

FIRST DIVISION

[G.R. No. 190755, November 24, 2010]

LAND BANK OF THE PHILIPPINES, PETITIONER, VS. ALFREDO ONG, RESPONDENT.

D E C I S I O N

VELASCO JR., J.:

This is an appeal from the October 20, 2009 Decision of the Court of Appeals (CA) in CA-G.R. CR-CV No. 84445 entitled *Alfredo Ong v. Land Bank of the Philippines*, which affirmed the Decision of the Regional Trial Court (RTC), Branch 17 in Tabaco City.

The Facts

On March 18, 1996, spouses Johnson and Evangeline Sy secured a loan from Land Bank Legazpi City in the amount of PhP 16 million. The loan was secured by three (3) residential lots, five (5) cargo trucks, and a warehouse. Under the loan agreement, PhP 6 million of the loan would be short-term and would mature on February 28, 1997, while the balance of PhP 10 million would be payable in seven (7) years. The Notice of Loan Approval dated February 22, 1996 contained an acceleration clause wherein any default in payment of amortizations or other charges would accelerate the maturity of the loan.^[1]

Subsequently, however, the Spouses Sy found they could no longer pay their loan. On December 9, 1996, they sold three (3) of their mortgaged parcels of land for PhP 150,000 to Angelina Gloria Ong, Evangeline's mother, under a Deed of Sale with Assumption of Mortgage. The relevant portion of the document^[2] is quoted as follows:

WHEREAS, we are no longer in a position to settle our obligation with the bank;

NOW THEREFORE, for and in consideration of the sum of ONE HUNDRED FIFTY THOUSAND PESOS (P150,000.00) Philippine Currency, we hereby these presents SELL, CEDE, TRANSFER and CONVEY, by way of sale unto ANGELINA GLORIA ONG, also of legal age, Filipino citizen, married to Alfredo Ong, and also a resident of Tabaco, Albay, Philippines, their heirs and assigns, the above-mentioned debt with the said LAND BANK OF THE PHILIPPINES, and by reason hereof they can make the necessary representation with the bank for the proper restructuring of the loan with the said bank in their favor;

That as soon as our obligation has been duly settled, the bank is

authorized to release the mortgage in favor of the vendees and for this purpose VENDEES can register this instrument with the Register of Deeds for the issuance of the titles already in their names.

IN WITNESS WHEREOF, we have hereunto affixed our signatures this 9th day of December 1996 at Tabaco, Albay, Philippines.

(signed)
EVANGELINE O. SY
Vendor

(signed)
JOHNSON B. SY
Vendor

Evangeline's father, petitioner Alfredo Ong, later went to Land Bank to inform it about the sale and assumption of mortgage.^[3] Atty. Edna Hingco, the Legazpi City Land Bank Branch Head, told Alfredo and his counsel Atty. Ireneo de Lumen that there was nothing wrong with the agreement with the Spouses Sy but provided them with requirements for the assumption of mortgage. They were also told that Alfredo should pay part of the principal which was computed at PhP 750,000 and to update due or accrued interests on the promissory notes so that Atty. Hingco could easily approve the assumption of mortgage. Two weeks later, Alfredo issued a check for PhP 750,000 and personally gave it to Atty. Hingco. A receipt was issued for his payment. He also submitted the other documents required by Land Bank, such as financial statements for 1994 and 1995. Atty. Hingco then informed Alfredo that the certificate of title of the Spouses Sy would be transferred in his name but this never materialized. No notice of transfer was sent to him.^[4]

Alfredo later found out that his application for assumption of mortgage was not approved by Land Bank. The bank learned from its credit investigation report that the Ongs had a real estate mortgage in the amount of PhP 18,300,000 with another bank that was past due. Alfredo claimed that this was fully paid later on. Nonetheless, Land Bank foreclosed the mortgage of the Spouses Sy after several months. Alfredo only learned of the foreclosure when he saw the subject mortgage properties included in a Notice of Foreclosure of Mortgage and Auction Sale at the RTC in Tabaco, Albay. Alfredo's other counsel, Atty. Madrilejos, subsequently talked to Land Bank's lawyer and was told that the PhP 750,000 he paid would be returned to him.^[5]

On December 12, 1997, Alfredo initiated an action for recovery of sum of money with damages against Land Bank in Civil Case No. T-1941, as Alfredo's payment was not returned by Land Bank. Alfredo maintained that Land Bank's foreclosure without informing him of the denial of his assumption of the mortgage was done in bad faith. He argued that he was lured into believing that his payment of PhP 750,000 would cause Land Bank to approve his assumption of the loan of the Spouses Sy and the transfer of the mortgaged properties in his and his wife's name.^[6] He also claimed incurring expenses for attorney's fees of PhP 150,000, filing fee of PhP 15,000, and PhP 250,000 in moral damages.^[7]

Testifying for Land Bank, Atty. Hingco claimed during trial that as branch manager she had no authority to approve loans and could not assure anybody that their assumption of mortgage would be approved. She testified that the breakdown of

Alfredo's payment was as follows:

PhP 101,409.59	applied to principal
216,246.56	accrued interests receivable
396,571.77	interests
18,766.10	penalties
16,805.98	accounts receivable

Total: 750,000.00	

According to Atty. Hingco, the bank processes an assumption of mortgage as a new loan, since the new borrower is considered a new client. They used character, capacity, capital, collateral, and conditions in determining who can qualify to assume a loan. Alfredo's proposal to assume the loan, she explained, was referred to a separate office, the Lending Center. [8]

During cross-examination, Atty. Hingco testified that several months after Alfredo made the tender of payment, she received word that the Lending Center rejected Alfredo's loan application. She stated that it was the Lending Center and not her that should have informed Alfredo about the denial of his and his wife's assumption of mortgage. She added that although she told Alfredo that the agreement between the spouses Sy and Alfredo was valid between them and that the bank would accept payments from him, Alfredo did not pay any further amount so the foreclosure of the loan collaterals ensued. She admitted that Alfredo demanded the return of the PhP 750,000 but said that there was no written demand before the case against the bank was filed in court. She said that Alfredo had made the payment of PhP 750,000 even before he applied for the assumption of mortgage and that the bank received the said amount because the subject account was past due and demandable; and the Deed of Assumption of Mortgage was not used as the basis for the payment. [9]

The Ruling of the Trial Court

The RTC held that the contract approving the assumption of mortgage was not perfected as a result of the credit investigation conducted on Alfredo. It noted that Alfredo was not even informed of the disapproval of the assumption of mortgage but was just told that the accounts of the spouses Sy had matured and gone unpaid. It ruled that under the principle of equity and justice, the bank should return the amount Alfredo had paid with interest at 12% per annum computed from the filing of the complaint. The RTC further held that Alfredo was entitled to attorney's fees and litigation expenses for being compelled to litigate. [10]

The dispositive portion of the RTC Decision reads:

WHEREFORE, premises considered, a decision is rendered, ordering defendant bank to pay plaintiff, Alfredo Ong the amount of P750,000.00 with interest at 12% per annum computed from Dec. 12, 1997 and attorney's fees and litigation expenses of P50,000.00.

Costs against defendant bank.

SO ORDERED.^[11]

The Ruling of the Appellate Court

On appeal, Land Bank faulted the trial court for (1) holding that the payment of PhP 750,000 made by Ong was one of the requirements for the approval of his proposal to assume the mortgage of the Sy spouses; (2) erroneously ordering Land Bank to return the amount of PhP 750,000 to Ong on the ground of its failure to effect novation; and (3) erroneously affirming the award of PhP 50,000 to Ong as attorney's fees and litigation expenses.

The CA affirmed the RTC Decision.^[12] It held that Alfredo's recourse is not against the Sy spouses. According to the appellate court, the payment of PhP 750,000 was for the approval of his assumption of mortgage and not for payment of arrears incurred by the Sy spouses. As such, it ruled that it would be incorrect to consider Alfredo a third person with no interest in the fulfillment of the obligation under Article 1236 of the Civil Code. Although Land Bank was not bound by the Deed between Alfredo and the Spouses Sy, the appellate court found that Alfredo and Land Bank's active preparations for Alfredo's assumption of mortgage essentially novated the agreement.

On January 5, 2010, the CA denied Land Bank's motion for reconsideration for lack of merit. Hence, Land Bank appealed to us.

The Issues

I

Whether the Court of Appeals erred in holding that Art. 1236 of the Civil Code does not apply and in finding that there is no novation.

II

Whether the Court of Appeals misconstrued the evidence and the law when it affirmed the trial court decision's ordering Land Bank to pay Ong the amount of PhP750,000.00 with interest at 12% annum.

III

Whether the Court of Appeals committed reversible error when it affirmed the award of PhP50,000.00 to Ong as attorney's fees and expenses of litigation.

The Ruling of this Court

We affirm with modification the appealed decision.

Recourse is against Land Bank

Land Bank contends that Art. 1236 of the Civil Code backs their claim that Alfredo should have sought recourse against the Spouses Sy instead of Land Bank. Art. 1236 provides:

The creditor is not bound to accept payment or performance by a third person who has no interest in the fulfillment of the obligation, unless there is a stipulation to the contrary.

Whoever pays for another may demand from the debtor what he has paid, except that if he paid without the knowledge or against the will of the debtor, he can recover only insofar as the payment has been beneficial to the debtor.

We agree with Land Bank on this point as to the first part of paragraph 1 of Art. 1236. Land Bank was not bound to accept Alfredo's payment, since as far as the former was concerned, he did not have an interest in the payment of the loan of the Spouses Sy. However, in the context of the second part of said paragraph, Alfredo was not making payment to fulfill the obligation of the Spouses Sy. Alfredo made a conditional payment so that the properties subject of the Deed of Sale with Assumption of Mortgage would be titled in his name. It is clear from the records that Land Bank required Alfredo to make payment before his assumption of mortgage would be approved. He was informed that the certificate of title would be transferred accordingly. He, thus, made payment not as a debtor but as a prospective mortgagor. But the trial court stated:

[T]he contract was not perfected or consummated because of the adverse finding in the credit investigation which led to the disapproval of the proposed assumption. There was no evidence presented that plaintiff was informed of the disapproval. What he received was a letter dated May 22, 1997 informing him that the account of spouses Sy had matured but there [were] no payments. This was sent even before the conduct of the credit investigation on June 20, 1997 which led to the disapproval of the proposed assumption of the loans of spouses Sy.^[13]

Alfredo, as a third person, did not, therefore, have an interest in the fulfillment of the obligation of the Spouses Sy, since his interest hinged on Land Bank's approval of his application, which was denied. The circumstances of the instant case show that the second paragraph of Art. 1236 does not apply. As Alfredo made the payment for his own interest and not on behalf of the Spouses Sy, recourse is not against the latter. And as Alfredo was not paying for another, he cannot demand from the debtors, the Spouses Sy, what he has paid.

Novation of the loan agreement

Land Bank also faults the CA for finding that novation applies to the instant case. It reasons that a substitution of debtors was made without its consent; thus, it was not bound to recognize the substitution under the rules on novation.