

## SECOND DIVISION

[ G.R. No. 116526, March 23, 2004 ]

**CARMEN SORIANO VDA. DE DABAO, PETITIONER, VS. COURT OF APPEALS, PALUWAGAN NG BAYAN SAVINGS AND LOAN BANK, REGISTER OF DEEDS OF PARANAQUE, M.M., RESPONDENTS.**

### DECISION

**AUSTRIA-MARTINEZ, J.:**

Before this Court is a petition for *certiorari*, seeking the annulment of the Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. SP No. 31995 promulgated on April 20, 1994 and the Resolution dated July 25, 1994 denying petitioner's motion for reconsideration.

The antecedent facts of the case are as follows:

On April 11, 1990, spouses Charlie and Mary Grace Iñigo-Dabao (spouses Dabao, for brevity) were granted a loan by Paluwagan ng Bayan Savings and Loan Bank (Paluwagan, for brevity).<sup>[2]</sup> On April 25, 1990, the spouses Dabao, as security for the loan, executed a Deed of Real Estate Mortgage in favor of the Paluwagan, over a parcel of land covered by Transfer Certificate Title No. 22575, registered in their names. On April 26, 1990, the Real Estate Mortgage was registered and duly annotated on TCT No. 22575.

The spouses Dabao defaulted in the payment of their loan. Thus, on December 16, 1991, the Paluwagan instituted extra-judicial foreclosure proceedings. On February 27, 1992, the mortgaged property was sold at public auction where the bank was the lone bidder. On March 24, 1992, a Certificate of Sale issued by the Clerk of Court and *Ex-officio* Sheriff of the Regional Trial Court of Makati in favor of the Paluwagan was registered and annotated on TCT No. 22575.

On February 2, 1993, Carmen Soriano *Vda. De Dabao* (Carmen, for brevity) filed an action for "Annulment of Deeds of Sale, Cancellation of Title/Certificates of Registration and Recovery of Properties with Damages and Preliminary Injunction," docketed as Civil Case No. 90-2092, against the spouses Dabao, the Register of Deeds of Parañaque, Metro Manila, Agency Head of the Land Transportation Office, Roxas City, and the Paluwagan, before the Regional Trial Court of Muntinlupa-Assisting Court of Makati.

Carmen claims: As widow of the late Dr. Robert Dabao, she became the owner of the properties he left in the Philippines, particularly the parcels of land at the Multinational Village covered by TCT No. 95843 and TCT No. 95844 titled in the name of her husband. Upon her return to the Philippines, she learned that said real properties were fraudulently transferred to spouses Dabao by virtue of a Deed of Sale where the signature of the late Robert Dabao was forged. Said deed of sale became the basis for the issuance of a new title in the names of spouses Charlie and Mary Grace Dabao. Charlie Dabao is the brother of her deceased husband. With the

new title, spouses Dabao executed a Deed of Real Estate Mortgage in favor of the Paluwagan.<sup>[3]</sup>

On March 23, 1993, Judge N.C. Perello of the RTC of Muntinlupa issued a temporary restraining order prohibiting the Paluwagan from consolidating or taking any step towards the consolidation of the title in its name, and/or disposing of the properties subject of the case and the Register of Deeds from registering any such sale or title in the name of the Paluwagan.<sup>[4]</sup>

The Paluwagan filed its Opposition on April 12, 1993 contending that the Paluwagan is an innocent mortgagee in good faith and for value,<sup>[5]</sup> and that Carmen has not shown a clear right over the property.

On May 26, 1993, Judge Perello granted Carmen's application for the issuance of a writ of preliminary injunction prohibiting the Paluwagan from consolidating its title over the property upon filing by Carmen of a bond for One Million Pesos.<sup>[6]</sup> On June 24, 1993, the Paluwagan filed a Motion for Reconsideration which was denied by the trial court in its Order dated August 12, 1993.<sup>[7]</sup>

The Paluwagan then filed with the Court of Appeals a petition for *certiorari*, docketed as CA-G.R. No. 31995, alleging that the trial court committed grave abuse of discretion amounting to lack of jurisdiction when it granted the petition for the issuance of a writ of preliminary injunction despite the trial court's finding that it (Paluwagan) is an innocent mortgagee.<sup>[8]</sup>

The Court of Appeals found the petition of Paluwagan to be with merit and declared the assailed Orders dated May 26, 1993 and August 12, 1993 null and void and set aside for having been issued with grave abuse of discretion amounting to lack of jurisdiction.<sup>[9]</sup> The motion for reconsideration filed by Carmen Soriano *vda. de* Dabao was denied on July 25, 1994.<sup>[10]</sup>

Hence the present petition on the following grounds:

A. RESPONDENT COURT OF APPEALS ACTED WITHOUT OR IN EXCESS OF JURISDICTION AND/OR WITH GRAVE ABUSE OF DISCRETION WHEN IT DEVIATED FROM THE GENERAL RULE THAT THE GRANTING OR ISSUANCE OF THE PRESERVATIVE AND EQUITABLE RELIEF OF PRELIMINARY INJUNCTION IS AN EXERCISE OF SOUND JUDICIAL DISCRETION BY THE LOWER COURT;

*B. RESPONDENT COURT OF APPEALS ACTED WITHOUT OR IN EXCESS OF JURISDICTION AND/OR WITH GRAVE ABUSE OF DISCRETION IN DECLARING, PRONOUNCING AND PRECLUDING THAT RESPONDENT BANK IS INDEED A MORTGAGEE IN GOOD FAITH CONSIDERING THAT SUCH MATTER IS STILL VERY MUCH A FACTUAL AND LITIGABLE ISSUE IN THE LOWER COURT;*

C. RESPONDENT COURT OF APPEALS ACTED WITHOUT OR IN EXCESS OF JURISDICTION AND/OR WITH GRAVE ABUSE OF DISCRETION WHEN IT GAVE DUE COURSE TO THE PETITION IN CA-G.R. SP NO. 31995 AND IN UNCEREMONIOUSLY AND OUTRIGHTLY DENYING THE MOTION FOR RECONSIDERATION RESULTING TO THE SETTING ASIDE AND IN DECLARING AS NULL AND VOID THE ORDERS DATED MAY 26, 1993 AND

AUGUST 12, 1993 OF HONORABLE PRESIDING JUDGE PERELLO OF RTC-MUNTINLUPA-ASSISTING COURT FOR MAKATI, METRO MANILA IN CIVIL CASE NO. 90-2092;

D. BY REASON OF THE ERRONEOUS, PRECIPITATE AND PREJUDICED DECISION OF RESPONDENT COURT OF APPEALS SO WITH THE OUTRIGHT DENIAL OF THE MOTION FOR RECONSIDERATION FILED BY HEREIN PETITIONER IN CA-G.R. SP NO. 31995, EVEN WITHOUT FINALITY, TCT NO. 22575 WAS CANCELLED AND THE TITLE WAS TRANSFERRED AND CONSOLIDATED TO RESPONDENT PALUWAGAN UNDER TCT NO. 80988, WARRANTING THE ISSUANCE OF WRIT OF MANDATORY INJUNCTION AGAINST RESPONDENT REGISTER OF DEEDS OF PARANAQUE, M.M. AND RESPONDENT PALUWAGAN TO RESTORE THE STATUS QUO ANTE.<sup>[11]</sup> (Emphasis supplied)

with the following prayer:

*WHEREFORE, premises considered, it is most respectfully prayed that upon filing of the instant petition, a temporary restraining order and/or writ of preliminary injunction be issued against private respondent Paluwagan from alienating or disposing any and all portions of the subject property formerly covered by TCT No. 22575, now under TCT No. 80988 to any person or entity, and further:*

- 1. To give due course to the instant petition;*
- 2. The Decision dated 26 May 1994 and the Resolution dated 25 July 1994 rendered by public respondent Court of Appeals be nullified and set aside for having been issued with grave abuse of discretion and/or lack or in excess of jurisdiction;*
- 3. A writ of mandatory injunction be issued to direct and order the restoration of the title of the subject property under TCT No. 22575 which is the status quo ante.<sup>[12]</sup> (Emphasis supplied).*

In its Memorandum, dated September 22, 1998, respondent Paluwagan calls the attention of the Court that on *May 23, 1998*, the RTC of Muntinlupa rendered its Decision in Civil Case No. 90-2092, the dispositive portion of which reads:

Prescinding Defendant Charlie Dabao is found to have falsified or caused the falsification of the signature of the late Dr. Robert Dabao on the DEED OF ABSOLUTE SALE over that parcel of land located at Cairo Street, corner Multinational Avenue, Multinational Village, Parañaque, Metro Manila. He is therefore directed to pay the Plaintiff by way of actual damages the sum of ONE MILLION SIX HUNDRED THIRTY NINE THOUSAND SEVEN HUNDRED FORTY SIX (P1,639,746.00) PESOS, moral damages in the sum of ONE MILLION (P1,000,000.00) PESOS, exemplary damages in the sum of ONE MILLION (P1,000,000.00) PESOS, attorney's fees in the sum of ONE MILLION (P1,000,000.00) PESOS and cost of litigation.

*Since the property was found to belong to the Estate of the late Dr. Robert Dabao, Plaintiff as an heir, may redeem the property by herself or together with the son, Atty. Rolando Dabao, from PALUWAGAN NG*