

## FIRST DIVISION

[ G.R. No. 197831, July 09, 2018 ]

**PHILIPPINE NATIONAL BANK, PETITIONER, V. SPOUSES ANGEL  
AND BUENVENIDA ANAY, AND SPOUSES FRANCISCO AND  
DOLORES LEE, RESPONDENTS.**

### D E C I S I O N

**TIJAM, J.:**

Through this Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court, petitioner Philippine National Bank (PNB) seeks to modify the Decision<sup>[2]</sup> dated October 19, 2010 and Resolution<sup>[3]</sup> dated July 11, 2011 of the Court of Appeals (CA) in CA-G.R. CV No. 01140-MIN which affirmed the Decision<sup>[4]</sup> dated October 17, 2006 of the Regional Trial Court (RTC), Branch 23, Cagayan de Oro City. The CA affirmed the RTC which ordered, among others, the cancellation of PNB's title insofar as it covered the property of respondents Spouses Angel and Buenvenida Anay (Spouses Anay). While PNB no longer disputes the exclusion of the property of the Spouses Anay from the foreclosed properties, it nevertheless seeks that respondents Spouses Francisco and Dolores Lee (Spouses Lee), as debtors-mortgagors, be ordered to restitute to PNB the value of the excluded property.

#### **The Antecedents**

The facts are largely undisputed. The Spouses Lee obtained a loan from PNB initially in the amount of P400,000.00 but which was later on increased to P7,500,000.00 under a Revolving Credit Line.<sup>[5]</sup> To cover the increased credit accommodation, the Spouses Lee offered additional securities which included a parcel of land registered in the name of the Spouses Anay located at Iponan, Cagayan de Oro City with an area of 5,503 square meters and covered by Transfer Certificate of Title (TCT) No. T-25805. For this purpose, the Spouses Anay executed a Special Power of Attorney (SPA) in favor of the Spouses Lee, authorizing the latter to use the subject property as security for the loan.<sup>[6]</sup>

The Spouses Lee failed to pay their loan obligations. Consequently, PNB initiated extrajudicial foreclosure proceedings against the mortgaged properties, including that of the Spouses Anay. PNB emerged as the highest bidder in the auction sale and a Sheriff's Certificate of Sale was thereafter issued. When the redemption period expired without the Spouses Lee or the Spouses Anay having exercised the right of redemption, PNB consolidated its title over the foreclosed properties. As such, TCT No. T-25805 was canceled and in lieu thereof, a new title, TCT No. T-120269, was issued in PNB's name.<sup>[7]</sup>

The Spouses Anay filed a Complaint against the Spouses Lee and PNB for annulment of the SPA, foreclosure proceedings and the Sheriffs Certificate of Sale on the ground of vitiated consent. It appears that the Spouses Lee urged Marietta Anay

Cabinatan (Marietta), a daughter of the Spouses Anay, to let them borrow the latter's property to be used as additional security to cover their increased loan with the PNB.<sup>[8]</sup> Marietta could not refuse since the Spouses Lee were her employers. At that time, the Spouses Anay were both of old age, weak, hard of hearing and could barely see.<sup>[9]</sup> So much so that Marietta had to move her father's hand to sign<sup>[10]</sup> and had to hold her mother's hand while affixing her thumbmark on the SPA.<sup>[11]</sup> The contents of the SPA were neither explained to the poor couple as Marietta summarily told them to "just sign" the SPA.<sup>[12]</sup> The Spouses Anay also did not receive any amount out of the loan obtained by the Spouses Lee from PNB.<sup>[13]</sup> Dolores Lee herself similarly testified as to the same factual circumstances and further testified that she does not mind losing all her properties as she was bothered by her conscience because they only borrowed the Spouses Anay's property.<sup>[14]</sup> In all, the RTC reached the conclusion that the Spouses Anay's consent to the SPA were vitiated, if not totally absent and thus disposed:

The FOREGOING MATTERS CONSIDERED, the Court finds overwhelming evidence to NULLIFY the Special Power of Attorney (Exh. "C") and so the Court HOLDS and DECREES the Special Power of Attorney NULL and VOID and of no force and effect.

EX NIHILO NIHIL FIT. From nothing comes nothing. It follows that all the other documents which caused the foreclosure of the property and the transfer of the [S]pouses Anays' title to other persons, among which documents are the Supplemental to Existing Real Estate Mortgage (Exh. "D"), the Sheriffs Certificate of Sale (Exh. "F") are likewise declared NULL and VOID.

The nullity of Exhs. "D" and "F" affects only the mortgaged and foreclosed property of Angel and Buenvenida Anay covered by TCT No. T-25805.

Exhs. "D" and "F" remain VALID and BINDING as to the other properties enumerated and specified in said exhibits, particularly those owned by Francisco and Dolores Lee who acknowledged their indebtedness to PNB.

The Register of Deeds of Cagayan de Oro is hereby ORDERED and DIRECTED to cancel, invalidate or withdraw and render of no force and effect, all titles issued subsequent to and arising out of TCT No. T-25805 as a consequence of the Special Power of Attorney under Entry No. 205817, including TCT No. T-120269 and all such subsequent titles issued, are also hereby declared as void and of no effect.

The same office is directed to reinstate TCT No. T-25805 in the name of the Heirs of Angel Anay, it appearing that he died on May 16, 2004, provided that the heirs comply with all the legal requirements.

NO PRONOUNCEMENT AS TO COST.

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

PNB's motion for reconsideration was denied,<sup>[16]</sup> prompting an appeal before the CA.

In its Appeal,<sup>[17]</sup> PNB reasoned that the cancellation of its title, TCT No. T-120269, as a result of the nullity of the SPA, constitutes a collateral attack which is proscribed under Section 48<sup>[18]</sup> of Presidential Decree No. 1529.<sup>[19]</sup> It is also the PNB's position that the Spouses Lee should be made liable for restitution and damages considering the overwhelming evidence of their bad faith.<sup>[20]</sup>

In dismissing PNB's appeal, the CA held that the cancellation of PNB's title does not constitute an indirect or collateral attack because said title was irregularly and illegally issued to begin with, it having emanated from an annulled SPA.<sup>[21]</sup> The CA likewise denied PNB's claim for restitution and damages for PNB's failure to timely raise this issue before the RTC and for failure to file the necessary cross-claim against the Spouses Lee. The CA accordingly held in disposal:

WHEREFORE, the instant appeal is hereby DISMISSED. The Decision dated October 17, 2006 is AFFIRMED *in toto*.<sup>[22]</sup>

PNB's motion for reconsideration met similar denial. Hence, this petition.

Reiterating its arguments before the CA, PNB maintains that it is a mortgagee in good faith and as such, its title cannot be subjected to collateral attack. In any case, PNB argues, the Spouses Lee should be made liable for damages and restitution to PNB for having acted in bad faith.

### **The Ruling of the Court**

#### **We deny the petition.**

Settled is the fact that the Spouses Anay's consent to the SPA was vitiated. This, as much, was not contested by PNB. Nevertheless, PNB seeks protection as mortgagee in good faith as it allegedly had no hand in the fraud or bad faith perpetrated by the Spouses Lee in securing the SPA.

The doctrine of a mortgagee in good faith finds similar basis on the rule that persons dealing with property covered by a Torrens Certificates of Title, either as buyers or as mortgagees, are not required to go beyond what appears on the face of the title.<sup>[23]</sup> This doctrine, however, does not apply in the instant case.

For one, the issue of being a mortgagee in good faith is a factual matter, which cannot be raised in this petition.<sup>[24]</sup> For another, the doctrine of mortgagee in good faith "presupposes that the mortgagor, who is not the rightful owner of the property, has already succeeded in obtaining Torrens title over the property in his name and that, after obtaining the said title, he succeeds in mortgaging the property to another who relies on what appears on the title."<sup>[25]</sup> Such is not the case here as the fact that the Spouses Anay were the registered owners of the subject property was never disputed, thus the genuineness of the latter's title was never an issue. What is controversial is the authority of the Spouses Lee to mortgage the property of the Spouses Anay.

It is in this regard that PNB denies having knowledge of, or participation in the manner and the circumstances surrounding the execution of the SPA. PNB's self-serving claim is, however, easily dispelled by the testimony of its very own employee, PNB Inspector Marcial Abucay (PNB Inspector Abucay) who was present,