



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

SPOUSES RUBIN AND PORTIA HOJAS, G.R. No. 193453

Petitioners, Present:

- versus -

VELASCO, JR., J., *Chairperson*,
PERALTA,
ABAD,
MENDOZA, and
LEONEN, JJ.

PHILIPPINE AMANAH BANK
AND RAMON KUE,

Promulgated:

Respondents.

JUN 05 2013

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DECISION

MENDOZA, J.:

This is a petition for review on *certiorari* assailing the July 28, 2010 Decision¹ of the Court of Appeals (CA), in CA-G.R. CV No. 55722, which affirmed the May 27, 1996 Decision of the Regional Trial Court, Branch 13, Zamboanga City (RTC), dismissing Civil Case No. 1028 (3952), an action for “Determination of True Balance of Mortgage, Debt, Annulment/Setting Aside of Extrajudicial Foreclosure of Mortgage and Damages, with Prayer for Preliminary Injunction.”

The petitioners, Spouses Rubin and Portia Hojas (*petitioners*), alleged that on April 11, 1980, they secured a loan from respondent Philippine Amanah Bank (PAB) in the amount of ₱450,000.00; that this loan was secured by a mortgage, covering both personal and real properties; that from

¹ Rollo, pp. 19-33. Penned by Associate Justice Romulo M. Boria with Associate Justice Edgardo T. Ullate.

May 14, 1981 to June 27, 1986, they made various payments amounting to ₱486,162.13; that PAB, however, did not properly credit their payments; that based on the summary of payments furnished by PAB to them on February 24, 1989, only 13 payments were credited, erroneously amounting to ₱317,048.83; that PAB did not credit the payment they made totaling ₱165,623.24; and that, in the statement of their account as of October 17, 1984, PAB listed their total payment as ₱412,211.54 on the principal, and ₱138,472.09 as 30% interest, all amounting to ₱ 550,683.63, despite the fact that at that time, petitioners had already paid the total sum of ₱ 486,162.13.²

Petitioners further averred that for failure to pay the loan, PAB applied for the extrajudicial foreclosure of the mortgaged real properties of petitioners with the Ex-Officio Sheriff; that consequently, a Notice of Extrajudicial Foreclosure was issued on January 12, 1987 setting the foreclosure sale on April 21, 1987 and, stating therein the mortgage debt in the sum of ₱450,000.00; and that, in the public auction conducted, PAB acquired said real property.³

It was further alleged that on March 9, 1988, through the intervention of then Senator Aquilino Pimentel, Farouk A. Carpizo (*Carpizo*), the OIC-President of PAB, wrote Roberto Hojas (*Roberto*), petitioners' son, informing him that although the one-year redemption period would expire on April 21, 1988, by virtue of the bank's incentive scheme, the redemption period was extended until December 31, 1988; that despite said letter from the OIC-President, the OIC of the Project Development Department of PAB wrote Rubin Hojas that the real properties acquired by PAB would be sold in a public bidding before the end of August, 1988; that on November 4, 1988, a public bidding was conducted; that in the said bidding, the mortgaged properties were awarded to respondent Ramon Kue (*Kue*); that subsequently, they received a letter from the OIC of the Project Development Department, dated January 3, 1989, informing them that they had fifteen (15) days from receipt within which to vacate the premises; that Kue then sent another letter, dated January 31, 1989, informing them that he had already acquired the said property and that they were requested to vacate the premises within fifteen (15) days from receipt thereof;⁴ and that because of this development, on May 7, 1991, petitioners filed an action for "Determination of True Balance of Mortgage Debt, Annulment/Setting Aside of Extrajudicial Foreclosure of Mortgage and Damages, with Prayer for Preliminary Injunction" against PAB.⁵

² Id. at 20.

³ Id.

⁴ Id. at 21.

⁵ Id. at 22.

On May 27, 1996, the RTC dismissed petitioners' complaint. It ruled, among others, that: 1) PAB was not guilty of bad faith in conducting the extrajudicial foreclosure as it, at one time, even suspended the conduct of the foreclosure upon the request of petitioners, who, nevertheless, failed to exert effort to settle their accounts; 2) because petitioners failed to redeem their properties within the period allowed, PAB became its absolute owner and, as such, it had the right to sell the same to Kue, who acquired the property for value and in good faith; and 3) the subsequent foreclosure and auction sale having been conducted above board and in accordance with the requisite legal procedure, collusion [between PAB and Kue] was certainly alien to the issue.⁶

Aggrieved, petitioners filed an appeal assailing the May 27, 1996 RTC Decision. They asserted that the March 9, 1988 Letter of Carpizo to Roberto Hojas extended the redemption period from April 21 to December 31, 1988. Considering that they had relied on Carpizo's representation, PAB violated the principle of *estoppel* when it conducted the public sale on November 4, 1988.⁷ Their basis was the portion of said letter which stated:

x x x x

As the Bank has adopted an incentive scheme whereby payments are liberalized to give chances to former owners to repossess their properties, we suggest that you advise your parents to drop by at our Zamboanga Office so they can avail of this rare privilege which shall be good only up to December 31, 1988. (Emphasis supplied)⁸

The CA was not sympathetic with petitioners' position. It held that the period of redemption was never extended. The date "December 31, 1988" was not an extension of the redemption period. It was merely the last day for the availment of the liberalized payment for the repossession of foreclosed assets under PAB's incentive scheme. PAB, through said letter, did not make an unqualified representation to petitioners that it had extended the redemption period. As such, PAB could not be said to have violated the principle of *estoppel* when it conducted a public sale on November 4, 1988.⁹ Thus, the dispositive portion of the CA decision reads:

⁶ Id. at 25.

⁷ Id. at 30-31.

⁸ Id. at 31.

⁹ Id. at 32.

ACCORDINGLY, the instant appeal is **DENIED**. The Decision dated May 27, 1996, of the Regional Trial Court, 9th Judicial Region, Branch No. 13 of Zamboanga City, in Civil Case No. 1028 (3952), is **AFFIRMED**.

SO ORDERED. ¹⁰

Undaunted, petitioners filed the present petition for review. It postulated the sole issue:

WHETHER OR NOT THE CA ERRED IN NOT HOLDING PAB TO HAVE VIOLATED THE PRINCIPLE OF *ESTOPPEL* WHEN THE LATTER CONDUCTED THE NOVEMBER 4, 1988 PUBLIC SALE.

Petitioners reiterated their argument that the November 4, 1988 public sale by PAB was violative of the principle of *estoppel* because said bank made it appear that the one-year redemption period was extended. As such, when PAB sold the property before said date, they suffered damages and were greatly prejudiced.¹¹ They also argued that since they manifested their interest in availing of the said “incentive scheme,” PAB should have, at the very least, waited until December 31, 1988, before it sold the subject foreclosed property in a public auction.¹²

On the other hand, PAB explains that the purpose of the “incentive scheme” was to give previous owners the chance to redeem their properties on easy payment term basis, through condonation of some charges and penalties and allowing payment by installment based on their proposals which may be acceptable to PAB. Therefore, the March 9, 1988 Letter of Carpizo was an invitation for petitioners to submit a proposal to PAB.¹³ It was not meant to extend the one-year redemption period.

As early as August 11, 1988, PAB wrote petitioners informing them of the scheduled public bidding. After receipt of the letter, petitioners went to PAB to signify their willingness to avail of the said incentive scheme. They, however, failed to submit a proposal. In fact, PAB did not hear from petitioners again. As such, the respondent sold the subject property in a public sale on November 4, 1988¹⁴ PAB cited the RTC’s finding that

¹⁰ Id.

¹¹ Id. at 14.

¹² Id. at 11-12.

¹³ Id. at 72.

¹⁴ Id.

although the petitioners manifested their intention to avail of the incentive scheme desire alone was not sufficient. Redemption is not a matter of intent but involved making the proper payment or tender of the price of the land within the specified period.¹⁵

The petition is bereft of merit.

Through *estoppel*, an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying on it.¹⁶ This doctrine is based on the grounds of public policy, fair dealing, good faith, and justice and its purpose is to forbid one to speak against his own act, representations or commitments to the injury of one to whom they were directed and who reasonably relied on it.¹⁷ Thus, in order for this doctrine to operate, a representation must have been made to the detriment of another who relied on it. In other words, *estoppel* would not lie against one who, in the first place, did not make any representation.

In this case, a perusal of the letter, on which petitioners based their position that the redemption period had been extended, shows otherwise. Pertinent portions of the said letter read:

X X X X

Our records show that the above account has already been foreclosed by the bank. However, the borrowers concerned can still exercise the one (1) year right of redemption over the foreclosed properties until April 21, 1988.

As the Bank has adopted an incentive scheme whereby payments are liberalized to give chances to former owners to repossess their properties, we suggest that you advise your parents to drop by at our Zamboanga Office so they can avail of this rare privilege which shall be good only up to December 31, 1988. [Emphases and Underscoring Supplied]¹⁸

¹⁵ *Dela Merced v. De Guzman*, 243 Phil. 251, 256 (1988).

¹⁶ CIVIL CODE, Article 1431

¹⁷ *Rockland Construction Company v. Mid-Pasig Land Development Corporation*, G.R. No. 164587, February 04, 2008, 543 SCRA 596, 603, citing *Philippine National Bank v. Court of Appeals*, Nos. L-30831 & L-31176, November 21, 1979, 94 SCRA 357, 368.

¹⁸ *Rollo*, p. 31.

As correctly held by the RTC and upheld by the CA, the date “December 31, 1988” refers to the last day when owners of foreclosed properties, like petitioners, could submit their payment proposals to the bank. The letter was very clear. It was about the availment of the liberalized payment scheme of the bank. On the last day for redemption, the letter was also clear. It was April 21, 1988. It was never extended.

The opportunity given to the petitioners was to avail of the liberalized payment scheme which program would expire on December 31, 1988. As explained by Abraham Iribani (*Iribani*), the OIC of the Project Development Department of PAB, it was to give a chance to previous owners to repossess their properties on easy term basis, possibly by condonation of charges and penalties and payment on instalment. The letter of Carpizo was an invitation to the petitioners to come to the bank with their proposal. It appears that the petitioners could not come up with a proposal acceptable to the bank.

For said reason, the mortgaged property was included in the list of mortgaged properties that would be sold through a scheduled public bidding. Thus, on August 11, 1988, Iribani wrote the petitioners about the scheduled bidding. In response, the petitioners told Iribani that they would go Manila to explain their case. They did not, however, return even after the public bidding. In this regard, the CA was correct when it wrote:

Here, there is no estoppel to speak of. The letter does not show that the Bank had unqualifiedly represented to the Hojases that it had extended the redemption period to December 31, 1988. Thus, the Hojases have no basis in positing that the public sale conducted on November 4, 1988 was null and void for having been prematurely conducted.¹⁹

Moreover, petitioners’ allegation that they had signified their intention to avail of the incentive scheme (*which they have equated to their intention to redeem the property*), did not amount to an exercise of redemption precluding the bank from making the public sale.²⁰ In the case of *China Banking Corporation v. Martir*,²¹ this Court expounded on what constitutes a proper exercise of the right of redemption, to wit:

¹⁹ Id. at 32.

²⁰ Id. at 11-12.

²¹ G.R. No. 184252, September 11, 2009, 599 SCRA 672.

The general rule in redemption is that it is not sufficient that a person offering to redeem manifests his desire to do so. The statement of intention must be accompanied by an actual and simultaneous tender of payment. This constitutes the exercise of the right to repurchase.

In several cases decided by the Court where the right to repurchase was held to have been properly exercised, there was an unequivocal tender of payment for the full amount of the repurchase price. Otherwise, the offer to redeem is ineffectual. *Bona fide* redemption necessarily implies a reasonable and valid tender of the entire repurchase price, otherwise the rule on the redemption period fixed by law can easily be circumvented.

Moreover, jurisprudence also characterizes a valid tender of payment as one where the full redemption price is tendered. Consequently, in this case, the offer by respondents on July 24, 1986 to redeem the foreclosed properties for ₱1,872,935 and the subsequent consignment in court of ₱1,500,000 on August 27, 1986, while made within the period of redemption, was ineffective since the amount offered and actually consigned not only did not include the interest but was in fact also way below the ₱2,782,554.66 paid by the highest bidder/purchaser of the properties during the auction sale.

In *Bodiongan vs. Court of Appeals*, we held:

In order to effect a redemption, the judgment debtor must pay the purchaser the redemption price composed of the following: (1) the price which the purchaser paid for the property; (2) interest of 1% per month on the purchase price; (3) the amount of any assessments or taxes which the purchaser may have paid on the property after the purchase; and (4) interest of 1% per month on such assessments and taxes x x x.

Furthermore, Article 1616 of the Civil Code of the Philippines provides:

The vendor cannot avail himself of the right to repurchase without returning to the vendee the price of the sale x x x.

It is not difficult to understand why the redemption price should either be fully offered in legal tender or else validly consigned in court. Only by such means can the auction winner be assured that the offer to redeem is being made in good faith.

Respondents' repeated requests for information as regards the amount of loan availed from the credit line and the amount of redemption, and petitioner's failure to accede to said requests do not invalidate the foreclosure. Respondents can find other ways to know the redemption price. For one, they can examine the Certificate of Sale registered with the Register of Deeds to verify the purchase price, or upon the filing of their complaint, they could have moved for a computation of the redemption price and consigned the same to the court. At any rate, whether or not respondents were diligent in asserting their willingness to pay is irrelevant. Redemption within the period allowed by law is not a matter of intent but a question of payment or valid tender of the full redemption price within said period.

Even the complaint instituted by respondents cannot aid their plight because the institution of an action to annul a foreclosure sale does not suspend the running of the redemption period. (Underscoring supplied)²²

In the case at bench, the record is bereft of concrete evidence that would show that, aside from the fact that petitioners manifested their intention to avail of the scheme, they were also ready to pay the redemption price. Hence, as they failed to exercise their right of redemption and failed to take advantage of the liberalized incentive scheme, PAB was well within its right to sell its property in a public sale.


WHEREFORE, the petition is **DENIED**.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

²² Id. at 685-686, citing *BPI Family Savings Bank v. Spouses Veloso*, 479 Phil. 627,632 (2004).

WE CONCUR:



PRESBITERO J. VELÁSICO, JR.

Associate Justice
Chairperson



DIOSDADO M. PERALTA

Associate Justice



ROBERTO A. ABAD

Associate Justice




MARVIC MARIO VICTOR F. LEONEN

Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

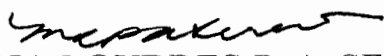


PRESBITERO J. VELASCO, JR.

Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice