

THIRD DIVISION

[G.R. No. 170606, November 23, 2007]

**LCK INDUSTRIES INC., CHIKO LIM AND ELIZABETH T. LIM,
PETITIONERS, VS. PLANTERS DEVELOPMENT BANK,
RESPONDENT.**

DECISION

CHICO-NAZARIO, J.:

Before this Court is the Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court filed by petitioners LCK Industries Inc. (LCK), Chiko Lim and Elizabeth Lim, seeking the reversal and the setting aside of the Decision^[1] dated 1 April 2005 and the Resolution^[2] dated 29 November 2005 of the Court of Appeals in CA-G.R. CV No. 73944. The appellate court, in its assailed Decision and Resolution, reversed the Decision^[3] of the Regional Trial Court (RTC) of Quezon City, Branch 81, dated 3 September 2001, in Civil Case No. Q-98-33835, which found respondent Planters Development Bank (respondent bank) liable for the amount of P1,856,416.67, representing overpayment.

Petitioner LCK is a domestic corporation duly organized and existing as such under Philippine laws.^[4]

Respondent bank is a banking institution duly authorized to engage in banking business under Philippine laws.^[5]

On 1 September 1995, petitioner LCK obtained a loan from the respondent bank in the amount of P3,000,000.00 as evidenced by two promissory notes.^[6]

As a security for the loan obligation, petitioners-spouses Chiko and Elizabeth Lim executed a Real Estate Mortgage over a parcel of land covered by Transfer Certificate of Title (TCT) No. T-138623, registered under their names and located at Quezon City, with an area of 68 square meters (Quezon City property).^[7] Later on, to secure the same obligation, another Real Estate Mortgage was executed over another parcel of land covered by TCT No. T-62773, also registered under the names of the petitioner-spouses, with an area of 71 square meters located at Baguio City (Baguio City property).^[8]

Subsequently, petitioner LCK incurred default in its payment; thus, making the obligation due and demandable. Several demands were thereafter made by the respondent bank to no avail.^[9] On 13 October 1997, a final letter-demand was sent by respondent bank to petitioner LCK asking for the payment of its obligation in the amount of P2,962,500.00. Such final demand notwithstanding, petitioner LCK failed or refused to pay its obligation.

Consequently, respondent bank caused the extrajudicial foreclosure of the Baguio City property which was sold at the public auction for P2,625,000.00 as shown in the Certificate of Sale^[10] dated 29 January 1998. Since the proceeds of the foreclosed Baguio City property were not enough to satisfy the entire loan obligation which amounted to P2,962,500.00, respondent bank further caused the extrajudicial foreclosure of the Quezon City property. As evidenced by the Certificate of Sale^[11] dated 18 March 1998, signed by Notary Public Atty. Allene Anigan (Atty. Anigan), the foreclosed Quezon City property was sold at a public auction for P2,231,416.67. The respondent bank was the highest bidder on both occasions.

Prior to the auction sale of the Quezon City property on 18 March 1998, petitioners, on 12 March 1998, filed with the RTC of Quezon City, Branch 81, an action for Annulment of the Foreclosure of Mortgage and Auction Sale of the Quezon City property with Restraining Order/Preliminary Injunction and with Damages against respondent bank and Atty. Anigan.^[12] The case was docketed as Civil Case No. Q-98-33835.

In their Complaint,^[13] petitioners alleged that respondent bank failed to comply with the posting and publication requirements as well as with the filing of the Petition for the Extrajudicial Foreclosure of the Real Estate Mortgage with the Clerk of Court as required by Act No. 3135.^[14] Petitioners prayed for the issuance of temporary restraining order (TRO) in order to enjoin the respondent bank from conducting the auction sale, and in the alternative, to enjoin the Registry of Deeds of Quezon City from transferring the ownership of the Quezon City property to the purchaser at the auction sale.

In its Answer with the Opposition to the Prayer for the Issuance of Temporary Restraining Order (TRO), respondent bank averred that it had fully observed the posting and publication requirements of Act No. 3135. It insisted that the filing of the Petition for Extrajudicial Foreclosure of the Mortgage Property with the Notary Public was sanctioned by the same statute. Respondent bank thus prayed for the dismissal of petitioners' complaint for lack of merit.^[15]

For failure of the counsels for both petitioners and respondent bank to appear in the scheduled hearing for the issuance of temporary restraining order, the RTC, in an Order dated 15 May 1998, deemed the prayer for TRO abandoned.^[16]

Thereafter, the RTC conducted a pre-trial conference. In the Pre-Trial Order^[17] dated 8 September 2000, the parties made the following admissions and stipulations:

- (1) the real estate mortgage executed by the plaintiffs in favor of the defendant bank covers the loan obligation in the total amount of P3,000,000.00;
- (2) there were two promissory notes executed by the plaintiffs: one for P2,700,000.00 and another for P300,000.00;
- (3) a demand letter dated 13 October 1997 was sent to petitioner LCK by respondent bank stating that the remaining balance of petitioner LCK's loan obligation was P2,962,500.00 as of 13 October 1997;

(4) a Notice of Auction Sale by Notary Public was made by the respondent bank in foreclosing the Baguio City property, and in the Certificate of Sale issued by the Notary Public, the respondent bank bid P2,625,000.00 for the property;

(5) the respondent bank also foreclosed the real estate mortgage over the petitioners' Quezon City property on 18 March 1998 and said defendant bank bid P2,231,416.67 for the property;

(6) the foreclosure of petitioners' Quezon City property was made by a notary public;

(7) the petition for foreclosure was not included in the raffle of judicial notice;

(8) the petitioners failed to fully pay their loan obligation as of 13 October 1997 in the amount of P962,500.00; and

(9) despite the demands, petitioners failed to pay their due obligations.

The court further defined the issues as follows:

(1) whether or not the petition was filed with the Office of the Clerk of Court;

(2) whether or not the extra-judicial foreclosure of real estate mortgage by defendant bank was made in accordance with the provisions of Act 3135, as amended; and

(3) whether or not the parties are entitled to their respective claims for attorney's fees and damages.^[18]

The parties were given 15 days from receipt of the Pre-Trial Order to make amendments or corrections thereon.

On 18 April 2001, the parties agreed to submit the case for the decision of the RTC based on the stipulations and admissions made at the pre-trial conference. The parties further manifested that they were waiving their respective claims for attorney's fees. On the same day, the RTC required the parties to submit their respective memoranda.^[19]

In their Memorandum,^[20] petitioners, aside from reiterating issues previously raised in their Complaint, further claimed that there was an overpayment of the loan obligation by P1,856,416.67. As shown in the letter-demand dated 13 October 1997 received by petitioner LCK, its outstanding loan obligation amounted to P2,962,500.00. The Baguio City property was purchased by respondent bank at the public auction for P2,625,000.00, while the Quezon City property was purchased for P2,231,416.67.

For its part, respondent bank maintained in its Memorandum^[21] that the complaint filed by petitioners is devoid of merit. It further asseverated that petitioners' claim for overpayment was not among the issues submitted for the resolution of the RTC. It is clear from the Pre-Trial Order that the issues to be resolved are limited to

whether the petition for the foreclosure of the real estate mortgage was filed before the Clerk of Court and whether or not the extrajudicial foreclosure of real estate mortgage was made by the respondent bank in accordance with the provisions of Act No. 3135. For failure of petitioners to promptly raise the alleged overpayment, the RTC is now barred from adjudicating this issue.

On 3 September 2001, the RTC rendered its Decision^[22] declaring the foreclosure and the auction sale of the Quezon City property legal and valid, but ordered respondent bank to return the overpayment made by petitioners in the amount of P1,856,416.67. The dispositive portion of the RTC Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. Declaring the extra-judicial foreclosure and auction sale of the Quezon City property of plaintiffs LCK Industries, Inc., Chiko Lim and Elizabeth Lim subject of this case legal and valid;
2. Ordering defendant Planters Development Bank to pay to plaintiffs the amount of P1,856,416.67 representing overpayment;
3. Dismissing plaintiffs' claim for attorney's fees and other litigation expenses;
4. Dismissing the case against defendant Atty. Allene M. Anigan; and
5. Dismissing the counterclaims of defendants Planters Development Bank and Atty. Arlene M. Anigan.^[23]

For lack of merit, the Motion for Reconsideration filed by the respondent bank was denied by the RTC in its Order dated 3 December 2001.^[24]

Aggrieved, respondent bank elevated the matter to the Court of Appeals by assailing the portion of the RTC Decision ordering it to pay petitioners the amount of P1,856,416.67 representing the alleged overpayment. The respondent bank's appeal was docketed as CA-G.R. CV No. 73944.^[25]

On 1 April 2005, the Court of Appeals granted the appeal of the respondent bank and partially reversed the RTC Decision insofar as it ordered respondent bank to pay the overpaid amount of P1,856,416.67 to petitioners. In deleting the award of overpayment, the appellate court emphasized that the primary purpose of pre-trial is to make certain that all issues necessary for the disposition of the case are properly raised in order to prevent the element of surprise. Since the alleged overpayment was only raised by the petitioners long after the pre-trial conference, the court *a quo* cannot dispose of such issue without depriving the respondent bank of its right to due process.^[26]

The Motion for Reconsideration filed by petitioners was denied by the Court of Appeals in its Resolution^[27] dated 29 November 2005.

Petitioners are now before this Court via a Petition for Review on *Certiorari*,^[28]

under Rule 45 of the Revised Rules of Court, assailing the Court of Appeals Decision and raising the following issues as grounds:

I.

WHETHER OR NOT THE EXCESS AMOUNT OF P1,893,916.67 WHICH THE RESPONDENT BANK ACQUIRED FROM THE AUCTION SALE OF THE PETITIONERS' PROPERTIES SHALL BE RETURNED TO THEM.

II.

WHETHER OR NOT THE ISSUE OF OVERPAYMENT WAS RAISED BY THE PARTIES AND INCLUDED IN THE PRE-TRIAL ORDER.^[29]

The petition centers on the claim propounded by petitioners that there was an overpayment of the loan obligation in the amount of P1,856,416.67. Petitioners insist they are entitled to the reimbursement of the overpaid amount invoking the elementary principle of *in rem verso*^[30] in human relations and the rule on the disposition of the proceeds of the sale providing that the balance or the residue after deducting the cost of the sale and the payment of the mortgage debt due, shall be paid to the junior encumbrancers, and in the absence of junior encumbrancers, to the mortgagor or his duly authorized representative.^[31]

On the other hand, respondent bank counters that the question of overpayment, not being included in the issues stipulated in Pre-Trial Order dated 8 September 2000, and totally unrelated therein, cannot be considered by the RTC. The belated ventilation of the alleged overpayment precluded the RTC from ruling on the matter in consonance with the primordial purpose of the pre-trial conference which is to delineate the issues necessary for the disposition of the case.^[32]

The conduct of pre-trial in civil actions has been mandatory as early as 1 January 1964 upon the effectivity of the Revised Rules of Court.^[33] Pre-trial is a procedural device intended to clarify and limit the basic issues between the parties^[34] and to take the trial of cases out of the realm of surprise and maneuvering.^[35]

Pre-trial is an answer to the clarion call for the speedy disposition of cases. Hailed as the most important procedural innovation in Anglo-Saxon justice in the nineteenth century,^[36] pre-trial is a device intended to clarify and limit the basic issues between the parties.^[37] It thus paves the way for a less cluttered trial and resolution of the case.^[38] Pre-trial seeks to achieve the following:

- (a) The possibility of an amicable settlement or of a submission to alternative modes of dispute resolution;
- (b) The simplification of the issues;
- (c) The necessity or desirability of amendments to the pleadings;
- (d) The possibility of obtaining stipulations or admissions of facts and of documents to avoid unnecessary proof;