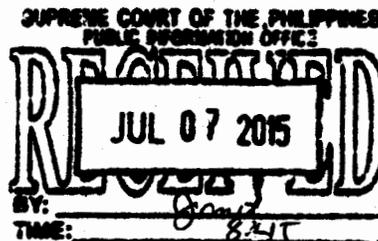




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **15 June 2015** which reads as follows:

G.R. No. 207692 – (Eastwest Banking Corporation v. Spouses Rodel and Imelda Gonzales).

This is a petition for review on *certiorari* assailing the February 25, 2013 Decision¹ and the June 11, 2013 Resolution² of the Court of Appeals (CA), in CA-G.R. SP No. 121806, which declared null and void the Orders, dated March 11, 2011 and July 4, 2011, of the Regional Trial Court, Branch 253, Las Pinas City (RTC), for having been issued with grave abuse of discretion.

Record shows that spouses Rodel and Imelda Gonzales (*Spouses Gonzales*) obtained a credit facility from Philam Savings Bank, now Eastwest Banking Corporation (*Eastwest Bank*), secured by a real estate mortgage covering their parcel of land in Las Piñas. After Spouses Gonzales defaulted in their payment, Eastwest Bank instituted foreclosure proceedings sometime in December 2000.

On February 16, 2001, Spouses Gonzales filed a complaint for Reformation/Rescission of Instrument, Annulment of Extrajudicial Foreclosure and Damages with Application of Temporary Restraining Order/Writ of Preliminary Injunction against Eastwest Bank with the RTC.

On August 20, 2002, instead of proceeding to trial, Eastwest Bank and Spouses Gonzales filed their Joint Motion for Judgment Based on Compromise Agreement with the RTC. The compromise agreement stipulated that the loan of ₱10,000,000.00 was to be restructured and made payable in 120 monthly installments beginning July 30, 2002, with interest at 15% per annum for the first year, repriceable yearly, in no case to go over 18% per annum; that the loan was to be secured by a real estate mortgage over the same parcel of land, including the building and all the improvements and appurtenances thereon; and that the lease rentals of the mortgaged property, to the extent of the monthly amortization, was to be assigned to Eastwest Bank to ensure payment.

The following contracts were executed simultaneously with the compromise agreement, specifying terms and conditions: (a) Second

¹ Penned by Associate Justice Priscilla J. Baltazar-Padilla with Associate Justice Rosalinda Asuncion-Vicente and Associate Justice Agnes Reyes-Carpio, concurring; *rollo*, pp. 23-32.

² *Id.* at 34-35.

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Restructuring Agreement, (b) Promissory Note with Mortgage Agreement, and (c) Deed of Assignment of Lease Rentals. In the event of breach by Spouses Gonzales, it was agreed that Eastwest Bank would be entitled to immediately declare the unpaid balance of the restructured loan due and payable, and the decision of the RTC, in accordance with the compromise agreement, considered final. Eastwest Bank would then be entitled to ask for a writ of execution for the sale of the mortgage property in a public auction.

On August 26, 2002, the Compromise Agreement was approved by the RTC in its Order, dated August 26, 2002.

Spouses Gonzales paid the agreed monthly amortization from July, 2002 until July, 2005. As of July 2005, their partial payments amounted to **₱5,691,089.34** out of the **₱10,000,000.00** loan. On July 26, 2010, five years after Spouses Gonzales had defaulted in their monthly amortization, Eastwest Bank filed a motion for execution with the RTC, claiming that their liability already amounted to **₱28,799,519.61**.

Spouses Gonzales opposed the motion and alleged that when the compromise agreement was entered into, they agreed that their first amortization would be applied wholly to the principal amount. When they were furnished a copy of their payment history as of October 20, 2004, however, it was indicated therein that their first amortization was applied to the principal amount and interest and not to the principal amount alone contrary to what they had agreed upon. They demanded that the application be corrected, but their request was not heeded by Eastwest Bank. Due to the inaction of the bank, they decided to stop paying the monthly amortizations.

On March 11, 2011, the RTC issued the Order granting the motion for execution. Spouses Gonzales filed a motion for reconsideration, but it was denied by the RTC in its July 4, 2011 Order.

On September 30, 2011, a writ of execution was issued by the RTC.

On November 14, 2011, a public auction was held where the property was awarded to Eastwest Bank as the highest bidder, and the certificate of title eventually issued in its name. Eastwest Bank bought the property for **₱38,432,884.65**.

CA Ruling

Spouses Gonzales filed a petition for *certiorari* under Rule 65 before the CA, ascribing grave abuse of discretion on the part of the RTC in issuing the March 11, 2011 and July 4, 2011 Orders, granting the motion for execution of Eastwest Bank and denying their motion for reconsideration.

In its assailed February 25, 2013 Decision, the CA declared the said RTC orders null and void and ordered the remand of the case to the said trial court for the proper determination of the amount of their liability.

The CA stated that Eastwest Bank had the right to ask for the execution of the judgment due to the alleged breach by Spouses Gonzales of the terms of the compromise agreement. It gave no credence to their argument that it was Eastwest Bank which first violated the compromise agreement, because there was nothing indicated therein to show how the initial amortization would be applied.

Nonetheless, the CA was of the view that Eastwest Bank failed to substantiate the alleged liability of Spouses Gonzales, describing the Statement of Account as insufficient to justify it. It noted that Eastwest Bank never refuted the complaint of misapplication of the first amortization and that there was a great discrepancy between the amounts of liability claimed by both parties. It observed that in a letter sent to Spouses Gonzales on August 7, 2009, their outstanding obligation amounted to ₱8,416,854.21 only. Less than one year later, on July 6, 2010, it bloated to roughly ₱28,799,519.61.

The CA, thus, ruled that the RTC acted with grave abuse of discretion in granting the motion for execution without ascertaining the correct and exact amount of Spouses Gonzales' liability. Specifically, the CA wrote:

Having failed to substantiate its claim of petitioners' liability at the time of the filing of the motion for execution, We find that public respondent acted with grave abuse of discretion when he granted the motion.

Grave abuse of discretion exists if the public respondent acts in a capricious, whimsical, arbitrary or despotic manner in the exercise of his judgment as to be said to be equivalent to lack of jurisdiction. Mere abuse of discretion is not enough; it must have been patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.

The public respondent's Orders granting private respondent's Motion for Execution and denying petitioners' motion for reconsideration are not in accord with applicable law and jurisprudence.

It must be noted that there is a great discrepancy between the amount claimed by private respondent as against that of petitioners. It would be more in keeping with the requirements of due process and fair play if the public respondent had taken more

time and exerted greater effort to ascertain the correct amount of petitioners' liability before granting the motion for execution. This is also the more prudent step in the premises since the allegation of misapplication of petitioners' payment was never refuted by private respondent. Despite petitioners' persistent challenge on how the amount of Php28,799,519.61 was arrived at by private respondent, the lower court apparently took hook, line and sinker the computation contained in the last Statement of Account prepared by the latter. The court a quo did not at all consider that in the written communication sent to petitioners on August 7, 2009, their alleged outstanding obligation amounted to only Php8,416,854.21. On July 6, 2010, not even a year over, it bloated to P28,799,519.61. The submission of Memoranda by the parties to address the controversy does not suffice. It should be noted that private respondent in its Memorandum did not meet head-on the arguments raised by petitioners. It simply and repeatedly invoked the executory nature of the judgment approving their Compromise Agreement in case of violation thereof without painstakingly explaining how it arrived at its huge claim as petitioners' outstanding liability.

All told, although private respondent is entitled to the issuance of a writ of execution, the amount of petitioners' liability should have first been determined by the trial court thru the conduct of appropriate hearing where private respondent shall be required to adduce evidence to support its claim.³

In its assailed Resolution, dated June 11, 2013, the CA denied the motion for reconsideration filed by Eastwest Bank.

Hence, the present petition.

Issue:

Whether or not there is still a necessity for the proper determination of Spouses Gonzales' liability.

Citing *Zulueta v. Reyes*⁴ and *Selegna Management and Development Corporation v. UCPB*,⁵ Eastwest Bank argues that it has been repeatedly held by the Court that a pending question regarding the amount due is not sufficient reason to enjoin foreclosure of a mortgage. It explains that there is no real, genuine and substantial controversy as to the amounts due under the compromise agreement and mortgage; and to allow an accounting would

³ CA Decision, *rollo*, pp. 31-32.

⁴ 126 Phil. 625 (1967).

⁵ 522 Phil. 671 (2006).

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interfere with the exercise of the right of foreclosure, subjecting it to the whims and caprices of the mortgagor.

In their Comment,⁶ dated November 5, 2013, Spouses Gonzales reiterated the ratiocination of the CA. They stressed that the RTC simply approved the amount appearing in the Statement of Account submitted by Eastwest Bank without any showing how it arrived at the amount of ₱28,799,519.61.

In its Reply,⁷ dated August 12, 2014, Eastwest Bank invoked the doctrine that compromise agreements, stamped with judicial imprimatur, have the force and effect of judgment; and that non-fulfillment of its terms and conditions justified the issuance of a writ of execution. On the premise that the statement of account and the compromise agreement were approved by the RTC, Eastwest Bank claimed that the liability of Spouses Gonzales was clearly established. Hence, the issuance of a writ of execution became a matter of right on its part because there has been a non-fulfillment of the terms of the compromise agreement on the part of Spouses Gonzales.

The Court's Ruling

The Court denies giving due course to the petition for failure of the petitioner to show any reversible error in the challenged decision as to warrant the exercise of the Court's discretionary appellate jurisdiction.

In petitions for review on *certiorari* under Rule 45 of the Rules of Civil Procedure, only questions of law may be raised by the parties and passed upon by this Court. This is because the Court is not a trier of facts. The findings of fact of the CA, when supported by substantial evidence, are entitled to great weight and respect, and even finality, unless it is shown that the evidence of the parties was arbitrarily disregarded. As long as the decisions are devoid of any unfairness or arbitrariness in the process of its deduction from the evidence proffered by the parties, all that is left is for the Court to stamp its affirmation and declare its finality.⁸ Thus, on this procedural ground alone, the petition fails.

Even on substantial matters, however, the petition has no merit.

⁶ Rollo, pp. 79-83.

⁷ Id. at 123-130.

⁸ *Ignacio v. Coca-Cola Bottlers, Phils., Inc.*, 417 Phil. 747, 753 (2001).

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In this case, the CA found that Eastwest Bank failed to prove with details how the amount of the indebtedness ballooned, *in less than a year*, from ₱8,416,854.21 to ₱28,799,519.61. The Statement of Account proffered by Eastwest Bank failed to supply the specifics which would have justified the almost quadruple increase in the amount of the obligation of Spouses Gonzales in just a few months. The Court notes that the restructured amount was burdened with interest at 15% per annum for the first year, repriceable yearly, in no case to go over 18% per annum. The interest being flexible, Eastwest Bank should have apprised Spouses Gonzales what rate of interest was applied in a given period. It may be added that even the amount of ₱8,416,854.21 was already being questioned by Spouses Gonzales.

The Court is not unaware of the ruling in *Selegna Management and Development Corporation v. UCPB*,⁹ that a pending question regarding the amount due is not a sufficient reason to enjoin foreclosure of a mortgage. In this case, however, no foreclosure proceeding is being enjoined. The subject orders of the RTC pertained to the execution of a judgment based on a compromise agreement. Eastwest Bank should prove that there was a violation of the compromise agreement by sufficiently and adequately explaining it. Considering that Spouses Gonzales already paid the amount of ₱5,691,089.34 as of July 2005 out of the ₱10,000,000.00 loan, Eastwest had to explain why in a span of 11 months the claimed amount of ₱8,416,854.21 loan balance swelled to ₱28,799,519.61. Under the circumstances, Eastwest Bank cannot just present a general statement of account and expect that other parties, including the courts, simply accept it as gospel truth.

WHEREFORE, the petition is DENIED.

SO ORDERED."

Very truly yours,


 MA. LOURDES C. PERFECTO
 Division Clerk of Court *file*
07/12

⁹ Supra note 5.

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