

FIRST DIVISION

[G.R. No. 164693, March 23, 2011]

JOSEFA S. ABALOS* AND THE DEVELOPMENT BANK OF THE PHILIPPINES, PETITIONERS, VS. SPS. LOMANTONG DARAPA AND SINAB DIMAKUTA, RESPONDENTS.

DECISION

PEREZ, J.:

The petitioner, Development Bank of the Philippines (DBP), files the present petition for review on *certiorari* via Rule 45 of the Rules of Court,^[1] asking us to reverse and set aside the Court of Appeals' decision in CA G.R. CV. No. 70693 dated 26 September 2003^[2] which affirmed the decision of the Regional Trial Court (RTC), Branch 3, Iligan City.^[3]

BACKGROUND FACTS

On 25 June 1962, petitioner DBP, Ozamis Branch, granted a P31,000.00 loan to respondent spouses Lomantong Darapa and Sinab Dimakuta (spouses) who executed therefore a real and chattel mortgage contract, which covered, among others, the following:

A warehouse to house the rice and corn mill, xxx constructed on a **357 square meter lot situated at poblacion, Linamon, Lanao del Norte** which lot is covered by Tax Declaration No. A-148 of Linamon, Lanao del Norte.

The equity rights, participation, and interest of the mortgagors over the above-mentioned **parcel of land** on which the bodega is constructed **situated in the Municipality of Linamon, Province of Lanao del Norte, containing an area of 357 square meters, more or less, declared for tax purposes in the name of Sinab Dimakuta** and assessed at P2.430.00 per Tax Declaration No. A-148 for the year 1961 and bounded as follows: on the North by Rafael Olaybar; on the South, by National Road[;] on the East by Ulpiano Jimenez; on the West, by Rafael Olaybar; of which property the mortgagors are in complete and absolute possession, xxx.

The aforesaid equity rights, participation and interest of the mortgagors in said parcel of land are **not registered** under the Spanish Mortgage Law nor under Act 496 and the parties hereto hereby agree that this instrument shall be registered under Act 3344, as amended.

It is further the agreement of the parties that immediately after the

mortgagors acquire absolute ownership of the land above-mentioned on which the aforementioned building is erected by means of a free or sales patent or any other title vesting them with ownership in fee simple, the Mortgagors shall execute a Real Estate Mortgage thereon in favor of the Mortgagee, the Development Bank of the Philippines, to replace and substitute only, this portion of the herein mortgage contract.^[4]

The assignment of the spouses' equity rights over the land covered by Tax Declaration No. A-148 in DBP's favor was embedded in the Deed of Assignment of Rights and Interests^[5] which the spouses executed simultaneous with the real and chattel mortgage contract.

In 1970, the spouses applied for the renewal and increase of their loan using Sinab Dimakuta's (Dimakuta) Transfer Certificate of Title (TCT) No. T-1,997 as additional collateral. The DBP disapproved the loan application without returning, however, Dimakuta's TCT.

When the spouses failed to pay their loan, DBP extrajudicially foreclosed the mortgages on 16 September 1971, which, unknown to the spouses, included the TCT No. T-1,997. The spouses failed to redeem the land under TCT No. T-1,997 which led to its cancellation, and, the eventual issuance of TCT No. T-7746 in DBP's name.

In 1984, the spouses discovered all these and they immediately consulted a lawyer who forthwith sent a demand letter to the bank for the reconveyance of the land. The bank assured them of the return of the land. In 1994, however, a bank officer told them that such is no longer possible as the land has already been bought by Abalos, daughter of the then provincial governor.

On 12 May 1994,^[6] the DBP sold the land to its co-petitioner Josefa Abalos (Abalos). The TCT No. T-7746 (originally TCT No. T-1,997) was cancelled and on 6 July 1994, T-16,280 was issued in Abalos' name.^[7]

On 20 August 1994,^[8] the spouses filed with the RTC of Iligan City, a Complaint for Annulment of Title, Recovery of Possession and Damages, against DBP and Abalos.^[9]

The spouses averred that TCT No. T-1,997 was not one of the mortgaged properties, and, thus, its foreclosure by DBP and its eventual sale to Abalos was null and void.

On the other hand, DBP countered that TCT No. T-1,997 had its roots in Tax Declaration No. A-148, which the spouses mortgaged with the DBP in 1962 as evidenced by the Real Estate Mortgage and the Deed of Assignment. Abalos, on her part, contended that she was an innocent purchaser for value who relied in good faith on the cleanliness of the DBP's Title.

The RTC, in a Decision dated 29 November 2000, annulled the DBP's foreclosure sale of the land under TCT No. T-1,997 and its sale to Abalos; further, it declared Dimakuta as the land's lawful owner. Thus:

WHEREFORE, premises all considered Judgment is hereby rendered:

1. **Declaring the foreclosure of TCT No. T-1,997**, the Sheriffs Certificate of Sale dated September 20, 1971 as far as TCT No. T-1,997 is concerned and the Affidavit of Consolidation of Ownership dated October 19, 1978, also insofar as it included TCT No. T-1,997 **null and void ab initio**;
2. **Annulling TCT No. T-7746 in the name of DBP and TCT No. T-16,280 in the name of defendant Josepha S. Abalos**;
3. Declaring plaintiff Sinab Dimakuta the lawful owner of the land covered by TCT No. T-1,997. For this purpose, the Registrar of Deeds of Lanao del Norte is ordered to reinstate TCT No. T-1,997 in the name of Sinab Dimakuta and perforce cancel TCT No. T-16,280 in the name of Josefa Abalos and the latter to surrender possession of the lot covered by TCT No. 1,997 to plaintiff Sinab Di[m]akuta;
4. Ordering DBP to pay plaintiffs P50,000.00 moral damages; P20,000.00 exemplary damages and P20,000.00 attorney's fees;
5. Directing DBP to pay defendant Josefa Abalos the current fair market value of TCT No. T-1,997 plus actual damages of P50,000.00; moral damages of P50,000.00, exemplary damages of P20,000.00 and attorney's fees of P20,000.00.^[10]

The DBP and Abalos assailed the RXC decision before the Court of Appeals; **Abalos, however, later abandoned her appeal.**

The Court of Appeals denied the petition in a Decision dated 26 September 2003. It ratiocinated that DBP had no right to foreclose the land under TCT No. T-1,997, it not having been mortgaged:^[11]

WHEREFORE, premises considered, the instant appeal is hereby **DISMISSED** for lack of merit. The assailed 29 November 2000 Decision of the court is hereby **AFFIRMED**.^[12]

Hence, this petition for review on *certiorari*.

In the main, DBP wants to convince this Court that the land covered by Tax Declaration No. A-148 mortgaged in 1962, then untitled, is the same land now covered by TCT No. T-1,997^[13] and that DBP came to its possession when the spouses voluntarily delivered the title in 1970 to the bank's manager, Tauti R. Derico, who executed an affidavit which stated that:

x x x the land covered by Tax Declaration No. A-148 and TCT No. T-1,997 are one and the same parcel of land which was mortgaged to the Development Bank of the Philippines.^[14]

OUR RULING

We find the petition unmeritorious, and thus, affirm the Court of Appeals.

It is fundamental procedural law that a petition for review on *certiorari* filed with this Court under Rule 45 of the Rules of Civil Procedure shall, as a general rule, raise only questions of law.^[15]

A question of law arises when there is doubt as to what the law is on a certain state of facts^[16] - this is in contradistinction from a question of fact which arises from doubt as to the truth or falsity of the alleged facts.^[17] A question of law does not involve an examination of the probative value of the evidence presented by the litigants or any of them and the resolution of the issue must rest solely on what the law provides on the given set of circumstances.^[19]

The DBP's insistence that TCT No. T-1,997 is the same land covered by Tax Declaration No. A-148 is to ask the Court to evaluate the pieces of evidence passed upon by the RTC and the Court of Appeals. To grant this petition will entail the Court's review and determination of the weight, credence, and probative value of the evidence presented at the trial court-matters which, without doubt, are factual and, therefore, outside the ambit of Rule 45.

Petitioners ought to remember that the Court of Appeals' factual findings, affirming that of the trial court, are final and conclusive on this Court and may not be reviewed on appeal, except for the most compelling of reasons, such as when: (1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the findings of absence of facts are contradicted by the presence of evidence on record; (8) the findings of the Court of Appeals are contrary to those of the trial court; (9) the Court of Appeals manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the Court of Appeals are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.

^[20] None of the exceptions is present in this petition.

In any event, we have meticulously reviewed the case's records and found no reason to disturb the findings of the RTC as affirmed by the Court of Appeals. The records reveal that the land covered by TCT No. T-1,997 was not among the properties, the spouses mortgaged with the DBP in 1962.^[21]

No less than the 1962 mortgage contract and its accompanying deed of assignment show that the land covered by Tax Declaration No. A-148 is located in Linamon, Lanao del Norte with an area of 357 square meters and bounded "on the north by Rafael Olaybar; on the south, by National Road; on the east by Ulpiano Jimenez; and, on the west, by Rafael Olaybar."^[22]

On the other hand, the land covered by TCT No. T-1,997 is situated in *Barrio Buru-*