

# FIRST DIVISION

[ G.R. No. 236572, November 10, 2020 ]

## SECURITY BANK CORPORATION, PETITIONER, VS. SPOUSES JOSE V. MARTEL AND OLGA S. MARTEL, RESPONDENTS.

### DECISION

#### PERALTA, C.J.:

Assailed in the present petition for review on *certiorari* under Rule 45 of the Rules of Court are the September 28, 2016 Decision<sup>[1]</sup> and January 8, 2018 Resolution<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 104629. The questioned Decision reversed and set aside the Order<sup>[3]</sup>, dated December 22, 2014, of the Regional Trial Court (RTC) of Makati City, Branch 134, in Civil Case No. 03-1316, and reinstated the same trial court's Decision<sup>[4]</sup> dated August 5, 2014 in a case filed by herein respondent spouses against herein petitioner for nullification of foreclosure proceedings and promissory notes, as well as damages. The challenged CA Resolution denied herein petitioner's Motion for Reconsideration.

The pertinent factual and procedural antecedents of the case are as follows:

Herein petitioner bank and respondent spouses entered into a credit agreement. Pursuant to such agreement, on August 26, 1994, respondent spouses executed a Real Estate Mortgage (REM) contract in petitioner's favor as security for a loan accommodation, in the amount of P10,000,000.00, which petitioner extended to respondent spouses. The REM was constituted over respondents' residential house and lot located at No. 8, Farol St., Urdaneta Village, Makati City, covered by Transfer Certificate of Title (TCT) No. (288267) 146489, which was originally registered with the Register of Deeds for the Province of Rizal. Following the original agreement, on various dates starting from April 12, 1995 until March 22, 1999, respondent spouses executed five (5) REM contracts in petitioner's favor which were constituted over the same property to secure several loans obtained by the former from the latter.<sup>[5]</sup> The aggregate principal loan obligation eventually amounted to P26,700,000.00. Thereafter, from September 14, 2001 until October 5, 2001, respondent spouses executed four (4) Promissory Notes to cover P25,000,000.00 of their obligation.<sup>[6]</sup> Subsequently, respondent spouses defaulted in the payment of their loan obligations prompting petitioner to extra-judicially foreclose the subject REMs. Based on petitioner's demand letter, dated May 15, 2002, respondent spouses' obligation as of May 8, 2002 amounted to P33,009,745.43, "exclusive of the stipulated attorney's fees and other charges."<sup>[7]</sup>

In a Notice of Sheriff's Sale<sup>[8]</sup> dated July 31, 2002, which was issued by the Office of the Clerk of Court and *Ex-Officio* Sheriff of the RTC of Makati City, the public auction of the subject mortgaged property was scheduled to be held at the New City Hall of Makati, at 10 o'clock in the morning of September 6, 2002. The Notice was

duly posted and published. In the said Notice, the mortgage debt amounted to P34,645,909.44 as of June 30, 2002.

On September 5, 2002, respondent spouses wrote a letter addressed to the Clerk of Court and *Ex-Officio* Sheriff of the RTC of Makati City asking that the scheduled auction sale be moved from September 6, 2002 to September 23, 2002.<sup>[9]</sup> The pertinent text of the letter-request reads as follows:

May we have the honor to request for a postponement of the auction sale of TCT No. (288267) 146489 scheduled on September 06, 2002 to September 23, 2002 **without the need of republication.**<sup>[10]</sup> (emphasis supplied)

The request was granted.

Again, on September 23, 2002, respondent spouses wrote a similarly- worded letter to the Clerk of Court and *Ex-Officio* Sheriff of the RTC of Makati City, asking for the postponement of the auction sale of the subject property and requesting that it be held, instead, on October 8, 2002, "without the need of republication."<sup>[11]</sup> The request was, again, granted.

For the third time, on October 8, 2002, respondent spouses wrote another letter to the Clerk of Court and *Ex-Officio* Sheriff of the RTC of Makati City asking for the re-scheduling of the auction sale to October 23, 2002, again "without the need of republication."<sup>[12]</sup> The request was, likewise, granted.

Thus, on October 23, 2002, the extra-judicial foreclosure sale was conducted by the Clerk of Court and *Ex-Officio* Sheriff of the RTC of Makati City, as scheduled, and the subject property was sold to petitioner, as the highest bidder, in the amount of P25,303,072.21. A Certificate of Sale<sup>[13]</sup> dated November 15, 2002 was subsequently issued in the name of petitioner and, on November 18, 2002, the sale was annotated in the memorandum of encumbrances of the TCT under which the property was registered.

On November 11, 2003, respondent spouses filed a Complaint against the petitioner, the Register of Deeds of Makati City, and the Clerk of Court and *Ex-Officio* Sheriff of the Makati City RTC, seeking the nullification of the foreclosure sale which was held on October 23, 2002 as well as the Promissory Notes it executed, and for damages, attorney's fees and cost of suit. Respondent spouses cited the grounds of prematurity of the foreclosure sale, bad faith on the part of the defendants, exorbitant interest rates, irregularity in the signing of the promissory notes, and failure to comply with the requirements of the law on posting and publication of the auction sale. In the alternative, respondent spouses prayed that the RTC determine the proper amount of redemption money to be paid within a reasonable time.

On November 19, 2003, petitioner executed an Affidavit of Consolidation<sup>[14]</sup> for the purpose of consolidating its title over the disputed property, on the ground that respondent spouses failed to redeem the auctioned property on time. Subsequently, TCT No. 146489, in the name of respondent spouses, was cancelled and a new title (TCT No. 219694) was issued in the name of petitioner. On application, petitioner was subsequently placed in possession of the subject property.

On April 14, 2004, petitioner filed its Answer to the above-mentioned complaint of respondent spouses, contending, among others, that: posting and publication requirements with respect to the foreclosure sale were duly complied with; respondent spouses were the ones who requested for the postponement of the auction sales; they never requested for reconciliation of the statement of their accounts; and, they knowingly signed and executed the disputed Promissory Notes. Thereafter, trial ensued.

On August 5, 2014, the RTC rendered its Decision, disposing as follows:

**WHEREFORE**, premises considered, judgment is hereby rendered and:

1. The Clerk of Court of the Regional Trial Court of Makati City is hereby ordered to reassess, determine and collect additional fees that should be paid by plaintiffs within fifteen (15) days, provided the applicable prescriptive or reglementary period has not yet expired, and the plaintiffs are given the same period to pay the same;
2. In the event that the plaintiffs wish to pay their outstanding obligation to defendant, the former is ordered to pay the latter Thirty[-]Four Million Six Hundred Forty[-]Five Thousand Nine Hundred Nine Pesos and Forty[-]Four Centavos (PhP34,645, 909.44), at 12% interest per annum from 31 July 2002, until fully paid;
3. [D]eclaring as null and void
  - a. the auction sale by the City Sheriff of Makati City on 23 October 2002 over the property located at No. 8 Farol St., Urdaneta Village, Makati City;
  - b. the Certificate of Sale dated 23 October 2002 (Exhibit "G") issued by the Clerk of Court approved by then Executive Judge Leticia P. Morales on 15 November 2002 regarding the foreclosure in the case Security Bank vs. Spouses Jose and Olga Martel, docketed as S-02-086;
  - c. the Affidavit of Consolidation [dated] 19 November 2003 (Exhibit "1"); and
  - d. Transfer Certificate of Title No. 219694 in the name of Security Bank Corporation;
4. Ordering the Register of Deeds of Makati City to cancel TCT No. 219694 and to reinstate TCT No. 288267 in the name of Jose Martel married to Olga Severino; and
5. Ordering the City Sheriff of Makati City to conduct a new auction sale strictly complying with the mandatory requirements as required by Act No. 3135, as amended by Act No. 4118.

**SO ORDERED.**<sup>[15]</sup>

Ruling on the main issue of whether or not respondent spouses are estopped from questioning the validity of the auction sale of the subject property, considering that they were the ones who requested for the postponement of the said sale without need of publication of the rescheduled date of auction sale, the RTC noted that the alleged letter-requests of respondent spouses were not formally offered in evidence. As such, the RTC ruled that petitioner's failure to make a formal offer of these pieces of evidence is fatal to its cause as the same may not be considered by the trial court.

Both petitioner and respondent spouses sought reconsideration of the above Decision.

On December 22, 2014, the RTC issued its assailed Order, the dispositive portion of which reads as follows:

**WHEREFORE**, premises considered, the Decision dated 5 August 2014 is hereby **REVERSED and SET ASIDE**. The Complaint for Nullification of the Foreclosure Proceedings, Promissory Notes, and Damages filed by plaintiff-Spouses Jose V. Martel and Olga Severino Martel against defendants Security Bank Corporation, the Register of Deeds of Makati City, and the Clerk of Court and Ex-Officio Sheriff of the Regional Trial Court, Makati City is hereby **DISMISSED**.

**SO ORDERED.**<sup>[16]</sup>

This time, the RTC held that despite the failure of petitioner to formally offer in evidence respondent-spouses' letter-requests, which asked for the postponement of the auction sale without need of publication of the rescheduled date of auction, the RTC noted that respondent spouses, nonetheless, admitted the existence of these letter-requests in their Motion for Summary Judgment filed with the RTC. Also, one of their witnesses made the same admission during her cross-examination. Moreover, the said letter-requests were attached to their Supplemental Memorandum which they submitted to the trial court. On these bases, the RTC concluded that the above admissions made by respondent spouses in their pleadings and in the course of trial constitute judicial admissions which, in the absence of any contradiction, are legally binding upon them. As such, respondent spouses are estopped from questioning the validity of the subject auction sale.

On appeal by herein respondent spouses, the CA reversed the December 22, 2014 Order of the RTC and reinstated the trial court's August 5, 2014 Decision.

The CA ruled that the extrajudicial foreclosure sale of the subject property held on October 23, 2002 is void for failure of petitioner to comply with the required publication of the notice of the re-scheduled date of auction sale.

Herein petitioner filed a Motion for Reconsideration, but the CA denied it in its January 8, 2018 Resolution.

Hence, the present petition for review on *certiorari*, which the Court finds