CEBU CITY

SPECIAL TWENTIETH DIVISION

[CA-G.R. CV NO. 01186, June 26, 2014]

THE PHILIPPINE PRODUCERS COOPERATIVE MARKETING ASSOCIATION INC., PLAINTIFF-APPELLEE, VS. PHILIPPINE NATIONAL BANK, DEFENDANT-APPELLANT.

D E C I S I O N

AZCARRAGA-JACOB, J.:

Assailed in this appeal under Rule 41 of the 1997 Rules of Civil Procedure is the *05 October 2005 Decision* of Branch 49, Regional Trial Court, Bacolod City, (RTC), in Civil Case No. 6711 which granted the complaint for cancellation of mortgage filed by plaintiff-appellee The Philippine Producers Cooperative Marketing Association, Inc. (Cooperative) and directed defendant-appellant Philippine National Bank (PNB) to refund an overpayment.

THE ANTECEDENTS

Civil Case No. 6711 involves a complaint[1] for "Cancellation of Mortgage and Release of Title and Refund of Overpayment with Writ of Preliminary Injunction". The complaint, which was filed by the Cooperative on 8 October 1991, contained the following allegations: (1) from 30 August 1969 to February of 1972, the Cooperative obtained loans and credit accommodations from PNB in the total amount of Php 4,910,955.99; (2) as security for said loans, the Cooperative mortgaged to PNB a parcel of land covered by TCT No. T-88588, with an area of 5,000 square meters; (3) the Cooperative has long fully paid its loan obligations and is entitled to an overpayment of Php 362,239.67; (4) in view of its full payment, the Cooperative demanded the release of the mortgage and the refund of the overpayment; (5) PNB did not heed its demand and thus, the Cooperative was constrained to file the complaint.

On 2 January 1992, PNB filed its Answer with counterclaim[2] denying that full payment has been made by the Cooperative. PNB countered that: (1) the Cooperative maintained Letters of Credit/Trust Receipt Line and when availments became due, there was a balance of Php 3,891,500.00 which remained unpaid despite repeated demands; (2) in 1980, the Cooperative requested for the consolidation and restructuring of its accounts to be payable in five (5) equal installments and offered a parcel of land covered by TCT No. T-88588 as security; and (3) the Cooperative failed to settle its obligation which already amounted to Php 12,692,114.44 as of 31 May 1991.

On 24 June 1992, an amended complaint[3] was filed by the Cooperative claiming that PNB imposed a floating rate of interest on its loans without its consent.

After trial, the RTC rendered a *Decision*, the dispositive portion of which reads:

WHEREFORE, in the light of all the foregoing discussion, judgment is hereby rendered in favor of the plaintiff and against the defendant, to wit:

1. Declaring that plaintiff has fully paid the defendant bank of its Real Estate Mortgage obligation;

2. Ordering defendant to pay plaintiff the amount of P362, 239.67 representing over-payment with legal rate of interest;

3. Ordering defendant bank to execute and deliver to the plaintiff cooperatives a release of the Real Estate Mortgage (Exhibit "5")constituted on Lot 1-A of the subdivision plan (LRC) Psd-245449 with Transfer Certificate of Title No. T-88588.

4. Ordering defendant to pay plaintiff P50,000.00 as attorney's fees;

5. Ordering the Counterclaim DISMISSED;

6. No pronouncement as to costs.

SO ORDERED.[4]

Unsatisfied with the RTC Decision, PNB filed the instant appeal raising the following assignment of errors:

I.

THE LOWER COURT ERRED IN DECLARING THAT APPELLE[E] FULLY PAID ITS LOAN OBLIGATION

II.

THE LOWER COURT ERRED IN ORDERING APPELLANT TO PAY PHP 362,239.67 TO APPELLEE REPRESENTING OVERPAYMENT WITH LEGAL INTEREST

III.

THE LOWER COURT ERRED IN ORDERING APPELLANT TO EXECUTE AND DELIVER A RELEASE OF REAL ESTATE MORTGAGE AND TO RETURN TRANSFER CERTIFICATE OF TITLE NO. T-88588 TO APPELLEE

IV.

THE LOWER COURT ERRED IN ORDERING THE APPELLANT TO PAY APPELLEE THE AMOUNT OF PHP 50,000.00 AS ATTORNEY'S FEES

V.

THE LOWER COURT ERRED IN DISMISSING APPELLANT'S COUNTERCLAIM.[5]

THE COURT'S RULING

In its Brief, PNB argues that the Cooperative, through its former Manager Oscar Coscolluella, acknowledged its outstanding loan obligation and even requested for its restructuring. Consequently, the Cooperative is considered to have willingly agreed to all the terms and conditions of the restructured loan and its ancillary contracts.[6]

On the other hand, the Cooperative asserts that based on its computation, it has fully settled its obligations to PNB. According to the Cooperative, "floating interests" [7] were imposed by PNB on its loans without its consent and thus, it appears on PNB's computation that there still exists a balance of more than P12 Million.

The RTC ruled in favor of the Cooperative and noted that the respective computations by the parties differed because of the floating interest rates which were imposed by PNB without the Cooperative's consent. The RTC held:

> xxx The Court cannot legally recognize the imposition of floating interest rate as it has not been shown that plaintiff cooperative has given its written conformity.
>
> xxx xxx xxx
>
> The Court is of the considered view that and so holds that plaintiff's Computation of Account (Exhibit "A") is a fair computation of the loan obligation based on the rate of interest stipulated in the letters of credit/promissory notes.[8]

The Court agrees with the findings of the RTC.

It bears emphasis that in the *Amended Complaint* filed before the trial court, the Cooperative already added a specific allegation pertaining to "unilateral charges" in the form of "floating interests" made by PNB on its account. No Answer was filed by PNB in response to the Cooperative's *Amended Complaint*. Said failure to specifically deny the allegation pertaining to "unilateral charges" is deemed an admission thereof.

Even a careful perusal of the *Appellant's Brief* reveals that PNB never refuted that interests were imposed on the Cooperative's account without prior consent. Instead, PNB focused its arguments and discussion on the fact that Mr. Coscolluella, the Cooperative's former Managing Director signed the Promissory Notes and other pertinent documents and since Mr. Coscolluella was an authorized representative of the Cooperative, the latter is bound by his actions.

It has been categorically ruled that a request for loan restructuring cannot be considered as an implied consent to an interest increase. The Supreme Court has enunciated:

> **It cannot be argued that assent to the increases can be implied either from the June 18, 1991 request of petitioners for loan restructuring or from their lack of response to the statements of account sent by respondent. Such request does not indicate any**

> **agreement to an interest increase;** there can be no implied waiver of a right when there is no clear, unequivocal and decisive act showing such purpose. Besides, the statements were not letters of information sent to secure their conformity; and even if we were to presume these as an offer, there was no acceptance. No one receiving a proposal to modify a loan contract, especially interest -- a vital component -- is "obliged to answer the proposal."[9] (*Emphasis supplied*.)

Thus, the Court cannot accord merit to PNB's contention that because the Cooperative requested for restructuring, the same is considered to be an acknowledgment of indebtedness which includes all the interests and charges unilaterally imposed by PNB.

While We concede that the right of banks to impose interests has been recognized by the Supreme Court, as held in:

> xxx. The charging of interest for loans forms a very essential and fundamental element of the banking business, which may truly be considered to be at the very core of its existence or being. It is inconceivable for a bank to grant loans for which it will not charge any interest at all.

We underscore however that such right is subject to certain limitations imposed by law. One of these limitations is Article 1956 of the Civil Code which states that "[n]o interest shall be due unless it has been expressly stipulated in writing."

The right of banks to impose interests is also subject to the rule that in order for a contract to bind both parties, there must be mutuality between them. This is the principle of mutuality of contracts which is expressly provided in Article 1308 of the Civil Code:

> Article 1308. The contract must bind both contracting parties; its validity or compliance cannot be left to the will of one of them.

The Supreme Court has elaborated on this principle in this wise:

> The binding effect of any agreement between the parties to a contract is premised on two settled principles: (1) that obligations arising from contracts have the force of law between the contracting parties; and (2) that there must be mutuality between the parties based on their essential equality to which is repugnant to have one party bound by the contract leaving the other free therefrom. 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.
>
> The provision in the promissory note authorizing respondent bank to increase, decrease or otherwise change from time to time the rate of interest and/or bank charges "without advance notice" to petitioner, "in the event of change in the interest rate prescribed by law or the Monetary Board of the Central Bank of the Philippines," does not give respondent bank unrestrained freedom to charge any rate other than that