

**EMMA R. GENIZA, AURELIA GENIZA, LORENZO RIVERA, CATALINA CARREON RIVERA AND ZACARIAS RIVERA,
PLAINTIFFS-APPELLANTS, VS. HENRY SY AND ASIAN MERCANTILE CORP. DEFENDANTS-APPELLANTS.**

G.R. No. L-17165. September 26, 1962

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AMENDED DECISION

Appeal from a decision of the CFI of Quezon City.

SUMMARY

This is an appeal from a decision of the Court of First Instance of Quezon City ordering¹ defendants-appellants as mortgagees to return the sum representing the excess of the public sale of the plaintiff-appellants mortgaged lands. The plaintiff's claimed that the lower court erred in not reducing the liquidated damages and the attorney's fees and in not declaring the stipulation exacting¹ attorney's fees and liquidated damages as a usurious stipulation.

RULING

In reducing the 30% attorney's fees and liquidated damages to 5% the lower court was justified as the loans were for a period of thirty days only and the damages amounting to 30% of the loans of P50,000.00 each would appear iniquitous and subject to reduction in accordance with Article 1227 and 1220 of the Civil Code. The Supreme Court cannot agree however the contract was usurious, there being no allegation of fact or evidence that the mortgagee's intention was to exact a usurious interest. Neither is there any claim that the mortgage is contra bonus mores so that it may be assumed that mortgagees demanded the insertion of the iniquitous clause of 30% damages to cover a usurious deal.

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