Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

METROPOLITAN FABRICS, INC. and ENRIQUE ANG, Petitioners,	**G.R. No. 154390**
	Present:
-versus-	SERENO, *C.J.*, LEONARDO-DE CASTRO, BERSAMIN, VILLARAMA, JR, and REYES, *JJ.*
PROSPERITY CREDIT RESOURCES INC., DOMINGO ANG and CALEB ANG, Respondents.	Promulgated: MAR 17 2014

x----------x

DECISION

BERSAMIN, *J.*:

The genuineness and due execution of a deed of real estate mortgage that has been acknowledged before a notary public are presumed. Any allegation of fraud and forgery against the deed must be established by clear and competent evidence.

The Case

In this appeal, the mortgagors, who were the plaintiffs in the trial court, seek to reverse and undo the judgment promulgated on July 23, 2002,[1] whereby the Court of Appeals (CA) reversed and set aside the decision rendered in their favor on July 6, 1999 by the Regional Trial Court (RTC), Branch 107, in Quezon City (declaring the real estate mortgage and the foreclosure by respondents null and void; and ordering the reconveyance of

---

[1] *Rollo*, pp. 41-59; penned by Associate Justice Eliezer R. De Los Santos (retired/deceased), with Associate Justice Cancio C. Garcia (later Presiding Justice, and Member of the Court/retired/deceased) and Associate Justice Marina L. Buzon (retired) concurring.

the foreclosed properties to petitioners),[2] and dismissed their complaint as well as the counterclaim of respondents.

Antecedents

The CA summarized the antecedents as follows:

> Metropolitan Fabrics, Incorporated, a family corporation, owned a 5.8 hectare industrial compound at No. 685 Tandang Sora Avenue, Novaliches, Quezon City which was covered by TCT No. 241597. Pursuant to a ₱2 million, 10-year 14% per annum loan agreement with Manphil Investment Corporation (Manphil) dated April 6, 1983, the said lot was subdivided into 11 lots, with Manphil retaining four lots as mortgage security. The other seven lots, now covered by TCT Nos. 317699 and 317702 to 317707, were released to MFI.
>
> In July 1984, MFI sought from PCRI a loan in the amount of ₱3,443,330.52, the balance of the cost of its boiler machine, to prevent its repossession by the seller. PCRI, also a family-owned corporation licensed since 1980 to engage in money lending, was represented by Domingo Ang ("Domingo") its president, and his son Caleb, vice-president. The parties knew each other because they belonged to the same family association, the Lioc Kui Tong Fraternity.
>
> The decision noted that on the basis only of his interview with Enrique, feedback from the stockholders and the Chinese community, as well as information given by his own father Domingo, and without further checking on the background of Enrique and his business and requiring him to submit a company profile and a feasibility study of MFI, Caleb recommended the approval of the ₱3.44 million with an interest ranging from 24% to 26% per annum and a term of between five and ten years (Decision, p. 5). According to the court, it sufficed for Caleb that Enrique was a well-respected Chinese businessman, that he was the president of their Chinese family association, and that he had other personal businesses aside from MFI, such as the Africa Trading.
>
> The court gave credence to the uncorroborated lone testimony of Enrique's daughter Vicky that on August 3, 1984, even before the signing of the mortgage and loan documents, PCRI released the ₱3.5 million loan to MFI. It found that the blank loan forms, consisting of the real estate mortgage contract, promissory note, comprehensive surety agreement and disclosure statement, which Domingo himself handed to Enrique, "had no entries specifying the rate of interest and schedules of amortization." On the same day, to reciprocate the gesture of PCRI, Enrique, together with his wife Natividad Africa, vice-president, and son Edmundo signed the blank forms "at their office at 685 Tandang Sora Avenue, Novaliches, Quezon City." The signing was allegedly witnessed by Vicky, Ellen and Alice, all surnamed Ang, without any PCRI representative present. Immediately thereafter, Enrique and Vicky proceeded to the PCRI office at 1020 Soler St., Binondo.

---

[2] Id. at 61-93.

The court a quo also accepted Vicky's account that it was in order to return the trust of Domingo and Caleb and their gesture of the early release of the loan that Enrique and Vicky entrusted to them their seven (7) titles, with an aggregate area of 3.3665 hectares, to wit: TCT Nos. 317699, 317702, 317703, 317704, 317705, 317706 and 1317707. She testified that they left it to defendants to choose from among the 7 titles those which would be sufficient to secure the ₱3.5 million. She also admitted, however, that they had an appraisal report dated June, 1984 of the said properties made by the Integrated Appraisal Corporation which put the value of four (4) of the said properties at ₱6.8 million, now the subject of the action for reconveyance, while the aggregate value of all seven lots was ₱11 million.

Vicky further stated that it was agreed that once PCRI had chosen the lots to be covered by the mortgage, the defendants would return the remaining titles to the plaintiffs. Plaintiffs also secured an additional loan of about ₱199,000.00 to pay for real estate taxes and other expenses. Significantly, Vicky testified that the plaintiffs delivered to PCRI twenty-four (24) checks, bearing no dates and amounts, to cover the amortization payments, all signed in blank by Enrique and Natividad.

In September 1984, the first amortization check bounced for insufficient fund due to MFI's continuing business losses. It was then that the appellees allegedly learned that PCRI had filled up the 24 blank checks with dates and amounts that reflected a 35% interest rate per annum, instead of just 24%, and a two-year repayment period, instead of 10 years. Vicky avers that her strong protest caused PCRI to desist from depositing the other 23 checks (TSN, April 21, 1998, p. 15), and that it was about this time that PCRI finally furnished MFI with its copy of the promissory note and the disclosure statement.

Vicky asserted that plaintiffs-appellees found the terms reflected in the loan documents to be prohibitive, burdensome and unconscionable, and that had they known them when they took out the loan on August 3, 1984, they could either have (1) negotiated/bargained or (2) rejected the terms of the loan and withdrawn the loan application. Plaintiffs thereafter repeatedly asked the defendants to return the rest of the titles in excess of the required collateral to which defendants allegedly routinely responded that their committee was still studying the matter. Vicky even added that Caleb assured Vicky that PCRI would also lower the rate of interest to conform to prevailing commercial rate. Meanwhile, due to losses plaintiffs' business operations stopped.

Vicky also testified that talks were held in earnest in 1985 between Domingo and Enrique as well as between Vicky and Caleb concerning the possible offsetting of the loan by ceding some of their properties to PCRI. On February 28, 1986, Vicky wrote to defendants, referring to a meeting held on February 11, 1986 and reiterating her request for the offsetting. The letter stated that since August, 1985, she had been asking for the offsetting of their properties against the loan. Caleb had sought a report on the fair market value of the seven lots. Also, he sought the assignment to PCRI of the rentals payable of plaintiffs' tenant, Bethlehem Knitting Company up to 1987. Vicky admitted that plaintiffs furnished Caleb on March 11, 1986 a copy of the 1984 Appraisal Report prepared by the Integrated Appraisal Corporation for the offsetting agreement.

PCRI's account statement dated February 12, 1986 showed that MFI's total loan obligation amounted to ₱4,167,472.71 (Exh. "G"). The March 25, 1986 statement from PCRI, however, showed that all seven (7) titles were placed as collateral for their ₱3.5 million loan. MFI maintained that per their appraisal report, four of the properties were already worth ₱6.5 million while the three other lots were valued around ₱4.6 million.

Vicky also claimed that Domingo and Caleb tried to appease the plaintiffs by assuring them that they would return the rest of the titles anytime they would need them, and that they could use them to secure another loan from them or from another financing company. They would also reconsider the 35% interest rate, but when the discussion shifted to the offsetting of the properties to pay the loan, the defendants' standard answer was that they were still awaiting the feedback of their committee.

On September 4, 1986, Enrique received a Notice of Sheriff's Sale dated August 29, 1986, announcing the auction of the seven lots on September 24, 1986 due to unpaid indebtedness of ₱10.5 million. After Vicky explained to her father Enrique in Chinese that the defendants were auctioning all their seven lots, he became frantic, was unable to take his lunch, and remained silent the whole afternoon. Later that night he fell ill and became delirious. His blood pressure shot up to 200/100 and he was rushed to the Metropolitan Hospital where he fell into a coma and stayed in the intensive care unit for four (4) days. Vicky claimed that during moments of consciousness, her father would mutter the names of Domingo and Caleb and that they were unprofessional and dishonest people. He was discharged after 6 days.

Vicky insisted that prior to the auction notice, they never received any statement or demand letter from the defendants to pay ₱10.5 million, nor did the defendants inform them of the intended foreclosure. The last statement they received was dated February 12, 1986, and showed amount due of only ₱4,167,472.71. Vicky recalled that from June 1, 1986 to July 1986, they held several meetings to discuss the options available to them to repay their loan, such as the offsetting of their rent collectibles and properties to cover the amortizations and the loan balance.

MFI protested the foreclosure, and the auction was reset to October 6, 1986, then to October 16, 1986, and finally October 27, 1986 after they assured PCRI that they had found a serious buyer for three of the lots. In the meeting held on October 15, 1986 at defendants' office, the buyer, Winston Wang of Asia Cotton and his lawyer, Atty. Ismael Andres were present. It was agreed to release the mortgage over TCT Nos. 317705, 317706, and 317707 upon payment of ₱3.5 million. Winston Wang would pay to MFI ₱500,000.00 as down-payment, which MFI would in turn pay to PCRI as partial settlement of the ₱3.5 million loan. Winston Wang was given 15 days from October 16, 1986 to pay the ₱500,000.00. Vicky claims that these agreements were made verbally, although she kept notes and scribbles of them.

On January 19, 1987, Winston Wang confronted Vicky about their sale agreement and PCRI's refusal to accept their ₱3 million payment, because according to Caleb, the three lots had been foreclosed. Vicky was shocked, because the agreed 60-day period to pay the ₱3 million was to

lapse on January 13, 1987 yet. Caleb himself put the particulars of the ₱500,000.00 payment in the cash voucher as partial settlement of the loan.

At the auction sale on October 27, 1986, PCRI was the sole bidder for ₱6.5 million. Vicky however also admitted that discussions continued on the agreement to release three lots for ₱3.5 million. The reduction of interest rate and charges and the condonation of the attorney's fees of ₱300,000.00 for the foreclosure proceedings were also sought. Present in these conferences were Enrique and Vicky, Domingo and Caleb, Winston Wang and his lawyer, Atty. Ismael Andres.

Upon defendants' continued failure to honor their agreement, Atty. Ismael Andres threatened to sue PCRI in a letter dated February 17, 1987 if they would not accept the ₱3 million payment of his client. Atty. Andres also sent them similar letters dated May 15, August 5 and 7, 1987, and after several more discussions, the defendants finally agreed to accept the ₱3 million from Winston Wang, but under these conditions: a) MFI must pay the ₱300,000.00 attorney's fees paid for the foreclosure proceedings and the ₱190,000.00 for real estate taxes; b) PCRI shall issue the certificate of redemption over the three lots; c) plaintiffs shall execute a Memorandum of Undertaking concerning their right of way over the other properties, the lots being redeemed being situated along Tandang Sora Street.

Vicky also testified that although Wang would pay directly to Caleb, the plaintiffs pursued the transaction because of PCRI's promised to release the four (4) other remaining properties after the payment of ₱3.5 million loan principal as well as the interest in arrears computed at ₱3 million, or a total of ₱6.5 (TSN, January 10, 1996, p. 11).

MFI paid to PCRI ₱490,000.00 as agreed, and likewise complied with the required documentation. Winston Wang also paid the balance of ₱3 million for the three lots he was buying. The discussion then turned to how the plaintiffs' ₱3 million interest arrearages would be settled, which they agreed to be payable over a period of one year, from October 26, 1987 to October 26, 1988.

In October, 1988, however, plaintiffs were able to raise only ₱2 million. After a meeting at defendants' office, the period to pay was extended to October 26, 1989, but subject to 18% interest per annum, which Caleb however allegedly refused to put in writing. Plaintiffs were later able to raise ₱3 million plus ₱540,000.00 representing the 18% interest per annum. On October 26, 1989, Vicky and Enrique tendered the same to Caleb at his office. Caleb however became furious, and now insisted that the interest due since 1984 was already ₱7 million computed at 35% per annum.

On January 16, 1990 and again on March 5, 1990, PCRI sent the plaintiffs a letter demanding that they vacate the four remaining lots. Caleb was also now asking for ₱10.5 million. On March 19, 1990, Caleb executed an affidavit of non-redemption of TCT Nos. 317699, 317702, 317703 and 317704. On June 7, 1990, S.G. del Rosario, PCRI's vice-president, wrote Vicky reiterating their demand to vacate the premises and remove pieces of machinery, equipment and persons therein, which MFI eventually heeded.

> Vicky also testified that the news of plaintiffs' predicament spread around the Chinese community and brought the family great humiliation. Enrique's health deteriorated rapidly and he was hospitalized. On October 9, 1991, they filed the case below. Meanwhile, Enrique died on November 15, 1993 after one year and one month at the Metropolitan Hospital. The family spent ₱300,000 - ₱400,000 for his funeral and burial expenses.
>
> Plaintiffs now insist that ₱1 million in moral damages was not enough for the humiliation they suffered before the Chinese community, considering that Enrique was then the president of the Lioc Kui Tong Fraternity while Domingo and Caleb were members thereof. Plaintiffs were also deprived of the rental income of ₱10,000.00 per month and the 10% rental increases from 1987 to present of their said properties.
>
> In arguing that the 35% interest rate imposed by PCRI was exorbitant and without their consent, the plaintiffs cited the promissory note and amortization schedule in their loan agreement with Manphil dated April 6, 1983 and with IBAA on April 21, 1983 which both showed a rate of interest of only 14% and a ten-year term with two years grace period.[3]

Ruling of the RTC

In the order of May 23, 1994, the trial judge listed the following issues for resolution, namely:

> 1. Whether or not the mortgage contract and its foreclosure should be declared null and void;
>
> 2. Whether or not either or both parties is/are entitled to damages from the other, and, if so, how much.
>
> 3. Whether or not plaintiffs' cause of action has prescribed;
>
> 4. Whether or not the estoppel had attached against the plaintiff.[4]

As stated, the RTC rendered its decision in favor of petitioners,[5] disposing:

> WHEREFORE, IN VIEW OF THE FOREGOING, judgment is hereby rendered, to wit:
>
> 1. Declaring the real estate mortgage and the subsequent foreclosure made by the defendants on the plaintiffs' properties covered by Transfer

---

3 Id. at 43-49.

4 The first two issues were listed in the order issued on February 23, 1994, per Volume 1, Original Records, p. 225; the last two were stated in the order issued on May 23, 1994, per Volume 1, Original Records, p. 237.

5 Supra note 2.

Certificate of Title Nos. 317699, 317702, 317703, 317704 of the Register of Deeds of Quezon City null and void and the titles issued in favor of the defendants canceled and ordered reconveyed to the plaintiffs;

2. The defendants are hereby ordered solidarily liable to pay plaintiff, Metropolitan Fabrics, Inc. and the family of Enrique Ang the following:

a. The amount of ONE MILLION PESOS (₱1,000,000.00) for moral damages;

b. The amount of ₱10,000.00 per month with an interest of 10% per annum from January 1987 up to the time that the plaintiffs take repossession of the said parcels of land as actual damages;

c. ONE HUNDRED THOUSAND PESOS (₱100,000.00) for attorney's fees; and

d. Costs of suit.

3. The defendants' counterclaim for deficiency judgment, in the amount of ₱107,876,171.82 as actual damages; ₱1,000,000.00 for moral damages and ₱500,000.00 for attorney's fees is hereby DISMISSED.

Let a copy of this DECISION be furnished the Register of Deeds, Quezon City relative to the aforementioned parcels of land. Anticipating an appeal in this case, to protect the rights of the plaintiffs, the Register of Deeds of Quezon City is hereby ordered to annotate this DECISION in the aforementioned Certificates of Title.

SO ORDERED.[6]

Judgment of the CA

Respondents appealed, assigning the following errors, to wit:

1. THE TRIAL COURT GRAVELY ERRED WHEN IT RULED THAT THE ACTION TO ANNUL THE MORTGAGE CONTRACT DID NOT PRESCRIBE.

2. THE TRIAL COURT GRAVELY ERRED WHEN IT ANNULLED THE MORTGAGE CONTRACT, AND THE FORECLOSURE SALE ON THE GROUND OF FRAUD, NOTWITHSTANDING THE TWELVE (12) DOCUMEN-TARY EVIDENCE RATIFYING THE MORTGAGE AND FORECLOSURE SALE, AND THE FAILURE OF THE SIGNATORIES TO IMPUGN THE VALIDITY OF THE SAME FROM THE TIME THEY SIGNED UP TO THE PRESENT OR FOR A PERIOD OF 14 YEARS.

---

6 Id. at 92-93.

> 3. THE TRIAL COURT GRAVELY ERRED WHEN IT RULED THERE WAS FRAUD IN THE EXECUTION OF THE MORTGAGE CONTRACT BASED ON THE LONE TESTIMONY OF VICKY ANG GAPIDO, WHO WAS NOT A SIGNATORY TO THE MORTGAGE CONTRACT AND WHOSE TESTIMONY WAS NOT EVEN CORROBORATED BY THE SIGNATORIES TO THE SAME.
>
> 4. THE TRIAL COURT GRAVELY ERRED IN HOLDING THAT THE PLAINTIFFS-APPELLEES DID NOT AGREE TO THE LOAN AND/OR THE MORTGAGE DESPITE THE NUMEROUS ACTS OF THE PLAINTIFFS-APPELLEES RECOGNIZING THE VALIDITY OF THE MORTGAGE AND ITS FORECLOSURE AND ULTIMATELY VOLUNTARILY SURRENDERING THE FOUR (4) UNREDEEMED LOTS TO THE DEFENDANTS-APPELLANTS, RESULTING IN ESTOPPEL.
>
> 5. THE TRIAL COURT GRAVELY ERRED IN FINDING THE DEFENDANTS-APPELLANTS GUILTY OF PREDATORY LENDING PRACTICES AND INIQUITOUS CONDUCT.
>
> 6. THE TRIAL COURT GRAVELY ERRED WHEN IT AWARDED DAMAGES AND ATTORNEY'S FEES TO PLAINTIFFS-APPELLEES NOTWITHSTANDING ITS ADMITTED FAILURE TO PAY ITS LOAN OBLIGATIONS TO DEFENDANTS-APPELLANTS, AND FILING OF THIS BASELESS AND MALICIOUS SUIT.
>
> 7. THE TRIAL COURT GRAVELY ERRED IN FAILING TO AWARD DAMAGES AND ATTORNEY'S FEES TO DEFENDANTS-APPELLANTS.[7]

On July 23, 2002, the CA promulgated its assailed judgment,[8] reversing and setting aside the decision of the RTC, and dismissing the complaint and the counterclaim upon the following ratiocination:

> We find the appeal to be partially meritorious.
>
> The action for annulment of title and reconveyance was based on the allegation of fraud which attended the mortgage contract between the parties. Article 1391 of the Civil Code provides that actions to annul a contract based on fraud should be brought within *four* years from discovery of the fraud (*Asuncion vs. CA,* 150 SCRA 353). If the transaction involves registered land, the four-year period is computed from the registration of the conveyance/transaction on account of constructive notice and not on actual knowledge. In the instant case, the mortgage over the seven lots was annotated on the back of their respective titles on September 05, 1984, so that the action to annul the mortgage should have been commenced before September 05, 1988. The case below was filed only in 1991.

---

7 CA *Rollo*, pp. 51-52.

8 Supra note 1.

Even if the prescription period is counted from actual notice, the plaintiffs had until October 25, 1989, or four years after the foreclosure sale, to file the action to annul. Indeed, pursuant to the cases of *Armentia vs. Patriarca*, 18 SCRA 1253 and *Gatiaon vs. Gaffud*, 27 SCRA 706, if the annulment of the mortgage contract is merely a condition precedent for the annulment or reconveyance of the title, the prescriptive period is only four years.

Moreover, assuming the defendants were guilty of continuing fraud, the plaintiffs' inaction for seven years is contrary to human experience and thus estoppel may have already set in. Nor is it at all clear just how the continuing fraud was committed by PCRI. Instead, what is more readily apparent from the findings of fact of the trial court is that upon the incessant importuning of the plaintiffs, the defendants gave them every reasonable chance to pay their loan and recover their properties. While it is settled that the findings of fact of the trial court which heard the case are not to be disturbed on appeal, if, however, the conclusions are not borne out by the facts or if substantial facts bearing upon the result of the case are overlooked, the same may be overturned. We find no clear and convincing evidence, nor even preponderant evidence, to defeat the presumption of regularity of the mortgage contract and promissory note. The plaintiffs relied mainly on the lone testimony of Vicky Ang Gapido, certainly a biased witness, who was not even a signatory to the questioned documents. There was no proof that she was an officer of MFI back in 1984. She appeared on the scene only in 1986.

The appealed decision appears to have brushed aside several documents which clearly tended to prove the voluntary and free consent of the appellees to the mortgage. The promissory note and mortgage contract are public documents that enjoy the presumption of regularity which can be overcome only by clear and convincing evidence. Against these, the trial court accepted the sole testimony of Vicky Ang.

Absent proof that Vicky Ang was a responsible officer of MFI at the time of the execution of the mortgage documents and was in fact present when the loan was negotiated and the documents were executed, Vicky Ang cannot be considered a competent witness. Exh. "22", the list of officers of MFI, did not include Vicky. Her elaborate testimony was not corroborated by another testimony or supported by any document. Vicky claimed that other family members named Ellen and Alice were present at the signing, together with Enrique, Natividad, and Edmund, but it is highly unusual and rather curious that none of them was presented. It was the duty of the appellees to establish the fact of the alleged fraud, yet none of the signatories to the mortgage documents, who alone could have testified on said claim, were presented. Neither the father, Enrique Ang, who was allegedly shocked and deeply hurt, nor the mother Natividad Africa-Ang and brother Edmund Ang testified.

Even Vicky's letters to PCRI were clearly conciliatory and recognized their loan obligation. One could not divine a tone of protest against the so-called continuing fraud committed against her family. Viewed from the common experience of mankind, it was simply incredible that appellants and appellees would enter into a mortgage contract for ₱3.5 million where the material terms were indefinite and left to the sole discretion of the lender, all protestations of trust and the so-called Chinese

way of doing business notwithstanding. It was incredible that the appellees, long-time businessmen, would sign a promissory note and a real estate mortgage contract in blank. It was incredible that MFI would issue 24 blank checks for the monthly amortizations, and this without even knowing that the interest rate applied was 35% per annum. One needs only note that the signing of the loan documents and the release of the loan were done on the same day, which then strongly connotes simultaneous consensual and reciprocal acts where both parties were present. We note that the MOA for the accessory loan for ₱199,072.255 made on December 06, 1984 to pay the real estate taxes and registration fees clearly carried an interest rate of 35%, not 24% as claimed by appellees. The delay in the execution of the mortgage contract was because the real estate taxes had yet to be paid.

It was incredible too that MFI would have entrusted all seven titles to PCRI and yet also borrowed ₱199,072.255 for registration fee of the deed of mortgage for all seven titles if they did not know that these seven titles were covered by the mortgage. That this was part of the "Chinese way of doing business" was also not established as a custom in the manner provided by Article 12 of the Civil Code. This claimed custom is easily negated by the execution of the now-contested mortgage documents as well as the comprehensive surety agreement.

MFI should have known that the interest rate was 35% when its checks started bouncing. If indeed the agreed interest rate was 24%, it was incredible that they waited so long before asking for a recomputation of the interest rate. Also, MFI claimed it had an appraisal report in 1984 showing that the value of its lots was more than P11million, yet it submitted the same only in 1986. What clearly appears from the testimony of Vicky Ang is that MFI had difficulty finding buyers for their lots at their asking price, and that Caleb Ang repeatedly gave the appellees time to pay their loan, met them to accommodate their proposals for possible settlement, agreed to postpone the foreclosure sale several times to allow MFI to raise the money to pay, even agreed to a partial redemption and further gave MFI more time to fully redeem the rest of the lots.

Vicky Ang's lone and uncorroborated testimony contradicts the written documents, which should be deemed to possess superior evidentiary weight unless overcome by more weighty and convincing evidence. Even her letters tend to show that MFI was merely seeking to be allowed more time to settle its loan.

There is no dispute that the officers of plaintiff-appellee corporation signed the following documents: promissory note (Exh. "1); Real Estate Mortgage (Exh. "2"); MFI's ₱199,000 loan to pay real estate mortgage fees of seven titles (Exh. "7"); twenty-four (24) post-dated checks (Exhs. "8" to "8-V"; MFI's request not to deposit post-dated checks (Exh. "10"); MFI's letter informing PCRI of a buyer in order to stay foreclosure (Exh. "11); MFI's letters seeking to postpone foreclosure (Exh. "O", "P", "Q"); MFI Board resolution dated August 10, 1987 authorizing partial redemption for ₱3.5million of three lots (Exh. "12"); Secretary's Certificate (Exh. "13"); Certificate of Redemption (Exh. "16"); Memorandum of Undertaking on the right of way dated September 18, 1987 (Exh. "18"); June 21, 1990 letter (Exh. "20").

The tenor of Vicky Ang's letter dated February 28, 1986 (Exh. "10") is cordial and makes no mention or reference whatsoever to the error in the interest rate imposed and the filling of the 24 blank checks with erroneous figures, which would have been estafa. This silence negates Vicky's testimony to the contrary. Instead, the letter contains a litany of financial distress, blaming the country's lingering economic slump for causing the shut-down of their company and its failure to keep up with the loan amortizations. The letter sought the sympathy of PCRI. It asked that the post-dated checks be not deposited. It pleaded for an offsetting of some of their lots against their loan obligation, but obviously based on their 3-year old appraisal of the worth of the lots. Yet it had taken them considerable time to find a buyer like Mr. Wang. She even mentions that Caleb suggested to her that they sell the properties so they could pay their debt but that they have not been able to find buyers.

The appealed decision admits that the foreclosure sale was postponed several times upon the request of the appellees. Moreover, instead of filing an action to annul the foreclosure mortgage, MFI even authorized the partial redemption of three lots per Board Resolution dated August 10, 1987. The certificate of redemption (Exh. "16") acknowledged that the agreed interest rate was 35% and the total loan payable to date was ₱6.5million. Then, when they were asked to leave the premises whose titles had been eventually consolidated in PCRI, MFI after a requested brief extension during which it expressly agreed to stay as lessee, peacefully vacated the same (Exh. "20").

The claim of events undeniably prove that the appellees are estopped from denying the validity of the mortgage contract. The trial court's findings concerning the defects of the mortgage documents are not sufficient to overcome the presumption of its validity.

That the "List of Mortgaged Properties" was visibly typewritten in small characters to fit into whatever available space remained below the notarial acknowledgment, or that the first line of the "List of Mortgaged Properties" occupied the same line as the last line of the notarial acknowledgment, cannot per se be taken as proof of fraudulent incorporation of the seven titles therein. This conclusion is speculative, because this same situation can result when one uses a form documents and the list happens to be long.

There is also no requirement that where the signatories from the plaintiffs have signed elsewhere in the mortgage document, the said signatories should also conform to the "List of Mortgaged Properties" as fully indicative of the parties' consent to the inclusion of the property as mortgage security. To hold otherwise would render invalid the practice of incorporating annexes into the main mortgage documents.

The trial court observed that the body of the real estate mortgage did not contain any indication as to what properties were covered, and that the rubber stamp made by the Registry of Deeds of Quezon City on page 3 thereof is only for one property, TCT No. 317702. Is the court therefore saying that only the mortgage covering TCT No. 317702 was valid? The rubber-stamping per se is not the operative act to establish the mortgage encumbrance, but rather the fact that the mortgage was annotated on all seven titles.

The trial court also believed that since the Notarial Acknowledgment did not indicate the number of lots covered by the mortgage, this violated the Notarial Act and thus destroyed any presumption of regularity in the execution of the document. Let it suffice to say that this is the sole act of the notary public, not the signatories, for which he should be taken to account personally.

The trial court also found that "evidence indubitably disclose that the real estate mortgage was not signed before the Notary Public (TSN, July 5, 1994, pp. 28-29)," it being mandatory that the party acknowledging the instrument must personally appear before the Notary Public. Yet how did the court come to its conclusion without any of the signatories being presented to prove this fact? Even the Certificate of Redemption (Exh. "16") for the three lots sold to Mr. Wang, signed by Vicky, admitted that the real estate mortgage was acknowledged before Notary Public Noemi E. Ferrer, per her Notarial Register No. 139, Book No. VI, Page No. 29, Series of 1994.

The same certification even expressly mentioned that the agreed loan interest was 35% per cent, citing the terms of Promissory Note No. 840804 dated August 03, 1984. That certain entries therein were left blank, such as the position of the signatories and their tax account numbers, cannot lead to the conclusion that it was signed in blank and thus operate to invalidate the note, at least as concerns MFI itself which signed it. If these facts can be established separately, then the factual requirements are satisfied. That there were no witnesses to attest to the due execution of the promissory note also will not operate to render it void, such being not a prerequisite to its validity. Nor is there a requirement that the Schedule of Amortization which appears at the back thereof should also be signed by MFI to show its conformity.

The trial court noted that "the Disclosure Statement (Exh. "B-1") mentioned only the amount of the loan. It did not mention other details." It did not bother to say what these other details are. It also erred in saying that there was no signature of Edmundo Ang on the comprehensive surety agreement (Exh. "28"). It further commented that "It is also surprising why the Comprehensive Agreement which appears to have been allegedly required of the plaintiffs to secure the payment of the loan was not even availed of by the defendants." That the defendants did not utilize it was their sole option and privilege.

The above discussion notwithstanding, the trial court's conclusion that the "defendants were patently guilty of predatory lending practices and iniquitous conduct," may not be far off the truth at all, considering the excessive penalties and charges imposed for missed amortizations. It is of common knowledge that the country was in the grip of tumultuous political uncertainties when the mortgage contract was executed in August 1984, owing to the unsolved assassination of Senator Benigno S. Aquino, Jr. But while interest rates shot up to unfamiliar heights, it is also known that after the 1986 EDSA revolution, things settled down, and interest rates receded to levels obtaining before August 21, 1983. Defendants would therefore be hard put to justify continuing to charge 35% interest after February 1986.

On the question of the improper publication of the Notice of Sheriff's Sale, Vicky testified that had the notice been made in a newspaper of general circulation other than the "Listening Post," they could have obtained a very good price for their lots. This is self-serving, as shown by their subsequent less than successful efforts to find buyers for their lots. They even admitted to publishing notices in the papers for this purpose. As to the alleged lack of notice to plaintiffs of the foreclosure sale, it suffices to say that ACT 3135 does not require such notice to the mortgagor.

The trial court stated that "Plaintiffs believe that Caleb showed deep interest in their properties. Although they wanted to settle the loan as early as 1985, defendants gave them false hopes, encouraging plaintiffs to continue to confer with them, which resulted in the inflated indebtedness until they foreclosed the mortgage. Plaintiffs believe that they did it intentionally so they would not be able to get them back." Subsequent events belie this conclusion, as shown in the sale of three lots to Winston Wang for ₱3.5 million.

As to the defendants-appellants' claim for loan deficiency of ₱107,876,171.82, in addition to ₱1,000,000 in moral damages and ₱500,000 in attorney's fees, their Exhibits "30" and "31" show that in addition to the 35% simple interest per annum, a compounded penalty of 1% per month as well as compounded liquidated damages of 3% per month were also imposed, for a total of 95% percent in charges per annum. This is clearly exorbitant, iniquitous and unconscionable. Furthermore, while the Central Bank's interest rates for 1984, averaged 34% (Exh. "33"), there is no showing that this situation continued to prevail for ten years thereafter and after the massive street demonstrations had ceased. Thus, even the 35% annual simple interest rate could not be countenanced, at least not beyond February 1986. Even defendants' Exh. "31" showed that they realized that the 3% monthly liquidated damages were unjustified and they were thus willing to waive the same.

We conclude that due to estoppel and prescription of the action to annul the mortgage contract, the complaint for annulment of title and reconveyance should be dismissed. On the other hand, we find no basis to award to defendants-appellants ₱1,000,000 in moral damages and ₱500,000 in attorney's fees, even as we must dismiss their counterclaim for deficiency judgment of ₱107,876,171.82 for being unconscionably excessive, unreasonable and iniquitous.

WHEREFORE, premises considered, the appealed judgment is REVERSED and SET ASIDE and a new one is entered DISMISSING the complaint below as well as the defendants-appellants' counterclaim for deficiency judgment of ₱107,876,171.82, moral damages of ₱1,000,000 and ₱500,000 in attorney's fees. No costs.

SO ORDERED.[9]

---

9 Id. at 52-59.

Issues

The petitioners now submit for consideration by the Court:

> WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN:
>
> A. DISREGARDING THR FACTUAL FINDINGS OF THE TRIAL COURT;
>
> B. NOT HOLDING THAT THE ABSENCE OF CONSENT MAKES A CONTRACT VOID, NOT MERELY VOIDABLE;
>
> C. NOT HOLDING THAT AN ACTION TO DECLARE A CONTRACT VOID DOES NOT PRESCRIBE; and
>
> D. NOT HOLDING THAT PETITIONERS ARE NOT GUILTY OF ESTOPPEL AND LACHES.[10]

Ruling

The appeal has no merit.

1.
The CA did not disregard the factual findings of the RTC

It is settled that the appellate court will not disturb the factual findings of the lower court unless there is a showing that the trial court overlooked, misunderstood or misapplied some fact or circumstance of weight and substance that would have affected the result of the case.[11] Indeed, the trial court's findings are always presumed correct. Nonetheless, the CA is not precluded from making its own determination and appreciation of facts if it considers the conclusions arrived at by the trial court not borne out by the evidence, or if substantial facts bearing upon the result of the case were overlooked, misunderstood or misapplied.[12] As an appellate court, the CA is not necessarily bound by the conclusions of the trial court, but holds the exclusive authority to review the assessment of the credibility of witnesses and the weighing of conflicting evidence.[13]

In view of the conflicting findings and appreciation of facts by the RTC and the CA, we have to revisit the evidence of the parties.

---

10 Supra note 1, at 24-25.
11 *People v. Ablaza*, G.R. No. L-27352, October 31, 1969, 30 SCRA 173, 176.
12 *Rollo*, p. 52.
13 *Santa Ana, Jr. v. Hernandez*, G.R. No. L-16394, December 17, 1966, 18 SCRA 973, 978.

Petitioners insist that respondents committed fraud when the officers of Metropolitan were made to sign the deed of real estate mortgage in blank.

According to Article 1338 of the *Civil Code*, there is fraud when one of the contracting parties, through insidious words or machinations, induces the other to enter into the contract that, without the inducement, he would not have agreed to. Yet, fraud, to vitiate consent, must be the causal (*dolo causante*), not merely the incidental (*dolo incidente*), inducement to the making of the contract.[14] In *Samson v. Court of Appeals*,[15] causal fraud is defined as "a deception employed by one party prior to or simultaneous to the contract in order to secure the consent of the other."[16]

Fraud cannot be presumed but must be proved by clear and convincing evidence.[17] Whoever alleges fraud affecting a transaction must substantiate his allegation, because a person is always presumed to take ordinary care of his concerns, and private transactions are similarly presumed to have been fair and regular.[18] To be remembered is that mere allegation is definitely not evidence; hence, it must be proved by sufficient evidence.[19]

Did petitioners clearly and convincingly establish their allegation of fraud in the execution of the deed of real estate mortgage?

The contested deed of real estate mortgage was a public document by virtue of its being acknowledged before notary public Atty. Noemi Ferrer.[20] As a notarized document, the deed carried the evidentiary weight conferred upon it with respect to its due execution,[21] and had in its favor the presumption of regularity.[22] Hence, it was admissible in evidence without further proof of its authenticity, and was entitled to full faith and credit upon its face.[23] To rebut its authenticity and genuineness, the contrary evidence

---

14 *Tongson v. Emergency Pawnshop Bula, Inc.*, G.R. No. 167874, January 15, 2010, 610 SCRA 150, 159, citing *Woodhouse v. Halili*, 93 Phil 526, 537 (1953).

15 G.R. No. 108245, November 25, 1994, 238 SCRA 397.

16 Id. at 404.

17 *Quitoriano v. Department of Agrarian Reform Adjudication Board (DARAB)*, G.R. No. 171184, March 4, 2008, 547 SCRA 617, 626.

18 Section 3(p), Rule 131, *Rules of Court*; also, *Dutch Boy Philippines, Inc. v. Seniel,* G.R. No. 170008, January 19, 2009, 576 SCRA 231, 240, citing *Memita v. Masongsong,* G.R. No. 150912, May 28, 2007, 523 SCRA 244, 256-257; and *Mangahas v. Court of Appeals,* G.R. No. 95815, March 10, 1999, 304 SCRA 375, 382.

19 *Real v. Sangu Philippines, Inc.,* G.R. No. 168757, January 19, 2011, 640 SCRA 67, 85, citing *General Milling Corporation v. Casio,* G.R. No. 149552, March 10, 2010, 615 SCRA 13, 32-33.

20 See Exhibit "A", Records, Vol. I., p.17.

21 *Loyola v. Court of Appeals*, G.R. No. 115734, February 23, 2000, 326 SCRA 285, 292; *Garrido v. Court of Appeals,* G.R. No. 101262, September 14, 1994, 236 SCRA 450, 457.

22 *Loyola v. Court of Appeals,* supra; *Ramirez v. Ner,* Adm. Case No. 500, September 27, 1967, 21 SCRA 207, 210.

23 *Lao v. Villones-Lao*, G.R. No. 126797, April 29, 1999, 306 SCRA 387, 396; *Arrieta v. Llosa*, A.C. No. 4369, November 28, 1997, 282 SCRA 248, 252; *Garrido v. Court of Appeals*, supra note 21.

must be clear, convincing and more than merely preponderant; otherwise, the deed should be upheld.[24]

Petitioners undeniably failed to adduce clear and convincing evidence against the genuineness and authenticity of the deed. Instead, their actuations even demonstrated that their transaction with respondents had been regular and at arms-length, thereby belying the intervention of fraud.

To start with, the evidence adduced by Vicky Ang, the lone witness for petitioners, tried to cast doubt on the contents and due execution of the deed of real estate mortgage by pointing to certain irregularities. But she could not be effective for the purpose because she had not been among the signatories of the deed. The signatories were her late father Enrique Ang, her mother Natividad Africa, and her brother Edmundo Ang, none of whom came forward to testify against the deed, or otherwise to assail the genuineness and due execution of the deed by any other means. They would have been in the better position than Vicky Ang to substantiate the allegation of fraud if that was the case. Their silence reflected the inanity of the allegation of fraud by Vicky Ang.

It does seem that the three signatories did not join Vicky Ang in impugning the authenticity and genuineness of the deed of real estate mortgage. As Vicky Ang admitted during her cross-examination, she had no evidence to show that the signatories ever assailed the deed, to wit:

> Q The signatory to this document, one of the signatory to this document is Enrique Ang, will you be able to show us a letter personally prepared and signed by Enrique Ang during his lifetime from 1984 assailing the validity of this document?
>
> A From 1984?
>
> Q Up to the present.
>
> A I cannot recall actually, but if you will permit me I will try to look at the files.
>
> Q But now, you do not have in your possession a letter personally prepared and signed by Enrique Ang and duly received by Prosperity, you will still look for it, is that correct, if it still exists?
>
> A As I said I still have to go over the files because it has been eleven (11) years ago.
>
> Q Can you state definitely that there is such a document as to this point in time?

---

[24] *Ladignon v. Court of Appeals*, G.R. No. 122973, July 18, 2000, 336 SCRA 42, 48.

A Because there were documents, there were letters, there were correspondences also signed by Enrique Ang, prepared and signed by Enrique Ang, its just that I still have to look for it.

Q Another signatory here in this Promissory Note and Real Estate Mortgage is Edmundo Ang will you be able to show us a letter signed by him and received by Prosperity in which he assailed the validity of this document?

A I cannot recall.

Q How about Natividad Africa, who is also a signatory to this document, will you be able to produce a letter signed by her assailing the validity of this document duly received by Prosperity?

A I cannot recall.[25]

Secondly, petitioners freely and voluntarily surrendered to respondents the seven transfer certificates of title (TCTs) of their lots. Such surrender of the TCTs evinced their intention to offer the lots as collateral for the performance of their obligations contracted with respondents. They thereby confirmed the genuineness and due execution of the deed of real estate mortgage. Surely, they would not have surrendered the TCTs had their intention been otherwise.

Thirdly, another circumstance belying the commission of fraud by respondents was petitioners' pleading with respondents for the resetting of foreclosure sale of the properties after receiving the notice of the impending sale. As a result, the sale was reset thrice. Had the mortgage and its foreclosure been unreasonable or fraudulent, petitioners should have instead resolutely contested respondents' move to foreclose.

Fourthly, even after their properties were eventually sold as the consequence of the foreclosure, petitioners negotiated with respondents on the partial redemption of three of the seven lots. They also took the trouble of finding a buyer (Mr. Winston Wang of Asia Cotton) of some of the lots. Had the mortgage been fraudulent, they could have instead instituted a complaint to nullify the real estate mortgage and the foreclosure sale.

And, lastly, Vicky Ang's own letters to respondents had an apologetic tenor, and was seeking leniency from them. Such tenor and tone of her communications were antithetical to her allegation of having been the victim of their fraudulent acts.

---

[25] See TSN, July 7, 1995, pp. 17-18.

These circumstances tended to indicate that fraud was not attendant during the transactions between the parties. Verily, as between the duly executed real estate mortgage and the unsubstantiated allegations of fraud, the Court affords greater weight to the former.

2.
Action to assail the mortgage already prescribed

The next issue to address is whether the action to assail the real estate mortgage already prescribed.

To resolve the issue of prescription, it is decisive to determine if the mortgage was void or merely voidable.

It appears that the original stance of petitioners was that the deed of real estate mortgage was voidable. In their complaint, they averred that the deed, albeit in printed form, was incomplete in essential details, and that Metropolitan, through Enrique Ang as its president, signed it in good faith and in absolute confidence.[26] They confirmed their original stance in their pre-trial brief,[27] wherein they raised the following issues, to wit:

> 1. Whether or not the mortgage and foreclosure of the subject four (4) parcels of land should be declared null and void; and
>
> 2. Whether or not defendants should be held liable to pay damages and attorney's fees to plaintiffs, and for how much?[28]

Yet, petitioners now claim that the CA committed a reversible error in not holding that the absence of consent made the deed of real estate mortgage void, not merely voidable. In effect, they are now advancing that their consent was not merely vitiated by means of fraud, but that there was complete absence of consent. Although they should be estopped from raising this issue for the first time on appeal, the Court nonetheless opts to consider it because its resolution is necessary to arrive at a just and complete resolution of the case.

As the records show, petitioners really agreed to mortgage their properties as security for their loan, and signed the deed of mortgage for the purpose. Thereafter, they delivered the TCTs of the properties subject of the mortgage to respondents.

---

26 Supra note 33, at 2.
27 Records, Vol. I. at pp. 196-199.
28 Id. at 197.

Consequently, petitioners' contention of absence of consent had no firm moorings. It remained unproved. To begin with, they neither alleged nor established that they had been forced or coerced to enter into the mortgage. Also, they had freely and voluntarily applied for the loan, executed the mortgage contract and turned over the TCTs of their properties. And, lastly, contrary to their modified defense of absence of consent, Vicky Ang's testimony tended at best to prove the vitiation of their consent through insidious words, machinations or misrepresentations amounting to fraud, which showed that the contract was voidable. Where the consent was given through fraud, the contract was voidable, not void *ab initio*.[29] This is because a voidable or annullable contract is existent, valid and binding, although it can be annulled due to want of capacity or because of the vitiated consent of one of the parties.[30]

With the contract being voidable, petitioners' action to annul the real estate mortgage already prescribed. Article 1390, in relation to Article 1391 of the *Civil Code*, provides that if the consent of the contracting parties was obtained through fraud, the contract is considered voidable and may be annulled within four years from the time of the discovery of the fraud.[31] The discovery of fraud is reckoned from the time the document was registered in the Register of Deeds in view of the rule that registration was notice to the whole world.[32] Thus, because the mortgage involving the seven lots was registered on September 5, 1984, they had until September 5, 1988 within which to assail the validity of the mortgage. But their complaint was instituted in the RTC only on October 10, 1991.[33] Hence, the action, being by then already prescribed, should be dismissed.

WHEREFORE, the Court **DENIES** the petition for review on *certiorari*; **AFFIRMS** the decision promulgated by the Court of Appeals on July 23, 2002; and **ORDERS** petitioners to pay the costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

---

[29] *First Philippine Holdings Corporation v. Trans Middle East (Phils.) Equities, Inc.*, G.R. No. 179505, December 4, 2009, 607 SCRA 605, 615.

[30] Id.

[31] *Viloria v. Continental Airlines, Inc.*, G.R. No. 188288, January 16, 2012, 663 SCRA 57, 80.

[32] *People v. Villalon*, G.R. No. 43659, December 21, 1990, 192 SCRA 521, 531;

[33] Records, Vol. I, p.1.

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

MARTIN S. VILLARAMA, JR.
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