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SECOND DIVISION

[G.R. NO. 165661, August 28, 2006]

SPS. MARIO & CORAZON VILLALVA, PETITIONERS, VS. RCBC SAVINGS BANK, RESPONDENT.

D E C I S I O N

PUNO, J.:

This case involves a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure which seeks to reverse the decision of the Seventh Division of the Court of Appeals in CA–G.R. SP No. 76574.

The facts.

In June 1993, petitioner spouses issued forty-eight (48) checks totaling ₱547,392.00 to cover installment payments due on promissory notes executed in favor of Toyota, Quezon Avenue (TQA) for the purchase of a '93 Toyota Corolla.[1] The promissory notes were secured by a Chattel Mortgage executed by the petitioner spouses on the vehicle in favor of TQA.[2] Under the Deed of Chattel Mortgage, petitioner spouses were to insure the vehicle against loss or damage by accident, theft and fire, and endorse and deliver the policies to the mortgagor, *viz*.:

> The MORTGAGOR covenants and agrees that he/it will cause the property(ies) hereinabove mortgaged to be insured against loss or damage by accident, theft and fire for a period of one year from date hereof with an insurance company or companies acceptable to the MORTGAGEE in an amount not less than the outstanding balance of the mortgage obligations and that he/it will make all loss, if any, under such policy or policies, payable to the MORTGAGEE or its assigns as its interest may appear and deliver such policy to the MORTGAGEE forthwith. The said MORTGAGOR further covenants and agrees that in default of his/its effecting such insurance and delivering the policies so endorsed to the MORTGAGEE on the day of the execution of this mortgage, the MORTGAGEE may at its option, but without any obligation to do so, effect such insurance for the account of the MORTGAGOR and that any money so disbursed by the MORTGAGEE shall be added to the principal indebtedness, hereby secured and shall become due and payable at the time for the payment of the first installment to be due under the note aforesaid after the date of such insurance and shall bear interest and/or finance charge at the same rate as the principal indebtedness. The MORTGAGOR hereby irrevocably authorizes the MORTGAGEE or its assigns to procure for the account of the MORTGAGOR the insurance coverage every year thereafter until the mortgage obligation is fully paid and any money so disbursed shall be payable and shall bear interest and/or finance charge in the same manner as stipulated in the next

> preceding sentence. It is understood that MORTGAGEE has no obligation to carry out aforementioned authority to procure insurance for the account of the MORTGAGOR.[3]

On June 22, 1993, the promissory notes and chattel mortgage were assigned to Rizal Commercial Banking Corporation (RCBC).[4] They were later assigned by RCBC to RCBC Savings Bank.[5] In time, all forty-eight (48) checks issued by the petitioner spouses were encashed by respondent RCBC Savings Bank.[6]

The evidence shows that the petitioner spouses faithfully complied with the obligation to insure the mortgaged vehicle from 1993 until 1996.[7] For the period of August 14, 1996 to August 14, 1997,[8] petitioner spouses procured the necessary insurance but did not deliver the same to the respondent until January 17, 1997.[9] As a consequence, respondent had the mortgaged vehicle insured for the period of October 21, 1996 to October 21, 1997 and paid a ₱14,523.36 insurance premium.[10] The insurance policy obtained by respondent was later cancelled due to the insurance policy secured by petitioner spouses over the mortgaged vehicle, and respondent bank was reimbursed ₱10,939.86 by Malayan Insurance Company.[11] The premium paid by respondent bank exceeded the reimbursed amount paid by Malayan Insurance Company by ₱3,583.50.

On February 10, 1999, respondent sent a letter of demand to the petitioners for ₱12,361.02 allegedly representing unpaid obligations on the promissory notes and mortgage as of January 31, 1999. In lieu thereof, respondent demanded that petitioner spouses surrender the mortgaged vehicle within five days from notice.[12] The petitioner spouses ignored the demand letter.

On April 5, 1999, respondent, in order to get the '93 Toyota Corolla, filed a complaint for Recovery of Possession with Replevin with the Metropolitan Trial Court of Pasay City, which was raffled to Branch 45 thereof.[13] Two weeks later, or on April 19, 1999, the respondent caused the enforcement of a writ of replevin and recovered possession of the mortgaged vehicle.[14] On June 18, 1999, petitioner spouses filed their Answer with Compulsory Counterclaim for moral damages, exemplary damages and attorney's fees.[15] Petitioners asserted that they insured the mortgaged vehicle in compliance with the Deed of Chattel Mortgage.

On June 28, 2002, the Metropolitan Trial Court rendered a decision in favor of petitioners and ordered respondent to pay petitioner spouses ₱100,000.00 in moral damages, ₱50,000.00 in exemplary damages, ₱25,000.00 in attorney's fees, and the costs and expenses of litigation.[16] Respondent's Motion for Reconsideration was denied on September 16, 2002.[17]

Respondent appealed the decision to the Regional Trial Court of Pasay City on October 3, 2002.[18] The case was raffled to Branch 114. On March 21, 2003, the Regional Trial Court affirmed the judgment of the Metropolitan Trial Court *in toto*.[19]

Undaunted, the respondent filed a petition for review with the Court of Appeals, pursuant to Rule 42 of the 1997 Rules of Civil Procedure, assailing the March 21,

2003 decision of the Regional Trial Court.[20] On July 8, 2004, the Court of Appeals reversed the decision of the Regional Trial Court. It ordered petitioner spouses to pay respondent ₱3,583.50 within thirty days of finality of the decision, and issued a writ of replevin as regards the mortgaged vehicle.[21] Petitioners' Motion for Reconsideration was denied, hence, the present petition for *certiorari*.

The petitioners alleged that in ruling against them, the Court of Appeals erred when it failed to consider two pieces of evidence: (1) an Acknowledgment Receipt dated January 17, 1997, which shows that the premium for the second insurance policy had been refunded to the respondent bank; and (2) an Endorsement by the Malayan Insurance Company dated June 11, 1997, which shows that petitioners handed the required insurance policy to the respondent. The petitioners also point out that the respondent was furnished a copy of the insurance policy on January 17, 1997.[22]

On the other hand, respondent contends that petitioners seek a review of factual findings which the Supreme Court cannot do as it is not a trier of facts.[23] It further argues that no reversible errors were made by the Court of Appeals, and to set aside its decision would result in the unjust enrichment of the petitioners.[24]

We rule for the petitioners.

The key issue is whether petitioners failed to comply with their obligation to insure the subject vehicle under the Deed of Chattel Mortgage. The Deed of Chattel Mortgage requires that the petitioners (1) secure the necessary insurance and (2) deliver the policies so endorsed to the respondent on the day of the execution of this mortgage.

We hold that petitioners did not default in the performance of their obligation. As a rule, demand is required before a party may be considered in default.[25] However, demand by a creditor is not necessary in order that delay may exist: (1) when the obligation or the law expressly so declares; (2) when from the nature and the circumstances of the obligation it appears that the designation of the time when the thing is to be delivered or the service is to be rendered was a controlling motive for the establishment of the contract; or (3) when demand would be useless, as when the obligor has rendered it beyond his power to perform. None of the exceptions are present in this case. It is clear from the records that the first and third exceptions are inapplicable. The second exception cannot also be applied in light of our ruling in **Servicewide Specialists, Incorporated v. Court of Appeals.**[26] In that case, this Court observed that the Deed of Chattel Mortgage required that two conditions should be met before the mortgagee could secure the required insurance: (1) default by the mortgagors in effecting renewal of the insurance, and (2) failure to deliver the policy with endorsement to mortgagee. The mortgagee contended that notice was not required due to the nature of the obligation, and that it was entitled to renew the insurance for the account of the mortgagors without notice to the latter should the mortgagors fail to renew the insurance coverage. To substantiate its claim, the mortgagee relied on the Chattel Mortgage provision that the car be insured at all times. This Court rebuffed the mortgagee's arguments:

> If petitioner was aware that the insurance coverage was inadequate, why did it not inform private respondent about it? After all, since petitioner was under no obligation to effect renewal thereof, it is but logical that it