

THIRD DIVISION

[G.R. NO. 156403, March 31, 2005]

**JOSEPHINE PAHAMOTANG AND ELEANOR PAHAMOTANG-BASA,
PETITIONERS, VS. THE PHILIPPINE NATIONAL BANK (PNB) AND
THE HEIRS OF ARTURO ARGUNA, RESPONDENTS.**

D E C I S I O N

GARCIA, J.:

Assailed and sought to be set aside in this appeal by way of a petition for review on *certiorari* under Rule 45 of the Rules of Court are the following issuances of the Court of Appeals in **CA-G.R. CV No. 65290**, to wit:

1. **Decision dated March 20, 2002,**^[1] granting the appeal and reversing the appealed August 7, 1998 decision of the Regional Trial Court at Davao City; and
2. **Resolution dated November 20, 2002,** denying herein petitioners' motion for reconsideration.^[2]

The factual background:

On July 1, 1972, Melitona Pahamotang died. She was survived by her husband **Agustin Pahamotang**, and their eight (8) children, namely: Ana, Genoveva, Isabelita, Corazon, Susana, Concepcion and herein petitioners **Josephine** and **Eleonor**, all surnamed **Pahamotang**.

On September 15, 1972, Agustin filed with the then Court of First Instance of Davao City a petition for issuance of letters administration over the estate of his deceased wife. The petition, docketed as **Special Case No. 1792**, was raffled to Branch VI of said court, hereinafter referred to as the **intestate court**.

In his petition, Agustin identified petitioners Josephine and Eleonor as among the heirs of his deceased spouse. It appears that Agustin was appointed petitioners' judicial guardian in an earlier case - Special Civil Case No. 1785 – also of the CFI of Davao City, Branch VI.

On December 7, 1972, the intestate court issued an order granting Agustin's petition.

On July 6, 1973, respondent Philippine National Bank (PNB) and Agustin executed an *Amendment of Real and Chattel Mortgages with Assumption of Obligation*. It appears that earlier, or on December 14, 1972, the intestate court approved the mortgage to PNB of certain assets of the estate to secure an obligation in the amount of P570,000.00. Agustin signed the document in behalf of (1) the estate of

Melitona; (2) daughters Ana and Corazon; and (3) a logging company named Pahamotang Logging Enterprises, Inc. (**PLEI**) which appeared to have an interest in the properties of the estate. Offered as securities are twelve (12) parcels of registered land, ten (10) of which are covered by transfer certificates of title (TCT) No. 2431, 7443, 8035, 11465, 21132, 4038, 24327, 24326, 31226 and 37786, all of the Registry of Deeds of Davao City, while the remaining two (2) parcels by TCTs No. (3918) 1081 and (T-2947) 562 of the Registry of Deeds of Davao del Norte and Davao del Sur, respectively.

On July 16, 1973, Agustin filed with the intestate court a **Petition for Authority To Increase Mortgage** on the above mentioned properties of the estate.

In an **Order dated July 18, 1973**, the intestate court granted said petition.

On October 5, 1974, Agustin again filed with the intestate court another petition, **Petition for Declaration of Heirs And For Authority To Increase Indebtedness**, whereunder he alleged the necessity for an additional loan from PNB to capitalize the business of the estate, the additional loan to be secured by additional collateral in the form of a parcel of land covered by Original Certificate of Title (OCT) No. P-7131 registered in the name of Heirs of Melitona Pahamotang. In the same petition, Agustin prayed the intestate court to declare him and Ana, Genoveva, Isabelita, Corazon, Susana, Concepcion and herein petitioners Josephine and Eleonor as the only heirs of Melitona.

In an Order of **October 19, 1974**, the intestate court granted Agustin authority to seek additional loan from PNB in an amount not exceeding P5,000,000.00 to be secured by the land covered by OCT No. P-7131 of the Registry of Deeds of Davao Oriental, but denied Agustin's prayer for declaration of heirs for being premature.

On October 22, 1974, a real estate mortgage contract for P4,500,000.00 was executed by PNB and Agustin in his several capacities as: (1) administrator of the estate of his late wife; (2) general manager of PLEI; (3) attorney-in-fact of spouses Isabelita Pahamotang and Orlando Ruiz, and spouses Susana Pahamotang and Octavio Zamora; and (4) guardian of daughters Concepcion and Genoveva and petitioners Josephine and Eleonor. Offered as securities for the additional loan are three (3) parcels of registered land covered by TCTs No. T-21132, 37786 and 43264.

On February 19, 1980, Agustin filed with the intestate court a **Petition (Request for Judicial Authority To Sell Certain Properties of the Estate)**, therein praying for authority to sell to **Arturo Arguna** the properties of the estate covered by TCTs No. 7443, 8035, 11465, 24326 and 31226 of the Registry of Deeds of Davao City, and also TCT No. (T-3918) T-1081 of the Registry of Deeds of Davao del Norte.

On February 27, 1980, Agustin yet filed with the intestate court another petition, this time a **Petition To Sell the Properties of the Estate**, more specifically referring to the property covered by OCT No. P-7131, in favor of **PLEI**.

In separate **Orders both dated February 25, 1980**, the intestate court granted Agustin authority to sell estate properties, in which orders the court also required all the heirs of Melitona to give their express conformity to the disposal of the subject properties of the estate and to sign the deed of sale to be submitted to the same

court. Strangely, the two (2) orders were dated two (2) days earlier than February 27, 1980, the day Agustin supposedly filed his petition.

In a motion for reconsideration, Agustin prayed the intestate court for the amendment of one of its **February 25, 1980** Orders by canceling the requirement of express conformity of the heirs as a condition for the disposal of the aforesaid properties.

In its **Order of January 7, 1981**, the intestate court granted Agustin's prayer.

Hence, on March 4, 1981, estate properties covered by TCTs No. 7443,11465, 24326, 31226, 8035, (T-2947) 662 and (T-3918) T-1081, were sold to respondent **Arturo Arguna**, while the property covered by OCT No. P-7131 was sold to PLEI. Consequent to such sales, vendees Arguna and **PLEI** filed with the intestate court a motion for the approval of the corresponding deeds of sale in their favor. And, in an Order dated March 9, 1981, the intestate court granted the motion.

Thereafter, three (3) daughters of Agustin, namely, Ana, Isabelita and Corazon petitioned the intestate court for the payment of their respective shares from the sales of estate properties, which was granted by the intestate court.

Meanwhile, the obligation secured by mortgages on the subject properties of the estate was never satisfied. Hence, on the basis of the real estate mortgage contracts dated **July 6, 1973** and **October 22, 1974**, mortgagor PNB filed a petition for the extrajudicial foreclosure of the mortgage.

Petitioner Josephine filed a motion with the intestate court for the issuance of an order restraining PNB from extrajudicially foreclosing the mortgage. In its Order dated August 19, 1983, the intestate court denied Josephine's motion. Hence, PNB was able to foreclose the mortgage in its favor.

Petitioners Josephine and Eleanor, together with their sister Susana Pahamatong-Zamora, filed motions with the intestate court to set aside its **Orders of December 14, 1972** [Note: the order dated July 18, 1973 contained reference to an order dated December 14, 1972 approving the mortgage to PNB of certain properties of the estate], **July 18, 1973, October 19, 1974** and **February 25, 1980**.

In an Order dated September 5, 1983, the intestate court denied the motions, explaining:

"Carefully analyzing the aforesaid motions and the grounds relied upon, as well as the opposition thereto, the Court holds that the supposed defects and/or irregularities complained of are mainly formal or procedural and not substantial, for which reason, the Court is not persuaded to still disturb all the orders, especially that interests of the parties to the various contracts already authorized or approved by the Orders sought to be set aside will be adversely affected".^[3]

Such was the state of things when, on March 20, 1984, in the Regional Trial Court at Davao City, petitioners Josephine and Eleanor, together with their sister Susana, filed their complaint for **Nullification of Mortgage Contracts and Foreclosure Proceedings and Damages** against Agustin, PNB, Arturo Arguna, PLEI, the

Provincial Sheriff of Mati, Davao Oriental, the Provincial Sheriff of Tagum, Davao del Norte and the City Sheriff of Davao City. In their complaint, docketed as **Civil Case No. 16,802** which was raffled to Branch 12 of the court, the sisters Josephine, Eleanor and Susana prayed for the following reliefs:

- "1.) The real estate mortgage contracts of July 6, 1973 and that of October 2, 1974, executed by and between defendants PNB AND PLEI be declared null and void ab initio;
- 2.) Declaring the foreclosure proceedings conducted by defendants-sheriffs, insofar as they pertain to the assets of the estate of Melitona L. Pahamotang, including the auction sales thereto, and any and all proceedings taken thereunder, as null and void ab initio;
- 3.) Declaring the Deed of Absolute Sale, Doc. No. 473; Page No.96; Book No.VIII, Series of 1981 of the Notarial Registry of Paquito G. Balasabas of Davao City evidencing the sale/transfer of the real properties described therein to defendant Arturo S. Arguna, as null and void ab initio;
- 4.) Declaring the Deed of Absolute Sale, Doc. No. 474; Page No. 96, Book No. VIII, series of 1981 of the Notarial Registry of Paquito G. Balasabas of Davao City, evidencing the sale/transfer of real properties to PLEI as null and void ab initio;
- 5.) For defendants to pay plaintiffs moral damages in such sums as may be found to be just and equitable under the premises;
- 6.) For defendants to pay plaintiffs, jointly and severally, the expenses incurred in connection with this litigation;
- 7.) For defendants to pay plaintiffs, jointly and severally attorney's fees in an amount to be proven during the trial;
- 8.) For defendants to pay the costs of the suit".^[4]

PNB moved to dismiss the complaint, which the trial court granted in its Order of January 11, 1985.

However, upon motion of the plaintiffs, the trial court reversed itself and ordered defendant PNB to file its answer.

Defendant PNB did file its answer with counterclaim, accompanied by a cross-claim against co-defendants Agustin and PLEI.

During the ensuing pre-trial conference, the parties submitted the following issues for the resolution of the trial court, to wit:

- "1. Whether or not the Real Estate Mortgage contracts executed on July 6, 1973 and October 2, 1974 (sic) by and between defendants Pahamotang Logging Enterprises, Inc. and the Philippine National Bank are null and void?

2. Whether or not the foreclosure proceedings conducted by defendants-Sheriffs, insofar as they affect the assets of the Estate of Melitona Pahamotang, including the public auction sales thereof, are null and void?
3. Whether or not the Deed of Absolute Sale in favor of defendant Arturo Arguna entered as Doc. No. 473; Page No. 96; Book No. VIII, series of 1981 of the Notarial Register of Notary Public Paquito Balasabas is null and void?
4. Whether or not the Deed of Absolute Sale in favor of defendant Pahamotang Logging Enterprises, Inc. entered as Doc. No. 474; Page No. 96; Book No. VIII, series of 1981 of the Notarial Register of Notary Public Paquito Balasabas is null and void?
5. On defendant PNB's cross-claim, in the event the mortgage contracts and the foreclosure proceedings are declared null and void, whether or not defendant Pahamotang Logging Enterprises, Inc. is liable to the PNB?
6. Whether or not the defendants are liable to the plaintiffs for damages?
7. Whether or not the plaintiffs are liable to the defendants for damages"?^[5]

With defendant Arturo Arguna's death on October 31, 1990, the trial court ordered his substitution by his heirs: Heirs of Arturo Alguna.

In a **Decision dated August 7, 1998**, the trial court in effect rendered judgment for the plaintiffs. We quote the decision's dispositive portion:

"WHEREFORE, in view of all the foregoing, judgment is hereby rendered as follows:

1. Declaring the Mortgage Contracts of July 6, 1973 and October 22, 1974, as well as the foreclosure proceedings, void insofar as it affects the share, interests and property rights of the plaintiffs in the assets of the estate of Melitona Pahamotang, but valid with respect to the other parties;
2. Declaring the deeds of sale in favor of defendants Pahamotang Logging Enterprises, Inc. and Arturo Arguna as void insofar as it affects the shares, interests and property rights of herein plaintiffs in the assets of the estate of Melitona Pahamotang but valid with respect to the other parties to the said deeds of sale.
3. Denying all the other claims of the parties for lack of strong, convincing and competent evidence.

No pronouncement as to costs.

SO ORDERED".^[6]