Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

SHEMBERG MARKETING CORPORATION,		**G.R. No. 216029**
	Petitioner,	Present:
	- versus -	PERALTA, *J., Chairperson,* LEONEN, REYES, A., JR., HERNANDO, and INTING, *JJ.*
CITIBANK, N.A., NEMESIO SOLOMON, EX-OFFICIO SHERIFF AND SHERIFF-IN-CHARGE,		
	Respondents.	Promulgated:
		September 4, 2019

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DECISION

INTING, *J.*:

We resolve the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision[1] dated October 23, 2012 and the Resolution[2] dated October 27, 2014 of the Court of Appeals (CA) in CA - G.R. CEB - CV No. 00974.

The Antecedents

On December 10, 1996, petitioner Shemberg Marketing Corporation (Shemberg) executed a real estate mortgage over a parcel of land located in Mandaue City (Lot 1524-G-6), including all improvements, machineries, and equipment found thereon,[3] in favor of respondent Citibank, N.A. (Citibank), to

1 *Rollo*, pp. 57-83; penned by Associate Justice Edgardo L. Delos Santos and concurred in by Associate Justices Gabriel T. Ingles and Maria Elisa Sempio Diy.
2 Id. at 87-88.
3 Id. at 305-306.

secure loan accommodations amounting to ₱28,242,000.00.[4] The real estate mortgage was embodied in a deed, which the parties denominated as "First Party Real Estate Mortgage."[5]

On February 13, 1998, Citibank sent a demand letter to Shemberg wherein it required the latter to pay its outstanding balance in the amount of US$390,000.00 under Promissory Note No. 8976267001;[6] otherwise, it would be forced to initiate foreclosure proceedings on the mortgaged properties.[7]

Unfortunately, Shemberg defaulted in the payment of its outstanding obligation to Citibank.[8] Consequently, Citibank commenced the extra-judicial foreclosure of the mortgaged properties on May 10, 1999.[9] A Notice of Extra-Judicial Sale of Lot 1524-G-6, including all improvements thereon, was thereafter issued with the foreclosure sale scheduled on June 16, 1999.[10]

Upon learning of the foreclosure sale, Shemberg filed a Complaint[11] for rescission or declaration of nullity of the contract of real estate mortgage against Citibank before the Regional Trial Court (RTC), Branch 55, Cebu City.

In its Complaint, Shemberg alleged that: (a) in 1996, Citibank required Shemberg to execute a real estate mortgage for and in consideration of the increase and renewal of its credit line with the bank;[12] (b) relying on the representation that its credit line would be renewed, Shemberg executed the subject real estate mortgage in Citibank's favor;[13] (c) however, despite the execution of the mortgage, Citibank refused to renew and increase Shemberg's credit line.[14]

Shemberg asserted that the real estate mortgage was void for lack of consideration,[15] given Citibank's failure to comply with its commitment to renew and increase its credit line with the bank.[16]

4 Id. at 58 and 304.
5 Id. at 304-317.
6 Id. at 58 and 234-235; Promissory Note No. 8976267001 is referred to as Promissory Note No. 8976257001 in some parts of the *rollo*.
7 Id. at 235.
8 Id. at 125-126.
9 Id. at 126.
10 Id. at 58.
11 Id. at 89-116.
12 Id. at 96-97.
13 Id. at 97.
14 Id.
15 Id. at 100.
16 Id. at 39-40.

For its part, Citibank countered that it required the execution of the real estate mortgage in order to provide additional security/collateral to augment Shemberg's subsisting chattel mortgage due to the latter's dire financial condition at the time.[17] It also made clear to Shemberg that the bank would no longer extend any additional credit unless its financial standing improves.[18]

Citibank pointed out that the real estate mortgage secured the various obligations of Shemberg to the bank up to the extent of ₱28,242,000.00.[19] This included Promissory Note No. 8976267001 in the amount of US$500,000.00, executed by Shemberg on September 13, 1996, with Shemberg defaulting in the payment of the outstanding balance of US$390,000.00 thereof at maturity.[20]

Ruling of the RTC

In its Decision[21] dated June 10, 2005, the RTC declared the real estate mortagage *void* for lack of consideration due to Citibank's failure to fulfill its commitment to renew Shemberg's credit line with the bank after it expired in June 1996.[22]

Nevertheless, the RTC found Shemberg liable to pay Citibank the amount of ₱19,006,197.00, or the peso-equivalent of its US$390,000.00 outstanding obligation under Promissory Note No. 8976257-001,[23] payable within one (1) year from the date of finality of the Decision.[24]

Both parties appealed before the CA.

Ruling of the CA

In its Decision dated October 23, 2012, the CA reversed and set aside the RTC Decision. It declared the real estate mortgage, as well as the extra-judicial foreclosure proceedings initiated by Citibank, *valid*, and imposed the stipulated interest equivalent to 8.89% per annum on the unpaid balance of Promissory Note No. 8976267001 from the time of filing of the extra-judicial foreclosure until finality of the Decision.[25]

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17 Id. at 124.
18 Id.
19 Id.
20 Id.
21 Id. at 138-173; penned by Judge Ulric R. Cañete.
22 Id. at 156.
23 Id. at 162.
24 Id. at 163.
25 Id. at 82.

The CA found that the subject real estate mortgage secured Shemberg's present and future obligations with Citibank to the extent of ₱28,242,000.00, or the liquidation value of the mortgaged properties.[26] It noted that at the time of execution of the mortgage, Shemberg had an existing loan obligation totaling ₱58,238,200.00.[27] Thus, it concluded that, contrary to the RTC's findings, the real estate mortgage was not without consideration.[28]

The CA likewise ruled that Citibank had rightfully initiated the extra-judicial foreclosure of the mortgaged properties after Shemberg failed to pay its oustanding balance of US$390,000.00[29] under Promissory Note No. 8976267001.

Moreover, the CA held that the RTC erred in granting an additional year for Shemberg to pay its obligation under the promissory note, considering that: *first*, Shemberg never prayed for the fixing of the period for the payment of its outstanding balance with Citibank;[30] and *second*, it was not necessary to fix the period for payment as the promissory note itself stated that the loan obligation was payable on September 8, 1997.[31]

Shemberg moved for reconsideration[32] but the CA denied the motion in its Resolution dated October 27, 2014. As a consequence, Shemberg filed the present Petition for Review on *Certiorari* assailing the CA Decision and Resolution.

Issue

The sole issue for the Court's resolution is *whether the real estate mortgage is indeed valid and binding between the parties.*

The Court's Ruling

The Petition is unmeritorious.

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[26] Id. at 69-70.
[27] Id. at 70.
[28] Id.
[29] Id. at 71.
[30] Id. at 74.
[31] Id. at 75-76.
[32] Id. at 262-291.

A careful perusal of the First Party Real Estate Mortgage shows that the subject real estate mortgage was executed to secure loan accommodations, as well as all past, present, and future obligations, of Shemberg to Citibank to the extent of ₱28,242,000.00,[33] *viz.*:

> This Real Estate Mortgage is hereby constituted to secure the following obligations (hereinafter referred to as the "Obligations"):
>
> 1.01 The Principal Obligations specified in the first premise of this Mortgage and any increase in the credit accommodations which MORTGAGEE may grant to MORTGAGOR;
>
> xxxx
>
> 1.03 All obligations, whether past, present or future, whether direct or indirect, principal or secondary; whether or not arising out of or in consequence of this Mortgage, and of the credit accommodations owing the MORTGAGEE by MORTGAGOR as shown in this books and records of MORTGAGEE;[34]

Shemberg itself admitted that when the real estate mortgage was executed on December 10, 1996, it had an outstanding obligation totaling ₱58,238,200.00 with Citibank.[35] The fact that Shemberg's outstanding obligation is significantly higher than the amount of secured obligations does *not* invalidate the real estate mortgage.[36] It only means that in case of default, Citibank can enforce the mortgage to the maximum amount of ₱28,242,000.00, which, notably, is simply the total liquidation value of the mortgaged properties.[37]

There is thus no question that the subject real estate mortgage covered the US$500,000.00 loan obtained by Shemberg from Citibank on September 13, 1996 under Promissory Note No. 8976267001. Considering Shemberg's failure to pay the balance of US$390,000.00, or its peso-equivalent of ₱19,006,197.00, under this promissory note, Citibank was well within its rights under the real estate mortgage to initiate the foreclosure proceedings on the mortgaged properties.

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[33] Id. at 304-305.

[34] Id. at 305.

[35] Id. at 246.

[36] After all, for a mortgage to be valid, the only requisites are: *(a)* it must be constituted to secure the fulfillment of a principal obligation; *(b)* the mortgagor must be the absolute owner of the mortgaged property; and *(c)* the mortgagor has free disposal of the property or has legal authority to do so. All these requisities are present in this case. See *Sofia Tabuada Novee Yap, Ma. Loreta Nadal, and Gladys Eridente vs. Eleonor Tabuada, Julieta Trabuco, Laureta Redondo and Sps., Bernan Certeza and Eleonor D. Certeza*, G.R. No. 196510, September 12, 2018.

[37] *Rollo*, p. 245.

The Court further finds no merit in Shemberg's contention that the real consideration for the real estate mortgage was the renewal and increase of its credit line with Citibank.

Section 9, Rule 130 of the Rules of Court provides:

> SEC. 9. Evidence of written agreements. – When the terms of an agreement have been reduced to writing, it is considered as containing all the terms agreed upon and there can be, between the parties and their successors in interest, no evidence of such terms other than the contents of the written agreement.
>
> XXX

Section 9, or what is commonly known as the Parol Evidence Rule, "forbids any addition to or contradiction of the terms of a written instrument by testimony purporting to show that, at or before the signing of the document, other terms were orally agreed on by the parties."[38] Under the Parol Evidence Rule, the terms of a written contract are deemed *conclusive* between the parties and evidence *aliunde* is *inadmissible* to change the terms embodied in the document.[39]

This rule, however, is *not* absolute. Thus, a party may present evidence *aliunde* to modify, explain or add to the terms of a written agreement *if* he puts in issue in his pleading any of the four exceptions to the Parol Evidence Rule:

> (a) An intrinsic ambiguity, mistake or imperfection in the written agreement;
>
> (b) The failure of the written agreement to express the true intent and agreement of the parties thereto;
>
> (c) The validity of the written agreement; or
>
> (d) The existence of other terms agreed to by the parties or their successors in interest after the execution of the written agreement.[40]

"The *first* exception applies when the ambiguity or uncertainty is readily apparent from reading the contract."[41] The *second* exception pertains to instances where "the contract is so obscure that the contractual intention of the parties cannot be understood by mere inspection of the instrument."[42]

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[38] *Spouses Amoncio vs. Benedicto*, 582 Phil. 217, 227 (2008).
[39] Id.
[40] RULES OF COURT, Rule 130, Section 9.
[41] *Spouses Amoncio vs. Benedicto, s*upra note 38 at 227.
[42] Id. at 227-228.

Under the *third* exception, the Parol Evidence Rule does not apply "where the purpose of introducing the evidence is to show the invalidity of the contract."[43] And, the *fourth* exception involves a situation where the parties agreed to other terms *after* the execution of the written agreement.

Here, the first and second exceptions obviously do not apply as the real estate mortgage contract clearly and succinctly stated the terms of the mortgage, leaving no doubt as to the contractual intention of the parties by a mere reading of the document. The third exception, too, is inapplicable since Shemberg's purpose for introducing evidence *aliunde* is not to invalidate the contract; rather, it was meant to prove that Citibank had reneged on its alleged commitment to renew and increase its credit line with the bank which was supposedly the consideration for the execution of the real estate mortgage. Finally, the fourth exception likewise does not apply as it was never alleged that the parties had agreed to other terms *after* the execution of the real estate mortgage contract.

Based on these considerations, the Court sees no cogent reason to overturn the CA's factual findings and conclusions. Simply stated, it is clear that the terms agreed upon in the subject real estate mortgage are binding and conclusive between the parties.

WHEREFORE, the Petition is **DENIED**. The Decision dated October 23, 2012 and the Resolution dated October 27, 2014 of the Court of Appeals in CA-G.R. CEB-CV No. 00974 are **AFFIRMED**.

SO ORDERED.

HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Associate Justice

[43] Id. at 228.

MARVIC M.V.F. LEONEN
Associate Justice

ANDRES B. REYES, JR.
Associate Justice

RAMON PAUL L. HERNANDO
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.

DIOSDADO M. PERALTA
Associate Justice
Chairperson, Third 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.

LUCAS P. BERSAMIN
Chief Justice