESTORE and REINSTATE "[ROGACIANO] L. OROPEZA, of legal age, single, and a resident of Davao City" and "[ROGACIANO] L. OROPEZA, of legal age, married to AMELDA S. OROPEZA, and residing at Davao City, Philippines", as the case may be, as registered owners thereof, and/or to ISSUE the corresponding new Transfer Certificate of Title in their names, as above-specified;

[8.02] To, furthermore, ORDER the RESPONDENT REGISTER OF DEEDS to CANCEL the x x x the entries annotated at the back of or on the Memorandum of Encumbrances portion of the aforementioned thirty-seven (37) Transfer Certificates of Title x x x;

[9.0] That very clearly, the foregoing circumstances had been brought about due to the fault, improvidence, gross negligence, evident bad faith, and fraudulent acts of the RESPONDENT BANK;

[10.0] That in view of the foregoing precipitate, malicious, fraudulent and iniquitous acts of RESPONDENT BANK, the PETITIONERS have been compelled to engage the services of counsel at an agreed fee of Two Hundred Thousand (P200,000.00) Pesos on top of the Two Thousand Five Hundred (P2,500.00) Pesos appearance fee per scheduled incident in court, and have otherwise been placed into unnecessary expenses of litigation, which stand at One Hundred Thousand (P100,000.00) Pesos, as of the filing hereof.^[4]

In its Answer, respondent bank claimed that petitioners have no cause of action as they are precluded from asserting the claims subject of the complaint on the ground of forum shopping. It also argued that the circumstances obtaining in the case show that petitioners have already sought the judicial remedies of declaration of illegality of foreclosure and recovery of ten foreclosed properties. It further asserted that the Decision^[5] dated October 26, 1992 of the Regional Trial Court (RTC), 11th Judicial Region, Branch 9, Davao City, did not provide any declaration of illegality of foreclosure, neither did it provide for the return of the ten parcels of land; and that petitioners did not appeal nor seek reconsideration of the said decision. Lastly, respondent bank alleged that the extrajudicial foreclosure sale of the subject properties transpired twenty years ago; thus, petitioners are already barred by laches for their failure to promptly assail the said sale. Respondent bank, by way of counterclaim, prayed for the award of moral damages, exemplary damages and attorney's fees.

On June 4, 2010, the RTC, 11th Judicial Region, Branch 16, Davao City, dismissed petitioners' complaint and compulsory counterclaim, thus:

PREMISES TAKEN, judgment is hereby rendered DISMISSING:

1. The COMPLAINT; and
2. The COMPULSORY COUNTERCLAIM.

SO ORDERED.^[6]

In dismissing the complaint and counterclaim, the RTC cited the following reasons:

THE EXTRAJUDICIAL FORECLOSURE IS VALID AND CAN NO LONGER BE ANNULLED FOR THE FOLLOWING REASONS:

1. Plaintiff already admitted that he had several obligations with the Bank, and that some of these obligations were not paid by him. As a result, foreclosure proceedings [were] initiated. The declaration of nullity of one of the promissory notes dated October 12, 1982 does not necessarily render the other obligations as null and void in the light of the Continuing Guaranty/Comprehensive Surety and the Subsequent Real Estate Mortgage executed by plaintiff in favor of the defendant.

2. The Court notes that plaintiff has already raised in his counterclaim before [the] RTC[,] Branch 9 the issue of declaration of nullity of foreclosure proceedings. However, said court neither granted nor denied categorically the counterclaim leading this Court to believe that it has the effect of dismissing the same. Let it be noted further that plaintiff never raised nor called the attention of [the] RTC[,] Branch 9 regarding his counterclaim neither did he elevate the matter to the higher Court. This constitutes a waiver on his part with respect [to] the issue of illegality of the foreclosure proceedings. To stress, at the time the 1989 case was filed, the properties involved in the instant case were already foreclosed and sold at public auction.

3. From:

a. August 22, 1984 date of the extrajudicial foreclosure sale to the filing of the instant suit on November 30, 2006, TWENTY-TWO (22) LONG YEARS had already elapsed;

b. September 12, 1986 date of issuance of new certificate of titles in defendant's name to the filing of the instant suit on November 30, 2006, TWENTY (20) LONG YEARS had also already elapsed; and finally;

c. October 26, 1992 date of the Decision of RTC[,] Branch 9 to the filing of [the] instant suit on November 30, 2006, FOURTEEN YEARS or a considerable length of time had already elapsed.

THUS, plaintiff in the Court's mind is guilty of laches defined as -

"Laches - the failure or neglect for an unreasonable and unexplained length of time, to do that which by exercising due diligence could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it."
(Republic of the Philippines v. CA, 301 SCRA 366).

Turning now on defendant's compulsory counterclaim, in the absence of malice or bad faith in the filing of the complaint, said counterclaim cannot be given due course.^[7]