

SECOND DIVISION

[G.R. No. 134330, March 01, 2001]

**SPOUSES ENRIQUE M. BELO AND FLORENCIA G. BELO,
PETITIONERS, VS. PHILIPPINE NATIONAL BANK AND SPOUSES
MARCOS AND ARSENIA ESLABON, RESPONDENTS.**

D E C I S I O N

DE LEON, JR., J.:

Before us is a petition for review on certiorari of the Decision^[1] and Resolution^[2] in CA-G.R. No. 53865 of the Court of Appeals^[3] dated May 21, 1998 and June 29, 1998, respectively, which modified the Decision^[4] dated April 30, 1996 of the Regional Trial Court of Roxas City, Branch 19 in a suit^[5] for Declaration of Nullity of the Contract of Mortgage.

The facts are as follows:

Eduarda Belo owned an agricultural land with an area of six hundred sixty one thousand two hundred eighty eight (661,288) square meters located in Timpas, Panitan, Capiz, covered and described in Transfer Certificate of Title (TCT for brevity) No. T-7493. She leased a portion of the said tract of land to respondents spouses Marcos and Arsenia Eslabon in connection with the said spouses' sugar plantation business. The lease contract was effective for a period of seven (7) years at the rental rate of Seven Thousand Pesos (P7,000.00) per year.

To finance their business venture, respondents spouses Eslabon obtained a loan from respondent Philippine National Bank (PNB for brevity) secured by a real estate mortgage on their own four (4) residential houses located in Roxas City, as well as on the agricultural land owned by Eduarda Belo. The assent of Eduarda Belo to the mortgage was acquired through a special power of attorney which she executed in favor of respondent Marcos Eslabon on June 15, 1982.

Inasmuch as the respondents spouses Eslabon failed to pay their loan obligation, extrajudicial foreclosure proceedings against the mortgaged properties were instituted by respondent PNB. At the auction sale on June 10, 1991, respondent PNB was the highest bidder of the foreclosed properties at Four Hundred Forty Seven Thousand Six Hundred Thirty Two Pesos (P447,632.00).

In a letter dated August 28, 1991, respondent PNB appraised Eduarda Belo of the sale at public auction of her agricultural land on June 10, 1991 as well as the registration of the Certificate of Sheriff's Sale in its favor on July 1, 1991, and the one-year period to redeem the land.

Meanwhile, Eduarda Belo sold her right of redemption to petitioners spouses Enrique and Florencia Belo under a deed of absolute sale of proprietary and redemption

rights.

Before the expiration of the redemption period, petitioners spouses Belo tendered payment for the redemption of the agricultural land in the amount of Four Hundred Eighty Four Thousand Four Hundred Eighty Two Pesos and Ninety Six Centavos (P484,482.96), which includes the bid price of respondent PNB, plus interest and expenses as provided under Act No. 3135.

However, respondent PNB rejected the tender of payment of petitioners spouses Belo. It contended that the redemption price should be the *total claim of the bank on the date of the auction sale and custody of property plus charges accrued and interests* amounting to Two Million Seven Hundred Seventy Nine Thousand Nine Hundred Seventy Eight and Seventy Two Centavos (P2,779,978.72).^[6] Petitioners spouses disagreed and refused to pay the said total claim of respondent PNB.

On June 18, 1992, petitioners spouses Belo initiated in the Regional Trial Court of Roxas City, Civil Case No. V-6182 which is an action for declaration of nullity of mortgage, with an alternative cause of action, in the event that the accommodation mortgage be held to be valid, to compel respondent PNB to accept the redemption price tendered by petitioners spouses Belo which is based on the winning bid price of respondent PNB in the extrajudicial foreclosure in the amount of Four Hundred Forty Seven Thousand Six Hundred Thirty Two Pesos (P447,632.00) plus interest and expenses.

In its Answer, respondent PNB raised, among others, the following defenses, to wit:

x x x

77. In all loan contracts granted and mortgage contracts executed under the 1975 Revised Charter (PD 694, as amended), the proper rate of interest to be charged during the redemption period is the rate specified in the mortgage contract based on **Sec. 25^[7] of PD 694** and the mortgage contract which incorporates by reference the provisions of the PNB Charters. Additionally, under Sec. 78 of the General Banking Act (RA No. 337, as amended) made applicable to PNB pursuant to Sec. 38 of PD No. 694, the rate of interest collectible during the redemption period is the rate specified in the mortgage contract.

78. Since plaintiffs failed to tender and pay the required amount for redemption of the property under the provisions of the General Banking Act, no redemption was validly effected;^[8]

x x x

After trial on the merits, the trial court rendered its Decision dated April 30, 1996 granting the alternative cause of action of spouses Belo, the decretal portion of which reads:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered in favor of plaintiffs Spouses Enrique M. Belo and Florencia G. Belo and

against defendants Philippine National Bank and Spouses Marcos and Arsenia Eslabon:

1. Making the injunction issued by the court permanent, insofar as the property of Eduarda Belo covered by Transfer Certificate of Title No. T-7493 is concerned;
2. Ordering defendant Philippine National Bank to allow plaintiff Enrique M. Belo to redeem only Eduarda Belo's property situated in Brgy. Timpas, Panitan, Capiz, and covered by Transfer Certificate of Title No. T-7493 by paying only its bid price of P447,632.00, plus interest and other charges provided for in Section 30, Rule 39 of the Rules of Court, less the loan value, as originally appraised by said defendant Bank, of the foreclosed four (4) residential lots of defendants Spouses Marcos and Arsenia Eslabon; and
3. Dismissing for lack of merit the respective counterclaims of defendants Philippine National Bank and spouses Marcos and Arsenia Eslabon.

With costs against defendants.

SO ORDERED.^[9]

Dissatisfied with the foregoing judgment of the trial court, respondent PNB appealed to the Court of Appeals. In its Decision rendered on May 21, 1998, the appellate court, while upholding the decision of the trial court on the validity of the real estate mortgage on Eduarda Belo's property, the extrajudicial foreclosure and the public auction sale, modified the trial court's finding on the appropriate redemption price by ruling that the petitioners spouses Belo should pay the ***entire amount due to PNB under the mortgage deed at the time of the foreclosure sale plus interest, costs and expenses.***^[10]

Petitioners spouses Belo sought reconsideration^[11] of the said Decision but the same was denied by the appellate court in its Resolution promulgated on June 29, 1998, ratiocinating, thus:

Once more, the Court shies away from declaring the nullity of the mortgage contract obligating Eduarda Belo as co-mortgagor, considering that it has not been sufficiently established that Eduarda Belo's assent to the special power of attorney and to the mortgage contract was tainted by any vitiating cause. Moreover, in tendering an offer to redeem the property (Exhibit "20", p. 602 Record) after its extrajudicial foreclosure, she has thereby admitted the validity of the mortgage, as well as the transactions leading to its inception. Eduarda Belo, and the appellees as mere assignees of Eduarda's right to redeem the property, are therefore estopped from questioning the efficacy of the mortgage and its subsequent foreclosure.^[12]

The appellate court further declared that petitioners spouses Belo are obligated to pay the total bank's claim representing the redemption price for the foreclosed properties, as provided by *Section 25 of P.D. No. 694*, holding that:

On the other hand, the court's ruling that the appellees, being the assignee of the right of repurchase of Eduarda Belo, were bound by the redemption price as provided by Section 25 of P.D. 694, stands. The attack on the constitutionality of Section 25 of P.D. 694 cannot be allowed, as the High Court, in previous instances, (*Dulay v. Carriaga*, 123 SCRA 794 [1983]; *Philippine National Bank v. Remigio*, 231 SCRA 362 [1994]) has regarded the said provision of law with respect, using the same in determining the proper redemption price in foreclosure of mortgages involving the PNB as mortgagee.

The terms of the said provision are quite clear and leave no room for qualification, as the appellees would have us rule. The said rule, as amended, makes no specific distinction as to assignees or transferees of the mortgagor of his redemptive right. In the absence of such distinction by the law, the Court cannot make a distinction. As admitted assignees of Eduarda Belo's right of redemption, the appellees succeed to the precise right of Eduarda including all conditions attendant to such right.

Moreover, the indivisible character of a contract of mortgage (Article 2089, Civil Code) will extend to apply in the redemption stage of the mortgage.

As we have previously remarked, Section 25 of P.D. 694 is a sanctioned deviation from the rule embodied in Rule 39, Section 30 of the Rules of Court, and is a special protection given to government lending institutions, particularly, the Philippine National Bank. (*Dulay v. Carriaga*, *supra*)^[13]

Hence, the instant petition.

During the oral argument, petitioners, through counsel, Atty. Enrique M. Belo, agreed to limit the assignment of errors to the following:

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II.

THE COURT OF APPEALS ERRED IN NOT REVERSING THE TRIAL COURT ON THE BASIS OF THE ASSIGNMENT OF ERRORS ALLEGED BY PETITIONERS IN THEIR BRIEF:

- (1) THAT THE SPECIAL POWER OF ATTORNEY EXECUTED BY EDUARDA BELO IN FAVOR OF RESPONDENT ESLABON WAS NULL AND VOID;
- (2) THAT THE REAL ESTATE MORTGAGE EXECUTED BY RESPONDENT MARCOS ESLABON UNDER SAID INVALID SPECIAL POWER OF ATTORNEY IS ALSO NULL AND VOID;

III. THE COURT OF APPEALS ERRED IN NOT HOLDING THAT RESPONDENT PNB ACTED IN BAD FAITH AND CONNIVED WITH RESPONDENTS-DEBTORS ESLABONS TO OBTAIN THE

CONSENT OF EDUARDA BELO, PETITIONERS'
PREDECESSOR, THROUGH FRAUD.

- IV. THE COURT OF APPEALS ERRED IN NOT HOLDING THAT RESPONDENT PNB WAS NEGLIGENT IN THE PERFORMANCE OF ITS DUTY AS COMMERCIAL MONEY LENDER.
- V. THE COURT OF APPEALS ERRED IN HOLDING THAT EDUARDA BELO, PETITIONERS' PREDECESSOR, HAD WAIVED THE RIGHT TO QUESTION THE LEGALITY OF THE ACCOMMODATION MORTGAGE.
- VI. THE COURT OF APPEALS ERRED IN REVERSING THE TRIAL COURT BY HOLDING THAT ON REDEMPTION, PETITIONERS SHOULD PAY THE ENTIRE CLAIM OF PNB AGAINST RESPONDENTS-DEBTORS ESLABONS.
- VII. THE COURT OF APPEALS ERRED IN NOT ORDERING THAT SHOULD PETITIONERS DECIDE TO PAY THE ENTIRE CLAIM OF RESPONDENT PNB AGAINST THE RESPONDENTS-DEBTORS ESLABONS, PETITIONERS SHALL SUCCEED TO ALL THE RIGHTS OF RESPONDENT PNB WITH THE RIGHT TO REIMBURSEMENT BY RESPONDENTS-DEBTORS, ESLABONS.
- VIII. THE COURT OF APPEALS ERRED IN NOT HOLDING THAT SHOULD PETITIONERS DECIDE NOT TO EXERCISE THEIR RIGHT OF REDEMPTION, PETITIONERS SHALL BE ENTITLED TO THE VALUE OF THEIR IMPROVEMENTS MADE IN GOOD FAITH AND FOR THE REAL ESTATE TAX DUE PRIOR TO THE FORECLOSURE SALE.^[14]

Petitioners challenge the appreciation of the facts of the appellate court, pointing out the following facts which the appellate court allegedly failed to fully interpret and appreciate:

1. That respondent PNB in its Answer admitted that Eduarda Belo was merely an accommodation mortgagor and that she has no personal liability to respondent PNB.

x x x

2. That the PNB Special Power of Attorney (SPA) Form No. 74 (Exh. "D") used to bind Eduarda Belo as accommodation mortgagor authorized the agent Eslabons to borrow and mortgage her agricultural land for her (Eduarda Belo) use and benefit. Instead, said PNB SPA Form No. 74 was used by debtors Eslabons and PNB to bind Eduarda Belo as accommodation mortgagor for the crop loan extended by PNB to the Eslabons.
3. That the said PNB SPA Form No. 74 was signed by Eduarda Belo in blank, without specifying the amount of the loan to be granted by respondent PNB to the respondents-debtors Eslabons upon assurance by the PNB manager that the SPA was merely a formality