



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

**SPOUSES PIO DATO and
 SONIA Y. SIA,**

Petitioners,

G.R. No. 181873

Present:

SERENO, *C.J.*,
Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 VILLARAMA, JR., and
 REYES, *JJ.*

- versus -

**BANK OF THE PHILIPPINE
 ISLANDS,**

Respondent.

Promulgated:

NOV 27 2013

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DECISION

REYES, J.:

This is a petition for review on *certiorari*¹ of the Decision² dated July 25, 2007 and Resolution³ dated February 8, 2008 of the Court of Appeals (CA) in CA-G.R. CV No. 61289, affirming with modifications the Decision⁴ dated December 15, 1997 of the Regional Trial Court (RTC) of Cebu City, Branch 18. The RTC dismissed herein petitioners' complaint and declared the extrajudicial foreclosure sale, the subject of this petition valid and binding.

¹ Rollo, pp. 4-22.

² Penned by Associate Justice Francisco P. Acosta, with Associate Justices Pampio A. Abarintos and Stephen C. Cruz, concurring; id. at 118-148.

³ Id. at 197-198.

⁴ Issued by Presiding Judge Galicano C. Arriego; id. at 68-116.

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Antecedent Facts

On May 23, 1990, petitioners Spouses Pio Dato (Pio) and Sonia Y. Sia (Spouses Sia) applied for a ₱240,000.00 loan which was granted by the Bank of the Philippine Islands (BPI) with a term of six months and secured by a real estate mortgage over a parcel of land owned by Spouses Sia denominated as Lot 1, situated in Labangon, Cebu, covered by Transfer Certificate of Title (TCT) No. 102434. Subsequently, on August 8, 1990, Spouses Sia availed of a ₱4 Million Revolving Promissory Note Line with a term of one year, secured by the same real estate mortgage over TCT No. 102434.⁵

Spouses Sia alleged that their loan was “precipitated by the representation of the [BPI] that the same will be indorsed to [Industrial Guarantee and Loan Fund] (IGLF) [in order] for the spouses to be able to avail of a much lower interest rate and longer payment terms.”⁶

Before the ₱240,000.00 and ₱4 Million loans matured, Spouses Sia approached BPI through Mona Padilla (Padilla), account officer of BPI for additional loans. One was for ₱2 Million, and another was for ₱2.8 Million. After some discussion with Padilla, Spouses Sia agreed to obtain a Credit Facility of ₱5.7 Million using the same collaterals offered in their previous loans and four additional parcels of land, namely, TCT Nos. 87010, 102435, 102436 and 102437.⁷

On November 23, 1990, Spouses Sia obtained ₱800,000.00 from their Credit Facility of ₱5.7 Million which was credited to their current account with BPI after executing a Promissory Note for the same amount. While Spouses Sia paid some of the interest on their loans, the amount was insufficient to cover the principal amount of said loans.⁸

On February 13, 1991, Padilla sent a written reminder to Spouses Sia to settle all unpaid interest before February 22, 1991. Yet the spouses failed to pay the same. Their principal loans of ₱240,000.00 and ₱4 Million loan also remained unsettled. BPI, through Padilla and Assistant Vice President, Danilo A. Quinto sent another demand letter to them requesting payment of the outstanding loan.⁹

⁵ Id. at 8-9.

⁶ Id.

⁷ See respondent BPI’s Comment, id. at 205.

⁸ Id.

⁹ Id.

Spouses Sia still failed to pay the principal amount of ₱4,240,000.00 exclusive of interest, penalties and other charges. But the amount of ₱800,000.00 from the ₱5.7 Million Credit Facility was paid through a Letter of Credit. As the ₱240,000.00 and ₱4 Million loans of Spouses Sia were not yet settled, BPI cancelled the ₱5.7 Million Credit facility. To facilitate and assist Spouses Sia in paying off their loans, the four lots which secured the ₱5.7 Million Credit Line Facility were released. Spouses Sia agreed to sell the lots and use the proceeds thereof to make partial payments of their loans. Consequently, BPI issued a cancellation of the real estate mortgage over the four lots which secured the ₱5.7 Million Credit Line Facility.¹⁰

Despite the cancellation of the real estate mortgage, Spouses Sia failed to make good their promise to sell the lots to pay off their loans. BPI, through Padilla, sent a follow-up demand letter to Spouses Sia dated July 11, 1991 requesting payment of the principal loan amounting to ₱4,240,000.00 as well as all unpaid interests, penalties and charges thereon on or before July 30, 1991.¹¹ Spouses Sia, through a letter dated July 19, 1991, acknowledged their account to BPI and stated therein that they are “seriously considering selling some of their ‘choiced’ real estate properties to service their debt to BPI x x x.”¹²

On August 3, 1993, Spouses Sia filed a complaint¹³ with the RTC of Cebu City praying for the issuance of a temporary restraining order (TRO) to maintain status *quo*, award of moral and exemplary damages, attorney’s fees and litigation costs. In the said complaint, Spouses Sia alleged that BPI “deliberately refused to comply with the condition/undertaking of the loan for IGLF endorsement and approval” until the maturity date of the loan lapsed to their great prejudice and irreparable damage.¹⁴

Spouses Sia failed to pay notwithstanding the numerous demands made by BPI, leading to the extrajudicial foreclosure of the real estate mortgage covered by TCT No. 102434 which secured Spouses Sia’s loans of ₱240,000.00 and ₱4 Million. The lot was sold at a public auction held on August 9, 1993, with BPI as the sole bidder in the amount of ₱10,060,080.20.¹⁵ The certificate of sale was issued on August 10, 1993 upon payment of all the required registration fees.¹⁶

¹⁰ Id. at 206.

¹¹ Id.

¹² Id.

¹³ Id. at 23-35.

¹⁴ Id. at 26.

¹⁵ Id. at 6.

¹⁶ Id. at 79.

In the course of the trial proceedings, Spouses Sia alleged that they discovered that the document embodying the cancellation of the real estate mortgage presented by BPI (over the four lots previously released by BPI for the Credit Line Agreement Facility), stated the following:

[T]he consideration for this cancellation being the full and complete payment made by the said debtor/s- mortgagor/s to the creditor-mortgagee of the obligation secured thereby in the principal amount of FIVE MILLION SEVEN HUNDRED THOUSAND ONLY PESOS (₱5,700,000.00) Philippine Currency, together with the corresponding interest thereon up to this date.¹⁷

Spouses Sia thereafter amended their complaint claiming that the bank inserted and annotated a falsified/illegal Real Estate Mortgage of ₱5.7 Million, purportedly availed of by Spouses Sia.¹⁸ They alleged “that TCT No. 102434 was never intended to secure a fabricated and falsified loan of ₱5,700,000.00 or for any loan [by] whomsoever, accommodated by [BPI] using [Spouses Sia’s] collaterals[.]”¹⁹

Lastly, the spouses claimed extinguishment of their obligation. They alleged that as BPI credited the payment of ₱5.7 Million to their account, which is more than sufficient to cover their promissory notes of ₱240,000.00 and ₱4 Million, their obligation with the BPI was totally extinguished as of August 5, 1991 and that the foreclosure proceedings on TCT No. 102343 is illegal and baseless for they have the right as of August 5, 1991 to secure full release of said lot by such payment of ₱5.7 Million.²⁰

Spouses Sia prayed for ₱5 Million as moral damages, ₱2 Million as exemplary damages, attorney’s fees equivalent to 25% of the adjudged amount plus ₱350.00 per court appearance but not less than ₱350,000.00 and for whatever proven damages of not less than ₱500,000.00. In their Second Supplemental Complaint, Spouses Sia prayed for additional ₱25 Million as moral damages, ₱6 Million as exemplary damages and 25% attorney’s fees based on the additional damages but not less than ₱200,000.00.²¹

During the pendency of the instant case, the one-year redemption period had lapsed without Spouses Sia exercising their right to redeem the subject property. Thus on January 27, 1995, BPI filed a supplemental answer with counterclaim, alleging therein that with the expiration of the period of redemption, BPI is entitled to a writ of possession over the

¹⁷ Id. at 52.

¹⁸ Id. at 60.

¹⁹ Id. at 60-61.

²⁰ Id. at 61.

²¹ Id. at 123-124.

foreclosed property and the occupancy of Spouses Sia on the foreclosed property entitles BPI to a reasonable compensation which is conservatively pegged at ₱10,000.00 per month from the date of the issuance of the certificate of sale in favor of BPI.²²

The RTC Ruling

On December 15, 1997, the RTC rendered its judgment in favor of BPI and against Spouses Sia, the dispositive portion of which states:

WHEREFORE, premises all considered, JUDGMENT is hereby rendered in favor of [BPI] and against [Spouses Sia] as follows:

1. Dismissing [Spouses Sia's] complaint, supplemental and amended complaint for lack of merit;
2. Declaring the extrajudi[c]ial foreclosure sale conducted on August 8, 1993 as valid and binding;
3. Declaring defendant [BPI] as absolute and legal owner of Lot No. 1 covered by TCT No. 102434 as well as the residential house and all improvements thereon;
4. Ordering [Spouses Sia] to pay defendant [BPI's] counsel the sum of ₱500,000.00 as attorney's fees; ordering to pay defendant [BPI] the sum of ₱10,000.00 per month from August 10, 1994 for use and occupancy of the foreclosed properties until the same are vacated and possession delivered to defendant [BPI]; to pay the sum of ₱1,000,000.00 as exemplary damages so as to prevent others from following [Spouses Sia's] filing a suit to prevent payment of a just and valid debt; the sum of ₱2,000,000.00 as compensatory damages; the sum of ₱50,000.00 as litigation expenses as well as costs of the suit.

SO ORDERED.²³

The RTC found that “there is no logical and valid reason to support the allegations in the complaint for Breach of Contract, Rescission and Cancellation of Contract with Damages.”²⁴

²² Id. at 125.

²³ Id. at 115-116.

²⁴ Id. at 106.

The RTC also found that BPI could not be held guilty of delay in endorsing the loan to IGLF because BPI, through Padilla, never committed itself to make such endorsement. There was no contract, either oral or written, which would prove that there was any agreement between BPI and Spouses Sia to endorse their loans to the IGLF. Petitioner Pio asked for the restructuring of his loans after he failed to pay his ₱240,000.000 and ₱4 Million loans. As petitioner Pio wanted to obtain an industrial loan for a longer period, Padilla merely suggested to them to obtain loans through IGLF of the Development Bank of the Philippines, if qualified to do so. Spouses Sia could not however, qualify because their loans were on the “past due status’ and there was also a diversion of the proceeds of their loans.²⁵

The alleged verbal agreement between [Spouses Sia] and [BPI] that the latter would endorse the ₱4 Million to IGLF is a clear violation of the parol evidence rule which provides that “[w]hen the terms of an agreement have been reduced to writing[,] it is to be considered as containing all such terms and therefore, there can be between the parties and the successors in interest no evidence of the terms of the agreement other than the contents of the writing” (Rule 130, Section 7 of the Rules of Court).²⁶

As regards the testimony of petitioner Pio that the real estate mortgage covering the ₱5.7 Million credit facility was falsified, the RTC also found no legal and factual basis therein because petitioner Pio admitted the authenticity of their signatures appearing on the Promissory Notes and Real Estate Mortgages evidencing the various loans and credit facility from BPI. Spouses Sia admitted under oath that their signatures appearing on the Real Estate Mortgage document (Exh. “23”) to secure the ₱5.7 Million Credit facility are their signatures. They in effect admitted the authenticity of those documents as well as the correctness of the matters incorporated therein. As held by this Court in the case of *Heirs of Amparo del Rosario v. Aurora Santos, et al.*,²⁷ “when a party admits the genuineness of a document, he also admits that the words and figures of the documents are set out correctly.”²⁸

On the topic of extinguishment of obligation, Spouses Sia failed to sway the RTC to their assertions of payment by way of donation by an unknown third party. The RTC considered the explanation of the bank as worthy of credence, as it had extensively discussed, to wit:

²⁵ Id. at 109-110.

²⁶ Id.

²⁷ 194 Phil. 670 (1981).

²⁸ *Rollo*, p. 108, citing *Heirs of Amparo del Rosario v. Aurora Santos, et al.*, id. at 684.

Culled from the evidence on record, [Spouses Sia] in addition to the ₱240,000.00 and ₱4,000,000.00 loans, sometime in November 1990 requested for additional loans from defendant bank. Plaintiff Pio Dato Sia applied for ₱2,000,000.00 loan sometime in November, 1990 and ₱2.8 Million per loan application dated December 8, 1990 (Exh. "25"). **As there were several loans which Pio Dato Sia applied for, Mona Padilla advised him that it would be more practical to obtain Credit Facility or Credit Line to cover contingent financial requirements of his business. Plaintiff Pio Dato agreed to obtain a Credit Facility of ₱5.7 Million. To cover such facility, plaintiff Pio Dato Sia submitted four (4) additional collaterals covered by titles. Subsequently, he executed a Real Estate Mortgage to secure the Credit Line of ₱5.7 Million, dated November 22, 1990 (Exh. "23-C"). The signatures of [Spouses Sia] on this document are admitted by [Spouses Sia] to be genuine. On the same date November 22, 1993, [Spouses Sia] made an initial availment from the ₱5.7 Million Credit Facility as evidenced by Exhibit "23". The amount of ₱800,000.00 was credited to [Spouses Sia's] Current Account No. 1303-2188-97 per Credit Memo (Exh. "27"). Such availment was fully paid by [Spouses Sia]. After the first availment, [Spouses Sia] wanted to obtain another availment from said Credit facility but [BPI] could no longer approve such application due to [Spouses Sia's] failure to pay the principal loan of ₱240,000.00 and interest thereof which matured on November 11, 1990. As clearly setforth in the agreement, [BPI] can suspend availments from the Credit Facility in the event of [Spouses Sia's] default in the payment of any other existing loans with [BPI]. Thereafter, [Spouses Sia] also failed to pay their ₱4,000,000.00 loan with [BPI]. As no additional loan could be granted to [Spouses Sia], the latter requested the release of their four (4) collaterals which were used to secure the ₱5.7 Million Credit Facility and per loan documents all other existing loans with [BPI]. x x x [Spouses Sia] admitted having received the four titles which were released by [BPI] upon [Spouses Sia's] request as well as the cancellation of the mortgage on the ₱5.7 Million Credit Facility after [Spouses Sia's] payment of the ₱800,000.00 availment. It is this cancellation of mortgage which [Spouses Sia] are trying to use to escape payment of their ₱240,000.00 and ₱4 Million loans as well as unpaid interest, penalties and charges. [BPI] argued that it is the distorted concept of [Spouses Sia] that since the cancellation of the Real Estate Mortgage mentions the Credit facility of ₱5.7 Million, that someone paid [BPI] the sum of ₱5.7 Million. x x x.²⁹ (Emphasis and underscoring ours)**

The RTC further explained:

It is a mistaken notion of [Spouses Sia] that the cancellation of Real Estate Mortgage presupposed an alleged payment made by a third person to [BPI] of the sum of ₱5.7 Million. **There is no iota of evidence establishing any payment in the sum of ₱5.7 Million from [Spouses Sia] or from any third persons to [BPI] to settle any account of [Spouses Sia]. x x x [Spouses Sia] admitted that they have not paid their ₱240,000.00 and ₱4 Million loans to [BPI].** The cancellation of

²⁹

Id. at 110-112.

mortgage refers only to the Real Estate Mortgage covering the Credit Facility.³⁰ (Emphasis ours)

Spouses Sia timely filed a Motion for Reconsideration which was denied by the RTC.³¹ Spouses Sia next filed an appeal before the CA.

The CA Ruling

The CA rendered its Decision on July 25, 2007, affirming the RTC Decision with Modification, as follows:

WHEREFORE, in view of the foregoing, the instant appeal is **PARTLY GRANTED**. The Decision of the Regional Trial Court is hereby **AFFIRMED with MODIFICATIONS** by deleting the award to BPI of compensatory and exemplary damages.

SO ORDERED.³²

After the denial of their Motion for Reconsideration in the CA Resolution dated February 8, 2008, Spouses Sia raised a myriad of issues³³ before this Court *via* the instant petition for review on *certiorari* dated March 3, 2008.

Pending the resolution of this case, Spouses Sia filed on September 20, 2013 an Urgent Motion for Issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction³⁴ alleging that in an Order³⁵ dated December 5, 2011, Judge Sylva G. Aguirre-Paderanga of the RTC of Cebu City, Branch 16, ordered the issuance of a Writ of Possession over TCT No. 130468 (Formerly TCT No. 102434) after BPI filed an Ex-Parte Motion for Issuance of a Writ of Possession.³⁶

Pursuant to the said Order, a writ of possession was issued by the Clerk of Court of the RTC Branch 16, directing Sheriff Generoso Regalado to issue a Notice to Vacate.³⁷

Spouses Sia filed a Motion for Reconsideration³⁸ of the RTC Branch 16 Order granting the Motion for Issuance of the Writ of

³⁰ Id. at 113-114.

³¹ Id. at 138.

³² Id. at 148.

³³ Id. at 10.

³⁴ Id. at 410-422.

³⁵ Id. at 425-427.

³⁶ Id. at 411-412.

³⁷ Id. at 428.

Possession, which was subsequently denied in an Order³⁹ dated March 8, 2012. Spouses Sia then filed a Motion to Recall and to Quash Writ of Possession which was also denied in an Order⁴⁰ dated April 20, 2012. A Motion for Reconsideration of the Order denying the Motion to Recall and to Quash Writ of Possession was filed by Spouses Sia which was denied once more in an Order⁴¹ dated September 7, 2012.⁴²

An Urgent Motion for Issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction⁴³ was filed by Spouses Sia on September 20, 2013 before the Court as they have received a Second Notice to Vacate on Writ of Possession.

On October 17, 2013, Spouses Sia filed before the Court an Extremely Urgent Reiterative Motion for Issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction to Enjoin Enforcement of Third Notice to Vacate dated October 8, 2013, giving Spouses Sia ten (10) days from receipt thereof within which to vacate the premises.

Issues

Basically, the issues presented by Spouses Sia boil down to the following:

- I. WHETHER THE CA ERRED IN HOLDING THAT BPI DID NOT BREACH ITS CONTRACT WITH SPOUSES SIA CONCERNING THE IGLF ENDORSEMENT
- II. WHETHER THE CANCELLATION OF THE ₱5.7 MILLION CREDIT FACILITY OF SPOUSES SIA RAISES A LEGAL ISSUE

The Court's Ruling

³⁸ Id. at 430-431.

³⁹ Id. at 433-434.

⁴⁰ Id. at 435-436.

⁴¹ Id. at 437-438.

⁴² Id. at 412.

⁴³ Received on October 4, 2013 by the Court.

The petition has no merit.

BPI did not commit Breach of Contract

The Court concurs with the CA and the RTC that BPI did not commit breach of contract against Spouses Sia.

In ruling so, the CA found that petitioner Pio admitted the execution and genuineness of the notarized contract of real estate mortgage and promissory note, including the signature of Spouses Sia on the letter of advice to signify their conformity with the terms and conditions during his oral testimony.⁴⁴ Furthermore, the CA ruled that jurisprudence laid down the consequences of admission:

By the admission of the due execution of a document[,] [it means] that the party whose signature it bears admits that he signed it voluntarily or that it was signed by another for him and with his authority; and by the admission of the genuineness of the document[,] [it means] that the party whose signature it bears admits that at the time it was signed it was in the words and figures exactly as set out in the pleading of the party relying upon it.⁴⁵

The Court finds no cause to deviate from the factual findings of both the RTC and the CA. “The settled rule is that conclusions and findings of fact of the trial court are entitled to great weight on appeal and should not be disturbed unless for strong and cogent reasons because the trial court is in a better position to examine real evidence, as well as observe the demeanor of the witnesses while testifying in the case. The fact that the CA adopted the findings of fact of the trial court makes the same binding upon this Court.”⁴⁶

Since both the RTC and the CA found no evidence on record to support Spouses Sia’s bare assertions that the endorsement to IGLF is a condition precedent to their contract of loan with BPI, the Court is inclined to disregard Spouses Sia’s contentions on this score.

There is no legal issue as regard to the cancellation of the ₱5.7 Million Credit Line Facility

⁴⁴ *Rollo*, p. 141.

⁴⁵ *Id.*, citing *Heirs of Amparo del Rosario v. Aurora Santos, et al.*, supra note 27, at 684.

⁴⁶ *Magdiwang Realty Corporation v. The Manila Banking Corporation*, G.R. No. 195592, September 5, 2012, 680 SCRA 251, 263-264, citing *Bernales v. Heirs of Julian Sambaan*, G.R. No. 163271, January 15, 2010, 610 SCRA 90, 104-105.

Initially, Spouses Sia insisted that the foreclosure of their real estate mortgage was premature because BPI violated their agreement to have their loan endorsed to IGLF.

Thereafter, Spouses Sia changed their stance and insisted that there was no Credit Line Facility agreement of ₱5.7 Million. Spouses Sia further alleged that it was the banking officers of BPI who borrowed the ₱5.7 Million and who prepared the Cancellation of the Real Estate Mortgage. But the cancellation was credited in favor of Spouses Sia. Payment should be therefore credited in their favor to extinguish the loans of ₱4 Million and ₱240,000.00 and that BPI is obligated to return the excess amount of ₱1,460,000.00 by way of *solutio indebiti*.⁴⁷

The Court is hardly convinced with Spouses Sia's arguments. Both the RTC and the CA have profusely examined the evidence on the record, wherein the following observations were gathered:

The bases of the extrajudicial foreclosure proceeding were the three real estate mortgage contracts executed by Sps. Sia in favor of BPI, to wit:

1. over TCT No. 102434 and its improvements for [₱]240,000.00 dated August 10, 1990[;]
2. over TCT No. 102434 and its improvements for [₱]4,000,000.00 dated May 24, 1990; and
3. over TCT No. 102434 and its improvements, and TCT Nos. 87010, 102435, 102436 and 102437 for [₱]5,700,000.00 dated November 22, 1990.

Paragraph 6 of the aforementioned real estate mortgage contracts provides that:

“In the event that the Mortgagor/Debtor herein, should fail or refuse to pay any of the sums of money secured by this mortgage, or any part thereof, in accordance with the terms and conditions herein set forth or those stipulated in the correlative promissory note(s), or should he/it fail to perform any of the conditions stipulated herein, or those in the promissory note(s), then and in any such case the Mortgagee shall have the right at its election, to foreclose this mortgage, x x x.”

x x x x

At the outset, **Sps. Sia admitted that they have not updated the interest due for their loans and in fact, they intentionally stopped servicing the interest, more particularly for the ₱4,000,000.00 loan because of the alleged breach of contract by BPI. x x x.**

⁴⁷

Rollo, p. 15.

X X X X

x x x In fact, **it was admitted by Mr. Sia in his oral testimony that his only basis for the claim of full payment was the cancellation of real estate mortgage executed by BPI on August 2, 1991.** Based on such document, they assumed that a third person whom they did not know, paid in their behalves by way of donation. Sps. Sia were not even able to present a deed of donation but only a deed of acceptance of donation.⁴⁸ (Emphasis ours and italics supplied)

Another argument posited by Spouses Sia is that, they neither executed any ₱5.7 Million promissory note nor did they receive ₱5.7 Million from BPI.⁴⁹ Thus, there is no existing ₱5.7 Million Credit Line Facility Agreement as far as they are concerned. It appears from the allegations in their pleadings that Spouses Sia have misconstrued the concept of a Credit Line Facility Agreement. The Court has previously defined a credit line as the following:

[A] credit line is “that amount of money or merchandise which a banker, merchant, or supplier agrees to supply to a person on credit and generally agreed to in advance.” **It is the fixed limit of credit granted by a bank, retailer, or credit card issuer to a customer, to the full extent of which the latter may avail himself of his dealings with the former but which he must not exceed and is usually intended to cover a series of transactions in which case, when the customer’s line of credit is nearly exhausted, he is expected to reduce his indebtedness by payments before making any further drawings.**⁵⁰ (Citations omitted and emphasis and underscoring ours)

Thus, contrary to the belief and understanding of Spouses Sia, BPI does not have to require the execution of promissory note of the entire ₱5.7 Million since a credit line as stated above, is merely a **fixed limit of credit**. Furthermore, still applying the above quoted definition, a credit line usually presupposes **a series of transactions** until the credit line is nearly exhausted. BPI is not obliged to release the amount of ₱5.7 Million to Spouses Sia all at once, in a single transaction.

In this case, BPI allowed the release only of ₱800,000.00 out of the ₱5.7 Million credit line and precluded any more availments since Spouses Sia have not yet satisfied their obligation to pay their loans of ₱4 Million and ₱240,000.00. Again, Spouses Sia are reminded that the Court is not a trier of facts. As the RTC and the

⁴⁸ Id. at 143-145.

⁴⁹ Id. at 282.

⁵⁰ *Rosario Textile Mills Corporation v. Home Bankers Savings and Trust Co.*, 500 Phil. 475, 482 (2005).

CA both found, the release of the four collaterals was done to assist Spouses Sia in paying off their loans, not due to payment of ₱5.7 Million by Spouses Sia or any other person on their behalf. Spouses Sia read much into the Cancellation of the Real Estate Mortgage contract when in fact, the release was made for their benefit.

In any case, the extrajudicial foreclosure which is the subject of the present case pertains to Spouses Sia's failure to pay their ₱240,000.00 and ₱4 Million loans. The Court sees no real issue as regards the ₱5.7 Million credit line since it is as plain as day that the entire ₱5.7 Million was not availed of by Spouses Sia and that the real estate mortgages securing such credit line were cancelled in their favor. Spouses Sia thwart the issue towards the ₱5.7 Million credit line when the real issue is their non-payment of ₱4 Million and ₱240,000.00 loans, which eventually led to the extrajudicial foreclosure of TCT No. 102434.

It is a settled rule of law that foreclosure is proper when the debtors are in default of the payment of their obligation.⁵¹ As the CA had appositely considered, due to Spouses Sia's failure to pay their loans covered by Promissory Notes (PN) Nos. 90/98 and 90/152, the extrajudicial foreclosure of the real estate mortgage is valid and binding against them:

Finding for the non-payment of obligations covered by PN Nos. 90/98 and 90/152, Sps. Sia's prayer to declare null and void the extrajudicial foreclosure of the subject real estate mortgage is now foiled. Therefore, the extrajudicial foreclosure and the corresponding certificate of sale executed on August 9, 1993 for the subject real estate property covered by TCT No. 102434 which sought to reach the property and subject it to the payment of Sps. Sia's obligations was valid and binding. We further rule that for failure of Sps. Sia to exercise the right of redemption, the right to consolidate ownership on the foreclosed property was validly exercised by BPI.⁵²

Prayer for Issuance of Writ of Preliminary Injunction must be denied

In their Extremely Urgent Reiterative Motion For Issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction filed on October 17, 2013, Spouses Sia referred to the ruling of this

⁵¹ *TML Gasket Industries, Inc. v. BPI Family Savings Bank, Inc.*, G.R. No. 188768, January 7, 2013, 688 SCRA 50, 59.

⁵² *Rollo*, pp. 145-146.

Court in *Cometa v. Intermediate Appellate Court*⁵³ where it was held that an issue in a separate case wherein the validity of levy and sale of properties is questioned[,] is one that requires pre-emptive resolution.⁵⁴

A scrutiny of the above-cited case reveals that it is not applicable to this case. In *Cometa*, the property which was the subject of dispute was sold after levy and execution when the judgment award was not satisfied in another case for damages. Therein petitioner Herco Realty, assailed the validity of the execution sale and contended that the ownership of the lots had been transferred to it by Cometa before such execution sale. The ownership of the property sold in the execution sale was put into the very issue.

Whereas in this case, the property owned by Spouses Sia covered by TCT No. 102434 was mortgaged to BPI as security for their loans. The same property was sold after it was extrajudicially foreclosed. Hence, the facts in *Cometa* and this case cannot be any more different. Spouses Sia cannot invoke the application of the Court's ruling in *Cometa* to a case which is poles apart to it.

The pending suit questioning the validity of the extrajudicial foreclosure of mortgage does not entitle Spouses Sia to a suspension of the issuance of writ of possession. The Court calls to mind its ruling in *Baldueza v. CA*⁵⁵:

The Court upholds the decision of the Court of Appeals as respondent bank is entitled to possession of the subject property. In several cases⁵⁶, this Court has held:

“It is settled [that] the buyer in a foreclosure sale becomes the absolute owner of the property purchased if it is not redeemed during the period of one year after the registration of the sale. As such, he is entitled to the possession of the property and can demand it at any time following the consolidation of ownership in his name and the issuance to him of a new transfer certificate of title. The buyer can in fact demand possession of the land even during the redemption period except that he has to post a bond in accordance with Section 7 of Act 3135 as

⁵³ 235 Phil. 569 (1987).

⁵⁴ Id. at 574.

⁵⁵ G.R. No. 155813, October 15, 2008, 569 SCRA 135.

⁵⁶ *LZK Holdings and Development Corporation v. Planters Development Bank*, 550 Phil. 825, 833 (2007); *Chailease Finance, Corporation v. Spouses Ma*, 456 Phil. 498, 504 (2003); *Vda. de Zaballero v. Court of Appeals*, G.R. No. 106958, February 9, 1994, 229 SCRA 810, 814; *F. David Enterprises v. Insular Bank of Asia and America*, G.R. No. 78714, November 21, 1990, 191 SCRA 516, 523.

amended. **No such bond is required after the redemption period if the property is not redeemed. Possession of the land then becomes an absolute right of the purchaser as confirmed owner. Upon proper application and proof of title, the issuance of the writ of possession becomes a ministerial duty of the court.”**

The facts show that petitioner mortgaged the subject property to respondent bank. Upon maturity of the loan, petitioner failed to pay the loan despite demand. The property was foreclosed and sold in a public auction where respondent bank was the highest bidder. Petitioner failed to redeem the property within the one-year redemption period. Respondent bank consolidated its ownership over the property and a new title was issued in its favor. Hence, it became the ministerial duty of the court to issue the writ of possession applied for by respondent bank. **Despite the pending suit for annulment of the mortgage and Notice of Sheriff's Sale, respondent bank is entitled to a writ of possession, without prejudice to the eventual outcome of the said case.**⁵⁷ (Citation omitted and emphasis and underscoring ours)

Based on the reasons discussed above, the Court holds that there is no basis for the issuance of a Temporary Restraining Order/Writ of Preliminary Injunction to enjoin the enforcement of the third notice to vacate dated October 8, 2013.

Reduction of Attorney's Fees and Litigation Expenses is in order

The Court is in consonance with the CA and RTC that BPI is entitled to receive rental fees as the new owner of the property covered by TCT No. 102434 (Now TCT No. 130468)⁵⁸, following the Court's ruling in *F. David Enterprises v. Insular Bank of Asia and America*⁵⁹, that the buyer in a foreclosure sale becomes the absolute owner of the property purchased if it is not redeemed during the period of one year after the registration of the sale.⁶⁰

Also, the Court agrees with the RTC and CA that the award of attorney's fees and litigation expenses is warranted owing to the fact that BPI was compelled to engage the services of a counsel to protect its rights. It is so stated under Article 2208 of the Civil Code that attorney's fees and expenses of litigation may be recovered by a party when an act or omission has compelled him to litigate with third persons or to incur expenses to protect his interest. However, the Court deems the award of ₱500,000.00 as attorney's fees and ₱50,000 for litigation expenses, as excessive, considering

⁵⁷ Supra note 55, at 139-140.

⁵⁸ *Rollo* p. 146.

⁵⁹ G.R. No. 78714, November 21, 1990, 191 SCRA 516.

⁶⁰ *Id.* at 523.

the nature of this case. Award of attorney's fees, being part of a party's liquidated damages, may be equitably reduced.⁶¹

WHEREFORE, the instant petition is **DENIED**. The Decision dated July 25, 2007 and Resolution dated February 8, 2008 of the Court of Appeals are **AFFIRMED with MODIFICATIONS**. The award of attorney's fees and litigation expenses are hereby reduced to ₱50,000.00.

The prayer for the issuance of a Temporary Restraining Order/Writ of Preliminary Injunction is **DENIED**.

SO ORDERED.

BIENVENIDO L. REYES
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

C E R T I F I C A T I O N

⁶¹ *BPI, Inc. v. Yu*, G.R. No. 184122, January 20, 2010, 610 SCRA 412, 425, citing *Co v. Admiral United Savings Bank*, 574 Phil. 609, 618-619 (2008).

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

Also, the Court agrees with the RTC and CA that the award of attorney's fees and litigation expenses is warranted owing to the fact that BPI was compelled to engage the services of a counsel to protect its rights. It is so stated under Article 2208 of the Civil Code that attorney's fees and expenses of litigation may be recovered by a party when an act or omission has compelled him to litigate with third persons or to incur expenses to protect his interest. However, the Court deems the award of ₱500,000.00 as attorney's fees and ₱50,000 for litigation expenses, as excessive, considering the nature of this case. Award of attorney's fees, being part of a party's liquidated damages, may be equitably reduced.⁶¹

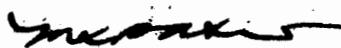
WHEREFORE, the instant petition is **DENIED**. The Decision dated July 25, 2007 and Resolution dated February 8, 2008 of the Court of Appeals are **AFFIRMED with MODIFICATIONS**. The award of attorney's fees and litigation expenses are hereby reduced to ₱50,000.00.

The prayer for the issuance of a Temporary Restraining Order/Writ of Preliminary Injunction is **DENIED**.

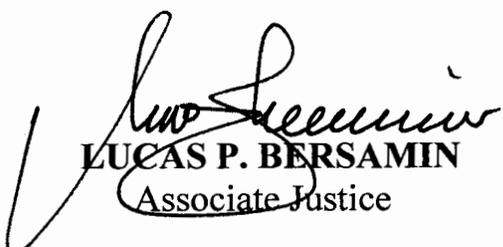
SO ORDERED.


BIENVENIDO L. REYES
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice

⁶¹ *BPI, Inc. v. Yu*, G.R. No. 184122, January 20, 2010, 610 SCRA 412, 425, citing *Co v. Admiral United Savings Bank*, 574 Phil. 609, 618-619 (2008).


MARTIN S. VILLARAMA, JR.
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