

NINTH DIVISION

[CA-G.R. CV NO. 80422, August 31, 2006]

SPS. MANLING UY LIM AND DAVID SY LIM, PLAINTIFFS-APPELLANTS, VS. FAR EAST BANK & TRUST CO. (NOW BANK OF THE PHILIPPINE ISLANDS), THE REGISTER OF DEEDS FOR QUEZON CITY AND THE EX-OFFICIO SHERIFF OF THE REGIONAL TRIAL COURT OF QUEZON CITY, DEFENDANTS-APPELLEES.

D E C I S I O N

REYES, JR., A. J.:

Before the Court is an ordinary appeal on the 14 March 2003 Decision of the Regional Trial Court, National Capital Judicial Region, Branch 80, Quezon City (the "court *a quo*") in Civil Case No. Q-98-36210 for Annulment of Mortgages, the dispositive portion of which reads that:

"Prescinding from the foregoing, plaintiffs' complaint is dismissed for lack of merit. Likewise, the defendant bank's counterclaim is dismissed for insufficiency of evidence.

SO ORDERED."^[1]

Culled from the assailed Decision, the facts of the case are as follows:

Plaintiff-appellant Manling Uy is the registered owner of three (3) parcels of land located in Quezon City, Metro Manila and covered by Transfer Certificates of Title Nos. 378192 (T-78951), 378194 (T-78953) and 378195 (T-78954), respectively of the Register of Deeds for Quezon City; on 25 April 1994, plaintiff-appellant with the consent of her husband, David Sy Lim, through a Special Power of Attorney, authorized Hammer Garments Corporation ("Hammer") to execute a real estate mortgage on the afore-described properties as security for the credit facilities that Hammer obtained from defendant-appellee;^[2] that on 06 May 1994, plaintiff-appellant as a third party mortgagor and through Hammer mortgaged the parcels of land in favor of defendant-appellee bank as security for certain credit accommodations the principal amount of which is Nine Million Eight Hundred Ninety Six Thousand & Three Hundred Eighty Pesos (P9,896,380.00) as evidenced by the Real Estate Mortgage notarized on 06 May 1994;^[3] on or about July 1996, a second real estate mortgage was executed on the same properties to secure an additional loan of One Million and Seven Thousand Pesos (P1,007,000.00); as of 31 October 1997, the total indebtedness secured by the above-mentioned properties is Twenty Nine Million Five Hundred Fifty Nine Thousand One Hundred Thirty Two and 53/100 (P29,559,132.53) as shown by the demand letter sent to plaintiffs-appellants;^[4] as a result of plaintiffs-appellants' failure to settle the above mentioned amount, defendant-appellee bank proceeded with the foreclosure of the subject properties and ended up as the highest bidder of the same for the amount of Nineteen Million

Seven Hundred Sixty Nine Thousand (P19,769,000.00) in the foreclosure sale dated 10 December 1997;^[5] when plaintiffs-appellants made written demands dated 27 March 1998 and 03 April 1998, respectively, upon defendant-appellee to supply the former with the documents pertinent to the foreclosure sale, the latter directed the plaintiffs-appellants to secure said documents from the Registry of Deeds of Quezon City; due to defendant-appellee's actions, plaintiffs-appellants claimed to have suffered pecuniary losses for which they claim nominal, moral and exemplary damages and attorney's fees.

Traversing the allegations of the complaint, defendant-appellee in its Answer with Counterclaim, asserts that: under the Special Power of Attorney executed by plaintiff-appellant, the execution of a first and continuing real estate mortgage and continuing real estate mortgage to secure any of its/their renewal or extensions, and other existing or future obligations are both duly authorized thus the second real estate mortgage dated 18 July 1996 contracted by Hammer was authorized by plaintiff-appellant Manling Uy; that it did not refuse to render an accounting to plaintiffs-appellants as proper demands for payments were even made to both the borrower Hammer Garments and plaintiffs-appellants as evidenced by demand letters dated 28 October 1997 and 31 October 1997; that information on the actual amount due from borrower Hammer has been repeatedly relayed to plaintiffs-appellants as per Statement of Account dated 11 September 1998; and that plaintiffs-appellants in filing the instant case has compelled the defendant-appellee bank to hire the services of counsel to protect its interest.

After trial on the merits, the court *a quo* rendered the Assailed Decision which dismissed the case for lack of merit.^[6]

Obviously dissatisfied, plaintiffs-appellants came to this Court via this ordinary appeal^[7] ascribing the following errors:

I.

THE TRIAL COURT ERRED IN DISMISSING THE COMPLAINT.

II.

THE TRIAL COURT ERRED IN NOT RULING THAT PLAINTIFFS ARE ENTITLED TO THE MAIN RELIEFS PRAYED FOR, TO WIT: THE ANNULMENT OF THE MORTGAGES AND FORECLOSURE.

III.

THE TRIAL COURT ERRED IN NOT AWARDING DAMAGES TO PLAINTIFFS-APPELLANTS.

The gut questions to be resolved in this case are: (a) Was it contemplated by the principal, *i.e.* plaintiff-appellant Manling Uy Lim, in the Special Power of Attorney to authorize Hammer Garments Corporation to enter into a *Continuing* Real Estate Mortgage with defendant-appellee bank?; (b) What is the extent of the liability of an accommodation mortgagor?

Resolving the ***first issue***, We concede to the findings of the court *a quo* that it was