



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ICON
CORPORATION,

DEVELOPMENT

G.R. No. 220686

Petitioner,

Present:

PERLAS-BERNABE, S.A.J.,
Chairperson,
REYES, A., JR.,
HERNANDO,
INTING, and
DELOS SANTOS, JJ.

- versus -

NATIONAL LIFE INSURANCE
COMPANY OF THE
PHILIPPINES,

Promulgated:

Respondent.

09 MAR 2020

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DECISION

INTING, J.:

Before the Court is a petition for review¹ under Rule 45 of the Rules of Court assailing the Decision² dated May 26, 2015 and the Resolution³ dated August 20, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 128708 which reversed and set aside the Orders dated January 28, 2012,⁴ February 17, 2012,⁵ February 20, 2012,⁶ March 29, 2012⁷ and December 7, 2012⁸ of the Regional Trial Court (RTC), Branch 60, Lucena City.

¹ *Rollo*, pp. 53-64.

² *Id.* at 66-81; penned by Associate Justice Melchor Q.C. Sadang with Associate Justices Celia C. Librea-Leagogo and Amy C. Lazaro-Javier (now a member of the Court), concurring.

³ *Id.* at 84-85.

⁴ *CA rollo*, pp. 55-58.

⁵ *Id.* at 59-62; rendered by Judge Romeo L. Villanueva.

⁶ *Id.* at 81-84.

⁷ *Id.* at 85.

⁸ *Id.* at 86-97.

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The Facts

On various dates, Icon Development Corporation (petitioner) obtained several loans from National Life Insurance Company of the Philippines (respondent). As security for the loans, several properties were mortgaged by the petitioner to the respondent. These properties are located in Makati City and Tayabas, Quezon. The petitioner made several payments until 2008 when it suddenly refused to make further payments despite repeated demands from the respondent.⁹

On November 25, 2011, after the petitioner defaulted in the payment of its obligations, the respondent filed a Petition for Extrajudicial Foreclosure¹⁰ of the mortgaged properties. It alleged that the petitioner failed to pay its outstanding balance of ₱274,497,565.60 despite several written and verbal demands.

On November 23, 2011, the provincial Sheriff issued a Notice of Extra-Judicial Sale¹¹ setting the auction of the mortgaged properties.

On December 27, 2011, the petitioner instituted before the RTC a Complaint for the Discharge of Obligation/or Determination of Actual Indebtedness, and Declaration of Nullity with Temporary Restraining Order (TRO)/Writ of Preliminary Injunction (WPI) with Damages.¹²

In the complaint, the petitioner insisted: that the respondent is collecting an exorbitant and unconscionable interest; that it paid 550 membership shares to the respondent valued at ₱100,000.00 per share, but the latter declared its cost at ₱250,000.00 per share;¹³ that despite the payment of these shares, the respondent stated that the amount was not credited to the petitioner; that due to the amounts paid, the petitioner made an overpayment to the respondent; that it could constitute an unjust enrichment on the part of the respondent if it will be able to acquire ₱1 Billion worth of properties to pay a loan of ₱31,513,152.69;¹⁴ that the officers who secured the loans had no authority from the petitioner; and that the respondent is under conservatorship; thus, the directors who initiated the foreclosure had no authority to do so.¹⁵

⁹ *Rollo*, p. 67.

¹⁰ *Id.* at 117-121.

¹¹ *CA rollo*, pp. 193-194.

¹² *Id.* at 123-129.

¹³ *Id.* at 125.

¹⁴ *Id.* at 126.

¹⁵ *Id.* at 126-127.

The respondent opposed the petitioner's application for TRO¹⁶ and cited Administrative Matter (A.M.) No. 99-10-05-0,¹⁷ which prohibits injunctive reliefs in extrajudicial foreclosure of real estate mortgage. It claimed that the petitioner failed to establish a clear right to any injunctive reliefs.¹⁸

On January 13, 2012, Atty. Clifford E. Chua (Atty. Chua), the appointed conservator of the respondent, filed a Manifestation¹⁹ stating that he authorized the foreclosure petition.

The Orders of the RTC

On January 28, 2012, the RTC issued an Order²⁰ granting the TRO and enjoining the Ex-Officio Provincial Sheriff of Quezon Province and the respondent from conducting the auction sale.²¹ It ruled that the respondent is under conservatorship; thus, the filing of foreclosure petition by its directors was invalid. The RTC also found that the conservator's Manifestation cannot be taken into consideration as it was not formally offered as evidence. Lastly, the RTC declared that A.M. No. 99-10-05-0 is not applicable because the authority of the persons who initiated the foreclosure was put into issue.²²

Thereafter, the respondent moved for reconsideration, but the RTC denied it in its Order²³ dated February 17, 2012.

On February 20, 2012, the RTC issued an Order²⁴ granting the issuance of WPI and fixing the bond thereof at ₱2,500,000.00. The RTC found that the petitioner made an overpayment to the respondent. Accordingly, it would be unfair for the respondent to foreclose the mortgaged properties.²⁵

On March 16, 2012, the respondent filed a Motion for Reconsideration with Motion to Inhibit²⁶ citing loss of confidence in the judge's impartiality in hearing the case.

¹⁶ *Id.* at 130-138.

¹⁷ Procedure in ExtraJudicial or Judicial Foreclosure of Real Estate Mortgage as amended by OCA Circular No. 25-2007 (March 5, 2007).

¹⁸ *CA rollo*, p. 136.

¹⁹ *Id.* at 195.

²⁰ *Id.* at 55-58.

²¹ *Id.* at 57.

²² *Id.*

²³ *Id.* at 59-62.

²⁴ *Id.* at 81-84.

²⁵ *Id.* at 83.

²⁶ *Id.* at 98-116.

Meanwhile, on March 29, 2012, the RTC issued an Order²⁷ directing the issuance of WPI after the petitioner posted the required bond.

On December 7, 2012, the RTC issued another Order²⁸ suspending the proceedings and referred the case to the Insurance Commission because the issues are allegedly within the latter's jurisdiction. The RTC cited the doctrine of primary jurisdiction as a ground in referring the case to the Insurance Commission.²⁹ The dispositive portion of the Order provides:

Wherefore, pending action of this Court on Motion for Reconsideration with Motion to Inhibit, let the following issues be REFERRED to THE INSURANCE COMMISSION for immediate determination and resolution, to wit:

I. WHETHER OR NOT THE FILING OF THE PETITION FOR EXTRA-JUDICIAL FORECLOSURE IS VALID CONSIDERING THE LACK OF AUTHORITY OF THE OFFICERS WHO INITIATED THE SAME

II. WHETHER OR NOT THE FILING OF THE PETITION FOR EXTRA-JUDICIAL FORECLOSURE IS APPROPRIATE CONSIDERING THAT ICON DEVELOPMENT IS NOT IN DEFAULT FOR LACK OF DEMAND BY THE CONSERVATOR

The parties through their respective counsels are directed to initiate and/or commence their proper action before the INSURANCE COMMISSION, Metro Manila.

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Aggrieved, the respondent filed a Petition³¹ for *Certiorari* and Prohibition with Prayer for the Issuance of a TRO and/or a WPI under Rule 65 of the Rules of Court before the CA.

²⁷ *Id.* at 85.

²⁸ *Id.* at 86-97.

²⁹ *Id.* at 95-97.

³⁰ *Id.* at 97.

³¹ *Id.* at 3-51.

The Ruling of the CA

On May 26, 2015, the CA promulgated the assailed Decision³² reversing the RTC's Orders, to wit:

WHEREFORE, the petition for certiorari is PARTIALLY GRANTED. The Orders dated January 28, 2012, February 17, 2012, February 20, 2012, March 29, 2012 and December 7, 2012 of the RTC of Lucena City, Branch 60, in Civil Case No. 2011-59 are REVERSED and SET ASIDE. The motion to prohibit respondent judge from taking further cognizance of the case is DENIED.

SO ORDERED.³³

The CA held that the RTC misapplied the doctrine on primary jurisdiction as the issues before the latter do not involve technical matters that require the specialized skills and expertise of the Insurance Commissioner. It found that the issues are purely legal questions which are within the competence and jurisdiction of the RTC and not with the Insurance Commissioner.³⁴

Likewise, the CA ruled that a conservator of a distressed corporation does not supplant the board of directors or management. The CA stressed that the board of directors and corporate officers continue to exercise their powers as such including the collection of debts through foreclosure of the mortgaged properties. Accordingly, the respondent's board of directors could validly authorize the filing of foreclosure proceeding.³⁵

Moreover, the CA highlighted that the RTC gravely abused its discretion when it failed to apply the guidelines in extrajudicial and judicial foreclosure of real estate mortgage as outlined in A.M. No. 99-10-05-0.³⁶

Finally, the CA denied the motion for inhibition filed by the respondent. According to the CA, there is no act or conduct on the part of the RTC judge from which suspicion of bias and partiality can be appreciated.³⁷

³² *Rollo*, pp. 66-81.

³³ *Id.* at 80.

³⁴ *Id.* at 73-74.

³⁵ *Id.* at 77.

³⁶ *Id.* at 78-79.

³⁷ *Id.* at 80.

The petitioner moved for reconsideration,³⁸ but the CA denied it in its assailed Resolution dated August 20, 2015.

Hence, the instant petition raising the following errors, to wit:

- I- THE HONORABLE [CA] ERRED IN NOT SUSTAINING THE RULING OF THE REGIONAL TRIAL COURT THAT THE DIRECTORS OF A COMPANY UNDER CONSERVATORSHIP CANNOT INITIATE A PETITION FOR EXTRA-JUDICIAL FORECLOSURE OF MORTGAGED PROPERTIES OF THE COMPANY'S DEBTOR SINCE THAT IS A COLLECTION OF DEBTS WHICH MUST BE SOLELY INITIATED BY THE CONSERVATOR
- II- THE HONORABLE COURT OF APPEALS ERRED IN APPLYING A.M. NO. 99-10-05-0 DESPITE THE FACT OF PRELIMINARY FINDING BY THE REGIONAL TRIAL COURT OF OVERPAYMENT
- III- THE COURT OF APPEALS ERRED IN NOT CONSIDERING AN UNJUST ENRICHMENT ON THE PART OF THE RESPONDENT FOR NOT APPLYING THE PAYMENT AND RETURNING THE OVERPAYMENT
- IV- THE COURT OF APPEALS ERRED IN CONSIDERING THE PETITIONER IN DEFAULT DESPITE LACK OF DEMAND BY THE CONSERVATOR³⁹

The basic contention of the petitioner is that the task of filing extrajudicial foreclosure during conservatorship belongs to the conservator and not to the board of directors of the subject company. The petitioner maintains that it was unlawful for the respondent's board of directors to initiate the foreclosure proceedings as the latter was not authorized by the conservator.⁴⁰

The petitioner also contends that the demands made by the respondent's directors were not sufficient to put it in default as the conservator did not accede to their actions.⁴¹

Moreover, the petitioner insists that it already paid its obligations to the respondent and it even made an overpayment. Accordingly, the

³⁸ See Motion for Reconsideration, *id.* at 86-92.

³⁹ *Id.* at 58.

⁴⁰ *Id.* at 59.

⁴¹ *Id.* at 60.

respondent will be unjustly enriched if it will be allowed to foreclose the mortgaged properties.⁴²

Further, the petitioner argues that A.M. No. 99-10-05-0 is not applicable in this case as the obligation was already extinguished by payment.⁴³

In its Comment⁴⁴ dated June 3, 2016, the respondent emphasizes the applicability of A.M. No. 99-10-05-0, which prohibits the issuance of temporary restraining order and writ of injunction against foreclosure real estate mortgage without complying with the conditions set forth therein. It asserts that the petitioner utterly failed to submit a proof of payment or overpayment of the latter's obligations.⁴⁵

The respondent pleads that since the petitioner failed to comply with the requirements outlined in A.M. No. 99-10-05-0, the RTC Judge should not have enjoined the foreclosure proceeding.⁴⁶

Lastly, the respondent claims that its board of directors had the authority to demand payment and foreclose the real properties mortgaged by the petitioner. According to the respondent, the authority of its board of directors to initiate the foreclosure of the mortgaged properties was confirmed by the conservator himself.⁴⁷

Our Ruling

The petition must fail.

The first and fourth issues, being interrelated, will be discussed jointly.

The Rules of Court requires that only questions of law should be raised in petitions filed under Rule 45.⁴⁸ As a rule, the Court is not duty-bound to analyze and weigh all over again the evidence already considered in the proceedings below.⁴⁹

⁴² *Id.* at 59.

⁴³ *Id.*

⁴⁴ *Id.* at 130-144.

⁴⁵ *Id.* at 138-139.

⁴⁶ *Id.* at 139.

⁴⁷ *Id.* at 141-142.

⁴⁸ Section 1, Rule 45, RULES OF COURT.

⁴⁹ *Rep. of the Phils. v. De Borja*, 803 Phil. 8, 17 (2017), citing *Miro v. Vda. de Erederos*, 721 Phil. 772, 785 (2013).

Petitions for review on *certiorari* should cover only questions of law as this Court is not a trier of facts.⁵⁰ However, the rules do admit exceptions⁵¹ such as when the CA's findings differed from the findings of the RTC. In this instance, there is a reason to make exception to the rule since the finding of the appellate court is contrary to that of the trial court. The incongruent factual findings of the RTC on one hand, and the CA on the other, compel the Court to revisit the factual circumstances of the instant case.

On whether the respondent's directors can initiate foreclosure even without the authority of the conservator.

Conservatorship proceedings against a financially distressed insurance company are resorted to only when such company is in a state of continuing inability to maintain a condition of solvency or liquidity deemed adequate to protect the interest of policyholders and creditors.⁵² An insurance company placed under conservatorship is facing financial difficulties which require the appointment of a conservator to take charge of its assets, liabilities, and management aimed at preserving its resources and restoring its viability as a going business enterprise.⁵³

Conservatorship, under Section 248⁵⁴ of the Insurance Code, is in the nature of a rehabilitation proceeding. Rehabilitation signifies a

⁵⁰ *Heirs of Jose and Helen S. Mariano v. City of Naga*, G.R. No. 197743, March 12, 2018, 858 SCRA 179, 201. Citations omitted.

⁵¹ As provided in *Medina v. Mayor Asistio, Jr.* (269 Phil. 225, 232 (1990)), the following are the exceptions: (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.

⁵² *Garcia v. NLRC*, 237 Phil. 623, 635 (1987).

⁵³ *Id.*

⁵⁴ Now Section 255 under Republic Act No. 10607:

SECTION 255. If at any time before, or after, the suspension or revocation of the certificate of authority of an insurance company as provided in the preceding title, the Commissioner finds that such company is in a state of continuing inability or unwillingness to maintain a condition of solvency or liquidity deemed adequate to protect the interest of policyholders and creditors, he may appoint a conservator to take charge of the assets, liabilities, and the management of such company, collect all moneys and debts due to said company and exercise all powers necessary to preserve the assets of said company, reorganize the management thereof, and restore its viability. The said conservator shall have the power to overrule or revoke the actions of the previous management and board of directors of the said company, any provision of law, or of the articles of incorporation or bylaws of the company, to the contrary notwithstanding, and such other powers as the Commissioner shall deem necessary.

continuance of corporate life and activities in an effort to restore and reinstate the corporation to its former position of successful operation and solvency.⁵⁵ The conservator may only act with the approval of the Insurance Commissioner with respect to the major aspects of rehabilitation. As regards the ordinary details of administration, the conservator has implied authority by virtue of his appointment to proceed without the approval of the Insurance Commissioner. He is clothed with such discretion in conducting and managing the affairs of the insurance company placed under his control.⁵⁶ Clearly, a conservatorship proceeding means a conservation of company assets and business during the period of financial difficulties or inability to maintain a condition of solvency. Hence, it can be deduced that the purpose of conservatorship is for the continuance of corporate life and activities, and reinstatement of the corporation to its former status of successful operation.

While admittedly, the Insurance Code gives vast and far-reaching powers to the conservator of a distressed company, it must be pointed out that such powers must be related to the preservation of the assets of the company. The Insurance Code does not provide that the power of the conservator to preserve the assets of a distressed company includes the total replacement or substitution of the existing board of directors and corporate officers to the extent of making the latter ineffective during rehabilitation. There is nothing in the law which provides that a conservator supplants the board of directors and management of the company.

Although, under the law, the appointed conservator has the power to overrule or revoke the actions of the previous management and board

The conservator may be another insurance company doing business in the Philippines, any officer or officers of such company, or any other competent and qualified person, firm or corporation. The remuneration of the conservator and other expenses attendant to the conservation shall be borne by the insurance company concerned.

The conservator shall not be subject to any action, claim or demand by, or liability to, any person in respect of anything done or omitted to be done in good faith in the exercise, or in connection with the exercise, of the powers conferred on the conservator.

The conservator appointed shall report and be responsible to the Commissioner until such time as the Commissioner is satisfied that the insurance company can continue to operate on its own and the conservatorship shall likewise be terminated should the Commissioner, on the basis of the report of the conservator or of his own findings, determine that the continuance in business of the insurance company would be hazardous to policyholders and creditors, in which case the provisions of Title 15 shall apply.

No insurance company, life or non-life, or any professional reinsurer, ordered to be liquidated by the Commissioner under the provisions hereunder may be rehabilitated or authorized to transact anew, insurance or reinsurance business, as the case may be."

⁵⁵ *Phil. Veterans Bank Employees Union-N.U.B.E v. Hon. Vega*, 412 Phil. 449, 454 (2001), citing *Ruby Industrial Corporation v. CA*, 348 Phil. 480, 497 (1998).

⁵⁶ *Supra* note 52 at 636, citing *Lucas vs. Mfg. Lumbermen's Underwriters*, 349 Mo 835, 163 SW 2d 750.

of directors of the distressed company, this should not be construed as to totally undress the present and existing board of directors and corporate officers of their functions during rehabilitation proceeding. Consequently, the board of directors and corporate officers continue to exercise their powers as such, including the collection of debts *via* foreclosure of mortgaged properties. Their actions, however, can be revoked by the conservator if they are prejudicial to the corporation and worsen the financial difficulty that the company is facing.

To stress, a company is placed under conservatorship in order to prolong its corporate life in an effort to rehabilitate and restore it of its former status as a financially fluid entity. The conservator is appointed to take charge of the company's assets, liabilities, and management aimed at restoring its viability as a going business enterprise and not to diminish and deplete its resources worsening the financial situation. Logically, this purpose includes the effective function of the board of directors and corporate officers such as collection of debts through foreclosure of real estate mortgage.

The conservatorship of an insurance company should be likened to that of a bank rehabilitation. A cursory reading of Section 28-A⁵⁷ of the Central Bank Act, as amended by Presidential Decree No. 1937,⁵⁸ and Section 248⁵⁹ of the Insurance Code, as amended, reveals that the powers and functions of the conservators of a distressed bank and an insurance company are essentially the same. This Court held that once a bank is placed under conservatorship, an action may still be filed on behalf of that bank even without prior approval of the conservator.⁶⁰ Conservator's approval is not necessary where the action is instituted by the majority of the bank's stockholders.⁶¹ A bank retains its juridical personality even if placed under conservatorship; it is neither replaced nor substituted by the conservator.⁶² This rule should likewise govern insurance companies. An action may still be filed by the insurance company's board of directors even in the absence of the conservator's

⁵⁷ SEC. 28-A. Appointment of conservator. — Whenever, on the basis of a report submitted by the appropriate supervising or examining department, the Monetary Board finds that a bank or a non-bank financial intermediary performing quasi-banking functions is in a state of continuing inability or unwillingness to maintain a condition of liquidity deemed adequate to protect the interest of depositors and creditors, the Monetary Board may appoint a conservator to take charge of the assets, liabilities, and the management of that institution, collect all monies and debts due said institution and exercise all powers necessary to preserve the assets of the institution, reorganize the management thereof, and restore its viability. He shall have the power to overrule or revoke the actions of the previous management and board of directors of the bank or non-bank financial intermediary performing quasi-banking functions, any provision of law to the contrary notwithstanding, and such other powers as the Monetary Board shall deem necessary.

⁵⁸ Further Amending Republic Act No. 265, As Amended, Otherwise Known As "The Central Bank Act."

⁵⁹ *Supra* note 54.

⁶⁰ *Central Bank of the Phils. v. Court of Appeals*, 284-A Phil. 143, 179 (1992).

⁶¹ *Id.*

⁶² *Id.*



approval. The insurance company's juridical personality through its board of directors is not replaced by the conservator.


Apparently, the foreclosure proceeding in this case was initiated to collect the petitioner's debts. Such action is in accordance with the purpose of conservatorship, *i.e.*, to preserve the assets of the respondent and restore its previous financial status. Evidently, the trial court judge's order of issuing the TRO and WPI, and stopping the foreclosure of the mortgaged properties defeated the purpose of the respondent's rehabilitation.

Having been established that the conservatorship of an insurance company does not in any way diminish the function of the board of directors during rehabilitation proceedings, this Court affirms that the respondent's juridical personality continued even if it was placed under conservatorship. There is no doubt that the respondent's board of directors could validly authorize the foreclosure even without prior approval of the conservator.

Consequently, the demands made by the respondent's board of directors, even without the authority of the conservator, were sufficient to put the petitioner in default. Their power to demand payment is part of the efforts to rehabilitate the respondent and restore it to its former status as a financially fluid corporation. Not a single rule prohibits them from cooperating with the conservator in restoring the financial status of the company subject of rehabilitation. To prevent the respondent's board of directors from collecting debts through foreclosure of the subject properties will surely frustrate the restoration of the respondent's previous financial standing.

Moreover, during conservatorship, it is the appointed conservator who can question the authority of the respondent's board of directors to initiate foreclosure proceedings, and not the petitioner. Here, it was Atty. Chua who had the personality to object to any actions of the respondent's directors or officers. He can even countermand any of the latter's decision, if he found it prejudicial to the respondent's rehabilitation. For this reason, the petitioner was mistaken when they inquired into the authority of the respondent's directors in filing the petition for foreclosure of real estate mortgage during conservatorship.

Finally, a careful review of the records and the factual circumstances surrounding the instant case, reveals that the appointed conservator, Atty. Chua, filed a Manifestation stating that he authorized



the filing of the foreclosure proceedings.⁶³ This circumstance should have cautioned the trial judge in enjoining the foreclosure of the mortgaged properties.

On whether A.M. No. 99-10-05-0 was observed.

A.M. No. 99-10-05-0 embodies the guidelines in extra judicial and judicial foreclosure of real estate mortgages thus:

- (1) No temporary restraining order or writ of preliminary injunction against the extrajudicial foreclosure of real estate mortgage shall be issued *on the allegation that the loan secured by the mortgage has been paid or is not delinquent* unless the application is verified and supported by evidence of payment.
- (2) No temporary restraining order or writ of preliminary injunction against the extrajudicial foreclosure of real estate mortgage shall be issued on the allegation that the interest on the loan is unconscionable, *unless the debtor pays the mortgagee at least twelve percent per annum interest on the principal obligation as stated in the application for foreclosure sale*, which shall be updated monthly while the case is pending.
- (3) Where a writ of preliminary injunction has been issued against a foreclosure of mortgage, the disposition of the case shall be speedily resolved. To this end, the court concerned shall submit to the Supreme Court, through the Office of the Court Administrator, quarterly reports on the progress of the cases involving ten million pesos and above.
- (4) All requirements and restrictions prescribed for the issuance of a temporary restraining order/writ of preliminary injunction, such as the *posting of a bond, which shall be equal to the amount of the outstanding debt*, and the time limitation for its effectivity, shall apply as well to a status quo order.⁶⁴ (Italics Ours)

With the foregoing yardstick, it is crystal clear that a WPI or TRO cannot be issued against extrajudicial foreclosure of real estate mortgage on a mere allegation that the debt secured by mortgage has been paid or is not delinquent unless the debtor presents an evidence of payment. Even an allegation of unconscionable interest being imposed on the loan by the mortgagee shall no longer be a ground to apply for WPI.⁶⁵ In addition, the rule prohibits the issuance of TRO or WPI unless the debtor pays the mortgagee at least 12% *per annum* interest on the principal obligation as stated in the application for foreclosure sale which shall be

⁶³ *Rollo*, pp. 68, 142.

⁶⁴ OCA Circular No. 25-2007.

⁶⁵ *Phil. National Bank v. Costalloy Technology Corp., et al.*, 684 Phil. 438, 448 (2012).

updated monthly while the case is pending. Likewise, it is mandated that all the requirements and restrictions prescribed for the issuance of a TRO and WPI, such as the posting of a bond, which shall be equal to the amount of the outstanding debt, and the time limitation for its effectivity, shall apply.

In the present case, the Court finds that the trial court judge erred in issuing the TRO and WPI based simply on petitioner's allegations of payment, overpayment, and the respondent's imposition of unconscionable interest. It must be emphasized that the petitioner did not present a single evidence of overpayment of the obligation or even proof of payment thereof. Evidently, the RTC's Order enjoining the foreclosure proceedings is a patent circumvention of the guidelines outlined in A.M. No. 99-10-05-0.


Moreover, nothing in the records shows that the petitioner paid the respondent at least 12% *per annum* interest on the principal obligation as stated in the application for foreclosure sale. Lastly, the petitioner failed to post a bond which is equal to the amount of the outstanding debt. It appears that the petitioner posted a bond in the amount of ₱2,500,000.00 only, which is way below the outstanding debt of ₱274,497,565.60. The bond posted is even short of the principal loan of ₱31,034,510.00. Thus, the trial court judge should have applied A.M. No. 99-10-05-0 and denied the petitioner's application for TRO and WPI.

On whether the respondent was unjustly enriched.

The petitioner's allegation of unjust enrichment in the instant petition is premised on its assertion before the trial court that there was payment and overpayment made to the respondent. The petitioner insists that it was able to present proof of payment and overpayment before the trial court. This Court disagrees.

The principle of unjust enrichment is found in Article 22 of the Civil Code, *to wit*:

Art. 22. *Every person who through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him. (Italics supplied.)*



Clearly, there is unjust enrichment when: (1) A person is unjustly benefited; and (2) such benefit is derived at the expense of or with damages to another.⁶⁶

After a judicious scrutiny of the factual background and circumstances of the instant case, the Court finds that the petitioner failed to forward an evidence of payment and overpayment. It must always be remembered that a mere allegation is not a proof and the burden of evidence lies with the party who asserts the affirmative of an issue.⁶⁷ The petitioner only based this assertion of unjust enrichment on bare allegations, without any other evidence to substantiate it. Therefore, the respondent was not unjustly benefited at the petitioner's expense.


In conclusion, this Court affirms the CA's ruling that the trial court committed grave abuse of discretion when it issued the TRO and WPI considering that their issuances are contrary to law and established jurisprudence.

WHEREFORE, the petition is **DENIED**. The Decision dated May 26, 2015 and the Resolution dated August 20, 2015 of the Court of Appeals in CA-G.R. SP No. 128708 are **AFFIRMED**.

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

⁶⁶ *GISIS, et al. v. COA et al.*, 694 Phil. 518, 526 (2012), citing *Tamio v. Ticson*, 485 Phil. 434, 443 (2004).

⁶⁷ *Arroyo v. Court of Appeals*, G.R. No. 202860, April 10, 2019.



ANDRES B. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice

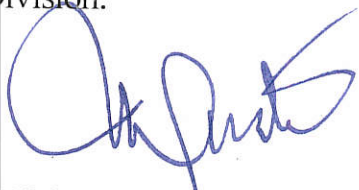
ATTESTATION

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.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

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.


DIOSDADO M. PERALTA
Chief Justice

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