

## FIRST DIVISION

[ G.R. No. 182769, February 01, 2012 ]

**BANK OF THE PHILIPPINE ISLANDS, AS SUCCESSOR-IN-INTEREST OF FAR EAST BANK & TRUST COMPANY, PETITIONER,  
VS. CYNTHIA L. REYES, RESPONDENT.**

### D E C I S I O N

**LEONARDO-DE CASTRO, J.:**

This is a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure of the Decision<sup>[1]</sup> dated April 30, 2008 of the Court of Appeals in CA-G.R. CV No. 88004, entitled "*Bank of the Philippine Islands, as successor-in-interest of Far East Bank & Trust Company vs. Cynthia L. Reyes*" which reversed the Decision<sup>[2]</sup> dated November 3, 2005 of the Regional Trial Court (RTC) of Makati City, Branch 148 in Civil Case No. 03-180.

The background facts of this case, as summed by the trial court, follow:

This is an action for sum of money filed [b]y [p]laintiff Bank of the Philippine Islands, hereinafter referred to as BPI, as successor-in-interest of Far East Bank & Trust Company, referred hereto as Far East Bank, against defendant Cynthia L. Reyes, hereinafter referred to as defendant Reyes.

As alleged in the Complaint, defendant Reyes borrowed, renewed and received from Far East Bank the principal of Twenty Million Nine Hundred Thousand Pesos [sic] (P20,950,000.00). In support of such allegation, four promissory notes were presented during the course of the trial of the case. As security for the obligation, defendant Reyes executed Real Estate Mortgage Agreements involving twenty[-]two (22) parcels of land. When the debt became due and demandable, the defendant failed to settle her obligation and the plaintiff was constrained to foreclose the properties. As alleged, after due publication, the mortgaged properties were sold at public auction on December 20, 2001 by the Office of the Clerk of Court & Ex-Officio Sheriff of the Regional Trial Court of Malolos, Bulacan.

At the public auction, the mortgaged properties were awarded to BPI in consideration of its highest bid price amounting to Nine Million Thirty[-]Two Thousand Nine Hundred Sixty Pesos (P9,032,960.00). On said date, the obligation already reached Thirty Million Forty (sic) Hundred Twenty Thousand Forty[-]One & 67/100 Pesos (P30,420,041.67), inclusive of interest but excluding attorney's fees, publication and other charges. After applying the proceeds of the public

auction to the outstanding obligation, there remains to be a deficiency and defendant Reyes is still indebted, as of January 20, 2003, to the plaintiff in the amount of P24,545,094.67, broken down as follows:

|             |                |
|-------------|----------------|
| Principal   | P19,700,000.00 |
| Unsatisfied | 2,244,694.67   |
| Interest    |                |
| Interest    | 2,383,700.00   |
| Penalty     | 216,700.00     |
| TOTAL       | P24,545,094.67 |

Also included in the prayer of the plaintiff is the payment of attorney's fees of at least Five Hundred Thousand Pesos and the cost of suit.

In the Answer, the defendant claims that based on the plaintiff's appraisal of the properties mortgaged to Far East Bank, the twenty[-]two properties fetched a total appraisal value of P47,436,000.00 as of January 6, 1998. This appraisal value is evidenced by the Appraisal, which is attached as Annex 1 of the Answer. Considering the appraisal value and the outstanding obligation of the defendant, it appears that the mortgaged properties sold during the public auction are more than enough as payment to the outstanding obligation of the defendant.<sup>[3]</sup>

Subsequently, upon petitioner's motion, the trial court issued an Order<sup>[4]</sup> dated October 6, 2005 recognizing Asset Pool A (SPV-AMC), Inc. as substitute plaintiff in lieu of petitioner.

After due trial, the trial court rendered its Decision dated November 3, 2005, the dispositive portion of which states:

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiff BANK OF THE PHILIPPINE ISLANDS, as successor-in-interest of Far East Bank & Trust Company, and against defendant CYNTHIA L. REYES. Accordingly, the defendant is ordered:

1. To pay the plaintiff the amount of Php22,083,700.00, representing said defendant's outstanding obligation, plus interest at the rate of twelve percent (12%) per annum, computed from January 20, 2003 until the whole amount is fully paid;
2. To pay plaintiff the amount of Php200,000.00 as attorney's fees;
3. Costs of suit against the defendant.<sup>[5]</sup>

Respondent filed a motion for reconsideration but the same was denied by the trial court through an Order<sup>[6]</sup> dated January 9, 2006.

An appeal with the Court of Appeals was filed by respondent. This resulted in a

reversal of the trial court's judgment *via* an April 30, 2008 Decision by the Court of Appeals, the dispositive portion of which states:

WHEREFORE, the instant appeal is GRANTED. The assailed Decision dated November 3, 2005 is hereby REVERSED AND SET ASIDE.<sup>[7]</sup>

Aggrieved, petitioner filed the instant petition in which the following issues were put into consideration:

- A. WHETHER OR NOT THERE WAS DEFICIENCY WHEN RESPONDENT'S PROPERTY WHICH SHE SUPPOSEDLY VALUED AT P47,536,000.00 WAS SOLD AT THE EXTRA-JUDICIAL FORECLOSURE SALE AT ONLY [P9,032,960.00] BY PETITIONER;
- B. WHETHER OR NOT RESPONDENT'S PROPERTY WAS OVERVALUED WHEN IT WAS MORTGAGED TO FEBTC/BPI;
- C. WHETHER OR NOT RESPONDENT CAN RAISE THE ISSUE ON THE NULLITY OF THE EXTRA-JUDICIAL FORECLOSURE SALE IN AN ACTION FILED BY THE PETITIONER (CREDITOR-MORTGAGEE) FOR THE RECOVERY OF DEFICIENCY AND FOR THE FIRST TIME ON APPEAL;
- D. WHETHER OR NOT THE PRICE OF P9,032,960.00 FOR RESPONDENT'S PROPERTY AT THE EXTRAJUDICIAL FORECLOSURE SALE WAS UNCONCIONABLE OR SHOCKING TO THE CONSCIENCE OR GROSSLY INADEQUATE.
- E. WHETHER OR NOT THE PETITION RAISES QUESTIONS OF LAW AND THE QUESTIONS OF FACT RAISED FALL WITHIN THE EXCEPTIONS TO THE RULE THAT ONLY QUESTIONS OF LAW MAY BE REVIEWED BY THIS HONORABLE COURT UNDER RULE 45 OF THE RULES OF COURT.<sup>[8]</sup>

On the other hand, respondent submits the following issues:

Whether or not the Court of Appeals erred in ruling that there exists no deficiency owed by mortgagor-debtor as the mortgagee-creditor bank acquired the mortgaged property at the foreclosure sale worth P47,536,000 at only P9,032,960;

Whether or not the Court of Appeals erred in ruling that the properties of the respondent were not overvalued at P47,536,000;

Whether or not the Court of Appeals erred in entertaining the issue that the foreclosure sale was null and void;

Whether or not the Court of Appeals erred in ruling that the purchase

price of P9,032,000 at the foreclosure sale of respondent's mortgaged properties was unconscionable or grossly inadequate.<sup>[9]</sup>

After consideration of the issues and arguments raised by the opposing sides, the Court finds the petition meritorious.

Stripped of surplusage, the singular issue in this case is whether or not petitioner is entitled to recover the unpaid balance or deficiency from respondent despite the fact that respondent's property, which were appraised by petitioner's predecessor-in-interest at P47,536,000.00, was sold and later bought by petitioner in an extrajudicial foreclosure sale for only P9,032,960.00 in order to satisfy respondent's outstanding obligation to petitioner which, at the time of the sale, amounted to P30,420,041.67 inclusive of interest but excluding attorney's fees, publication and other charges.

There is no dispute with regard to the total amount of the outstanding loan obligation that respondent owed to petitioner at the time of the extrajudicial foreclosure sale of the property subject of the real estate mortgage. Likewise, it is uncontested that by subtracting the amount obtained at the sale of the property, a loan balance still remains. Petitioner merely contends that, contrary to the ruling of the Court of Appeals, it has the right to collect from the respondent the remainder of her obligation after deducting the amount obtained from the extrajudicial foreclosure sale. On the other hand, respondent avers that since petitioner's predecessor's own valuation of the subject property shows that its value is more than the amount of respondent's outstanding obligation, then respondent cannot be held liable for the balance especially because it was petitioner who bought the property at the foreclosure sale.

In the recent case of *BPI Family Savings Bank, Inc. v. Avenido*,<sup>[10]</sup> we reiterated the well-entrenched rule that a creditor is not precluded from recovering any unpaid balance on the principal obligation if the extrajudicial foreclosure sale of the property subject of the real estate mortgage results in a deficiency, to wit:

It is settled that if "the proceeds of the sale are insufficient to cover the debt in an extrajudicial foreclosure of mortgage, the mortgagee is entitled to claim the deficiency from the debtor. While Act No. 3135, as amended, does not discuss the mortgagee's right to recover the deficiency, neither does it contain any provision expressly or impliedly prohibiting recovery. If the legislature had intended to deny the creditor the right to sue for any deficiency resulting from the foreclosure of a security given to guarantee an obligation, the law would expressly so provide. Absent such a provision in Act No. 3135, as amended, the creditor is not precluded from taking action to recover any unpaid balance on the principal obligation simply because he chose to extrajudicially foreclose the real estate mortgage."<sup>[11]</sup>

Furthermore, we have also ruled in *Suico Rattan & Buri Interiors, Inc. v. Court of Appeals*<sup>[12]</sup> that, in deference to the rule that a mortgage is simply a security and cannot be considered payment of an outstanding obligation, the creditor is not