

LIAM LAW, PLAINTIFF-APPELLEE, VS. OLYMPIC SAWMILL CO. AND ELINO LEE CHI, DEFENDANTS-APPELLANTS.

G.R. No. L-30771. May 28, 1984

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

This is an appeal by defendants from a Decision rendered by the then Court of First Instance of Bulacan. The appeal was originally taken to the then Court of Appeals, which endorsed it to this instance stating that the issue involved was one of law.

It appears that on or about September 7, 1957, plaintiff loaned P10,000.00, without interest, to defendant partnership and defendant Elino Lee Chi, as the managing partner. The loan became ultimately due on January 31, 1960, but was not paid on that date, with the debtors asking for an extension of three months, or up to April 30, 1960.

On March 17, 1960, the parties executed another loan document. Payment of the P10,000.00 was extended to April 30, 1960, but the obligation was increased by P6,000.00 as follows:

"That the sum of SIX THOUSAND PESOS (P6,000.00), Philippine currency shall form part of the principal obligation to answer for attorney's fees, legal interest, and other cost incident thereto to be paid unto the creditor and his successors in interest upon the termination of this agreement."

Defendants again failed to pay their obligation by April 30, 1960 and, on September 23, 1960, plaintiff instituted this collection case. Defendants admitted the P10,000.00 principal obligation, but claimed that the additional P6,000.00 constituted usurious interest.

Upon application of plaintiff, the Trial Court issued, on the same date of September 23, 1960, a Writ of Attachment on real and personal properties of defendants located at Karanglan, Nueva Ecija. After the Writ of Attachment was implemented, proceedings before the Trial Court versed principally in regards to the attachment.

On January 18, 1961, an Order was issued by the Trial Court stating that "after considering the manifestations of both counsel in Chambers, the Court hereby allows both parties to simultaneously submit a Motion for Summary Judgment.[1] The plaintiff filed his Motion for Summary Judgment on January 31, 1961, while defendants filed theirs on February 2, 1961.[2]

On June 26, 1961, the Trial Court rendered decision ordering defendants to pay plaintiff "the amount of P10,000.00 plus the further sum of P6,000.00 by way of liquidated damages with legal rate of interest on both amounts from April 30, 1960." It is from this judgment that defendants have appealed.

We have decided to affirm.

Under Article 1354 of the Civil Code, in regards to the agreement of the parties relative to the P6,000.00 obligation, "it is presumed that it exists and is lawful, unless the debtor proves the contrary". No evidentiary

hearing having been held, it has to be concluded that defendants had not proven that the P6,000.00 obligation was illegal. Confirming the Trial Court's finding, we view the P6,000.00 obligation as liquidated damages suffered by plaintiff, as of March 17, 1960, representing loss of interest income, attorney's fees and incidentals.

The main thrust of defendants' appeal is the allegation in their Answer that the P6,000.00 constituted usurious interest. They insist the claim of usury should have been deemed admitted by plaintiff as it was "not denied specifically and under oath".[3]

Section 9 of the Usury Law (Act 2655) provided:

"SEC. 9. The person or corporation sued shall file its answer in writing under oath to any complaint brought or filed against said person or corporation before a competent court to recover the money or other personal or real property, seeds or agricultural products, charged or received in violation of the provisions of this Act. The lack of taking an oath to an answer to a complaint will mean the admission of the facts contained in the latter."

The foregoing provision envisages a complaint filed against an entity which has committed usury, for the recovery of the usurious interest paid. In that case, if the entity sued shall not file its answer under oath denying the allegation of usury, the defendant shall be deemed to have admitted the usury. The provision does not apply to a case, as in the present, where it is the defendant, not the plaintiff, who is alleging usury.

Moreover, for sometime now, usury has been legally non-existent. Interest can now be charged as lender and borrower may agree upon.[4] The Rule of Court in regards to allegations of usury, procedural in nature, should be considered repealed with retroactive effect.

"Statutes regulating the procedure of the courts will be construed as applicable to actions pending and undetermined at the time of their passage. Procedural laws are retrospective in that sense and to that extent."[5]

"x x x. Section 24(d), Republic Act No. 876, known as the Arbitration Law, which took effect on 19 December 1953, and may be retroactively applied to the case at bar because it is procedural in nature x x x ."[6]

WHEREFORE, the appealed judgment is hereby affirmed, without pronouncement as to costs. SO ORDERED.

Teehankee, (Chairman), Plana, Relova, Gutierrez, Jr., and De La Fuente, JJ., concur.

[1] p. 81, Record on Appeal.

[2] p. 116, *ibid*.

[3] Section 1, Rule 9.

[4] "SECTION 1. The rate of interest, including commissions, premiums, fees and other charges, on a loan or forbearance of any money, goods, or credits, regardless of maturity and whether secured or unsecured, that may be charged or collected by any person, whether natural or judicial, shall not be subject to any ceiling prescribed under or pursuant to the Usury Law, as amended." (Central Bank Circular No. 905, Series of 1982, 78 Off. Gaz. 7336).

[5] *People vs. Sumilang*, 77 Phil. 764 (1946).

[6] *De Lopez, et al. vs. Vda. de Fajardo, et al.*, 101 Phil. pp. 1104, 1109 (1957).

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