



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated August 19, 2020 which reads as follows:*

**“G.R. No. 221639 - *Banco Filipino Savings and Mortgage Bank, represented by its Statutory Liquidator, the Philippine Deposit Insurance Corporation v. Bangko Sentral ng Pilipinas***

Assailed in this Petition for Review on *Certiorari*<sup>1</sup> are the Decision<sup>2</sup> dated July 22, 2015 and the Resolution<sup>3</sup> dated November 26, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 131243 which ordered the release of the amount of ₱6,650,000.00 representing the full bid price in the foreclosure sale in favor of Bangko Sentral ng Pilipinas (respondent).

On January 9, 2004, Banco Filipino Savings Bank (petitioner) applied a Special Liquidity Loan with respondent in the amount of ₱55,094,000.00 payable on demand, but not later than July 7, 2004. Said loan was allegedly secured by several real estate mortgages (REMs). Subsequently, the payment of the loan was extended until January 3, 2005.<sup>4</sup>

Petitioner, however, defaulted on its obligation. Respondent, thus, sent a demand letter dated December 15, 2006 for the collection of petitioner’s outstanding balance due in the amount of ₱1,947,942,052.12.<sup>5</sup>

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<sup>1</sup> *Rollo*, pp. 9-37.

<sup>2</sup> Penned by Associate Justice Ma. Luisa C. Quijano-Padilla, with Associate Justices Normandie B. Pizarro and Samuel H. Gaerlan (now a Member of the Court), concurring; id. at 38-46.

<sup>3</sup> Id. at 47-48.

<sup>4</sup> Id. at 39.

<sup>5</sup> Id.

Despite such demand, petitioner continued to fail to pay its loan to respondent. Prompted by such delinquency, respondent filed an application for extrajudicial foreclosure of the property covered by TCT No. T-204519 (subject property) for the payment of the loan amounting to ₱3,401,423.55.<sup>6</sup> Said amount covers the ₱3,360,000.00 as stated in the REM and the interest in the amount of ₱41,423.55.<sup>7</sup>

The Deed of REM with respect to the subject property states that the petitioner has an outstanding obligation in the amount of ₱3,360,000.00 to respondent; and the subject property shall stand as a security for such amount, future accommodations, and other obligations, to wit:

x x x x WHEREAS, the BANCO FILIPINO SAVINGS & MORTGAGE BANK, hereinafter referred to as MORTGAGOR, has applied for and obtained a Special Liquidity Facility from the MORTGAGEE under Section 84 of Republic Act No. 7653, in the amount of 3,360,000.00 Philippine Currency, as evidenced by a promissory note executed by the MORTGAGOR in favor of the MORTGAGEE, copy of which is attached and made an integral part hereof as Annex(es) "A[.]"

x x x x

This mortgage shall stand as security for the payment of the above-stated Special Liquidity Facility, future accommodations and such other obligations incurred or as may hereafter be incurred by the MORTGAGOR in favor of the MORTGAGEE, including all renewals thereof, together with the interest charges and penalties which will accrue or may be imposed thereon. The MORTGAGOR hereby agrees to put up other collaterals acceptable to the MORTGAGEE as additional security, if so required by the latter. The MORTGAGOR further agrees that any of its properties now or hereafter in the possession of the MORTGAGEE shall stand as security for the payment of the above-stated Special Liquidity Facility and such other existing or future obligations of the MORTGAGOR to the MORTGAGEE.<sup>8</sup>

After due notice and publication, a public auction was held. The property was sold for ₱6,650,000.00 and *Ad Seminandum* RCS 10 Foundation emerged as the highest bidder.<sup>9</sup>

However, respondent was apprised that the winning bidder was instructed by the sheriff to pay the respondent with the amount of ₱6,156,000.00 while the remainder of ₱494,000.00 be paid to

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<sup>6</sup> Id.  
<sup>7</sup> Id. at 219.  
<sup>8</sup> Id. at 172-173.  
<sup>9</sup> Supra note 4.

petitioner. Consequently, respondent sent a letter-request to the clerk of court of the Regional Trial Court of Balanga City, Bataan (RTC) for the full remittance of the bid price in the amount of ₱6,650,000.00.<sup>10</sup>

Acting on said letter-request embodied in an Order<sup>11</sup> dated January 29, 2013, the RTC maintained that respondent cannot recover an amount higher than what was stated in the application for extrajudicial foreclosure, which is only ₱3,401,423.55. Correspondingly, the RTC denied respondent's petition. Thus:

WHEREFORE, premises considered, the request of the mortgagee in its letter dated January 28, 2013 is DENIED.

Deputy Ruel C. De Guzman is directed to turn over the excess in the proceeds of the foreclosure sale to the Office of the Clerk of Court for remittance to the mortgagor.

Furnish copy of this Order to the Bangko Sentral ng Pilipinas and Philippine Deposit Insurance Commission.

SO ORDERED.<sup>12</sup>

A motion for reconsideration filed by respondent was denied in an Order<sup>13</sup> dated May 29, 2013.

Undaunted, respondent filed a Petition for *Certiorari*, ascribing grave abuse of discretion on the part of Judge Angelito I. Balderama, who issued the aforementioned Orders denying the request for payment of the entire proceeds of the foreclosure sale in favor of respondent.<sup>14</sup>

In a Decision<sup>15</sup> dated July 22, 2015, the CA granted the petition and accordingly reversed and set aside the RTC Orders. In ruling in favor of the respondent, the CA explained that the whole bid price should be turned over to respondent in view of petitioner's outstanding debt to respondent in the amount of ₱55,094,000.00 which is significantly higher than the bid price of ₱6,650,000.00. The *fallo* thereof reads:

WHEREFORE, the petition is GRANTED. The assailed Orders dated January 29, 2013 and May 29, 2013 of the Executive Judge of RTC, Balanga City, Bataan are REVERSED and SET

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<sup>10</sup> *Rollo*, pp. 39-40.  
<sup>11</sup> *Id.* at 140-143.  
<sup>12</sup> *Id.* at 142-143.  
<sup>13</sup> *Id.* at 144-145.  
<sup>14</sup> *Id.* at 38.  
<sup>15</sup> *Supra* note 2.

ASIDE. Public respondent is ordered to direct the Sheriff to release the amount of PhP 6,650,000.00 representing the full bid price in the foreclosure sale to Bangko Sentral ng Pilipinas.

SO ORDERED.<sup>16</sup>

Such disposition was fortified in a Resolution<sup>17</sup> dated November 26, 2015 following petitioner's motion for reconsideration.

Hence, this Petition.

Essentially, petitioner challenges the CA Decision and Resolution which in effect allowed the payment of the entire proceeds of the foreclosure sale, less than the amount of the obligation secured by the REM. Citing Article 2126 of the Civil Code, petitioner suggests that the excess amount must be remitted to it considering that the proceeds of the sale to be delivered to the creditor shall be limited to the amount mentioned in the REM. As a matter of fact, petitioner avers that after the foreclosure sale of the subject property, its obligation to respondent is fully satisfied alleging that its other properties used as collateral were all foreclosed by respondent.

In its Comment,<sup>18</sup> respondent counters that it is entitled to the entire proceeds of the foreclosure sale as the REM stands as partial security for the Special Liquidity Facility obtained by petitioner from it; and denies that petitioner's obligation to it is fully satisfied.

The Petition has no merit.

A REM is a contract in which the obligor guarantees to the obligee the fulfillment of a principal obligation, subjecting for the faithful compliance therewith a real property in case of nonfulfillment of said obligation at the time stipulated.<sup>19</sup> To this effect, Article 2126 of the Civil Code affirms that a mortgage directly and immediately subjects the property upon which it is imposed to the fulfillment of the obligation for whose security it was constituted. Simply put, a REM is a real right, which follows the property.<sup>20</sup>

Upon default of the obligor, foreclosure of the REM becomes a necessary consequence of the nonpayment of mortgage indebtedness.<sup>21</sup>

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<sup>16</sup> *Rollo*, p. 44.

<sup>17</sup> *Supra* note 3.

<sup>18</sup> *Rollo*, pp. 79-115.

<sup>19</sup> *See Limtuaco & Co, Inc. v. Intermediate Appellate Court*, 241 Phil. 753, 759 (1988).

<sup>20</sup> *See Garcia v. Villar*, 689 Phil. 363, 375 (2012).

<sup>21</sup> *See Producers Bank of the Philippines v. Court of Appeals*, 417 Phil. 646, 656 (2001).

Foreclosure of real estate mortgage may be done judicially or extrajudicially. The former is found in Rule 68 of the Rules of Court while the latter is carried out in the provisions of Act No. 3135 or the General Banking Laws of 2000 as the case may be.

In this case, it is undisputed that what was applied for by respondent is an extrajudicial foreclosure of sale of the property for a loan in the amount of ₱3,401,423.55. A highest bidder was declared, and the sale proceeds is in the amount of ₱6,650,000.00.

Preliminarily, the satisfaction of petitioner's debt, that is, the Special Liquidity Facility was raised for the first time on appeal. More so, such allegation was not supported by any evidence aside from petitioner's bare assertion. Basic is the rule that he who alleges must prove his case.<sup>22</sup> Moreover, it is a factual issue which is beyond the ambit of this Court in a petition under Rule 45 of the Rules of Court.<sup>23</sup>

As it was not established that petitioner's obligation is not yet fully settled, we now proceed.

In this case, the dispute arises when the bid price of such property exceeded the amount secured by it as both the petitioner and the respondent seek to obtain the same. The petitioner treated the excess as surplus proceeds, referring to the application for extrajudicial foreclosure sale which states that the subject property shall cover only the amount of ₱3,360,000.00 plus interest; and that the foreclosure sale of the subject property led to the satisfaction of all its obligations to respondent, while respondent maintained that there was actually no surplus for the outstanding obligation, that is, ₱55,094,000.00, of the petitioner far exceeded the amount covered by such mortgage.

A reading of the REM reveals that the amount which was intended to be covered by the same is actually ₱55,000,904,000 as Special Liquidity Loan, evidenced by a Promissory Note<sup>24</sup> attached therein as Annex "A." Said Promissory Note explicitly stated:

On demand but not beyond July 7, 2004, for value received, the undersigned promises to pay to the order of Bangko Sentral ng Pilipinas at its Office in the City of Manila, Philippines, the sum of **FIFTY-FIVE MILLION NINETY-FOUR THOUSAND PESOS** with the interest rate of nine point two four six percent (9.246%) per annum, having deposited with, and

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<sup>22</sup> See *Lim v. Equitable PCI Bank*, 724 Phil. 453, 461 (2014).

<sup>23</sup> See *Carbonell v. Carbonell-Mendes*, 762 Phil. 529, 536-537 (2015).

<sup>24</sup> *Rollo*, pp. 176-177.

pledged, mortgaged or assigned to, the said Bangko Sentral, as collateral security for the payment of this note and any other liability or liabilities, whether direct or contingent, of the undersigned to the said Bangko Sentral, due or to become due or that may be hereafter contracted the securities, properties and mortgages described in the schedule included in the application for a Special Liquidity Loan dated 12.04.2002 accompanying this note.<sup>25</sup> (Emphasis supplied, underscoring in the original)

In fact, this was reiterated in the subsequent paragraph which stated in particular the amount intended to be secured by the REM:

**1. This mortgage shall stand as security for the payment of the above-stated Special Liquidity Facility, future accommodations and such other obligations incurred or as may hereafter be incurred by the MORTGAGOR in favor of the MORTGAGEE, including all renewals thereof, together with the interest charges and penalties which will accrue or may be imposed thereon.**<sup>26</sup> (Emphasis supplied)

The REM contains a blanket mortgage clause, which seeks to subsume not only debts of past, but also those of future origins.<sup>27</sup> A harmonious reading of the two instruments is in consonance with the “complementary-contracts-construed-together” doctrine, which mandates that the stipulations, terms, and conditions of both the principal and accessory contracts must be construed together in order to arrive at the true intention of the parties.<sup>28</sup>

Thus, the REM is made to answer for the Special Liquidity Loan and other future loans, and not only for the amount of ₱3,360,000.00 which was the amount stated therein and in the application for foreclosure sale.

Moreover, petitioner alleges that there were actually several REMs which were executed in favor of respondent to cover the Special Liquidity Loan; hence, explaining why the subject property was earmarked in the amount of ₱3,360,000.00.

However, the records are bereft of any evidence which would show that there were indeed other REMs. The respondent denied the same; and neither did the factual findings of the RTC and the CA declared such fact as true and accurate. In fact, this matter was raised for the first time on appeal to this Court. More so, petitioner admitted

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<sup>25</sup> Id. at 176.

<sup>26</sup> Id. at 173.

<sup>27</sup> *Prudential Bank v. Alviar*, 502 Phil. 595, 606 (2005).

<sup>28</sup> *FGU Insurance Corporation v. Spouses Roxas*, 816 Phil. 71, 95 (2017).

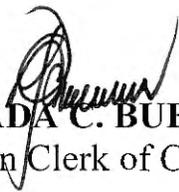
in its petition for *certiorari* before the CA that the subject property is considered as security for the principal obligation, which is the ₱55,094,000.00 Special Liquidity Loan.<sup>29</sup>

Thus, as the subject property was intended to stand as a security for the ₱55,094,000.00 loan, there was actually no surplus proceeds to speak of as the bid price of ₱6,650,000.00 is less than the principal obligation.

**WHEREFORE**, the instant Petition is hereby **DENIED**. The Decision dated July 22, 2015 and the Resolution dated November 26, 2015 of the Court of Appeals in CA-G.R. SP No. 131243 are **AFFIRMED**.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *13/11/19*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
**19**

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The Hon. Executive Judge  
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(REM No. 4059)





<sup>29</sup> Rollo, p. 122.