

## FIRST DIVISION

[ G.R. No. 109472, May 18, 1999 ]

**DAVID MAGLAQUE, JOSE MAGLAQUE MAURO MAGLAQUE AND  
PACITA MAGLAQUE, PETITIONERS, VS., PLANTERS  
DEVELOPMENT BANK, AND SPOUSES ANGEL S. BELTRAN AND  
ERLINDA C. BELTRAN, RESPONDENTS.**

### D E C I S I O N

**PARDO, J.:**

The case is an appeal *via certiorari* from a decision<sup>[1]</sup> of the Court of Appeals<sup>[2]</sup> affirming that of the Regional Trial Court, Branch 22, Malolos, Bulacan,<sup>[3]</sup> dismissing the petitioners' complaint<sup>[4]</sup> for revocation of sale and reconveyance of title, with damages, against respondent bank, which had extra-judicially foreclosed the mortgage on the land owned by petitioners' predecessors in interest, for non-payment of a loan secured by such mortgage.

The facts may be related as follows:

The spouses Egmidio Maglaque and Sabina Payawal were the owners of a parcel of land, situated in the municipality of San Miguel, province of Bulacan, with an area of Four Hundred Sixty Four (464) square meters, more or less, and a residential house of strong materials erected thereon, more particularly described as follows:

"A parcel of land (Lot No. 315-A of the subdivision plan Psd-20633 being a portion of Lot 315 of the Cad. Survey of San Miguel, G. L. R. O. Cadastral Record No. 696 situated in the Municipality of San Miguel, Province of Bulacan, Island of Luzon, xx xx xx containing an area of FOUR HUNDRED SIXTY FOUR (464) SQUARE METERS, more or less and covered by Transfer Certificate of Title No. 28303, assessed at P4,180.00 as per Tax Declaration No 250."<sup>[5]</sup>

covered by Transfer Certificate of Title No. 28303 of the Registry of Deeds of Bulacan.

On March 19, 1974, the spouses Maglaque obtained a loan of two thousand (P2,000.00) pesos from the Bulacan Development Bank<sup>[6]</sup> evidenced by a promissory note, payable on or before March 19, 1975, in two installments, the first payment of P1,000.00, shall be due on September 19, 1974, and the second payment of P1,000.00, shall be due on March 19, 1975, with interest at 12% per annum. To secure the loan, the spouses executed a deed of real estate mortgage on the above-described parcel of land, including its improvements.

On September 15, 1976, Sabina Payawal died. On December 22, 1977, Egmidio Maglaque paid Planters Development Bank the amount of P2,000.00, which the

bank accepted.

On April 9, 1979, Egmidio Maglaque died.

On September 15, 1978, for non-payment in full of the loan, the bank extra-judicially foreclosed on the real estate mortgage, through the Provincial Sheriff of Bulacan, who conducted a public auction sale of the mortgaged property pursuant to the authority provided for in the deed of real estate mortgage. The bank was the highest bidder.

On March 24, 1980, after the lapse of the redemption period, the bank consolidated its title to the property, and became its registered owner under Transfer Certificate of Title No. T-259923 of the Registry of Deeds of Bulacan.

On September 4, 1980, David Maglaque, as heir of the deceased spouses Egmidio Maglaque and Sabina Payawal, filed with the Court of First Instance of Bulacan, Branch 04, Baliuag, Bulacan, a complaint for annulment of the sale conducted by the Provincial Sheriff of Bulacan, reconveyance of title, with damages, and injunction.

On September 24, 1980, the bank sold the property to the spouses Angel S. Beltran and Erlinda C. Beltran, for thirty thousand (P30,000.00) pesos.

The plaintiff amended the complaint twice to implead the other heirs of the spouses Maglaque, and defendant Beltran spouses, the buyers of the property in question.

On August 16, 1985, the parties submitted a joint stipulation of facts, as follows:

"x x x

"1.- The late Egmidio Maglaque and Sabina Payawal were the owners of a parcel of land located in San Miguel, Province of Bulacan, the description of which appears in paragraph 2 of the amended complaint. The said parcel of land was covered by TCT No. 28303 issued by the Register of Deeds of Bulacan;

"2.- On March 19, 1974, said registered owners borrowed TWO THOUSAND PESOS (P2,000.00) from Bulacan Development Bank pursuant to a promissory note with Loan No. 3423. The promissory note stipulated that the loan shall be paid on or before March 19, 1975 and the interest shall be 12% per annum; that the first payment of P1,000.00 shall be due on March 19, 1975, and that the unpaid amortization shall bear interest at the rate of 12% per annum; that in case a litigation is resorted to the borrowers shall pay attorney's fees in addition to the legal expenses;

"3.- Present plaintiffs are the children of the spouses Egmidio Maglaque and Sabina Payawal. David Maglaque has a Special Power of Attorney to prosecute the present complaint;

"4.- The borrowers failed to pay any of the payment agreed upon in the promissory note and the real estate mortgage due to the untimely death

of Sabina Payawal;

"5.- On December 22, 1977, a payment of P2,000.00 was made and accepted, which were applied as shown by the Official Receipt No. 7662-8 dated December 22, 1977;

"6.- on September 15, 1978, the Provincial Sheriff of Bulacan conducted an extra-judicial foreclosure sale of the property in question in accordance with the specific authority provided for in the Deed of Real Estate Mortgage as authorized by law. The defendant-Bank contends that the formalities provided for by law were duly observed while the plaintiff claims that there was no such compliance. Hence, this will be the subject matter of evidence in Court;

"7.- The one year period allowed by law within which the delinquent borrowers should have exercised their right to redeem expired without any redemption by them. Consequently, on March 24, 1980 the bank consolidated its title on the property and became the registered owner of said property under TCT No. T-259923 issued by the Register of Deeds of Bulacan on March 24, 1980;

"8.- In September 24, 1980, defendant-Bank sold the property to the spouses Angel S. Beltran and Erlinda Beltran in a Deed of Conditional Sale, x x x;

"9.- The Register of Deeds wrote a letter dated September 8, 1980, informing the bank about a notice of lis pendens. However, the records of the bank show that the letter was received only on November 19, 1981. On March 16, 1984, Spouses Angel Beltran and Erlinda Beltran registered an adverse claim on the property;

"10.- The plaintiffs sought the help of prominent persons to arrange the case amicably, namely, Dr. Sabino Santos, Vice-President of Planters Development Bank; Mr. Miguel Sison, Jr. of the Malacañang Assistance Center; and, Minister Blas Ople of the Ministry of Labor and Employment. However, no concrete result came out of these efforts to settle.;

"11.- The property in question is located behind the parish Church of San Miguel, Bulacan and adjacent to a Municipal Street of said municipality;"

[7]

Thereafter, the parties submitted the case for decision on the basis of their memoranda.

On February 28, 1989, the trial rendered decision dismissing the complaint for lack of merit or insufficiency of evidence.

On March 27, 1989, plaintiffs appealed the case to the Court of Appeals.[8]

After due proceedings, on March 26, 1993, the Court of Appeals rendered decision affirming the appealed decision *in toto*.