

THIRD DIVISION

[G.R. No. 201927, February 17, 2016]

**VICENTE D. CABANTING AND LALAINE V. CABANTING,
PETITIONERS, VS. BPI FAMILY SAVINGS BANK, INC.,
RESPONDENT.**

D E C I S I O N

PERALTA, J.:

This deals with the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court praying that the Decision^[1] of the Court of Appeals (CA), promulgated on September 28, 2011, and the Resolution^[2] dated May 16, 2012, denying petitioner's motion for reconsideration thereof, be reversed and set aside.

The antecedent facts are as follows:

On January 14, 2003, petitioners bought on installment basis from Diamond Motors Corporation a 2002 Mitsubishi Adventure SS MT and for value received, petitioners also signed, executed and delivered to Diamond Motors a Promissory Note with Chattel Mortgage. Therein, petitioners jointly and severally obligated themselves to pay Diamond Motors the sum of P836,032.00, payable in monthly installments in accordance with the schedule of payment indicated therein, and which obligation is secured by a chattel mortgage on the aforementioned motor vehicle. On the day of the execution of the document, Diamond Motors, with notice to petitioners, executed a Deed of Assignment, thereby assigning to BPI Family Savings Bank, Inc. (*BPI Family*) all its rights, title and interest to the Promissory Note with Chattel Mortgage.

Come October 16, 2003, however, a Complaint was filed by BPI Family against petitioners for Replevin and damages before the Regional Trial Court of Manila (*RTC*), praying that petitioners be ordered to pay the unpaid portion of the vehicle's purchase price, accrued interest thereon at the rate of 36% *per annum* as of August 26, 2003, 25% attorney's fees and 25% liquidated damages, as stipulated on the Promissory Note with Chattel Mortgage. BPI Family likewise prayed for the issuance of a writ of replevin but it failed to file a bond therefor, hence, the writ was never issued. BPI Family alleged that petitioners failed to pay three (3) consecutive installments and despite written demand sent to petitioners through registered mail, petitioners failed to comply with said demand to pay or to surrender possession of the vehicle to BPI Family.

In their Answer, petitioners alleged that they sold the subject vehicle to one Victor S. Abalos, with the agreement that the latter shall assume the obligation to pay the remaining monthly installments. It was then Abalos who made payments to BPI Family through his personal checks, and BPI Family accepted the post-dated checks delivered to it by Abalos. The checks issued by Abalos for the months of May 2003

to October 2003 were made good, but subsequent checks were dishonored and not paid. Petitioners pointed out that BPI Family should have sued Abalos instead of them.

Trial ensued, where BPI Family dispensed with the testimony of its sole witness and formally offered its documentary evidence. When it was petitioners' turn to present its defense, several hearing dates were cancelled, sometimes due to failure of either or both the petitioners' and/or respondent's counsels to appear. What is clear, though, is that despite numerous opportunities given to petitioners to present evidence, they were never able to present their witness, Jacobina T. Alcantara, despite the court's issuance of a *subpoena duces tecum ad testificandum*. Said failure to present evidence on several hearing dates and petitioners' absence at the hearing on February 13, 2008 prompted BPI Family to move that petitioners' right to present evidence be deemed waived. On the same date, the RTC granted said motion and the case was submitted for decision. There is nothing on record to show that petitioners ever moved for reconsideration of the Order dated February 13, 2008.

On April 14, 2008, the RTC rendered a Decision, the dispositive portion of which reads as follows:

WHEREFORE, and in the view of the foregoing considerations, judgment is hereby rendered in favor of the plaintiff BPI Family Savings Bank, Inc. and against the defendants **VICENTE D. CABANTING** and **LALAIN V. CABANTING**, by ordering the latter to pay the plaintiff Bank the sum of Php742,022.92, with interest at the rate of 24% *per annum* from the filing of the Complaint, until its full satisfaction, as well as the amount of P20,000.00 for and as attorney's fees.

With costs against the defendants.

SO ORDERED. ^[3]

Aggrieved by the RTC's Decision, herein petitioners appealed to the CA. However, in its Decision dated September 28, 2011, the appellate court affirmed with modification the judgment of the trial court, to wit:

WHEREFORE, premises considered, the appeal is **DISMISSED**. The Decision of the Regional Trial Court dated April 14, 2008 is **AFFIRMED but with MODIFICATION**. The defendants-appellants are ordered to pay the plaintiff-appellee the sum of **Seven Hundred Forty Thousand One Hundred Fifty-Five Pesos and Eighteen Centavos (P740,155.18)**, in Philippine currency, with legal interest of 12% *per annum* from the filing of the Complaint, until its full satisfaction. *The award of Twenty Thousand Pesos (P20,000.00) as attorney's fees is DELETED.*

Costs against the defendants-appellants.

SO ORDERED.^[4]

The CA ruled that a preponderance of evidence was in favor of respondent, as the evidence, coupled with petitioners' admission in their Answer, established that petitioners indeed executed a Promissory Note with Chattel Mortgage and then failed to pay the forty-three (43) monthly amortizations. Moreover, since petitioners were deemed to have waived their right to present evidence, there is nothing on record to prove their claim that there was a valid assumption of obligation by one Victor S. Abalos. Petitioners' motion for reconsideration of the CA Decision was denied per Resolution dated May 16, 2012.

Elevating the matter to this Court *via* a petition for review on *certiorari*, petitioners now raise the following issues:

1. Whether or not respondent bank may be held entitled to the possession of the motor vehicle subject of the instant case for replevin, or the payment of its value and damages, without proof of prior demand;
2. Whether or not petitioners were deprived of their right to due process when they were deemed to have waived their right to present evidence in their behalf.^[5]

The petition is devoid of merit.

The CA is correct that no prior demand was necessary to make petitioners' obligation due and payable. The Promissory Note with Chattel Mortgage clearly stipulated that "[i]n case of my/our [petitioners'] failure to pay when due and payable, any sum which I/We x x x or any of us may now or in the future owe to the holder of this note x x x then the entire sum outstanding under this note shall immediately become due and payable without the necessity of notice or demand which I/We hereby waive."^[6] Petitioners argue that such stipulation should be deemed invalid as the document they executed was a contract of adhesion. It is important to stress the Court's ruling in *Dio v. St. Ferdinand Memorial Park, Inc.*,^[7] to wit:

A contract of adhesion, wherein one party imposes a ready-made form of contract on the other, is not strictly against the law. **A contract of adhesion is as binding as ordinary contracts, the reason being that the party who adheres to the contract is free to reject it entirely.** Contrary to petitioner's contention, not every contract of adhesion is an invalid agreement. As we had the occasion to state in *Development Bank of the Philippines v. Perez*:

x x x In discussing the consequences of a contract of adhesion, we held in *Rizal Commercial Banking Corporation v. Court of Appeals*:

It bears stressing that a contract of adhesion is just as binding as ordinary contracts. It is true that we have, on occasion, struck down such contracts as void when the weaker party is imposed upon in dealing with the dominant bargaining party and is reduced to the alternative of taking it or leaving it, completely deprived of the opportunity to bargain on equal footing, **Nevertheless, contracts of adhesion are not invalid per se; they are not entirely prohibited. The one who adheres to the contract is in reality free to reject it entirely; if he adheres, he gives his consent.**

The validity or enforceability of the impugned contracts will have to be determined by the peculiar circumstances obtaining in each case and the situation of the parties concerned. Indeed, Article 24 of the New Civil Code provides that "[in] all contractual, property or other relations, when one of the parties is at a disadvantage on account of his moral dependence, ignorance, indigence, mental weakness, tender age, or other handicap, the courts must be vigilant for his protection." x x x^[8]

Here, there is no proof that petitioners were disadvantaged, uneducated or utterly inexperienced in dealing with financial institutions; thus, there is no reason for the court to step in and protect the interest of the supposed weaker party.

Verily, petitioners are bound by the aforementioned stipulation in the Promissory Note with Chattel Mortgage waiving the necessity of notice and demand to make the obligation due and payable. *Agner v. BPI Family Savings Bank, Inc.*,^[9] which is closely similar to the present case, is squarely applicable. Petitioners therein also executed a Promissory Note with Chattel Mortgage containing the stipulation waiving the need for notice and demand. The Court ruled:

xxx Even assuming, for argument's sake, that no demand letter was sent by respondent, there is really no need for it because petitioners legally waived the necessity of notice or demand in the Promissory Note with Chattel Mortgage, which they voluntarily and knowingly signed in favor of respondent's predecessor-in-interest. Said contract expressly stipulates:

In case of my/our failure to pay when due and payable, any sum which I/We are obliged to pay under this note and/or any other obligation which I/We or any of us may now or in the future owe to the holder of this note or to any other party whether as principal or guarantor xxx then the entire sum outstanding under this note shall, **without prior notice or demand**, immediately become due and payable. (Emphasis and underscoring supplied)

A provision on waiver of notice or demand has been recognized as legal and valid in *Bank of the Philippine Islands*