

THIRD DIVISION

[G.R. No. 125944, June 29, 2001]

**SPOUSES DANILO SOLANGON AND URSULA SOLANGON,
PETITIONERS, VS. JOSE AVELINO SALAZAR, RESPONDENT.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

Petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, of the decision of the Court of Appeals in CA-G.R. CV No. 37899, affirming the decision of the Regional Trial Court, Branch 16, Malolos, Bulacan, in Civil Case No. 375-M-91, "Spouses Danilo and Ursula Solangon vs. Jose Avelino Salazar" for annulment of mortgage. The dispositive portion of the RTC decision reads:

"WHEREFORE, judgment is hereby rendered against the plaintiffs in favor of the defendant Salazar, as follows:

1. Ordering the dismissal of the complaint;
2. Ordering the dissolution of the preliminary injunction issued on July 8, 1991;
3. Ordering the plaintiffs to pay the defendant the amount of P10,000.00 by way of attorney's fees; and
4. To pay the costs.

SO ORDERED."^[1]

The facts as summarized by the Court of Appeals in its decision being challenged are:

"On August 22, 1986, the plaintiffs-appellants executed a deed or real estate mortgage in which they mortgaged a parcel of land situated in Sta. Maria, Bulacan, in favor of the defendant-appellee, to secure payment of a loan of P60,000.00 payable within a period of four (4) months, with interest thereon at the rate of 6% per month (Exh. "B").

On May 27, 1987, the plaintiffs-appellants executed a deed of real estate mortgage in which they mortgaged the same parcel of land to the defendant-appellee, to secure payment of a loan of P136,512.00, payable within a period of one (1) year, with interest thereon at the legal rate

(Exh. "1").

On December 29, 1990, the plaintiffs-appellants executed a deed of real estate mortgage in which they mortgaged the same parcel of land in favor of defendant-appellee, to secure payment of a loan in the amount of P230,000.00 payable within a period of four (4) months, with interest thereon at the legal rate (Exh. "2", Exh. "C").

This action was initiated by the plaintiffs-appellants to prevent the foreclosure of the mortgaged property. They alleged that they obtained only one loan from the defendant-appellee, and that was for the amount of P60,000.00, the payment of which was secured by the first of the above-mentioned mortgages. The subsequent mortgages were merely continuations of the first one, which is null and void because it provided for unconscionable rate of interest. Moreover, the defendant-appellee assured them that he will not foreclose the mortgage as long as they pay the stipulated interest upon maturity or within a reasonable time thereafter. They have already paid the defendant-appellee P78,000.00 and tendered P47,000.00 more, but the latter has initiated foreclosure proceedings for their alleged failure to pay the loan P230,000.00 plus interest.

On the other hand, the defendant-appellee Jose Avelino Salazar claimed that the above-described mortgages were executed to secure three separate loans of P60,000.00 P136,512.00 and P230,000.00, and that the first two loans were paid, but the last one was not. He denied having represented that he will not foreclose the mortgage as long as the plaintiffs-appellants pay interest."

In their petition, spouses Danilo and Ursula Solangon ascribe to the Court of Appeals the following errors:

1. The Court of Appeals erred in holding that three (3) mortgage contracts were executed by the parties instead of one (1);
2. The Court of Appeals erred in ruling that a loan obligation secured by a real estate mortgage with an interest of 72% per cent per annum or 6% per month is not unconscionable;
4. The Court of Appeals erred in holding that the loan of P136,512.00 HAS NOT BEEN PAID when the mortgagee himself states in his ANSWER that the same was already paid; and
5. The Court of Appeals erred in not resolving the SPECIFIC ISSUES raised by the appellants.

In his comment, respondent Jose Avelino Salazar avers that the petition should not be given due course as it raises questions of facts which are not allowed in a petition for review on certiorari.