

FIRST DIVISION

[G.R. No. 233846, November 18, 2020]

**SPOUSES NESTOR CABASAL AND MA. BELEN CABASAL,
PETITIONERS, VS. BPI FAMILY SAVINGS BANK, INC. AND ALMA
DE LEON, RESPONDENTS.**

D E C I S I O N

ZALAMEDA, J.:

Morality and ethics enjoin everyone to observe the unwritten rule that "one's right ends where others' begin." In a civilized and peaceful society, an abuse of one's right is eschewed. Statutorily, however, Article 19 of the New Civil Code, known to contain what is commonly referred to as the principle of abuse of rights, is not a panacea for all human hurts and social grievances.^[1] To warrant reliefs from the courts, the act complained of must be shown to be done in bad faith or with intent to injure.

The Case

This petition for review^[2] under Rule 45 of the Rules of Court, seeks to reverse and set aside the Decision^[3] dated 15 February 2017 and Resolution^[4] dated 05 September 2017 of the Court of Appeals (CA) in CA G.R. CV No. 98642. The CA reversed the Decision^[5] dated 01 December 2011 of Branch 274, Regional Trial Court (RTC) of Parañaque City, in the consolidated cases for Damages with Annulment of Extra-Judicial Foreclosure of Transfer Certificate of Title (TCT) No. (35660) 141767 and Injunction and *Ex-Parte* Proceedings for the Issuance of a Writ of Possession, docketed as Civil Case No. 01-0014 and Land Registration Case No. 02-0068, respectively.

Antecedents

Petitioners spouses Nestor Cabasal (Nestor) and Ma. Belen Cabasal (Belen) (collectively, petitioners) were granted by BPI Family Savings Bank (BPI) a credit line for their build and sell business. Sometime in 1997, petitioners purchased two (2) real properties with improvements using said credit line as source of payment. Consequently, petitioners executed (2) Mortgage Loan Agreements^[6] in favor of BPI under the following loan accounts: 1) Account No. 0211112476 for Php5,000,000.00; and 2) Account No. 0211291311 for Php3,360,000.00.^[7]

While looking for prospective buyers for the properties, petitioners religiously paid their amortizations. However, it took them three (3) years to find a willing buyer in the person of Eloisa Guevarra Co (Eloisa) who agreed to buy their properties by way of sale with assumption of mortgage. Accordingly, the parties prepared a Deed of Sale with Assumption of Mortgage.^[8] Eloisa undertook to give a down payment of Php7,850,000.00, and assume the balance of petitioners with BPI in the amount of

Php4,462,226.00.^[9] At that time, petitioners' accounts with BPI were already past due. Hence, Nestor asked for an updated statement of account from respondent Alma De Leon (respondent).

On 06 July 2000, Nestor and Eloisa went to BPI to obtain a copy of petitioners' statement of account, and to effectuate the transfer of mortgage to Eloisa. However, respondent informed them that their transfer agreement would not be recognized by BPI since Eloisa was not a client of the bank. Nestor pleaded with respondent to accommodate Eloisa, citing a similar transaction he had in the past, which was authorized by BPI. Respondent, however, insisted that the transaction was not allowed by BPI, being in the form of assumption of mortgage.^[10]

Petitioners claimed that Eloisa was a sure buyer, given that she already had three (3) air conditioning units delivered to the properties.^[11] However, their deal with her fell through because of respondent's irresponsible handling on the incident. Petitioners assert that they failed to realize an expected profit of Php3,387,773.96. Consequently, Nestor sent a letter^[12] of complaint dated 27 July 2000 to BPI. His lawyer likewise sent a letter^[13] dated 08 December 2000, informing BPI that petitioners would not pay their amortization due to the grossly negligent act of respondent. In addition, petitioners requested the waiver of all interests and charges on their loan.^[14] He did not receive any response from BPI.

Meanwhile, petitioners continued to default on their loan obligation under Account No. 0211291311, eventually leading to the foreclosure of the mortgage by BPI. The subject property was then sold at public auction, where BPI was declared the highest bidder.^[15]

Consequently, petitioners instituted Civil Case No. 01-0014, for Damages with Annulment of Extra-Judicial Foreclosure of TCT No. (35660) 141767 and Injunction, against respondent and BPI.^[16] Later, BPI filed Land Registration Case No. 02-0068, an *Ex-Parte* Petition for the Issuance of Writ of Possession.^[17] It was ordered consolidated with Civil Case No. 01-0014 upon motion of petitioners.^[18]

During trial on the merits, respondent and BPI denied petitioners' allegations.

Respondent averred that on 05 July 2000, she talked to Nestor over the phone, and he requested for a statement of account for his overdue loan accounts. Nestor also informed her about the impending sale of his property to Eloisa, the proceeds of which would be used to pay off his loan. Respondent dissuaded him from doing so, explaining that this type of agreement was against the bank's policy and Section 35 of the Mortgage Loan Agreement. She also told Nestor that she would not entertain any query from his buyer.^[19] Nestor was nevertheless adamant, and brought Eloisa to their office the following day. She gave Nestor a copy of the statement of account, but refused to talk to Eloisa.^[20] When Nestor pleaded, she relented. Respondent similarly informed Eloisa that the agreement between her and Nestor would not get BPI's approval. In the vernacular, she said, "*kung tutuusin po kasi para pong illegal itong ginagawa niyo dahil against po sa bank policy, yong loan po nakapangalan pa kay Mr. Cabasal so hindi po namin talaga kayo irerecognize as client.*"^[21] Respondent claimed that her statement was uttered in good faith and with reference only to Section 35 of the loan agreement signed by petitioners.^[22] She maintained that BPI prohibits an assumption of mortgage, and recommended

that the interested buyer should instead take out a separate loan to extinguish the obligation of the first borrower.^[23]

In addition, BPI clarified that the previous sale transaction of petitioners was allowed by BPI only because petitioners' buyer did not assume the mortgage. Instead, the buyer took out a personal loan with BPI which he then used to pay off petitioners' loan, and thus cleared the latter's account. In the present transaction, however, Nestor wanted Eloisa to assume their mortgage liabilities, which BPI prohibits to prevent third parties, who are not qualified for a loan, from incurring a financial obligation to BPI.^[24]

Finally, BPI claimed that because petitioners' loan account remained delinquent despite several demands, it instituted a petition for extra-judicial foreclosure of real estate mortgage. Consequently, the sheriff prepared a notice of sheriff's sale, and caused the posting and publication of the same. The public auction transpired on 27 September 2000, with BPI emerging as the highest bidder. Subsequently, the sheriff issued to BPI a certificate of sale, which the latter registered. For failure of petitioners to redeem the property within the redemption period, BPI executed an Affidavit of Consolidation of Ownership, leading to the issuance of a new certificate of title in its name, in lieu of petitioners' certificate of title. BPI then demanded the petitioners to vacate the property, but they refused. Hence, BPI filed an *ex-parte* petition for issuance of writ of possession.^[25]

Ruling of the RTC

On 01 December 2011, the RTC rendered its Decision, the dispositive portion of which reads:

WHEREFORE, all the foregoing duly considered, judgment is hereby rendered as follows:

(1) For Civil Case no. 01-0014, partly in favor of the plaintiffs, ordering the defendants to jointly and severally pay the plaintiffs the sum of P3,387,773.96 with legal interest of 12% per annum until fully paid; the sum of P100,000.00 and P2,000.00 per court appearance and for attorney's fees; the sum of P200,000.00 as moral damage; the sum of P100,000.00 as exemplary damage; and cost of suit.;

(2) For Land Registration Case No. 02-0068, in favor of defendant bank, allowing the issuance of writ of possession for the lot covered by Transfer Certificate of Title No. 150985, formerly Transfer Certificate of Title No. 141767.

SO ORDERED.^[26]

The RTC dismissed the case for annulment of extra-judicial foreclosure of mortgage, and granted the application for the issuance of a writ of possession. It found the mortgage to be in order, and the foreclosure proceedings to have duly complied with all the requisites of the law.^[27]

Nonetheless, the RTC found respondent and BPI liable to petitioners for damages on account of their bad faith. According to the RTC, respondent violated Articles 19 and 20 of the New Civil Code because she failed to exercise good faith and honesty in

dealing with Nestor and Eloisa. She blatantly and thoughtlessly branded the transaction between Nestor and Eloisa illegal even if the same was not yet consummated, and though she was aware that another office or division – not the collection department to which she belonged – was better equipped to handle matters relating to assumption of mortgages. The RTC opined that what respondent should have done was to help a valued client by referring him to the appropriate office.^[28]

For respondent's acts, the RTC found BPI equally liable for damages, in accordance with Article 2180 of the New Civil Code.^[29] The RTC ascribed fault on BPI for failing to prove that it exercised diligence in the selection and supervision of its employees like respondent.

Finally, the RTC held that neither respondent nor BPI can claim good faith as paragraph 35 of the Mortgage Loan Agreement was a circumvention of Article 2130 of the Civil Code. In support thereof, the RTC cited *Litonjua v. L&R Corporation*,^[30] where the Court held that a stipulation forbidding the owner from alienating the immovable mortgage shall be void.^[31]

Both parties appealed the decision. Whereas petitioners filed a Notice of Partial Appeal^[32] against the RTC's ruling in Land Registration Case No. 02-0068, respondent and BPI assailed the RTC's judgment in Civil Case No. 01-0014.^[33]

Ruling of the CA

In the now assailed Decision, the CA affirmed the RTC's ruling in Land Registration Case No. 02-0068, but reversed the RTC's decision in Civil Case No. 01-0014. The decretal portion of said decision reads:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

(1.) For Civil Case no. 01-0014, the *Appeal* filed by appellants BPI and De Leon is **GRANTED**. The appealed *Decision* dated December 1, 2011 of the RTC, Branch 274 of Parañaque City awarding damages and attorney's fees to spouses Cabasal is **REVERSED** and **SET ASIDE**. Accordingly, spouses Cabasal's Complaint for Damages docketed as Civil Case No. 01-0014 is **DISMISSED** for lack of merit.

(2) For Land Registration Case No. 02-0068, the Appeal filed by appellants spouses Cabasal is **DISMISSED**. The appealed Decision dated December 1, 2011 of the RTC, Branch 274 of Parañaque City is **AFFIRMED**.

SO ORDERED.

Anent Land Registration Case No. 02-0068, the CA agreed that the writ of possession should issue as a matter of course in view of the established facts.^[34]

With respect to Civil Case No. 01-0014, the CA emphasized that the absence of good faith is essential to abuse of right under Article 19 of the New Civil Code. In this case, however, respondent's utterances cannot be equated to bad faith, as she

adequately explained that the transaction between Nestor and Eloisa violated paragraph 35 of the Mortgage Loan Agreement.^[35] While respondent admitted that she was not competent to ultimately rule on the matter, being merely a collection assistant, her statement was based on BPI's policy proscribing such arrangement.^[36]

Finally, the CA held that although BPI's policy may appear to be unreasonably restrictive to some, the same cannot be characterized as suffused with bad faith.^[37] On the contrary, BPI acted appropriately in keeping with its duty as a banking institution to exercise extra-ordinary care and prudence. The stipulation was in strict adherence of its own rules, which petitioners, as borrowers, may freely accept or reject.^[38]

Petitioners filed a Motion for Reconsideration,^[39] but the same was denied. Hence, they filed the present petition, submitting the following grounds for the allowance thereof:

- A. THE INSTANT PETITION FOR REVIEW UNDER RULE 45 OF THE 1997 RULES OF CIVIL PROCEDURE CAN BE TAKEN COGNIZANCE BY THIS HONORABLE COURT DUE TO THE FINDINGS OF THE HONORABLE COURT OF APPEALS BEING CONTRARY TO THAT OF THE HONORABLE TRIAL COURT
- B. THE HONORABLE COURT OF APPEALS ERRED IN REVERSING THE HONORABLE TRIAL COURT'S AWARD OF DAMAGES TO PETITIONERS IN THE INSTANT CASE, BY FAILING TO APPLY ARTICLE 20 OF THE CIVIL CODE TO THE DULY PROVEN NEGLIGENCE COMMITTED BY RESPONDENT ALMA DE LEON WHICH RESPONDENT BANK IS VICARIOUSLY LIABLE [*SIC*]
- C. THE HONORABLE COURT OF APPEALS ERRED IN UPHOLDING THE HONORABLE TRIAL COURT'S GRANTING OF THE SUBJECT WRIT OF POSSESSION CONSIDERING THAT RESPONDENTS COMMITTED BREACH OF CONTRACT WHICH GIVES PETITIONERS THE RIGHT TO SUSPEND PAYMENT OF THEIR MORTGAGE LOAN UNDER ARTICLES 1169 AND 1191 OF THE CIVIL CODE THEREBY MAKING THE FORECLOSURE OF THE [PARAÑAQUE] PROPERTY VOID^[40]

Ruling of the Court

The petition lacks merit.

Prefatorily, it should be pointed out that the present petition conspicuously contains the same factual issues and arguments already fully passed upon by the CA. As a rule, questions of fact, which would require a re-evaluation of the evidence, are inappropriate for a Rule 45 petition. Under Section 1 of Rule 45, the Court's jurisdiction is limited only to errors of law since it is not a trier of facts.^[41] Although jurisprudence has provided several exceptions to these rules, exceptions must be alleged, substantiated, and proved by the parties so this court may evaluate and review the facts of the case. In any event, even in such cases, this court retains full discretion on whether to review the factual findings of the Court of Appeals.^[42]