

## FIRST DIVISION

[ G.R. No. 215038, October 17, 2016 ]

**NORMA C. MAGSANO, ISIDRO C. MAGSANO, RICARDO C. MAGSANO, ROQUE C. MAGSANO, JR., NIDA M. CAGUIAT, PERLITA MAGSANO, AND SALVADOR C. MAGSANO, PETITIONERS VS. PANGASINAN SAVINGS AND LOAN BANK, INC. AND SPOUSES EDDIE V. MANUEL AND MILAGROS C. BALLESTEROS, SUBSTITUTED BY HER HEIRS: GEMMA C. MANUELPEREZ, ANGELO JOHNDREW MANUEL, AND RESSY C. MANUEL, RESPONDENTS.**

### D E C I S I O N

**PERLAS-BERNABE, J.:**

Before the Court is a petition for review on *certiorari*<sup>[1]</sup> assailing the Decision<sup>[2]</sup> dated February 14, 2014 and the Resolution<sup>[3]</sup> dated October 2, 2014 of the Court of Appeals (CA) in CA-G.R. CV No. 99519, which affirmed the Decision<sup>[4]</sup> dated April 27, 2012 of the Regional Trial Court of Dagupan City, Branch 41 (RTC) dismissing the complaint for annulment of real estate mortgage, certificate of sale, sheriffs final sale, deed of sale, and Transfer Certificate of Title (TCT) No. 48754<sup>[5]</sup> filed by herein petitioners Norma, Isidro, Ricardo, Roque, Jr., Perlita, and Salvador, all surnamed Magsano, and Nida M. Caguiat (petitioners) against herein respondent Pangasinan Savings and Loan Bank, Inc.<sup>[6]</sup> (respondent bank), respondents spouses Eddie V. Manuel and Milagros C. Ballesteros (Sps. Manuel), and Sheriff Reynaldo C. Daroy (Sheriff Daroy), but deleted the awards of exemplary damages, attorney's fees, appearance fee, and litigation expenses in the latter's favor.

#### The Facts

On July 1, 1991, spouses Roque Magsano (Roque) and Susana Capelo (Susana; collectively, mortgagors), the parents of petitioners,<sup>[7]</sup> purportedly executed in favor of respondent bank a Real Estate Mortgage<sup>[8]</sup> over a 418 square-meter parcel of land located in Dagupan City, covered by TCT No. 48754,<sup>[9]</sup> as well as the improvements thereon (subject property), as security for the payment of their P35,000.00 loan.<sup>[10]</sup>

The mortgagors, however, defaulted in the payment of their loan obligation when it fell due, causing respondent bank to extra-judicially foreclose the mortgaged property<sup>[11]</sup> in accordance with Act No. 3135,<sup>[12]</sup> as amended, with notice to the mortgagors,<sup>[13]</sup> and, in the process, respondent bank emerged as the highest bidder in the public auction sale held on March 21, 1994 for a total bid price of P65,826.69.<sup>[14]</sup> The mortgagors then failed to redeem the property within the redemption period<sup>[15]</sup> which led to the cancellation of TCT No. 48754 and the issuance of TCT No. 65394<sup>[16]</sup> in the name of respondent bank.<sup>[17]</sup> The latter

subsequently sold<sup>[18]</sup> the same to Sps. Manuel who were issued TCT No. 67491.<sup>[19]</sup>

Despite repeated demands, the mortgagors refused to vacate the premises; hence, respondent bank applied for<sup>[20]</sup> and was granted a writ of possession<sup>[21]</sup> over the subject property and, thereafter, a writ of demolition,<sup>[22]</sup> resulting in the demolition of petitioners' houses.<sup>[23]</sup>

Consequently, on September 6, 2004, petitioners filed a complaint<sup>[24]</sup> for annulment of Real Estate Mortgage, Certificate of Sale, Sheriff's Final Sale, Deed of Sale, and TCT No. 48754<sup>[25]</sup> against respondent bank, Sps. Manuel, and Sheriff Daroy (defendants) before the RTC, docketed as Civil Case No. 2004-0316-D, which they amended<sup>[26]</sup> on September 3, 2007.<sup>[27]</sup> They averred that Roque had already passed away on April 17, 1991,<sup>[28]</sup> or prior to the execution of the Real Estate Mortgage on July 1, 1991; hence, the said mortgage was null and void, and could not have conferred any right on the subject property in favor of respondent bank which it could pass to Sps. Manuel.<sup>[29]</sup> They further claimed that the said property is their family home, but the consent of the majority of the beneficiaries had not been secured. They likewise asserted that Sps. Manuel were aware that: (a) the foreclosure proceedings were invalid; and (b) petitioners were in possession of the subject property, hence, purchasers in bad faith.<sup>[30]</sup>

For their part,<sup>[31]</sup> defendants denied knowledge of the death of Roque,<sup>[32]</sup> and averred that petitioners have no cause of action to seek the annulment of the Real Estate Mortgage since they were not parties thereto.<sup>[33]</sup> They contended that assuming that the latter have a cause of action, the same had prescribed pursuant to Articles 1144, 1149, and 1150 of the Civil Code.<sup>[34]</sup> They further argued that petitioners are estopped from questioning the validity of the Real Estate Mortgage, considering that they: (a) are bound by the acts of their mother, Susana, who signed the same, and is presumed to be the author of the misrepresentation/falsification, and benefited from the proceeds of the loan;<sup>[35]</sup> and (b) participated in the proceedings for the issuance of the writ of possession.<sup>[36]</sup>

### **The RTC Ruling**

In a Decision<sup>[37]</sup> dated April 27, 2012, the RTC dismissed the complaint for lack of merit.<sup>[38]</sup> It declared that petitioners have no cause of action against the defendants,<sup>[39]</sup> holding them bound by the misrepresentation of their mother who signed the Real Estate Mortgage, the authenticity of whose signature they never contested.<sup>[40]</sup> And even assuming that petitioners have a cause of action, the RTC ruled that the same is barred by prescription, considering that the action to annul the Real Estate Mortgage and the foreclosure sale was filed beyond the prescriptive period from the time their causes of action accrued,<sup>[41]</sup> pursuant to Articles 1144,<sup>[42]</sup> 1149,<sup>[43]</sup> and 1150<sup>[44]</sup> of the Civil Code. Moreover, the RTC deemed it proper to grant respondent bank's claims for attorney's fees, appearance fees, litigation expenses, exemplary damages, and costs of suit.<sup>[45]</sup>

Aggrieved, petitioners elevated<sup>[46]</sup> the matter before the CA.

### The CA Ruling

In a Decision<sup>[47]</sup> dated February 14, 2014, the CA affirmed the RTC's findings, but deleted the awards of exemplary damages, attorney's fees, appearance fees, and litigation expenses for lack of factual and legal bases.<sup>[48]</sup> On the main, it held that while the Real Estate Mortgage was void as to the share of Roque who was shown to be already deceased at the time the same was executed, rendering respondent bank a mortgagee in bad faith, it declared Sps. Manuel innocent purchasers for value whose rights may not be prejudiced.<sup>[49]</sup>

Petitioners filed a motion for reconsideration,<sup>[50]</sup> which was, however, denied in a Resolution<sup>[51]</sup> dated October 2, 2014; hence, the instant petition.

### The Issues Before the Court

The essential issues for the Court's resolution are whether or not: (a) the Real Estate Mortgage was void; and (b) Sps. Manuel were purchasers in good faith.

### The Court's Ruling

The petition is partly granted.

Preliminarily, the rule is settled that the remedy of appeal by *certiorari* under Rule 45 of the Rules of Court contemplates only questions of law, not of fact. While it is not the function of the Court to re-examine, winnow and weigh anew the respective sets of evidence of the parties,<sup>[52]</sup> there are, however, recognized exceptions,<sup>[53]</sup> one of which is when the inference drawn from the facts was manifestly mistaken, as in this case.

It is undisputed that at the time the Real Estate Mortgage was constituted on July 1, 1991, Roque was already deceased. Upon his death on April 17, 1991, the conjugal partnership between him and his spouse, Susana, was dissolved pursuant to Article 126 (1)<sup>[54]</sup> of the Family Code,<sup>[55]</sup> and an implied ordinary co-ownership arose among Susana and the other heirs of Roque with respect to his share in the assets of the conjugal partnership pending liquidation. The ensuing implied ordinary co-ownership is governed by Article 493 of the Civil Code,<sup>[56]</sup> to wit:

Art. 493. Each co-owner shall have the full ownership of his part and of the fruits and benefits pertaining thereto, and he may therefore alienate, assign or mortgage it, and even substitute another person in its enjoyment, except when personal rights are involved. But **the effect of the alienation or the mortgage, with respect to the co-owners, shall be limited to the portion which may be allotted to him in the division upon the termination of the co-ownership.** (Emphasis supplied)

Thus, although Susana is a co-owner with her children with respect to Roque's share in the conjugal partnership, she could not yet assert or claim title to any specific portion thereof without an actual partition of the property being first done either by

agreement or by judicial decree.<sup>[57]</sup> While she herself as co-owner had the right to mortgage or even sell her undivided interest in the subject property, she could not mortgage or otherwise dispose of the same in its entirety without the consent of the other co-owners. Consequently, the validity of the subject Real Estate Mortgage and the subsequent foreclosure proceedings therefor conducted in favor of respondent bank should be limited only to the portion which may be allotted to it, as Susana's successor-in-interest, in the event of partition, thereby making it a co-owner<sup>[58]</sup> with petitioners pending partition. Thus, in *Rural & Bank of Cabadbaran, Inc. v. Melecio-Yap*,<sup>[59]</sup> the Court held:

While Erna, as herself a co-owner, by virtue of Article 493 of the Civil Code, had the right to mortgage or even sell her undivided interest in the said properties, she, could not, however, dispose of or mortgage the subject properties in their entirety without the consent of the other co-owners. Accordingly, the validity of the subject real estate mortgage and the subsequent foreclosure proceedings therefor conducted in favor of RBCI **should be limited only to the portion which may be allotted to it (as the successor-in-interest of Erna) in the event of partition.** In this relation, the CA's directive to remand the case to the RTC in order to determine the exact extent of the respective rights, interests, shares and participation of respondents and RBCI over the subject properties, and thereafter, effect a final division, adjudication and partition in accordance with law remains in order. Meanwhile, the writ of possession issued in favor of RBCI, and all proceedings relative thereto should be set aside considering that the latter's specific possessory rights to the said properties remain undetermined.<sup>[60]</sup> (Emphasis and underscoring supplied)

Moreover, although the Court concurs with the CA's finding that respondent bank was a mortgagee in bad faith for having failed to exercise greater care and due diligence in verifying the ownership of the subject property,<sup>[61]</sup> contrary to the CA, the Court finds that Sps. Manuel are not innocent purchasers for value who can acquire title to the subject entire property.

While the rule is that every person dealing with registered land may safely rely on the correctness of the certificate of title issued therefor and the law will in no way oblige him to go beyond the certificate to determine the condition of the property, **where the land sold is in the possession of a person other than the vendor, as in this case, the purchaser must go beyond the certificate of title and make inquiries concerning the actual possessor.**<sup>[62]</sup> As this Court explained in the case of *Sps. Mathay v. CA*:<sup>[63]</sup>

Although it is a recognized principle that a person dealing [with] a registered land need not go beyond its certificate of title, it is also a firmly settled rule that where there are circumstances which would put a party on guard and prompt him to investigate or inspect the property being sold to him, such as the presence of occupants/tenants thereon, **it is, of course, expected from the purchaser of a valued piece of land to inquire first into the status or nature of possession of the occupants, i.e.,** whether or not the occupants possess the land *en concepto de dueño*, in concept of owner. As is the common practice in the

real estate industry, an ocular inspection of the premises involved is a safeguard a cautious and prudent purchaser usually takes. Should he find out that the land he intends to buy is occupied by anybody else other than the seller who, as in this case, is not in actual possession, it would then be incumbent upon the purchaser to verify the extent of the occupant's possessory rights. **The failure of a prospective buyer to take such precautionary steps would mean negligence on his part and would thereby preclude him from claiming or invoking the rights of a "purchaser in good faith."**<sup>[64]</sup> (Emphases and underscoring supplied)

Here, petitioners were in possession of the subject property when Sps. Manuel bought the same on February 19, 1997 (and even up to the filing of the amended complaint before the RTC on September 3, 2007).<sup>[65]</sup> However, records do not show that Sps. Manuel inspected the property and inquired into the nature of petitioners' possession and/or the extent of their possessory rights as a measure of precaution which may reasonably be required of a prudent man in a similar situation, and thereby discover the irregularity in the acquisition of title by the respondent bank. Sps. Manuel, therefore, failed to exercise the diligence required in protecting their rights; as such, the Court cannot ascribe good faith to them.<sup>[66]</sup>

Furthermore, as correctly pointed out<sup>[67]</sup> by petitioners, the claim that one is an innocent purchaser for value is a matter of defense.<sup>[68]</sup> Hence, while petitioners alleged that Sps. Manuel were purchasers in bad faith,<sup>[69]</sup> the rule is that he who asserts the status of a purchaser in good faith and for value has the burden of proving the same, and this *onus probandi* cannot be discharged by mere invocation of the legal presumption of good faith, *i.e.*, that everyone is presumed to act in good faith.<sup>[70]</sup>

Besides, the fact that respondent bank succeeded in consolidating ownership over the subject property in its name did not terminate the existing co-ownership between it and petitioners.<sup>[71]</sup> In *Nufable v. Nufable*,<sup>[72]</sup> the Court had the occasion to rule:

[A] co-owner does not lose his part ownership of a co-owned property when his share is mortgaged by another co-owner without the former's knowledge and consent as in the case at bar. It has likewise been ruled that the mortgage of the inherited property is not binding against co-heirs who never benefitted.

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x x x [W]hen the subject property was mortgaged by Angel Custodio, he had no right to mortgage the entire property but only with respect to his 1/4 *pro indiviso* share as the property was subject to the successional rights of the other heirs of the late Esdras. Moreover, **in case of foreclosure, a sale would result in the transmission of title to the buyer which is feasible only if the seller can be in a position to convey ownership of the things sold.** And in one case, it was held that a foreclosure would be ineffective unless the mortgagor has title to the property to be foreclosed. Therefore, **as regards the remaining**