

SECOND DIVISION

[G.R. No. 124372, March 16, 2000]

**RENATO CRISTOBAL AND MARCELINA CRISTOBAL,
PETITIONERS, VS. THE COURT OF APPEALS, RURAL BANK OF
MALOLOS AND ATTY. VICTORINO EVANGELISTA, RESPONDENTS.**

DECISION

QUISUMBING, J.:

This petition for review on *certiorari* seeks to reverse and set aside the Decision dated September 16, 1994, and the Resolution dated May 18, 1995, of the Court of Appeals in CA G.R. CV No. 39477. That decision set aside the Judgment of the Regional Trial Court of Malolos, Branch 72, in Civil Case No. 7887-M, (1) annulling the extrajudicial foreclosure of mortgage, the sale of the properties at public auction, and the issuance of titles to the properties in the name of respondent bank, and (2) ordering the reconveyance of the same properties to petitioners.

The facts of the case on record^[1] are as follows:

Petitioners are engaged in the buying and selling of palay. To augment their capital, they applied and were granted a loan by the respondent bank in the amount of P30,000.00 payable in 270 days. The loan was secured by a mortgage over a parcel of land situated in Barrio Concepcion, Baliwag, Bulacan and covered by TCT No. T-64721. Because petitioners failed to pay their obligation on the date the loan fell due, the bank caused the mortgaged property, to be foreclosed extrajudicially. At the foreclosure sale on November 16, 1981, the bank was the sole and highest bidder. The sheriff of Bulacan, who conducted the sale, then executed a certificate of sale in the name of the bank. In turn the bank caused the registration of the sale in the Office of the Registry of Deeds of Bulacan (Exh. "17-a"). Petitioners failed to redeem the property, hence, the title was consolidated in the name of the bank. Thereafter, a new transfer certificate of title (TCT No. T-275695) was issued in the name of the bank.

Through their attorney-in-fact Pacita Cristobal, petitioners were granted another loan by the bank in the amount of P70,000.00, secured by another real estate mortgage over four (4) parcels of land covered by TCT Nos. T-235811, T-174185, T-146185 and T-174186 payable in 180 days. When the obligation fell due without plaintiffs paying their indebtedness, the bank extrajudicially foreclosed the mortgage. As the highest bidder in the auction sale of subject parcels, titles were consolidated in its favor when petitioners failed to redeem the land. Consequently, new transfer certificates of title were issued in the bank's name.

On November 29, 1984, petitioners filed an action for annulment of extrajudicial foreclosure of mortgage and sale of property and for reconveyance with damages.

Petitioners, as plaintiffs below, impugned the validity of the extrajudicial foreclosure sales on the grounds that they were not furnished a copy of the application for foreclosure by the bank and a notice of the foreclosure sale; that the bank did not comply with the requirements of Act No. 3135 with respect to posting of the notice of sale and the publication of the sale in a newspaper of general circulation; that they were not notified of the expiration of the period of redemption; and that the interest due on the principal obligation was bloated.

The bank, as defendant below, claimed in its answer that it complied with the requirements of posting and publication required under Act 3135 and that it had not charged nor increased the interest rate of the principal obligations. It contended that the computation attached to the complaint was not the amount of redemption but the amount at which the bank may sell back, the property to the petitioners.

On January 24, 1985, the trial court issued a writ of preliminary injunction enjoining the bank from taking the possession of the property covered by TCT No. 64721.

After trial on the merits, the trial court rendered its decision on April 21, 1992, disposing as follows:

"WHEREFORE, in view of the foregoing, judgment is rendered by the Court as follows:

a) Declaring the annulment of the extrajudicial foreclosure of mortgages, the sale of the properties at public auction, the issuance of titles to the properties in the name of the defendant bank and the reconveyance of the same to the plaintiffs.

The following certificates of titles issued in the name of the defendant bank by the Registry of Deed, Malolos, Bulacan, is ordered cancelled by the Court:

Exhibit 19 - TCT No. T-275695
Exhibit 34 - TCT No. T-281827
Exhibit 34-A - TCT No. T-281825
Exhibit 34-B - TCT No. T-281828LEX
Exhibit 34-C - TCT No. T -281926

The Register of Deeds is hereby ordered to issue new certificates of titles to the subject properties in the name of the plaintiffs.

b) The Writ of Preliminary Injunction previously issued by the Court on January 7, 1985 in favor of the plaintiffs is hereby made permanent.

c) Ordering the defendant bank to pay the plaintiffs the following amounts:

P10,000.00 attorney's fees

costs of the suit

with 6% interest on all amounts due from the filing of this action on