

THIRD DIVISION

[G.R. No. 101747, September 24, 1997]

**PERFECTA QUINTANILLA, PETITIONER, VS. COURT OF
APPEALS** AND RIZAL COMMERCIAL BANKING CORPORATION,
RESPONDENTS.
D E C I S I O N**

FRANCISCO, J.:

The antecedents, as found by the trial court and affirmed by the Court of Appeals (CA), are as follows:

Defendant, x x x (respondent RCBC) is a commercial banking institution, organized under existing laws, doing business through its duly accredited offices in the City of Cebu.

"On 12 July 1983, plaintiff (petitioner) executed a Real Estate Mortgage on a parcel of land, situated in the City of Cebu, under TCT No. 39409, in favor of defendant, RCBC, to secure a credit line in the amount of P45,000.00. Plaintiff availed, from this collateralized credit line, the amount of P25,000.00 only, secured and evidenced by promissory note no. 84/615 in the said sum of P25,000.00, with interest at the rate of 38% per annum, on 23 October 1984.

"Plaintiff, Perfecta Quintanilla, who is engaged in business, under the name and style, Cebu Cane Products, exports rattan products abroad. In connection therewith, she established with defendant, RCBC, advance credit line, for her export bills against Letters of Credit from her customers abroad.

"Also, on an even date, 23 October 1984, plaintiff secured from defendant, RCBC, a loan of P100,000.00, against her advance export credit line, secured by promissory note no. 84/614, on a maturing period, one month from thence.

"Again on November 8, 1984, plaintiff secured another advance credit of P100,000.00 against her advance export credit line, which she again secured by another promissory note no. 84/632, of even date.

"On 20 November 1984, plaintiff shipped stocks of her Cane Products to her buyer in Belgium, upon a Letter of Credit, under Export Bill No. 84/199, in the amount of US \$10,638.15. Defendant, RCBC, received the proceeds of this export shipment, in the amount of P208,630.00, from Bank Brussels Lambert-New York.

"The full amount of the proceeds, was therefore credited to plaintiff's Current Account No. 218 with defendant bank. Defendant RCBC, then

debited plaintiff's current account, in the amount of P125,000.00 as payment for the latter's loan of P100,000.00 to promissory note no. 84/614 and P25,000.00 to promissory note no. 84/615. The latter amount was what plaintiff secured by the Real Estate Mortgage, Exhibit "A".

"On November 27, 1984, plaintiff made another shipment from her Cebu Cane Products, under Export Bill No. 84-205 for US \$10,083.00. Consequently, RCBC sent the export documents to the issuing bank for collection of this, latter export shipment.

"However, on November 28, 1984, the issuing bank, Brussels Lambert-Belgium, refused payment on Export Bill No. 84-199, and demanded reimbursement from defendant, RCBC, the amount of US \$20,721.70, invoking its right for immediate reimbursement, under Art. 16 of the International Chamber of Commerce (ICC) Publication 400 through telex, to which plaintiff was so notified by defendant, RCBC. The latter, subsequently advised plaintiff to communicate and arrange matters with her buyers and customers in Belgium. After persistent demand for reimbursement, from Bank Brussels Lambert-Belgium, defendant, RCBC, returned and reimbursed the total sum of US \$20,721.70 to Bank Brussels Lambert-Belgium.

"RCBC, then proceeded to revert the credit and debit entries on plaintiff's current account, which it supposedly paid to promissory note nos. 84/614 and 84/615 and demanded payments from the plaintiff, the whole amount, including the amount of P25,000.00, it collateralized by the real estate mortgage, Exh. 'A'.^[1]

For failing to comply with the demands, RCBC sought to foreclose the real estate mortgage, not only for the amount of P25,000.00 but also for the amount of P500,994.39 which represents petitioner's subsequent credit accommodations. RCBC alleged that the latter amount was likewise secured under the mortgage contract.

Rejecting RCBC's claim, petitioner filed an action for specific performance, damages and attorney's fees with prayer for a writ of preliminary injunction, alleging that the obligation for which the mortgage was executed was only for the maximum amount of P45,000.00 and that petitioner had already paid her other unsecured loans. RCBC filed an answer denying petitioner's claim and set up a counterclaim for the payment of all her other outstanding loans – totalling P500,694.39.

After trial, the RTC rendered judgment, the dispositive portion of which reads:

WHEREFORE, the writ of preliminary injunction, issued by this Court is hereby lifted. The defendant, RCBC, and defendants may proceed to foreclose the real estate mortgage for the satisfaction of plaintiff's obligation of P25,000.00 plus stipulated interests thereon in accordance with the terms thereof, but not to satisfy the other obligation of the plaintiff in excess thereof, which the said mortgage did not secure, therefor. No pronouncement as to costs.

SO ORDERED.”^[2]

RCBC appealed to the CA imputing error to the trial court in not granting its counterclaim and in ruling that the foreclosure of the mortgage was limited to the P25,000.00 availed of by petitioner. The CA affirmed the RTC ruling in so far as the foreclosure was limited to the amount of P25,000.00 but modified the same by granting the counterclaim. The dispositive portion of the CA decision provides:

Premises considered, We affirm the appealed decision with the modification consisting of ordering the appellee to pay the appellant, on the latter’s counter-claims, the sum of P500,694.39 due as of May 22, 1987 plus interest on the principal sum of P298,097.47 at the rate of 18% per annum from May 23, 1987 and penalty charges of 12% per annum from the same date, until fully paid, and the sum of P8,000.00 as reasonable attorney’s fees plus the costs.

“SO ORDERED.”^[3]

Aggrieved, petitioner moved for a partial reconsideration, arguing for the first time that respondent RCBC’s counterclaim is permissive in nature for which the trial court has not acquired jurisdiction due to the non-payment of the docket fees. Petitioner’s motion was denied by the CA, though it amended its earlier decision by ordering respondent RCBC to pay docket fees on the counterclaim.^[4] Hence this petition.

The pivotal issue is whether respondent RCBC’s counterclaim is compulsory or permissive in nature, the resolution of which hinges on the interpretation of the following provision in the real estate mortgage which reads:

That for and in consideration of certain loans overdrafts and other credit accommodations obtained from the mortgagee by the same and those that hereafter be obtained, the principal of all of which is hereby fixed at forty-five Thousand Pesos (P45,000.00), Philippine Currency, as well as those that the mortgagee may extend to the mortgagor including interest and expenses of any other obligation owing to the mortgagee, whether direct or indirect, principal or secondary, as appears in the accounts, books and records of the mortgagee, the mortgagor does hereby transfer and convey by way of mortgage unto the mortgagee x x x (emphasis supplied).”^[5]

We disagree with the CA’s ruling that RCBC’s counterclaim is permissive. In Ajax Marketing & Development Corporation vs. Court of Appeals,^[6] a substantially similar provision appears, to wit:

That for and in consideration of credit accommodations obtained from the MORTGAGEE (Metropolitan Bank and Trust Company), by the MORTGAGOR and/or AJAX MKTG. & DEV. CORP./AJAX MARKETING COMPANY/YLANG-YLANG MERCHANDISING COMPANY detailed as follows:

Nature	Date Granted	Due	Amount or Line
Date			