326 Phil. 309

FIRST DIVISION

[G.R. No. 113412, April 17, 1996]

SPOUSES PONCIANO ALMEDA AND EUFEMIA P. ALMEDA, PETITIONERS, VS. THE COURT OF APPEALS AND PHILIPPINE NATIONAL BANK, RESPONDENTS.

D E C I S I O N

KAPUNAN, J.:

On various dates in 1981, the Philippine National Bank granted to herein petitioners, the spouses Ponciano L. Almeda and Eufemia P. Almeda several loan/credit accommodations totaling P18.0 Million pesos payable in a period of six years at an interest rate of 21 % per annum. To secure the loan, the spouses Almeda executed a Real Estate Mortgage Contract covering a 3,500 square meter parcel of land, together with the building erected thereon (the Marvin Plaza) located at Pasong Tamo, Makati, Metro Manila. A credit agreement embodying the terms and conditions of the loan was executed between the parties. Pertinent portions of the said agreement are quoted below:

SPECIAL CONDITIONS

xxx xxx xxx

The loan shall be subject to interest at the rate of twenty one per cent (21 %) per annum, payable semi-annually in arrears, the first interest payment to become due and payable six (6) months from date of initial release of the loan. The loan shall likewise be subject to the appropriate service charge and a penalty charge of three per cent (3%) per annum to be imposed on any amount remaining unpaid or not rendered when due.

xxx

III. OTHER CONDITIONS

(c) Interest and Charges

(1) The Bank reserves the right to increase the interest rate within the limits allowed by law at any time depending on whatever policy it may adopt in the future; provided, that the interest rate on this/these accommodations shall be correspondingly decreased in the event that the applicable maximum interest rate is reduced by law or by the Monetary Board. In either case, the adjustment in the interest rate agreed upon

shall take effect on the effectivity date of the increase or decrease of the maximum interest rate.[1]

Between 1981 and 1984, petitioners made several partial payments on the loan totaling P7,735,004.66,[2] a substantial portion of which was applied to accrued interest.[3] On March 31, 1984, respondent bank, over petitioners' protestations, raised the interest rate to 28%, allegedly pursuant to Section III-c (1) of its credit agreement. Said interest rate thereupon increased from an initial 21% to a high of 68% between March of 1984 to September, 1986.[4]

Petitioners protested the increase in interest rates, to no avail. Before the loan was to mature in March, 1988, the spouses filed on February 6, 1988 a petition for declaratory relief with prayer for a writ of preliminary injunction and temporary restraining order with the Regional Trial Court of Makati, docketed as Civil Case No. 18872. In said petition, which was raffled to Branch 134 presided by Judge Ignacio Capulong, the spouses sought clarification as to whether or not the PNB could unilaterally raise interest rates on the loan, pursuant to the credit agreement's escalation clause, and in relation to Central Bank Circular No. 905. As a preliminary measure, the lower court, on March 3, 1988, issued a writ of preliminary injunction enjoining the Philippine National Bank from enforcing an interest rate above the 21% stipulated in the credit agreement. By this time the spouses were already in default of their loan obligations.

Invoking the Law on Mandatory Foreclosure (Act 3135, as amended and P.D. 385), the PNB countered by ordering the extrajudicial foreclosure of petitioners' mortgaged properties and scheduled an auction sale for March 14, 1989. Upon motion by petitioners, however, the lower court, on April 5, 1989, granted a supplemental writ of preliminary injunction, staying the public auction of the mortgaged property.

On January 15, 1990, upon the posting of a counterbond by the PNB, the trial court dissolved the supplemental writ of preliminary injunction. Petitioners filed a motion for reconsideration. In the interim, respondent bank once more set a new date for the foreclosure sale of Marvin Plaza which was March 12, 1990. Prior to the scheduled date, however, petitioners tendered to respondent bank the amount of P40,142,518.00, consisting of the principal (P18,000,000.00) and accrued interest calculated at the originally stipulated rate of 21%. The PNB refused to accept the payment.[5]

As a result of PNB's refusal of the tender of payment, petitioners, on March 8, 1990, formally consigned the amount of P40,142,518.00 with the Regional Trial Court in Civil Case No. 90-663. They prayed therein for a writ of preliminary injunction with a temporary restraining order. The case was raffled to Branch 147, presided by Judge Teofilo Guadiz. On March 15, 1990, respondent bank sought the dismissal of the case.

On March 30, 1990 Judge Guadiz in Civil Case No. 90-663 issued an order granting the writ of preliminary injunction enjoining the foreclosure sale of "Marvin Plaza" scheduled on March 12, 1990. On April 17, 1990 respondent bank filed a motion for

reconsideration of the said order.

On August 16, 1991, Civil Case No. 90-663 was transferred to Branch 66 presided by Judge Eriberto Rosario who issued an order consolidating said case with Civil Case 18871 presided by Judge Ignacio Capulong.

For Judge Ignacio Capulong's refusal to lift the writ of preliminary injunction issued March 30, 1990, respondent bank filed a petition for Certiorari, Prohibition and Mandamus with respondent Court of Appeals, assailing the following orders of the Regional Trial Court:

> 1. Order dated March 30, 1990 of Judge Guadiz granting the writ of preliminary injunction restraining the foreclosure sale of Marvin Plaza set on March 12, 1990;
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> 2. Order of Judge Ignacio Capulong dated January 10, 1992 denying respondent bank's motion to lift the writ of injunction issued by Judge Guadiz as well as its motion to dismiss Civil Case No. 90-663;
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> 3. Order of Judge Capulong dated July 3, 1992 denying respondent bank's subsequent motion to lift the writ of preliminary injunction; and
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> 4. Order of Judge Capulong dated October 20, 1992 denying respondent bank's motion for reconsideration.

On August 27, 1993, respondent court rendered its decision setting aside the assailed orders and upholding respondent bank's right to foreclose the mortgaged property pursuant to Act 3135, as amended and P.D. 385. Petitioners' Motion for Reconsideration and Supplemental Motion for Reconsideration, dated September 15, 1993 and October 28, 1993, respectively, were denied by respondent court in its resolution dated January 10, 1994.

Hence the instant petition.

This appeal by certiorari from the respondent court's decision dated August 27, 1993 raises two principal issues namely: 1) Whether or not respondent bank was authorized to raise its interest rates from 21% to as high as 68% under the credit agreement; and 2) Whether or not respondent bank is granted the authority to foreclose the Marvin Plaza under the mandatory foreclosure provisions of P.D. 385.

In its comment dated April 19, 1994, respondent bank vigorously denied that the increases in the interest rates were illegal, unilateral, excessive and arbitrary, it argues that the escalated rates of interest it imposed was based on the agreement of the parties. Respondent bank further contends that it had a right to foreclose the mortgaged property pursuant to P.D. 385, after petitioners were unable to pay their loan obligations to the bank based on the increased rates upon maturity in 1984.

The instant petition is impressed with merit.

The binding effect of any agreement between parties to a contract is premised on two settled principles:(1) that any obligation arising from contract has the force of law between the parties; and (2) that there must be mutuality between the parties based on their essential equality.[6] Any contract which appears to be heavily weighed in favor of one of the parties so as to lead to an unconscionable result is void. Any stipulation regarding the validity or compliance of the contract which is left solely to the will of one of the parties, is likewise, invalid.

It is plainly obvious, therefore, from the undisputed facts of the case that respondent bank unilaterally altered the terms of its contract with petitioners by increasing the interest rates on the loan without the prior assent of the latter. In fact, the manner of agreement is itself explicitly stipulated by the Civil Code when it provides, in Article 1956 that "No interest shall be due unless it has been expressly stipulated in writing." What has been "stipulated in writing" from a perusal of interest rate provision of the credit agreement signed between the parties is that petitioners were bound merely to pay 21% interest, subject to a possible escalation or de-escalation, when 1) the circumstances warrant such escalation or de-escalation; 2) within the limits allowed by law; and 3) upon agreement.

Indeed, the interest rate which appears to have been agreed upon by the parties to the contract in this case was the 21% rate stipulated in the interest provision. Any doubt about this is in fact readily resolved by a careful reading of the credit agreement because the same plainly uses the phrase "interest rate **agreed upon,**" in reference to the original 21% interest rate. The interest provision states:

(c) Interest and Charges

(1) The Bank reserves the right to increase the interest rate within the limits allowed by law at any time depending on whatever policy it may adopt in the future; provided, that the interest rate on this/these accommodations shall be correspondingly decreased in the event that the applicable maximum interest rate is reduced by law or by the Monetary Board. In either case, the adjustment in the interest rate **agreed upon** shall take effect on the effectivity date of the increase or decrease of the maximum interest rate.

In *Philippine National Bank v. Court of Appeals,*[7] this Court disauthorized respondent bank from unilaterally raising the interest rate in the borrower's loan from 18% to 32%, 41% and 48% partly because the aforestated increases violated the principle of mutuality of contracts expressed in Article 1308 of the Civil Code. The Court held:

CB Circular No. 905, Series of 1982 (Exh. 11) removed the Usury Law ceiling on interest rates "

> 'x x x increases in interest rates are not subject to any ceiling prescribed by the Usury Law.'
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> but it did not authorize the PNB, or any bank for that matter, to unilaterally and successively increase the agreed interest rates from 18% to 48% within a span of four (4) months, in violation of P.D. 116 which limits such changes to once every twelve months.'

> Besides violating P.D. 116, the unilateral action of the PNB in increasing the interest rate on the private respondent's loan, violated the mutuality of contracts ordained in Article 1308 of the Civil Code:
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> ART. 1308. The contract must bind both contracting parties; its validity or compliance cannot be left to the will of one of them.
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> In order that obligations arising from contracts may have the force of law between the parties, there must be mutuality between the parties based on their essential equality. A contract containing a condition which makes its fulfillment dependent exclusively upon the uncontrolled will of one of the contracting parties, is void (Garcia vs. Rita Legarda, Inc., 21 SCRA 555). Hence, even assuming that the P1.8 million loan agreement between the PNB and the private respondent gave the PNB a license (although in fact there was none) to increase the interest rate at will during the term of the loan, that license would have been null and void for being violative of the principle of mutuality essential in contracts. It would have invested the loan agreement with the character of a contract of adhesion, where the parties do not bargain on equal footing, the weaker party's (the debtor) participation being reduced to the alternative 'to take it or lease it' (Qua vs. Law Union & Rock Insurance Co., 95 Phil. 85). Such a contract is a veritable trap for the weaker party whom the courts of justice must protect against abuse and imposition.
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> PNB's successive increases of the interest rate on the private respondent's loan, over the latter's protest, were arbitrary as they violated an express provision of the Credit Agreement (Exh. 1) Section 9.01 that its terms 'may be amended only by an instrument in writing signed by the party to be bound as burdened by such amendment.' The increases imposed by PNB also contravene Art. 1956 of the Civil Code which provides that 'no interest shall be due unless it has been expressly stipulated in writing.'
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> The debtor herein never agreed in writing to pay the interest increases fixed by the PNB beyond 24% per annum, hence, he is not bound to pay a higher rate than that.
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> That an increase in the interest rate from 18% to 48% within a period of four (4) months is excessive, as found by the Court of Appeals, is indisputable.

Clearly, the galloping increases in interest rate imposed by respondent bank on petitioners' loan, over the latter's vehement protests, were arbitrary.

Moreover, respondent bank's reliance on C.B. Circular No. 905, Series of 1982 did not authorize the bank, or any lending institution for that matter, to progressively increase interest rates on borrowings to an extent which would have made it virtually impossible for debtors to comply with their own obligations. True, escalation clauses in credit agreements are perfectly valid and do not contravene public policy.