

FIRST DIVISION

[G.R. No. 235020, December 10, 2019]

**ATTY. LEONARD FLORENT O. BULATAO, PETITIONER, VS.
ZENaida C. ESTONACTOC, RESPONDENT.**

DECISION

CAGUIOA, J:

Before the Court is the Appeal^[1] under Rule 45 of the Rules of Court filed by petitioner Atty. Leonard Florent O. Bulatao (Atty. Bulatao) assailing the Decision^[2] dated October 19, 2017 (Decision) of the Court of Appeals^[3] (CA) in CA-G.R. CV No. 105581. CA Decision partly granted the appeal of respondent Zenaida Estonactoc (Zenaida) resulting in the reversal and setting aside of the Decision^[4] dated May 4, 2015 rendered by the Regional Trial Court, Branch 31, Agoo, La Union (RTC) in Civil Case No. A-2715.

The Facts and Antecedent Proceedings

The CA Decision narrates the factual antecedents as follows:

On June 3, 2008, [Zenaida] executed a Deed of Mortgage of Real Property [(DMRP)] in favor of [Atty. Bulatao] covering a parcel of land located in Pongpong, Sto. Tomas, La Union, with an area of 42,727 square meters (subject property), as security for a loan in the amount of P200,000.00.

The [DMRP] contained the following stipulation:

PROVIDED HOWEVER, that if I, shall pay or cause to be paid to the said MORTGAGEE the aforementioned amount of TWO HUNDRED THOUSAND PESOS (Php200,000.00), Philippine currency together with the interest at the rate of five percent (5%) per month, within a period of twelve (12) months or one (1) year or before June 4, 2009, then this MORTGAGE shall thereby be discharged and of no effect. OTHERWISE, it shall remain in full force and effect and shall be enforceable in the manner provided for by law.

When [Zenaida] defaulted in her obligation, [Atty. Bulatao] foreclosed the mortgage and petitioned the court for the sale of the subject property in a public auction. The Notice of Sale on Extra Judicial Foreclosure of Property/ies was issued by the Office of the Clerk of Court of the trial court in Agoo, La Union on July 15, 2011.

By reason of the impending sale of the subject property, [Zenaida] filed

[a Complaint for Injunction, Annulment of Deed of Real Estate Mortgage and Damages against Atty. Bulatao, Atty. Diosdado L. Doctolero as Clerk of Court and Ex-Officio Sheriff of the RTC of Agoo, La Union, and Melchor A. Mabutas, as Sheriff of the Office of the Clerk of Court of the same court]^[5] seeking to declare the [DMRP] as illegal, inexistent and null and void, and to make the contract unenforceable. She asserted that [Atty. Bulatao], in grave abuse of her rights, took advantage of her financial distress and urgent financial needs by imposing in the [DMRP] an interest of five percent (5%) per month which is excessive, iniquitous, unconscionable, exorbitant and contrary to public policy, rendering the contract null and void. She also alleged that she only received P80,000.00 from [Atty.] Bulatao, contrary to the P200,000.00 contracted loan amount. In addition, she sought the award of moral and exemplary damages, attorney's fees, and litigation expenses.

[Zenaida] likewise raised in the complaint that the agreement is invalid because of the following: (a) it failed to mention that the subject property is registered under Transfer Certificate of Title No. T-6288-part as indicated in the Real Property Field Appraisal and Assessment Sheet and Tax Declaration No. 020-00304; (b) the mortgage is not registered and therefore not annotated in the title of the subject property; (c) it falsely indicated that [Zenaida] is the registered owner of the subject property despite the fact that it is co-owned by [Zenaida] with her late husband, Adolfo T. Estonactoc; and that it has not yet been settled and transferred in favor of their son, Jose Rafael C. Estonactoc; and (d) [Zenaida] did not appear before the notary public who notarized the [DMRP].

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In response thereto, [Atty. Bulatao] filed an Answer wherein he denied all the allegations made against him by [Zenaida] and contended the following:

[Zenaida was] guilty of misrepresentation, misdeclaration, false pretenses, and bad faith. The P200,000.00 loan which he extended to [Zenaida] was from the proceeds of the loan which he contracted with FRB Credit and Financial Services. [Zenaida] represented to be the sole owner of the subject property and that the title thereof was lost, destroyed and/or cannot be recovered although the transfer of the title in her name is already being processed. It was [Zenaida] who encouraged him to secure a loan with the FRB Credit and Financial Services in the amount of P200,000.00 and that she even told him that she [was] willing to pay a monthly interest of 20%-30%. [Zenaida] agreed to a 5% monthly interest, with the 2.5% to be paid directly to FRB Credit and Financial Services and the other half as his own profit. [Zenaida] even represented that she could pay the loan in a month or two.

[Atty. Bulatao] denied that the interest is usurious on account of Central Bank Circular No. 905-82, which expressly removed the interest ceilings prescribed under the Usury Law, leaving [the] parties with the liberty to mutually agree on an interest rate. Moreover, he denied that [Zenaida]

only received P80,000.00 considering that it was [Zenaida] herself who encashed Allied Bank Check No. 0024551400 in the amount of P200,000.00, which represent[ed] the proceeds of the loan incurred by [Atty. Bulatao] from FRB Credit and Financial Services.

As counterclaim, [Atty. Bulatao] sought the recovery of actual, moral and exemplary damages as well as attorney's fees, and costs of suit.

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On March 19, 2012, the complaint was amended to include the declaration of nullity of the foreclosure sale of the subject property as a cause of action by reason of the subsequent sale thereof in a public auction and the consequent issuance of a certificate of sale of real property in favor of [Atty. Bulatao] on October 10, 2011.

Trial on the merits of the case ensued whereby both parties presented their respective documentary and testimonial pieces of evidence in support of their claims.

On May 4, 2015, the trial court rendered [its] Decision[, the] dispositive portion of which is cited herein, to wit:

WHEREFORE, premises considered, this Court finds in favor of the defendants and accordingly, DISMISSES the instant complaint against them for utter lack of merit. Moreover, the plaintiff is hereby order[ed] to pay the defendants, to wit:

(i) Moral damages in the amount of Thirty Thousand Pesos (P30,000.00);

(ii) Exemplary damages in the amount of Fifteen Thousand Pesos (P15,000.00);

(iii) Nominal damages in the amount of Five Thousand Pesos (P5,000.00);

(iv) Attorney's fees in the amount of Thirty Thousand Pesos (P30,000.00), plus Two Thousand Five Hundred Pesos (P2,500.00) per court appearance of Attys. Gines and Ulpindo; and

(v) Costs of suit.

SO ORDERED.

The trial court ruled that [Zenaida] is bound by the terms and stipulations in the contract of loan and real estate mortgage which she executed in favor of [Atty. Bulatao]; that the evidence on hand shows that the interest of 5% per month on the loan is not exorbitant considering that the borrower, [Zenaida], appears to be an educated businesswoman, from a well-to-do family as demonstrated by her having

a son who studies in a prestigious school (Ateneo), and her late husband being the former town mayor of Sto. Tomas, La Union; that [Zenaida] is in a position to pay not only the principal loan amount but also the stipulated interest; and that [Zenaida] even expressed her capacity to pay interest of even up to 20%, to entice [Atty. Bulatao] to extend the loan to her. Hence, the trial court declared that she is now estopped from claiming otherwise.

Moreover, the trial court declared that [Atty. Bulatao] is an innocent mortgagee for value, who merely relied on the alleged sole ownership of [Zenaida] over the subject property as demonstrated in the tax declaration; and that in fine, the mortgage of the co-owned property by one of the co-owners, [Zenaida] in this case, sans any participation on the part of her son, as co-owner, did not invalidate the mortgage.

The trial court concluded that considering the validity of the loan and real estate mortgage, the subsequent foreclosure of the mortgage on the subject property and the issuance of certificate of sale as a consequence thereof are likewise valid considering that the foreclosure was made by proper authorities, who enjoy the presumption of regularity of performance of their official duties.

Lastly, the trial court granted moral, exemplary and nominal damages, and attorney's fees in favor of defendants.

[Zenaida] moved to reconsider the [trial court's] Decision but the trial court denied it in an Order dated July 13, 2015. On July 30, 2015, [Zenaida] filed a Notice of Appeal which was given due course by the trial court on August 13, 2015.^[6]

Ruling of the CA

The CA in its Decision^[7] dated October 19, 2017 found Zenaida's appeal partly meritorious.^[8]

Regarding the real estate mortgage, the CA ruled that Zenaida, being a co-owner of the subject property, could validly convey through sale or mortgage the portion belonging to her and, thus, the real estate mortgage in favor of Atty. Bulatao is not entirely void.^[9]

On the interest rate, the CA ruled that the 5% monthly interest imposed upon by Atty. Bulatao in the Deed of Mortgage of Real Property (DMRP) is excessive, unconscionable and exorbitant, which renders the stipulation on interest void for being contrary to morals, if not against the law.^[10] After the CA observed, on one hand, that the stipulation on interest being void, it is as if there was no express contract on said interest rate, thus, the interest rate may be reduced as reason and equity demand, and on the other hand, that a legal interest of 12% *per annum* will be added in place of the excessive interest formerly imposed, the CA, then, equitably reduced the stipulated 5% monthly interest to 1% per month or 12% *per annum* reckoned from the execution of the DMRP on June 3, 2008.^[11]

The CA further observed that while the nullity of the stipulation on the usurious interest did not affect the lender's right to recover the principal obligation or the terms of the real estate mortgage, the foreclosure proceedings held on September 8 an 15, 2011 in this case could not be given effect.^[12] The CA reasoned that since the debt due is limited to the principal of P200,000.00 with 12% *per annum* as legal interest, the previous demand for payment of the amount of P540,000.00 reflected on the demand letter dated April 15, 2011 could not be considered as a valid demand for payment, and without a valid demand the obligations is not due.^[13] The foreclosure could not be considered valid because it would result in an inequitable situation wherein Zenaida would have her land foreclosed for failure to pay an over-inflated loan only a small part of which she was obligated to pay, and she was not given an opportunity to settle her debt at the correct amount without the iniquitous interest imposed.^[14]

As to the award of damages against Zenaida, the CA found no justification for their imposition.^[15]

The dispositive portion of the CA Decision states:

WHEREFORE, the appeal is PARTLY GRANTED.

The Decision dated May 4, 2015 rendered by Branch 31 of the Regional Trial Court (RTC), Agoo, La Union in Civil Case No. A-2715 is hereby REVERSED and SET ASIDE. Accordingly, a new judgment is RENDERED as follows:

1. The Deed of Mortgage of Real Property dated June 4, 2008 is DECLARED as VOID only with respect to the share of deceased Adolfo T. Estonactoc;
2. The monthly interest as stipulated in the Deed of Mortgage of Real Property is REDUCED to 1% per month or 12% *per annum*; and
3. The Foreclosure Sale and the Certificate of Sale issued in favor of defendant-appellee Leonard Florent O. Bulatao are DECLARED null and void.

SO ORDERED.^[16]

Dissatisfied, Atty. Bulatao filed the instant Appeal. Zenaida filed her Comment^[17] dated May 15, 2018. Atty. Bulatao filed a Reply^[18] on March 18, 2019.

The Issue

Whether the CA erred when it set aside and reversed the RTC Decision.

The Court's Ruling

In his appeal, Atty. Bulatao argues that the payment of the 5% monthly interest was voluntarily agreed upon by him and Zenaida and absent fraud committed upon Zenaida, the stipulated interest rate should stand.^[19] On the assumption that the