

## THIRD DIVISION

[ G.R. No. 210831, November 26, 2014 ]

**SPOUSES TAGUMPAY N. ALBOS AND AIDA C. ALBOS,  
PETITIONERS, VS. SPOUSES NESTOR M. EMBISAN AND  
ILUMINADA A. EMBISAN, DEPUTY SHERIFF MARINO V.  
CACHERO, AND THE REGISTER OF DEEDS OF QUEZON CITY,  
RESPONDENTS.**

### D E C I S I O N

**VELASCO JR., J.:**

#### **Nature of the Case**

Before the Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court seeking the reversal and the setting aside of the Decision<sup>[1]</sup> of the Court of Appeals (CA) dated May 29, 2013 and its Resolution dated January 13, 2014 in CA-G.R. CV No. 93667. Said rulings upheld the validity of the extra-judicial foreclosure sale over the property that petitioners, spouses Tagumpay and Aida Albos, mortgaged in favor of private respondents.

#### **The Facts**

On October 17, 1984, petitioners entered into an agreement,denominated as "*Loan with Real Estate Mortgage*,"<sup>[2]</sup> with respondent spouses Nestor and IluminadaEmbisan (spouses Embisan) in the amount of P84,000.00 payable within 90 days with a monthly interest rate of 5%. To secure the indebtedness, petitioners mortgaged to the spouses Embisan a parcel of land in Project 3, Quezon City, measuring around 207.6 square meters and registered under their name, as evidenced by Transfer Certificate Title No. 257697.<sup>[3]</sup>

For failure to settle their account upon maturity, petitioner Aida Albos requested and was given an extension of eleven (11) months, or until December 17, 1985, within which to pay the loan obligation. However, when the said deadline came anew, petitioners once again defaulted and so, on agreement of the parties,another extension of five (5) months, or until May 17, 1986, was set.

May 17, 1986 came and went but the obligation remained unpaid. Thus, when the petitioners requested a third extension, as will later be alleged by the respondent spouses, an additional eight (8) months was granted on the condition that the monthly 5% interest from then on, i.e. June 1986 onwards, will be compounded. This stipulation, however, was not reduced in writing.

On February 9, 1987, respondent spouses addressed a letter<sup>[4]</sup> to petitioners demanding the payment of P234,021.90, representing the unpaid balance and

interests from the loan. This was followed, on April 14, 1987, by another letter<sup>[5]</sup> of the same tenor, but this time demanding from the petitioners the obligation due amounting to P258,009.15.

Obviously in a bid to prevent the foreclosure of their mortgaged property, petitioners paid respondent spouses the sum of P44,500.00 on October 2, 1987. The respondent spouses accepted the partial payment of the principal loan amount owed to them, which, based on the Statement of Account<sup>[6]</sup> the respondent spouses prepared, by that time, has already ballooned to P296,658.70. As extrapolated from the Statement of Account:

<b>Month</b>	<b>Year</b>	<b>Loan</b>	<b>Interest</b>	<b>Payment</b>	<b>Balance</b>
October	1984	84,000.00			84,000.00
November	1984		4,200.00	8,000.00	80,200.00
December	1984		4,200.00		84,400.00
January	1985		4,200.00	4,000.00	84,600.00
February	1985		4,200.00		88,800.00
March	1985		4,200.00		93,000.00
April	1985		4,200.00		97,200.00
May	1985		4,200.00		101,400.00
June	1985		4,200.00		105,600.00
July	1985		4,200.00		109,800.00
August	1985		4,200.00		114,000.00
September	1985		4,200.00		118,200.00
October	1985		4,200.00		122,400.00
November	1985		4,200.00		126,600.00
December	1985		4,200.00		130,800.00
January	1986		4,200.00		135,000.00
February	1986		4,200.00		139,200.00
March	1986		4,200.00		143,400.00
April	1986		4,200.00		147,600.00
May	1986		4,200.00		151,800.00
June	1986		7,590.00		159,390.00
July	1986		7,969.50		167,359.50
August	1986		8,367.98		175,727.48
September	1986		8,786.37		184,513.85
October	1986		9,225.69		192,739.54
November	1986		9,417.50		202,157.04
December	1986		10,107.75		212,264.79
January	1987		10,613.25		222,878.04
February	1987		11,143.90		234,021.94
March	1987		11,701.10		245,723.04
April	1987		12,286.15		258,009.19
May	1987		12,900.45		270,909.64
June	1987		13,545.48		284,455.12
July	1987		14,222.75		298,677.87
August	1987		14,933.90		313,611.77
September	1987		15,680.60		329,292.37
October	1987			44,500.00	284,792.37
Interest for 15 days			7,119.80		291,912.17
Interest for 10 days			4,746.55		<b>296,658.70</b>

Due to petitioners' failure to settle their indebtedness, respondent spouses proceeded to extra-judicially foreclose the mortgaged property on October 12, 1987. At the auction sale conducted by the respondent sheriff, respondent spouses emerged as the highest bidders at P330,000.00 and were later issued a Sheriff's Certificate of Sale.<sup>[7]</sup>

The property was never redeemed, and so the respondent spouses executed an Affidavit of Consolidation<sup>[8]</sup> over the property on November 23, 1988. The affidavit was subsequently registered with the Registry of Deeds of Quezon City, consolidating ownership to the spouses Embisan. Petitioners alleged that afterwards, on February 4, 1989, they were pressured by the respondent spouses to execute a Contract of Lease<sup>[9]</sup> over the property wherein the petitioners, as lessees, are obligated to pay the respondent spouses, as lessors, monthly rent in the amount of P2,500.00.

On August 14, 1989, herein petitioners filed a complaint for the annulment of the Loan with Real Estate Mortgage, Certificate of Sale, Affidavit of Consolidation, Deed of Final Sale, and Contract of Lease before the Regional Trial Court of Quezon City (RTC). In their complaint, docketed as Civil Case No. 89-3246, and later raffled to Branch 99 of the court, petitioners alleged that the foreclosure sale is void because respondents only released P60,000.00 out of the P84,000.00 amount loaned, which has already been paid. As petitioner Aida Albos testified during trial, she was able to pay P50,000 out of the P60,000 principal loan released, and also P4,500.00 monthly interests, as evidenced by receipts dated December 19, 1984 and February 9, 1985.<sup>[10]</sup>

In their Answer, the spouses Embisan countered that the loan was legally and validly entered at arms length after a series of meetings and negotiations; that petitioners agreed to pay compounded interest in exchange for extending the payment period the third time; that never during the life of the mortgage did petitioners pay P50,000.00; and, that petitioners, having defaulted, left the spouses Embisan with no other option except to extra-judicially foreclose the property security as stipulated in the mortgage.

### **Ruling of the Trial Court**

Following trial, the RTC rendered a Decision<sup>[11]</sup> on December 15, 2008 dismissing the complaint for lack of merit, the dispositive portion of which reads:

**WHEREFORE**, in view of the foregoing considerations, the complaint filed by plaintiff is **DISMISSED** for lack of merit.

Defendants' counterclaim is denied.

SO OREDERED.

In so doing, the trial court did not give credence to petitioners' claim that only P60,000.00 of the loaned amount was released to them. It also found that between October 17, 1984 to October 28, 1987, petitioners only paid the total amount of P56,000.00, which is not sufficient to cover both the principal loan and the accrued interest. In addition, the trial court shrugged aside petitioners' contention that they were forced to affix their signatures in the adverted Contract of Lease, adding that

having signed the lease agreement, they were estopped from asserting title over the property.

Petitioners filed a Motion for Reconsideration, but the same was denied by the trial court through a Resolution dated January 13, 2014. Aggrieved, they elevated the case to the CA.

### **Ruling of the Court of Appeals**

On appeal, petitioners argued that the imposition by the respondent spouses of a 5% compounded interest on the loan, without the petitioners' consent or knowledge, is fraudulent and contrary to public morals. Respondents, on the other hand, insisted that the compounding of the interest was agreed upon as a condition for the third and final extension of time given for the petitioners to make good their promise to pay.

On May 29, 2013, the CA promulgated the assailed Decision, affirming *in toto* the ruling of the trial court. The appellate court held that, under the circumstances, inasmuch as the request for the third extension--for another eight months--was made after the expiration of one year and four months from when the payment first became due, the agreement to compound the interest was just and reasonable. It added that it was precisely the petitioners' repeated non-compliance which prompted the imposition of a compounded interest rate and, therefore, petitioners could no longer feign ignorance of its imposition.

Through the challenged Resolution dated January 13, 2014, the CA denied petitioners' Motion for Reconsideration.

Hence, the instant petition.

### **The Issues**

Petitioners anchor their plea for the reversal of the assailed Decision on the following grounds:<sup>[12]</sup>

#### **I.**

THERE IS NO DOCUMENTARY PROOF TO SHOW THAT THE PETITIONERS AGREED IN WRITING TO THE IMPOSITION OF THE 5% COMPOUNDED MONTHLY INTEREST, CONTRARY TO ARTICLE 1956 OF THE CIVIL CODE

#### **II.**

THE 5% COMPOUNDED MONTHLY INTEREST UNILATERALLY IMPOSED BY RESPONDENT EMBISAN ON THE PETITIONERS IS EXCESSIVE, EXORBITANT, OPPRESSIVE, INIQUITOUS AND UNCONSCIONABLE, THEREFORE, THE SAME IS VOID FOR BEING CONTRARY TO LAW AND MORALS

#### **III.**

THE FORECLOSURE PROCEEDINGS INSTITUTED BY THE RESPONDENT