THIRTEENTH DIVISION

[CA-G.R. CV NO. 100668, March 23, 2015]

SPOUSES FRANCISCO DE GUZMAN AND SERAFINA DE GUZMAN, PLAINTIFFS-APPELLANTS, VS. METROPOLITAN BANK & TRUST COMPANY, INC., AND AS NECESSARY PARTIES NOTARY PUBLIC ATTY. EDGARDO G. VILLARIN, AND THE REGISTER OF DEEDS, NUEVA ECIJA, DEFENDANTS-APPELLEES.

DECISION

CORALES, J.:

This is an appeal[1] from the November 5, 2012 Decision[2] of the Regional Trial Court (RTC), Branch 35, Gapan City, Nueva Ecija, in Civil Case No. 2547 dismissing the amended complaint[3] for nullification of foreclosure proceeding and loan document with damages (nullification case) filed by plaintiffs-appellants Spouses Francisco and Serafina De Guzman (individually referred by their first name but collectively as Spouses De Guzman) for failure to prove their cause of action against defendants-appellees Metropolitan Bank & Trust Company, Inc. (Metrobank), Notary Public Edgardo G. Villarin (Notary Public Villarin), and the Register of Deeds (RD) of Nueva Ecija.

The Antecedents

In 1995, 1996, and 1997, Spouses De Guzman obtained various loans from Metrobank, respectively amounting to P5,000,000.00, P2,000,000.00 and P2,000,000.00.[4] These loans were secured by real estate mortgages (REMs) over Spouses De Guzman's properties registered under Transfer Certificate of Title (TCT) Nos. NT-200809, NT-191440, NT-191441, NT-191443, NT-224908, NT-224909, and NT-199661.[5]

On April 10, 1998, the three (3) subsisting loans were consolidated under Promissory Note (PN) No. 473002[6] for P9,000,000.00 payable on its due date on April 3, 1999 with 22.670% interest per annum to be reviewed/adjusted every 30 days.

Allegedly, Spouses De Guzman defaulted in their payments of interests. On November 8, 1998, they wrote Metrobank acknowledging the fact that they could not pay their P9,000,000.00 principal obligation. This prompted Metrobank to extrajudicially foreclose the REMs on March 12, 1999 through Notary Public Villarin.[7] The mortgaged properties were sold in a public auction wherein Metrobank emerged as the highest bidder. Spouses De Guzman failed to redeem the properties within one (1) year from registration of the certificate of sale and titles thereto were eventually consolidated in the name of the bank. Later on, Metrobank filed a petition for issuance of writ of possession which was granted by the RTC, Branch 34, Gapan

City, Nueva Ecija. The writ of possession was implemented on August 18, 2000.[8]

Two (2) years after, or on July 16, 2002 to be more specific, Spouses De Guzman filed the nullification case alleging that their contracts of loan with Metrobank violated Section 2 of Act No. 2655, or the Usury Law,[9] while the subsequent extrajudicial foreclosure proceedings failed to comply with the posting of notices and publication requirements under Section 3 of Act No. 3135.[10] They added that Metrobank increased the interest rates without their knowledge and consent to make it appear that the loans are already due and demandable and in order to misapply the payment to the penalties and interests which were automatically debited from their account.[11]

In support of the complaint, Francisco identified a Loan Subsidiary Ledger from Metrobank which showed that the interests for the loans were periodically adjusted and ranged from 13.25% to 33%. He only discovered this skyrocketing interests during the Asian financial crisis because the bank unilaterally imposed the higher interest rates. He denied receipt of the notice of auction sale and insisted that he only learned of the foreclosure sale on March 19, 1999 when he went to the bank. He presented certifications from the respective Offices of the *Barangay* Chairmen of Langla and Apolinario Esquivel, Jaen, Nueva Ecija[12] and from the Chief of Police of Jaen Police Station[13] stating that they did not receive any notice of extrajudicial foreclosure sale involving Spouses De Guzman's properties.[14] He further testified that the REMs were foreclosed on March 12, 1999 even though their loan was not yet due.[15]

Spouses De Guzman also called to the witness stand Metrobank's Loan Clerk, Angelito Dela Cruz (Dela Cruz), who admitted that the extrajudicial foreclosure happened even before the maturity of the PN. However, he explained that Spouses De Guzman should have paid interests every month after the review but failed to do so, thus, the foreclosure was justified by the acceleration clause in the PN authorizing the bank to consider the whole debt due and demandable upon default in the payment of any interest and/or installment. He further testified that prior to the consolidation of Spouses De Guzman's loans, they were paying monthly interests pursuant to the provision in the Credit Line Agreement (CLA) that the interests should be reviewed every 30 days.[16]

In its defense, Metrobank argued that the Usury Law had already been rendered legally ineffective by Central Bank Circular No. 905 and the governing rule on interest rates is whatever would be agreed upon by the lender and borrower. It insisted on the bank's compliance with all the requirements for extrajudicial foreclosure of REMs[17] and presented the following documents:[18] registry receipts for a February 12, 1999 cover letter with attached Notice of Auction Sale respectively addressed to and signed by Francisco,[19] the *Barangay* Chairmen of Tabuating and Esquivel,[20] the Municipal Treasurers and the Chiefs of Police of Jaen and San Leonardo;[21] copies of the February 12, 1999 cover letter stamped "Received" by the RD of Nueva Ecija;[22] copies of five (5) PNs[23] previously signed by Francisco, with interest rates ranging from 13.654% to 33.933%; and the April 10, 1998 CLA[24] between the bank and Spouses De Guzman.

The Ruling of the RTC

In its November 5, 2012 Decision,[25] the RTC noted the previous PNs executed by Spouses De Guzman which contained the same stipulations on payment of interests, subject to review every discount period, and acceleration clause as that stated in PN No. 473002. It found that since the first time Spouses De Guzman applied for a loan with Metrobank, they were fully aware of the imposed interests and other charges and that upon default, the entire debt would be due and demandable. Thus, in signing the PN, Spouses De Guzman signified their mutual consent to the periodic readjustment of interest rates on their loans. The court *a quo* also underscored Spouses De Guzman's failure to adduce preponderance of evidence showing the alleged irregularities in the foreclosure proceedings. The certifications they presented were procured seven (7) years after the auction sale and they did not bother to call at the witness stand any of the persons who allegedly certified that they did not receive the notices of extrajudicial foreclosure and sale. The RTC disposed the case as follows:

> **WHEREFORE,** premises considered, on the ground of the failure of the plaintiffs to prove by preponderance of evidence their causes of action, this case is hereby **DISMISSED.**
>
> The defendants' counterclaim is likewise **DISMISSED.** No pronouncement as to costs.
>
> **SO ORDERED.** (Emphasis appears in the original text of the Decision)

Upon denial of their motion for reconsideration,[26] Spouses De Guzman interposed the instant appeal with this lone assigned error:[27]

> THE LOWER COURT GRAVELY ERRED WHEN IT RULED THAT THE EXTRA-JUDICIAL FORECLOSURE SALE WAS VALID DESPITE THE SAME BEING PREMATURELY MADE[.]

Spouses De Guzman argue that the March 12, 1999 foreclosure proceedings was premature and null and void because it was held even before the principal loan, interests, and other charges stipulated in PN No. 473002 matured on April 5, 1999. They insist that there is no agreement in the PN as to the monthly payment of interests before April 5, 1999, thus, neither the principle of default nor the acceleration clause finds application in their case. Lastly, they invoke the rule on parol evidence contending that only the PN should be considered in determining the agreement between them and Metrobank.[28]

Metrobank counters that Spouses De Guzman had been paying monthly interests since 1996 and repeatedly renewed the loans. It is illogical that on the fourth and final renewal, and after having been on default, they now claim that they did not agree to pay said interests. It stands firm on the application of the acceleration clause under the PN.[29]

This Court's Ruling

The appeal fails to persuade Us.

Parol Evidence May Be Admitted to Establish True Intent of the Parties

As a general rule, no evidence of the terms of an agreement reduced into writing shall be admitted other than the contents of the written agreement itself. However, under Section 9, Rule 130 of the Rules of Court, a party may present evidence to modify, explain, or add to the terms of a written agreement if he puts in issue in his pleading (a) an intrinsic ambiguity, mistake or imperfection in the written agreement; (b) the failure of the written agreement to express the true intent and agreement of the parties thereto; (c) the validity of the written agreement; or (d) the existence of other terms agreed to by the parties or their successors-in-interest after the execution of the written agreement.

The first and third instances are present in this case. The validity of the PN and the REMs was put in issue by Spouses De Guzman in their complaint for nullification of foreclosure proceedings and loan documents. There is also an intrinsic ambiguity in the PN. The instrument states that the principal loan and its interests shall be for single payment but only the P9,000,000.00 principal loan was due on April 5, 1999 while the 22.670% *per annum* would be reviewed/adjusted every 30 days. With these intrinsic ambiguity and imperfection in the PN, the true intent of the parties in executing the written agreement must be established with certainty. This is precisely the rationale for allowing the exceptions under Section 9, Rule 130 of the Rules of Court. Once the intent is clear, it shall prevail over what the document appears to be on its face.[30]

The true intent of the parties herein was duly proven ironically by Spouses De Guzman's own witness, Dela Cruz, who testified as follows:

> Q You stated that the date of this Promisory (sic) Note is April 10, 1998 and the maturity is April 5, 1999 and the property was foreclosed on March 12, 1999, why is it foreclosed on March 12, 1999?
>
> A Because the borrower, it is indicated here in the Promisory (sic) Note defaulted, the bank has the right to collect the amount with the borrower, sir.
>
> Q Will you please point to us in this Exhibit 20, the provision that the bank is authorized to foreclose even before the arrival of the maturity period stated in the promisory *(sic)* note?
>
> A "If default be made on the payment of any installment and/or interest and other charges on this note as and when the same has become due and payable....." (witness reading the provision in the promisory *(sic)* note).
>
> x x x
>
> Q Was there a default made by the plaintiffs in the payment of any installment or interest?
>
> A Yes, sir.

x x x

Q From this statement of account, when did the plaintiffs start defaulting in the payment of his obligation?

A May 10, 1998, sir, just one (1) month after the renewal of the loan, sir. A month after the renewal of the loan, dated April 10, 1998 and the default was made on May 10, 1998.

Q In other words, this Promisory *(sic)* Note was executed April 10, 1998 and the following month, he already defaulted in the payment of what?

A Payment of interest, sir.

Q What happened to the succeeding months, was he able to pay the interest?

A No, sir.

Q From the exhibits that you presented, up to when did he default in the payment of interest?

A He was defaulted until the foreclosure proceedings and since then he was not able to pay any single centavo, sir.

x x x

Re-direct.

ATTY. CATRO: (*sic)*

Q Mr. Witness, will you please show to the Honorable court on the basis of the promisory (sic) note the steps as regards the installment payment?

ATTY. CASTRO:

A It is stated here the interest rate is rewiewed/collected *(sic)* every thirty days, the interest rate of 22.670, sir.

Q Where is that portion that states that herein plaintiff is oblige to pay certain amount in a certain period representing the interest?

A This one sir, “every thirty days”.