

SPECIAL EN BANC

[G.R. No. 204280, November 09, 2016]

**EVELYN V. RUIZ, PETITIONER, V. BERNARDO F. DIMAILIG,
RESPONDENT.**

DECISION

DEL CASTILLO, J.:

This Petition for Review on *Certiorari* assails the October 22, 2012 Decision^[1] of the Court of Appeals (CA) in CA-GR. CV No. 95046 which reversed and set aside the November 26, 2009 Decision^[2] and the March 19, 2010 Order^[3] of the Regional Trial Court (RTC) of Cavite City, Branch 16 in Civil Case No. N-7573. The CA declared void the Real Estate Mortgage (REM) constituted on the property covered by Transfer Certificate of title (TCT) No. T-361747.

Factual Antecedents

Respondent Bernardo F. Dimailig (Bernardo) was the registered owner of a parcel of land covered by TCT No. T-361747 located in Alapan, Imus, Cavite.^[4] In October 1997, he entrusted the owner's copy of the said TCT to his brother, Jovannie,^[5] who in turn gave the title to Editha Sangalang (Editha), a broker, for its intended sale. However, in January 1998, the property was mortgaged to Evelyn V. Ruiz (Evelyn) as evidenced by a Deed of REM^[6] without Bernardo's knowledge and consent. Hence, Bernardo instituted this suit for annulment of the Deed of REM.^[7]

In her Answer,^[8] Evelyn contended that she met Jovannie when she inspected the subject property and assured her that Bernardo owned the property and his title thereto was genuine. She further claimed that Jovannie mortgaged the property to her. She also insisted that as a mortgagee in good faith and for value, the REM cannot be annulled and that she had the right to keep the owner's copy of TCT No. T-361747 until the loan was fully paid to her.

During pre-trial the parties arrived at the following stipulations:^[9]

1. That x x x it was not [Bernardo] who signed as mortgagor in the subject Deed of Real Estate Mortgage.
2. That there was a demand letter sent to [Evelyn] x x x to cause a release of mortgage on the subject property.
3. The x x x controversy [was referred] to the Barangay for conciliation and mediation.
- [4.] That Jovannie x x x is the brother of [Bernardo].

Thereafter, trial on the merits ensued.

Bernardo testified that when he went abroad on October 19, 1997, he left the owner's copy of the TCT of the subject property to Jovannie as they intended to sell the subject property.^[10] However, on January 26, 1998, a REM was executed on the subject property. Bernardo argued that his alleged signature appearing therein was merely forged^[11] as he was still abroad at that time. When he learned in September or November 1998 that Editha mortgaged the subject property, he personally told Evelyn that the REM was fake and demanded the return of his title. Not heeding his request, he filed a complaint for estafa through falsification of public document against Editha and Evelyn. The criminal case against Evelyn was dismissed^[12] while Editha was found guilty as charged.^[13]

Jovannie also took the witness stand. He testified that sometime in December 1997, Editha convinced him to surrender the owner's copy of TCT No. T-361747 which she would show her buyer.^[14] Subsequently, however, Editha informed him that she misplaced the title. Hence, he executed in August 1998^[15] an affidavit of loss and registered it with the Register of Deeds (RD).^[16] In September 1998, Editha finally admitted that the title was not lost but was in Evelyn's possession because of the REM.^[17] Upon learning this, Jovannie inquired from Evelyn if Editha mortgaged Bernardo's property to her. Purportedly, Evelyn confirmed said mortgage and told him that she would not return the owner's copy of TCT No. T-361747 unless Editha pay the loan,^[18] Jovannie also alleged that he told Evelyn that Bernardo's alleged signature in the REM was not genuine since he was abroad at the time of its execution.^[19]

On the other hand, Evelyn maintained that she was a mortgagee in good faith. She testified that sales agents - Editha, Corazon Encarnacion, and a certain Parani, - and a person introducing himself as "Bernardo" mortgaged the subject property to her for P300,000.00 payable within a period of three months.^[20] She asserted that even after the expiration of said period, "Bernardo" failed to pay the loan.^[21]

Evelyn narrated that before accepting the mortgage of the subject property, she, the sales agents, her aunt, and "Bernardo," visited the property. She pointed out that her companions inspected it while she stayed in the vehicle as she was still recuperating from an operation.^[22] She admitted that she neither verified from the neighborhood the owner of the property nor approached the occupant thereof.^[23]

Moreover, Evelyn asserted that when the Deed of REM was executed, the person who introduced himself as Bernardo presented a community tax certificate and his picture as proof of identity.^[24] She admitted that she did not ask for any identification card from "Bernardo."^[25]

Contrary to the allegation in her Answer that Jovannie mortgaged the property, Evelyn clarified that she met Jovannie for the first time when he went to her house and told her that Bernardo could not have mortgaged the property to her as he was abroad.^[26]

Corazon Abella Ruiz (Corazon), the sister-in-law of Evelyn, was presented to corroborate her testimony. Corazon averred that in January 1998, she accompanied Evelyn and several others in inspecting the subject property.^[27] The day after the inspection, Evelyn and "Bernardo" executed the Deed of REM in the office of a

certain Atty. Ignacio; Evelyn handed P300,000.00 to Editha, not to "Bernardo;"^[28] in turn, Editha handed to Evelyn the owner's copy of TCT No. T-361747.^[29]

Ruling of the Regional Trial Court

On November 26, 2009, the RTC dismissed the Complaint. It held that while Bernardo was the registered owner of the subject property, Evelyn was a mortgagee in good faith because she was unaware that the person who represented himself as Bernardo was an impostor. It noted that Evelyn caused the verification of the title of the property with the RD and found the same to be free from any lien or encumbrance. Evelyn also inspected the property and met Jovannie during such inspection. Finally, the RTC declared that there was no showing of any circumstance that would cause Evelyn to doubt the validity of the title or the property covered by it. In fine, Evelyn did all that was necessary before parting with her money and entering Into the REM.

On March 19, 2010, the RTC denied Bernardo's Motion for Reconsideration. Thus, he appealed to the CA.

Ruling of the Court of Appeals

On October 22, 2012, the CA rendered the assailed Decision reversing and setting aside the RTC Decision. The decretal portion of the CA Decision reads:

WHEREFORE, the appeal is GRANTED. The assailed dispositions of the RTC are REVERSED and SET ASIDE. Tile complaint of Bernardo F. Dimailig is GRANTED. The Deed of Real Estate Mortgage constituted on the real property covered by TCT No. T-361747 of the Registry of Deeds for the Province of Cavite, registered in his name, is DECLARED null and void. Evelyn V. Ruiz is ORDERED to reconvey or return to him the owner's duplicate copy of the said title. His claims for the payment of attorney's fees and costs of suits are DENIED. Costs against Evelyn V. Ruiz.

SO ORDERED.^[30]

The CA held that the "innocent purchaser (mortgagor in this case) for value protected by law is one who purchases a titled land by virtue of a deed executed by the registered owner himself, not by a forged deed."^[31] Since the Deed of REM was forged, and the title to the subject property is still in the name of the rightful owner, and the mortgagor is a different person who only pretended to be the owner, then Evelyn cannot seek protection from the cloak of the principle of mortgagee in good faith. The CA held that in this case, "the registered owner will not personally lose his title."^[32]

The CA further decreed that Evelyn's claim of good faith cannot stand as she failed to verify the real identity of the person introduced by Editha as Bernardo. It noted that the impostor did not even exhibit any identification card to prove his identity; and, by Evelyn's admission, she merely relied on the representation of Editha relative to the identity of "Bernardo." It also held that Evelyn transacted only with Editha despite the fact that the purported owner was present during the inspection of the property, and during the execution of the REM.

In sum, the CA ruled that for being a forged instrument, the Deed of REM was a nullity, and the owner's copy of TCT No. T-361747 must be returned to its rightful

owner, Bernardo.

Issue

Hence, Evelyn filed this Petition raising the sole assignment of error as follows:

[T]he Court of Appeals erred in holding that petitioner is not a mortgagee in good faith despite the presence of substantial evidence to support such conclusion of fact.^[33]

Petitioner's Arguments

Petitioner insists that she is a mortgagee in good faith. She claims that she was totally unaware of the fraudulent acts employed by Editha, Jovannie, and the impostor to obtain a loan from her. She stresses that a person dealing with a property covered by a certificate of title is not required to look beyond what appears on the face of the title.

Respondent's Arguments

Bernardo, on his end, contends that since the person who mortgaged the property was a mere impostor, then Evelyn cannot claim that she was a mortgagee in good faith. This is because a mortgage is void where the mortgagor has no title at all to the property subject of such mortgage.

Bernardo asserts that there were circumstances that should have aroused suspicion on the part of Evelyn relative to the mortgagor's title over the property. He specifies that throughout the negotiation of the mortgage, Evelyn transacted only with Editha, not with "Bernardo," despite the fact that Editha and the other real estate agents who assisted Evelyn in the mortgage transaction were not armed with a power of attorney.

Bernardo likewise stresses that although Evelyn caused the inspection of the subject property, she herself admitted that she did not alight from the vehicle during the inspection, and she failed to verify the actual occupant of the property.

Our Ruling

The Petition is without merit.

As a rule, the issue of whether a person is a mortgagee in good faith is not within the ambit of a Rule 45 Petition. The determination of presence or absence of good faith, and of negligence factual matters, which are outside the scope of a petition for review on *certiorari*.^[34] Nevertheless, this rule allows certain exceptions including cases where the RTC and the CA arrived at different or conflicting factual findings,^[35] as in the case at bench. As such, the Court deems it necessary to re-examine and re-evaluate the factual findings of the CA as they differ with those of the RTC.

No valid mortgage will arise unless the mortgagor has a valid title or ownership over the mortgaged property. By way of exception, a mortgagee can invoke that he or she derived title even if the mortgagor's title on the property is defective, if he or she acted in good faith. In such instance, the mortgagee must prove that no circumstance that should have aroused her suspicion on the veracity of the mortgagor's title on the property was disregarded.^[36]