



Republic of the Philippines  
**Supreme Court**  
Manila

SECOND DIVISION

**SYCAMORE VENTURES  
CORPORATION and SPOUSES  
SIMON D. PAZ AND LENG LENG  
PAZ,**

Petitioners,

- versus -

**METROPOLITAN BANK AND TRUST  
COMPANY,**

Respondent.

**G.R. No. 173183**

Present:

**CARPIO, J.,**  
*Chairperson,*  
**BRION,**  
**DEL CASTILLO,**  
**PEREZ, and**  
**PERLAS-BERNABE, JJ.**

Promulgated:

NOV 18 2013

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**DECISION**

**BRION, J.:**

*We are once more faced by a petition filed by debtors who could not pay their indebtedness and who, at the point of foreclosure, sought judicial recourse to delay the inevitable. In this case, the issue used as anchor is the valuation of the mortgage property's appraised value – an issue that hardly carries any significant consequence in extrajudicial foreclosure proceedings. How the delay in the foreclosure has affected the parties is a matter that is not in the record before us, but delay, if it had been the objective sought, came as it has come in many other similar cases. To be sure, the Judiciary has been affected by these cases as they have unnecessarily clogged the dockets of our courts, to the detriment of more important cases equally crying for attention.*

The petitioners, Sycamore Ventures Corporation (*Sycamore*) and the spouses Simon D. Paz and Leng Leng Paz, challenge the decision<sup>1</sup> dated May 3, 2006 and the resolution<sup>2</sup> dated June 19, 2006 of the Court of Appeals (CA) in CA-G.R. SP No. 88463. The CA reversed and set aside the orders<sup>3</sup> dated August 5, 2004 and November 22, 2004 of the Regional Trial Court (RTC), Branch 43, San Fernando, Pampanga, in Civil Case No. 12569.

### **The Factual Antecedents**

Sixteen years ago (or sometime in 1997), Sycamore and the spouses Paz obtained from respondent Metropolitan Bank and Trust Company (*Metrobank*) a credit line of ₱180,000,000.00, secured by 10 real estate mortgages<sup>4</sup> over Sycamore's 11 parcels of land,<sup>5</sup> together with their improvements.<sup>6</sup> Sycamore and the spouses Paz withdrew from the credit line the total amount of ₱65,694,914.26, evidenced by 13 promissory notes.<sup>7</sup>

Because the petitioners failed to pay their loan obligations and for violations of the terms and conditions of their 13 promissory notes, Metrobank instituted extrajudicial foreclosure proceedings over the six real estate mortgages, pursuant to Act No. 3135, as amended.<sup>8</sup> The public auction sale was set for various dates – March 22, 2000, April 23, 2000 and May 23, 2000 – but the sale did not take place because Sycamore and the spouses Paz asked for postponements.

Metrobank subsequently restructured Sycamore and the spouses Paz's loan, resulting in the issuance of one promissory note denominated as PN No. 751622 736864.92508.000.99, in lieu of the 13 promissory notes<sup>9</sup> previously issued, and the execution of a single real estate mortgage covering the 12 parcels of land.<sup>10</sup>

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<sup>1</sup> *Rollo*, pp. 464-469; penned by Associate Justice Eliezer R. de los Santos, and concurred in by Associate Justices Jose C. Reyes, Jr. and Arturo G. Tayag.

<sup>2</sup> *Id.* at 470-471.

<sup>3</sup> *Id.* at 472-474 and 475.

<sup>4</sup> *Id.* at 10.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Id.* at 28.

<sup>7</sup> *Id.* at 10.

<sup>8</sup> Act No. 3135 – An Act to Regulate the Sale of Property Under Special Powers Inserted in or Annexed to Real-Estate Mortgages.

<sup>9</sup> *Rollo*, p. 10.

<sup>10</sup> *Id.* at 11.

***Application for Extrajudicial  
Foreclosure***

Despite reminders, Sycamore and the spouses Paz still failed to settle their loan obligations, compelling Metrobank to file a second petition for auction sale, which was set for October 25, 2002.

On October 16, 2002, Sycamore and the spouses Paz once again asked for the postponement of the October 25, 2002 public auction sale; they asked that the sale be moved to November 26, 2002, but this time Metrobank refused to give in.<sup>11</sup>

***Civil Case No. 12569 for Annulment of  
Contract and Real Estate Mortgage with  
Temporary Restraining Order and  
Injunction***

On November 25, 2002, Sycamore and the spouses Paz filed before the RTC, Branch 43, San Fernando Pampanga, a complaint for the annulment of the contract and of the real estate mortgage. They likewise asked for the issuance of a temporary restraining order (*TRO*).

The petitioners disputed Metrobank's alleged unilateral and arbitrary reduction of the mortgaged properties' appraisal value from ₱1,200.00 to ₱300.00-₱400.00 per square meter. They likewise sought the maintenance of the status quo, to enjoin Metrobank, and to prevent it from proceeding with the extrajudicial foreclosure.

On the same day, the Executive Judge issued a 72-hour TRO, directing the sheriff to cease and desist from proceeding with the scheduled public auction.<sup>12</sup> After summary hearing, Judge Carmelita S. Gutierrez-Fruelda, RTC, San Fernando Pampanga, ordered the extension of the TRO to its full 20-day term.<sup>13</sup>

On December 17, 2002, Judge Fruelda issued a writ of preliminary injunction which Metrobank unsuccessfully resisted through a motion for reconsideration that was denied.<sup>14</sup> Thus, Metrobank ran to the CA on a

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<sup>11</sup> Id. at 12.

<sup>12</sup> Id. at 31.

<sup>13</sup> Id. at 12.

<sup>14</sup> Id. at 31.

petition for *certiorari*<sup>15</sup> to question the RTC orders for grave abuse of discretion.

The CA dismissed Metrobank's petition for lack of merit and upheld the RTC's issued injunction.

***Order for Appointment of  
Independent Commissioners***

Meanwhile, the proceedings in the main case continued. At the trial, Sycamore and the spouses Paz moved for the appointment of independent commissioners to determine the mortgaged properties' appraisal value.<sup>16</sup> They mainly alleged that Metrobank arbitrarily and unilaterally reduced the mortgaged properties' appraisal value; hence, the need for their reappraisal to determine their true value.

In an order dated August 5, 2004, the RTC granted the petitioners' motion, and again Metrobank was unsuccessful in securing a reconsideration.

Metrobank thus again went to the CA on a petition for *certiorari* under Rule 65, imputing grave abuse of discretion on the RTC for issuing the questioned order. The bank alleged that the appraisal value of the mortgaged properties is not an issue in the proceedings because their value is already a matter of record.

On May 3, 2006, the CA this time granted Metrobank's petition for *certiorari* and set aside the RTC's orders. It found that the appraisal value of the mortgaged properties was not an issue since the real estate mortgage and the promissory note already indicated with certainty the amount of the loan obligation.

It was Sycamore and the spouses Paz this time who filed their motion for reconsideration which the CA denied. Significantly, the CA noted that the determination of the properties' appraisal value has nothing to do with the question of whether the foreclosure proceeding will proceed.

The CA's denial gave rise to the present petition for review on *certiorari*.

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<sup>15</sup> Under Rule 65 of the Rules of Court.

<sup>16</sup> *Rollo*, p. 12.

### **The Petition**

Sycamore and the spouses Paz contend that the CA erred in setting aside the RTC's order granting their motion for appointment of independent commissioners. They argue that it had the effect of preventing the RTC's determination of a **critical question of fact** – *i.e.*, the determination of the mortgaged properties' true valuation – which, they insist, is an issue that needs to be resolved prior to the determination of the foreclosure's validity.

They claim that before resolving the said issue, the RTC has to decide the following prejudicial questions, namely:

*(1) Whether Metrobank validly reduced the mortgaged properties' valuation; and*

*(2) Whether Metrobank can validly foreclose the mortgaged properties at a further reduced valuation.<sup>17</sup>*

Lastly, Sycamore and the spouses Paz invoke this Court's intervention to prevent an unfair situation where the mortgage foreclosure, based on Metrobank's arbitrary and unilateral reduction of the properties' appraisal value, would deprive them of all their properties and, at the same time, leave a deficiency of ₱500,000,000.00.

### **The Issue**

The core issue for our determination is whether the determination of the mortgaged properties' appraisal value constitutes a prejudicial question that warrants the suspension of the foreclosure proceedings.

Simply put, is the appraisal value of the mortgaged properties material in the mortgage foreclosure's validity?

### **The Court's Ruling**

**We deny the petition for lack of merit.** The CA did not err when it set aside the RTC's order granting the motion for appointment of independent commissioners.

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<sup>17</sup> Id. at 37.

***Remedies of a secured creditor***

A secured creditor may institute against the mortgage debtor either a personal action for the collection of the debt, a real action to judicially foreclose the real estate mortgage, or an extrajudicial judicial foreclosure of the mortgage. The remedies, however, are alternative, not cumulative, and the election or use of one remedy operate as a waiver of the others.<sup>18</sup>

We discussed these legal points in *Bachrach Motor Co., Inc. v. Icarangal*<sup>19</sup> and ruled that:

[I]n the absence of express statutory provisions, a mortgage creditor may institute against the mortgage debtor either a personal action for debt or a real action to foreclose the mortgage. In other words, he may pursue either of the two remedies, but not both. By such election, his cause of action can by no means be impaired, for each of the two remedies is complete in itself. Thus, an election to bring a personal action will leave open to him all the properties of the debtor for attachment and execution, even including the mortgaged property itself. And, if he waives such personal action and pursues his remedy against the mortgaged property, an unsatisfied judgment thereon would still give him the right to sue for a deficiency judgment, in which case, all the properties of the defendant, other than the mortgaged property, are again open to him for the satisfaction of the deficiency. In either case, his remedy is complete, his cause of action undiminished, and any advantages attendant to the pursuit of one or the other remedy are purely accidental and are all under his right of election.

In the present case, Metrobank elected the third remedy – the extrajudicial foreclosure of the real estate mortgage.

***Extrajudicial foreclosure under Act No. 3135***

Extrajudicial foreclosure is governed by Act No. 3135, as amended by Act No. 4118.

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<sup>18</sup> *Bank of America v. American Realty Corp.*, 378 Phil. 1279, 1291 (1999).

<sup>19</sup> 68 Phil. 287, 294 (1939).

It provides in its Section 1 that:

SECTION 1. When a sale is made under a special power inserted in or attached to any real-estate mortgage hereafter made as security for the payment of money or the fulfillment of any other obligation, the provisions of the following election shall govern as to the manner in which the sale and redemption shall be effected, whether or not provision for the same is made in the power.

In brief, Act No. 3135 recognizes the right of a creditor to foreclose a mortgage upon the mortgagor's failure to pay his/her obligation. In choosing this remedy, the creditor enforces his lien through the sale on foreclosure of the mortgaged property. The proceeds of the sale will then be applied to the satisfaction of the debt. In case of a deficiency, the mortgagee has the right to recover the deficiency resulting from the difference between the amount obtained in the sale at public auction, and the outstanding obligation at the time of the foreclosure proceedings.<sup>20</sup>

Certain requisites must be established before a creditor can proceed to an extrajudicial foreclosure, namely: *first*, there must have been the failure to pay the loan obtained from the mortgagee-creditor; *second*, the loan obligation must be secured by a real estate mortgage; and *third*, the mortgagee-creditor has the right to foreclose the real estate mortgage either judicially or extrajudicially.

Act No. 3135 outlines the notice and publication requirements and the procedure for the extrajudicial foreclosure which constitute a condition *sine qua non* for its validity. Specifically, Sections 2, 3 and 4 of the law prescribe the formalities of the extrajudicial foreclosure proceeding, which we quote:

SECTION 2. Said sale cannot be made legally outside of the province in which the property sold is situated; and in case the place within said province in which the sale is to be made is subject to stipulation, such sale shall be made in said place or in the municipal building of the municipality in which the property or part thereof is situated.

SECTION 3. Notice shall be given by posting notices of the sale for not less than twenty days in at least three public places of the municipality or city where the property is situated, and if such property is worth more than four hundred pesos, such notice shall also be published once a week for at least three consecutive weeks in a newspaper of general circulation in the municipality or city.

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<sup>20</sup> *Caltex Philippines, Inc. v. Intermediate Appellate Court*, G.R. No. 74730, August 25, 1989, 176 SCRA 741, 751.

SECTION 4. The sale shall be made at public auction, between the hours or nine in the morning and four in the afternoon; and shall be under the direction of the sheriff of the province, the justice or auxiliary justice of the peace of the municipality in which such sale has to be made, or a notary public of said municipality, who shall be entitled to collect a fee of five pesos each day of actual work performed, in addition to his expenses.

***Act No. 3135 does not require  
determination of appraised value***

All the above provisions are quoted *verbatim* to stress that Act No. 3135 has no requirement for the determination of the mortgaged properties' appraisal value. Nothing in the law likewise indicates that the mortgagee-creditor's appraisal value shall be the basis for the bid price. Neither is there any rule nor any guideline prescribing the minimum amount of bid, nor that the bid should be at least equal to the properties' current appraised value. What the law only provides are the requirements, procedure, venue and the mortgagor's right to redeem the property. When the law does not provide for the determination of the property's valuation, neither should the courts so require, for our duty limits us to the interpretation of the law, not to its augmentation.

Under the circumstances, we fail to see the necessity of determining the mortgaged properties' current appraised value. We likewise do not discern the existence of any prejudicial question, anchored on the mortgaged properties' appraised value, that would warrant the suspension of the foreclosure proceedings.

For greater certainty, a prejudicial question is a prior issue whose resolution rests with another tribunal, but at the same time is necessary in the resolution of another issue in the same case.<sup>21</sup> For example, there is a prejudicial question where there is a civil action involving an issue similar or intimately related to the issue raised in a criminal action, and the resolution of the issue in the civil action is determinative of the outcome of the criminal action.

As so defined, we do not see how the motion for the appointment of independent commissioners can serve as a prejudicial question. It is not a main action but a mere incident of the main proceedings; it does not involve

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<sup>21</sup> *Spouses Pahang v. Judge Vestil*, 478 Phil. 189, 198 (2004).

an issue that is intimately related to the foreclosure proceedings; and lastly, the motion's resolution is not determinative of the foreclosure's outcome.

On this point alone, the petition should be denied. But even if Metrobank's reduced appraised value were lesser than the mortgaged properties' current valuation, the petition would still fail.

There is no question in this case that Sycamore and the spouses Paz failed to settle their loan obligations to Metrobank as they fell due. (In fact, there were multiple or repeated failures to pay.) There is likewise no dispute on the total amount of their outstanding loan obligation. Sycamore and the spouses Paz also acknowledged Metrobank's right to foreclose when they asked for the sale's postponement, to quote:

**The undersigned mortgagor(s) hereby acknowledged(s) that the publication and posting of the Notice of Auction Sale have been completely and regularly complied** with the request(s) that republication and reposting of the same be dispensed with at the discretion of the mortgagee bank and agreed that all expenses incurred by the said mortgagee bank in connection herewith shall be chargeable to his/her/their account(s) and secured by the said mortgage(s).

**The undersigned mortgagor(s) likewise stipulate(s) that, in consideration of the mortgagee's having acceded and agreed to this postponement, he/she/they hereby waive(s), forego(es), quitclaim(s) and set(s) over unto the said mortgagee any and all his/her/their cause or causes of action, claims or demands arising out of or necessarily connected with the Promissory Note(s), Real Estate Mortgage Contract(s) and other credit documents mentioned in the above entitled Petition for Foreclosure of Real Estate Mortgage.**<sup>22</sup> [emphases supplied]

What Sycamore and the spouses Paz only assail in the present petition is the validity of Metrobank's appraisal of the mortgaged properties. Even that issue, if the quoted terms above were to be considered, appears to have been waived **"in consideration of the mortgagee's having acceded and agreed to this postponement."**<sup>23</sup>

Under these facts, how and why to petitioners would still insist on the appraisal valuation as an issue boggles the mind and this is a puzzle that only they have a key to. But whatever may that key or answer be, it is not one that is material to the case below or to the present petition.

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<sup>22</sup> *Rollo*, p. 11.

<sup>23</sup> *Ibid.*

***Determination of mortgaged properties' appraisal value is not material to the foreclosure's validity***

We have held in a long line of cases that mere inadequacy of price *per se* will not invalidate a judicial sale of real property. It is only when the inadequacy of the price is grossly shocking to the conscience or revolting to the mind, such that a reasonable man would neither directly nor indirectly be likely to consent to it, that the sale shall be declared null and void. This rule, however, does not strictly apply in the case of extrajudicial foreclosure sales where the right of redemption is available.

In *Bank of the Philippine Islands v. Reyes*,<sup>24</sup> involving a similar question arising from the correctness of the mortgaged properties' valuation, we held that the inadequacy of the price at which the mortgaged property was sold does not invalidate the foreclosure sale.

In that case, the winning bid price was ₱9,032,960.00 or merely 19% of the alleged current appraisal value of the property pegged at ₱47,536,000.00. Despite the relatively sizeable discrepancy, the Court ruled that the level of the bid price is immaterial in a forced sale because a low price is more beneficial to the mortgage debtor.

We quote from the relevant portion of this decision:

In the case at bar, the winning bid price of ₱9,032,960.00 is nineteen percent (19%) of the appraised value of the property subject of the extrajudicial foreclosure sale that is pegged at ₱47,536,000.00 which amount, notably, is only an arbitrary valuation made by the appraising officers of petitioner's predecessor-in-interest ostensibly for loan purposes only. Unsettled questions arise over the correctness of this valuation in light of conflicting evidence on record.

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xxx. In the case at bar, other than the mere inadequacy of the bid price at the foreclosure sale, respondent did not allege any irregularity in the foreclosure proceedings nor did she prove that a better price could be had for her property under the circumstances.

**Thus, even if we assume that the valuation of the property at issue is correct, we still hold that the inadequacy of the price at which**

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<sup>24</sup>

G.R. No. 182769, February 1, 2012, 664 SCRA 700, 700-711.

**it was sold at public auction does not invalidate the foreclosure sale.”<sup>25</sup> (emphasis ours)**

In *Hulst v. PR Builders, Inc.*,<sup>26</sup> we explained that when there is a right of redemption, the inadequacy of the price becomes immaterial because the judgment debtor may still re-acquire the property or even sell his right to redeem and thus recover the loss he might have suffered by reason of the “inadequate price” obtained at the execution sale. In this case, the judgment debtor even stands to gain rather than be harmed.

These rulings were also applied in *Rabat v. Philippine National Bank*,<sup>27</sup> where the Court used the same reasoning and arrived at the same conclusion:

It bears also to stress that the mode of forced sale utilized by petitioner was an extrajudicial foreclosure of real estate mortgage which is governed by Act No. 3135, as amended. **An examination of the said law reveals nothing to the effect that there should be a minimum bid price or that the winning bid should be equal to the appraised value of the foreclosed property or to the amount owed by the mortgage debtor. What is clearly provided, however, is that a mortgage debtor is given the opportunity to redeem the foreclosed property "within the term of one year from and after the date of sale."** In the case at bar, other than the mere inadequacy of the bid price at the foreclosure sale, respondent did not allege any irregularity in the foreclosure proceedings nor did she prove that a better price could be had for her property under the circumstances.

At any rate, we consider it notable enough that PNB’s bid price of ₱3,874,800.00 might not even be said to be outrageously low as to be shocking to the conscience. As the CA cogently noted in the second amended decision,<sup>20</sup> that bid price was almost equal to both the ₱4,000,000.00 applied for by the Spouses Rabat as loan, and to the total sum of ₱3,517,380.00 of their actual avilment from PNB. [emphasis ours]

We find no reason to depart from these sound and established rulings. We also need not rule on the validity of Metrobank’s valuation. Whether Metrobank’s reduced valuation is valid or not, or whether the valuation is outrageously lower than its current value, has nothing to do with the foreclosure proceedings. From this perspective, we cannot but conclude that

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<sup>25</sup> Id. at 709-711.

<sup>26</sup> 558 Phil. 683, 710-711 (2007).

<sup>27</sup> G.R. No. 158755, June 18, 2012, 673 SCRA 383, 395.

that the recourses sought in this case have been intended solely to delay the inevitable – the foreclosure sale and the closure of the collection action – and are an abuse of the processes of this Court. Under these circumstances, the maximum allowable triple costs should be imposed on the petitioners for this abuse in accordance with Section 3, Rule 142 of the Rules of Court, to be paid by counsel for the petitioners. Let counsel also be warned that what happened in this case is a practice that, in a proper administrative proceeding, may be found violative of their duties to the Court.

**WHEREFORE**, the petition is **DENIED** for lack of merit; the appealed decision of the Court of Appeals dated May 3, 2006 is **AFFIRMED**. Let a copy of this Decision be furnished the Board of Governors, Integrated Bar of the Philippines, for its information.

Triple costs against the petitioners, Sycamore Ventures Corporation and the spouses Simon D. Paz and Leng Leng Paz, to be paid by their counsel of record.

**SO ORDERED.**


  
**ARTURO D. BRION**  
Associate Justice

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

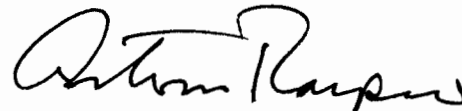
  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
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.



**ANTONIO T. CARPIO**

Associate Justice  
Chairperson, Second 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