

FIRST DIVISION

[G.R. No. 158755, June 18, 2012]

**SPOUSES FRANCISCO AND MERCED RABAT, PETITIONERS, VS.
PHILIPPINE NATIONAL BANK, RESPONDENT.**

DECISION

BERSAMIN, J.:

The inadequacy of the bid price in an extrajudicial foreclosure sale of mortgaged properties will not *per se* invalidate the sale. Additionally, the foreclosing mortgagee is not precluded from recovering the deficiency should the proceeds of the sale be insufficient to cover the entire debt.

Antecedents

The parties are before the Court a second time to thresh out an issue relating to the foreclosure sale of the petitioners' mortgaged properties. The first time was in G.R. No. 134406 entitled *Philippine National Bank v. Spouses Francisco and Merced Rabat*, decided on November 15, 2000.^[1] In G.R. No. 134406, the Court observed that –

The RABATs did not appeal from the decision of the trial court. As a matter of fact, in their Appellee's Brief filed with the Court of Appeals they prayed that said decision be affirmed *in toto*. As against the RABATs the trial court's findings of fact and conclusion are already settled and final. More specifically, they are deemed to have unqualifiedly agreed with the trial court that the foreclosure proceedings were valid in all respects, except as to the bid price.^[2]

Accordingly, we extract the antecedent facts from the narrative of the decision in G.R. No. 134406, as follows:

On 25 August 1979, respondent spouses Francisco and Merced Rabat (hereafter RABATs) applied for a loan with PNB. Subsequently, the RABATs were granted on 14 January 1980 a medium-term loan of P4.0 Million to mature three years from the date of implementation.

On 28 January 1980, the RABATs signed a Credit Agreement and executed a Real Estate Mortgage over twelve (12) parcels of land which stipulated that the loan would be subject to interest at the rate of 17% per annum, plus the appropriate service charge and penalty charge of 3% per annum on any amount remaining unpaid or not renewed when due.

On 25 September 1980, the RABATs executed another document denominated as "Amendment to the Credit Agreement" purposely to increase the interest rate from 17% to 21% per annum, inclusive of service charge and a penalty charge of 3% per annum to be imposed on any amount remaining unpaid or not renewed when due. They also executed another Real Estate Mortgage over nine (9) parcels of land as additional security for their medium-term loan of Four Million (P4.0 M). These parcels of land are agricultural, commercial and residential lots situated in Mati, Davao Oriental.

The several availments of the loan accommodation on various dates by the RABATs reached the aggregate amount of THREE MILLION FIVE HUNDRED SEVENTEEN THOUSAND THREE HUNDRED EIGHTY (P3,517,380), as evidenced by the several promissory notes, all of which were due on 14 March 1983.

The RABATs failed to pay their outstanding balance on due date.

In its letter of 24 July 1986, in response to the letter of the RABATs of 16 June 1986 requesting for more time within which to arrive at a viable proposal for the settlement of their account, PNB informed the RABATs that their request has been denied and gave the RABATs until 30 August 1986 to settle their account. The PNB sent the letter to 197 Wilson Street, San Juan, Metro Manila.

For failure of the RABATs to pay their obligation, the PNB filed a petition for the extrajudicial foreclosure of the real estate mortgage executed by the RABATs. After due notice and publication, the mortgaged parcels of land were sold at a public auction held on 20 February 1987 and 14 April 1987. The PNB was the lone and highest bidder with a bid of P3,874,800.00.

As the proceeds of the public auction were not enough to satisfy the entire obligation of the RABATs, the PNB sent anew demand letters. The letter dated 15 November 1990 was sent to the RABATs at 197 Wilson Street, San Juan, Metro Manila; while another dated 30 August 1991 was sent to the RABATs at 197 Wilson Street, Greenhills, San Juan, Metro Manila, and also in Mati, Davao Oriental.

Upon failure of the RABATs to comply with the demand to settle their remaining outstanding obligation which then stood at P14,745,398.25, including interest, penalties and other charges, PNB eventually filed on 5 May 1992 a complaint for a sum of money before the Regional Trial Court of Manila. The case was docketed as Civil Case No. 92-61122, which was assigned to Branch 14 thereof.

The RABATs filed their answer with counterclaim on 28 July 1992 to which PNB filed its Reply and Answer to Counterclaim. On 2 January 1993, the RABATs filed an amended answer. The RABATs admitted their loan availments from PNB and their default in the payment thereof. However, they assailed the validity of the auction sales for want of notice

to them before and after the foreclosure sales.

They further added that as residents of Mati, Davao Oriental since 1970 up to the present, they never received any notice nor heard about the foreclosure proceeding in spite of the claim of PNB that the foreclosure proceeding had been duly published in the San Pedro Times, which is not a newspaper of general circulation.

The RABATs likewise averred that the bid price was grossly inadequate and unconscionable.

Lastly, the RABATs attacked the validity of the accumulated interest and penalty charges because since their properties were sold in 1987, and yet PNB waited until 1992 before filing the case. Consequently, the RABATs contended that they should not be made to suffer for the interest and penalty charges from May 1987 up to the present. Otherwise, PNB would be allowed to profit from its questionable scheme.

The PNB filed on 5 February 1993 its Reply to the Amended Answer and Answer to Counterclaim.^[3]

On June 14, 1994, the Regional Trial Court, Branch 14, in Manila (RTC) rendered its decision in Civil Case No. 92-61122,^[4] disposing thus:

WHEREFORE, and in view of the foregoing considerations, judgment is hereby rendered dismissing the complaint.

On the counterclaim, the two (2) auction sales of the mortgaged properties are hereby set aside and ordering the plaintiff to reconvey to the defendants the remaining properties after the sale [of] sufficient properties for the satisfaction of the obligation of the defendants.

The parties will bear their respective cost.

So ordered.

Only PNB appealed to the CA (CA-G.R. CV No. 49800), assigning the following two errors to the RTC,^[5] to wit:

I

WHETHER OR NOT THE TRIAL COURT ERRED IN NULLIFYING THE SHERIFF'S AUCTION SALE ON THE GROUND THAT THE PNB'S WINNING BID IS VERY LOW.

II

WHETHER OR NOT THE TRIAL COURT ERRED IN RULING THAT THE

DEFENDANTS-APPELLEES ARE NOT LIABLE TO PAY INTEREST AND PENALTY CHARGES AFTER THE AUCTION SALES UP TO THE FILING OF THIS CASE.

On their part, the Spouses Rabat simply urged in their *appellee's brief* that the decision of the RTC be entirely affirmed.^[6]

On June 29, 1998, the CA upheld the RTC's decision to nullify the foreclosure sales but rested its ruling upon a different ground,^[7] in that the Spouses Rabat could not have known of the foreclosure sales because they had not actually received personal notices about the foreclosure proceedings. The CA concluded:

An examination of the exhibits show that the defendant-appellees given address is Mati, Davao Oriental and not 197 Wilson Street, Greenhills, San Juan, Metro Manila as alleged by the plaintiff-appellant (Exhibit C to J, pp. 208, 217, 220, 229, 236-239, Records). Records further show that all subsequent communications by plaintiff-appellant was sent to defendant-appellees address at Wilson Street, Greenhills, San Juan. This was the very reason why defendant-appellees were not aware of the foreclosure proceedings.

As correctly found out by the trial court, there is a need for the setting aside of the two (2) auction sales hence, there is yet no deficiency judgment to speak of.

WHEREFORE, the decision of the trial court dated 14 June 1994, is hereby affirmed in toto.

SO ORDERED.

PNB appealed in due course (G.R. No. 134406),^[8] positing:

WHETHER OR NOT THE COURT OF APPEALS MAY REVIEW AND PASS UPON THE TRIAL COURT'S FINDING AND CONCLUSION ON AN ISSUE WHICH WAS NEVER RAISED ON APPEAL, AND, THEREFORE, HAD ATTAINED FINALITY.

1. THE COURT OF APPEALS HAS SO FAR DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS WHEN IT DECIDED AND RESOLVED A QUESTION OR ISSUE NOT RAISED IN PETITIONER PNB'S APPEAL;
2. THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT REVERSED THE FINDING AND CONCLUSION OF THE TRIAL COURT ON AN ISSUE WHICH HAD ALREADY ATTAINED FINALITY.

PNB argued that it had not raised the issue of lack of notice about the foreclosure sales because the fact that the Spouses Rabat had not appealed the RTC's ruling as regards the lack of notice but had in fact prayed for the affirmance of the RTC's judgment had rendered final the RTC's rejection of their allegation of lack of personal notice; and that, consequently, the CA had committed grave abuse of discretion in still resolving the issue of lack of notice despite its not having been raised during the appeal.^[9]

On November 15, 2000, the Court promulgated its decision in G.R. No. 134406, decreeing:

WHEREFORE, the petition is GRANTED. The decision of the Court of Appeals of 29 July 1998 in CA-G.R. CV No. 49800 is hereby SET ASIDE. The Court of Appeals is directed to DECIDE, with reasonable dispatch, CA-G.R. CV No. 49800 on the basis of the errors raised by petitioner Philippine National Bank in its Appellant's Brief.

No pronouncement as to costs.

SO ORDERED.^[10]

To conform to the decision in G.R. No. 134406, the CA amended its decision on January 24, 2003 by resolving the errors specifically assigned by PNB in its *appellant's brief*.^[11] The CA nonetheless affirmed the RTC's decision, declaring that the bid price had been very low and observing that the mortgaged properties might have been sold for a higher value had PNB first conducted a reappraisal of the properties.

Upon PNB's motion for reconsideration, however, the CA promulgated its questioned second amended decision on March 26, 2003,^[12] holding and ruling as follows:

After a thorough and conscientious review of the records and relevant laws and jurisprudence, We find the motion for reconsideration to be meritorious.

While indeed no evidence was presented by appellant as to whether a reappraisal of the mortgaged properties was conducted by it before submitting the bid price of P3,874,800.00 at the auction sale, said amount approximates the loan value under its original appraisal in 1980, which was P4 million.

There is no dispute that mere inadequacy of price per se will not set aside a *judicial sale of real property*. Nevertheless, where the inadequacy of the price is purely shocking to the conscience such that the mind revolts at it and such that a reasonable man would neither directly nor indirectly be likely to consent to it, the sale shall be declared null and void. Said rule, however, does not strictly apply in the case of *extrajudicial foreclosure sales* so that when a supposed "unconscionably