

SECOND DIVISION

[G.R. No. 121597, June 29, 2001]

PHILIPPINE NATIONAL BANK, PETITIONER, VS. HON. COURT OF APPEALS, ALLAN M. CHUA AS SPECIAL ADMINISTRATOR OF THE INTESTATE ESTATE OF THE LATE ANTONIO M. CHUA AND MRS. ASUNCION M. CHUA, RESPONDENTS.

DECISION

QUISUMBING, J.:

This petition assails the decision^[1] of the Court of Appeals dated July 25, 1995 in CA-G.R. CV No. 36546, affirming the decision dated September 4, 1991 of the Regional Trial Court of Balayan, Batangas, Branch 10 in Civil Case No. 1988.

The facts, as found by the trial court and by the Court of Appeals, are not disputed.

The spouses Antonio M. Chua and Asuncion M. Chua were the owners of a parcel of land covered by Transfer Certificate of Title No. P-142 and registered in their names. Upon Antonio's death, the probate court appointed his son, private respondent Allan M. Chua, special administrator of Antonio's intestate estate. The court also authorized Allan to obtain a loan accommodation of five hundred fifty thousand (P550,000.00) pesos from petitioner Philippine National Bank to be secured by a real estate mortgage over the above-mentioned parcel of land.

On June 29, 1989, Allan obtained a loan of P450,000.00 from petitioner PNB evidenced by a promissory note, payable on June 29, 1990, with interest at 18.8 percent per annum. To secure the loan, Allan executed a deed of real estate mortgage on the aforesaid parcel of land.

On December 27, 1990, for failure to pay the loan in full, the bank extrajudicially foreclosed the real estate mortgage, through the *Ex-Officio* Sheriff, who conducted a public auction of the mortgaged property pursuant to the authority provided for in the deed of real estate mortgage. During the auction, PNB was the highest bidder with a bid price P306,360.00. Since PNB's total claim as of the date of the auction sale was P679,185.63, the loan had a payable balance of P372,825.63. To claim this deficiency, PNB instituted an action with the RTC, Balayan, Batangas, Branch 10, docketed as Civil Case No. 1988, against both Mrs. Asuncion M. Chua and Allan Chua in his capacity as special administrator of his father's intestate estate.

Despite summons duly served, private respondents did not answer the complaint. The trial court declared them in default and received evidence *ex parte*.

On September 4, 1991, the RTC rendered its decision, ordering the dismissal of PNB's complaint.^[2]

On appeal, the Court of Appeals affirmed the RTC decision by dismissing PNB's appeal for lack of merit.^[3]

Hence, the present petition for review on certiorari under Rule 45 of the Rules of Court. Petitioner cites two grounds:

I

THE CA ERRED IN HOLDING THAT PNB CAN NO LONGER PURSUE ITS DEFICIENCY CLAIM AGAINST THE ESTATE OF DECEASED ANTONIO M. CHUA, HAVING ELECTED ONE OF ITS ALTERNATIVE RIGHT PURSUANT TO SECTION 7 RULE 86 OF THE RULES OF COURT DESPITE A SPECIAL ENACTMENT (ACT. NO. 3135) COVERING EXTRAJUDICIAL FORECLOSURE SALE ALLOWING RECOURSE FOR A DEFICIENCY CLAIM AS SUPPORTED BY CONTEMPORARY JURISPRUDENCE.

II

THE CA ERRED IN HOLDING THAT ALLAN M. CHUA, AS SPECIAL ADMINISTRATOR OF THE INTESTATE ESTATE OF HIS DECEASED FATHER ANTONIO M. CHUA ON ONE HAND, AND HIM AND HIS MOTHER ASUNCION CHUA AS HEIRS ON THE OTHER HAND ARE NO LONGER LIABLE FOR THE DEBTS OF THE ESTATE.^[4]

The primary issue posed before us is whether or not it was error for the Court of Appeals to rule that petitioner may no longer pursue by civil action the recovery of the balance of indebtedness after having foreclosed the property securing the same. A resolution of this issue will also resolve the secondary issue concerning any further liability of respondents and of the decedent's estate.

Petitioner contends that under prevailing jurisprudence, when the proceeds of the sale are insufficient to pay the debt, the mortgagee has the right to recover the deficiency from the debtor.^[5] It also contends that Act 3135, otherwise known as "An Act to Regulate the Sale of Property under Special Powers Inserted in or Annexed to Real Estate Mortgages," is the law applicable to this case of foreclosure sale and not Section 7 of Rule 86 of the Revised Rules of Court^[6] as held by the Court of Appeals.^[7]

Private respondents argue that having chosen the remedy of extrajudicial foreclosure of the mortgaged property of the deceased, petitioner is precluded from pursuing its deficiency claim against the estate of Antonio M. Chua. This they say is pursuant to Section 7, Rule 86 of the Rules of Court, which states that:

Sec. 7. Rule 86. Mortgage debt due from estate. — A creditor holding a claim against the deceased secured by mortgage or other collateral security, may abandon the security and prosecute his claim in the manner provided in this rule, and share in the general distribution of the assets of the estate; or he may foreclose his mortgage or realize upon his security, by action in court, making the executor or administrator a party defendant, and if there is a judgment for a deficiency, after the sale of the mortgaged premises, or the property pledged, in the foreclosure or other proceeding to realize upon the security, he may claim his deficiency judgment in the manner provided in the preceding section; or he may rely upon his mortgage or other security alone and foreclose the same at any time within the period of the statute of limitations, and in that event he shall not be admitted as a creditor, and shall receive no share in the