

SECOND DIVISION

[G.R. No. 195889, September 24, 2014]

**PHILIPPINE NATIONAL BANK, PETITIONER, VS. SPOUSES
EDUARDO AND MA. ROSARIO TAJONERA AND EDUAROSA
REALTY DEVELOPMENT, INC., RESPONDENTS.**

D E C I S I O N

MENDOZA, J.:

This is a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure seeking to reverse and set aside the November 30, 2010 Decision^[1] of the Court of Appeals (CA), and its March 2, 2011 Resolution,^[2] in CA-G.R. CV No. 85458, entitled "*Spouses Eduardo & Ma. Rosario Tajonera and Eduarosa Realty & Development, Inc. v. Philippine National Bank,*" which affirmed with modification the December 8, 2003 Decision^[3] of the Regional Trial Court, Branch 71, Pasig City (RTC), in a case for annulment of sale, cancellation of title, cancellation of mortgage and damages.

The Facts

Respondent Eduarosa Realty Development, Inc. (*ERDI*) was engaged in realty construction and sale of condominium buildings. Respondent Ma. Rosario Tajonera (*Rosario*), as the Vice President of ERDI, also performed the duties of president and marketing director dealing with banks, suppliers and contractors. ERDI, through Rosario, obtained loans from petitioner Philippine National Bank (*PNB*) and entered into several credit agreements to finance the completion of the construction of their 20-storey Eduarosa Tower Condominium located in Roxas Boulevard, Paranaque City.

Pursuant to the Credit Agreement,^[4] dated March 5, 1991, the principal amount of loan extended by PNB to ERDI was Sixty Million Pesos (P60,000,000.00). As security for the initial loan, ERDI executed the Real Estate Mortgage (REM) consisting of three (3) parcels of land covered by Transfer Certificate of Title (TCT) Nos. 38845, 38846 and 38847 with an aggregate area of 1,352 square meters situated in Roxas Boulevard, Tambo, Paranaque, Metro Manila, registered in the name of ERDI (*Paranaque properties*). In addition, the loan was secured by the assignment of proceeds of contract receivables arising from the sale of condominium units to be constructed on the mortgaged Paranaque properties.

On January 31, 1992, ERDI executed an amendment to the Credit Agreement^[5] (*First Amendment*) and obtained an additional loan of Forty Million Pesos (P40,000,000.00). As additional security to the increased amounts of loan, the respondent spouses' 958-square meter lot and the improvements thereon, situated in Greenhills, San Juan, Metro Manila (*Greenhills property*) and covered by TCT No.

29733, was mortgaged in favor of PNB as evidenced by the Supplement to REM.^[6] On October 28, 1992, a Second Amendment to Credit Agreement^[7] (*Second Amendment*) was executed by the parties to extend the repayment dates of the loan and the additional loan subject to the terms set forth in the said agreement.

The following year, or on November 3, 1993, a Third Amendment to the Credit Agreement^[8] (*Third Agreement*) was entered into by the parties wherein PNB granted an additional loan of Fifty Five Million Pesos (P55,000,000.00) to ERDI, subject to several conditions stated in the said agreement.

As of September 30, 1994, ERDI's outstanding loan obligation with PNB amounted to P211,935,067.40.^[9]

ERDI failed to settle its obligation. As a consequence, PNB filed an application for foreclosure of the Greenhills property. As the highest bidder, PNB was issued the Certificate of Sale,^[10] dated October 9, 1997. Upon ERDI's failure to redeem the property, PNB consolidated its title and caused the cancellation of TCT No. 29733.^[11] A new title, TCT No. 9424-R, was issued in the name of PNB.^[12]

The Complaint

This prompted the respondents to file a complaint against PNB for annulment of sale, cancellation of title, cancellation of mortgage, and damages before the RTC. In the complaint, the respondents alleged that: the title to the mortgaged property that was transferred to PNB as a consequence of the foreclosure proceedings was null and void as their mortgage obligation had been novated and no new loans were released to them, in violation of the provisions of the Supplement to REM; the foreclosure proceedings were defective due to PNB's failure to send personal notice to the respondent spouses; PNB's delay in the release of loan proceeds under the credit agreements caused the non-completion of the condominium project; and the properties mortgaged under the original mortgage contract covering the respondents' condominium titles should now be discharged, as the property of the respondent spouses had already been foreclosed.^[13]

PNB's Answer

In its Answer with Counterclaim, PNB denied the respondents' allegations and raised the following defenses: 1) the mortgage contract was supported by valuable consideration as the loan proceeds under the credit agreements were fully released to them; 2) there was no novation of the contract; 3) demand letters were given to and duly received by the respondents; and 4) the sufficiency of the mortgage over the condominium titles cannot be determined because the court has no jurisdiction over such issue.^[14]

The RTC Decision

On December 8, 2003, the RTC rendered its judgment in favor of the respondents and disposed as follows:

WHEREFORE, judgment is hereby rendered in favor of plaintiffs and against the defendant:

1. NULLIFYING and CANCELLING the Supplement to Real Estate Mortgage dated January 28, 1992 and the Certificate of Sale dated October 9, 1997.
2. NULLIFYING and CANCELLING the Transfer Certificate of Title No. 9424-R, Registry of Deeds for San Juan, Metro Manila, and REINSTATING Transfer Certificate of Title No. 29733, Registry of Deeds for San Juan, Metro Manila.
3. ORDERING the defendant to pay the plaintiffs the amount of P500,000.00 as moral damages.
4. ORDERING the defendant to pay the plaintiffs the amount of P200,000.00 as exemplary damages.
5. ORDERING the defendant to pay the plaintiffs the amount of P100,000.00 as and by way of attorney's fees.
6. Costs of suit.

Counterclaims are hereby DISMISSED for lack of merit.

SO ORDERED.^[15]

The RTC annulled the mortgage contract constituted over the Greenhills property on the ground of breach of contract on the part of PNB by violating the credit agreements.

The CA Decision

Aggrieved, PNB elevated the matter to the CA. In its Decision, dated November 30, 2010, the CA affirmed the decision of the RTC, but deleted the award of moral and exemplary damages. In the dispositive portion of its assailed decision, the CA declared:

WHEREFORE, the challenged Decision dated 08 December 2003 is **AFFIRMED** with **Modification** in that the awards for moral and exemplary damages are deleted.

SO ORDERED.^[16]

The CA agreed with the RTC ruling that inasmuch as PNB did not release the remaining balance of the approved loan amounting to P39,503,088.84 under the Third Amendment, there was no sufficient valuable consideration in the execution of the Supplement to REM that secured the said credit agreement. There was, according to the CA, breach of contract on the part of PNB that warranted the

annulment and cancellation of the Supplement to REM covering the Greenhills property. Further, the CA rejected PNB's claim that its refusal to release the balance of the last loan was due to the respondents' failure to comply with the undertaking of bringing new investors with additional collaterals to secure the additional loan as such requirement was not categorically stated in the terms of the credit agreement. Also, such claim was belied by PNB's own witness who testified that the reason for its refusal to release was simply the respondents' failure to settle their amortization.

PNB filed a motion for reconsideration of the said decision, but the same was denied by the CA in its assailed Resolution, dated March 2, 2011.

Hence, this petition.

The Issues:

In its Memorandum,^[17] PNB submits the following issues for consideration:

Whether or not the CA decided in accordance with the applicable laws and jurisprudence when:

- (1) it ruled that the *Supplement to Real Estate Mortgage*, dated 28 January 1992, lacked sufficient valuable consideration even when the loan proceeds secured by it under the *Third Amendment*, dated 03 November 1993, had been substantially released by PNB, and the *Credit Agreement*, dated 05 March 1991, as well as the *First and Second Amendments* thereto, dated 31 January 1992 and 28 October 1992, respectively, upon which the same *Supplement to Real Estate Mortgage* was similarly constituted as additional security, had all been duly executed and consummated;
- (2) it ruled that PNB breached its contractual obligation when it supposedly failed to release the remaining balance of the approved loan in the amount of P39,503,088.84 to the respondents even when the latter had not had a single history of payment and did not need the entire amount for the purpose-specific loan grant under the *Credit Agreement* and its *Amendments*;
- (3) upon a finding of breach of contractual obligation on the part of PNB due to its supposed unjustified release of a portion of the loan proceeds, it ruled for the annulment and cancellation of supplement to real mortgage (the accessory contract) yet ratiocinated that the Third Amendment (the principal contract) became unenforceable only to the extent of unreleased portion of the loan proceeds.^[18]

The Court's Ruling

PNB's assignment of errors boils down to the sole issue of whether the CA erred in annulling the mortgage contract constituted over the Greenhills property of the respondents.

PNB contends that the Supplement to REM was supported by sufficient and valuable consideration because the loan proceeds secured by it under the Third Amendment had been substantially released to the respondents. It avers that had it not been for the additional collateral over the Greenhills property, PNB would not have made the respondents' loan account current under the First Amendment. This consideration, according to it, must be deemed valuable and sufficient enough to uphold the validity of the Supplement to the REM.

PNB insists that there was no breach, substantial or otherwise, of its contractual obligation when it did not release the remaining balance of the approved loan to the respondents considering that the latter had no history of any payment either on interest or principal of the loan. PNB, thus, asserts that the CA erred when it affirmed the RTC in ordering the annulment and cancellation of the supplement REM covering the Greenhills property.

PNB's arguments fail to persuade.

Record shows that ERDI obtained loans from, and entered into, several credit agreements with PNB to finance the completion of the construction of its 20-storey condominium project, the Eduarosa Towers. Pertinent details of the said credit agreements are summarized as follows:

	Amount of Loan (P)	Grant	Date of Execution
Credit Agreement	60,000,000.00	Loan	March 5, 1991
	5,000,000.00	Domestic Bills Purchased (DBP)	
Amendment to Credit Agreement	40,000,000.00	Additional Loan	January 31, 1992
2nd Amendment to Credit Agreement	None	Extension of repayment dates of the loan and additional loan	October 28, 1992
3rd Amendment to Credit Agreement	55,000,000.00	Additional Loan	November 3, 1993

As recited earlier, on March 5, 1991, ERDI obtained from PNB a loan in the amount of P60,000,000.00 plus P5,000,000.00 Domestic Bills. To secure this initial loan, ERDI mortgaged in favor of PNB its Paranaque properties together with the 20-storey condominium building to be erected thereon.

Thereafter or on January 31, 1992, ERDI and PNB entered into The First Amendment wherein the former obtained an additional loan of P40,000,000.00. As security for the additional loan, the respondents' Greenhills property was mortgaged as evidenced by the Supplement to REM executed by the parties on January 28,