

## THIRD DIVISION

[ G.R. No. 133317, June 29, 1999 ]

**ANTONIO R. AGRA, CAYETANO FERRERIA, NAPOLEON M. GAMO  
AND VICENTE O. NOVALES, PETITIONERS, VS. PHILIPPINE  
NATIONAL BANK, RESPONDENT.**

### D E C I S I O N

#### **PANGANIBAN, J.:**

Laches is a recourse in equity. Equity, however, is applied only in the absence, never in contravention, of statutory law. Thus, laches cannot, as a rule, abate a collection suit filed within the prescriptive period mandated by the Civil Code.

#### **The Case**

Before us is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, assailing the November 26, 1997 Decision of the Court of Appeals,<sup>[1]</sup> which disposed as follows:

"IN VIEW OF THE FOREGOING, the decision of the lower court is hereby AFFIRMED, with the modification that the award of attorney's fees is hereby DELETED and the twelve percent (12%) interest on the P2,500,000.00 the defendant-appellants are to pay PNB should start from August 30, 1976, the date when the complaint was filed."<sup>[2]</sup>

The decretal portion of the aforementioned trial court ruling reads:

"WHEREFORE, in view of the foregoing, in the interest of justice, judgment is rendered in favor of the plaintiff ordering all the sureties jointly and severally, to pay PNB as follows:

a) the amount of P2,500,000.00 plus twelve per centum (12%) accrued interest from August 1, 1976;

b) ten percent (10%) of the total amount due as attorney's fees and cost of the suit.

SO ORDERED."

Also assailed by petitioners is the April 2, 1998 Resolution of the Court of Appeals, which denied their Motion for Reconsideration.<sup>[3]</sup>

#### **The Facts**

The facts are summarized by the Court of Appeals (CA) in this wise:<sup>[4]</sup>

"On August 30, 1976, an action for **collection of a sum of money** was filed by the Philippine National Bank (PNB, for brevity) against Fil-Eastern Wood Industries, Inc. (Fil-Eastern, for short) in its capacity as principal debtor and against Cayetano Ferreria, Pedro Atienza, Vicente O. Novales, Antonio R. Agra, and Napoleon M. Gamo in their capacity as sureties.

"In its complaint, plaintiff PNB alleged that on July 17, 1967 Fil-Eastern was granted a loan in the amount of [t]wo [m]illion [f]ive [h]undred [t]housand [p]esos (P2,500,000.00) with interest at twelve percent (12%) per annum. Drawings from said demand loan were made on different dates as evidenced by several promissory notes and were credited to the account of Fil-Eastern. To secure the payment of the said loan Fil-Eastern as principal and sureties Ferreria, Atienza, Novales, Agra, and Gamo executed a Surety Agreement whereby the sureties, jointly and severally with the principal, guaranteed and warranted to PNB, its successors or assigns, prompt payment of subject obligation including notes, drafts, bills of exchange, overdrafts and other obligations of every kind, on which Fil-Eastern was indebted or may thereafter become indebted to PNB. It was further alleged that as of May 31, 1976 the total indebtedness of Fil-Eastern and its sureties on subject loan amounted to [f]ive [m]illion [t]wo [h]undred [n]inety-[s]even [t]housand, [n]ine [h]undred [s]eventy-[s]ix [p]esos and [s]eventeen [c]entavos (P5,297,976.17), excluding attorney's fees. Notwithstanding repeated demands, the defendants refused and failed to pay their loans.

"The defendants (herein sureties) filed separate answers (pp. 49, 68, 205, 208 and 231). Collating these, We drew the following: All of them claimed that they only signed the Surety Agreement with the understanding that the same was a mere formality required of the officers of the corporation. They did not in any way or manner receive a single cent from the proceeds of said loan and/or derive any profit therefrom. Neither did they receive any consideration valuable or otherwise, from defendant Fil-Eastern. They further claim that the loan in question was negotiated and approved under highly irregular, anomalous and suspicious circumstances to the point that the Surety Agreement executed thereafter is invalid, null and void and without force and effect. The extension of time of payment of the loan in question released and discharged the answering defendants from any liability under the Surety Agreement. The Surety Agreement is null and void from the beginning due to a defect in the consent of the defendants and that their liabilities under the Surety Agreement, if any, has been extinguished by novation. The cause of action of the complainant is barred by **laches and estoppel** in that the plaintiff with full knowledge of the deteriorating financial condition of Fil-Eastern did not take steps to collect from said defendant corporation while still solvent. They also maintained that if anyone is liable for the payment of said loan, it is Felipe Ysmal, Jr. and not them or it is only Fil-Eastern and the controlling officers who profited and made use of the proceeds of the loan. Defendant Agra likewise said that he was made to sign the Surety Agreement and he did it because of the moral influence and pressure exerted upon him by Felipe Ysmal, Jr. (their employer at the time of signing), thereby arousing strong fears of losing a much needed employment to support his family should he refuse

to sign as Surety.

"In the order of the trial court dated October 30, 1978, defendant Fil-Eastern was declared in default for its failure to answer the complaint within the reglementary period and the case was scheduled for pre-trial conference. The individual defendants with the court's approval thereafter filed an amended third-party complaint against Felipe Ysmael, Jr.

"The amended third-party complaint alleged that at the time of execution of the alleged Surety Agreement subject matter of the principal complaint, third-party plaintiffs were but employees of Ysmael Steel Manufacturing Co., owned by third-party-defendant. Third-party-plaintiffs were in no financial position to act as sureties to a P2.5 million loan. They became incorporators of original defendant Fil-Eastern because of fear of losing their employment brought about by the tremendous pressure and moral influence exerted upon them by their employer-third-party-defendant. They signed the Surety Agreement upon the order of the third-party-defendant. In signing the said document, the third-party-plaintiffs were assured by the third-party-defendant that they had nothing to fear and worry about because the latter will assume all liabilities as well as profits therefrom and that the loan subject of the Surety Agreement was with the prior approval and blessing of a high government official. They were likewise assured that the surety agreement was but a formality and that because of such pressure, influence as well as assurances, third-party-plaintiffs signed the Surety Agreement.

"Third-party-defendant Felipe Ysmael, Jr. in his answer alleged that the Surety Agreement was freely and voluntarily signed and executed by third-party-plaintiffs without any intimidation, undue, improper or fraudulent representations. Further, granting *arguendo* that the consent of third-party plaintiffs in signing said Surety Agreement was vitiated with intimidation, undue influence or fraudulent representation on the part of third-party-defendant, said Surety Agreement is only voidable and therefore binding unless annulled by a proper action in court. The third-party-plaintiffs did not file the proper court action for the annulment of said agreement. They are now barred from filing an action for annulment of said agreement, the prescriptive period therefor being only four (4) years from the time the defect of the consent had ceased, and from the discovery of the all[e]ged fraud. In addition, third-party plaintiffs had ratified said agreement which they signed in July 1967 by signing their names on and execution of several promissory thereafter.

"At the pre-trial conference held on March 21, 1980, the parties failed to agree on a possible amicable settlement hence the case was set for trial on the merits. On July 5, 1984, during the pendency of the trial, third-party defendant Felipe Ysmael, Jr. died. He was substituted by his legal heirs Patrick Ysmael and Jeanne Ysmael as third-party defendants. Defendant Pedro Atienza died on January 4, 1987. It appearing that he has no legal heirs, the case against him was dismissed."

After trial, the regional trial court (RTC) ruled against herein petitioners. On appeal, the CA modified the RTC ruling by deleting the award of attorney's fees. Hence, this recourse to this Court.

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

In ruling that petitioners were liable under the surety agreement, the Court of Appeals rejected their defense of laches. It held that "the lapse of seven years and eight months from December 31, 1968 until the judicial demand on August 30, 1976 cannot be considered as unreasonable delay which would necessitate the application of laches. The action filed by the plaintiff has not yet prescribed. It is well within the ten-year prescriptive period provided for by law wherein actions based on written contracts can be instituted."<sup>[5]</sup>

The Court of Appeals also noted that the "prescriptive period did not begin to run from December 31, 1968 as [herein petitioners] presupposed. It was only from the time of the judicial demand on August 30, 1976 that the cause of action accrued. Thus, [private respondent] was well within the prescriptive period of ten years when it instituted the case in court." The Court of Appeals further ruled that "placing the blame on [PNB] for its failure to immediately pounce upon its debtors the moment the loan matured is grossly unfair for xxx demand upon the sureties to pay is not necessary."

The appellate court also held that petitioners proved only the first of the following four essential elements of laches: "(1) conduct on the part of the defendant, or one under whom he claims, giving rise to the situation of which complaint is made and for which the complainant seeks a remedy; (2) delay in asserting the complainant's rights, the complainant having had knowledge or notice of the defendant's conduct and having been afforded an opportunity to institute a suit; (3) lack of knowledge or notice on the part of the defendant that the complainant would assert the right on which he bases his suit; and (4) injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held barred."

### **Issues**

In their Memorandum, petitioners raise the following issues:<sup>[6]</sup>

"1. WHETHER OR NOT THE CLAIM OF THE PNB AGAINST THE PETITIONERS IS ALREADY BARRED BY THE EQUITABLE DEFENSE OF LACHES?

"2. WHETHER OR NOT THE RESPECTIVE CONJUGAL PARTNERSHIPS OF THE PETITIONERS COULD BE HELD LIABLE FOR ANY LIABILITY OF THE PETITIONERS UNDER THE SURETY AGREEMENT IN FAVOR OF THE PNB?"

Under the first issue, petitioners submit four other questions:

"1-a WHETHER OR NOT THE EQUITABLE DEFENSE OF LACHES APPLIES INDEPENDENTLY OF PRESCRIPTION?

"1-b WHETHER OR NOT THE CAUSE OF ACTION OF THE PNB AGAINST THE PETITIONERS ACCRUED ONLY FROM THE TIME OF THE JUDICIAL

DEMAND ON AUGUST 30, 1976?

"1-c WHETHER OR NOT THE FOUR (4) WELL-SETTLED ELEMENTS OF LACHES ARE PRESENT IN THIS CASE?

"1-d WHETHER OR NOT THE RULING IN THE CASE OF PHILIPPINE NATIONAL BANK VS. COURT OF APPEALS, 217 SCRA 347, IS APPLICABLE IN THIS INSTANT CASE?"

In the main, the issue is whether petitioners may raise the defense of laches in order to avoid their liability under the surety agreement. Preliminarily, we shall also take up the question of petitioners' liability as sureties.

### **The Court's Ruling**

The appeal is not meritorious.

### **Preliminary Matter: Liability of Petitioners as Sureties**

The present controversy began when the Philippine National Bank (PNB) sought to enforce the Surety Agreement. The pertinent provisions of said Agreement are as follows:

"WHEREAS, FIL-EASTERN WOOD INDUSTRIES, INC. herein referred to as the Principal, has obtained and/or desires to obtain certain credits, loans, overdrafts, discounts, etc., from the Creditor, for all of which the Creditor requires security; and the Surety, on account of valuable consideration received from the Principal, has agreed and undertake to assist the principal by becoming such Surety.

"NOW THEREFORE, for the purpose above mentioned, *the Surety, jointly and severally with the Principal, hereby guarantees and warrants to the Creditor, its successors or assigns, the prompt payment at maturity* of all the notes, drafts, bills of exchange, overdrafts and other obligations of every kind, on which the Principal may now be indebted or may hereafter become indebted to the Creditor, but the liability of the Surety shall not at any time exceed the sum of TWO MILLION FIVE HUNDRED THOUSAND ONLY (P2,500,000.00) (demand loan of P2,500,000.00), Philippine Currency, plus the interest thereon at the rate of (\_\_\_%) per cent per annum, and the cost and expenses of the Creditor incurred in connection with the granting of the credits, loans, overdrafts, etc., covered by this surety agreement, including those for the custody, maintenance and preservation of the securities given therefor and also for the collection thereof.

"Both the Principal and the Surety shall be considered in default when they fail to pay the obligation upon maturity with or without demand and in such case the Surety agrees to pay to the creditor, its [successors] or assigns, all outstanding obligations of the Principal, whether due or not due and whether held by the Creditor as principal or agent, and it is agreed that a certified statement by the Creditor as to the amount due from the Principal shall be accepted as correct by the Surety without