

## SECOND DIVISION

[ G.R. NO. 161524, January 27, 2006 ]

**LAURA M. MARNELEGO, PETITIONER, VS. BANCO FILIPINO  
SAVINGS AND MORTGAGE BANK, RESPONDENT.**

### DECISION

**PUNO, J.:**

This is a petition for review of the decision of the Court of Appeals dated October 9, 2003 in CA-G.R. CV No. 71501 and its resolution dated December 30, 2003.

The facts are as follows:

In September 1980, Spouses Patrick and Beatriz Price and petitioner Laura Marnelego executed a Deed of Conditional Sale over a parcel of land located at Houston Street, BF Homes, Parañaque, Metro Manila and its improvements. The contract showed that the property was mortgaged to respondent Banco Filipino Savings and Mortgage Bank (Banco Filipino) and BF Homes, and that Spouses Price agreed to pay the amortizations for the first six months beginning August 1980 to January 1981 while petitioner would assume the succeeding amortizations.<sup>[1]</sup>

It appears, however, that when the parties faltered on the amortizations, respondent bank foreclosed the mortgage and acquired the property at public auction. It later consolidated the title to the property in its name after petitioner failed to redeem it. The Regional Trial Court of Makati issued a writ of possession in February 1984.<sup>[2]</sup>

In her letter dated June 15, 1984,<sup>[3]</sup> petitioner made an offer to Banco Filipino to repurchase the property for P310,000.00. The letter read:

June 15, 1984

Banco Filipino  
Paseo de Roxas  
Makati, Metro Manila

Attention: RICARDO GABRIEL  
Assistant Manager  
Real Estate Department

Dear Sir:

May I request for a reconsideration on the property located at Lots 17 and 19 Block 95, Barrio San Dionisio, Paranaque, Metro Manila which has been appraised by the bank at P362,000.00. The house needs repairs on the roof as it is leaking. The flooring needs new wood parquet, all the

gutters needs [sic] to be replaced. There are cracks on the walls which needs [sic] new finishing. Aside from termites around the house which needs [sic] to be controlled. All of these I'm sure has been noticed by the bank[']s appraiser. In these [sic] connection therefore, I would like to offer P310,000.00 for the property.

Thank you.

Sincerely yours,

(sgd) LAURA M. MARNELEGO

In response, Banco Filipino wrote to petitioner on September 20, 1984 in this wise:<sup>[4]</sup>

September 20, 1984

MS. LAURA M. MARNELEGO  
No. 24 Houston Street  
BF Homes, [sic] Subdivision  
Parañaque, Metro Manila

SUBJECT : Reply to your 15 June 1984 letter  
Re: Foreclosed Property of Gaudencio  
Pereyra

Dear Ms. Marnelego,

Please be informed that your request to repurchase the subject property has been approved by the Committee on Disposal of Bank Properties per Resolution No. DCR-143-84 in the amount of P362,000.00 but on the following terms and conditions:

- a. Cash payment of P310,000.00 upon approval of the request/proposal, otherwise the bank shall immediately implement its Writ of Possession.
- b. Balance of P52,000.00 to be paid within one (1) year at the rate of 35% interest per annum.

Thank you.

(sgd) RICARDO J. GABRIEL  
Assistant Manager  
Real Estate Department  
SECRETARY, COMMITTEE  
ON DISPOSAL OF BANK  
PROPERTIES

Petitioner replied on October 9, 1984:<sup>[5]</sup>

October 9, 1984  
23 Houston St.  
B.F. Homes  
Phase III  
Metro-Manila

Banco Filipino  
Paseo de Roxas  
Makati, Metro Manila

Attention: RICARDO GABRIEL  
Assistant Manager  
Real Estate Department

Dear Sir:

This is in reference to your letter dated September 20, 1984 informing us of the asking price and terms for the house and lot of Three Hundred Sixty Two Thousand Pesos Only (P362,000.00) located at Lots 17 and 19 Block 95, Barrio San Dionisio, Paranaque, Metro Manila.

In these [*sic*] connection therefore, may I offer the sum of One Hundred Thousand Pesos Only (P100,000.00) as downpayment and the balance to be paid in five (5) equal installment[s] and to be paid within five (5) years with interest thereon.

Thank you.

Sincerely yours,

(sgd) LAURA M. MARNELEGO

In January 1985, the Central Bank of the Philippines ordered the closure and liquidation of Banco Filipino. Pending the liquidation of the bank, the Deputy Sheriff of the Regional Trial Court of Makati implemented the writ of possession issued by the court. Petitioner pleaded with the bank's Deputy Liquidator to allow her to stay in the premises while the bank considers her proposal to repurchase the property.<sup>[6]</sup> The bank, through its legal counsel, Atty. Vic Villanueva, granted petitioner's request.<sup>[7]</sup>

On December 5, 1985, petitioner made a proposal to the Deputy Liquidator of Banco Filipino to purchase the property.<sup>[8]</sup> Her letter explains the terms and conditions of her proposal, thus:

December 5, 1985

MR. ALBERTO V. REYES  
Deputy Liquidator, Banco Filipino  
Paseo de Roxas, Makati,  
Metro Manila

Dear Mr. Reyes:

This is a proposal to purchase the property which we are presently occupying situated at #23 Houston St., BF Homes Subd., Paranaque Phase III (Lot[s] 17 & 19, Block 95) owned by Spouses Pereyra and now classified as an ASSET-ACQUIRED of the bank under the following terms and conditions:

1. Purchase price to be determined by the Liquidator
2. Purchase price to be payable as follows:
  - 2.A. P120,000.00 to be deposited immediately and to be lodged as A/P for the undersigned
  - 2.B. Balance to be paid once the restraining order/preliminary injunction is lifted by the Supreme Court in the case filed by the officers of Banco Filipino

Should I fail to pay the balance upon notice, then I hereby undertake to voluntarily vacate the premises and surrender possession thereof to BF and I further undertake to pay rentals for the use of the premises at P1,000.00 a month from December, 1985, up to the time that possession is given to BF. The amount of rentals shall be deducted from my aforesaid deposit and the excess to be refunded to me.

In case liquidation pushes through and the property is sold at public bidding and awarded to other bidders other than the undersigned, then my deposit of P120,000.00 shall be reimbursed to me.

The foregoing is offered to amply protect the interest of the bank while our court are [*sic*] deliberating on the cases pertinent to the liquidation and also to request that in the meantime, the execution of the writ of possession in LRC Case #M-276 be temporarily held in abeyance since the undersigned is ready, willing and able to buy the subject property but for reason of technicality, the process of liquidation is temporarily stopped.

This proposal if acceptable shall not in anyway [*sic*] novate, modify or extinguish any right which BF may had [*sic*] on the subject property including the implementation of the writ of possession in LRC Case No. M-276.

Thank you.  
Very truly yours,

(sgd) LAURA MARNELEGO

The Bank Liquidator responded to petitioner's proposal in her letter dated April 3, 1986, thus:<sup>[9]</sup>