

## THIRD DIVISION

[ G.R. No. 184301, March 23, 2015 ]

**GE MONEY BANK, INC. (FORMERLY KEPPEL BANK PHILIPPINES, INC.), PETITIONER, VS. SPOUSES VICTORINO M. DIZON AND ROSALINA L. DIZON, RESPONDENTS.**

### D E C I S I O N

**PERALTA, J.:**

This is a petition for review on *certiorari* under Rule 45 of the 1997 Revised Rules on Civil Procedure (*Rules*) seeking to reverse and set aside the May 13, 2008 Decision<sup>[1]</sup> and August 27, 2008 Resolution<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 82307, which affirmed the April 29, 2004 Decision<sup>[3]</sup> of Regional Trial Court (RTC), Branch 26, Manila, in Civil Case No. 98-88228. The dispositive portion of the RTC Decision states:

**PREMISES CONSIDERED**, judgment is hereby rendered in favor of the plaintiffs and against defendant, to wit:

- a. Allowing the plaintiffs to redeem the mortgaged properties by paying the remaining balance of P113,791.52 at 12% per annum until fully paid;
- b. The consolidation of title and ownership already instituted by defendant be annulled, cancelled and declared null and void.
- c. The Transfer Certificate of Title (TCT) No. 222186 in the name of the defendant be cancelled and in lieu thereof another Transfer Certificate of Title be issued in the name of herein plaintiffs.
- d. All other claims and counterclaims that the parties may have against each other in connection with this case are hereby DISMISSED.

No pronouncements as to costs.

**SO ORDERED.**<sup>[4]</sup>

The facts are uncomplicated.

On September 18, 1991, the spouses Victorino M. Dizon and Rosalina L. Dizon (*Spouses Dizon*) obtained a loan in the amount of P100,000.00 from Monte de Piedad and Savings Bank, the predecessor-in-interest of Keppel Monte Bank, Inc.,

which is now known as GE Money Bank, Inc. (*Bank*). By way of security for the loan, they executed a real estate mortgage<sup>[5]</sup> over their two (2) lots located at 856 Sisa Street, Sampaloc, Manila, covered by Transfer Certificate of Title (*TCT*) No. 164193<sup>[6]</sup> and Tax Declaration No. 96-526-0037, and with a total land area of 150 square meters.

The Spouses Dizon defaulted in the payment of their loan obligation. As of March 26, 1993, the Statement of Foreclosure issued by the Bank showed that their outstanding liability was P143,049.54.<sup>[7]</sup> On July 19, 1993 and August 4, 1993, they paid the Bank P12,000.00 and P10,000.00, respectively.<sup>[8]</sup> In a letter dated August 10, 1993, they also requested for the postponement of the foreclosure sale for at least 60 days.<sup>[9]</sup>

On September 13, 1993, the mortgaged properties were extra-judicially foreclosed. The Bank was the highest bidder in the amount of P181,956.72, which was the total obligation of the Spouses Dizon at the time of the public auction.<sup>[10]</sup> The Certificate of Sale was registered with the Register of Deeds for Manila on October 18, 1993. Hence, the Spouses Dizon had one (1) year therefrom, or until October 18, 1994, within which to redeem the subject properties.

Within the redemption period, the Spouses Dizon were only able to pay the sum of P90,000.00,<sup>[11]</sup> which, despite acceptance by the Bank, was less than the total redemption price.<sup>[12]</sup> The Bank then consolidated its title over the subject property. On July 6, 1995, TCT No. 222186<sup>[13]</sup> was issued in its name upon the cancellation of TCT No. 164193.

The Spouses Dizon manifested their desire to re-acquire the subject property, but the Bank declined to entertain the same as they still failed to tender the full amount of the redemption price. Later, on April 3, 1998, they filed a case for Redemption and Recovery of Ownership, Title and Possession of Real Properties (Nullify Consolidation of Ownership, Cancellation of Transfer Certificate of Title [TCT] No. 222186), Issuance of New Transfer Certificate of Title; and Damages; and With Notice of *Lis Pendens* with the Manila RTC.<sup>[14]</sup> The complaint, docketed as Civil Case No. 98-88228, was amended on April 14, 1998.<sup>[15]</sup>

After trial on the merits, the RTC ruled in favor of the Spouses Dizon. In its April 29, 2004 Decision, the trial court held:

The statement of foreclosure issued by defendant Bank showed that the total amount due as of March 26, 1993 was only P143,049.54 (Exhibit "B") and plaintiff Spouses paid in good faith their outstanding obligation with herein defendant Bank in the total amount of P112,000.00 (Exhibits "C" to "G"). There is already substantial compliance on the part of herein plaintiffs, considering that they already paid at least 75% of their outstanding obligation. By accepting the said amount, defendant Bank is now estopped from denying herein plaintiffs' right to redeem the subject properties. Otherwise, defendants would be enriching itself at the expense of herein plaintiffs.

As ruled by the High Court in *Ysmael vs. CA*, G.R. No. 132497, 11-16-99, "Although it is required that full payment of the redemption price must be made within the redemption period, the rule on redemption is actually liberally construed in favor of the original owner of the property. The policy of the law is to aid rather than to defeat him in the exercise of his right of redemption. As the Court of Appeals observed, this Court has allowed parties in several cases to perfect their right of redemption beyond the period prescribed therefor." Otherwise, the defendant would be enriching itself at the expense of herein plaintiffs.

As clearly borne out by the records of the instant case, defendant's application for extrajudicial foreclosure and public auction sale of plaintiffs' mortgaged property was filed under Act No. 3135.

Moreover, the real estate mortgage (Exhibit "6") explicitly provides that "... the mortgagee may immediately foreclose this mortgage judicially or extrajudicially under Act No. 3135, as amended." Since the mortgage contract in this case is in the nature of a contract of adhesion as it was prepared solely by defendant, it has to be interpreted in favor of herein plaintiffs. However, defendant tries to renege on this contractual commitment by seeking refuge in the 1989 case of *Sy vs. Court of Appeals* (G.R. No. 83139, 04-12-89), wherein the High Court ruled that "the redemption price is equal to the total amount of indebtedness to the bank's claim inasmuch as Section 78 of the General Banking Act is an amendment to Section 6 of Act No. 3135, despite the fact that the extrajudicial foreclosure procedure followed by the PNB was explicitly under or in accordance with Act No. 3135." Defendant is hereby estopped from invoking Section 78 of the General Banking Act in as much as it would be unfair to the other contracting party (herein plaintiffs) who, in good faith, believed that defendant would comply with [its] contractual agreement. Hence, it is only just that plaintiffs be allowed to redeem their mortgaged property by paying only the winning bid price, which is P181,956.72 plus interest at the rate of 1% per month until fully paid. Since the period of redemption begins only from the date of the registration of the certificate of sale in the Registry of Deeds, the computation of the interest on the purchase price should also be made to commence from that date. Hence, the interest due on the auction price for 12 month, *i.e.*, October 18, 1993 to October 18, 1994, is only P21,834.806 (P181,956.72 x 1% x 12 months). The total redemption price therefore is P203,791.52. Considering the payments already paid by herein plaintiffs in the total amount of P90,000.00, the same shall be deducted to the total redemption price of P203,791.52, *i.e.*, P203,791.52 - P90,000.00 = P113,791.52. Plaintiffs [are] hereby allowed to redeem the property by paying the remaining balance which is P113,791.52 at 1% per month until fully paid.<sup>[16]</sup>

On appeal, the RTC Decision was affirmed by the CA, which opined:

In the case at bar, [Spouses] Dizon continuously paid Keppel Bank the amount of [the] loan. As a matter of fact, Simplicio Tapia, Jr., Assistant

Manager of Keppel Bank, corroborated plaintiff-appellee Rosalina Dizon with regard to the amount of Ninety Thousand Pesos (P90,000.00) paid by the latter during the redemption period. Keppel Bank even assured [Spouses] Dizon that they could still redeem the subject property, which prompted [Spouses] Dizon to pay a total amount of Ninety Thousand Pesos during the redemption period. There can be no doubt of the earnest intent of [Spouses] Dizon to exercise their right of redemption. Their tender of payment during the redemption period should therefore be considered an affirmation of the timely notice to redeem.

Spouses Dizon have demonstrated a serious and sincere desire to redeem the subject property when they continuously paid their loan during the redemption period.

x x x x

Keppel Bank argues that [Spouses] Dizon have not fully paid [their] loan obligation, hence, the trial court erred in declaring null and void the consolidation of title and ownership of mortgaged property.

Although [Spouses] Dizon have not fully paid their loan obligation, nevertheless, we agree with the trial court that there was substantial compliance. As a matter of fact, [Spouses] Dizon have paid Seventy-Eight percent (78%) of the loan obligation.

x x x x

Moreover, the doctrine of estoppel will apply in this case. This is because Keppel Bank accepted loan payment, albeit less than the full amount due, from [Spouses] Dizon during the redemption period giving assurance to the latter that they could still redeem the mortgaged property. Such assurance from Keppel [Bank] led [Spouses] Dizon to pay the former the amount of Ninety Thousand Pesos (P90,000.00) during the redemption period.<sup>[17]</sup>

Now before Us, the Bank raises the following alleged errors:

- 5.1 THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT RESPONDENTS CAN STILL VALIDLY REDEEM THE SUBJECT PROPERTIES EVEN AFTER THE EXPIRATION OF THE REDEMPTION PERIOD.
- 5.2 ASSUMING *ARGUENDO* THAT RESPONDENTS CAN STILL REDEEM THE SUBJECT PROPERTIES, THE HONORABLE COURT OF APPEALS ERRED IN ANNULLING, CANCELLING, AND DECLARING NULL AND VOID PETITIONER'S TITLE OVER THE SUBJECT PROPERTIES EVEN BEFORE RESPONDENTS COULD VALIDLY REDEEM THEM IN FULL.
- 5.3 ASSUMING *ARGUENDO* THAT RESPONDENTS CAN STILL REDEEM THE SUBJECT PROPERTIES, THE HONORABLE COURT OF APPEALS ERRED IN ALLOWING RESPONDENTS TO PAY THE BALANCE OF THE REDEMPTION PRICE COMPUTED ON THE

BASIS OF SECTION 6 OF ACT NO. 3135 WITHIN AN INDEFINITE PERIOD OF TIME.<sup>[18]</sup>

The petition is meritorious.

Section 6 of Act No. 3135,<sup>[19]</sup> as amended by Act No. 4118,<sup>[20]</sup> provides:

SEC. 6. In all cases in which an extrajudicial sale is made under the special power hereinbefore referred to, the debtor, his successors in interest or any judicial creditor or judgment creditor of said debtor, or any person having a lien on the property subsequent to the mortgage or deed of trust under which the property is sold, may redeem the same at any time within the term of one year from and after the date of sale; and such redemption shall be governed by the provisions of sections four hundred and sixty-four to four hundred and sixty-six, inclusive, of the Code of Civil Procedure, insofar as these are not inconsistent with the provisions of this Act.

The right of redemption should be exercised within the period required by law, which should be counted not from the date of foreclosure sale but from the time the certificate of sale is registered with the Register of Deeds.<sup>[21]</sup> Fixing a definite term within which a property should be redeemed is meant to avoid prolonged economic uncertainty over the ownership of the thing sold.<sup>[22]</sup>

In this case, considering that the creditor-mortgagee is a banking institution, the determination of the redemption price is governed by Section 78<sup>[23]</sup> of Republic Act No. 337 or "The General Banking Act," as amended by Presidential Decree No. 1828.

x x x In *Ponce de Leon v. Rehabilitation Finance Corporation*, this Court had occasion to rule that Section 78 of the General Banking Act had the effect of amending Section 6 of Act No. 3135 insofar as the redemption price is concerned when the mortgagee is a bank, as in this case, or a banking or credit institution. The apparent conflict between the provisions of Act No. 3135 and the General Banking Act was, therefore, resolved in favor of the latter, being a special and subsequent legislation. This pronouncement was reiterated in the case of *Sy v. Court of Appeals* where we held that the amount at which the foreclosed property is redeemable is the amount due under the mortgage deed, or the outstanding obligation of the mortgagor plus interest and expenses in accordance with Section 78 of the General Banking Act. It was, therefore, manifest error on the part of the Court of Appeals to apply in the case at bar the provisions of Section 30, Rule 39 of the Rules of Court in fixing the redemption price of the subject foreclosed property.<sup>[24]</sup>

Redemption within the period allowed by law is not a matter of intent but a question of payment or valid tender of the full redemption price.<sup>[25]</sup> It is irrelevant whether the mortgagor is diligent in asserting his or her willingness to pay. What counts is