

## SECOND DIVISION

**[ G.R. No. 174006, December 08, 2010 ]**

**BANK OF COMMERCE AND STEPHEN Z. TAALA, PETITIONERS, VS.  
SPOUSES ANDRES AND ELIZA FLORES, RESPONDENTS.**

### DECISION

**NACHURA, J.:**

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court, assailing the Decision<sup>[1]</sup> dated February 28, 2006 and the Resolution<sup>[2]</sup> dated August 9, 2006 of the Court of Appeals (CA) in CA-G.R. CV No. 80362.

The facts of the case are as follows:

Respondents filed a case for specific performance against petitioners before the Regional Trial Court (RTC) of Quezon City, docketed as Civil Case No. Q-98-35425. Respondents are the registered owners of a condominium unit in Embassy Garden Homes, West Triangle, Quezon City, registered under Condominium Certificate of Title (CCT) No. 2130,<sup>[3]</sup> issued by the Register of Deeds of Quezon City.<sup>[4]</sup>

On October 22, 1993, respondents borrowed money from petitioner bank in the amount of Nine Hundred Thousand Pesos (P900,000.00). Respondents executed a Real Estate Mortgage<sup>[5]</sup> over the condominium unit as collateral, and the same was annotated at the back of CCT No. 2130.

On October 3, 1995, respondents again borrowed One Million One Hundred Thousand Pesos (P1,100,000.00) from petitioner bank, which was also secured by a mortgage over the same property annotated at the back of CCT No. 2130.<sup>[6]</sup>

On January 2, 1996, respondents paid One Million Eleven Thousand Five Hundred Fifty-Five Pesos and 54 centavos (P1,011,555.54), as evidenced by Official Receipt No. 147741<sup>[7]</sup> issued by petitioner bank. On the face of the receipt, it was written that the payment was "in full payment of the loan and interest." Respondents then asked petitioner bank to cancel the mortgage annotations on CCT No. 2130 since the loans secured by the real estate mortgage were already paid in full. However, the bank refused to cancel the same and demanded payment of Four Million Six Hundred Thirty-Three Thousand Nine Hundred Sixteen Pesos and Sixty-Seven Centavos (P 4,633,916.67), representing the outstanding obligation of respondents as of February 27, 1998. Respondents requested for an accounting which would explain how the said amount was arrived at. However, instead of heeding respondents' request, petitioner bank applied for extra-judicial foreclosure of the mortgages over the condominium unit. The public auction sale was scheduled on September 4, 1998. Petitioner Stephen Z. Taala, a notary public, was tasked to preside over the auction sale.<sup>[8]</sup>

Respondents filed suit with the RTC, Quezon City, assailing the validity of the foreclosure and auction sale of the property. They averred that the loans secured by the property had already been paid in full. Furthermore, they claimed that the Notice of Auction Sale by Notary Public<sup>[9]</sup> failed to comply with the provisions of Act No. 3135, as amended by Act No. 4118, requiring the publication and posting of the notice of auction sale in at least three (3) public places in Quezon City.<sup>[10]</sup> Respondents likewise prayed for the payment of moral and exemplary damages, and attorney's fees, and for the issuance of a temporary restraining order and/or writ of preliminary injunction to enjoin the extra-judicial foreclosure sale of the property.<sup>[11]</sup>

On October 23, 1998, the RTC granted respondents' prayer for issuance of a writ of preliminary injunction, restraining petitioner bank from foreclosing on the mortgage.<sup>[12]</sup>

Petitioner bank admitted that there were only two (2) mortgage loans annotated at the back of CCT No. 2130, but denied that respondents had already fully settled their outstanding obligations with the bank.<sup>[13]</sup> It averred that several credit lines were granted to respondent Andres Flores by petitioner bank that were secured by promissory notes executed by him, and which were either increased or extended from time to time. The loan that was paid on January 2, 1996, in the amount of P1,011,555.54, was only one of his loans with the bank. There were remaining loans already due and demandable, and had not been paid by respondents despite repeated demands by petitioner bank. The remaining loans, although not availed of at the same time, were similarly secured by the subject real estate mortgage as provided in the continuing guaranty agreement therein.<sup>[14]</sup>

Petitioner bank alleged that respondents requested and were granted an increase in their Bills Discounted Line from Nine Hundred Thousand Pesos (P900,000.00) to Two Million Pesos (P2,000,000.00), which was secured by the same real estate mortgage on CCT No. 2130. However, the subject condominium unit commanded only a market value of One Million Seven Hundred Twenty-Three Thousand Six Hundred Pesos (P1,723,600.00), and a loan value of Nine Hundred Fifty-Nine Thousand Six Hundred Sixteen Pesos (P959,616.00). Since the market value of the condominium unit was lower than the combined loans, the parties agreed to fix the amount of the real estate mortgage at P1,100,000.00. Moreover, petitioner bank stressed that under the terms of the two real estate mortgages, future loans of respondents were also covered.<sup>[15]</sup>

On December 4, 2002, the RTC rendered a resolution,<sup>[16]</sup> the *fallo* of which reads:

FROM THE FOREGOING MILIEU, the present case for specific performance with damages and injunction filed by plaintiffs, Sps. Andres and Eliza Flores against defendants, Bank of Commerce and Stephen Z. Taala, is hereby DISMISSED. Likewise, the counterclaim filed by defendants, Bank of Commerce and Stephen Z. Taala against plaintiffs, Sps. Andres and Eliza Flores is DISMISSED for insufficiency of evidence.

SO ORDERED.<sup>[17]</sup>

In denying respondents' complaint for specific performance, the RTC ratiocinated that respondents' right of action hinged mainly on the veracity of their claim that they faithfully complied with their loan obligations and had fully paid them in January 1996. The RTC stated that the evidence submitted by petitioner bank, specifically the promissory notes and statement of account dated February 27, 1998, negated this contention. The RTC declared that respondents incurred other debts from petitioner bank, which must be paid first before they could be absolved of liability, and, consequently, demand the release of the mortgage. The RTC also struck down respondents' assertion that petitioner bank did not comply with the posting and publication requirements under Act No. 3135, as amended.

Respondents filed a motion for reconsideration, which was, however, denied by the RTC in a decision<sup>[18]</sup> dated August 8, 2003.

Aggrieved, respondents appealed to the CA.

Meanwhile, on March 25, 2004, the auction sale of the subject property was conducted, and petitioner bank was awarded the property, as the highest bidder.

On February 28, 2006, the CA rendered a Decision<sup>[19]</sup> reversing the decision and the resolution of the RTC. The dispositive portion of the CA Decision reads:

IN VIEW OF ALL THE FOREGOING, the instant appeal is **GRANTED**; the challenged Decision dated December 4, 2002, is **REVERSED and SET ASIDE**; and a new one entered:

- (a) ordering the cancellation of the real estate mortgage annotations on the dorsal side of CCT No. 2130 of the Registry of Deeds of Quezon City;
- (b) ordering appellee Bank to issue a corresponding release of mortgages to plaintiffs-appellants' CCT No. 2130;
- (c) declaring null and void the challenged extra-judicial foreclosure and public auction sale held on March 25, 2004 together with the Certificate of Sale dated April 14, 2004 issued in favor of appellee Bank; and,
- (d) appellees' counterclaims are ordered dismissed, for lack of sufficient basis therefor.

No costs.

**SO ORDERED.**<sup>[20]</sup>

The CA ratiocinated that the principal obligation or loan was already extinguished by the full payment thereof. Consequently, the real estate mortgages securing the principal obligation were also extinguished. A real estate mortgage, being an accessory contract, cannot survive without the principal obligation it secures. The CA