



Republic of the Philippines  
**Supreme Court**  
Manila

**SECOND DIVISION**

**STAR TWO (SPV-AMC), INC.,<sup>1</sup>**  
Petitioner,

**G.R. No. 169211**

Present:

- versus -

SERENO, *CJ.*\*  
CARPIO, *J.*,  
Chairperson,  
DEL CASTILLO,  
PEREZ, and  
PERLAS-BERNABE, *JJ.*

**PAPER CITY CORPORATION OF  
THE PHILIPPINES,**  
Respondent.

Promulgated:  
MAR 06 2013 *W Cabalag Inflecto*

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**DECISION**

**PEREZ, J.:**

For review before this Court is a Petition for Review on Certiorari filed by Rizal Commercial Banking Corporation now substituted by Star Two (SPV-AMC), Inc. by virtue of Republic Act No. 9182<sup>2</sup> otherwise known as the "Special Purpose Vehicle Act of 2002," assailing the 8 March 2005 Decision and 8 August 2005 Resolution of the Special Fourth Division of the Court of Appeals (CA) in CA-G.R. SP No. 82022 upholding the 15 August 2003 and 1 December 2003 Orders of the Valenzuela Regional Trial

\* Designated additional member per Raffle dated 14 January 2013.

<sup>1</sup> Motion to Change the Caption to Star-Two (SPV-AMC) v. Paper City Corporation filed by RCBC was noted by the Clerk of Court Second Division through an Internal Resolution dated 11 August 2010.

<sup>2</sup> An Act Granting Tax Exemptions and Fee Privileges to Special Purpose Vehicles which Acquire or Invest in Non-Performing Assets, Setting the Regulatory Framework Therefor, and for Other Purposes. By virtue of this law, RCBC sold the subject loan account to Star-Two (SPV-AMC); hence the latter became subrogated to the rights of RCBC. *Rollo*, p. 177.

Court (RTC) ruling that the subject machineries and equipments of Paper City Corporation (Paper City) are movable properties by agreement of the parties and cannot be considered as included in the extrajudicial foreclosure sale of the mortgaged land and building of Paper City.<sup>3</sup>

The facts as we gathered from the records are:

Rizal Commercial Banking Corporation (RCBC), Metropolitan Bank and Trust Co. (Metrobank) and Union Bank of the Philippines (Union Bank) are banking corporations duly organized and existing under the laws of the Philippines.

On the other hand, respondent Paper City is a domestic corporation engaged in the manufacture of paper products particularly cartons, newsprint and clay-coated paper.<sup>4</sup>

From 1990-1991, Paper City applied for and was granted the following loans and credit accommodations in peso and dollar denominations by RCBC: ₱10,000,000.00 on 8 January 1990,<sup>5</sup> ₱14,000,000.00 on 19 July 1990,<sup>6</sup> ₱10,000,000.00 on 28 June 1991,<sup>7</sup> and ₱16,615,000.00 on 28 November 1991.<sup>8</sup> The loans were secured by four (4) Deeds of Continuing Chattel Mortgages on its machineries and equipments found inside its paper plants.

On **25 August 1992**, a **unilateral Cancellation of Deed of Continuing Chattel Mortgage on Inventory of Merchandise/Stocks-in-Trade** was executed by RCBC through its Branch Operation Head Joey P. Singh and Asst. Vice President Anita O. Abad over the merchandise and stocks-in-trade covered by the continuing chattel mortgages.<sup>9</sup>

On **26 August 1992**, RCBC, Metrobank and Union Bank (*creditor banks with RCBC instituted as the trustee bank*) entered into a **Mortgage Trust Indenture** (MTI) with Paper City. In the said MTI, Paper City acquired an additional loan of One Hundred Seventy Million Pesos (₱170,000,000.00) from the creditor banks in addition to the previous loan from RCBC amounting to ₱110,000,000.00 thereby increasing the entire

<sup>3</sup> Petition for Review on Certiorari. Id. at 4-55.

<sup>4</sup> Complaint of Paper City. CA rollo, p. 56-57

<sup>5</sup> Id. at 278-281.

<sup>6</sup> Id. at 290-292.

<sup>7</sup> Id. at 302-303.

<sup>8</sup> Id. at 315-316.

<sup>9</sup> Id. at 345-346.

loan to a total of ₱280,000,000.00. The old loan of ₱110,000,000.00 was partly secured by various parcels of land covered by TCT Nos. T-157743, V-13515, V-1184, V-1485, V-13518 and V-13516 situated in Valenzuela City pursuant to five (5) Deeds of Real Estate Mortgage dated 8 January 1990, 27 February 1990, 19 July 1990, 20 February 1992 and 12 March 1992.<sup>10</sup> The new loan obligation of ₱170,000,000.00 would be secured by the same five (5) Deeds of Real Estate Mortgage and additional real and personal properties described in an annex to MTI, Annex “B.”<sup>11</sup> Annex “B” of the said MTI covered the machineries and equipments of Paper City.<sup>12</sup>

The MTI was later amended on **20 November 1992** to increase the contributions of the RCBC and Union Bank to ₱80,000,000.00 and ₱70,000,000.00, respectively. As a consequence, they executed a **Deed of Amendment to MTI**<sup>13</sup> but still included as part of the mortgaged properties by way of a first mortgage the various machineries and equipments located in and bolted to and/or forming part of buildings generally described as:

Annex “A”

- A. Office Building
  - Building 1, 2, 3, 4, and 5
  - Boiler House
  - Workers’ Quarter/Restroom
  - Canteen
  - Guardhouse, Parking Shed, Elevated Guard
  - Post and other amenities
- B. Pollution Tank Nos. 1 and 2.
  - Reserve Water Tank and Swimming Pool
  - Waste Water Treatment Tank
  - Elevated Concrete Water Tank
  - And other Improvements listed in Annex “A”
- C. Power Plants Nos. 1 and 2
  - Fabrication Building
  - Various Fuel, Water Tanks and Pumps
  - Transformers

Annex “B”

- D. Material Handling Equipment
  - Paper Plant No. 3

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<sup>10</sup> MTI. Id. at 110-111.

<sup>11</sup> Id. at 113.

<sup>12</sup> Granting Clause. Id. at 112.

<sup>13</sup> Id. at 113-116.

A **Second Supplemental Indenture to the 26 August 1992 MTI** was executed on **7 June 1994** to increase the amount of the loan from ₱280,000,000.00 to ₱408,900,000.00 secured against the existing properties composed of land, building, machineries and equipments and inventories described in Annexes “A” and “B.”<sup>14</sup>

Finally, a **Third Supplemental Indenture to the 26 August 1992 MTI** was executed on **24 January 1995** to increase the existing loan obligation of ₱408,900,000.00 to ₱555,000,000.00 with an additional security composed of a newly constructed two-storey building and other improvements, machineries and equipments located in the existing plant site.<sup>15</sup>

Paper City was able to comply with its loan obligations until July 1997. But economic crisis ensued which made it difficult for Paper City to meet the terms of its obligations leading to payment defaults.<sup>16</sup> Consequently, RCBC filed a **Petition for Extrajudicial Foreclosure Under Act No. 3135 Against the Real Estate Mortgage** executed by Paper City on **21 October 1998**.<sup>17</sup> This petition was for the extra-judicial foreclosure of **eight (8) parcels of land including all improvements thereon** enumerated as TCT Nos. V-9763, V-13515, V-13516, V-13518, V-1484, V-1485, V-6662 and V-6663 included in the MTI dated 26 August 1992, Supplemental MTI dated 20 November 1992, Second Supplemental Indenture on the MTI dated 7 June 1994 and Third Supplemental Indenture on the MTI dated 24 January 1995.<sup>18</sup> Paper City then had an outstanding obligation with the creditor banks adding up to Nine Hundred One Million Eight Hundred One Thousand Four Hundred Eighty-Four and 10/100 Pesos (₱901,801,484.10), inclusive of interest and penalty charges.<sup>19</sup>

A **Certificate of Sale** was executed on **8 February 1999** certifying that the eight (8) parcels of land with improvements thereon were sold on 27 November 1998 in the amount of Seven Hundred Two Million Three Hundred Fifty-One Thousand Seven Hundred Ninety-Six Pesos and 28/100 (₱702,351,796.28) in favor of the creditor banks RCBC, Union Bank and Metrobank as the highest bidders.<sup>20</sup>

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<sup>14</sup> Id. at 150-152.

<sup>15</sup> Id. at 218-220.

<sup>16</sup> Complaint. Id. at 58.

<sup>17</sup> Id. at 238-247.

<sup>18</sup> Id.

<sup>19</sup> Id. at 245.

<sup>20</sup> Id. at 248-250.

This foreclosure sale prompted Paper City to file a Complaint<sup>21</sup> docketed as Civil Case No. 164-V-99 on 15 June 1999 against the creditor banks alleging that the extra-judicial sale of the properties and plants was null and void due to lack of prior notice and attendance of gross and evident bad faith on the part of the creditor banks. In the alternative, it prayed that in case the sale is declared valid, to render the whole obligation of Paper City as fully paid and extinguished. Also prayed for was the return of ₱5,000,000.00 as excessive penalty and the payment of damages and attorney's fees.

In the meantime, Paper City and Union Bank entered into a Compromise Agreement which was later approved by the trial court on 19 November 2001. It was agreed that the share of Union Bank in the proceeds of the foreclosure shall be up to 34.23% of the price and the remaining possible liabilities of Paper City shall be condoned by the bank. Paper City likewise waived all its claim and counter charges against Union Bank and agreed to turn-over its proportionate share over the property within 120 days from the date of agreement.<sup>22</sup>

On the other hand, the negotiations between the other creditor banks and Paper City remained pending. During the interim, Paper City filed with the trial court a Manifestation with Motion to Remove and/or Dispose Machinery on 18 December 2002 reasoning that the [machineries] located inside the foreclosed land and building were deteriorating. It posited that since the machineries were not included in the foreclosure of the real estate mortgage, it is appropriate that it be removed from the building and sold to a third party.<sup>23</sup>

Acting on the said motion, the trial court, on 28 February 2003 issued an Order denying the prayer and ruled that the machineries and equipments were included in the annexes and form part of the MTI dated 26 August 1992 as well as its subsequent amendments. Further, the machineries and equipments are covered by the Certificate of Sale issued as a consequence of foreclosure, the certificate stating that the **properties described therein with improvements thereon were sold to creditor banks [to the defendants] at public auction.**<sup>24</sup>

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<sup>21</sup> Id. at 56-67.

<sup>22</sup> Id. at 531-533.

<sup>23</sup> Id. at 93-95.

<sup>24</sup> Id. at 269-270.

Paper City filed its Motion for Reconsideration<sup>25</sup> on 4 April 2003 which was **favorably granted** by the trial court in its **Order dated 15 August 2003**. The court justified the reversal of its order on the finding that the disputed machineries and equipments are chattels by agreement of the parties through their inclusion in the four (4) Deeds of Chattel Mortgage dated 28 January 1990, 19 July 1990, 28 June 1991 and 28 November 1991. It further ruled that the deed of cancellation executed by RCBC on 25 August 1992 was not valid because it was done unilaterally and without the consent of Paper City and the cancellation only refers to the merchandise/stocks-in-trade and not to machineries and equipments.<sup>26</sup>

RCBC in turn filed its Motion for Reconsideration to persuade the court to reverse its 15 August 2003 Order. However, the same was denied by the trial court through its 1 December 2003 Order reiterating the finding and conclusion of the previous Order.<sup>27</sup>

Aggrieved, RCBC filed with the CA a Petition for Certiorari under Rule 65 to annul the Orders dated 15 August 2003 and 1 December 2003 of the trial court,<sup>28</sup> for the reasons that:

- I. [Paper City] gave its conformity to consider the subject machineries and equipment as real properties when the president and Executive Vice President of Paper City signed the Mortgage Trust Indenture as well as its subsequent amendments and all pages of the annexes thereto which itemized all properties that were mortgaged.<sup>29</sup>
- II. Under Section 8 of Act No. 1508, otherwise known as “The Chattel Mortgage Law” the consent of the mortgagor (Paper City) is not required in order to cancel a chattel mortgage. Thus the “Cancellation of Deed of Continuing Chattel Mortgage on Inventory of Merchandise/Stocks-in-Trade” dated August 25, 1992 is valid and binding on the [Paper City] even assuming that it was executed unilaterally by petitioner RCBC.<sup>30</sup>
- III. The four (4) Deeds of Chattel Mortgage that were attached as Annexes “A” to “D” to the December 18, 2003 “Manifestation with Motion to Remove and/or Dispose of Machinery” were executed from January 8, 1990 until November 28, 1991. On the other hand, the “Cancellation of Deed of Continuing Chattel Mortgage” was executed on August 25, 1992 while the MTI and the subsequent supplemental amendments thereto were executed from August 26, 1992 until January 24, 1995. It is of the

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<sup>25</sup> Id. at 271-277.

<sup>26</sup> Id. at 53-54.

<sup>27</sup> Id. at 55.

<sup>28</sup> Id. at 2-52.

<sup>29</sup> Id. at 11.

<sup>30</sup> Id. at 22-23.

- contention of RCBC that [Paper City's] unreasonable delay of ten (10) years in assailing that the disputed machineries and equipments were personal amounted to estoppel and ratification of the characterization that the same were real properties.<sup>31</sup>
- IV. The removal of the subject machineries or equipment is not among the reliefs prayed for by the [Paper City] in its June 11, 1999 Complaint. The [Paper City] sought the removal of the subject machineries and equipment only when it filed its December 18, 2002 Manifestation with Motion to Remove and/or Dispose of Machinery.<sup>32</sup>
- V. [Paper City] did not specify in its various motions filed with the respondent judge the subject machineries and equipment that are allegedly excluded from the extrajudicial foreclosure sale.<sup>33</sup>
- VI. The machineries and equipments mentioned in the four (4) Deeds of Chattel Mortgage that were attached on the Manifestation with Motion to Remove and/or Dispose of Machinery are the same machineries and equipments included in the MTI and supplemental amendments, hence, are treated by agreement of the parties as real properties.<sup>34</sup>

In its Comment,<sup>35</sup> Paper City refuted the claim of RCBC that it gave its consent to consider the machineries and equipments as real properties. It alleged that the disputed properties remained within the purview of the existing chattel mortgages which in fact were acknowledged by RCBC in the MTI particularly in Section 11.07 which reads:

Section 11.07. This INDENTURE in respect of the MORTGAGE OBLIGATIONS in the additional amount not exceeding TWO HUNDRED TWENTY MILLION SIX HUNDRED FIFTEEN THOUSAND PESOS (₱220,615,000.00) shall be registered with the Register of Deeds of Valenzuela, Metro Manila, apportioned based on the corresponding loanable value of the MORTGAGED PROPERTIES, viz:

- a. Real Estate Mortgage – ₱206,815,000.00
- b. Chattel Mortgage – ₱13,800,000.00<sup>36</sup>

Paper City argued further that the subject machineries and equipments were not included in the foreclosure of the mortgage on real properties particularly the eight (8) parcels of land. Further, the Certificate of Sale of the Foreclosed Property referred only to “lands and improvements” without

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<sup>31</sup> Id. at 24-25.

<sup>32</sup> Id. at 26.

<sup>33</sup> Id. at 27

<sup>34</sup> Id. at 27-28.

<sup>35</sup> Id. at 497-503.

<sup>36</sup> Id. at 499.

any specification and made no mention of the inclusion of the subject properties.<sup>37</sup>

In its Reply,<sup>38</sup> RCBC admitted that there was indeed a provision in the MTI mentioning a chattel mortgage in the amount of ₱13,800,000.00. However, it justified that its inclusion in the MTI was merely for the purpose of ascertaining the amount of the loan to be extended to Paper City.<sup>39</sup> It reiterated its position that the machineries and equipments were no longer treated as chattels but already as real properties following the MTI.<sup>40</sup>

On 8 March 2005, the CA affirmed<sup>41</sup> the challenged orders of the trial court. The dispositive portion reads:

WHEREFORE, finding no grave abuse of discretion committed by public respondent, the instant petition is hereby DISMISSED for lack of merit. The assailed Orders dated 15 August and 2 December 2003, issued by Hon. Judge Floro P. Alejo are hereby AFFIRMED. No costs at this instance.<sup>42</sup>

The CA relied on the “plain language of the MTIs:

Undoubtedly, nowhere from any of the MTIs executed by the parties can [w]e find the alleged “**express**” agreement adverted to by petitioner. There is no provision in any of the parties’ MTI, which expressly states to the effect that the parties shall treat the equipments and machineries as real property. On the contrary, the plain and unambiguous language of the aforecited MTIs, which described the same as personal properties, contradicts petitioner’s claims.<sup>43</sup>

It was also ruled that the subject machineries and equipments were not included in the extrajudicial foreclosure sale. The claim of inclusion was contradicted by the very caption of the petition itself, “**Petition for Extra-Judicial Foreclosure of Real Estate Mortgage Under Act No. 3135 As Amended.**” It opined further that this inclusion was further stressed in the Certificate of Sale which enumerated only the mortgaged real properties bought by RCBC without the subject properties.<sup>44</sup>

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<sup>37</sup> Id. at 500-501.

<sup>38</sup> Id. at 527-530.

<sup>39</sup> Id. at 527.

<sup>40</sup> Id. at 528.

<sup>41</sup> Penned by Associate Justice Perlita J. Tria-Tirona with Associate Justices Delilah Vidallon-Magtolis and Jose C. Reyes, Jr. concurring. *Rollo*, pp. 57-71.

<sup>42</sup> Id. at 71.

<sup>43</sup> Id. at 68.

<sup>44</sup> Id. at 69.



RCBC sought reconsideration but its motion was denied in the CA's Resolution dated 8 August 2005.

RCBC before this Court reiterated all the issues presented before the appellate court:

1. *Whether the unreasonable delay of ten (10) years in assailing that the disputed machineries and equipments were personal properties amounted to estoppel on the part of Paper City;*
2. *Whether the Cancellation of Deed of Continuing Mortgage dated 25 August 1992 is valid despite the fact that it was executed without the consent of the mortgagor Paper City;*
3. *Whether the subsequent contracts of the parties such as Mortgage Trust Indenture dated 26 August 1992 as well as the subsequent supplementary amendments dated 20 November 1992, 7 June 1992, and 24 January 1995 included in its coverage of mortgaged properties the subject machineries and equipment; and*
4. *Whether the subject machineries and equipments were included in the extrajudicial foreclosure dated 21 October 1998 which in turn were sold to the creditor banks as evidenced by the Certificate of Sale dated 8 February 1999.*

We grant the petition.

By contracts, all uncontested in this case, machineries and equipments are included in the mortgage in favor of RCBC, in the foreclosure of the mortgage and in the consequent sale on foreclosure also in favor of petitioner.

The mortgage contracts are the original MTI of 26 August 1992 and its amendments and supplements on 20 November 1992, 7 June 1994, and 24 January 1995. The clear agreements between RCBC and Paper City follow:

The **original MTI dated 26 August 1992** states that:

#### MORTGAGE TRUST INDENTURE

This MORTGAGE TRUST INDENTURE, executed on this day of August 26, 1992, by and between:

PAPER CITY CORPORATION OF THE PHILIPPINES, x x x hereinafter referred to as the "MORTGAGOR");

-and-

RIZAL COMMERCIAL BANKING CORPORATION, x x x (hereinafter referred to as the "TRUSTEE").

x x x x

WHEREAS, against the same mortgaged properties and additional real and personal properties more particularly described in ANNEX "B" hereof, the MORTGAGOR desires to increase their borrowings to TWO HUNDRED EIGHTY MILLION PESOS (₱280,000,000.00) or an increase of ONE HUNDRED SEVENTY MILLION PESOS (₱170,000,000.00) xxx from various banks/financial institutions;

x x x x

#### GRANTING CLAUSE

NOW, THEREFORE, this INDENTURE witnesseth:

THAT **the MORTGAGOR** in consideration of the premises and of the acceptance by the TRUSTEE of the trust hereby created, and in order to secure the payment of the MORTGAGE OBLIGATIONS which shall be incurred by the MORTGAGOR pursuant to the terms hereof xxx hereby states that with the execution of this INDENTURE it will assign, transfer and convey as it has hereby ASSIGNED, TRANSFERRED and CONVEYED by way of a registered first mortgage unto [RCBC] x x x the various parcels of land covered by several Transfer Certificates of Title issued by the Registry of Deeds, including the buildings and existing improvements thereon, as well as of the machinery and equipment more particularly described and listed that is to say, the real and personal properties listed in Annexes "A" and "B" hereof of which the MORTGAGOR is the lawful and registered owner.<sup>45</sup> (Emphasis and underlining ours)

The **Deed of Amendment to MTI dated 20 November 1992** expressly provides:

NOW, THEREFORE, premises considered, the parties considered have amended and by these presents do further amend the Mortgage Trust Indenture dated August 26, 1992 including the Real Estate Mortgage as follows:

x x x x

2. The Mortgage Trust Indenture and the Real Estate Mortgage are hereby amended to include as part of the Mortgage Properties, by way of a first mortgage and for **pari-passu** and **pro-rata benefit** of the existing and

<sup>45</sup>

CA rollo, pp. 110-112.

new creditors, various machineries and equipment owned by the [Paper City], located in and bolted to and forming part of the following, generally describes as x x x more particularly described and listed in Annexes “A” and “B” which are attached and made integral parts of this Amendment. The machineries and equipment listed in Annexes “A” and “B” form part of the improvements listed above and located on the parcels of land subject of the Mortgage Trust Indenture and the Real Estate Mortgage.<sup>46</sup> (Emphasis and underlining ours)

A **Second Supplemental Indenture to the 26 August 1992 MTI** executed on **7 June 1994** to increase the amount of loan from ₱280,000,000.00 to ₱408,900,000.00 also contains a similar provision in this regard:

WHEREAS, the [Paper City] desires to increase its borrowings to be secured by the INDENTURE from PESOS: TWO HUNDRED EIGHTY MILLION (₱280,000,000.00) to PESOS: FOUR HUNDRED EIGHT MILLION NINE HUNDRED THOUSAND (₱408,900,000.00) or an increase of PESOS: ONE HUNDRED TWENTY EIGHT MILLION NINE HUNDRED THOUSAND (₱128,900,000.00) x x x which represents additional loan/s granted to the [Paper City] to be secured against the existing properties composed of land, building, machineries and equipment and inventories more particularly described in Annexes “A” and “B” of the INDENTURE x x x.<sup>47</sup> (Emphasis and underlining ours)

Finally, a **Third Supplemental Indenture to the 26 August 1992 MTI** executed on **24 January 1995** contains a similar provision:

WHEREAS, in order to secure NEW/ADDITIONAL LOAN OBLIGATION under the Indenture, there shall be added to the collateral pool subject of the Indenture properties of the [Paper City] composed of newly constructed two (2)-storey building, other land improvements and machinery and equipment all of which are located at the existing Plant Site in Valenzuela, Metro Manila and more particularly described in Annex “A” hereof x x x.<sup>48</sup> (Emphasis and underlining ours)

Repeatedly, the parties stipulated that the properties mortgaged by Paper City to RCBC are various parcels of land including the buildings and existing improvements thereon as well as the machineries and equipments, which as stated in the granting clause of the original mortgage, are “more particularly described and listed that is to say, the real and personal

<sup>46</sup> Id. at 113-115.

<sup>47</sup> Id. at 151.

<sup>48</sup> Id. at 218-220.

properties listed in Annexes ‘A’ and ‘B’ x x x of which the [Paper City] is the lawful and registered owner.” Significantly, Annexes “A” and “B” are itemized listings of the buildings, machineries and equipments typed single spaced in twenty-seven pages of the document made part of the records.

As held in *Gateway Electronics Corp. v. Land Bank of the Philippines*,<sup>49</sup> the rule in this jurisdiction is that the contracting parties may establish any agreement, term, and condition they may deem advisable, provided they are not contrary to law, morals or public policy. The right to enter into lawful contracts constitutes one of the liberties guaranteed by the Constitution.

It has been explained by the Supreme Court in *Norton Resources and Development Corporation v. All Asia Bank Corporation*<sup>50</sup> in reiteration of the ruling in *Benguet Corporation v. Cabildo*<sup>51</sup> that:

x x x A court's purpose in examining a contract is to interpret the intent of the contracting parties, as objectively manifested by them. The process of interpreting a contract requires the court to make a preliminary inquiry as to whether the contract before it is ambiguous. A contract provision is ambiguous if it is susceptible of two reasonable alternative interpretations. Where the written terms of the contract are not ambiguous and can only be read one way, the court will interpret the contract as a matter of law. x x x

Then till now the pronouncement has been that if the language used is as clear as day and readily understandable by any ordinary reader, there is no need for construction.<sup>52</sup>

The case at bar is covered by the rule.

The plain language and literal interpretation of the MTIs must be applied. The petitioner, other creditor banks and Paper City intended from the very first execution of the indentures that the machineries and equipments enumerated in Annexes “A” and “B” are included. Obviously, with the continued increase in the amount of the loan, totaling hundreds of

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<sup>49</sup> 455 Phil. 196, 210 (2003).

<sup>50</sup> G.R. No. 162523, 25 November 2009, 605 SCRA 370.

<sup>51</sup> G.R. No. 151402, 22 August 2008, 563 SCRA 25, 37 citing *Abad v. Goldloop Properties, Inc.*, G.R. No. 168108, 13 April 2007, 521 SCRA 131, 143.

<sup>52</sup> *Insular Investment and Trust Corporation v. Capital One Equities Corp. (now known as Capital One Holdings Corp.) and Planters Development Bank*, G.R. No. 183308, 25 April 2012, 671 SCRA 112, 126.

millions of pesos, Paper City had to offer all valuable properties acceptable to the creditor banks.

The plain and obvious inclusion in the mortgage of the machineries and equipments of Paper City escaped the attention of the CA which, instead, turned to another “plain language of the MTI” that “described the same as personal properties.” It was error for the CA to deduce from the “description” exclusion from the mortgage.

1. The MTIs did not describe the equipments and machineries as personal property. Had the CA looked into Annexes “A” and “B” which were referred to by the phrase “real and personal properties,” it could have easily noted that the captions describing the listed properties were “Buildings,” “Machineries and Equipments,” “Yard and Outside,” and “Additional Machinery and Equipment.” No mention in any manner was made in the annexes about “personal property.” Notably, while “personal” appeared in the granting clause of the original MTI, the subsequent Deed of Amendment specifically stated that:

x x x The machineries and equipment listed in Annexes “A” and “B” form part of the improvements listed above and located on the parcels of land subject of the Mortgage Trust Indenture and the Real Estate Mortgage.

The word “personal” was deleted in the corresponding granting clauses in the Deed of Amendment and in the First, Second and Third Supplemental Indentures.

2. Law and jurisprudence provide and guide that even if not expressly so stated, the mortgage extends to the improvements.

Article 2127 of the Civil Code provides:

Art. 2127. The mortgage extends to the natural accessions, to the improvements, growing fruits, and the rents or income not yet received when the obligation becomes due, and to the amount of the indemnity granted or owing to the proprietor from the insurers of the property mortgaged, or in virtue of expropriation for public use, with the declarations, amplifications and limitations established by law, whether the estate remains in the possession of the mortgagor, or it passes into the hands of a third person. (Underlining ours)

In the early case of *Bischoff v. Pomar and Cia. General de Tabacos*,<sup>53</sup> the Court ruled that even if the machinery in question was not included in the mortgage expressly, Article 111 of the [old] Mortgage Law provides that chattels permanently located in a building, either useful or ornamental, or for the service of some industry even though they were placed there after the creation of the mortgage shall be considered as mortgaged with the estate, provided they belong to the owner of said estate. The provision of the old Civil Code was cited. Thus:

Article 1877 provides that a mortgage includes the natural accessions, improvements, growing fruits, and rents not collected when the obligation is due, and the amount of the indemnities granted or due the owner by the underwriters of the property mortgaged or by virtue of the exercise of eminent domain by reason of public utility, with the declarations, amplifications, and limitations established by law, in case the estate continues in the possession of the person who mortgaged it, as well as when it passes into the hands of a third person.<sup>54</sup>

The case of *Cu Unjieng e Hijos v. Mabalacat Sugar Co.*<sup>55</sup> relied on this provision. The issue was whether the machineries and accessories were included in the mortgage and the subsequent sale during public auction. This was answered in the affirmative by the Court when it ruled that the machineries were integral parts of said sugar central hence included following the principle of law that the accessory follows the principal.

Further, in the case of *Manahan v. Hon. Cruz*,<sup>56</sup> this Court denied the prayer of Manahan to nullify the order of the trial court including the building in question in the writ of possession following the public auction of the parcels of land mortgaged to the bank. It upheld the inclusion by relying on the principles laid upon in *Bischoff v. Pomar and Cia. General de Tabacos*<sup>57</sup> and *Cu Unjieng e Hijos v. Mabalacat Sugar Co.*<sup>58</sup>

In *Spouses Paderes v. Court of Appeals*,<sup>59</sup> we reiterated once more the *Cu Unjieng e Hijos* ruling and approved the inclusion of machineries and accessories installed at the time the mortgage, as well as all the buildings, machinery and accessories belonging to the mortgagor, installed after the constitution thereof.

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<sup>53</sup> 12 Phil. 691, 699 (1909).

<sup>54</sup> Id. at 698.

<sup>55</sup> 58 Phil 439, 443 (1933).

<sup>56</sup> 158 Phil. 799, 803-804 (1974).

<sup>57</sup> Supra note 53.

<sup>58</sup> Supra note 55.

<sup>59</sup> 502 Phil. 76, 96 (2005).

3. Contrary to the finding of the CA, the Extra-Judicial Foreclosure of Mortgage includes the machineries and equipments of respondent. While captioned as a “Petition for Extra-Judicial Foreclosure of Real Estate Mortgage Under Act No. 3135 As Amended,” the averments state that the petition is based on “x x x the Mortgage Trust Indenture, the Deed of Amendment to the Mortgage Trust Indenture, the Second Supplemental Indenture to the Mortgage Trust Indenture, and the Third Supplemental Indenture to the Mortgage Trust Indenture (hereinafter collectively referred to as the Indenture) duly notarized and entered as x x x.”<sup>60</sup> Noting that herein respondent has an outstanding obligation in the total amount of Nine Hundred One Million Eight Hundred One Thousand Four Hundred Eighty Four and 10/100 Pesos (₱901,801,484.10), the petition for foreclosure prayed that a foreclosure proceedings “x x x on the aforesaid real properties, including all improvements thereon covered by the real estate mortgage be undertaken and the appropriate auction sale be conducted x x x.”<sup>61</sup>

Considering that the Indenture which is the instrument of the mortgage that was foreclosed exactly states through the Deed of Amendment that the machineries and equipments listed in Annexes “A” and “B” form part of the improvements listed and located on the parcels of land subject of the mortgage, such machineries and equipments are surely part of the foreclosure of the “real estate properties, including all improvements thereon” as prayed for in the petition.

Indeed, the lower courts ought to have noticed the fact that the chattel mortgages adverted to were dated 8 January 1990, 19 July 1990, 28 June 1991 and 28 November 1991. The real estate mortgages which specifically included the machineries and equipments were subsequent to the chattel mortgages dated 26 August 1992, 20 November 1992, 7 June 1994 and 24 January 1995. Without doubt, the real estate mortgages superseded the earlier chattel mortgages.

The real estate mortgage over the machineries and equipments is even in full accord with the classification of such properties by the Civil Code of the Philippines as immovable property. Thus:

Article 415. The following are immovable property:

- (1) Land, buildings, roads and constructions of all kinds adhered to the soil;

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<sup>60</sup> CA *rollo*, p. 238.

<sup>61</sup> Id. at 245-246. (Underlining supplied)

X X X X


(5) Machinery, receptacles, instruments or implements intended by the owner of the tenement for an industry or works which may be carried on in a building or on a piece of land, and which tend directly to meet the needs of the said industry or works;

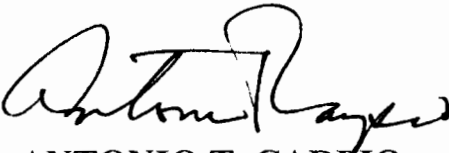
**WHEREFORE**, the petition is **GRANTED**. Accordingly, the Decision and Resolution of the Court of Appeals dated 8 March 2005 and 8 August 2005 upholding the 15 August 2003 and 1 December 2003 Orders of the Valenzuela Regional Trial Court are hereby **REVERSED** and **SET ASIDE** and the original Order of the trial court dated 28 February 2003 denying the motion of respondent to remove or dispose of machinery is hereby **REINSTATED**.

**SO ORDERED.**


  
**JOSE PORTUGAL PEREZ**  
Associate Justice

WE CONCUR:

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice

  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice



**ATTESTATION**

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

**ANTONIO T. CARPIO**

Associate Justice  
Chairperson, Second Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were 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