

## FIRST DIVISION

[ G.R. No. 136100, July 24, 2000 ]

**FELIPE G. UY, PETITIONER, VS. THE LAND BANK OF THE PHILIPPINES, RESPONDENT.**

### D E C I S I O N

#### **KAPUNAN, J.:**

On February 24, 1988, the Land Bank of the Philippines filed before the Metropolitan Trial Circuit Court of Iloilo City (MTCC) a complaint for unlawful detainer against Felipe Uy. The bank claimed ownership of two parcels of land located in Quezon Street, Iloilo City, and of the two-story house built thereon, and sought the ejectment of petitioner, the occupant of the premises.

The properties were originally owned by a certain Tia Yu. Tia Yu, through a special power of attorney, authorized Gold Motors Parts Corporation to mortgage the same as security for a loan extended by the bank to Gold Motors. On August 19, 1980, Gold Motors mortgaged the properties to Land Bank but it eventually defaulted on the loan, prompting Land Bank to initiate foreclosure proceedings. The highest bidder in the foreclosure sale, Land Bank was subsequently issued a certificate of sale in its favor. Titles to the properties<sup>[1]</sup> were consolidated in the name of Land Bank in October 1986.

The defendant, Felipe Uy, averred that he furnished Tia Yu the materials used to construct the house on the land but Tia Yu failed to pay fully for the value of said materials. Thus, on February 1980, he and Tia Yu agreed that the former shall occupy the house and apply the rent as payment to the balance of Tia Yu's debt amounting to P400,000.00. The terms of their agreement were later put into writing in a Lease Contract dated June 6, 1982.

On March 31, 1989, the MTCC rendered a decision finding in Uy's favor. The court found that at the time the mortgage was constituted the bank was aware that petitioner was leasing the property. Accordingly, the bank accepted the terms of the mortgage subject to the terms of said lease. The MTCC disposed of the case as follows:

WHEREFORE, judgment is rendered dismissing plaintiff[']s complaint, confirming the right of defendant to continue in possession in accordance with the Lease Contract, Exh. "1", as already renewed by defendant per said contract's own provisions; and ordering the plaintiff to pay defendant the sum of P10,000.00 as attorney's fees and P5,000.00 as litigation expenses.<sup>[2]</sup>

On appeal by Land Bank, the Regional Trial Court (RTC) affirmed the decision of the MTCC *in toto*. In addition, the RTC made mention in the body of its decision that the mortgage between Gold Motors and Land Bank was void since under Article 2085 of

the Civil Code the mortgagor must be the absolute owner of the property mortgaged. This finding, however, is not reflected in the dispositive portion of the RTC decision, which reads:

WHEREFORE, with all the foregoing disquisition, the court finds no cogent reason to disturb the findings of the trial court and with more reason where plaintiff-appellant cannot validly and legally claim, to say the least, any POSSESSION over the subject properties involved herein. Hence, the assailed decision, should be, as it is AFFIRMED en toto [sic].

No cost.

SO ORDERED.[3]

On December 12, 1996, Land Bank filed in the Court of Appeals (CA) a motion for a 30-day extension to file a petition for review, alleging that:

1. On May 7, 1996, LANDBANK, received a copy of the decision promulgated by the respondent Regional Trial Court of Iloilo on April 19, 1996;
2. On May 16, 1996, Petitioner LANDBANK filed a Motion for Reconsideration of the aforementioned decision;
3. On December 6, 1996, LANDBANK received a Notice of Resolution promulgated on November 15, 1996 denying the said Motion for Reconsideration. Thus, LANDBANK has six (6) days or until December 12, 1996 to elevate the case through a petition for review on certiorari to the Honorable Court of Appeals;
4. On December 10, 1996, the undersigned counsel received the records of this case from the Petitioner's Regional Legal Manager based in Iloilo City, for purposes of filing the said Petition for Review on Certiorari since it is the practice of Petitioner that appealed cases are being handled by its Head Office Lawyers. Hence, undersigned counsel only have two (2) days to file the said Petition for Review on Certiorari;
5. That the records sent by the Petitioner's Regional Legal Manager in Iloilo City is incomplete and undersigned counsel already notified the former of the needed documents and hence, the latter lacks material time within which to prepare the Petition for Review on Certiorari;
6. In view hereof, petitioner by the undersigned counsel requests for an extension of thirty (30) days within which to file its Petition for Review reckoned from December 12, 1996 or until January 11, 1997;

x x x.[4]

In a Resolution dated January 14, 1997, the CA granted Land Bank an extension of "fifteen (15) days only or until December 27, 1996" to file its petition. Land Bank did not file its petition within the extension granted, however. Instead, it filed the

petition only on January 11, 1997 or fifteen days beyond the extension granted by the CA.

On January 23, 1997, respondent filed in the CA a "Manifestation and Motion" reiterating most of the allegations in its motion for extension, and adding that:

x x x

9. The undersigned counsel could not file the Petition for Review on December 27, 1996 considering that he received the essential documents only in the afternoon of December 26, 1996 and besides, the Resolution of the Honorable Court granting him until December 27, 1996 to file the Petition for Review was received only on January 20, 1997. At the same time, the undersigned counsel also has to contend with the pressures of preparing equally important pleadings, memoranda and other documents in equally important cases for the Petitioner;
10. In addition and more importantly, the undersigned counsel also needed more time within which to read and study the voluminous records of this case, which he has to do for the first time, before filing the Petition for Review since he was not the handling lawyer of the case during trial and even when it was appealed with the Regional Trial Court of Iloilo. Hence, the prayer for a reasonable period of thirty days or until January 11, 1997 within which to file the said Petition for Review.<sup>[5]</sup>

Land Bank prayed that the Court of Appeals reconsider its Resolution dated January 14, 1997 and to admit the petition.

On February 20, 1997, the CA issued a resolution granting the manifestation and motion, and admitting the petition. It also ordered petitioner herein to comment on the petition.

Previously, petitioner filed a motion to dismiss and an opposition to the manifestation and motion praying for the court to dismiss Land Bank's petition. The CA merely noted these pleadings in separate resolutions.

On March 22, 1997, Felipe Uy filed his comment, raising among other issues, the timeliness of the petition.

On July 1, 1998, the CA rendered a decision reversing the decision of the RTC. It held that Land Bank had a superior right over the property since it was already issued a Transfer Certificate of Title (TCT) in its name. The CA also ruled that the RTC erred in declaring the mortgage void since the validity of the mortgage was not in issue in the proceedings before the MTCC. The dispositive portion of the CA decision states:

WHEREFORE, premises considered, the assailed decision (dated April 19, 1996) and resolution (dated November 15, 1998) of the respondent court in Civil Case No. 22138 are hereby REVERSED and SET ASIDE – and the private respondent ordered to surrender the possession of the subject premises to the petitioner. Costs against the private respondent.

SO ORDERED.<sup>[6]</sup>

Land Bank filed a motion for partial reconsideration, asking that the CA award reasonable rent in its favor. Felipe Uy likewise filed a motion for reconsideration. The CA denied both parties' respective motions in a Resolution dated October 2, 1998.

On December 2, 1998, Felipe Uy filed in this Court a petition to review the decision of the CA.

In a Resolution dated February 15, 1999, the Court denied the petition for (a) lack of certification against forum shopping, and (b) lack of verification.

On March 4, 1999, counsel for petitioner filed a "Motion for Admission of Verification and Certification against Forum-Shopping." Apparently, counsel, at the time of the filing of the motion, had not yet received the February 15, 1999 Resolution denying the petition. Counsel alleged that:

1. He has filed for the petitioner the above-entitled petition for review on certiorari dated November 30, 1998, with this Honorable Court;
2. Until today, he has not yet been notified of any action taken thereon;
3. While again reviewing his "office copy" of the above-entitled petition, he just discovered that it contained no Verification and Certification Against Forum-Shopping, and he is afraid that the copies submitted and filed with this Honorable Court may also lack this requirement;
4. This non-inclusion of this requirement is only due to excusable neglect and honest inadvertence and may have happened in the process of collating the many pages of the petition and in the attaching the many annexes thereto;
5. Undersigned most respectfully submits that at this stage of the proceeding, no material damage, injury or prejudice has yet been caused because (a) as earlier stated, he has yet no notice that any action has already been taken by this Honorable Court on said petition and (b) no pleading has yet been filed by the respondent thereto x x x.<sup>[7]</sup>

Attached to the motion was a "verification/certification."

On March 15, 1999, petitioner filed a Motion for Reconsideration, praying that the verification/certification be admitted to cure the defect of the petition. Petitioner alleged that he received the Resolution denying the petition only on March 10, 1999.

On June 14, 1999, the Court issued a Resolution denying the motion for admission of verification and certification against forum shopping for lack of merit. In the same resolution, the Court denied with finality reconsideration of the February 15, 1999 Resolution denying the petition.

On July 28, 1999, petitioner filed a "Motion for Leave to File and for Admission of Second Motion for Reconsideration," reiterating its allegations in its motion for