

SECOND DIVISION

[G.R. No. 165836, February 18, 2009]

**PHILIPPINE NATIONAL BANK, PETITIONER, VS. ADELA SIA AND
ROBERT NGO, RESPONDENTS.**

D E C I S I O N

QUISUMBING, J.:

This petition for review seeks to set aside the Decision^[1] dated July 31, 2003 and the Resolution^[2] dated October 28, 2004 of the Court of Appeals in CA-G.R. CV No. 49806.

The antecedents of the case, as culled from the records, are:

Midcom Interline Development Corporation (MIDCOM) was the registered owner of a 349-square meter lot with a ten-door apartment located at the corner of Alvarez and Oroquieta Streets in Sta. Cruz, Manila, and covered by Transfer Certificate of Title (TCT) No. 156156.^[3] On August 20, 1984, MIDCOM signed a Contract to Sell^[4] the property to the spouses Felicisimo and Myrna Galicia (Galicias) for the amount of P480,000, with the agreement that P150,000 be given upon the execution of the contract and the remaining P330,000 be paid in three monthly installments. Out of the purchase price of P480,000, the Galicias left an unpaid balance of P70,000.

The subject property was again sold by MIDCOM to Apolonia Sia Ngo and respondent Adela Sia for P630,000, as evidenced by a Deed of Absolute Sale^[5] dated October 1, 1984. Thereafter, on October 9, 1984, the Galicias received a letter^[6] that MIDCOM had already rescinded their Contract to Sell.^[7]

On October 22, 1984, the Galicias filed before the Regional Trial Court (RTC) of Manila, Branch 29, a complaint^[8] against MIDCOM and its president, Miguel G. Say, Jr., Apolonia Sia Ngo, and the Register of Deeds of Manila for Specific Performance and Damages with Prayer for Injunction. The complaint, docketed as Civil Case No. 84-27347, sought to compel MIDCOM to execute a Deed of Sale in the Galicias' favor upon payment of the balance of the purchase price. The Galicias also caused the annotation of a notice of *lis pendens* at the back of TCT No. 156156 on February 12, 1985.^[9]

On February 26, 1985, TCT No. 156156 registered to MIDCOM was cancelled, and TCT No. 164726^[10] was issued in the names of "Apolonia S. Ngo, married to Robert Ngo, and Adela Sia," despite a temporary restraining order issued by the RTC of Manila, Branch 29, enjoining the registration of the Deed of Sale and the issuance of a new title on the property.

On October 7, 1986, the RTC of Manila, Branch 29 decided Civil Case No. 84-27347 in favor of the Galicias, as follows:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs against the defendants:

- (1) Ordering defendant Midcom thru Miguel Say to execute the Deed of Absolute Sale in favor of plaintiffs upon payment of the balance of the purchase price of the land in the amount of P70,000.00, and to deliver the duplicate owner's copy of the title over the land in question to the plaintiffs as well as such other documents necessary for the transfer or conveyance thereof to the plaintiffs;
- (2) Ordering defendants Apolonia Ngo and all other persons claiming rights under them to turn over and deliver the duplicate original of the title over the lot in dispute to plaintiffs and to convey the property to them;
- (3) Ordering defendant Register of Deeds of Manila to issue the title in the name of plaintiffs over the premises in question and to cancel the title in the name of Apolonia Ngo and other persons;
- (4) Declaring the adverse claim of Apolonia Ngo as void and of no effect;
- (5) Ordering the Register of [Deeds of] Manila or its deputy to cancel the adverse claim of Apolonia Ngo as appearing in the title of the lot in question;
- (6) Ordering the defendants Midcom thru Miguel Say and Apolonia Ngo to pay jointly and severally the plaintiffs the sum of P100,000.00 as moral damages, and P50,000.00 as exemplary damages;
- (7) Ordering the defendants Midcom, Miguel Say and Apolonia Ngo to pay jointly and severally the plaintiffs the sum of P30,000.00 attorney's fees;
- (8) Respondents Miguel Say, Apolonia Ngo and the Register of Deeds of Manila are hereby declared in contempt of court and are hereby fined P100.00 each with subsidiary imprisonment in case of insolvency for violation of the restraining order;
- (9) Ordering defendants to pay the costs.

SO ORDERED.^[11]

Upon finality of the said decision, a writ of execution^[12] was issued by the RTC of Manila, Branch 29 on August 16, 1990. TCT No. 164726 was cancelled and TCT No. 195378^[13] in the name of the Galicias was issued by the Register of Deeds of Manila on January 22, 1991.

On January 23, 1991, the Galicias and petitioner Philippine National Bank (PNB) signed a contract of real estate mortgage^[14] over the property to secure a loan for P5,000,000 which the Galicias had taken.

On February 29, 1991, Apolonia Ngo and respondents Adela Sia and Robert Ngo filed with the Court of Appeals a petition^[15] for certiorari and prohibition praying that the decision in Civil Case No. 84-27347 be declared void on the ground of lack of jurisdiction, for failure to implead therein the respondents Adela Sia and Robert Ngo as indispensable parties. The petition was docketed as CA-G.R. SP No. 22889. Being insufficient in form and substance, however, the petition was denied due course on March 11, 1991.^[16] Apolonia Ngo and respondents' first and second motions for reconsideration were likewise denied by the appellate court in its Resolutions dated May 31, 1991 and June 14, 1991.^[17]

Thereafter, on August 2, 1991, respondents Adela Sia and Robert Ngo, claiming that their title to the subject property was beclouded by the decision and writ issued in Civil Case No. 84-27347, and joining an unwilling Apolonia as compulsory plaintiff, instituted a complaint^[18] for quieting of title and/or reconveyance, damages, and annulment of judgment with prayer for restraining order and/or preliminary injunction before the RTC of Manila, Branch 3 against the Galicias, the City Sheriff of Manila, the Sheriff of Branch 29 of the RTC of Manila, the Register of Deeds, and MIDCOM. The complaint, docketed as Civil Case No. 91-58130, was later amended by deleting therein the action for annulment of judgment.

On August 27, 1991, respondent Adela Sia, joining respondent Robert Ngo and his wife, Apolonia Ngo as compulsory petitioners, also filed a petition^[19] for annulment of judgment before the Court of Appeals. The petition, docketed as CA-G.R. SP No. 25819, likewise sought the nullification of the same decision and writ of execution issued in Civil Case No. 84-27347 allegedly for lack of jurisdiction for non-inclusion of Adela Sia who was an indispensable party. However, the Court of Appeals dismissed the petition for failure to state a cause of action.^[20] The appellate court held that respondent Adela Sia had no right to the subject property at the time the complaint in Civil Case No. 84-27347 was filed since her claim as registered co-owner of the property arose only during the pendency of the case. Respondent Adela Sia moved for reconsideration, but it was denied in the November 27, 1991 Resolution^[21] of the Court of Appeals. Not dissuaded by the dismissal, she elevated the case to this Court via petition for review, docketed as G.R. No. 103054.^[22] This Court, however, also denied the petition, as well as the motions for reconsideration, and ordered that an entry of judgment be made in due course.^[23]

The complaint lodged before Branch 3 of the RTC of Manila and docketed as Civil Case No. 91-58130 was amended for the second time by impleading PNB as a party defendant for having accepted the subject property as one of the collaterals in the loan it extended to the Galicias. Respondents claim that the mortgage of the land to PNB was in bad faith since PNB accepted the subject property as collateral to the loan obtained by the Galicias when the title of the property was still in the respondents' names. They claim that they are entitled to have TCT No. 164726 restored and reinstated and to have all the entries and annotations of adverse claim, mortgage lien, and notice of *lis pendens* on their title removed so as to quiet their title thereto.

On August 29, 1994, the RTC of Manila, Branch 3, rendered judgment in Civil Case No. 91-58130, holding that the action is barred by *res judicata* since the issues raised therein had already been answered with finality by the decision in Civil Case No. 84-27347. However, the trial court held that respondents are entitled to recover from MIDCOM the purchase price of P630,000 plus legal rate of interest from October 1, 1984, and attorney's fees in the amount of P20,000.^[24] The dispositive portion of the decision states:

WHEREFORE, judgment is rendered:

1. Ordering MIDCOM Corporation to pay plaintiff the sum of P630,000.00 plus legal rate of interest from October 1, 1984 and attorney's fees in the amount of P20,000.00.
2. Dismissing plaintiffs' complaint against defendants Felicisimo Galicia and Myrna Galicia.
3. Dismissing plaintiffs' complaint against PNB.

As to counterclaim:

4. Plaintiffs are hereby ordered jointly and solidarily to pay defendants Felicisimo and Myrna Galicia the sum of P20,000.00 as attorney's fees plus costs of litigation.
5. Plaintiffs are hereby ordered jointly and solidarily to pay defendant PNB the sum of P20,000.00 as attorney's fees plus cost of litigation.

All other claims and counterclaims are hereby dismissed.

SO ORDERED.^[25]

On March 8, 1995,^[26] the trial court denied respondents' motion for reconsideration. The respondents elevated the case before the Court of Appeals, where it was docketed as CA-G.R. CV No. 49806.

On July 31, 2003, the Court of Appeals reversed the ruling of the court *a quo* as follows:

WHEREFORE, the appeal is **GRANTED** and the assailed Decision is **REVERSED** and **SET ASIDE**. In its stead[,] judgment is rendered:

1. Declaring Apolonia S. Ngo, married to Robert Ngo, and Adela Sia as co-owners of the litigated lot and its improvements;
2. Ordering the Register of Deeds of Manila to recall and cancel TCT No. 195378 in the names of the Galicias and to restore and reinstate TCT No. 164726 in the names of Apolonia S. Ngo, married to Robert Ngo, and Adela Sia; and
3. Ordering the Register of Deeds of Manila to cancel and remove all pertinent notices/annotations of adverse claim, *lis pendens*,

mortgage and liens on TCT No. 164726.

SO ORDERED.^[27]

The appellate court held that what was entered into by MIDCOM and the Galicias was a mere contract to sell. Accordingly, MIDCOM remained the owner of the disputed property and could unilaterally rescind the contract to sell when the Galicias failed to pay the balance of the purchase price. The appellate court likewise held that for failure to implead an indispensable party, the judgment in Civil Case No. 84-27347 cannot bind respondent Adela Sia, who was a co-owner holding a one-half pro-indiviso share of the property.

Further, the Court of Appeals held that PNB was a mortgagee in bad faith. It noted that while the Real Estate Mortgage and Credit Agreement was entered into only on January 23, 1991 or a day after TCT No. 195378 in the name of the Galicias was issued on January 22, 1991, the loan application offering the subject property as collateral was dated November 29, 1990 and the PNB Rizal Avenue branch recommended its approval on December 14, 1990. It held that PNB committed lapses when it acted on the offer of the Galicias to secure their loan with a mortgage on a property covered by TCT No. 195378, since said title was still inexistent at the time, having been issued only on January 22, 1991. If PNB had indeed conducted an investigation as it claimed it did, then PNB would have discovered this fact.

PNB^[28] and the Galicias^[29] separately moved for reconsideration of the Court of Appeals decision, but the Court of Appeals denied their motions in its assailed Resolution dated October 28, 2004.^[30]

Hence, the instant petition where PNB alleges that the Court of Appeals committed serious error in

I.

...ORDERING THE [REGISTER OF DEEDS] OF MANILA TO RECALL AND CANCEL TCT NO. 195378 IN THE NAMES OF THE GALICIAS AND TO RESTORE AND REINSTATE TCT NO. 164726 IN THE NAMES OF APOLONIA S. NGO, MARRIED TO ROBERT NGO, AND ADELA SIA.

II.

...RULING THAT PETITIONER PNB IS A MORTGAGEE IN BAD FAITH.

III.

...ORDERING THE CANCELLATION AND REMOVAL OF ALL PERTINENT NOTICES/ANNOTATIONS OF ADVERSE CLAIM, *LIS PENDENS*, MORTGAGE AND LIENS ON TCT NO. 164726.^[31]

Essentially, the issues for our resolution are: (1) whether Civil Case No. 91-58130 is barred by *res judicata*; and (2) whether PNB is a mortgagee in bad faith.

PNB argues that *res judicata* applies in the present case. It maintains that the facts in the action for quieting of title (Civil Case No. 91-58130) are also the very same