



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

WELBIT CONSTRUCTION CORP., G.R. No. 210286
WACK WACK CONDOMINIUM
CORP., AND SPOUSES EUGENIO
JUAN GONZALEZ AND MATILDE Present:
GONZALEZ,

Petitioners, **LEONARDO-DE CASTRO, J.,***
Acting Chairperson,
DEL CASTILLO,
JARDELEZA,
TIJAM, and
GESMUNDO, JJ.**

- versus -

HEIRS OF CRESENCIANO C. DE
CASTRO,
 Respondents.

Promulgated:
JUL 23 2018

[Signature]

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DECISION

TIJAM, J.:

This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court, assailing the Decision² dated September 30, 2013 and Resolution³ dated December 4, 2013 of the Court of Appeals (CA) in CA-G.R. CV No. 93366.

* Designated as Acting Chairperson per Special Order No. 2559 dated May 11, 2018.

** Designated as Acting Member per Special Order No. 2560 dated May 11, 2018.

¹ *Rollo*, pp. 11-55.

² Penned by Associate Justice Normandie B. Pizarro, concurred in by Associate Justices Remedios A. Salazar-Fernando and Manuel M. Barrios; id. at 64-78.

³ Id. at 61-62.

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Factual Antecedents

Petitioners Welbit Construction Corporation and Wack Wack Condominium Corporation are the developer and management body of Wack Wack Apartments Building (condominium), respectively,⁴ while Spouses Eugenio Juan and Matilde Gonzalez are the owners thereof.⁵

The late Cresenciano C. De Castro (De Castro) is the registered owner of Unit 802 of of the condominium, covered by Condominium Certificate of Title (CCT) No. 2826⁶ (subject property). For failure to pay assessment dues amounting to ₱79,905.41 as of July 31, 1986 despite demand, Welbit Construction Corp., Wack Wack Condominium Corp., and Spouses Eugenio Juan Gonzalez and Matilde Gonzalez (petitioners) caused the annotation of a lien for unpaid assessments and other dues at the back of De Castro's title on August 14, 1986 pursuant to Section 4 of the Master Deed with Declaration of Restrictions of Wack Wack Condominium (Master Deed).⁷

As the said dues remained unsettled, petitioners filed a petition for the extra-judicial foreclosure of the subject property with the Office of the *Ex-Officio* Sheriff of Pasig City on October 27, 1986. The requirements of publication and posting of the notice were then complied with and the public auction was set on February 10, 1987. A copy of such notice was received by De Castro on January 29, 1987.⁸

Petitioners emerged as the highest bidder for ₱88,809.94. Accordingly, a certificate of sale was issued in their favor on February 10, 1987. On April 2, 1987, the sale was registered with the Register of Deeds of Pasig City and annotated at the back of De Castro's title. De Castro failed to redeem the property.⁹

When requested to surrender his owner's duplicate copy of CCT No. 2826, De Castro filed a petition for annulment of foreclosure proceedings before the Securities and Exchange Commission (SEC) which then had the jurisdiction over intra-corporate disputes. In the said petition, De Castro argued that petitioners have no legal personality to invoke the Condominium Act and should have availed of other remedies in law; the annotation of assessment dues and certificate of sale, and the extra-judicial proceedings were highly irregular and devoid of factual and legal basis; that the assessments imposed were excessive, oppressive, unconscionable, and arbitrary; and that the petitioners have no special power of attorney or

⁴ Id. at 14.

⁵ Id. at 65.

⁶ Id. at 80-82.

⁷ Id. at 65-66.

⁸ Id. at 66.

⁹ Id.

authority was granted to them nor was there any agreement between the parties to that effect.¹⁰

For their part, petitioners countered that the foreclosure was lawful pursuant to the Master Deed to which De Castro was bound as a unit owner. Petitioners further averred that the assessment was fair and reasonable as the rate in computing the same was the same applied to all condominium unit owners. As for the foreclosure proceedings, De Castro was notified thereof but never made any opposition nor did he attend the foreclosure sale.¹¹

Sometime in February 1992, during the pendency of the case, De Castro passed away¹² and substituted by Heirs of Cresenciano C. De Castro (respondents).

Ruling of the Regional Trial Court

In its March 31, 2009 Decision,¹³ the Regional Trial Court (RTC) of Mandaluyong City, Branch 211, ruled for the validity of the extra-judicial foreclosure proceedings instituted by the petitioners. The RTC thoroughly discussed that the evidence on record clearly show that De Castro was aware of his unsettled dues and penalties. The RTC also held that De Castro cannot deny that he is bound by the Master Deed, which gave authority to the petitioners to issue assessments against him for his unpaid dues and penalties. The RTC also cited the By-Laws of the condominium corporation that gives authority to the Board of Directors to enforce collection of unpaid assessments duly levied in by any of the remedies provided by the Republic Act No. 4726¹⁴ or the Condominium Act and other pertinent laws, such as foreclosure. The RTC, disposed, thus:

WHEREFORE, judgement is hereby rendered as follows:

(a) Dismissing as it is hereby **DISMISSED** the instant petition for lack of merit; and,

(b) Dismissing as it is hereby **DISMISSED** the counter-claims of the [petitioners].

SO ORDERED.¹⁵

¹⁰ Id. at 67.

¹¹ Id. at 67-68.

¹² Id. at 68.

¹³ Rendered by Acting Presiding Judge Edwin D. Sorongon; id. at 183-190.

¹⁴ AN ACT TO DEFINE CONDOMINIUM, ESTABLISH REQUIREMENTS FOR ITS CREATION, AND GOVERN ITS INCIDENTS. Approved on June 18, 1966.

¹⁵ Id. at 190.



Ruling of the CA

In its September 30, 2013 Decision,¹⁶ the CA reversed and set aside the RTC Decision, on the sole ground that the petitioners have no sufficient authority to extra-judicially foreclose the subject property. The CA cited the case of *First Marbella Condominium Association, Inc. v. Gatmaytan*,¹⁷ wherein the Court ruled that it is mandatory that a petition for extra-judicial foreclosure be supported by evidence that petitioner holds a special power or authority to foreclose pursuant to Circular No. 7-2002,¹⁸ implementing Supreme Court (SC) Administrative Matter (A.M.) No. 99-10-05-0.¹⁹ According to the CA, herein condominium corporation's By-Laws or the Master Deed does not vest the petitioners with sufficient authority to extra-judicially foreclose the property. Neither does Section 20 of the Condominium Act gives authority to the petitioners to enforce the liens on the condominium unit through extra-judicial foreclosure as the said provision merely prescribes the procedure therefor, *i.e.*, it should be done in the same manner provided for by law for the judicial or extra-judicial foreclosure of mortgage of real property.²⁰ The CA disposes, thus:

WHEREFORE, the appeal is **GRANTED**. The assailed RTC **Decision** dated March 31, 2009 is **REVERSED** and **SET ASIDE**. Accordingly, the petition in SEC Case No. MC-01-002 is **GRANTED**. The extra-judicial foreclosure of Condominium Unit No. 802 is **SET ASIDE** for being null and void. With costs.

SO ORDERED.²¹

Hence, this petition.

Issue

Whether or not the CA erred in declaring the extra-judicial foreclosure proceeding null and void.

Ruling of the Court

We find merit in the instant petition.

¹⁶ Id. at 64-78.

¹⁷ 579 Phil. 432 (2008).

¹⁸ Guidelines for the Enforcement of the Supreme Court Resolution of December 14, 1999 in Administrative Matter No. 99-10-05-0, as Amended by the Resolutions dated January 30, 2001 and August 7, 2001; effective April 22, 2002.

¹⁹ Re: Procedure in Extra-Judicial or Judicial Foreclosure of Real Estate Mortgage; effective January 15, 2000.

²⁰ *Rollo*, pp. 76-77.

²¹ Id. at 77.

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As can be gleaned from the CA's assailed Decision, its conclusion that the extra-judicial foreclosure proceeding instituted by the petitioners is null and void for the latter's lack of proof of authority is heavily anchored upon the case of *First Marbella*²² above-cited. A careful perusal of the said case, however, would show that the same is not applicable in the case at bar.

Section 20 of the Condominium Act merely provides that the assessments, upon any condominium made in accordance with a duly registered declaration of restrictions, shall be a lien upon the said condominium, and also prescribes the procedure by which such liens may be enforced, *viz.*:

Sec. 20. The assessment upon any condominium made in accordance with a duly registered declaration of restrictions shall be an obligation of the owner thereof at the time the assessment is made. The amount of any such assessment plus any other charges thereon, such as interest, costs (including attorney's fees) and penalties, as such may be provided for in the declaration of restrictions, ***shall be and become a lien upon the condominium to be registered with the Register of Deeds of the city or province where such condominium project is located.*** The notice shall state the amount of such assessment and such other charges thereon as may be authorized by the declaration of restrictions, a description of condominium unit against which same has been assessed, and the name of the registered owner thereof. Such notice shall be signed by an authorized representative of the management body or as otherwise provided in the declaration of restrictions. Upon payment of said assessment and charges or other satisfaction thereof, the management body shall cause to be registered a release of the lien.

Such lien shall be superior to all other liens registered subsequent to the registration of said notice of assessment except real property tax liens and except that the declaration of restrictions may provide for the subordination thereof to any other liens and encumbrances, ***such liens may be enforced in the same manner provided for by law for the judicial or extra-judicial foreclosure of mortgage or real property.*** Unless otherwise provided for in the declaration of the restrictions, the management body shall have power to bid at foreclosure sale. The condominium owner shall have the right of redemption as in cases of judicial or extra-judicial foreclosure of mortgages.²³ (Emphasis in the original)

Indeed, it does not grant the petitioners the authority to foreclose. The aforesaid provision clearly provides that the rules on extra-judicial foreclosure of mortgage or real property should be followed. Accordingly,

²² Supra note 17.

²³ Id. at 441.

Section 1²⁴ of Act No. 3135,²⁵ which prescribes for the procedure for the extra-judicial foreclosure of real properties subject to real estate mortgage, in relation to Circular No. 7-2002 and SC A.M. No. 99-10-05-0 requires that the petition for extra-judicial foreclosure be supported by evidence that petitioners hold a special power or authority to foreclose, thus:

Sec. 1. All applications for extra-judicial foreclosure of mortgage, whether under the direction of the Sheriff or a notary public pursuant to Art. No. 3135, as amended, and Act 1508, as amended, shall be filed with the Executive Judge, through the Clerk of Court, who is also the Ex-Officio Sheriff (A.M. No. 99-10-05-0, as amended, March 1, 2001).

Sec. 2. Upon receipt of the application, the Clerk of Court shall:

a. Examine the same to ensure that the special power of attorney authorizing the extra-judicial foreclosure of the real property is either inserted into or attached to the deed of real estate mortgage (Act No. 3135, Sec. 1, as amended) x x x.²⁶

In *First Marbella*, the Court held that “[w]ithout proof of petitioner's special authority to foreclose, the Clerk of Court as *Ex-Officio* Sheriff is precluded from acting on the application for extra-judicial foreclosure.”²⁷

Unlike in *First Marbella*, however, the CA erred in ruling that herein petitioners have no such special authority to foreclose. In the said case, the Court found that the only basis of therein petitioners for causing the extra-judicial foreclosure of therein respondent's condominium unit was a mere notice of assessment annotated on the latter's CCT. Thus, the Court ruled that neither annotation nor law vests therein petitioner with sufficient authority to foreclose on the property.²⁸

In the case at bar, the foreclosure was not merely based on the the notice of assessment annotated on CCT No. 2826 nor solely upon the Condominium Act but also on the Master Deed²⁹ and the condominium corporation's By-Laws.³⁰ As correctly found by the RTC:

²⁴ Section 1. When a sale is made under a special power inserted in or attached to any real-estate mortgage hereafter made as security for the payment of money or the fulfillment of any other obligation, the provisions of the following election shall govern as to the manner in which the sale and redemption shall be effected, whether or not provision for the same is made in the power.

²⁵ AN ACT TO REGULATE THE SALE OF PROPERTY UNDER SPECIAL POWERS INSERTED IN OR ANNEXED TO REAL ESTATE MORTGAGES. Approved on March 6, 1924.

²⁶ *Rollo*, p. 75.

²⁷ *First Marbella Condominium Ass'n, Inc. v. Gatmaytan*, supra note 17, at 440.

²⁸ *Id.*

²⁹ *Rollo*, 103-123.

³⁰ *Id.* at 84-102.

Thus, Section 1 of the Article V of the By-laws of the Condominium Corporation authorizes the board to assess the unit owner penalties and expenses for maintenance and repairs necessary to protect the common areas or any portion of the building or safeguard the value and attractiveness of the condominium. **Under Section 5 of Article [V] of the By-Laws, in the event a member defaults in the payment of any assessment duly levied in accordance with the Master Deed and the By-Laws, the Board of Directors may enforce collection thereof by any of the remedies provided by the Condominium Act and other pertinent laws, such as foreclosure. x x x.**

x x x x

The Master Deed with Declaration of Restrictions of the Condominium Project is annotated on the Condominium Certificate of title 2826. The Master Deed and By-Laws constitute as the contract between the unit owner and the condominium corporation. As a unit owner, [De Castro] is bound by the rules and restrictions embodied in the said Master Deed and by-Laws pursuant to the provisions of the Condominium Act. Under the Condominium Act (*Section 20 of RA 4726*) and the by-laws (*Section 5 of Article [V]*) of the Wack Wack, the assessments upon a condominium constitute a lien on such condominium and may be enforced by judicial or extra-judicial foreclosure.³¹ (Emphasis ours)

Clearly, petitioners were authorized to institute the foreclosure proceeding to enforce the lien upon the condominium unit. Moreover, this conclusion finds support in the 1984 condominium corporation's Board Resolution No. 84-007,³² also signed by De Castro as a member of the Board of Directors at that time, stating that:

RESOLVED to, as we do hereby authorize our President, Arch. Eugenio Juan Gonzalez and/or the law offices of Siguion Reyna, Montecillo and Ongsiako and/or whomsoever Arch. Gonzalez may appoint or designate, to effect foreclosure of Condominium Apartment Units at Wack Wack Apartment Building Condominium Project, Mandaluyong, Metro Manila with unpaid or delinquent accounts to satisfy the unit's obligation to Wack Wack Condominium Corporation;

RESOLVED FURTHER TO, as we do hereby designate and appoint Arch. Eugenio Juan Gonzalez as the Wack Wack Condominium Corporation's attorney-in-fact for the purpose of foreclosure;

RESOLVED FINALLY TO, as we do hereby authorize the above-named Architect Eugenio Juan Gonzalez to execute, sign, and deliver documents and whatever papers necessary, and in general, to do and perform all such acts and things that are or may be necessary to give effect to the foregoing authority.

³¹ Id. at 189-190.

³² Id. at 148.

Furthermore, in the similar case of *Wack Wack Condominium Corp. v. Court of Appeals*,³³ involving petitioners and another unit owner, wherein the petitioners likewise extra-judicially foreclosed a condominium unit to enforce assessments albeit the issue therein was the jurisdiction of the SEC, this Court had already ruled that the Condominium Act and the By-Laws of the condominium corporation recognize and authorize assessments upon a condominium unit to constitute a lien on such unit which may be enforced by judicial or extra-judicial foreclosure. Clearly, petitioners' authority to foreclose a condominium unit to enforce assessments, pursuant to the Condominium Act and the condominium corporation's Master Deed and By-Laws, had long been established.

WHEREFORE, premises considered, the Petition is **GRANTED**. Accordingly, the Decision dated September 30, 2013 and Resolution dated December 4, 2013 of the Court of Appeals in CA-G.R. CV No. 93366 are hereby **REVERSED and SET ASIDE**. The Decision dated March 31, 2009 of the Regional Trial Court of Mandaluyong City, Branch 211 in SEC Case No. MC-02-002 is **REINSTATED**.

SO ORDERED.


NOEL GIMENEZ TIJAM
Associate Justice

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson


MARIANO C. DEL CASTILLO
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice

³³ 290 Phil. 357 (1992).


ALEXANDER G. GESMUNDO
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.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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.


ANTONIO T. CAPIO
Senior Associate Justice
(Per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)