

SECOND DIVISION

[G.R. No. 115821, October 13, 1999]

**JESUS T. DAVID, PETITIONER, VS. THE COURT OF APPEALS,
HON. EDGARDO P. CRUZ, MELCHOR P. PEÑA, AND VALENTIN
AFABLE, JR., RESPONDENTS.**

D E C I S I O N

QUISUMBING, J.:

This is a petition for review, under Rule 45 of the Rules of Court, seeking the reversal of the Decision dated May 30, 1994, of the Court of Appeals, Ninth Division, in CA-G.R. SP No. 32782.

The parties do not dispute the facts in this case. The dispute concerns only the execution of the Decision of the Regional Trial Court of Manila, Branch 27, in Civil Case No. 94781, dated October 31, 1979, as amended by an Order dated June 20, 1980.

The Regional Trial Court of Manila, Branch 27, with Judge Ricardo Diaz, then presiding, issued a writ of attachment over real properties covered by TCT Nos. 80718 and 10289 of private respondents. In his Decision dated October 31, 1979, Judge Diaz ordered private respondent Afable to pay petitioner P66,500.00 plus interest from July 24, 1974, until fully paid, plus P5,000.00 as attorney's fees, and to pay the costs of suit.

On June 20, 1980, however, Judge Diaz issued an Order amending said Decision, so that the legal rate of interest should be computed from January 4, 1966, instead of from July 24, 1974. The amended Decision in the decretal portion reads:

"WHEREFORE, judgment is hereby rendered against the defendant, Valentin Afable Jr., ordering him to pay to the plaintiff the sum of P66,500.00 **plus the legal rate of interest** thereon from January 4, 1966 up to the time the same is fully paid plus the amount of P5,000.00 as and for attorney's fees and to pay the costs of the suit." ordering the private respondent Afable to pay the petitioner the sum of P66,500.00 plus the legal rate of interest thereon from July 24, 1974, plus the amount of P5,000.00 as attorney's fees and to pay the costs of suit"^[1]
(Emphasis ours.)

Respondent Afable appealed to the Court of Appeals and then to the Supreme Court. In both instances, the decision of the lower court was affirmed. Entries of judgment were made and the record of the case was remanded to Branch 27, presided at that time by respondent Judge Edgardo P. Cruz, for the final execution of the Decision dated October 31, 1979, as amended by the Order dated June 20, 1980.

Upon petitioner's motion, respondent Judge issued an Alias Writ of Execution by virtue of which respondent Sheriff Melchor P. Peña conducted a public auction.

Sheriff Peña informed the petitioner that the total amount of the judgment is P270,940.52. The amount included a computation of simple interest. Petitioner, however, claimed that the judgment award should be P3,027,238.50, because the amount due ought to be based on compounded interest.

Although the auctioned properties were sold to the petitioner, Sheriff Peña did not issue the Certificate of Sale because there was an excess in the bid price in the amount of P2,941,524.47, which the petitioner failed to pay despite notice. This excess was computed by the Sheriff on the basis of petitioner's bid price of P3,027,238.50 minus the amount of P270,940.52 computed in the judgment award.

On May 18, 1993, petitioner filed a Motion praying that respondent Judge Cruz issue an order directing respondent Sheriff Peña to prepare and execute a certificate of sale in favor of the petitioner, placing therein the amount of the judgment as P3,027,238.50, the amount he bid during the auction which he won. His reason is that compound interest, which is allowed by Article 2212 of the Civil Code, should apply in this case.

On July 5, 1993, respondent Judge issued an Order denying petitioner's Motion dated May 18, 1993, which pertinently states:

"In accordance with CB Circular No. 416 and as construed in Reformina vs. Tomol (139 SCRA 260), legal interest on P66,500.00 corresponds to 6% per annum for the period January 4, 1966 to July 28, 1974 and 12% per annum from July 29, 1974 up to April 26, 1993, amounting to P34,180.92 and P149,582.32, respectively, or a grand total of P183,763.24.

Conformably with the Sheriff's Computation of Interest dated April 26, 1993 and Supplemental Report dated June 14, 1993, the judgment as of April 26, 1993 amounted to P271,039.84, broken down as follows:

Principal	P
66,500.00	
Interest	
183,763.24	
Attorney's	fees
	5,000.00
Publication	expenses
	15,500.00
Costs of suit	
<u>276.60</u>	
Total	<u>P271,039.84</u>

Considering that plaintiff's P3,027,238.50 bid exceeds the amount of his judgment, then he is not entitled to a certificate of sale without paying the 'excess' in the sum of P2,756,198.66 (Secs. 22 and 23 Rule 39, Rules of Court). And since plaintiff did not pay the 'excess', then the sale did

not materialize and the sheriff 'may again sell the property to the highest bidder' (Sec. 22, Rule 39, *id.*)."[2]

On August 11, 1993, petitioner moved for reconsideration of the Order dated July 5, 1993, reiterating his Motion dated May 18, 1993.

On November 17, 1993, respondent Judge issued his Order denying the petitioner's motion for reconsideration.

Petitioner elevated said Orders to the Court of Appeals in a petition for *certiorari*, prohibition and *mandamus*. However, respondent appellate court dismissed the petition in a Decision dated May 30, 1994. Pertinent portions of said decision reads:

" . . . In this case, the records show that no interest was stipulated by the parties. In the promissory note denominated as "Compromise Agreement" signed by private respondent which was duly accepted by petitioner, no interest was mentioned. In his complaint, petitioner merely prayed that defendant be ordered to pay plaintiff **the sum of P66,500.00 with interest thereon** at the legal rate from the date of filing of the complaint until fully paid." Clearly, there was no accrued conventional interest which could further earn interest when plaintiff-appellant made his judicial demand, thus, the respondent court awarded ' x x x **the sum of P66,500.00 plus the legal rate of interest thereon** x x x."

"Further the Supreme Court in the same case [Referring to Philippine American Accident Insurance Company, Inc. vs. the Hon. Jose P. Flores and Concordia G. Navalta, 97 SCRA 811; *Rollo*, p.9.] stressed that when the judgment ordered payment of simple legal interest only and nothing said about payment of compound interest, said interest should not be compounded. In this case, the decretal portion is clearly worded, that is, the legal rate of interest thereon from January 4, 1966. No mention or reference was made regarding compound interest. **Ergo, the judgment award must be computed as simple legal interest only.** (Emphasis ours.)

"Foregoing considered, We find no grave abuse of discretion amounting to lack or excess of jurisdiction committed by public respondent judge in issuing the assailed orders

"WHEREFORE, the petition is DENIED due course and is hereby DISMISSED.

"SO ORDERED. "[3]

Petitioner now comes before the Court, claiming the appellate court committed the following errors in the abovesited decision:

First Assigned Error

THE RESPONDENT COURT OF APPEALS ERRED IN RULING THAT ARTICLE 2212 OF THE CIVIL CODE APPLIES ONLY WHERE THE PARTIES TO AN OBLIGATION STIPULATED OR AGREED TO PAY COMPOUNDED INTEREST.

Second Assigned Error