Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

FLORO MERCENE,
Petitioner,

- versus -

GOVERNMENT SERVICE INSURANCE SYSTEM,
Respondent.

G.R. No. 192971

Present:

VELASCO, JR., *J., Chairperson,*
BERSAMIN,
LEONEN,
MARTIRES, and
GESMUNDO, *JJ.*

Promulgated:

January 10, 2018

x - x

DECISION

MARTIRES, *J.*:

This petition for review on certiorari seeks to reverse and set aside the 29 April 2010 Decision[1] and 20 July 2010 Resolution[2] of the Court of Appeals *(CA)* in CA-G.R. CV No. 86615 which reversed the 15 September 2005 Decision[3] of the Regional Trial Court, Branch 220, Quezon City *(RTC)*.

THE FACTS

On 19 January 1965, petitioner Floro Mercene *(Mercene)* obtained a loan from respondent Government Service Insurance System *(GSIS)* in the amount of ₱29,500.00. As security, a real estate mortgage was executed over

[1] *Rollo*, pp. 33-41. Penned by Associate Justice Romeo F. Barza and concurred in by Associate Justices Rosalinda Asuncion-Vicente and Amy C. Lazaro-Javier.

[2] Id. at 54-55.

[3] Id. at 83-87. Penned by Judge Jose G. Paneda.

Mercene's property in Quezon City, registered under Transfer Certificate of Title No. 90535. The mortgage was registered and annotated on the title on 24 March 1965.[4]

On 14 May 1968, Mercene contracted another loan with GSIS for the amount of ₱14,500.00. The loan was likewise secured by a real estate mortgage on the same parcel of land. The following day, the loan was registered and duly annotated on the title.[5]

On 11 June 2004, Mercene opted to file a complaint for Quieting of Title[6] against GSIS. He alleged that: since 1968 until the time the complaint was filed, GSIS never exercised its rights as a mortgagee; the real estate mortgage over his property constituted a cloud on the title; GSIS' right to foreclose had prescribed. In its answer,[7] GSIS assailed that the complaint failed to state a cause of action and that prescription does not run against it because it is a government entity.

During the pre-trial conference, Mercene manifested that he would file a motion for judgment on the pleadings. There being no objection, the RTC granted the motion for judgment on the pleadings.[8]

The RTC Decision

In its 15 September 2005 decision, the RTC granted Mercene's complaint and ordered the cancellation of the mortgages annotated on the title. It ruled that the real estate mortgages annotated on the title constituted a cloud thereto, because the annotations appeared to be valid but was ineffective and prejudicial to the title. The trial court opined that GSIS' right as a mortgagee had prescribed because more than ten (10) years had lapsed from the time the cause of action had accrued. The RTC stated that prescription ran against GSIS because it is a juridical person with a separate personality, and with the power to sue and be sued. The dispositive portion reads:

> WHEREFORE, premises considered, judgment is hereby rendered:
>
> 1) Declaring the Real Estate Mortgage dated January 19, 1965, registered on March 24, 1965 and Real Estate Mortgage dated May 14, 1965 registered on May 15, 1968, both annotated at the back of Transfer Certificate of Title No. 90435 of the

---

4 Id. at 34.
5 Id.
6 Id. at 56-68.
7 RTC records, pp. 18-21.
8 *Rollo*, pp. 16-17.

> Registry of Deeds of Quezon City, registered in the name of plaintiff Floro Mercene married to Felisa Mercene, to be ineffective.
>
> 2) Ordering the Registry of Deeds of Quezon City to cancel the following entries annotated on the subject title 1) Entry No. 4148/90535: mortgage to GSIS and; 2) Entry No. 4815/90535: mortgage to GSIS.
>
> 3) The other claims and counter-claims are hereby denied for lack of merit.[9]

Aggrieved, GSIS appealed before the CA.

The CA Ruling

In its 30 January 2015 decision, the CA reversed the RTC decision. The appellate court posited that the trial court erred in declaring that GSIS' right to foreclose the mortgaged properties had prescribed. It highlighted that Mercene's complaint neither alleged the maturity date of the loans, nor the fact that a demand for payment was made. The CA explained that prescription commences only upon the accrual of the cause of action, and that a cause of action in a written contract accrues only when there is an actual breach or violation. Thus, the appellate court surmised that no prescription had set in against GSIS because it has not made a demand to Mercene. It ruled:

> WHEREFORE, the appeal is GRANTED. The decision appealed from is REVERSED and SET ASIDE. The complaint for Quieting of Title is hereby DISMISSED.[10]

Mercene moved for reconsideration, but the same was denied by the CA in its assailed 7 April 2011 resolution.

Hence, this present petition raising the following:

ISSUES

I

WHETHER THE COURT OF APPEALS ERRED IN CONSIDERING ISSUES NOT RAISED BEFORE THE TRIAL COURT;

---

[9] Id. at 86-87.
[10] Id. at 40.

II

WHETHER THE COURT OF APPEALS ERRED IN DISREGARDING THE JUDICIAL ADMISSION ALLEGEDLY MADE BY GSIS; AND

III

WHETHER THE COURT OF APPEALS ERRED IN RULING THAT THE REAL ESTATE MORTGAGES HAD YET TO PRESCRIBE.

THE COURTS RULING

The petition has no merit.

Related issues addressed by the trial courts

Mercene assails the CA decision for entertaining issues that were not addressed by the trial court. He claims that for the first time on appeal, GSIS raised the issue on whether the loans were still effective in view of his nonpayment. A reading of the CA decision, however, reveals that the appellate court did not dwell on the issue of nonpayment, but instead ruled that prescription had not commenced because the cause of action had not yet accrued. Hence, it concluded that the complaint failed to state a cause of action. The appellate court did not focus on the question of payment precisely because it was raised for the first time on appeal. It is noteworthy that, in its answer, GSIS raised the affirmative defense that Mercene's complaint failed to state a cause of action.

Only ultimate facts need be specifically denied

Further, Mercene insists that GSIS had judicially admitted that its right to foreclose the mortgage had prescribed. He assails that GSIS failed to specifically deny the allegations in his complaint, particularly paragraphs 11.1 and 11.2 which read:

> 11.1. The right of the defendant GSIS, to institute the necessary action in court, to enforce its right as a mortgagee, under Real Estate Mortgages dated January 19, 1965 and May 14, 1968, respectively, by filing a complaint for judicial foreclosure of Real Estate Mortgage, with the Regional Trial Court of Quezon City, against the plaintiff, as the mortgagor, pursuant to Rule 68 of the 1997 Rules of Civil Procedures

> (Rules, for brevity); or by filing a petition for extra-judicial foreclosure of real estate mortgage, under Act. 3135, as amended, with the Sheriff, or with the Notary Public, of the place where the subject property is situated, for the purpose of collecting the loan secured by the said real estate mortgages, or in lieu thereof, for the purpose of consolidating title to the parcel of land xxx in the name of the defendant GSIS, has already prescribed, after ten (10) years from May 15, 1968. More particularly, since May 15, 1968, up to the present, more than thirty-five (35) years have already elapsed, without the mortgagee defendant GSIS, having instituted a mortgage action[s] against the herein plaintiff-mortgagor.
> x x x
>
> 11.2. Since the defendant GSIS has not brought any action to foreclose either the first or the second real estate mortgage on the subject real property, so as to collect the loan secured by the said real estate mortgages, or in lieu thereof, to consolidate title to the said parcel of land, covered by the documents entitled, first and second real estate mortgages, in the name of the defendant GSIS, notwithstanding the lapse of ten (10) years from the time the cause of action accrued, either then (10) years after May 15, 1968, or after the alleged violation by the plaintiff of the terms and conditions of his real estate mortgages, therefore, the said defendant GSIS, has lost its aforesaid mortgagee's right, not only by virtue of Article 1142, N.C.C., but also under Article 476, N.C.C., which expressly provides that there may also be an action to quiet title, or remove a cloud therefrom, when the contract, instrument or other obligation has been extinguished or has terminated, or has been barred by extinctive prescription;[11]

The Court agrees with Mercene that material averments not specifically denied are deemed admitted.[12] Nonetheless, his conclusion that GSIS judicially admitted that its right to foreclose had prescribed is erroneous. It must be remembered that conclusions of fact and law stated in the complaint are not deemed admitted by the failure to make a specific denial.[13] This is true considering that only ultimate facts must be alleged in any pleading and only material allegation of facts need to be specifically denied.[14]

A conclusion of law is a legal inference on a question of law made as a result of a factual showing where no further evidence is required.[15] The allegation of prescription in Mercene's complaint is a mere conclusion of law. In *Abad v. Court of First Instance of Pangasinan*,[16] the Court ruled that the characterization of a contract as void or voidable is a conclusion of law, to wit:

---

[11] RTC records, pp. 5-7.
[12] *Cua v. Wallem Philippines Shipping, Inc.*, 690 Phil. 491, 501 (2012).
[13] Riano, Civil Procedures (The Bar Lecture Series) Volume I (2011), p. 317.
[14] Rules of Court, Rule 8, Sections 1 and 10.
[15] Black's Law Dictionary 9th Edition.
[16] 283 Phil. 500, 515 (1992).

> A pleading should state the ultimate facts essential to the rights of action or defense asserted, as distinguished from mere conclusions of fact, or conclusions of law. General allegations that a contract is valid or legal, or is just, fair and reasonable, are mere conclusions of law. Likewise, allegations that a contract is void, voidable, invalid, illegal, *ultra vires*, or against public policy, without stating facts showing its invalidity, are mere conclusions of law.

In the same vein, labelling an obligation to have prescribed without specifying the circumstances behind it is a mere conclusion of law. As would be discussed further, the fact that GSIS had not instituted any action within ten (10) years after the loan had been contracted is insufficient to hold that prescription had set in. Thus, even if GSIS' denial would not be considered as a specific denial, only the fact that GSIS had not commenced any action, would be deemed admitted at the most. This is true considering that the circumstances to establish prescription against GSIS have not been alleged with particularity.

Commencement of the prescriptive period for real estate mortgages material in determining cause of action

In its answer, GSIS raised the affirmative defense, among others, that the complaint failed to state a cause of action. In turn, the CA ruled that Mercene's complaint did not state a cause of action because the maturity date of the loans, or the demand for the satisfaction of the obligation, was never alleged.

In order for cause of action to arise, the following elements must be present: (1) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; (2) an obligation on the part of the named defendant to respect or not to violate such right; and (3) an act or omission on the part of such defendant violative of the right of the plaintiff or constituting a breach of obligation of the defendant to the plaintiff.[17]

In *University of Mindanao, Inc. v. Bangko Sentral ng Pilipinas, et al.*,[18] the Court clarified that prescription runs in mortgage contract from the time the cause of action arose and not from the time of its execution, to wit:

---

[17] *Philippine Long Distance Telephone Company v. Pingol*, 644 Phil. 675, 683 (2010).
[18] G.R. Nos. 194964-65, January 11, 2016, 778 SCRA 458, 483-484.

> The prescriptive period neither runs from the date of the execution of a contract nor does the prescriptive period necessarily run on the date when the loan becomes due and demandable. Prescriptive period runs from the date of demand, subject to certain exceptions.
>
> In other words, ten (10) years may lapse from the date of the execution of contract, without barring a cause of action on the mortgage when there is a gap between the period of execution of the contract and the due date or between the due date and the demand date in cases when demand is necessary.
>
> The mortgage contracts in this case were executed by Saturnino Petalcorin in 1982. The maturity dates of FISLAI's loans were repeatedly extended until the loans became due and demandable only in 1990. Respondent informed petitioner of its decision to foreclose its properties and demanded payment in 1999.
>
> **The running of the prescriptive period of respondent's action on the mortgages did not start when it executed the mortgage contracts with Saturnino Petalcorin in 1982.**
>
> The prescriptive period for filing an action may run either (1) from 1990 when the loan became due, if the obligation was covered by the exceptions under Article 1169 of the Civil Code; (2) or from 1999 when respondent demanded payment, if the obligation was not covered by the exceptions under Article 1169[19] of the Civil Code. [emphasis supplied]

In *Maybank Philippines, Inc. v. Spouses Tarrosa*,[20] the Court explained that the right to foreclose prescribes after ten (10) years from the time a demand for payment is made, or when then loan becomes due and demandable in cases where demand is unnecessary, *viz:*

> **An action to enforce a right arising from a mortgage should be enforced within ten (10) years from the time the right of action accrues, *i.e.*, when the mortgagor defaults in the payment of his obligation to the mortgagee; otherwise, it will be barred by prescription and the mortgagee will lose his rights under the mortgage**. However, mere delinquency in payment does not necessarily mean delay in the legal concept. To be in default is different from mere delay in the grammatical sense, because it involves the beginning of a special condition or status which has its own peculiar effects or results.

---

[19] Art. 1169. Those obliged to deliver or to do something incur in delay from the time the obligee judicially or extrajudicially demands from them the fulfillment of their obligation. However, the demand by the creditor shall not be necessary in order that delay may exist:
1) When the obligation or the law expressly so declare; or
2) When from the nature and the circumstances of the obligation it appears that the designation of the time when the thing is to be delivered or the service is to be rendered was a controlling motive for the establishment of the contract; or
3) When the demand would be useless, as when the obligor has rendered it beyond his power to perform.

[20] 771 Phil. 423, 428-429 (2015).

> In order that the debtor may be in default, it is necessary that: *(a)* the obligation be demandable and already liquidated; *(b)* the debtor delays performance; and *(c)* the creditor requires the performance judicially or extrajudicially, unless demand is not necessary — i.e., when there is an express stipulation to that effect; where the law so provides; when the period is the controlling motive or the principal inducement for the creation of the obligation; and where demand would be useless. Moreover, it is not sufficient that the law or obligation fixes a date for performance; it must further state expressly that after the period lapses, default will commence. Thus, **it is only when demand to pay is unnecessary in case of the aforementioned circumstances, or when required, such demand is made and subsequently refused that the mortgagor can be considered in default and the mortgagee obtains the right to file an action to collect the debt or foreclose the mortgage**.

Thus, applying the pronouncements of the Court regarding prescription on the right to foreclose mortgages, the Court finds that the CA did not err in concluding that Mercene's complaint failed to state a cause of action. It is undisputed that his complaint merely stated the dates when the loan was contracted and when the mortgages were annotated on the title of the lot used as a security. Conspicuously lacking were allegations concerning: the maturity date of the loan contracted and whether demand was necessary under the terms and conditions of the loan.

As such, the RTC erred in ruling that GSIS' right to foreclose had prescribed because the allegations in Mercene's complaint were insufficient to establish prescription against GSIS. The only information the trial court had were the dates of the execution of the loan, and the annotation of the mortgages on the title. As elucidated in the above-mentioned decisions, prescription of the right to foreclose mortgages is not reckoned from the date of execution of the contract. Rather, prescription commences from the time the cause of action accrues; in other words, from the time the obligation becomes due and demandable, or upon demand by the creditor/mortgagor, as the case may be.

In addition, there was no judicial admission on the part of GSIS with regard to prescription because treating the obligation as prescribed, was merely a conclusion of law. It would have been different if Mercene's complaint alleged details necessary to determine when GSIS' right to foreclose arose, i.e., date of maturity and whether demand was necessary.

WHEREFORE, the petition is **DENIED**. The 29 April 2010 Decision and 20 July 2010 Resolution of the Court of Appeals *(CA)* in CA-G.R. CV No. 86615 are **AFFIRMED** *in toto*.

SO ORDERED.

SAMUEL R. MARTIRES
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

LUCAS P. BERSAMIN
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P.A. SERENO
Chief Justice

CERTIFIED TRUE COPY
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
FEB 08 2018