

## FIRST DIVISION

[ G.R. No. 107554, February 13, 1997 ]

**CEBU INTERNATIONAL FINANCE CORPORATION, PETITIONER,  
VS. COURT OF APPEALS, ROBERT ONG AND ANG TAY,  
RESPONDENTS.  
D E C I S I O N**

**KAPUNAN, J.:**

In this petition for review on *certiorari* under Rule 45 of the Revised Rules of Court, petitioner seeks to set aside the decision of the Court of Appeals in CA-G.R. C.V. No. 26257 dated 2 July 1992 which affirmed the decision of the Regional Trial Court in Civil Case No. CEB-6919, declaring the chattel mortgage void and ordering petitioner and private respondent Robert Ong to pay damages to private respondent Ang Tay. The Court of Appeals' resolution dated 30 September 1992 is similarly impugned for denying petitioner's motion for reconsideration.

Gleaned from the records are the following facts:

On 4 March 1987, Jacinto Dy executed a Special Power of Attorney<sup>[1]</sup> in favor of private respondent Ang Tay, authorizing the latter to sell the cargo vessel owned by Dy and christened LCT "Asiatic."

On 28 April 1987, through a Deed of Absolute Sale,<sup>[2]</sup> Ang Tay sold the subject vessel to private respondent Robert Ong (Ong) for P900,000.00. Ong paid the purchase price by issuing three (3) checks in the following amounts: P150,000.00, P600,000.00 and P150,000.00. However, since the payment was not made in cash, it was specifically stipulated in the deed of sale that the "LCT Asiatic shall not be registered or transferred to Robert Ong until complete payment."<sup>[3]</sup> Thereafter, Ong obtained possession of the subject vessel so he could begin deriving economic benefits therefrom. He, likewise, obtained copies of the unnotarized deed of sale allegedly to be shown to the banks to enable him to acquire a loan to replenish his (Ong's) capital. The aforequoted condition, however, which was handwritten on the original deed of sale does not appear on Ong's copies.

Contrary to the aforementioned agreements and without the knowledge of Ang Tay, Ong had his copies of the deed of sale (on which the aforementioned prohibition does not appear) notarized on 18 May 1987.<sup>[4]</sup> Ong presented the notarized deed to the Philippine Coast Guard which subsequently issued him a Certificate of Ownership<sup>[5]</sup> and a Certificate of Philippine Register<sup>[6]</sup> over the subject vessel on 27 May 1987. Ong also succeeded in having the name of the vessel changed to LCT "Orient Hope." Scslx

On 29 October 1987, Ong acquired a loan from petitioner in the amount of P496,008.00 to be paid in installments as evidenced by a promissory note of even

date.<sup>[7]</sup>

As security for the loan, Ong executed a chattel mortgage over the subject vessel, <sup>[8]</sup> which mortgage was registered with the Philippine Coast Guard and annotated on the Certificate of Ownership.<sup>[9]</sup> In paragraph 3 of the Deed of Chattel Mortgage, it was stated that:

3. The said sum of FOUR HUNDRED NINETY SIX THOUSAND EIGHT ONLY Pesos (P496 008.00) represents the balance due on the purchase price of the above-described property purchased by the MORTGAGOR(S) from the MORTGAGEE and is payable in the office of the MORTGAGEE at Cebu City or in the office of the latter's assignee, in case the rights and interests of the MORTGAGEE in the foregoing mortgage are assigned to a third person, under the terms of said promissory note, as follows: (a) TWENTY THOUSAND SIX HUNDRED SIXTY SEVEN ONLY\*\* Pesos (P20,667.00) on or before . . . and (b) the balance in Twenty Four (24) equal successive monthly installments on the . . . day of each and every succeeding month thereafter until the amount is fully paid. The interest on the foregoing installments shall be paid on the same date that the installments become payable and additional interest at the rate of fourteen (14%) per cent per annum will be charged on all amounts, principal and interest, not paid on due date.<sup>[10]</sup> (Underscoring ours.)

Ong defaulted in the payment of the monthly installments. Consequently, on 11 May 1988, petitioner sent him a letter<sup>[11]</sup> demanding delivery of the mortgaged vessel for foreclosure or in the alternative to pay the balance of P437,802.00 pursuant to paragraph 11 of the deed of chattel mortgage.<sup>[12]</sup>

Meanwhile, the two checks (worth P600,000.00 and P150,000.00) paid by Ong to Ang Tay for the Purchase of the subject vessel bounced. Ang Tay's search for the elusive Ong and all attempts to confer with him proved to be futile. A subsequent investigation and inquiry with the Office of the Coast Guard revealed that the subject vessel was already in the name of Ong, in violation of the express undertaking contained in the original deed of sale.

As a result thereof, on 13 January 1988, Ang Tay and Jacinto Dy filed a civil case for rescission and replevin with damages against Ong and his wife (docketed as Civil Case No. CEB-6565) with the Regional Trial Court of Cebu City, Branch 10. The trial court issued a writ of replevin and the subject vessel was seized and subsequently delivered to Ang Tay.

On 9 March 1988, petitioner filed a motion for intervention but withdrew the same on 29 April 1988. Instead, on 26 May 1988, petitioner filed a separate case for replevin and damages against Ong and "John Doe" (Ang Tay) with the same trial court, docketed as Civil Case No. CEB-6919.

The trial court granted petitioner's prayer for replevin. The vessel was seized and placed in the custody of the trial court. However, Ang Tay posted a counterbond and the vessel was returned to his possession.

On 3 October 1990 in CEB-6565, the trial court rendered a decision in favor of Ang Tay and Jacinto Dy. The sale of the subject vessel was rescinded, the registration of the vessel with the Office of the Coast Guard and other government agencies in Ong's name nullified and the vessel's registration in Dy's name revived. Ong was, likewise, ordered to pay Jacinto Dy and Ang Tay actual damages for lost income, moral damages, attorney's fees and litigation expenses.<sup>[13]</sup>

The Court of Appeals affirmed the trial court's decision and Ong's petition for review before this Court was dismissed for lack of merit in a resolution dated 15 March 1993.

On the other hand, in CEB-6919, the subject of the present appeal, the trial court in a decision dated 14 February 1990, declared the chattel mortgage on the subject vessel null and void and ordered petitioner and Ong to pay Ang Tay damages. The dispositive portion states, thus:

WHEREFORE, in view of all the foregoing, the chattel mortgage on the vessel LCT ORIENT HOPE is declared null and void, rendering its annotation and registration at the back of the Certificate of Ownership and Certificate of Philippine Registry respectively, to be of no force and effect.

Plaintiff CIFIC and defendant Robert Ong are hereby ordered to pay jointly and severally to defendant Ang Tay the following amounts: P50,000.00 as unrealized income during the five-day period when the vessel was taken from Ang Tay's possession; P100,000.00, representing the premiums Ang Tay paid for the redelivery of the vessel to him and other expenses; P10,000.00 as actual expenses for the recovery of the vessel; P100,000.00 as moral damages; P50,000.00 as exemplary damages; P40,000.00 as actual expenses in attending trials and litigation expenses; and P30,000.00 as attorney's fees.

SO ORDERED.<sup>[14]</sup>

On 2 July 1992, the Court of Appeals affirmed in toto the abovementioned decision.<sup>[15]</sup> Hence, the present petition for review on certiorari.

Petitioner enumerates the alleged errors of the Court of Appeals as follows:

## **I**

THE COURT OF APPEALS ERRED IN BASING ITS DECISION ON SPECULATION, CONJECTURE, AND SURMISE, WHEN IT DECLARED THAT THE CONTRACT BETWEEN CIFIC AND ROBERT ONG WAS ONE OF SALE, AND NOT LOAN (MUTUUM) WITH MORTGAGE.

## **II**

THE RULING OF THE COURT OF APPEALS IS CONTRARY TO EXISTING AND WELL-

SETTLED JURISPRUDENCE THAT A MORTGAGEE HAS THE RIGHT TO RELY ON WHAT APPEARS IN THE CERTIFICATE OF OWNERSHIP (TITLE).

### III

THE DECISION OF THE COURT OF APPEALS IS REPUGNANT TO THE CLEAR RULING OF THE HONORABLE COURT THAT BETWEEN TWO INNOCENT PERSONS, THE ONE WHO MADE THE DAMAGE POSSIBLE BY HIS ACT OF CONFIDENCE MUST BEAR THE LOSS.<sup>[16]</sup>

We grant the petition.

In upholding the nullity of the chattel mortgage on the subject vessel, the Court of Appeals declared thus:

In Par. 3 of the Chattel Mortgage Contract executed between appellants CIFIC and Robert Ong, it was made to appear that the subject vessel was sold by the plaintiff Cebu International Finance Corporation to Robert Ong on installment. However, there is no showing that appellant CIFIC acquired the vessel in question from either Jacinto Dy or Ang Tay, the owner of such vessel. Since, CIFIC appears to have sold the vessel in question to Ong on installment basis, the said contract is null and void, because CIFIC was never the owner of the vessel.

Moreover, Robert Ong, CIFIC's mortgagor, did not acquire ownership of the vessel because of an express stipulation in the Deed of Sale that the vessel "shall not be registered or transferred to Robert Ong until complete payment." (Exh. "7-C-1".) Since Ong clearly was not the owner of the vessel at the time of the execution of the mortgage, the said mortgage is null and void on that ground.

Furthermore, the evidence on record shows the chattel mortgage in question did not comply with the requirements of P.D. 1521, The Ship Mortgage Decree of 1978 . . . <sup>[17]</sup>

The Court of Appeals nullified the chattel mortgage contract between petitioner and Ong because paragraph 3 of the said contract (where it appeared that petitioner sold the subject vessel to Ong on installment basis and that the amount supposedly loaned to Ong represented the balance due on the purchase price) seemed to indicate that the owner of the vessel mortgaged was petitioner although it had been duly established that another party (Jacinto Dy) was the true owner thereof.<sup>[18]</sup>

We disagree with the aforequoted ruling of the Court of Appeals. The chattel mortgage contract should not be viewed in such a myopic context. The key lies in the certificate of ownership issued in Ong's name (which, along with the deed of sale, he submitted to petitioner as proof that he is the owner of the ship he gave as security for his loan). It was plainly stated therein that the ship LCT "Orient Hope" ex "Asiatic," by means of a Deed of Absolute Sale dated 28 April 1987, was "sold and transferred by Jacinto Dy to Robert Ong."<sup>[19]</sup> There can be no dispute then that it was Dy who was the seller and Ong the buyer of the subject vessel. Coupled with the fact that there is no evidence of any transaction between Jacinto Dy or Ang Tay

and petitioner, it follows, therefore, that petitioner's role in the picture is properly and logically that of a creditor-mortgagee and not owner-seller. It is paragraph 2 of the mortgage contract<sup>[20]</sup> which accurately expresses the true nature of the transaction between petitioner and Ong -- that it is a simple loan with chattel mortgage. The amount petitioner loaned to Ong does not represent the balance of any purchase price since, as we have previously discussed, the aforementioned documents state that Ong is already the absolute owner of the subject vessel. Obviously, therefore, paragraph 3 of the said contract was filled up by mistake. Considering that petitioner used a form contract, it is not improbable that such an oversight may have been committed -- negligently but unintentionally and without malice. As testified to by Mr. Benjamin C. Alfaro, petitioner's Senior Vice President for Operations they only use one form for several kinds of transaction:

ATTY. UY: (TO WITNESS)

Q: Mr. Alfaro, as a financing institution, Cebu International Finance Corporation, how many kinds of lending transaction do you have in a firm? Do you have financing, leasing, discounting or whatever? Can you explain briefly to the Honorable Court?

WITNESS:

A: We have direct loan transaction. We have financing transaction and we have leasing transaction. Now, in the leasing transaction, the document will show that we are the owner of the equipment and we leased it out. In the financing transaction, where we used the same Chattel Mortgage instrument, there are three parties involved, the seller of the equipment. And then, the seller of the equipment would sell or assign the contract with the financing company. That is the financing transaction. And in the simple loan transaction, there appears only two parties involved, the borrower and the lender.

ATTY. UY: (TO WITNESS)

Q: Now, Mr. Alfaro, the same document, Chattel Mortgage will apply also to financing transaction, leasing transaction and simple loan transaction?

WITNESS:

A: Simple loan and financing transactions.

ATTY. UY: (TO WITNESS)

Q: Now, Mr. Alfaro, this paragraph 2 of Chattel Mortgage, can this apply to a financing transaction?

WITNESS:

A: No, the paragraph 3 will be the one that is applicable to a financing transaction. (Witness reading the document and after reading continued) Paragraph 2 applies to both financing and simple loan transaction.Scslx

ATTY. UY:

Q: And paragraph 3?

WITNESS:

A: Paragraph 3 applies to both financing and lending transactions but