



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

**GOLDENWAY MERCHANDISING
CORPORATION,**

Petitioner,

- versus -

EQUITABLE PCI BANK,

Respondent.

G.R. No. 195540

Present:

SERENO, C.J.,

Chairperson,

LEONARDO-DE CASTRO,

BERSAMIN,

VILLARAMA, JR., and

REYES, JJ.

Promulgated:

MAR 13 2013

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DECISION

VILLARAMA, JR., J.:

Before the Court is a petition for review on certiorari which seeks to reverse and set aside the Decision¹ dated November 19, 2010 and Resolution² dated January 31, 2011 of the Court of Appeals (CA) in CA-G.R. CV No. 91120. The CA affirmed the Decision³ dated January 8, 2007 of the Regional Trial Court (RTC) of Valenzuela City, Branch 171 dismissing the complaint in Civil Case No. 295-V-01.

The facts are undisputed.

On November 29, 1985, Goldenway Merchandising Corporation (petitioner) executed a Real Estate Mortgage in favor of Equitable PCI Bank (respondent) over its real properties situated in Valenzuela, Bulacan (now Valenzuela City) and covered by Transfer Certificate of Title (TCT) Nos. T-152630, T-151655 and T-214528 of the Registry of Deeds for the Province

¹ *Rollo*, pp. 36-47. Penned by Associate Justice Isaias P. Dicdican with Associate Justices Stephen C. Cruz and Amy C. Lazaro-Javier concurring.

² *Id.* at 86-87.

³ *Id.* at 240-245. Penned by Judge Maria Nena J. Santos.

of Bulacan. The mortgage secured the Two Million Pesos (₱2,000,000.00) loan granted by respondent to petitioner and was duly registered.⁴

As petitioner failed to settle its loan obligation, respondent extrajudicially foreclosed the mortgage on December 13, 2000. During the public auction, the mortgaged properties were sold for ₱3,500,000.00 to respondent. Accordingly, a Certificate of Sale was issued to respondent on January 26, 2001. On February 16, 2001, the Certificate of Sale was registered and inscribed on TCT Nos. T-152630, T-151655 and T-214528.⁵

In a letter dated March 8, 2001, petitioner's counsel offered to redeem the foreclosed properties by tendering a check in the amount of ₱3,500,000.00. On March 12, 2001, petitioner's counsel met with respondent's counsel reiterating petitioner's intention to exercise the right of redemption.⁶ However, petitioner was told that such redemption is no longer possible because the certificate of sale had already been registered. Petitioner also verified with the Registry of Deeds that title to the foreclosed properties had already been consolidated in favor of respondent and that new certificates of title were issued in the name of respondent on March 9, 2001.

On December 7, 2001, petitioner filed a complaint⁷ for specific performance and damages against the respondent, asserting that it is the one-year period of redemption under Act No. 3135 which should apply and not the shorter redemption period provided in Republic Act (R.A.) No. 8791. Petitioner argued that applying Section 47 of R.A. 8791 to the real estate mortgage executed in 1985 would result in the impairment of obligation of contracts and violation of the equal protection clause under the Constitution. Additionally, petitioner faulted the respondent for allegedly failing to furnish it and the Office of the Clerk of Court, RTC of Valenzuela City with a Statement of Account as directed in the Certificate of Sale, due to which petitioner was not apprised of the assessment and fees incurred by respondent, thus depriving petitioner of the opportunity to exercise its right of redemption prior to the registration of the certificate of sale.

In its Answer with Counterclaim,⁸ respondent pointed out that petitioner cannot claim that it was unaware of the redemption price which is clearly provided in Section 47 of R.A. No. 8791, and that petitioner had all the opportune time to redeem the foreclosed properties from the time it received the letter of demand and the notice of sale before the registration of the certificate of sale. As to the check payment tendered by petitioner, respondent said that even assuming *arguendo* such redemption was timely made, it was not for the amount as required by law.

⁴ Id. at 192-197, 236.

⁵ Id. 198-200, 236.

⁶ Id. at 236-237.

⁷ Id. at 183-191.

⁸ Id. at 211-215.

On January 8, 2007, the trial court rendered its decision dismissing the complaint as well as the counterclaim. It noted that the issue of constitutionality of Sec. 47 of R.A. No. 8791 was never raised by the petitioner during the pre-trial and the trial. Aside from the fact that petitioner's attempt to redeem was already late, there was no valid redemption made because Atty. Judy Ann Abat-Vera who talked to Atty. Joseph E. Mabilog of the Legal Division of respondent bank, was not properly authorized by petitioner's Board of Directors to transact for and in its behalf; it was only a certain Chan Guan Pue, the alleged President of petitioner corporation, who gave instruction to Atty. Abat-Vera to redeem the foreclosed properties.⁹

Aggrieved, petitioner appealed to the CA which affirmed the trial court's decision. According to the CA, petitioner failed to justify why Section 47 of R.A. No. 8791 should be declared unconstitutional. Furthermore, the appellate court concluded that a reading of Section 47 plainly reveals the intention to shorten the period of redemption for juridical persons and that the foreclosure of the mortgaged properties in this case when R.A. No. 8791 was already in effect clearly falls within the purview of the said provision.¹⁰

Petitioner's motion for reconsideration was likewise denied by the CA.

In the present petition, it is contended that Section 47 of R.A. No. 8791 is inapplicable considering that the contracting parties expressly and categorically agreed that the foreclosure of the real estate mortgage shall be in accordance with Act No. 3135. Citing *Co v. Philippine National Bank*¹¹ petitioner contended that the right of redemption is part and parcel of the Deed of Real Estate Mortgage itself and attaches thereto upon its execution, a vested right flowing out of and made dependent upon the law governing the contract of mortgage and not on the mortgagee's act of extrajudicially foreclosing the mortgaged properties. This Court thus held in said case that "Under the terms of the mortgage contract, the terms and conditions under which redemption may be exercised are deemed part and parcel thereof whether the same be merely conventional or imposed by law."

Petitioner then argues that applying Section 47 of R.A. No. 8791 to the present case would be a substantial impairment of its vested right of redemption under the real estate mortgage contract. Such impairment would be violative of the constitutional proscription against impairment of obligations of contract, a patent derogation of petitioner's vested right and clearly changes the intention of the contracting parties. Moreover, citing this Court's ruling in *Rural Bank of Davao City, Inc. v. Court of Appeals*¹² where it was held that "Section 119 prevails over statutes which provide for a

⁹ Id. at 243-245.

¹⁰ Id. at 44-47.

¹¹ 200 Phil. 333, 347 (1982).

¹² G.R. No. 83992, January 27, 1993, 217 SCRA 554, 565.

shorter period of redemption in extrajudicial foreclosure sales”, and in *Sulit v. Court of Appeals*,¹³ petitioner stresses that it has always been the policy of this Court to aid rather than defeat the mortgagor’s right to redeem his property.

Petitioner further argues that since R.A. No. 8791 does not provide for its retroactive application, courts therefore cannot retroactively apply its provisions to contracts executed and consummated before its effectivity. Also, since R.A. 8791 is a general law pertaining to the banking industry while Act No. 3135 is a special law specifically governing real estate mortgage and foreclosure, under the rules of statutory construction that in case of conflict a special law prevails over a general law regardless of the dates of enactment of both laws, Act No. 3135 clearly should prevail on the redemption period to be applied in this case.

The constitutional issue having been squarely raised in the pleadings filed in the trial and appellate courts, we shall proceed to resolve the same.

The law governing cases of extrajudicial foreclosure of mortgage is Act No. 3135,¹⁴ as amended by Act No. 4118. Section 6 thereof provides:

SEC. 6. In all cases in which an extrajudicial sale is made under the special power hereinbefore referred to, the debtor, his successors-in-interest or any judicial creditor or judgment creditor of said debtor, or any person having a lien on the property subsequent to the mortgage or deed of trust under which the property is sold, may redeem the same at any time within the term of one year from and after the date of the sale; and such redemption shall be governed by the provisions of sections four hundred and sixty-four to four hundred and sixty-six, inclusive, of the Code of Civil Procedure,¹⁵ in so far as these are not inconsistent with the provisions of this Act.

The one-year period of redemption is counted from the date of the registration of the certificate of sale. In this case, the parties provided in their real estate mortgage contract that upon petitioner’s default and the latter’s entire loan obligation becoming due, respondent may immediately foreclose the mortgage judicially in accordance with the Rules of Court, or extrajudicially in accordance with Act No. 3135, as amended.

¹³ 335 Phil. 914, 928 (1997).

¹⁴ AN ACT TO REGULATE THE SALE OF PROPERTY UNDER SPECIAL POWERS INSERTED IN OR ANNEXED TO REAL ESTATE MORTGAGES, approved on March 6, 1924.

¹⁵ Now Section 28 of Rule 39, 1997 Rules on Civil Procedure.

SEC. 28. *Time and manner of, and amounts payable on, successive redemptions; notice to be given and filed.* – The judgment obligor, or redemptioner, may redeem the property from the purchaser, at any time within one (1) year from the date of the registration of the certificate of sale, by paying the purchaser the amount of his purchase, with one *per centum* per month interest thereon in addition, up to the time of redemption, together with the amount of any assessments or taxes which the purchaser may have paid thereon after purchase, and interest on such last named amount of the same rate; and if the purchaser be also a creditor having a prior lien to that of the redemptioner, other than the judgment under which such purchase was made, the amount of such other lien, with interest.

However, Section 47 of R.A. No. 8791 otherwise known as “The General Banking Law of 2000” which took effect on June 13, 2000, amended Act No. 3135. Said provision reads:

SECTION 47. *Foreclosure of Real Estate Mortgage.* — In the event of foreclosure, whether judicially or extrajudicially, of any mortgage on real estate which is security for any loan or other credit accommodation granted, the mortgagor or debtor whose real property has been sold for the full or partial payment of his obligation shall have the right within one year after the sale of the real estate, to redeem the property by paying the amount due under the mortgage deed, with interest thereon at the rate specified in the mortgage, and all the costs and expenses incurred by the bank or institution from the sale and custody of said property less the income derived therefrom. However, the purchaser at the auction sale concerned whether in a judicial or extrajudicial foreclosure shall have the right to enter upon and take possession of such property immediately after the date of the confirmation of the auction sale and administer the same in accordance with law. Any petition in court to enjoin or restrain the conduct of foreclosure proceedings instituted pursuant to this provision shall be given due course only upon the filing by the petitioner of a bond in an amount fixed by the court conditioned that he will pay all the damages which the bank may suffer by the enjoining or the restraint of the foreclosure proceeding.

Notwithstanding Act 3135, juridical persons whose property is being sold pursuant to an extrajudicial foreclosure, shall have the right to redeem the property in accordance with this provision **until, but not after, the registration of the certificate of foreclosure sale** with the applicable Register of Deeds **which in no case shall be more than three (3) months after foreclosure, whichever is earlier.** Owners of property that has been sold in a foreclosure sale **prior** to the effectivity of this Act shall retain their redemption rights until their expiration. (Emphasis supplied.)

Under the new law, an exception is thus made in the case of juridical persons which are allowed to exercise the right of redemption only “until, but not after, the registration of the certificate of foreclosure sale” and in no case more than three (3) months after foreclosure, whichever comes first.¹⁶

May the foregoing amendment be validly applied in this case when the real estate mortgage contract was executed in 1985 and the mortgage foreclosed when R.A. No. 8791 was already in effect?

We answer in the affirmative.

When confronted with a constitutional question, it is elementary that every court must approach it with grave care and considerable caution bearing in mind that every statute is presumed valid and every reasonable doubt should be resolved in favor of its constitutionality.¹⁷ For a law to be nullified, it must be shown that there is a clear and unequivocal breach of the

¹⁶ See A.M. No. 99-10-05-0 *Re: Procedure in Extra-Judicial Foreclosure of Mortgages*, August 7, 2001 (Unsigned Resolution).

¹⁷ *People v. Siton*, G.R. No. 169364, September 18, 2009, 600 SCRA 476, 497, citing *Lacson v. Executive Secretary*, G.R. No. 128096, January 20, 1999, 301 SCRA 298.

Constitution. The ground for nullity must be clear and beyond reasonable doubt.¹⁸ Indeed, those who petition this Court to declare a law, or parts thereof, unconstitutional must clearly establish the basis therefor. Otherwise, the petition must fail.¹⁹

Petitioner's contention that Section 47 of R.A. 8791 violates the constitutional proscription against impairment of the obligation of contract has no basis.

The purpose of the non-impairment clause of the Constitution²⁰ is to safeguard the integrity of contracts against unwarranted interference by the State. As a rule, contracts should not be tampered with by subsequent laws that would change or modify the rights and obligations of the parties.²¹ Impairment is anything that diminishes the efficacy of the contract. There is an impairment if a subsequent law changes the terms of a contract between the parties, imposes new conditions, dispenses with those agreed upon or withdraws remedies for the enforcement of the rights of the parties.²²

Section 47 did not divest juridical persons of the right to redeem their foreclosed properties but only modified the time for the exercise of such right by reducing the one-year period originally provided in Act No. 3135. The new redemption period commences from the date of foreclosure sale, and expires upon registration of the certificate of sale or three months after foreclosure, whichever is earlier. There is likewise no retroactive application of the new redemption period because Section 47 exempts from its operation those properties foreclosed prior to its effectivity and whose owners shall retain their redemption rights under Act No. 3135.

Petitioner's claim that Section 47 infringes the equal protection clause as it discriminates mortgagors/property owners who are juridical persons is equally bereft of merit.

The equal protection clause is directed principally against undue favor and individual or class privilege. It is not intended to prohibit legislation which is limited to the object to which it is directed or by the territory in which it is to operate. It does not require absolute equality, but merely that all persons be treated alike under like conditions both as to privileges conferred and liabilities imposed.²³ Equal protection permits of reasonable

¹⁸ *Beltran v. Secretary of Health*, 512 Phil. 560, 588 (2005), citing *Basco v. Philippine Amusements and Gaming Corporation*, G.R. No. 91649, May 14, 1991, 197 SCRA 52, 68 and *Yu Cong Eng v. Trinidad*, 47 Phil. 385 (1925).

¹⁹ *Id.*

²⁰ Art. III, Sec. 10 of the 1987 Constitution reads:

“Sec. 10. No law impairing the obligation of contracts shall be passed.”

²¹ *Siska Development Corporation v. Office of the President of the Phils.*, G.R. No. 93176, April 22, 1994, 231 SCRA 674, 680.

²² *Id.*, citing *Clemons v. Nolting*, 42 Phil. 702, 717 (1922).

²³ *JMM Promotion and Management, Inc. v. Court of Appeals*, G.R. No. 120095, August 5, 1996, 260 SCRA 319, 331, citing *Itchong v. Hernandez*, 101 Phil. 1155, 1164 (1957).

classification.²⁴ We have ruled that one class may be treated differently from another where the groupings are based on reasonable and real distinctions.²⁵ If classification is germane to the purpose of the law, concerns all members of the class, and applies equally to present and future conditions, the classification does not violate the equal protection guarantee.²⁶

We agree with the CA that the legislature clearly intended to shorten the period of redemption for juridical persons whose properties were foreclosed and sold in accordance with the provisions of Act No. 3135.²⁷

The difference in the treatment of juridical persons and natural persons was based on the nature of the properties foreclosed – whether these are used as residence, for which the more liberal one-year redemption period is retained, or used for industrial or commercial purposes, in which case a shorter term is deemed necessary to reduce the period of uncertainty in the ownership of property and enable mortgagee-banks to dispose sooner of these acquired assets. It must be underscored that the General Banking Law of 2000, crafted in the aftermath of the 1997 Southeast Asian financial crisis, sought to reform the General Banking Act of 1949 by fashioning a legal framework for maintaining a safe and sound banking system.²⁸ In this context, the amendment introduced by Section 47 embodied one of such safe and sound practices aimed at ensuring the solvency and liquidity of our banks. It cannot therefore be disputed that the said provision amending the redemption period in Act 3135 was based on a reasonable classification and germane to the purpose of the law.

This legitimate public interest pursued by the legislature further enfeebles petitioner's impairment of contract theory.

²⁴ *Abbas v. Commission on Elections*, 258 Phil. 870, 882 (1989), citing *People v. Vera*, 65 Phil. 56 (1937); *Laurel v. Misa*, 76 Phil. 372 (1946); *J.M. Tuason and Co., Inc. v. Land Tenure Administration*, No. L-21064, February 18, 1970, 31 SCRA 413.

²⁵ *Id.*, citing *Dumlao v. Commission on Elections*, No. L-52245, January 22, 1980, 95 SCRA 392, 404.

²⁶ *JMM Promotion and Management, Inc. v. Court of Appeals*, supra note 23, at 332.

²⁷ Records of the Eleventh Congress showed that the consolidated House Bill No. 6814 and Senate Bill No. 1519 under Conference Committee Report submitted on April 28, 2000 contained the reconciled Sec 47 that was approved and signed into law by the President of the Philippines, and became R.A. 8791. Said final version of Sec. 47 was based on the recommendation made by Senator Franklin Drilon during the Second Reading of SB 1519 that a distinction be made in the foreclosure of properties used for residence and those used for business purposes. We quote from the Record of the Senate during the session of September 14, 1999:

“**Senator Drilon.** x x x

Maybe, the sponsor can consider, at the appropriate time, a provision which would allow this one-year redemption period by whatever liberal provisions and which may be incorporated in cases of properties used for residence. But for properties for commercial or industrial purposes, we may wish to review even the one-year redemption period because such inability to generate economic activity out of the foreclosed property for a period of one year can tie up a lot of assets. Maybe, the committee can consider making distinctions between foreclosure of properties used for residence and properties used for business.” (Record of the Senate, Vol. I, No. 22, p. 569)

²⁸ Sponsorship speech of the late Senator Raul S. Roco, Record of the Senate, March 17, 1999, Vol. III, No. 76, pp. 552-559.

The right of redemption being statutory, it must be exercised in the manner prescribed by the statute,²⁹ and within the prescribed time limit, to make it effective. Furthermore, as with other individual rights to contract and to property, it has to give way to police power exercised for public welfare.³⁰ The concept of police power is well-established in this jurisdiction. It has been defined as the “state authority to enact legislation that may interfere with personal liberty or property in order to promote the general welfare.” Its scope, ever-expanding to meet the exigencies of the times, even to anticipate the future where it could be done, provides enough room for an efficient and flexible response to conditions and circumstances thus assuming the greatest benefits.³¹

The freedom to contract is not absolute; all contracts and all rights are subject to the police power of the State and not only may regulations which affect them be established by the State, but all such regulations must be subject to change from time to time, as the general well-being of the community may require, or as the circumstances may change, or as experience may demonstrate the necessity.³² Settled is the rule that the non-impairment clause of the Constitution must yield to the loftier purposes targeted by the Government. The right granted by this provision must submit to the demands and necessities of the State’s power of regulation.³³ Such authority to regulate businesses extends to the banking industry which, as this Court has time and again emphasized, is undeniably imbued with public interest.³⁴

Having ruled that the assailed Section 47 of R.A. No. 8791 is constitutional, we find no reversible error committed by the CA in holding that petitioner can no longer exercise the right of redemption over its foreclosed properties after the certificate of sale in favor of respondent had been registered.

WHEREFORE, the petition for review on certiorari is **DENIED** for lack of merit. The Decision dated November 19, 2010 and Resolution dated January 31, 2011 of the Court of Appeals in CA-G.R. CV No. 91120 are hereby **AFFIRMED**.

With costs against the petitioner.

²⁹ See *Mateo v. Court of Appeals*, 99 Phil. 1042 (1956).

³⁰ *Beltran v. Secretary of Health*, supra note 18, at 587, citing *Vda. de Genuino v. Court of Agrarian Relations*, No. L-25035, February 26, 1968, 22 SCRA 792, 796-797.

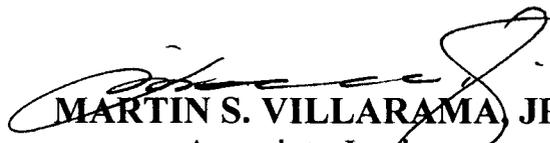
³¹ *Basco v. Philippine Amusement and Gaming Corporation*, supra note 18, at 61, citing *Edu v. Ericta*, No. L-32096, October 24, 1970, 35 SCRA 481, 487 & 488.

³² *Beltran v. Secretary of Health*, supra note 30, citing *Ongsiako v. Gamboa*, 86 Phil. 50 (1950).

³³ *Id.*, citing *Philippine Association of Service Exporters, Inc. v. Drilon*, No. L-81958, June 30, 1988, 163 SCRA 386, 397.

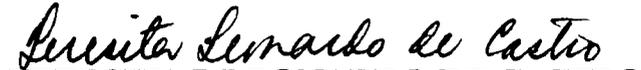
³⁴ *Asiatrust Development Bank v. First Aikka Development, Inc.*, G.R. No. 179558, June 11, 2011, 650 SCRA 172, 190, citing *Banco de Oro-EPCI, Inc. v. JAPRL Development Corporation*, G.R. No. 179901, April 14, 2008, 551 SCRA 342, 356.

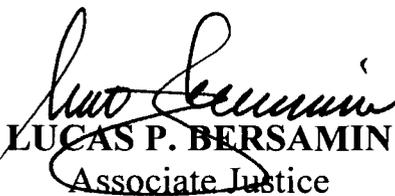
SO ORDERED.


MARTIN S. VILLARAMA, JR.
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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