

## **ELEVENTH DIVISION**

**[ CA-G.R. SP No. 120016, March 26, 2014 ]**

**MANILA CREDIT CORPORATION, PETITIONER, VS. MIGUEL P. SANCHEZ, THE HON. ANTONIETTA PABLO-MEDINA, PRESIDING JUDGE BRANCH 276, REGIONAL TRIAL COURT OF MUNTINLUPA CITY, RESPONDENTS.**

### **D E C I S I O N**

**ANTONIO-VALENZUELA, J.:**

This is the Petition for Certiorari<sup>[1]</sup> under Rule 65 of the Rules of Court, filed by the Manila Credit Corporation ("petitioner MCC"), imputing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the Regional Trial Court, Branch 276, Muntinlupa City ("RTC"), in issuing the following: 1) the Order dated 21 March 2011;<sup>[2]</sup> and 2) the Order dated 08 June 2011.<sup>[3]</sup>

### **THE FACTS**

The facts are as follows: On 21 June 2007, Miguel Sanchez ("respondent Sanchez") filed the Petition<sup>[4]</sup> seeking to annul the extrajudicial foreclosure of real estate mortgage, cancellation of certificate of sale and TCT No. 18193, recovery of ownership and possession, and damages against petitioner MCC. The Petition averred: Respondent Sanchez was the registered owner of a parcel of land ("subject property") covered by Transfer Certificate of Title ("TCT") No. 128903; on 02 November 2004, respondent Sanchez' wife, Concepcion Sanchez ("Concepcion"), obtained a loan from petitioner MCC, secured by the real estate mortgage constituted over the subject property; Concepcion contracted the loan and executed the real estate mortgage by virtue of the fake special power of attorney ("SPA"), purportedly executed by respondent Sanchez appointing Concepcion as her attorney-in-fact, and authorizing her to obtain a loan from petitioner MCC and to mortgage the subject property to petitioner MCC; Concepcion failed to pay the loan, so petitioner MCC extrajudicially foreclosed the mortgage on the subject property, and became the highest bidder at the public auction for which the corresponding certificate of sale was issued; on 23 August 2006, after petitioner MCC consolidated ownership over the subject property, the Register of Deeds of Muntinlupa City cancelled TCT No. 128903 and issued TCT No. 18193 in the name of petitioner MCC; it was only in May 2007, that respondent Sanchez discovered that Concepcion mortgaged the subject property after petitioner MCC accompanied by the sheriff, took actual possession of the subject property; in order to avoid any untoward incident, respondent Sanchez reluctantly turned over possession of the subject property to petitioner MCC.

In its Answer with Affirmative Defenses and Counterclaim,<sup>[5]</sup> petitioner MCC denied the material allegations in respondent Sanchez' Petition, and countered: the Petition failed to implead Concepcion, as a real party in interest; petitioner MCC was a

mortgagee in good faith; the Petition failed to state a cause of action. By way of compulsory counterclaim, petitioner MCC averred that it was forced to litigate and incur expenses to defend its rights, and prayed for the award of Php100,000.00, representing attorney's fees.

On 18 October 2007, upon motion of respondent Sanchez, the RTC admitted the Amended Petition,<sup>[6]</sup> which impleaded Concepcion as an additional party.

Pre-trial proceeded. Trial was conducted.

The following persons testified for respondent Sanchez: respondent Sanchez; Michelle Sanchez (respondent Sanchez' daughter); and Nicanor Marundan (a representative of the Department of Foreign Affairs (DFA) Authentication Division). Respondent Sanchez' evidence is summarized thus: Respondent Sanchez worked as a Master Mariner since 1968; respondent Sanchez never executed the SPA authorizing Concepcion to mortgage the subject property with petitioner MCC; on 12 October 2004, the date when the SPA appeared to have been executed and acknowledged before Rafael S. Manansala, (allegedly then the consul of the Republic of the Philippines in Thessaloniki, Greece) respondent Sanchez was en route to Cape Town, Africa, after having left Fujairah, United Arab Emirates on 28 September 2004;<sup>[7]</sup> in the letter dated 07 February 2008, the Office of the Consular Affairs Authentication Division of the DFA certified that the Philippine Embassy in Athens did not issue the SPA, and that there was no Philippine Consul by the name of Rafael S. Manansala in Thessaloniki, Greece, in 2004;<sup>[8]</sup> it was only in May 2007 (when the sheriff and a representative of petitioner MCC, took actual possession of the subject property) that respondent Sanchez became aware that Concepcion constituted a mortgage over the subject property in favor of petitioner MCC; in order to protect his rights, respondent Sanchez incurred expenses, and was constrained to file the Petition against petitioner MCC before the RTC.

After the presentation of his testimonial and documentary evidence, respondent Sanchez rested his case and submitted his Formal Offer of Evidence.<sup>[9]</sup> On 13 September 2010, the RTC issued the Order admitting the documentary exhibits formally offered by respondent Sanchez.

On 27 October 2010, petitioner MCC filed the Demurrer to Evidence,<sup>[10]</sup> which argued that respondent Sanchez failed to prove that his signature on the SPA was a forgery. Petitioner MCC's Demurrer to Evidence prayed that respondent Sanchez' Petition should be dismissed for lack of merit on the ground that upon the facts and the law, respondent Sanchez was not entitled to any relief.

On 21 March 2011, the RTC issued the assailed Order dated 21 March 2011<sup>[11]</sup> which denied petitioner MCC's Demurrer, and scheduled the hearing to receive defendant's evidence on 14 April 2011.

Petitioner MCC, by way of the Omnibus Motion<sup>[12]</sup> dated 11 April 2011, moved for the reconsideration of the RTC's Order denying the Demurrer to Evidence.

However, in the assailed Order dated 08 June 2011,<sup>[13]</sup> the RTC denied petitioner MCC's motion for reconsideration.

Aggrieved, petitioner MCC files this Petition and makes the following assignment of errors:

**THE HONORABLE COURT, IN DENYING THE DEMURRER, ACTED WITH GRAVE ABUSE OF DISCRETION AND/OR IN EXCESS OF JURISDICTION IN ISSUING THE QUESTIONED ORDERS WHEN IT FAILED TO CONSIDER THAT THE PRIVATE RESPONDENT HAS NOT SUFFICIENTLY SHOWN MATERIAL, RELEVANT AND COMPETENT PROOF OF FORGERY OTHER THAN HIS SELF-SERVING DENIAL.**

**THE HONORABLE COURT, IN DENYING THE DEMURRER, ACTED WITH GRAVE ABUSE OF DISCRETION AND/OR IN EXCESS OF JURISDICTION IN ISSUING THE QUESTIONED ORDERS WHEN IT FAILED TO CONSIDER THAT PUBLIC DOCUMENTS INVESTED WITH SOLEMNITIES OF LAW CANNOT BE SET ASIDE ON LIGHT AND FLIMSY EVIDENCE, AND IN ORDER TO DECLARE SUCH DOCUMENT NULL AND VOID THE EVIDENCE PRESENTED TO THAT EFFECT MUST BE CLEAR, CONVINCING AND OVERWHELMING.**

The issue is whether the RTC committed grave abuse of discretion in denying petitioner MCC's demurrer to evidence.

The Petition for Certiorari answers in the affirmative. The RTC committed grave abuse of discretion in denying petitioner MCC's demurrer to evidence. The Petition for Certiorari thrusts: respondent Sanchez failed to sufficiently establish that his signature in the SPA was forged; respondent Sanchez' mere denial of having affixed his signature in the SPA was not sufficient to substantiate his claim that there was forgery; there was no sufficient proof presented to rebut the presumption accorded to documents acknowledged before a person authorized to administer oath.

The Court required respondent Sanchez to file comment to the Petition for Certiorari. However, respondent Sanchez did not comply.

In the Resolution dated 30 July 2012,<sup>[14]</sup> we required the parties to file simultaneous memoranda. However, the parties did not comply. Thus in the Resolution dated 22 March 2013, we submitted the case for decision without the parties' memoranda.

### **THE COURT'S RULING**

We rule in the negative. The RTC did not commit grave abuse of discretion in denying petitioner MCC's demurrer to evidence.

A demurrer to evidence is governed by Rule 33, Section 1, of the Rules of Court, which reads:

**Section 1. Demurrer to evidence.** — *After the plaintiff has completed the presentation of his evidence, the defendant may move for dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. If his motion is denied he shall have the right to present evidence. If the motion is granted but on appeal the order of dismissal is reversed he shall be deemed to have waived the right to present evidence.*

A demurrer to evidence is a motion to dismiss on the ground of insufficiency of evidence and is presented after the plaintiff rests his case. It is an objection by one of the parties in an action, to the effect that the evidence which his adversary