

FIRST DIVISION

[G.R. No. 121251, June 26, 1998]

PHILIPPINE NATIONAL BANK, PETITIONER, VS. COURT OF APPEALS AND ROMEO BARILEA, RESPONDENTS.

DECISION

BELLOSILLO, J. :

May a complaint for damages arising from an alleged premature foreclosure of mortgage, with prayer for a writ of preliminary injunction, be dismissed on the ground that the foreclosure sought to be enjoined is already a *fait accompli*?

On 12 November 1991 private respondent Romeo Barilea filed a complaint for damages with the Regional Trial Court of Negros Occidental with a prayer for the issuance of a temporary restraining order and writ of preliminary injunction against petitioner Philippine National Bank (PNB) and the Provincial Sheriff of Negros Occidental.

The complaint alleged that: defendant Barilea (private respondent herein) obtained sugar crop loans with petitioner at its Victoria Branch to finance his sugarcane plantation in Sagay, Negros Occidental; he was granted a crop loan of P208,300.00 and, thereafter, another loan of P40,000.00 which would fall due on 31 August 1991 and 31 August 1992, respectively; the crop loans were secured by a mortgage on Barilea's parcel of land with an area of 2,804 square meters and covered by Transfer Certificate of Title No. T-12217 of the Register of Deeds of Cadiz City. Private respondent also alleged that on 29 September 1991, while he was harvesting and cutting canes for the purpose of milling the same, petitioner filed a petition for the sale of the mortgaged property under Act No. 3135 as amended with the Provincial Sheriff of Negros Occidental, and that, consequently, on 7 October 1991 the latter issued a Notice of Extrajudicial Sale by public auction of private respondent's property on 18 November 1991.

The complaint further stated that in October 1991 private respondent had partially harvested and milled his sugarcane at a sugar central after which quedans were prepared; that when private respondent was about to withdraw the quedans, he was informed that they were taken by petitioner. Private respondent contended that in filing the petition for the sale of the mortgaged property with the provincial sheriff, petitioner acted with malice and bad faith in order to embarrass him; that the petition was premature because the crop loans had not yet fallen due; and, that because of petitioner's malicious acts in filing the petition, private respondent suffered sleepless nights, mental torture, anxiety, public humiliation and public ridicule, thus entitling him to moral and exemplary damages in addition to the actual expenses incurred for which petitioner should be ordered to pay. Private respondent also prayed for the issuance of a temporary restraining order and writ of preliminary injunction to enjoin petitioner and the Provincial Sheriff from conducting the sale by public auction scheduled on 18 November 1991.^[1]

Instead of filing an answer to the complaint, petitioner filed on 17 January 1991 a motion to dismiss^[2] alleging that: petitioner had not acted maliciously and prematurely in filing the petition for foreclosure of mortgage; private respondent was granted four (4) loan accommodations by petitioner three (3) of which had already fallen due; because of the past due accounts of private respondent petitioner had the right to institute foreclosure proceedings; and, the other reliefs prayed for by private respondent, i.e., issuance of a restraining order and writ of preliminary injunction, had been rendered moot and academic by the holding of the auction sale on 7 November 1991.

On 18 February 1992 private respondent filed an amended complaint increasing the amounts prayed for as moral damages and attorney's fees.

On 10 March 1992 the trial court issued an order dismissing the case for being moot and academic because the sale sought to be enjoined had already been conducted on 7 November 1991.^[3] The motion for reconsideration by private respondent was denied.

Private respondent appealed the order of dismissal to the Court of Appeals. In its decision^[4] of 28 June 1995, the Court of Appeals set aside the order dismissing the case. The appellate court found that the complaint of private respondent sought the payment of moral and exemplary damages on the ground that petitioner was actuated with malice and bad faith in filing the petition with the sheriff for the sale of the mortgaged property even if the crop loan of P40,000.00 had not yet matured. It also ruled that the issuance of a temporary restraining order and a writ of preliminary injunction was only a provisional remedy, and consequently, the foreclosure sale on 7 November 1991 did not render the case moot since the principal action for payment of damages still had to be litigated. The Court of Appeals remanded the case back to the trial court for proper proceedings.

Hence this petition alleging that the Court of Appeals erroneously failed to hold that (a) the dismissal of the case by the trial court was justified after it had become moot and academic with the foreclosure sale; (b) denial of the ancillary remedy of temporary restraining order was proper; and, (c) the foreclosure of the mortgage was valid in view of the contract between the parties and conformably with the mandatory requirements of PD No. 385.

The principal issue to be resolved is whether the complaint for damages based on the foreclosure of mortgage should now be dismissed in view of the foreclosure sale. The other issues raised by petitioner, i.e., whether the foreclosure sale was valid, and whether the claim of private respondent for damages was proper, are factual matters well within the domain of the trial court - and not of this Court.

The petition must fail. The Court of Appeals was correct in ruling that the dismissal of the complaint of private respondent by the trial court was not valid.

In a motion to dismiss on the ground that the complaint states no cause of action, the question to be resolved by the trial court is whether the facts alleged in the complaint are sufficient to constitute a cause of action and not whether the allegations of fact are true as the latter are hypothetically admitted.^[5] Hence, a complaint sufficiently states a cause of action when the following questions are answered in the affirmative: (a) Does the complaint show the plaintiff has suffered an injury? (b) Is it an injury which the law recognizes as a wrong and for which it