

SECOND DIVISION

[G.R. No. 128669, October 04, 2002]

MAMERTA VDA. DE JAYME, AND HER CHILDREN AND/OR HEIRS OF THE LATE GRACIANO JAYME, NAMELY: WILFREDO, MARCIAL, MANUEL, ANTONIO, ALL SURNAMED JAYME; THE HEIRS OF DOMINADOR JAYME, NAMELY: SUPREMA (SURVIVING SPOUSE) AND HIS CHILDREN, NAMELY: ARMANDO, NICANOR, ZENAIDA, CATHERINE, ROSALINE, DORIS, VICKY AND MARILYN, ALL SURNAMED JAYME; AND THE HEIRS OF THE LATE NILIE JAYME SANCHEZ, NAMELY, INOCENCIO SANCHEZ (SURVIVING SPOUSE) AND HER CHILDREN: ELSA, CONCEPCION, CLEOFE, ALEJANDRO, EFREN AND MACRINA, ALL SURNAMED SANCHEZ; AND FLORA JAYME RAVANES, ASSISTED BY HER HUSBAND, CESAR RAVANES, PETITIONERS, VS. HON. COURT OF APPEALS, SIXTEENTH DIVISION, CEBU ASIANCARS INC., GEORGE NERI, CONNIE NERI, WILLIAM LEONG KOC LEE, EDUARD JAMES LEE, ROBERTO UY KIM, AND CHARLES UY KIM;^[1] METROPOLITAN BANK AND TRUST COMPANY, RENE NATIVIDAD AND/OR JOHN DOE IN SUBSTITUTION OF MAXIMO PEREZ, SUED IN HIS CAPACITY AS CITY SHERIFF OF MANDAUE CITY, RESPONDENTS.

D E C I S I O N

QUISUMBING, J.:

This petition assails the decision^[2] dated September 19, 1996, of the Court of Appeals in CA-G.R. CV No. 46496 and its resolution^[3] dated February 21, 1997, denying the motion for reconsideration. Said decision had affirmed that of the Regional Trial Court of Cebu City, Branch 15, in Civil Case No. CEB-21369 for Annulment of Contract and Damages with Prayer for the Issuance of Preliminary Injunction. ^[4]

The following facts are borne by the records:

The spouses Graciano and Mamerta Jayme are the registered owners of Lot 2700, situated in the Municipality of Mandaue (now Mandaue City), Cebu, consisting of 2,568 sq.m. and covered by Transfer Certificate of Title No. 8290.

On January 8, 1973, they entered into a Contract of Lease^[5] with George Neri, president of Airland Motors Corporation (now Cebu Asiancars Inc.), covering one-half of Lot 2700. The lease was for twenty (20) years.

The terms and conditions of the lease contract^[6] stipulated that Cebu Asiancars Inc. (hereafter, Asiancars) may use the leased premises as a collateral to secure payment of a loan which Asiancars may obtain from any bank, provided that the proceeds of the loan shall be used solely for the construction of a building which,

upon the termination of the lease or the voluntary surrender of the leased premises before the expiration of the contract, shall automatically become the property of the Jayme spouses (the lessors).

A Special Power of Attorney^[7] dated January 26, 1974, was executed in favor of respondent George Neri, who used the lot to secure a loan of P300,000 from the General Bank and Trust Company. The loan was fully paid on August 14, 1977.^[8]

In October 1977, Asiancars obtained a loan of P6,000,000 from the Metropolitan Bank and Trust Company (MBTC). The entire Lot 2700 was offered as one of several properties given as collateral for the loan. As mortgagors, the spouses signed a Deed of Real Estate Mortgage^[9] dated November 21, 1977 in favor of MBTC. It stated that the deed was to secure the payment of a loan obtained by Asiancars from the bank.

To assure the Jayme spouses, Neri and the other officers of Asiancars, namely Benny Liongben Lee, William Leong Koc Lee, Connie U. Neri, Edward James Lee, Roberto Uykim and Charles P. Uykim, executed an undertaking^[10] dated November 7, 1977. In it they promised, in their personal capacities and/or in representation of Cebu Asiancars, Inc., "to compensate Mr. & Mrs. Graciano Jayme for any and all or whatever damage they may sustain or suffer by virtue and arising out of the mortgage to MBTC of the aforesated parcel of land."^[11] In addition, Neri wrote a letter dated September 1, 1981^[12] addressed to Mamerta Jayme acknowledging her "confidence and help" extended to him, his family and Asiancars. He promised to pay their indebtedness to MBTC before the loan was due.

Meeting financial difficulties and incurring an outstanding balance on the loan, Asiancars conveyed ownership of the building on the leased premises to MBTC, by way of "*dacion en pago*."^[13] The building was valued at P980,000 and the amount was applied as partial payment for the loan. There still remained a balance of P2,942,449.66, which Asiancars failed to pay.

Eventually, MBTC extrajudicially foreclosed the mortgage. A public auction was held on February 4, 1981. MBTC was the highest bidder for P1,067,344.35. A certificate of sale was issued and was registered with the Register of Deeds on February 23, 1981.

Meanwhile, Graciano Jayme died, survived by his widow Mamerta and their children. As a result of the foreclosure, Graciano's heirs filed a civil complaint,^[14] in January of 1982, for Annulment of Contract with Damages with Prayer for Issuance of Preliminary Injunction, against respondent Asiancars, its officers and incorporators and MBTC. Later, in 1999, Mamerta Jayme also passed away.

Petitioners claim that Neri and Asiancars did not tell them that the indebtedness secured by the mortgage was for P6,000,000 and that the security was the whole of Lot 2700. Petitioners allege that the deed presented to the Jayme spouses was in blank, without explanation on the stipulations contained therein, except that its conditions were identical to those of the stipulations when they mortgaged half the lot's area previously with General Bank. Petitioners also alleged that the Jayme spouses were illiterate and only knew how to sign their names. That because they did not know how to read nor write, and had given their full trust and confidence to

George Neri, the spouses were deceived into signing the Deed of Real Estate Mortgage. Their intention as well as consent was only to be bound as guarantors.

Respondents deny that any fraud was employed, nor was there a scheme to make the spouses sign as mortgagors instead of guarantors. They aver that the spouses were fully advised and compensated for the use of their property as collateral with MBTC; that they voluntarily signed the deed of mortgage upon the request of George Neri, whom they previously trusted and who fulfilled his promise to pay the loan to General Bank and who obtained the release of the same property by faithfully paying his indebtedness with General Bank.

After trial, the RTC rendered a decision, disposing as follows:

WHEREFORE, in view of the foregoing evidences, arguments and considerations, this Court hereby renders judgment as follows:

1. Declaring the Real Estate Mortgage executed by the Jaymes in favor of Metrobank as valid and binding;
2. Declaring the Undertaking executed by George Neri, Benny Leongben Lee already deceased, William Leong Koc, Connie U. Neri, Edward James Lee, Roberto Uykim, and Charles P. Uykim on November 7, 1977 to be valid and binding as well upon the signatories thereof;
3. Allowing the Jaymes to redeem the mortgaged property, Lot 2700 covered by TCT 8290 of the Register of Deeds of Mandaue City for the amount of P2,942,448.66 plus interest at the rate of 6% per annum within ninety (90) days from date of finality of this judgment until paid. However, if the plaintiffs fail to redeem said property, then let a Certificate of Sale/definite Deed of Sale be issued in favor of Metropolitan Bank and Trust Co. covering said Lot 2700;
4. Holding the defendants George Neri, William Leong Koc, Connie U. Neri, Edward James Lee, Roberto Uykim, and Charles Uykim jointly liable on their Undertaking dated November 7, 1977 as they are hereby required to reimburse the Jaymes the amount that the Jaymes will pay to Metropolitan Bank and Trust Co. for the redemption;
5. Requiring the defendants George Neri, William Leong Koc, Connie U. Neri, Edward James Lee, Roberto Uykim and Charles Uykim to pay jointly attorneys fees to the Jaymes in the amount of P50,000.00;
6. Requiring the defendants George Neri, William Leong Koc, Connie U. Neri, Edwards James Lee, Roberto Uykim and Charles Uykim to pay jointly the cost of this suit.

SO ORDERED. [15]

Petitioners and respondent MBTC elevated the case to the Court of Appeals, which affirmed the ruling of the RTC, with modifications stated in this wise:

1. Declaring valid and binding the Real Estate Mortgage executed by plaintiffs in favor of defendant MBTC;
2. Declaring valid the foreclosure of the mortgage and the foreclosure sale;
3. Declaring that the period to redeem Lot 2700 had expired on February 23, 1982 without plaintiffs redeeming it;
4. Ordering the Sheriff of Mandaue City to issue a definite Deed of Sale covering Lot 2700 in favor of defendant MBTC;
5. Declaring valid and binding the dacion en pago executed by defendant Asiancars in favor of defendant MBTC;
6. Declaring defendant MBTC as owner of the building on Lot 2700;
7. Ordering defendant MBTC to pay to plaintiffs the amount of P92,083.33 for the use of the land from December 18, 1981 to February 23, 1982, with six percent (6%) interest per annum until paid;
8. Ordering defendant Asiancars, Neris, Uykims, Lee and Koc to pay jointly and severally the plaintiffs the (a) actual value of the lot in the amount of P3,852,000.00; (b) P400,000.00 moral damages; (c) P150,000.00 exemplary damages and P100,000.00 attorney's fee, all with six percent (6%) interest per annum until fully paid;
9. Cost against defendants Asiancars, Neris, Uykims, Lee and Koc.

SO ORDERED. ^[16]

Petitioners filed a motion for reconsideration, which the CA denied. Hence, this petition which assigns the following errors:

I

THAT WITH GRAVE ABUSE OF DISCRETION, AMOUNTING TO EXCESS OF JURISDICTION, THE LOWER COURT GROSSLY AND SERIOUSLY ERRED IN DECLARING VALID AND BINDING THE REAL ESTATE MORTGAGE EXECUTED BY THE PLAINTIFFS IN FAVOR OF THE MBTC, FOR SAID DECLARATION IS ILLEGAL AND NOT WELL-FOUNDED IN LAW BECAUSE IT ULTIMATELY VIOLATED ARTS. 2058, 2076 AND 2077, CIVIL CODE OF THE PHILIPPINES, SINCE THE REAL ESTATE MORTGAGE, EXH. "G", IS NOT LEGALLY A REAL ESTATE MORTGAGE, BUT RATHER A DEED OF GUARANTY, CONSIDERING THAT THE PLAINTIFF MAMERTA VDA. DE JAYME AND HER HUSBAND GRACIANO JAYME, NOW DECEASED, SIGNED INNOCENTLY THE SAID DOCUMENT AS GUARANTORS/ACCOMODATORS ONLY AND DEFINITELY NOT AS DEBTORS/MORTGAGORS;

II

THAT WITH GRAVE ABUSE OF DISCRETION, THE LOWER COURT ERRED IN DECLARING THE PERIOD TO REDEEM LOT NO. 2700 HAD EXPIRED ON

FEBRUARY 23, 1982, WITHOUT THE PLAINTIFFS REDEEMING IT FOR SUCH DECLARATION IS NOT WELL-FOUNDED IN LAW AND IN FACT;

III

THAT WITH GRAVE ABUSE OF DISCRETION, THE LOWER COURT ERRED IN DECLARING VALID AND BINDING THE DACION EN PAGO EXECUTED BY DEFENDANT CEBU ASIAN- CARS IN FAVOR OF DEFENDANT MBTC, FOR SAID DECLARATION IS ILLEGAL AND IS CLEARLY FOUNDED ON WANTON BAD FAITH COMMITTED BY BOTH PARTIES, IN VIOLATION OF ART. 1312, CIVIL CODE OF THE PHILIPPINES AND SEC. 10, ART. III, CONSTITUTION OF THE PHILIPPINES;

IV

GRANTING ARGUENDO THAT THE DACION EN PAGO IS VALID, STILL THE LOWER COURT COMMITTED GRAVE ABUSE OF DISCRETION, BY NOT DECLARING THAT THE P574,690.00 INDEBTEDNESS, INCLUDING INTEREST AND ADDITIONAL CHARGES OF CEBU ASIANCARS WAS COMPLETELY EXTINGUISHED OR PAID OFF, BY WAY OF DACION EN PAGO PURSUANT TO ARTS. 1255, 2076 AND 2077 OF THE CIVIL CODE OF THE PHILIPPINES.

V

THAT THE LOWER COURT COMMITTED GRAVE ABUSE OF DISCRETION, AMOUNTING TO EXCESS OF JURISDICTION, IN DECLARING VALID AND BINDING THE MORTGAGE AND THE CORRESPONDING FORECLOSURE, FOR SAID DECLARATION IS ILLEGAL, IN VIOLATION OF ARTS. 1231 (5), 1245 AND 1255, CIVIL CODE AND BY THE INDUBITABLE EVIDENCE OF ALL THE PARTIES TESTIMONIAL AND DOCUMENTARY, TO THE EFFECT THAT THE SIX (6) MILLION INDEBTEDNESS OF CEBU ASIANCARS WAS OVERPAID, THUS MBTC ALSO VIOLATED ARTS. 2142, CIVIL CODE OF THE PHILIPPINES;

VI

THAT WITH GRAVE ABUSE OF DISCRETION, THE LOWER COURT ERRED BY VIOLATING EXH. "C", THE CONTRACT OF LEASE, WHICH IS THE LAW BETWEEN THE PARTIES, AND INSTEAD, DELIBERATELY DECLARED VALID AND BINDING THE MORTGAGE EXH. "G", AND THE FORECLOSURE OF MORTGAGE, AND IN NOT ORDERING MBTC TO VACATE THE PREMISES UPON THE TERMINATION OF THE CONTRACT OF LEASE ON JANUARY 9, 1993 PURSUANT TO EXH. "C", AND LIKEWISE PAY RENTAL THEREAFTER, FOR ITS USE AT P96,300.00 MONTHLY UNTIL MBTC ACTUALLY VACATES THE PREMISES.^[17]

On March 13, 2002, the Court set a hearing on this petition, and parties were given thirty days for simultaneous submission of their respective memoranda. Petitioners additionally submitted "reply/rejoinder" and respondent MBTC also submitted its "rejoinder – sur-rejoinder."

Two main issues are for our resolution. *First*, whether or not the REM should be annulled on the ground of vitiated consent; and *second*, whether or not the *dacion*