

FIRST DIVISION

[G.R. No. 207786, January 30, 2017]

**SPOUSES MARCELIAN TAPAYAN AND ALICE TAPAYAN,
PETITIONERS, VS. PONCEDA M. MARTINEZ, RESPONDENT.**

D E C I S I O N

CAGUIOA, J:

This is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court (Petition), seeking the reversal of the Decision dated May 30, 2013^[2] (assailed Decision) rendered by the Court of Appeals, Cagayan de Oro City - Twenty-First Division (CA). The assailed Decision stems from a complaint filed before the Regional Trial Court of Ozamiz City (RTC), by respondent Ponceda Martinez (Respondent) against petitioners, spouses Marcelian and Alice Tapayan (Petitioners), for Specific Performance with Damages.^[3]

The Facts

The parties herein are relatives by affinity. Petitioner Alice Tapayan is the sister of Clark Martinez's (Clark) wife. Clark is Respondent's son.

Respondent is the registered owner of a parcel of land situated along Pingol Street, Ozamiz City, covered by Original Certificate of Title (OCT) No. P-1223 (Pingol Property).^[4] Based on the records, it appears that two (2) mortgages were constituted over this property the first in favor of Philippine National Bank (PNB Mortgage), and the second in favor of Development Bank of the Philippines (DBP Mortgage). The particulars of these mortgages are summarized as follows:

Mortgage	Parties	Purpose
PNB Mortgage	Respondent as mortgagor and Philippine National Bank, Ozamiz Branch (PNB) as mortgagee	To secure a One Hundred Thousand Peso (P100,000.00) loan in the name of Respondent ^[5]
DBP Mortgage	Respondent as mortgagor and Development Bank of the Philippines, Ozamiz Branch (DBP) as mortgagee	To secure a One Million Peso (P1,000,000.00) renewable credit line in the name of Petitioners (DBP Loan) ^[6]

The records further show that Respondent agreed to constitute the DBP Mortgage upon Clark's request,^[7] and that, in order to release the Pingol Property from the PNB Mortgage, the Petitioners and Respondent agreed to utilize a portion of the

proceeds of the DBP Loan to settle the remaining balance of Respondent's PNB Loan, then amounting to Sixty-Five Thousand Three Hundred Twenty Pesos and 55/100 (P65,320.55).^[8]

Subsequently, the parties herein executed a Deed of Undertaking dated August 29, 1998 (Deed of Undertaking) in reference to the DBP Mortgage. The Deed of Undertaking bears the following stipulations, to wit:

1. that the "Second Party [Respondent] has no liability whatsoever insofar as the aforesaid loan contracted by the First Party [Petitioners] concerned;"
2. that "to secure the aforesaid amount, the First Party [Petitioners] shall execute a second mortgage in favor of the Second Party [Respondent] over his House and Lot covered by TCT No. T-10143, situated at Carangan, Ozami[z] City x x x"^[9]
3. x x x
4. [t]hat in the event the First Party [Petitioners] could not pay the loan and consequently, the property of the Second Party [Respondent] is foreclosed and is not redeemed by the First Party [Petitioners] with[in] the one (1) year redemption period; or in case the loan shall be paid by the Second Party [Respondent] just to save the property from being foreclosed, the First Party [Petitioners] shall acknowledge as his indebtedness the amount due to the Development Bank of the Philippines upon foreclosure or the amount paid by the Second Party [Respondent] in paying the loan, but in either case shall be deducted therefrom the amount of P65,320.55 plus interests and fees paid by the First [P]arty [Petitioners] to PNB, Ozamiz City[.]^[10] (Emphasis and underscoring omitted)

The DBP Loan was not paid when it fell due.

Proceedings before the RTC

On September 14, 1999, Respondent filed a complaint for Specific Performance with Damages (Complaint) against Petitioners before the RTC.^[11] The Complaint sought to compel Petitioners to constitute a mortgage over their house and lot situated in Carangan, Ozamiz City covered by Transfer Certificate of Title (TCT) No. T-10143 (Carangan Property), in accordance with the provisions of the Deed of Undertaking.^[12]

Respondent averred that Petitioners used the proceeds of the DBP Loan exclusively for their own purposes,^[13] and that since Petitioners failed to pay the DBP Loan, she and her children were constrained to pay DBP the sum of One Million One Hundred Eighty Thousand Two Hundred Pesos and 10/100 (P1,180,200.10) to save the Pingol Property from foreclosure.^[14] Notwithstanding this, Petitioners have neither paid their indebtedness nor executed a mortgage over the Carangan Property to secure the same.^[15]

The Petitioners denied Respondent's allegations and claimed that the Deed of Undertaking "is a falsity."^[16]

Petitioners argued that the proceeds of the DBP Loan were primarily used as capital for the construction business that petitioner Marcelian put up with Clark, Mario Delos Reyes, and Richard Sevilla (collectively, Joint Venturers).^[17] Petitioners supposedly applied for the DBP Loan in furtherance of the verbal agreement among the Joint Venturers, while Respondent freely agreed to constitute the DBP Mortgage to secure said loan upon Clark's request.^[18] Petitioners further emphasized that a portion of the proceeds of the DBP Loan was used to pay of the balance of Respondent's PNB Loan.^[19] Moreover, while the DBP Loan was in the nature of a renewable credit line, it was not renewed since Respondent refused to give her written consent for this purpose.^[20]

On the procedural aspect, Petitioners argued that Respondent's Complaint was premature and should have been dismissed outright, since she failed to resort to barangay conciliation proceedings before filing her Complaint with the RTC.^[21]

To support their allegations, Petitioners presented a Joint Affidavit executed by Mario Delos Reyes and Richard Sevilla, attesting to the formation of the joint venture and the conclusion of the verbal agreement to apply for the DBP Loan in the interest of the Joint Venturers.^[22]

After trial, the RTC rendered a decision dated September 28, 2009 in favor of Respondent (RTC Decision), the dispositive portion of which reads:

WHEREFORE premises considered, judgment is hereby rendered ordering defendant spouses Atty. Marcelian and Alice Tapayan to execute the second mortgage of (sic) their lot and house covered by Transfer Certificate of Title No. T-10143 located at Carangan, Ozamiz City in favor of plaintiff Mrs. Ponceda Martinez, unless they reimburse the latter of the total amount of P1,180,200.10 paid by her to the Development Bank of the Philippines, Ozamiz Branch for the redemption of the mortgage, and requiring defendants to pay to plaintiff the amount of P20,000.00 for attorney's fees.

SO ORDERED.^[23]

In so ruling, the RTC noted that the Deed of Undertaking was acknowledged before Atty. Emmanuel V. Chiong, a notary public, and reasoned that since the latter enjoys the presumption of having performed his duties regularly, Petitioners' claim that the Deed of Undertaking was a falsity must be rejected.^[24] On such basis, the RTC held that the Deed of Undertaking constitutes a valid and binding contract, which Petitioners are bound to respect.^[25]

Proceedings before the CA

Aggrieved, Petitioners elevated the case to the CA. In their appeal, Petitioners prayed that the CA determine (i) whether the RTC validly acquired jurisdiction over

the Complaint notwithstanding Respondent's failure to comply with the Revised *Katarungang Pambarangay* Law, (ii) whether Respondent is an accommodation mortgagor, and (iii) whether the Petitioners may be compelled to constitute a mortgage over the Carangan Property in Respondent's favor.^[26]

On May 30, 2013, the CA rendered the assailed Decision denying the Petitioners' appeal. The dispositive portion of the assailed Decision reads:

WHEREFORE, premises considered, the instant appeal is hereby **DENIED**. The Decision of the RTC dated 28 September 2009 is hereby **AFFIRMED**. Defendants-appellants are ordered to execute the Second Mortgage on their house and lot covered by Transfer Certificate of Title (TCT) No. T-10143 in favor [of] plaintiff-appellee. Costs against appellants.

SO ORDERED.^[27]

Contrary to the Petitioners' claim, the CA found that the requirements of the *Katarungang Pambarangay* Law were complied with, as evidenced by the Certificate to File Action filed by the *Lupon Tagapamayapa* before the RTC on August 16, 2000.^[28]

Moreover, the CA held that the Deed of Undertaking merits consideration, since Petitioners failed to overcome the presumption of regularity ascribed to it as a public document.^[29] Thus, on the basis of the stipulations in the Deed of Undertaking, the CA concluded that Respondent indeed stood as Petitioners' accommodation mortgagor. Hence, Respondent possesses the right to enforce the Deed of Undertaking and compel Petitioners to comply with its stipulations.^[30]

Petitioners received a copy of the assailed Decision on June 13, 2013.^[31]

On June 27, 2013, Petitioners filed a motion praying for an additional period of thirty (30) days within which to file a petition for review on certiorari before this Court.^[32] Thereafter, on July 26, 2013, Petitioners filed this Petition, ascribing multiple errors to the CA.

Respondent filed her Comment to the Petition on May 30, 2014.^[33] Petitioners filed their Reply on October 17, 2014.^[34]

On February 26, 2015, the Court received a notice from Respondent's counsel of record, informing the Court of Respondent's death. The notice identified the Respondent's eight (8) children as her legal representatives, namely: Clark, Jeff Martinez, Rock Martinez, Gary Martinez, Patricia Martinez Olson, Eleanor Martinez Fassnacht, Treccie Martinez Kappes, and Sheila Martinez Sachs.^[35]

Issue

The sole issue for this Court's resolution is whether the CA erred in affirming the RTC Decision directing Petitioners to execute a mortgage over the Carangan Property in favor of Respondent.

The Court's Ruling

As a rule, only questions of law may be raised in petitions filed under Rule 45,^[36] subject only to recognized exceptions, namely:

(1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) **when the judgment is based on a misapprehension of facts**; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion. x x x^[37] (Emphasis supplied; citations omitted)

The Petition invokes the fourth exception above, and calls on this Court to review the factual findings of the RTC, which were later affirmed by the CA.

In sum, Petitioners pose that the CA erred when it affirmed the following factual findings of the RTC:

1. The Deed of Undertaking presented by Respondent is genuine, and constitutes a valid and binding contract enforceable against Petitioners;
2. Petitioners applied for the DBP Loan for their own interest and sole account;
3. Petitioners are bound to reimburse Respondent One Million One Hundred Eighty Thousand Two Hundred Pesos and 10/100 (P1,180,200.10) representing the amount she and her daughters paid to avert the foreclosure of the DBP Mortgage; and
4. To secure the full amount due Respondent, Petitioners are bound to constitute a mortgage over the Carangan Property, pursuant to the provisions of the Deed of Undertaking.

The Court holds that no misapprehension of facts was committed by both the RTC and the CA so as to justify deviation from their findings, except only as to the RTC's finding regarding the amount that Petitioners are bound to reimburse to Respondent.

Petitioners waived their right to object to the admission of the Deed of Undertaking on the basis of the best evidence rule.

In this Petition, Petitioners assert that the RTC and CA erred in ruling that the plain copy of the Deed of Undertaking was admissible as proof of its contents, in violation of the best evidence rule under Rule 130 of the Rules of Court.