

## **SIXTEENTH DIVISION**

**[ CA-G.R. CV NO. 79281, August 18, 2006 ]**

**PEDRO S. CRUZ AND CYNTHIA CRUZ, PLAINTIFFS-APPELLEES,  
VS. MACLIN REALTY DEVELOPMENT COMPANY, INC.,  
DEFENDANT-APPELLANT.**

### **D E C I S I O N**

**LAMPAS PERALTA, J.:**

Assailed in this appeal is the Decision dated February 11, 2002<sup>[1]</sup> in RTC Civil No. 2731-99-C of Branch 92, Regional Trial Court, Calamba City granting the petition for "Surrender of Owner's Duplicate of Title Pursuant to Section 107 of P.D. No. 1529, as amended"<sup>[2]</sup> filed by plaintiffs-appellees against defendant-appellant.

### ***THE ANTECEDENTS***

Defendant-appellant Maclin Realty Development Company, Inc. obtained from plaintiffs-appellees spouses Pedro S. Cruz and Cynthia Cruz a loan in the amount of P6,044,219.76, as evidenced by a promissory note. As a collateral, defendant-appellant executed a deed of real estate mortgage over a property located in Calamba, Laguna covered by TCT No. T-410959. The owner's duplicate copy of the title was delivered to plaintiffs-appellees, but defendant-appellant subsequently borrowed it from plaintiffs-appellees. For failure of defendant-appellant to pay the loan, plaintiffs-appellees demanded from the former the surrender of the owner's duplicate copy of the title, but defendant-appellant refused to do so. Thus, plaintiffs-appellees could not foreclose the mortgage or even have the mortgage annotated on the title, because the owner's duplicate thereof was with defendant-appellant.

Hence, plaintiffs-appellees filed with the trial court a petition for the surrender of the subject owner's duplicate of title and the annotation on the title of the deed of real estate mortgage, pursuant to Section 107, Presidential Decree No. 1529, otherwise known as the Property Registration Decree.

The respective submissions of the parties in their basic pleadings are summarized in the trial court's Decision as follows:

The petition alleged as follows: that during the months of February up to April, 1998, the defendant secured a loan from plaintiff Pedro S. Cruz in the total amount of Ph6,044,219.76 as evidenced by the Promissory Note dated May 25, 1998 executed by Henry Crisostomo as authorized representative of the defendant; that the defendant through Henry Crisostomo executed the Deed of Real Estate Mortgage over the property located at Calamba, Laguna, consisting of 10,000 square meters and covered by Transfer Certificate of Title No.

410959; that on April 20, 2001, the defendant, through Henry Crisostomo and its President, Marcelino Cuan borrowed the owner's duplicate copy of Transfer Certificate of Title No. 410959 with the undertaking to return the title to the plaintiffs but that the owner's duplicate copy of the certificate of title was not returned to the plaintiffs; that the plaintiffs demanded for the return of the owner's duplicate copy of the certificate of title but the defendant refused to deliver the owner's duplicate copy of the title despite the letters dated April 28, 1998 and May 13, 1998, wherein the plaintiffs requested for the return of the title or at least, for partial payments of the loan; that on July 27, 1998, despite the maturity of the loan, the defendant failed and refused to settle its loan to the plaintiffs; that on November 26, 1998, the plaintiffs requested for the annotation of the real estate mortgage transaction on the original of the Transfer Certificate of Title No. 410959 with the Register of Deeds of Calamba but the Register of Deeds did not allow the annotation on the ground that the owner's duplicate copy of the title was not submitted to the Register of Deeds; that on December 24, 1998, the plaintiffs filed an adverse claim on the original of Transfer Certificate of Title No. 410959 with the Register of Deeds of Calamba; that the assessed value of the property covered by Transfer Certificate of Title No. T-410959 is Ph5,960,000.00; that because of the unjustified refusal of the defendant to deliver and surrender the owner's duplicate copy of Transfer Certificate of Title No. 410959 to the custody of the plaintiffs, the annotation on the real estate transaction was not done, so that the plaintiffs cannot exercise the right to foreclose the real estate mortgage which is clearly prejudicial to the plaintiffs who have just and valid claim and interest over the subject property; that by reason of the unjustified failure and refusal of the defendant to surrender the owner's duplicate copy of Transfer Certificate of Title No. 410959, the plaintiffs sought recourse to this Honorable Court to compel the defendant to surrender the owner's duplicate copy of Transfer Certificate of Title No. 410959 and to direct the annotation of the real estate mortgage on the title, and should the defendant fail to surrender the owner's duplicate copy of the title, this Honorable Court shall order the annulment of the owner's duplicate copy of the Transfer Certificate of Title No. 410959 and order the issuance of a new certificate of title.

By way of answer, the defendant averred that the plaintiffs are not the proper parties in interest because the plaintiffs admitted that they are representing "the group" which was not properly identified; that the basic agreement involved is a certain Memorandum of Agreement dated February 20, 1998 which stated that plaintiffs offered to "make funds available" to be used exclusively for the construction of defendant's Consumer Place Project, to be made payable out of the loan proceeds from the Development Bank of the Philippines

(DBP); that the plaintiff Pedro Cruz volunteered to work for the grant of the DBP loan to defendant as shown by the letter dated April 17, 1998 which stated that the plaintiff was not to be paid any professional (sic) except that the defendant was supposed to purchase a certain property located at Duenas, Iloilo and imposed a 5% service fee "to be paid to external bridges who will work on the loan application at DBP"; that the "advances for the project" are to be considered "as accommodations" and "non-revenue earning" as stated in the letter dated May 13, 1998; that as stated in the "Recapitulation", the real purpose of the "advances of money" was to keep the construction work going for purposes of inspection by prospective funders since any work stoppage might prejudice the funding application; that the promissory note and the real estate mortgage which suffered from some unexplained irregularities were just afterthoughts on the part of the plaintiffs after the plaintiff Pedro Cruz failed to produce the approved DBP loan and/or "Japanese funder" and were meant to be shown to the "group" for "their peace of mind"; that there was no showing in the promissory note and real estate mortgage documents that Henry Crisostomo was duly authorized by the defendant to sign and deliver the documents; that the promissory note and real estate mortgage did not express the true intent and agreement of the parties; that in view of the infirmities and defects of the promissory note and the real estate mortgage, P.D. No. 1529, Section 107 is not applicable to the instant case; that defendant's obligation being conditional in nature and the condition not having happened, the obligation is not yet due and payable and as such, this case is premature and should be dismissed.

The plaintiffs filed a reply wherein the plaintiffs alleged that there were two transactions between the plaintiffs and defendant, one referring to the loan transaction documented under the promissory note and real estate mortgage and the other transaction pertaining to the packaging of loan wherein the plaintiffs will source out funders which can provide financing for the defendant's project; that the plaintiff shall be paid a fee for research work, feasibility study, forecasting, demographic study and other documentary tasks to support the funding application; that reformation is not a valid remedy considering that the promissory note and the real estate mortgage contain the true intent and agreement between the parties; that Henry Crisostomo was the duly authorized representative of the defendant with the authority to sign for and in behalf of the defendant; and that the two transactions are independent, distinct and separate from each other and the fact that these transactions existed does not distort the truth that the defendant through its Vice-President, Henry Crisostomo signed the promissory note and deed of real estate