

## SECOND DIVISION

[ G.R. No. 183575, April 11, 2011 ]

**SPOUSES ROGELIO MARCELO AND MILAGROS MARCELO,  
PETITIONERS, VS. LBC BANK, RESPONDENT.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

This petition for review<sup>[1]</sup> assails the 26 March 2008 Amended Decision<sup>[2]</sup> and 27 June 2008 Resolution<sup>[3]</sup> of the Court of Appeals in CA-G.R. SP No. 90166. In the 26 March 2008 Amended Decision, the Court of Appeals modified its original decision of 16 June 2006 and affirmed the trial court's decision of 1 December 2004 directing the issuance of a writ of possession in favor of respondent LBC Bank (LBC Bank). In the 27 June 2008 Resolution, the Court of Appeals denied reconsideration.

#### The Facts

On 16 April 1997, petitioners Spouses Rogelio and Milagros Marcelo (Spouses Marcelo) obtained a P3 million loan from LBC Bank. On 27 May 1998, Spouses Marcelo obtained another loan from LBC Bank in the amount of P2.3 million. The two loans were secured by a real estate mortgage over a parcel of land located in Baliuag, Bulacan and covered by Transfer Certificate of Title (TCT) No. N-64135 in the name of Spouses Marcelo.

Spouses Marcelo defaulted in the payment of their loans. Consequently, LBC Bank sought the extra-judicial foreclosure of the real estate mortgage on 15 October 1998.

On 21 October 1998, the Office of the Clerk of Court and the Ex-Officio Sheriff of Malolos, Bulacan, issued a Notice of Sheriff's Sale. After the posting and publication of the Notice of Sale, the mortgaged property was sold at a public auction on 25 November 1998. LBC Bank, being the highest bidder, was issued a Certificate of Sale, which was eventually registered with the Bulacan Registry of Deeds.

Spouses Marcelo failed to redeem the property within the prescribed period. As a result, on 5 December 2000, LBC Bank's Mecauyan Branch Manager, Ricardo B. Milan, Jr. (Milan), executed an Affidavit of Consolidation of Title, which was filed with the Bulacan Registry of Deeds. On 1 February 2001, Spouses Marcelo's title to the subject property was cancelled and TCT No. T-145323 was issued in LBC Bank's name.

On 12 October 2004, LBC Bank filed with the Regional trial Court of Bulacan, Branch 11, a petition<sup>[4]</sup> for the issuance of a writ of possession over the foreclosed

property.

### **The Trial Court's Ruling**

On 1 December 2004, the trial court rendered a decision, granting the petition and directing the issuance of a writ of possession in favor of LBC Bank, to wit:

WHEREFORE, finding the petition to be sufficient in form and substance and the allegations therein to be meritorious, the same is hereby GRANTED.

Let writ of possession in favor of LBC Bank be issued accordingly.

SO ORDERED.<sup>[5]</sup>

Spouses Marcelo moved for reconsideration, contending that LBC Bank's consolidation of title was invalid since the affidavit of consolidation was executed by Milan who was allegedly unauthorized to do so. Spouses Marcelo further argued that the petition for the issuance of a writ of possession was insufficient in form for being verified by one Rosario B. Aotriz who lacked authority to perform such act.

The trial court denied the motion for reconsideration in an Order dated 17 May 2005.<sup>[6]</sup>

Spouses Marcelo filed a petition for certiorari with the Court of Appeals. Spouses Marcelo claimed that the trial court gravely abused its discretion in directing the issuance of a writ of possession in favor of LBC Bank. Spouses Marcelo alleged that there was no evidence that Milan was the authorized representative of LBC Bank to consolidate ownership over the foreclosed property. Absent such evidence, Milan was allegedly unauthorized, and thus, there was no proper consolidation of title in favor of LBC Bank. Therefore, LBC Bank was not entitled to a writ of possession.

### **The Court of Appeals' Ruling**

On 16 June 2006, the Court of Appeals rendered a decision,<sup>[7]</sup> initially granting Spouses Marcelo' certiorari petition and disposing of the case as follows:

WHEREFORE, this petition for certiorari is GRANTED. Accordingly, the Decision dated December 1, 2004 and the Order dated May 17, 2005 of the Regional Trial Court of Bulacan, Branch 11 in P-525-2004 are hereby ANNULLED and SET ASIDE.

SO ORDERED.<sup>[8]</sup>

LBC Bank filed a motion for reconsideration,<sup>[9]</sup> attaching thereto the (1) Affidavit of Ma. Tara O. Aznar,<sup>[10]</sup> Chief Finance Officer of LBC Bank, attesting to the practice and policy of LBC Bank that Branch Managers are responsible for all accounts within their branch's jurisdiction with full authority to foreclose secured accounts and

consolidate ownership as may be warranted; (2) Secretary's Certificate,<sup>[11]</sup> dated 27 June 2006, expressly confirming and ratifying the "implied and apparent authority" of Milan to consolidate ownership over the subject property; and (3) Secretary's Certificate,<sup>[12]</sup> dated 1 July 2005, authorizing Ma. Tara O. Aznar, among others, to "act as authorized signatory in x x x Affidavit/s of Witness/es and other pleadings relevant to the cases of the Bank."

On 26 March 2008, the Court of Appeals rendered an Amended Decision granting the motion for reconsideration "in the interest of substantial justice." The Court of Appeals considered the documents submitted by LBC Bank, namely, the Affidavit of its Chief Finance Officer and the Secretary's Certificate, "showing that LBC Bank ratified the questioned consolidation of the subject property." The dispositive portion of the Amended Decision reads:

WHEREFORE, the June 16, 2006 Decision is hereby AMENDED. Accordingly, the petition for certiorari is DENIED. The assailed Decision dated December 1, 2004 and the Order dated May 17, 2005 of the Regional Trial Court of Bulacan, Branch 11 in P-525-2004 are AFFIRMED.

SO ORDERED.<sup>[13]</sup>

The Court of Appeals denied the motion for reconsideration in a Resolution dated 27 June 2008.

### **The Issue**

The sole issue in this case is whether the Court of Appeals can admit new evidence in a special civil action for certiorari.

### **The Ruling of the Court**

The petition lacks merit.

In their petition for certiorari before the Court of Appeals, Spouses Marcelo insisted that Milan had no authority to consolidate the title over the foreclosed property on behalf of LBC Bank.

On the other hand, LBC Bank claimed that Milan had such authority as indicated in the Secretary's Certificate dated 9 March 2000, which pertinently states that "the Board hereby confirms and ratifies the authority of [Milan] x x x to file and prosecute to its conclusion, criminal and civil cases for and in behalf of LBC Development Bank and to enter into compromise agreement or execute an affidavit of desistance upon final settlement of criminal/civil complaints/cases, as fully to all intents and purposes as might or could be lawfully done by this Bank;" x x x.

As stated, the Court of Appeals initially ruled in favor of Spouses Marcelo. However, upon submission by LBC Bank of documents expressly and unequivocally confirming and ratifying Milan's authority to consolidate the title over the foreclosed property, the Court of Appeals amended its original decision.