

SEVENTEENTH DIVISION

[CA-G.R. CV. NO. 69700, August 18, 2006]

SAMSON CHUA, VIRGINIA C. LIM, TERESITA C. TAN, DANILO CHUA AND WILLIAM CHUA, PLAINTIFFS- APPELLEES, VS. FAR EAST BANK AND TRUST COMPANY AND CLAUDIO ARUGAY, DEFENDANTS-APPELLANTS.

D E C I S I O N

SANTIAGO-LAGMAN, J.:

This is an appeal from the decision^[1] dated November 10, 2000, of the Regional Trial Court of Dagupan City, Branch 41, in Civil Case No. 98-02705-D, entitled: Samson Chua, Virginia C. Lim, Teresita C. Tan, Danilo Chua and William Chua, plaintiffs (herein appellees), versus Far East Bank and Trust Company and Claudio M. Arugay, defendants (appellants),” the dispositive portion of which states:

“WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendants;

(a) Ordering the defendants;

1. To execute in favor of the plaintiffs the Deed of Release and Discharge of the Deed of Real Estate Mortgage and its amendments (Exhs. “E, E-1 and E-2”);
2. To return to the plaintiffs the T.C.T Nos. 60128, 124789, 186787, 186788 and 1867789;
3. To pay to the plaintiffs for damages they suffered for the failure and refusal of the defendants to execute the Deed of Release and Discharge and to return the five (5) Transfer Certificates of title in the amount of P1,000,000.00.
4. To pay to the plaintiffs attorney's fees in the amount of P200,000.00; and
5. To pay the costs.

SO ORDERED.”

Culled from the decision of the court a quo, the antecedent facts^[2] are as follows:

“Evidence for the plaintiffs tends to show that on February 3, 1994, the plaintiffs executed a Special Power of Attorney (Exh. 'B') constituting their mother Gloria Ocampo as their attorney-in-fact to apply for an Irrevocable Domestic Standby Letter of Credit in favor of Farmix

Fertilizers Corporation with the defendant Far East Bank and Trust Company (FEBTC) and to use as guaranty against a loss that the defendant FEBTC may suffer under the Irrevocable Domestic Standby Letter of Credit, over a parcel of land covered by T.C.T No. 60128.

On February 8, 1994, three (3) of the plaintiffs, namely; Samson Chua, Danilo Chua and William Chua executed a Special Power of Attorney, constituting their mother Gloria Ocampo as their Attorney-in-fact to enter into a real estate mortgage contract as security for all present and future obligations of Gloria Ocampo with Farmix Fertilizers Corporation that maybe charged against an Irrevocable Domestic Standby Letter of Credit issued by the FEBTC, over a parcel of land covered by T.C.T No. 124679.

On March 2, 1994, the defendant FEBTC issued Irrevocable Domestic Standby Letter of Credit No. 15 in favor of Farmix Fertilizers Corporation for the account of Ms. Gloria Ocampo for the sum of not exceeding Five Million Pesos (P5,000,000.00).

On March 29, 1994, the plaintiffs executed another Special Power of Attorney, constituting their mother Gloria Ocampo as their attorney-in-fact to apply for an Irrevocable Domestic Standby Letter or Credit in favor of suppliers of Ms. Gloria Ocampo for fertilizers and to use as guaranty against a loss that the defendant FEBTC may suffer under the Irrevocable Domestic Standby Letter of Credit over three (3) parcels of land covered by T.C.T No. 186787, T.C.T No. 186788 and T.C.T No. 186789.

On April 4, 1994, Ms. Gloria Ocampo executed a Deed of Real Estate Mortgage in favor of the defendant FEBTC to answer for any payment made by the defendant Bank to Farmix Fertilizers Corporation or Fertiphil Corp., under the Irrevocable Domestic Standby Letter of Credit issued or to be issued by the defendant FEBTC in favor of Farmix Fertilizers Corporation or Fertiphil Corporation.

On August 10, 1994, the Deed of Real Estate Mortgage as amended increasing from P3,600,000.00 to P4,948,000.00 the amount secured by the Real Estate Mortgage and on July 15, 1997, the Deed of Real Estate Mortgage, as amended, was again amended by increasing from P4,948,000.00 to P5,590,000.00, the amount secured by the Real Estate Mortgage.

On April 5, 1995, the defendants established and issued in favor of Farmix Fertilizers Corporation, as renewal for another year, Irrevocable Domestic Standby Letter of Credit No. 074-00019/DLC 95 for the account of Ms. Gloria Ocampo.

On August 2, 1995, the defendants issued in favor of Fertiphil Corporation a Bank Undertaking in the amount of Two Million (P2,000,000.00) Pesos to finance the purchases of Ms. Gloria Ocampo from Fertiphil Corp. up to August 2, 1996.

On August 12, 1997, the defendant FEBTC, as a renewal for another year

of the Bank Undertaking issued in favor of Fertiphil Corporation the Irrevocable Domestic Standby Letter of Credit No. 074-0000223/DL97 terminating on October 31, 1998.

With the expiration of the Irrevocable Domestic Standby Letters of Credit, and the Bank Undertaking, without any liability attaching to any of them, the Deed of Real Estate Mortgage as amended, has been released and discharged and of no further force and effect and the Special Powers of Attorney, executed by the plaintiffs in favor of Ms. Gloria Ocampo to guarantee the payment of the amounts the defendant FEBTC may be obligated to pay to Farmix Fertilizers Corporation or Fertiphil Corp. under the Irrevocable Domestic Standby Letters of Credit, and the Bank Undertaking have been exhausted and have become *functus officio*.

With the Real Estate Mortgage over the plaintiffs' parcel of land covered by T.C.T. Nos. 60128, 124679, 186787, 186788 and 186789 having been discharged and of no further force and effect, and the Special Powers of Attorney, having become *functus officio*, the plaintiffs requested the defendants for execution of the Deed of Release and Discharge of the Real Estate Mortgage and its amendments, and the return of T.C.T. Nos. 60128, 124879, 186787, 186788 and 186789 covering the parcels of land described in the three (3) Special Powers of Attorney, but the defendants failed and refused to execute the Deed of Release and Discharge, and to return the said certificates of title, in spite of repeated demands.

On account of the unjustified failure and refusal of the defendants to return the five (5) certificates of title, the plaintiffs were unable to make use of the Certificates of Title in carrying out their own respective businesses, to their damage and prejudice in the amount of not less than One Million (P1,000,000.00) Pesos.

Having been compelled to litigate for the enforcement of a clear legal duty of the defendants, the plaintiffs engaged the services of counsel for the sum of P200,000.00, plus a fee of P2,500.00 for each day appearance of counsel in Court in this instance, and have to incur expenses of litigation in the sum of not less than P50,000.00.

Evidence for the defendants tends to show that on March 2, 1994, plaintiffs, as represented by their mother, Gloria Ocampo, applied with defendant FEBTC's Urdaneta City Branch for the opening of an Irrevocable Domestic Standby Letter of Credit (Standby LC) for P5,000,000.00 as guaranty for the former's obligation with Farmix Fertilizers Corporation.

As principal security, for the Standby LC, plaintiffs, through Gloria Ocampo, executed a Real Estate Mortgage (REM) in favor of defendant FEBTC over five (5) parcels of land covered by T.C.T. Nos. 60128, 124679, 186787, 186788, and 186789 of the Register of Deeds of Pangasinan.

Under the terms of the REM, plaintiffs agreed to constitute the properties

covered thereby as collateral not only for the Standby LC but for any and all obligations which they or their mother then anticipated to later obtain from defendant FEBTC as well.

Expectedly, on July 18, 1994, Gloria Ocampo obtained a loan from defendant FEBTC for P7,500,000.00 subject to the condition that the excess value of the mortgaged collaterals on the Standby LC, shall be used as security therefor.

Expectedly, too, the Standby LC line of plaintiffs was twice extended on he first up to 31 March, 1996; the second until 31 October, 1997 subject to the same condition that it shall continue to be secured by the REM.

On 2 August 1995, plaintiffs again, as represented by their mother, secured a Bank Undertaking from FEBTC for P2,000,000.00 to finance the former's purchases with Fertiphil Corporation, subject to the condition that the Bank Undertaking shall be secured by the REM."

Hence, the present Complaint^[3] for the Release and Discharge of Mortgage, the Return of Certificates of Title and Damages, filed by the plaintiffs-appellees against the defendants-appellants. On February 26, 1999, an Answer with Compulsory Counterclaim^[4] was filed by the latter.

On March 5, 1999, a Motion to Dismiss Counterclaim^[5] was filed by the plaintiffs-appellees and an Opposition^[6] thereto was filed by defendants-appellants on March 18, 1999.

On April 6, 1999, an Order^[7] was issued by the court a quo denying the plaintiffs-appellees' Motion to Dismiss Counterclaim.

Pre-trial having been terminated, trial on the merits ensued.

On November 10, 2000, the assailed Decision was rendered by the court a quo in the manner heretofore mentioned.

Not satisfied, defendants-appellants filed the present appeal where they interposed the following-

"ASSIGNMENT OF ERRORS^[8]

I

"THE TRIAL COURT ERRED IN ORDERING THE DEFENDANTS-APPELLANTS TO EXECUTE A DEED OF RELEASE AND DISCHARGE OF THE DEED OF REAL ESTATE MORTGAGE AND ITS AMENDMENTS (EXHS. 'E, E-1, AND E-2'), CONTRARY TO THE EXPRESS PROVISIONS OF THE DEED OF MORTGAGE.

II

THE TRIAL COURT ERRED IN ORDERING THE DEFENDANTS-APPELLANTS