

FIRST DIVISION

[G.R. No. 159271, July 13, 2015]

**SPOUSES BENITO BAYSA AND VICTORIA BAYSA, PETITIONERS,
VS. SPOUSES FIDEL PLANTILLA AND SUSAN PLANTILLA,
REGISTER OF DEEDS OF QUEZON CITY, AND THE SHERIFF OF
QUEZON CITY, RESPONDENTS.**

D E C I S I O N

BERSAMIN, J.:

The petitioners seek the reversal and setting aside of the decision promulgated on December 20, 2002,^[1] whereby the Court of Appeals (CA) declared the extrajudicial foreclosure of their mortgaged property valid.^[2]

Antecedents

The case involves a real estate mortgage (REM) entered into by the petitioners involving their parcel of land in Cubao, Quezon City covered by their Transfer Certificate of Title No. 260376 of the Register of Deeds of Quezon City to secure the payment of their obligation amounting to P2.3 Million in favor of the respondent spouses. Based on the terms of the REM, the petitioners agreed to pay interest on the principal amount at the rate of 2.5%/month, or P57,500.00/month. Upon the default of the petitioners, the respondent spouses commenced the extrajudicial foreclosure of the REM to recover from the petitioners the total liability of P3,579,100.00 (inclusive of the principal and the unpaid interest).

The petitioners sued the respondent spouses in the Regional Trial Court (RTC) in Quezon City to annul the extrajudicial foreclosure of the REM and the public auction conducted pursuant to the extrajudicial foreclosure. They alleged that all the proceedings relevant to the extrajudicial foreclosure were null and void, pointing out that there had been no power or authority to sell inserted in the REM or attached thereto as required by Section 1 Act No. 3135; and that the interest rate of 8% was unconscionable and violative of the Anti-Usury Law.

The pertinent details as summarized by the RTC and adopted by the CA are the following:

On August 4, 1992, plaintiffs-spouses (Benito and Victoria Baysa) executed a real estate mortgage in favor of the defendants-spouses Fidel R. Plantilla and Susan Plantilla whereby plaintiffs-spouses mortgaged their parcel of land in Cubao, Quezon City x x x to secure the payment of their indebtedness in the principal sum of P2,300,000.00 and accruing interest at the legal rate thereon and payable according to the terms of the Mortgage Note xxx. The Mortgage Note signed by both parties

containing the terms of payment and interest rate was also executed on August 4, 1992 xxx. It was expressly agreed upon by both parties in the mortgage note that the interest on the loan of P2,300,000.00 was 2.5% per month (P57,500.00) or a monthly rate equal to 7 percentage points above the prime rate of the Standard Chartered Bank of Makati on the fifth working day before the interest is due. The improvements existing on the land in question are a house, shop and warehouse. This parcel of land including the improvements is worth P15 million. The interest at the rate of P57,500.00 from September 1992 up to May 1993 were regularly paid. They suffered business reverses and difficulty in collection so they became irregular in the monthly payment of the agreed interest and for late payment they were charged 8% interest per month, the same is reflected in the statement of account dated March 31, 1994 for P3,053,772.00 x x x in the statement of account as of May 6, 1994 xxx and in the statement of overdue account dated April 21, 1994 xxx. When 8% interest surcharge was imposed, they stopped paying the monthly interest because of some difficulty in their business and high interest rate which overburdened them. Then the defendants filed an extrajudicial foreclosure. A certain Mrs. de la Cruz approaching them as representative of the defendants collecting the unpaid balance of P3,123,830.00 as reflected in the statement of account as of May 6, 1994 xxx and they told her that they were willing to pay what ever be the balance but the interest has to be recomputed not on the basis of 8% interest per month. They received a notice of sheriffs sale that the property will be foreclosed xxx, the amount of mortgage indebtedness was P3,579,100.00. Their principal loan was P2,300,000.00 and they have paid P1,032,599.88 for interest of the loan x x x. When he received the notice of sheriffs sale he was surprised because they have an agreement with the representative that they were asking for a period of six (6) months to pay after knowing the correct amount of their balance xxx.

The defendants' evidence x x x shows that x x x no payment was made by the plaintiffs on the principal loan of P2,300,000.00. Only the monthly interest of 2.5% of the principal or P57,500.00 were paid by the plaintiffs regularly from August 1992 until June 1993. The interest paid for the months of July, August, September and October, 1993 were paid late and after that no payments were made on the monthly interest from November 1993 until the property was foreclosed. When plaintiffs defaulted in the payment of the monthly interest, Emilia de la Cruz, certified public accountant, was consulted by the mother of the defendants who advised the latter to hire the services of counsel to file a petition for foreclosure of the mortgage, x x x (they) sent a letter of demand x x x addressed to plaintiffs-spouses Baysa to pay the principal loan and interest due xxx. Despite the receipt of the said letter of demand, plaintiffs did not pay their indebtedness to the defendants, hence, x x x a petition for foreclosure was filed with the Office of the Sheriff of the Quezon City Regional Trial Court which prayed that in view of the non-payment of the indebtedness of the plaintiffs in the amount of P3,579,100.00 (principal and unpaid interest) that the mortgaged property x x x be foreclosed at a public auction x x x.^[3]

Decision of the RTC

After trial, the RTC rendered its decision dated December 27, 1996,^[4] disposing thusly:

WHEREFORE, a decision is hereby rendered in this case dismissing the instant complaint for lack of cause of action.

Ordering the plaintiffs to pay the defendants on the counterclaim the amount of P50,000.00 for moral damages, P50,000.00 for exemplary damages and P50,000.00 for attorney's fees, and to pay the costs of the suit.

SO ORDERED.^[5]

In support of the dismissal of the petitioners' complaint, and in upholding the validity of the extrajudicial foreclosure, the RTC explained:

x x x x The deed of real estate mortgage (Exh. A) in paragraph 13 thereof expressly states the consent of the mortgagors to the extrajudicial foreclosure of the mortgaged property in the event of non-payment, to wit:

Paragraph 13. x x x; - In the event of non-payment of the entire principal and accrued interest due under the conditions described in this paragraph, the mortgagors expressly and specifically agree to the extra-judicial foreclosure of the mortgaged property.^[6]

Furthermore, the RTC allowed the additional interest of 8%, observing that:

x x x x The defendants did not increase the agreed interest of 2.5% per month. The 8% additional interest on accrued interest is allowed because accrued interest earns legal rate of interest which is now 12% per annum as per under Central Bank Circular No. 416 which applies to loans and forbearance of money.^[7] x x x x

Judgment of the CA

Aggrieved, the petitioners appealed, submitting the following issues for the resolution of the CA, namely:

1. Whether or not the extrajudicial foreclosure is valid despite the lack of provision in the mortgage deed granting special power to sell to

the mortgagee;

2. If valid, whether the procedure taken thereon complies with the provisions of Act No. 3135, as amended; and
3. Whether or not the 8% compounded monthly interest is legal.^[8]

On December 20, 2002, the CA promulgated the assailed judgment,^[9] affirming the validity of the foreclosure proceedings but invalidating the imposition of the 8% additional interest for lack of legal basis considering that the REM did not contain a stipulation to that effect. Its pertinent ratiocination and disposition stated:

We agree with the lower court that the extrajudicial foreclosure was not visited with vice for failure of the mortgagor in the mortgage deed to grant special power to sell the property in favor of the mortgagee. It suffices that the mortgagee document empowers the mortgagee to extrajudicially foreclose the property. Such authority to extrajudicially foreclose by necessary implication carries with it the grant of power to sell the property at a public auction. It is only when the deed is silent as to the grant of authority to extrajudicially foreclose on the mortgage that a mortgagee is prevented from availing of such remedy.

In Centeno vs. Court of Appeals, the Supreme Court, when confronted with the same issue, chose to uphold the validity of the extrajudicial foreclosure.

x x x x

But all is not lost with the appellants. We agree that the 8% monthly interest on the unpaid interest is not warranted by the mortgage deed, for there is nothing in it that provides for the imposition of such exorbitant interest on the unpaid interest. Article 1958 of the New Civil Code is clear on the matter: "(I)nterest due and unpaid shall not earn interest." And while the parties may stipulate to capitalize the interest due and unpaid, the same shall not be valid unless it be in writing, pursuant to Article 1956 of the Civil Code.

x x x x

WHEREFORE, the Decision of the lower court is hereby SET ASIDE. The extrajudicial foreclosure is hereby declared to be VALID, but a re-computation of the amount of mortgage indebtedness is ordered by removing the 8% interest imposed by the mortgagee on the unpaid interest. The award of moral and exemplary damages and attorney's fees are hereby DELETED.

SO ORDERED.^[10]

Upon denial of the petitioners' motion for reconsideration, as well as of the