

EIGHTH DIVISION

[CA-G.R. SP NO. 125832, February 07, 2014]

SPOUSES RUMIL C. DELOS REYES AND YOLANDA O. DELOS REYES, PETITIONERS, VS. HONORABLE JUDGE ROMMEL O. BAYBAY, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 143, MAKATI CITY AND BANK OF THE PHILIPPINE ISLAND FAMILY SAVINGS BANK INC., RESPONDENTS.

D E C I S I O N

REYES, JR., J.C., J.:

This resolves the Petition for Certiorari with Prayer for Temporary Restraining Order and Preliminary Injunction assailing the Order (Rollo, p. 33) dated June 15, 2012 issued by the Regional Trial Court (RTC) of Makati City, Branch 143, in Civil Case No. 11-936, the pertinent portion of which reads as follows:

“Acting on the Motion for Reconsideration filed by defendants thru Atty. Jerome Norman Tacorda on 06 March 2012 finding no cogent reason why this Court should disturb or reconsider its Order of 15 February 2012, the same is hereby ordered DENIED.” (Rollo, p. 3).

The instant case arose from a Complaint for Sum of Money/Judgment on the Deficiency (Rollo, pp. 50-52) filed by private respondent BPI Family Savings Bank, Inc. (private respondent BPI)^[1] against petitioner Spouses Rumil and Yolanda Delos Reyes before the RTC of Makati City, Branch 143 which prays for the payment of Php13,519,082.54 plus interest at a rate of 7.992% per annum from September 14, 2010 until fully paid and to pay the cost of suit.

The said Complaint alleged that on May 29, 2006, January 8, 2007 and June 26, 2008, petitioners Spouses executed and delivered in favor of private respondent BPI, Mortgage Loan Agreements, whereby the former obtained from the BPI term loans in the amount of Php9,446,400.00; Php1,567,000.00 and Php7,252,243.54. As a security for the loan, petitioners spouses were required to mortgaged a parcel of land, including the improvements thereon, with a total lot area of 629.76 square meters located at Lot 1, Manggahan Road corner Aurora Boulevard, Cubao, Quezon City covered by Transfer Certificate of Title No. N-290221.

Allegedly on May 24, 2010, private respondent BPI filed a Petition for Extra-judicial Foreclosure of the Real Estate and Improvements. Petitioners were never notified nor served with the Complaint and Court processes. On September 14, 2010, with defective Notice and Publication, the Clerk of Court/Ex-Officio Sheriff of the RTC of Quezon City irregularly foreclosed and sold at public auction the subject property without the observance of Mortgage Law and due process. It was awarded to an alleged highest bidder, the Green Earth Building and Homes Corporation.

At the auction sale, petitioner spouses were surprised to learn that the entire

obligations ballooned to Php26,319,082.54, inclusive of charges which were never part of the agreement and in violation of the Truth and Lending Act.

Instead of filing an Answer to the Complaint, petitioners spouses filed a Motion for Bill of Particulars on the following matters:

- (1) the date of default and legal breakdown of the amount of Php16,593,015.84 (par. 3 of the Complaint);
- (2) Proof of Notice and Publication of the Petition for Extra- Judicial Foreclosure (par. 4 of the Complaint);
- (3) the specific details and legal charges imputed in the deficiency amount of Php13,519,082.54 (par. 5 of the Complaint);
- (4) the meanings of the abbreviations in the Statement of Account (Annex C of the Statement of Account);
- (5) particularity of the legal charges of the contractual penalties (Attorney's Fees of Php4,621,598.31 and Liquidated Damages of Php2,772,958.99) (Annex C of the Complaint);
- (6) particularity of the asset acquired expenses (Annex C of the Complaint);
- (7) basis of the bid price (Annex C of the Complaint);
- (8) designation of Ms. Francisca Marie T. Timula, the authorized signatory of private respondent BPI (Annex D of the Complaint).

On February 15, 2012, public respondent RTC issued an Order denying petitioner spouses' Motion reasoning out that the items sought to be clarified or stated with definiteness are not within the function of a Bill of Particular and is evidentiary in nature (See: Rollo, p. 49).

Dissatisfied with the denial of their motion, petitioners spouses filed a 'Motion for Reconsideration with Urgent Ex-parte Motion to Reduce Unlawful Attorney's Fees Demanded by Plaintiff' (Rollo, pp. 34-40) praying that an Order be issued requiring private respondent BPI to particularize with definiteness the above-stated deficiencies in order that they (petitioners) can intelligently prepare a responsive pleading.

On June 15, 2012, public respondent RTC issued the now assailed Order denying petitioners Spouses' Motion for Reconsideration. Left with no other recourse, petitioners spouses filed the instant petition, raising the following issues:

"I.

WHETHER OR NOT THE COURT A QUO GRAVELY ERRED IN DENYING THE BILL OF PARTICULARS WHICH IN EFFECT VIOLATED THE SANCROSANCT RIGHT OF THE PETITIONERS TO SUBSTANTIAL AND PROCEDURAL DUE PROCESS OF LAW.