

## FIRST DIVISION

[ G.R. No. 170942, August 28, 2013 ]

**COMSAVINGS BANK (NOW GSIS FAMILY BANK), PETITIONER,  
VS. SPOUSES DANILO AND ESTRELLA CAPISTRANO,  
RESPONDENTS.**

### D E C I S I O N

**BERSAMIN, J.:**

A banking institution serving as an originating bank for the Unified Home Lending Program (UHLP) of the Government owes a duty to observe the highest degree of diligence and a high standard of integrity and performance in all its transactions with its clients because its business is imbued with public interest.

#### The Case

Comsavings Bank (now GSIS Family Bank) seeks the review and reversal of the decision promulgated on November 30, 2005,<sup>[1]</sup> whereby the Court of Appeals (CA) affirmed with modifications the decision rendered on April 25, 2003 by the Regional Trial Court (RTC), Branch 135, in Makati City finding it liable for damages to respondents.<sup>[2]</sup>

#### Antecedents

Respondents were the owners of a residential lot with an area of 200 square meters known as Lot 8 of Block 4 of the Infant Jesus Subdivision situated in Bacoor, Cavite, and covered by Transfer Certificate of Title (TCT) No. 316885 of the Register of Deeds of Cavite. Desirous of building their own house on the lot, they availed themselves of the UHLP implemented by the National Home Mortgage Finance Corporation (NHMFC). On May 28, 1992, they executed a construction contract with Carmencita Cruz-Bay, the proprietor of GCB Builders, for the total contract price of P265,000.00 with the latter undertaking to complete the construction within 75 days. To finance the construction, GCB Builders facilitated their loan application with Comsavings Bank, an NHMFC-accredited originator. As proof of their qualifications to avail themselves of a loan under the UHLP and to comply with the conditions prescribed for the approval of their application, they submitted their record of employment, the amount of their income, and a clearance from the Social Security System (SSS) to the effect that they had no existing loans, among others. On May 28, 1992, they executed in favor of GCB Builders a deed of assignment of the amount of the P300,000.00 proceeds of the loan from Comsavings Bank.

On July 2, 1992, Comsavings Bank informed respondent Estrella Capistrano that she would have to sign various documents as part of the requirements for the release of the loan. Among the documents was a *certificate of house completion and acceptance*. On the same date, Comsavings Bank handed Estrella a letter addressed

to GCB Builders informing the latter that respondents had complied with the preliminary requirements of the UHLP, and were qualified to avail themselves of the loan amounting to P303,450.00 payable within 25 years at 16% *per annum*, subject to the following terms and conditions, namely: the signing of mortgage documents, 100% completion of the construction of the housing unit, original certificate of occupancy permit and certification of completion, and submission of house pictures signed by the borrower at the back.

On August 10, 1992, Comsavings Bank informed respondents of the approval of an interim financing loan of P260,000.00 payable within 180 days, which amount was to be paid out of the proceeds of the loan from NHMFC. By October 9, 1992, GCB Builders received from Comsavings Bank the total sum of P265,000.00 as construction cost in four releases, to wit:

August 7, 1992	- P39,210.00
August 19, 1992	- P112,181.00
September 3, 1992	- P53,565.00
October 9, 1992	- P24,779.25 <sup>[3]</sup>

In late September 1992, after Comsavings Bank had released the total of P265,000.00 to GCB Builders as construction cost, respondents inquired from GCB Builder when their house would be completed considering that their contract stipulated a completion period of 75 days. Cruz-Bay gave various excuses for the delay, such as the rainy season, but promised to finish the construction as soon as possible. The year 1992 ended with the construction of the house unfinished.<sup>[4]</sup>

In February 1993, respondents demanded the completion of the house. In reply, Cruz-Bay told them to give the further amount of P25,000.00 to finish the construction. They requested a breakdown of the amounts already spent in the construction considering that the P303,450.00 that Comsavings Bank had been paid by NHMFC on their loan had been more than the contract price of the contract. Instead of furnishing them the requested breakdown, GCB Builders' counsel sent a demand letter for an additional construction cost of P52,511.59.

On May 30, 1993, respondents received a letter from NHMFC advising that they should already start paying their monthly amortizations of P4,278.00 because their loan had been released on April 20, 1993 directly to Comsavings Bank. On June 1, 1993, Estrella Capistrano went to the construction site and found to her dismay that the house was still unfinished. She noted that there were no doorknobs; that the toilet bath floor was not even constructed yet because the portion of the house was still soil; that there were no toilet and bathroom fixtures; that the toilet and bath wall tiles had no end-capping; that there were cracks on the wall plastering; that the kitchen sink had no plumbing fixtures; and that the main door installed was a flush-type instead of the sliding door specified in the approved plans.

On July 5, 1993, respondents wrote to NHMFC protesting the demand for amortization payments considering that they had not signed any *certification of completion and acceptance*, and that even if there was such a *certification of*

*completion and acceptance*, it would have been forged.

On July 14, 1993, respondents again wrote to NHMFC requesting an ocular inspection of the construction site.

On November 11, 1993, Atty. Ruben C. Corona, the Manager of the Collateral Verification & External Examination Department of NHMFC, informed the counsel of respondents that the inspection of the construction site conducted on August 4, 1993 showed the following:

- 1) That the subject unit is being occupied by tenant, a certain Mr. Mark Inanil;
- 2) That the toilet/bath and kitchen counter are not installed with Plumbing fixtures;
- 3) That there are no door knobs on bedroom and no handles on Kitchen cabinet;
- 4) That the toilet bath has no concrete flooring and the tiles has no end/corner cappings; and
- 5) That there are hairline cracks on flooring.<sup>[5]</sup>

On July 12, 1993, respondents sued GCB Builders and Comsavings Bank for breach of contract and damages,<sup>[6]</sup> praying that defendants be ordered jointly and severally liable: (1) to finish the construction of the house according to the plans and specifications agreed upon at the price stipulated in the construction contract; and (2) to pay them P38,450.00 as the equivalent of the mortgage value in excess of the contract price; P25,000.00 as actual damages for the expenses incurred by reason of the breach of contract; P200,000.00 as moral damages; P30,000.00 as attorney's fees; and P50,000.00 as exemplary damages.

Respondents amended their complaint to implead NHMFC as ab additional defendant. Aside from adopting the reliefs under the original complaint, they prayed that NHMFC be directed to hold in abeyance its demand for amortization payment until the case had been finally adjudged; that NHMFC, GCB Builders and Comsavings Bank be ordered to pay moral and exemplary damages, and attorney's fees; and that GCB Builders and Comsavings be directed to pay P4,500.00 as monthly rental from the filing of the complaint until the house was turned-over and accepted by them.<sup>[7]</sup>

In their respective answers,<sup>[8]</sup> GCB Builders, Comsavings Bank and NHMFC asserted that the complaint as amended stated no cause of action against them. On its part, GCB Builders claimed that the construction of the house had been completed a long time ago; that respondent had failed, despite demand, to occupy the house and to pay a balance of P46,849.94 as of August 23, 1993; and that it had received only P239,355.30 out of the P303,000.00 loan, inasmuch as the balance went to interim interest, originator fee, service charge and other bank charges. Comsavings Bank averred that respondents were estopped from assailing their signing of the *certificate of house acceptance/completion* on July 2, 1992 considering that they had the option not to pre-sign the certificate; and that it did not make any

representation as to the conditions and facilitation of the loan with NHMFC when it submitted the *certificate of house acceptance/completion* to NHMFC after the completion of the house on April 20, 1993 because such representations were normal and regular requirements in loan processing of the conduit banks of NHMFC. Lastly, NHMFC alleged that it administered the UHLP of the Government by granting financing to qualified home borrowers through loan originators, like Comsavings Bank in this case; and that respondents had applied and had been granted a housing loan, and, as security, they had executed a loan and mortgage agreement and promissory note for P303,450.00 dated July 2, 1992.

### **Decision of the RTC**

On April 25, 2003, after trial, the RTC rendered a decision in favor of respondents.

[9] Specifically, it found that although the proceeds of the loan had been completely released, the construction of the house of respondents remained not completed; that the house had remained in the possession of GCB Builders, which had meanwhile leased it to another person; that GCB Builders did not comply with the terms and conditions of the construction contract; and that NHMFC approved the loan in the gross amount of P303,450.00, and released P289,000.00 of that amount to Comsavings Bank on April 20, 1993. It concluded that respondents were entitled to recover from all defendants actual damages of P25,000.00; moral damages for their mental anguish and sleepless night in the amount of P200,000.00; exemplary damages of P100,000.00; and P30,000.00 as attorney's fees. It ruled, however, that only GCB Builders was liable for the monthly rental of P4,500.00 because GCB Builders was alone in renting out the house; and that NHMFC was equally liable with the other defendants by reason of its having released the loan proceeds to Comsavings Bank without verifying whether the construction had already been completed, thereby indicating that NHMFC had connived and confederated with its co-defendants in the irregular release of the loan proceeds to Comsavings Bank.

The RTC disposed thusly:

WHEREFORE, judgment is hereby rendered ordering:

1. Defendants GCB Builder, COMSAVINGS BANK, and NATIONAL HOUSING FINANCE MORTGAGE CORPORATION (sic) jointly and severally:

- 1.1 To complete the construction of the house of plaintiff Spouses DANILO and ESTRELLA CAPISTRANO within thirty [30] days;

- 1.2 To pay said plaintiffs:

- 1.2.1 P25,000.00 in actual damages;
    - 1.2.2 P200,000.00 in moral damages;
    - 1.2.3 P100,000.00 in exemplary damages;
    - 1.2.4 P30,000.00 as attorney's fees.

2. Defendant GCB Builder to pay the plaintiffs the amount of P4,500.00, as rentals from the date of the filing of the Complaint until the construction of the house is completed, turned over to and accepted by the plaintiffs;

3. Defendants NHMFC to hold in abeyance the collection of the amortizations until 30 days from the completion and acceptance by the plaintiffs of the house in question.

SO ORDERED.<sup>[10]</sup>

GCB Builders, Comsavings Bank and NHMFC appealed to the CA.

### **Decision of the CA**

GCB Builders assigned the following errors to the RTC, namely:

1. IN FINDING THAT THE HOUSE IN QUESTION WAS NOT COMPLETED.
2. IN FINDING THAT GCB BUILDERS DID NOT COMPLY WITH THE TERM AND CONDITIONS OF THE CONSTRUCTION.
3. IN NOT FINDING THAT THE PLAINTIFFS ARE LIABLE TO PAY DEFENDANT GCB THE AMOUNT OF P45,000.00.
4. IN RENDERING WITHOUT LEGAL AND FACTUAL BASIS THE DECISION, THE DISPOSTIVE PORTION OF WHICH READS, AS FOLLOWS:

x x x x

5. IN NOT GRANTING THE RELIEFS PRAYED FOR IN THE COUNTERCLAIM;
6. IN NOT DISMISSING THE COMPLAINT.<sup>[11]</sup>

Comsavings Bank phrased its assignment of error thuswise:

I

THE TRIAL COURT ERRED IN HOLDING THAT DEFENDANT-APPELLANT COMSAVINGS BANK IS JOINTLY AND SEVERALLY LIABLE WITH THE OTHER DEFENDANTS-APPELLANTS GCB BUILDERS AND NATIONAL HOME MORTGAGE FINANCE CORPORATION TO PAY PLAINTIFFS-APPELLEES ACTUAL, MORAL AND EXEMPLARY DAMAGES AS WELL AS ATTORNEY'S FEES.<sup>[12]</sup>

NHMFC ascribes to the RTC the following errors, to wit:

I

THE TRIAL COURT ERRED IN HOLDING THAT DEFENDANT-APPELLANT NATIONAL HOME MORTGAGE FINANCE CORPORATION IS JOINTLY AND SEVERALLY LIABLE WITH THE OTHER DEFENDANT-APPELLANTS GCB BUILDERS AND COMSAVINGS BANK TO PAY PLAINTIFFS-APPELLEES ACTUAL, MORAL AND EXEMPLARY DAMAGES AS WELL AS ATTORNEY'S FEES.