

SECOND DIVISION

[G.R. No. 122899, June 08, 2000]

**METROPOLITAN BANK & TRUST COMPANY, PETITIONER, VS.
COURT OF APPEALS AND G.T.P. DEVELOPMENT CORPORATION,
RESPONDENTS.**

DECISION

BUENA, J.:

This petition for review on *certiorari* under Rule 45 of the Rules of Court assails (1) the amended decision of public respondent Court of Appeals ^[1] dated 03 July 1995 in CA-GR CV No. 33395 affirming the trial court's judgment ordering herein petitioner Metropolitan Bank and Trust Company (hereafter, METROBANK) to release/cancel the real estate mortgage constituted over the subject property, and (2) the respondent court's resolution dated 04 December 1995 denying petitioner METROBANK's motion for reconsideration.

The subject property is a parcel of land in Diliman, Quezon City consisting of six hundred ninety (690) square meters originally owned by businessman Tomas Chia under Transfer Certificate of Title No. RT-16753 (106901) of the Registry of Deeds for Quezon City. Saddled with debts and business reverses, Mr. Chia offered the subject property for sale to private respondent G.T.P. Development Corporation (hereafter, GTP), with assumption of the mortgage indebtedness in favor of petitioner METROBANK secured by the subject property.

Pending negotiations for the proposed sale, Atty. Bernardo Atienza, acting in behalf of respondent GTP, went to the METROBANK branch in Quiapo, Manila sometime in the last week of August 1980 to inquire on Mr. Chia's remaining balance on the real estate mortgage. METROBANK obliged with a statement of account of Mr. Chia amounting to about P115,000.00 as of August ,1980.

The deed of sale^[2] and the memorandum of agreement^[3] between Mr. Chia and respondent GTP were eventually executed and signed on 04 September 1980 in the office of Atty. Atienza. Twelve (12) days later, or on 16 September 1980, Atty. Atienza went to METROBANK Quiapo Branch and paid one hundred sixteen thousand four hundred sixteen pesos and seventy-one centavos (P116,416.71),^[4] for which METROBANK issued an official receipt acknowledging payment.

This notwithstanding, petitioner METROBANK refused to release the real estate mortgage on the subject property despite repeated requests from Atty. Atienza, thus prompting respondent GTP to file on October 17, 1980 an action for specific performance against petitioner METROBANK and Mr. Chia.

In answer to the complaint, Mr. Chia denied having executed any deed of sale in favor of respondent GTP involving the subject property. Petitioner for its part

justified its non-release of the real estate mortgage (1) upon the advise of Mr. Chia that he never executed any sales agreement with respondent GTP, and (2) by the fact that there are other loans incurred by Mr. Chia which are also secured by the subject property.

After trial, judgment was rendered by the regional trial court on 11 December 1990 granting the reliefs prayed for by respondent GTP as plaintiff, viz:

"WHEREFORE, after a careful and thorough study of the record, this Court holds that in view of the facts contained in the records, judgment is hereby rendered in favor of plaintiff and against defendants, ordering -

- "1. Defendant Metropolitan Bank & Trust Co. to execute the release or cancellation of the real estate mortgages executed by the deceased defendant Tomas Chia and his wife, defendant Vicenta Chia, over the property described in TCT No. 106901 of the registry of deeds for Quezon City;
- "2. Defendants to surrender or deliver the owner's duplicate copy of said TCT No. 106901; and,
- "3. Defendants to pay, jointly and severally, the sum of P10,000.00 as and for attorney's fees, plus costs of suit.

"The counterclaims set up by both defendants are dismissed.

"IT IS SO ORDERED."^[5]

On appeal, respondent Court of Appeals rendered a Decision dated 24 October 1994^[6] reversing the trial court's 11 December 1990 judgment, ruling in the main that the one hundred sixteen thousand four hundred sixteen pesos and seventy-one centavos (P116,416.71) paid by respondent GTP to petitioner METROBANK did not extinguish the real estate mortgage inasmuch as there are other unliquidated past due loans secured by the subject property.

With this unfavorable turn of events, respondent GTP, on 07 November 1994,^[7] filed before respondent Court of Appeals a "motion for reconsideration with alternative prayer to require METROBANK to furnish appellee (GTP) of the alleged unpaid balance of Mr. Chia." At the re-scheduled date of oral arguments on 08 March 1995 where METROBANK was supposed to bring before the respondent Court the current statement of the mortgage debt of Mr. Chia secured by the deeds of mortgage sought to be released, METROBANK's counsel did not appear; only the lawyers of respondent GTP and Mr. Chia appeared. Thus, the Court required GTP's counsel to file a memorandum in lieu of oral arguments in support of its motion for reconsideration.^[8] GTP filed its memorandum on March 17, 1995^[9] to which a reply memorandum was filed by METROBANK on April 10, 1995.^[10]

On 03 July 1995,^[11] the now assailed amended decision was rendered reconsidering the original 24 October 1994 Decision and thus affirming the 11 December 1990 judgment of the regional trial court. Respondent Court of Appeals took a second

hard look at the evidence on hand and seriously considered METROBANK's refusal to specify any unpaid debt secured by the subject property, in concluding anew that "the present case for specific performance is well-grounded, absent indubitable showing that the aforesaid amount of P116,416.71 paid by appellee on September 16, 1980 did not suffice to pay in full the mortgage debt assumed under the Deed of Absolute Sale, with assumption of mortgage, it inked with the late Tomas Chia. There is therefore merit in its motion for reconsideration at bench." Petitioner METROBANK is now before us after its motion for reconsideration of the 03 July 1995 amended decision was denied by respondent Court of Appeals per Resolution of 04 December 1995.^[12]

We find no compelling reasons to disturb the assailed decision.

We quote with favor the following pronouncements of respondent Court of Appeals in the Amended Decision, thus:

"x x x. In the case under scrutiny, we are convinced that we erred in reversing the appealed judgment despite the finding that subject property covered by TCT 106901- Quezon City had been sold, in a manner absolute and irrevocable, by the spouses, Tomas Chia and Vicenta Chan, to plaintiff-appellee, and on September 16, 1980, the latter complied with its contractual obligation thereunder by paying the total mortgage debt it assumed, amounting according to Metrobank itself, to P116,416.71, as of September 16, 1980.

"All things studiously viewed in proper perspective, we are of the opinion, and so rule, that whatever debts or loans mortgagor Chia contracted with Metrobank after September 4, 1980, without the conformity of plaintiff-appellee, could not be adjudged as part of the mortgage debt the latter so assumed. We are persuaded that the contrary ruling on this point in Our October 24, 1994 decision would be unfair and unjust to plaintiff-appellee because, before buying subject property and assuming the mortgage debt thereon, the latter inquired from Metrobank about the exact amount of the mortgage debt involved.

"The stipulation in subject Deeds of Mortgage that mortgagors' debts subsequently obtained would be covered by the same security became inapplicable, when mortgagor sold to appellee the mortgaged property with the knowledge of the mortgagee bank. Thus, since September 4, 1980, it was obvious that whatever additional loan mortgagor got from Metrobank, the same was not chargeable to and collectible from plaintiff-appellee. It is then decisively clear that Metrobank is without any valid cause or ground not to release the Deeds of Mortgage in question, despite full payment of the mortgage debt assumed by appellee."^[13]

Petitioner METROBANK is estopped from refusing the discharge of the real estate mortgage on the claim that the subject property still secures "other unliquidated past due loans." In ***Maneclang vs. Baun***,^[14] this Court enumerated the requisites for estoppel by conduct to operate, to wit:

"1. there must have been a representation or concealment of