

## THIRD DIVISION

[ G.R. No. 211206, November 07, 2018 ]

**ROSEMARIE Q. REY, PETITIONER, VS. CESAR G. ANSON, RESPONDENT.**

### DECISION

**PERALTA, J.:**

This is a petition for review on *certiorari*,<sup>[1]</sup> under Rule 45 of the Rules of Court, of the Decision<sup>[2]</sup> of the Court of Appeals dated September 6, 2013 in CA-G.R. CV No. 95012, which reversed and set aside the Decision<sup>[3]</sup> dated February 5, 2010 of the Regional Trial Court (*RTC*) of Legazpi City, Branch 5, and entered a new judgment ordering herein petitioner Rosemarie Q. Rey to pay respondent Cesar G. Anson the sum of P902,847.87, plus twelve percent (12%) interest per annum from September 1, 2013 until fully paid, and to pay legal interest of twelve percent (12%) per annum on the total award due, to be computed from the time the judgment becomes final and executory until the same is fully satisfied.

The facts, as stated by the Court of Appeals, are as follows:

Rosemarie Rey is the President and one of the owners of Southern Luzon Technological College Foundation Incorporated, a computer school in Legazpi City. Sometime in August 2002, she needed a quick infusion of cash for the said school. She approached a friend, Ben Del Castillo, who introduced her to his acquaintance, Cesar Anson.

On August 23, 2002, Rosemarie Rey borrowed from Cesar Anson the amount of P200,000.00 payable in one year, and subject to 7.5% interest per month or P15,000.00 monthly interest, which would be paid bi-monthly by way of postdated checks. The loan was secured by a real estate mortgage on Spouses Teodoro and Rosemarie Rey's property, Lot 1271-C-4, covered by Transfer Certificate of Title (*TCT*) No. 50872. In the event of default, the Spouses Rey would pay a penalty charge of 10% of the total amount, plus 12% attorney's fees. The terms and conditions of the loan were embodied in a Deed of Real Estate Mortgage<sup>[4]</sup> dated August 23, 2002. Rosemarie Rey thereafter issued 24 postdated checks for P7,500.00 each, as well as another postdated check for the principal amount of P200,000.00.

Three days later, or on August 26, 2002, Rosemarie Rey again borrowed from Cesar Anson P350,000.00, subject to 7% interest per month, and payable in four months. The second loan was secured by a real estate mortgage over a parcel of land covered by *TCT* No. 2776, registered in the name of Rosemarie Rey's mother, Isabel B. Quinto. The parties executed a second Deed of Real Estate Mortgage<sup>[5]</sup> dated August 26, 2002.

Rosemarie Rey faithfully paid the interest on the first loan for twelve (12) months. She was, however, unable to pay the principal amount of P200,000.00 when it became due on August 24, 2003. She appealed to Cesar Anson not to foreclose the mortgage or to impose the stipulated penalty charges, but instead to extend the terms thereof. Cesar Anson agreed and Rosemarie Rey later signed a promissory note<sup>[6]</sup> dated April 23, 2004 and executed a Deed of Real Estate Mortgage<sup>[7]</sup> dated May 3, 2004, stating that the Spouses Rey's principal obligation of P200,000.00 shall be payable in four (4) months from the execution of the Deed of Real Estate Mortgage, and it shall be subject to interest of 7.5% per month. These two documents cancelled, updated and replaced the original agreement on the first loan. Rosemarie Rey once again issued postdated checks to cover the interest payments on the amended first loan, the latest of which was dated August 23, 2004, and another postdated check for P200,000.00 for the principal amount. Rosemarie Rey was able to make good on her interest payments, but thereafter failed to

pay the principal amount of P200,000.00.

Anent the second loan of P350,000.00, Rosemarie Rey failed to faithfully pay monthly interest thereon and she was unable to pay the principal amount thereof when it became due on December 26, 2002. Rosemarie Rey appealed to Cesar Anson not to foreclose the mortgage securing the same or to impose the penalty charges, but instead to extend the terms thereof. Cesar Anson agreed, and the parties executed anew a Deed of Real Estate Mortgage<sup>[8]</sup> dated January 19, 2003 wherein Rosemarie Rey acknowledged her indebtedness to Cesar Anson in the amount of P611,340.00, payable within four months from the execution of the Deed of Real Estate Mortgage, and subject to 7% interest per month.

Four months thereafter, Rosemarie Rey again failed to fulfill her obligation on the second loan. The same was extended once more in a Deed of Real Estate Mortgage<sup>[9]</sup> dated June 19, 2003 wherein Rosemarie Rey acknowledged indebtedness to Cesar Anson in the amount of P761,450.00, payable within six months from the execution of the Deed of Real Estate Mortgage, and subject to the same 7% interest per month.

On February 24, 2004, Rosemarie Rey obtained a third loan from Cesar Anson in the amount of P100,000.00. The third loan was not put in writing, but the parties verbally agreed that the same would be subject to 3% monthly interest.

A week later or on March 2, 2004, Rosemarie Rey obtained a fourth loan from Cesar Anson for P100,000.00. It was also not put in writing, but there was an oral agreement of 4% monthly interest.

On February 25, 2005, Cesar Anson sent Rosemarie Rey a Statement of Account<sup>[10]</sup> seeking full payment of all four loans amounting to P2,214,587.50.

Instead of paying her loan obligations, Rosemarie Rey, through counsel, sent Cesar Anson a letter<sup>[11]</sup> dated August 8, 2005, stating that the interest rates imposed on the four loans were irregular, if not contrary to law. The 7.5% and 7% monthly interest rates imposed on the first and second loans, respectively, were excessive and unconscionable and should be adjusted to the legal rate. Moreover, no interest should have been imposed on the third and fourth loans in the absence of any written agreement imposing interest. Per Rosemarie Rey's computation using the legal rate of interest, all four loans were already fully paid, as well as the interests thereon. Rey contended that she had overpaid the amount of P283,434.19. She demanded from Cesar Anson the return of the excess payment; otherwise, she would be compelled to seek redress in court.

On August 16, 2005, the Spouses Rey and Isabel Quinto filed a Complaint<sup>[12]</sup> for Recomputation of Loans and Recovery of Excess Payments and Cancellation of Real Estate Mortgages and Checks against Cesar Anson with the RTC of Legazpi City. They prayed for the recomputation of all four loans reflecting the reduction of the interest rates of the first and second loans to 12% per annum and the disallowance of interest on the third and fourth loans; the return of overpayment amounting to P269,700.68; the cancellation and discharge of the real estate mortgages securing the first and second loans; and the award of P75,000.00 as attorney's fees and P25,000.00 as litigation expenses.

In his Answer with Counter-claim,<sup>[13]</sup> Cesar Anson sought the dismissal of the complaint for lack of cause of action. He contended that with the suspension of the Usury Law, parties can freely stipulate on the impossible rates of interest that shall accrue on a loan. Cesar Anson alleged that the Spouses Rey freely agreed with him and even proposed the rate of interest to be imposed on Loan 1 and Loan 2. As the Spouses Rey have benefited from the proceeds of the loan, they cannot now be allowed to raise the alleged illegality of the interest rates imposed on the loans. Cesar Anson likewise prayed, by way of counterclaim, for the award of P100,000.00 as moral damages and P50,000.00 as attorney's fees.

In a Decision<sup>[14]</sup> dated February 5, 2010, the RTC of Legazpi City, Branch 5 granted the Spouses

Rey's complaint for recomputation of the loans.

In regard to the third and fourth loans, the RTC held that since the said loans were not in writing, they could not legally earn interest in accordance with Article 1956<sup>[15]</sup> of the Civil Code. Therefore, whatever amounts of money that were applied as interest payments in either Loan 3 or Loan 4 were invalid.

Anent the first and second loans with stipulated monthly interest rates at 7.5% and 7%, respectively, the RTC ruled that the stipulated interest rates at 90% per annum and 84% per annum for the first and second loans, respectively, were void. It held that the appropriate interest for the first two loans should be at the legal rate of 12% per annum. It based its ruling on *New Sampaguita Builders Construction, Inc. (NSBCI) v. PNB*,<sup>[16]</sup> which held that a combined stipulated interest and surcharge ranging from 62% to 71% per annum is iniquitous, unconscionable and exorbitant and, therefore, void.

The RTC further held:

Rosemarie Rey paid the amount of 1,089,908 pesos as interest payments for the 4 loans x x x. Cesar Anson having received this amount must return it to Rosemarie Rey; otherwise he would unduly enrich himself at her expense.

The 4 loans and the interest payments that obviously made Cesar Anson and Rosemarie Rey in their own rights creditors and debtors to each other are money obligations that are past due. In such a legal condition, compensation will extinguish the obligations as explicitly provided by Article 1278 of the Civil Code x x x.

x x x x

However, Cesar Anson can be made liable on the interest payments that he received at the time that he was in default.

The plaintiffs' counsel's demand letter dated 08 August 2005 that Cesar Anson received on 11 August 2005 (Exhibit "GGGG") was a valid demand for the right amount regarding the interest payments that Cesar Anson may be liable (*United Coconut Planters Bank v. Spouses Samuel and Odette Beluso*, G.R. No. 159912). From 11 August 2005 and onwards Cesar Anson was in default on the interest payments that he received (Article 1169 of The Civil Code).

Thus, compensation must have taken place when the obligations arising from the 4 loans and the interest payments became both demandable, that is, the day Cesar Anson was in default on 11 August 2005.

Now, the total principal amount for the 4 loans that Rosemarie Rey received was 750,000 pesos. However, Loan 1 's principal obligation in the amount of 200,000 pesos should earn interest at the legal rate of 12% per annum from 23 August 2002 until 11 August 2005. Furthermore, Loan 2's principal obligation in the amount of 350,000 pesos should earn interest also at the legal rate of 12% per annum from 26 August 2002 until 11 August 2005. The total amount of interest earned by Loan 1 and Loan 2 should be in the amount of 196,220 pesos, which amount should be added to the total principal obligation of 750,000 pesos. Thus, Rosemarie Rey's total obligation upon the 4 loans on the day that Cesar Anson was in default was 946,220 pesos.

On the other hand, the total amount of interest payments that Cesar Anson received was 1,089,908 pesos.

The above two debts in this case were not of the same amount. The compensation that took place was in the amount of 946,220 pesos which, obviously was partial.

Thus, Cesar Anson must pay his remaining debt in the amount of 143,688 pesos.

Needless to say, Loan 1 and Loan 2 having been extinguished by compensation[,] the cancellation of the real estate mortgages that secured these two loans is in order.<sup>[17]</sup>

The dispositive portion of the Decision of the RTC reads:

WHEREFORE, Premises Considered, this Court renders judgment ordering Mr. Cesar Anson to pay Ms. Rosemarie Rey the amount of 143,688 pesos and furthermore orders the cancellation and revocation of the real estate mortgages that were constituted in favor of Cesar Anson over Lot 1271-C-4 and Lot 11 embraced by Transfer Certificates of Title No. 50872 and No. 2776, respectively. No pronouncement as to costs.<sup>[18]</sup>

Plaintiffs Spouses Rey and Isabel Quinto and defendant Cesar Anson appealed the Decision of the RTC before the Court of Appeals.

Cesar Anson made this assignment of errors: (1) the court *a quo* erred in ruling that the interest rates of the first and second loans agreed upon by the parties and fixed at 7.5% and 7% per month, respectively, and fixing the same at 12% per annum; and that the interest rates of the third and fourth loans fixed at 3% and 4% per month, respectively, to be void; (2) the court *a quo* erred in ordering the cancellation and revocation of the real estate mortgages that were constituted in favor of Cesar Anson; and (3) the court *a quo* erred in finding that the parties, in their own right, are creditors and debtors of each other, thereby resulting in Cesar Anson having a remaining debt to Rosemarie Rey in the amount of P143,688.00.<sup>[19]</sup>

On the other hand, the Spouses Rey and Isabel Quinto made this assignment of errors: (1) the court *a quo* erred in its recomputation of the excess payment made by Rosemarie Rey on her loans from Cesar Anson by awarding only P143,688.00 instead of the correct amount of P269,700.68, which the latter ought to refund to the former; (2) the court *a quo* erred in not holding Cesar Anson liable for the payment of legal interest on the excess payment made by Rosemarie Rey, computed from the date of receipt by the former of the written demand until fully paid; and (3) the court *a quo* erred in not awarding attorney's fees and litigation expenses in favor of Rosemary Rey.<sup>[20]</sup>

In a Decision<sup>[21]</sup> dated September 6, 2013, the Court of Appeals reversed and set aside the Decision of the RTC. It found the appeal of Cesar Anson partly meritorious.

Anent the third and fourth loans, the Court of Appeals held that the RTC correctly declared the interest provisions on the third and fourth loans invalid and that Cesar Anson must return the overpayments thereon to Rosemarie Rey. He admitted that the third and fourth loans were not put in writing. As such, their agreement to impose interests thereon remained verbal and, thus, invalid.

The Court of Appeals stated that the records show that as of March 18, 2005, Rosemarie Rey had already paid the amount of P141,360.00 for the third loan, resulting in overpayment amounting to P41,360.00. Moreover, as of February 2, 2005, she had paid the total amount of P117,960.00 for the fourth loan, resulting in P17,960.00 overpayment, or a total overpayment of P59,320.00 for the third and fourth loans. Hence, her obligation on the third and fourth loans was extinguished when Cesar Anson received full payment thereon. There being no interest due, he is obliged to return the overpayment of P59,320.00. The said obligation, not being a loan or forbearance of money, is subject to the legal interest of 6% per annum, pursuant to Article 2209 of the Civil Code and the rules on interest payment in the case of *Eastern Shipping Lines, Inc. v.*

*Court of Appeals*,<sup>[22]</sup> reckoned from the date of extrajudicial demand on August 11, 2005 until full payment.

In regard to the first and second loans, the Court of Appeals agreed with Cesar Anson that with the suspension of the Usury Law and the removal of interest ceiling, the parties are free to stipulate the interest to be imposed on monetary obligations. Hence, the RTC erred when it mitigated the interest rates of 7.5% and 7% due on the first and second loans, respectively. In doing so, it merely took the rates imposed in isolation, without taking into consideration the circumstances in which they were entered into.

The Court of Appeals stated that when Rosemarie Rey entered into the two loan transactions with Cesar Anson, she was fully aware of the imposable interests thereon, as it was the latter who proposed the interest rates of 7.5% and 7% per month. After years of benefiting from the proceeds of the loans, she cannot now be allowed to renege on her obligation to comply with what is incumbent upon her under the loan agreement.

In regard to the first loan in the amount of P200,000.00, the Court of Appeals said that the agreement of the parties was embodied in the Real Estate Mortgage dated May 3, 2004, which cancelled, updated and replaced the first Deed of Real Estate Mortgage dated August 23, 2002, wherein the parties agreed to a monthly interest rate of 7.5% from the moment of execution on August 23, 2002 until August 24, 2004. Pursuant to their agreement, the Court of Appeals ruled that the stipulated interest may be applied only for the period agreed upon. For the period thereafter, only the legal interest of 12% per annum shall apply, pursuant to Articles 1169<sup>[23]</sup> and 2209<sup>[24]</sup> of the Civil Code, reckoned from the date of extrajudicial demand on February 25, 2005. The records showed that Rey was faithful in paying the stipulated interest for the period agreed upon and only the principal amount of P200,000.00 remained unpaid. Being a loan obligation, this would earn legal interest at the rate of 12% per annum reckoned from extrajudicial demand on February 25, 2005 until fully paid.

Anent the second loan of P350,000.00, the Court of Appeals stated that pursuant to the Deed of Real Estate Mortgage dated June 19, 2003, which cancelled, updated and replaced the Deeds of Real Estate Mortgage dated August 26, 2002 and January 19, 2003, Rosemarie Rey acknowledged that as of June 19, 2003, she had an unpaid principal obligation of P500,000.00. She agreed to pay a fixed interest of 7% per month until December 19, 2003, equivalent to P261,450.00. Hence, her total obligation amounted to P761,450.00. She was able to pay only P440,588.00, leaving a balance of P320,862.00. Being a loan obligation, and pursuant to *Eastern Shipping Lines, Inc. v. Court of Appeals*,<sup>[25]</sup> the balance is subject to legal interest at the rate of 12% per annum reckoned from the extrajudicial demand made on February 25, 2005 until fully paid.

The Court of Appeals held:

In sum, We find that defendant-appellant Cesar Anson is obliged to return to plaintiff-appellant Rosemarie Rey the latter's overpayment in the third and fourth loans amounting to P59,320.00, subject to legal interest of 6% per annum reckoned from the date of extrajudicial demand on August 11, 2005. As of August 31, 2013, the total obligation amounted to P87,988.62.

For her part, plaintiff-appellant Rosemarie Rey is indebted to defendant-appellant Cesar Anson the amount of P200,000.00 and P320,862.00 for the first and second loans. Both amounts are subject to legal interest of 12% per annum computed from extrajudicial demand on February 25, 2005. As of August 31, 2013, her obligations amounted to P380,460.27 for the first loan, and P610,376.22 for the second loan, or the total sum of P990,836.49.

We find that legal compensation under Article 1279 of the Civil Code is proper in this case.