

FIFTH DIVISION

[CA-G.R. SP NO. 77970, August 09, 2006]

ADVANCE CREDIT CORPORATION, PETITIONER, VS. HON. LYDIA B. HIPOLITO IN HER CAPACITY AS PRESIDING JUDGE OF RTC, BRANCH 23, CABANATUAN CITY AND SPOUSES EDILBERTO TADIAMAN AND MARCIANA TADIAMAN, RESPONDENTS.

D E C I S I O N

GUARIÑA III, J.:

In the name of substantial justice, rules of procedure have been reshaped, qualified, retooled and reinvented. The doctrine of liberal construction which underlies the Rules of Court largely justifies this result. As the doctrine is now stated : *The Rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive determination of every action and proceeding.* This case is one instance where the policy of liberal construction illumines the provisions of a rule beyond their narrow literal implications.

The respondents Edilberto and Marciana Tadiaman took a P130,000 loan from the petitioner Advance Credit Corporation and executed a deed of real estate mortgage to secure it. When the account became due, they went to the office of the petitioner to pay.^[1] They were surprised to learn that the loan, inclusive of interest, had ballooned to P515,125. They were consequently unable to settle it at once. The petitioner went on to initiate extra-judicial foreclosure proceedings and acquired the property in a public auction sale held pursuant thereto on June 13, 2000. A certificate of sale was issued to it two days later on June 15.^[2]

The respondents strove to raise P515,125 and went back to see the petitioner. Upon recomputation, however, the loan was already P 893,349.55. Unable to redeem the property, they went to court.^[3]

They filed, in point of fact, two identical cases against the petitioner one after the other. The first was docketed as case 4041 and came before Branch 23 of the Regional Trial Court of Cabanatuan City. On April 22, 2002, this case was dismissed after the respondents failed to cause the service of summons on the petitioner. The dictamen held : *For plaintiff's failure to prosecute this case despite the lapse of considerable length of time, let this case be dismissed.*^[4]

The complaint^[5] in case 4041 is specifically entitled *Annulment of Extra-judicial Foreclosure and Damages* and seeks the revocation of the extra-judicial foreclosure and certificate of sale issued to the petitioner and halt the expiration of the redemption period on June 13, 2001.^[6] It contains the principal averment that a real estate mortgage was executed in October 1997 by the plaintiffs-spouses^[7] over property covered by T-66546 to secure a P130,000 loan from the defendant,^[8] but

which was extra-judicially foreclosed by the defendant in June 2000 for an unjustifiably larger amount. It also alleges that the public auction sale was conducted and the certificate of sale issued by the notary public who is not the officer authorized to execute these acts under an administrative circular of the Supreme Court.

On February 14, 2003, nearly a year after the first complaint was dismissed, the respondents filed another complaint with the RTC of Cabanatuan City which was docketed as case 4445.^[9] By happenstance, it was raffled again to Branch 23. The case was entitled *Annulment of Real Estate Mortgage, Auction Sale, Certificate of Sale with Damages*, implicating the very proceedings and documents involved in the first case. More irregularities were cited to support the claim that the public auction sale was void. But in addition to pleading the nullity of the proceedings, the respondents took the step of depositing in court P130,000 and asked that the defendant be ordered to accept the money as full redemption price of the land and discharge the mortgage.

Attached to second complaint was a sworn Verification and Certification signed by the respondents in which these statements were made :

" That We, Edilberto Tadiaman and Marciana Tadiaman, spouses, both of legal ages, Filipinos, and resident of Mayapyap Norte, Cabanatuan City, after having been sworn to in accordance with law do hereby depose and say:

That we are the plaintiff in the foregoing complaint;

That we have read all the contents of the foregoing complaint and found the allegations therein as are true and correct;

That we have not filed any other case of similar nature before the Supreme Court, Court of Appeals, RTC, MTCC, MTC and other court, board, body or agency and if one is found to be filed I will immediately inform the Hon. Court of such fact."

The petitioner seasonably filed a motion to dismiss this complaint on two grounds – *the case was barred by a prior judgment and that the respondents executed a false certification to the effect that they had not filed any case of similar nature with any court, board or agency*. It was pointed out that the respondents had filed a previous case 4041 which was identical to case 4445 and was earlier dismissed due to failure to prosecute. Aside from a peremptory dismissal of the present case, the petitioner asked that the respondents be held in contempt of court for committing a deliberate misrepresentation in the certification of non-forum shopping.^[10]

The opposition submitted by the respondents was an apologia for the execution of the allegedly false certification and an unabashed suggestion to ignore the mistake as a mere technicality.^[11] They excused themselves as simple untutored persons who were only required to sign the complaint in case 4041 without being told of the importance of their act. They allegedly signed the verification and certification in the second case in the honest belief that this was their first case, as it was only in this case where they paid the filing fees and deposited the sum of P130,000 as redemption money.