

## FIRST DIVISION

**[ G.R. No. 137815, November 29, 2001 ]**

**JUANITA T. SERING, PETITIONER, VS. COURT OF APPEALS AND  
CLARITA L. GARCIA, RESPONDENTS.**

### D E C I S I O N

**PARDO, J.:**

#### The Case

The case under consideration is a petition for review<sup>[1]</sup> to annul the decision<sup>[2]</sup> of the Court of Appeals involving the extra-judicial foreclosure of a real estate mortgage of a parcel of land in Novaliches, Caloocan City.

#### The Facts

The facts, as found by the Court of Appeals,<sup>[3]</sup> are as follows:

On August 6, 1988, spouses Democrito O. Sering and Juanita T. Sering executed a deed of real estate mortgage<sup>[4]</sup> in favor of Clarita L. Garcia of a parcel of land with an area of three hundred square meters located in Novaliches, Caloocan City, as security for a loan obtained from her in the amount of two hundred thousand (P200,000.00) pesos.<sup>[5]</sup>

On March 10, 1990, Clarita L. Garcia sent a letter to Democrito O. Sering, husband of Juanita, declaring that since August 6, 1988, Juanita has not paid a single monthly installment on her loan and demanding payment of two hundred thousand (P200,000.00) pesos on or before April 6, 1990.<sup>[6]</sup>

On April 15, 1992, Clarita L. Garcia wrote another letter to Juanita T. Sering demanding payment of the amount of two hundred thousand (P200,000.00) pesos within ten days from notice, otherwise Clarita L. Garcia would cause the extra-judicial foreclosure of the real estate mortgage.<sup>[7]</sup>

On May 16, 1992, Juanita T. Sering wrote a letter to Clarita L. Garcia's lawyer promising to pay the amount of two hundred thousand (P200,000.00) pesos on or before May 23, 1992, and that if she failed to remit the said amount, Clarita L. Garcia would be free to take appropriate action on the real estate mortgage.<sup>[8]</sup> Juanita T. Sering failed to pay any amount of the loan.

On January 6, 1993, Clarita L. Garcia filed with the city sheriff of Caloocan a petition for the extra-judicial foreclosure of the real estate mortgage.<sup>[9]</sup> The sheriff set the sale at public auction on February 17, 1993, at 10:00 in the morning.

On February 9, 1993, Juanita T. Sering filed with the Regional Trial Court, Caloocan City a complaint for injunction against Clarita L. Garcia and the sheriff, for a temporary restraining order to enjoin the sale at public auction of her property.<sup>[10]</sup> The trial court did not take any action on the complaint and the sheriff sold the mortgaged real estate at public auction with Clarita L. Garcia as the highest bidder.

On October 5, 1993, Juanita T. Sering filed with the trial court an amended complaint praying that judgment be rendered in her favor and against Clarita L. Garcia; that the mortgage contract and the foreclosure proceedings be declared void; and that damages be awarded to her.<sup>[11]</sup> Juanita Sering alleged that the mortgage contract did not indicate the actual amount of her loan which was only one hundred thousand (P100,000.00) pesos; that she already paid Clarita L. Garcia two hundred thousand (P200,00.00) pesos, more or less. Hence, the foreclosure of the real estate mortgage was a nullity.

On August 1, 1996, the trial court rendered a decision dismissing the complaint and the counterclaim of Clarita L. Garcia.<sup>[12]</sup>

On August 13, 1996, Juanita T. Sering filed with the trial court a notice of appeal<sup>[13]</sup> of the decision to the Court of Appeals.<sup>[14]</sup>

On February 24, 1999, the Court of Appeals promulgated a decision affirming the decision of the trial court.<sup>[15]</sup>

Hence, this appeal.<sup>[16]</sup>

### The Issue

Whether petitioner has actually paid her loan to respondent as to preclude the foreclosure of the real estate mortgage to secure the loan.

### The Court's Ruling

The issue is factual.

A petition for review on *certiorari*<sup>[17]</sup> is limited to questions of law.<sup>[18]</sup> In such petitions, factual issues are not reviewable by the Supreme Court.<sup>[19]</sup> Only errors of law are reviewable by the Supreme Court on petitions for review.<sup>[20]</sup> The exceptions to this rule include instances, sans preclusion: (1) when the conclusion is grounded entirely on speculations, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) where there is a grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) when the findings of the Court of Appeals are contrary to those of the trial courts; (8) when the findings of fact are conclusions without citation of specific evidence on which they are based; (9) when the Court of Appeals overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion; and (10) when the findings of fact of the Court of Appeals are premised on the absence of evidence