

## FIRST DIVISION

[ G.R. No. 167058, July 09, 2008 ]

**PHILIPPINE NATIONAL BANK, PETITIONER, VS. SPOUSES TOMAS CABATINGAN AND AGAPITA EDULLANTES REPRESENTED BY RAMIRO DIAZ AS THEIR ATTORNEY-IN-FACT, RESPONDENTS.**

### R E S O L U T I O N

#### **CORONA, J.:**

Respondent spouses Tomas Cabatingan and Agapita Edullantes obtained two loans, secured by a real estate mortgage,<sup>[1]</sup> in the total amount of P421,200<sup>[2]</sup> from petitioner Philippine National Bank. However, they were unable to fully pay their obligation despite having been granted more than enough time to do so.<sup>[3]</sup> Thus, on September 25, 1991, petitioner extrajudicially foreclosed on the mortgage pursuant to Act 3135.<sup>[4]</sup>

Thereafter, a notice of extrajudicial sale<sup>[5]</sup> was issued stating that the foreclosed properties would be sold at public auction on November 5, 1991 between 9:00 a.m. and 4:00 p.m. at the main entrance of the office of the Clerk of Court on San Pedro St., Ormoc City.

Pursuant to the notice, the properties were sold at public auction on November 5, 1991. The auction began at 9:00 a.m. and was concluded after 20 minutes with petitioner as the highest bidder.<sup>[6]</sup>

On March 16, 1993, respondent spouses filed in the Regional Trial Court (RTC) of Ormoc City, Branch 12 a complaint for annulment of extrajudicial foreclosure of real estate mortgage and the November 5, 1991 auction sale.<sup>[7]</sup> They invoked Section 4 of Act 3135 which provides:

Section 4. The sale shall be made at public auction, **between the hours of nine in the morning and four in the afternoon**, and shall be under the direction of the sheriff of the province, the justice or auxiliary justice of peace of the municipality in which such sale has to be made, or of a notary public of said municipality, who shall be entitled to collect a fee of Five pesos for each day of actual work performed, in addition to his expenses. (emphasis supplied)

Petitioners claimed that the provision quoted above must be observed strictly. Thus, because the public auction of the foreclosed properties was held for only 20 minutes (instead of seven hours as required by law), the consequent sale was void.

On November 4, 2004, the RTC issued an order<sup>[8]</sup> annulling the November 5, 1991 sale at public auction. It held:

[T]he rationale behind the holding of auction sale between the hours of 9:00 in the morning and 4:00 in the afternoon of a particular day as mandated in Section 4 of Act 3135 is to give opportunity to more would-be bidders to participate in the auction sale thus giving the judgment-debtor more opportunity to recover the value of his or her property subject of the auction sale.

Petitioner moved for reconsideration but it was denied in an order dated February 7, 2005.<sup>[9]</sup> Hence, this petition.

The issue here is whether a sale at public auction, to be valid, must be conducted *the whole day* from 9:00 a.m. until 4:00 p.m. of the scheduled auction day.

Petitioner contends that the RTC erred in interpreting Section 4 of Act 3135. The law only prohibits the conduct of a sale at any time before nine in the morning and after four in the afternoon. Thus, a sale held within the intervening period (*i.e.*, at any time between 9:00 a.m. and 4:00 p.m.), regardless of duration, is valid.

We grant the petition.

We note that neither the previous rule (Administrative Order No. 3)<sup>[10]</sup> nor the current rules (A.M. No. 99-10-05-O, as amended, and the guidelines for its enforcement, Circular No. 7-2002)<sup>[11]</sup> governing the conduct of foreclosure proceedings provide a clear answer to the question at hand.

Statutes should be sensibly construed to give effect to the legislative intention.<sup>[12]</sup> Act 3135 regulates the extrajudicial sale of mortgaged real properties<sup>[13]</sup> by prescribing a procedure which effectively safeguards the rights of both debtor and creditor. Thus, its construction (or interpretation) must be equally and mutually beneficial to both parties.

Section 4 of Act 3135 provides that the sale must take place **between the hours of nine in the morning and four in the afternoon**. Pursuant to this provision, Section 5 of Circular No. 7-2002 states:

Section 5. Conduct of extrajudicial foreclosure sale—

- a. **The bidding shall be made through sealed bids which must be submitted to the Sheriff who shall conduct the sale between the hours of 9 a.m. and 4 p.m. of the date of the auction** (Act 3135, Sec. 4).<sup>[14]</sup> The property mortgaged shall be awarded to the party submitting the highest bid and, in case of a tie, an open bidding shall be conducted between the highest bidders. Payment of the winning bid shall be made in either cash or in manager's check, in Philippine Currency, within five (5) days from notice. (emphasis supplied)

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A creditor may foreclose on a real estate mortgage only if the debtor fails to pay the principal obligation when it falls due.<sup>[15]</sup> Nonetheless, the foreclosure of a mortgage does not *ipso facto* extinguish a debtor's obligation to his creditor. The proceeds of a