

THIRD DIVISION

[G.R. No. 129428, February 27, 2003]

**BENJAMIN NAVARRO AND ROSITA FORTEA, PETITIONERS, VS.
SECOND LAGUNA DEVELOPMENT BANK, AND SPOUSES ISAAC
GUZMAN AND VILMA ESPORLAS, RESPONDENTS.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

Before us is a petition for review on certiorari^[1] assailing the Decision^[2] of the Court of Appeals dated April 21, 1997 in CA-G.R. CV No. 44240 affirming with modification the Decision of the Regional Trial Court (RTC), Branch 148, Makati City in Civil Case No. 90-849, "*Spouses Benjamin Navarro and Rosita Fortea vs. Second Laguna Development Bank, spouses Domalito Velasco and Esther Navarro, Luciana Navarro and spouses Isaac Guzman and Vilma Esporlas,*" for annulment of foreclosure of mortgage and consolidation of ownership and damages.

Subject of this suit is the 1/6 portion of a parcel of land located in Alabang, Muntinlupa, known as Lot No. 1513-A, Plan Psd-51043, consisting of 345 square meters and covered by TCT No. (244200) 114525 of the Registry of Deeds of Makati City.

Records show that the late Catalino Navarro and his wife Consuelo Hernandez originally owned Lot No. 1513-A. On December 4, 1968, they sold 5/6 of the unsegregated portion of the lot to their children, namely, Leticia, Esther, Benjamin, Luciana and Leoniza, all surnamed Navarro. By virtue of the sale, TCT No. 244200 was issued in their names. Spouses Benjamin and Rosita Navarro, herein petitioners, are listed therein as co-owners of the property.

On March 18, 1978, without the knowledge and consent of petitioners, spouses Donalito Velasco and Esther Navarro, conspiring with the latter's sister Luciana Navarro, executed a falsified Deed of Absolute Sale wherein they made it appear that the entire lot was sold to said spouses Velasco for P35,000.00. TCT No. 244200 was thus cancelled and in lieu thereof, TCT No. 114526 was issued in the names of spouses Velasco. Subsequently, they mortgaged the property to respondent Second Laguna Development Bank to secure payment of a loan.

On June 30, 1987, upon failure of spouses Velasco to pay their loan, respondent bank had the mortgage foreclosed. On August 8, 1988 and January 5, 1990, petitioners, introducing themselves as attorneys-in-fact of Esther Navarro-Velasco, wrote respondent bank, offering to redeem the property for P450,000.00. However, they failed to do so. Hence, ownership thereof was consolidated in the name of respondent bank under TCT No. 168230 issued on February 1, 1990.

On March 26, 1990, petitioners filed with the RTC a complaint against respondent

bank and spouses Velasco (docketed as Civil Case No. 90-849) praying for the (a) annulment of the mortgage; (b) cancellation of TCT No. 168230 in the name of respondent bank; and (c) award of damages and attorney's fees. In their complaint, petitioners alleged that the sale of the lot with respect to their 1/6 share (59 square meters) is void *ab initio* considering that their signatures appearing in the Deed of Absolute Sale dated March 18, 1978 were falsified. Consequently, the mortgage contract involving their share executed by spouses Velasco and respondent bank is likewise void.

On April 3, 1990, respondent bank sold the lot to respondent spouses Isaac Guzman and Vilma Esporlas and on May 18, 1990, TCT No. 169929^[3] was issued in their names. Thereupon, petitioners impleaded spouses Guzman as additional defendants in Civil Case No. 90-849. Petitioners alleged that said spouses were purchasers in bad faith because they knew of the pending litigation concerning the property.

On July 29, 1991, the trial court declared spouses Velasco in default for their failure to file an answer.

On September 29, 1993, the trial court rendered its Decision^[4] dismissing petitioners' complaint; upholding the validity of the foreclosure of mortgage and declaring respondent spouses Guzman the lawful owners of the property; ordering petitioners to pay said spouses P50,000.00 as actual damages, P30,000.00 as moral damages and P35,000.00 as attorney's fees; ordering petitioners to pay respondent bank P25,000.00 as attorney's fees; and ordering spouses Velasco to pay petitioners P268,000.00 corresponding to the value of the latter's 1/6 share in the property and P20,000.00 as attorney's fees.

On appeal, the Court of Appeals affirmed with modification the RTC decision, thus:

"WHEREFORE, the decision appealed from is hereby MODIFIED by deleting the awards of actual and moral damages as well as attorney's fees in favor of defendant spouses Vilma Esporlas Guzman and Isaac Guzman, and the award of attorney's fees in favor of defendant Second Laguna Development Bank.

"With the above modifications, the judgment below is AFFIRMED in all other respects.

"No pronouncement as to costs.

"SO ORDERED."^[5]

The Court of Appeals ratiocinated as follows:

"Inevitably, the core of the controversy is the determination of whether or not defendant spouses Vilma Esporlas and Isaac Guzman are purchasers in good faith.

"Apart from appellants' bare assertion, we find no evidence to establish appellees' bad faith. It is settled jurisprudence that whoever alleges bad faith in any transaction must substantiate his allegation, since it is presumed that a person takes ordinary care of his concerns and that

private transactions have been entered in good faith.

"Clearly, we find appellants wanting in this respect.

"In this connection, it is essential to point out that prior to the foreclosure sale, appellants had the opportunity to object to the validity of the mortgage over the property in controversy.

"It is beyond dispute, as disclosed by evidence, that on June 4, 1986, appellant Benjamin Navarro wrote a certain 'Oscar' of defendant-appellee bank, asking for the Statement of Accounts of defendant Esther Navarro.

"On August 8, 1988, appellant spouses wrote defendant-appellee bank, introducing themselves as the attorneys-in-fact of defendant Esther Navarro.

"Again, on January 5, 1990, appellant Benjamin Valerio (believed to be Benjamin Navarro by the court a quo per his signature) wrote the Far East Bank & Trust Company, the owner of defendant bank, requesting the latter to allow redemption of the land for (P450,000.00).

"On all these occasions, appellants did not even bother to question the validity of the purchasers' title over the property. Hence, we agree with the court a quo that these acts of appellants were tainted with laches and estoppel. They failed for an unreasonable length of time to do that which by exercising due diligence could or should have been done earlier. They neglected or omitted to assert their right within a time reasonable under the premises, thereby warranting a presumption that they have abandoned such right.

"However, we find no sufficient justification for the awards of actual and moral damages as well as attorney's fees by the court *a quo*.

"Needless to emphasize, actual damages refer to those recoverable because of pecuniary loss, which include the value of the loss suffered and unrealized profits (8 Manresa 100). Actual damages must be proved and the amount of damages must possess at least some degree of certainty (*Tomassi vs. Villa-Abrillee*, L-7047, August 21, 1958, in relation to *Chua Teck Hee vs. Philippine Publishing House*, 34 Phil. 447).

"Reviewing the records, we find no evidence whatsoever adduced by defendants-appellees to prove the actual loss suffered by them. All the court *a quo* did, in awarding actual damages in the amount of P50,000.00, is to state that defendants-appellees Isaac Guzman and Vilma Esporlas are entitled to actual damages for they were not able to enjoy their lawfully acquired property. This reason is simply not enough basis to award actual damages.

"As regards the claim for moral damages and attorney's fees, the court *a quo* likewise erred in awarding them. In *Dela Pena vs. Court of Appeals*, 231 SCRA 456, it was held that it is improper to award them on the sole basis of an action later declared to be unfounded in the absence of