

THIRD DIVISION

[G.R. No. 174581, February 04, 2015]

**ATTY. LEO N. CAUBANG, PETITIONER, VS. JESUS G. CRISOLOGO
AND NANETTE B. CRISOLOGO, RESPONDENTS.**

DECISION

PERALTA, J.:

For the Court's resolution is a Petition for Review under Rule 45 of the Rules of Court which petitioner Atty. Leo N. Caubang filed, questioning the Decision^[1] of the Court of Appeals (CA), dated May 22, 2006, and its Resolution^[2] dated August 16, 2006 in CA-G.R. CV. No. 68365. The CA affirmed the Decision^[3] of the Regional Trial Court (RTC) of Davao City, Branch 12, dated August 1, 2000, with modifications, in Civil Case No. 27168-99.

The facts, as gathered from the records, are as follows:

On December 17, 1993, respondents spouses Jesus and Nannette Crisologo (*the Spouses Crisologo*) obtained an Express Loan in the amount of P200,000.00 from PDCP Development Bank Inc. (*PDCP Bank*). On January 26, 1994, the Spouses Crisologo acquired another loan from the same bank, this time a Term Loan of P1,500,000.00 covered by a Loan Agreement. As security for both loans, the spouses mortgaged their property covered by Transfer Certificate of Title (TCT) No. T-181103. Upon release of the Term Loan, they were given two (2) promissory notes, for the amount of P500,000.00 on February 9, 1994 and P1,000,000.00 on February 21, 1994.

Under the promissory notes, the Spouses Crisologo agreed to pay the principal amount of the loan over a period of three (3) years in twelve (12) equal quarterly amortizations. Although they were able to pay the Express Loan, starting August 22, 1994, however, or after payment of the first few installments on the other loans, the spouses defaulted in the amortizations. Despite several demands made by the bank, the spouses still failed to pay.

On May 31, 1996, the spouses received a detailed breakdown of their outstanding obligation. Finding the charges to be excessive, they wrote a letter to the bank proposing to pay their loan in full with a request that the interest and penalty charges be waived. The manager of PDCP Bank, Davao Branch, advised them to deposit their P1,500,000.00 obligation as manifestation of their intent to pay the loan. As a counter-offer, the spouses agreed to deposit the amount but on the condition that the bank should first return to them the title over the mortgaged property. The bank did not reply until July 7, 1997, where they sent a letter denying the spouses' counter-offer and demanding payment of the loan already amounting to P2,822,469.90. By October 20, 1997, the debt had ballooned to P3,041,287.00. For failure to settle the account, the Davao branch of the bank

recommended the foreclosure of the mortgage to its head office. On March 20, 1998, PDCP Bank filed a Petition for the Extrajudicial Foreclosure of the Mortgage.

On June 8, 1998, petitioner Leo Caubang, as Notary Public, prepared the Notices of Sale, announcing the foreclosure of the real estate mortgage and the sale of the mortgaged property at public auction on July 15, 1998. He caused the posting of said notices in three (3) public places: the Barangay Hall of Matina, City Hall of Davao, and Bangkerohan Public Market. Publication was, likewise, made in the *Oriental Daily Examiner*, one of the local newspapers in Davao City.

On July 15, 1998, Caubang conducted the auction sale of the mortgaged property, with the bank as the only bidder. The bank bid for P1,331,460.00, leaving a deficiency of P2,207,349.97. Thereafter, a Certificate of Sale in favor of the bank was issued.

Later, the Spouses Crisologo were surprised to learn that their mortgaged property had already been sold to the bank. Thus, they filed a Complaint for Nullity of Extrajudicial Foreclosure and Auction Sale and Damages against PDCP Bank and Caubang.

On August 1, 2000, the Davao RTC rendered a Decision nullifying the extrajudicial foreclosure of the real estate mortgage for failure to comply with the publication requirement, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered:

1. Declaring the Extra-Judicial Foreclosure sale of plaintiffs' property, covered by TCT No. T-181103, null and void.
2. Ordering the Register of Deeds for the City of Davao to cancel Entry No. 113255 on TCT No. T-181103, the entry relative to the Certificate of Sale executed by Atty. Leo Caubang on August 5, 1998, and if a new title has been issued to defendant PDCP, to cancel the same, and to reinstate TCT No. T-181103 in the name of Nannette B. Crisologo, of legal age, Filipino, married to Jesus Crisologo, and a resident of Davao City, Philippines.

All the other claims of the parties are disallowed.

No pronouncement as to costs.

SO ORDERED.^[4]

The Spouses Crisologo appealed before the CA, seeking a partial modification of the RTC Decision, insofar as their claims for moral and exemplary damages, attorney's fees, and costs of suit were concerned. On May 22, 2006, the appellate court modified the decretal portion to read: