

THIRD DIVISION

[G.R. No. 193723, July 20, 2011]

**GENERAL MILLING CORPORATION, PETITIONER, VS. SPS.
LIBRADO RAMOS AND REMEDIOS RAMOS, RESPONDENTS.**

D E C I S I O N

VELASCO JR., J.:

The Case

This is a petition for review of the April 15, 2010 Decision of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 85400 entitled *Spouses Librado Ramos & Remedios Ramos v. General Milling Corporation, et al.*, which affirmed the May 31, 2005 Decision of the Regional Trial Court (RTC), Branch 12 in Lipa City, in Civil Case No. 00-0129 for Annulment and/or Declaration of Nullity of Extrajudicial Foreclosure Sale with Damages.

The Facts

On August 24, 1989, General Milling Corporation (GMC) entered into a Growers Contract with spouses Librado and Remedios Ramos (Spouses Ramos). Under the contract, GMC was to supply broiler chickens for the spouses to raise on their land in *Barangay Banaybanay*, Lipa City, Batangas. ^[1] To guarantee full compliance, the Growers Contract was accompanied by a Deed of Real Estate Mortgage over a piece of real property upon which their conjugal home was built. The spouses further agreed to put up a surety bond at the rate of PhP 20,000 per 1,000 chicks delivered by GMC. The Deed of Real Estate Mortgage extended to Spouses Ramos a maximum credit line of PhP 215,000 payable within an indefinite period with an interest of twelve percent (12%) per annum. ^[2]

The Deed of Real Estate Mortgage contained the following provision:

WHEREAS, the MORTGAGOR/S has/have agreed to guarantee and secure the full and faithful compliance of [MORTGAGORS'] obligation/s with the MORTGAGEE by a First Real Estate Mortgage in favor of the MORTGAGEE, over a 1 parcel of land and the improvements existing thereon, situated in the Barrio/s of Banaybanay, Municipality of Lipa City, Province of Batangas, Philippines, his/her/their title/s thereto being evidenced by Transfer Certificate/s No./s T-9214 of the Registry of Deeds for the Province of Batangas in the amount of TWO HUNDRED FIFTEEN THOUSAND (P 215,000.00), Philippine Currency, which the maximum credit line payable within a x x x day term and to secure the payment of the same plus interest of twelve percent (12%) per annum.

Spouses Ramos eventually were unable to settle their account with GMC. They alleged that they suffered business losses because of the negligence of GMC and its violation of the Growers Contract. [3]

On March 31, 1997, the counsel for GMC notified Spouses Ramos that GMC would institute foreclosure proceedings on their mortgaged property. [4]

On May 7, 1997, GMC filed a Petition for Extrajudicial Foreclosure of Mortgage. On June 10, 1997, the property subject of the foreclosure was subsequently sold by public auction to GMC after the required posting and publication. [5] It was foreclosed for PhP 935,882,075, an amount representing the losses on chicks and feeds exclusive of interest at 12% per annum and attorney's fees. [6] To complicate matters, on October 27, 1997, GMC informed the spouses that its Agribusiness Division had closed its business and poultry operations. [7]

On March 3, 2000, Spouses Ramos filed a Complaint for Annulment and/or Declaration of Nullity of the Extrajudicial Foreclosure Sale with Damages. They contended that the extrajudicial foreclosure sale on June 10, 1997 was null and void, since there was no compliance with the requirements of posting and publication of notices under Act No. 3135, as amended, or *An Act to Regulate the Sale of Property under Special Powers Inserted in or Annexed to Real Estate Mortgages*. They likewise claimed that there was no sheriff's affidavit to prove compliance with the requirements on posting and publication of notices. It was further alleged that the Deed of Real Estate Mortgage had no fixed term. A prayer for moral and exemplary damages and attorney's fees was also included in the complaint. [8] Librado Ramos alleged that, when the property was foreclosed, GMC did not notify him at all of the foreclosure. [9]

During the trial, the parties agreed to limit the issues to the following: (1) the validity of the Deed of Real Estate Mortgage; (2) the validity of the extrajudicial foreclosure; and (3) the party liable for damages. [10]

In its Answer, GMC argued that it repeatedly reminded Spouses Ramos of their liabilities under the Growers Contract. It argued that it was compelled to foreclose the mortgage because of Spouses Ramos' failure to pay their obligation. GMC insisted that it had observed all the requirements of posting and publication of notices under Act No. 3135. [11]

The Ruling of the Trial Court

Holding in favor of Spouses Ramos, the trial court ruled that the Deed of Real Estate Mortgage was valid even if its term was not fixed. Since the duration of the term was made to depend exclusively upon the will of the debtors-spouses, the trial court cited jurisprudence and said that "the obligation is not due and payable until an action is commenced by the mortgagee against the mortgagor for the purpose of having the court fix the date on and after which the instrument is payable and the date of maturity is fixed in pursuance thereto." [12]

The trial court held that the action of GMC in moving for the foreclosure of the

spouses' properties was premature, because the latter's obligation under their contract was not yet due.

The trial court awarded attorney's fees because of the premature action taken by GMC in filing extrajudicial foreclosure proceedings before the obligation of the spouses became due.

The RTC ruled, thus:

WHEREFORE, premises considered, judgment is rendered as follows:

1. The Extra-Judicial Foreclosure Proceedings under docket no. 0107-97 is hereby declared null and void;
2. The Deed of Real Estate Mortgage is hereby declared valid and legal for all intents and puposes;
3. Defendant-corporation General Milling Corporation is ordered to pay Spouses Librado and Remedios Ramos attorney's fees in the total amount of P 57,000.00 representing acceptance fee of P30,000.00 and P3,000.00 appearance fee for nine (9) trial dates or a total appearance fee of P 27,000.00;
4. The claims for moral and exemplary damages are denied for lack of merit.

IT IS SO ORDERED. ^[13]

The Ruling of the Appellate Court

On appeal, GMC argued that the trial court erred in: (1) declaring the extrajudicial foreclosure proceedings null and void; (2) ordering GMC to pay Spouses Ramos attorney's fees; and (3) not awarding damages in favor of GMC.

The CA sustained the decision of the trial court but anchored its ruling on a different ground. Contrary to the findings of the trial court, the CA ruled that the requirements of posting and publication of notices under Act No. 3135 were complied with. The CA, however, still found that GMC's action against Spouses Ramos was premature, as they were not in default when the action was filed on May 7, 1997. ^[14]

The CA ruled:

In this case, a careful scrutiny of the evidence on record shows that defendant-appellant GMC made no demand to spouses Ramos for the full payment of their obligation. While it was alleged in the Answer as well as in the Affidavit constituting the direct testimony of Joseph Dominise, the principal witness of defendant-appellant GMC, that demands were sent to spouses Ramos, the documentary evidence proves otherwise. A perusal

of the letters presented and offered as evidence by defendant-appellant GMC did not "demand" but only request spouses Ramos to go to the office of GMC to "discuss" the settlement of their account. [15]

According to the CA, however, the RTC erroneously awarded attorney's fees to Spouses Ramos, since the presumption of good faith on the part of GMC was not overturned.

The CA disposed of the case as follows:

WHEREFORE, and in view of the foregoing considerations, the Decision of the Regional Trial Court of Lipa City, Branch 12, dated May 21, 2005 is hereby AFFIRMED with MODIFICATION by deleting the award of attorney's fees to plaintiffs-appellees spouses Librado Ramos and Remedios Ramos. [16]

Hence, We have this appeal.

The Issues

- A. WHETHER [THE CA] MAY CONSIDER ISSUES NOT ALLEGED AND DISCUSSED IN THE LOWER COURT AND LIKEWISE NOT RAISED BY THE PARTIES ON APPEAL, THEREFORE HAD DECIDED THE CASE NOT IN ACCORD WITH LAW AND APPLICABLE DECISIONS OF THE SUPREME COURT.
- B. WHETHER [THE CA] ERRED IN RULING THAT PETITIONER GMC MADE NO DEMAND TO RESPONDENT SPOUSES FOR THE FULL PAYMENT OF THEIR OBLIGATION CONSIDERING THAT THE LETTER DATED MARCH 31, 1997 OF PETITIONER GMC TO RESPONDENT SPOUSES IS TANTAMOUNT TO A FINAL DEMAND TO PAY, THEREFORE IT DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS. [17]

The Ruling of this Court

Can the CA consider matters not alleged?

GMC asserts that since the issue on the existence of the demand letter was not raised in the trial court, the CA, by considering such issue, violated the basic requirements of fair play, justice, and due process. [18]

In their Comment, [19] respondents-spouses aver that the CA has ample authority to rule on matters not assigned as errors on appeal if these are indispensable or necessary to the just resolution of the pleaded issues.

In *Diamonon v. Department of Labor and Employment*, [20] We explained that an