

GOLDEN BELL GRAND CENTER, INC., SPOUSES DAVID C. ANG AND SIOK HA (JENY) T. ANG, PLAINTIFFS-APPELLANTS, VS. PLANTERS DEVELOPMENT BANK, DEFENDANT-APPELLEE.

Ponente: SALAZAR-FERNANDO, J.

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SALAZAR-FERNANDO, J.:

Before this Court is an appeal from the Decision[1] dated April 22, 2013 of the Regional Trial Court (RTC), National Capital Judicial Region, Branch 133, Makati City in Civil Case No. 08-257 for Annulment of Obligations, Accessory Contracts, and Accounting, entitled “GOLDEN BELL GRAND CENTER, INC., SPS. DAVID C. ANG AND SIOK HA (JENY) T. ANG, Plaintiffs, versus PLANTERS DEVELOPMENT BANK, Defendant.”, the decretal portion of which reads:

“WHEREFORE, foregoing considered, finding plaintiff's cause of action to be insufficiently established not having any support in fact, law and evidence, the complaint is hereby DISMISSED and the defendant's counterclaim is partially GRANTED. Hence, judgment is hereby rendered in favor of the defendant PLANTERS DEVELOPMENT BANK and against plaintiffs GOLDEN BELL GRAND CENTER, INC., SPS. DAVID C. ANG AND SIOK HA (JENY) T. ANG ordering the latter to jointly and severally pay the defendant the following:

- The principal amount of SIXTY NINE MILLION SIX HUNDRED THOUSAND AND SEVEN HUNDRED FIFTY FIVE PESOS (Php69,600,755.00) plus interest at the rate of fifteen percent (15%) per annum and penalty at the rate of twelve percent (12)% per annum both computed from May 6, 2008 until the said amount is fully paid less Php2,557,267.33 representing payments made by the plaintiffs;

- Attorney's fees in the amount of Php30,000.00; and,

- The costs of suit.

SO ORDERED.”[2]

The facts are:

The instant controversy stemmed from a Complaint[3] for Annulment of Obligations, Accessory Contracts, and Accounting filed by plaintiffs-appellants Golden Bell Grand Center, Inc., Spouses David C. Ang and Siok Ha (Jeny) T. Ang (plaintiffs-appellants for brevity) against defendant-appellee Planters Development Bank (PDB for brevity) averring that: plaintiffs-appellants are engaged in the business of operating a chain of department stores in the cities of Zamboanga, Davao, and Cagayan de Oro; plaintiff-appellant Golden Bell is a depositor of defendant-appellee PDB's Davao City Branch; in order to finance its working capital requirements, plaintiff-appellant Golden Bell applied for, and was granted a credit line of P70,000,000.00 by defendant-appellee

PDB; avancements under the credit line are evidenced by Promissory Note No. 2007-044-00291[4] in the amount of P25,000,000.00, Promissory Note No. 2007-044-00588[5] in the amount of P950,754.69, and Promissory Note No. 2007-044-00726[6] in the amount of P43,750,000.00; under the said Promissory Notes, the interest rate, fees, and charges may be increased by defendant-appellee PDB without notifying the plaintiffs-appellants; the said credit facilities are secured by the following: (1) a Real Estate Mortgage[7] on the properties of plaintiffs-appellants Spouses Ang situated in Zamboanga City and covered by Transfer Certificates of Title (TCT) Nos. T-38692 and T-146350; (2) a pledge[8] of plaintiffs-appellants' shares of stock in San Miguel Corporation and China Banking Corporation; (3) a Chattel Mortgage on merchandise inventory; (4) a continuing Deed of Assignment[9] over a fifteen (15)-year lease contract of a building in Cagayan de Oro City, as well as surety agreements; in the past, defendant-appellee PDB, at its whim and caprice, charged plaintiffs-appellants varying rates of interest ranging from 17% to 19%; plaintiffs-appellants vehemently objected to this nefarious practice but to no avail; despite demands, defendant-appellee PDB failed and refused to render an accounting; the determination of the rate of interest cannot be left solely to the will of defendant-appellee PDB; defendant-appellee PDB's practice of charging interest, which was repriced unilaterally, violated the principle of mutuality of contracts; the additional penalty of 2% per month or 24% per annum on top of the interest is iniquitous, unconscionable, and against public policy; the documents were all pro forma prepared exclusively by defendant-appellee PDB without any their participation whatsoever; the documents were merely submitted to them for signature; and, in December 2007, the credit line was renewed with the execution of a formal Credit Line Agreement but no renewal promissory notes were executed.

Summons[10] was served to defendant-appellee PDB on May 14, 2008.

On June 23, 2008, defendant-appellee PDB filed its Answer[11] asserting that: plaintiff-appellant Golden Bell is one of the largest and most successful appliance retailer and operator of department stores in Zamboanga, Davao, Cagayan de Oro, as well as neighboring areas; sometime in 2003, plaintiff-appellant David Ang, President and owner of Golden Bell, applied for loan facilities and negotiated with Rico Aloyon, Assistant Vice President and Head of the Mindanao Lending Group of defendant-appellee PDB; on May 28, 2003, plaintiff-appellant Golden Bell was granted an initial term loan of P20,000,000.00, which was subsequently fully paid; thereafter, plaintiff-appellant David Ang once again negotiated for a credit line in the amount of P20,000,000.00 and a term loan for P500,000.00; the terms of the contract were discussed, particularly the rate of interest which was 15% per annum and the penalty charges; relying on the securities offered, as well as the financial and commercial standing of plaintiff-appellant Golden Bell, which at that time had gross annual sales of approximately P800,000,000.00 to P900,000,000.00, defendant-appellee PDB granted the term loan and credit line application; plaintiff-appellant Golden Bell was able to pay the P500,000.00 term loan and the monthly interest payment of the credit line; on March 22, 2005, plaintiff-appellant David Ang was granted another credit line in the amount of P10,000,000.00 with the same terms and conditions as with the first credit line, particularly the interest rate of 15% per annum and penalty charges; subsequently, on March 8, 2006, plaintiff-appellant David Ang was granted a credit line in the amount of P15,000,000.00; as with the previous credit lines, the interest rate was 15% per annum; on April 26, 2007, plaintiff-appellant David Ang was granted another credit line in the amount of P25,000,000.00 at the same interest rate; plaintiff-appellant David Ang followed up the approval of the loan several times until the actual release of the amount; all credit lines were fully drawn by plaintiff-appellant Golden Bell immediately after its approval; since 2003 up to the present, the 15% per annum interest rate was never increased and remained constant; from the inception of the loan in 2003, a collection letter together with a Statement of Account was sent by defendant-appellee PDB to plaintiff-appellant Golden Bell on a monthly basis; as in the previous years, plaintiff-appellant Golden Bell paid for the monthly interest; however, plaintiff-appellant Golden Bell started defaulting in its loan payments sometime in September 2007; in February 2008, plaintiff-appellant David Ang

went to the Head Office of defendant-appellee PDB in Makati to discuss the restructuring of the loan; plaintiff-appellant David Ang proposed a repayment plan which included a P250,000.00 monthly payment scheme; the meeting ended without any final agreement or firm commitment from both parties; and, in the succeeding weeks, until April 2008, Aloyon of defendant-appellee PDB made numerous attempts to contact plaintiff-appellant David Ang regarding the unpaid debt, but was frequently told by plaintiffs-appellants' finance officer that plaintiff-appellant Ang was unavailable.

Defendant-appellee PDB further alleged that: despite numerous demand letters with attached Statements of Accounts, nothing was heard from the plaintiffs-appellants until the instant complaint was filed; the escalation clause and penalty charges stipulated in the loan contracts are valid; the credit line agreement provided for both increase and decrease in the interest rates where there is a change in policy within the limits allowed by law, where the applicable maximum interest rate is increased or reduced by law or by the Monetary Board, or due to subsequently adopted government economic or monetary policy, or due to economic causes beyond defendant-appellee PDB's control; thus, it cannot be said that the increase or decrease in interest rates is unilateral on the part of defendant-appellee PDB; plaintiffs-appellants continuously dealt with defendant-appellee PDB under the same terms and conditions for more than four (4) years; with every application, plaintiff-appellant David Ang met with bank officers, particularly Aloyon, regarding the terms of the loan facility such as the interest rate, period, terms of payment, and amount of monthly amortizations; plaintiffs-appellants Spouses Ang are both successful and seasoned businessmen, who are by no means ignorant of transactions such as a credit line agreement; they were in fact aggressive in following up the approval of their loans; defendant-appellee PDB did not foreclose on the securities covering the loan as it was made to believe by plaintiffs-appellants that they were sincere in their proposal to restructure the loans; the insufficient securities, such as the chattel mortgage on the merchandise inventory in the aggregate amount of P26,000,000.00, were further depleted by the plaintiffs-appellants as the said merchandise can no longer be found; not satisfied, plaintiffs-appellants now seek to release all of the securities covering the loan transactions; in filing the instant case to annul their obligations, the plaintiffs-appellants are in bad faith; the indebtedness under the fully-drawn credit lines is evidenced by Promissory Note No. 2007-044-00291[12] for P25,000,000.00, Promissory Note No. 2007-044-00588[13] for P950,754.69, and Promissory Note No. 2007-044-00726[14] for P43,750,000.00; all these Promissory Notes provided for a 15% interest rate per annum and a penalty charge of 2% per month in case of default; plaintiffs-appellants were always aware of the status of their loans as Statements of Account have been regularly provided to them; and, at present, plaintiff-appellant Golden Bell has an outstanding unpaid balance of P69,600,000.00, exclusive of interest and charges.

Plaintiffs-appellants filed their Reply[15] on July 10, 2008.

The parties thereafter filed their respective pre-trial briefs.[16] In its Order[17] dated November 13, 2008, the lower court referred the case for mediation, which proved to be unsuccessful as the parties failed to negotiate.[18]

Pre-trial Conference[19] was held on July 2, 2009 where the parties stipulated on the following facts: (1) the genuineness and due execution of Promissory Note No. 2007-044-00291 in the amount of P25,000,000.00, Promissory Note No. 2007-044-00588 in the amount of P950,754.69, and Promissory Note No. 2007-044-00726 in the amount of P43,750,000.00; (2) the genuineness and due execution of the mortgage instrument covering the real properties described in TCT Nos. T-38692 and T-146350; (3) the genuineness and due execution of the pledge agreement; (4) the genuineness and due execution of the mortgage instrument covering the merchandise inventory; (5) the due execution of the terms and conditions under the promissory notes; (6) that defendant-appellee PDB granted various loans to the plaintiffs-appellants since 2003; (7) the existence of the credit line upon the application of the loan; (8) that the promissory notes provide for a 15% interest rate per

annum, a penalty charge of 2% per month in case of default, and in case of enforcement of payment, plaintiffs-appellants agreed to pay, jointly and severally, not less than 10% of the amount due on the notes as attorney's fees; (9) that the loan is secured by a chattel mortgage on merchandise inventory, real estate mortgages, pledge on shares of stocks, hold out/assignment of accounts receivable, deed of assignment of lease contract, joint and several guaranty, and a continuing surety agreement.

Trial on the merits thereafter ensued. During the trial, the plaintiffs-appellants presented plaintiff-appellant David Ang as their lone witness.

Plaintiff-appellant David Ang testified[20] that: he is a business executive engaged in the operation of a chain of department stores in Zamboanga City, Cagayan de Oro City, and Davao City; he is the President and General Manager of plaintiff-appellant Golden Bell Grand Center, Inc.; plaintiffs-appellants' first loan in the amount of P20,000,000.00 was granted by the defendant-appellee PDB in May 2003 which was used for the expansion of their branch office in Cagayan de Oro; the said loan was fully paid in 2007; usually, defendant-appellee PDB would send them a blank set of documents which they had to pre-sign and submit to the bank; the subject P25,000,000.00 loan covered by Promissory Note No. 2007-044-00291 is still unpaid; when he signed the said Promissory Note, the interest rate of 15% per annum was not indicated and left in blank; plaintiffs-appellants were required to issue postdated checks before the loan was released; it was only when they were given the Statement of Account that they found out that the interest rate was 15% per annum; since their previous loans, the company pays interest every month through check; the second and third Promissory Notes are still outstanding; they were never furnished with the originals of the said promissory notes; they were not consulted regarding the escalation clauses; if he did not sign the blank forms, the bank would not have processed the loan; and, they are based in Zamboanga while the documentations were done in Manila, which is why these were pre-signed.

Plaintiff-appellant David Ang further testified that: in their first transaction of P20,000,000.00 back in 2003, the interest rate was 17% per annum; eight (8) months later, they had another loan in the amount of P5,000,000.00 and the interest charged was only 13.5%; he immediately called the attention of Rico Aloyon, head of the Mindanao Lending Group of defendant-appellee PDB and asked why there was a discrepancy in the rates; Aloyon said that it is beyond his control as it is the Head Office which decides as to the fixing of interest rates; when the first loan was fully paid, there was a renewal and the interest rate went down to 15%; plaintiff-appellant David Ang tried to talk to Aloyon and negotiate to lower the interest rate as he felt it was justifiable since he is a good payer; in 2005, their loan obligation was more or less P25,000,000.00; they were paying three (3) different interest rates, one at 17%, another at 13.5%, and the third at 15%; in 2006, defendant-appellee PDB granted them a new loan totaling P45,000,000.00; plaintiff-appellant David Ang protested to Aloyon regarding the discrepancies in the interest rates, but the latter did not do anything; he started complaining when they received the second loan at 13.5% interest and asked why the first loan was 17%; he called Aloyon's attention practically every year; in September 2007, he even went to see Aloyon in Davao City; despite his extra efforts, Aloyon was usually not there whenever he paid him a visit; in order to get his attention, plaintiffs-appellants stopped making payments sometime in September 2007; plaintiff-appellant David Ang went to defendant-appellee PDB's main office in Makati and met with Tito Tirones, Senior Vice President in charge of Corporate Loans; he complained that Aloyon had not been paying attention to their loans despite their requests regarding the adjustment of the interest rates; and, on March 17, 2008, he received a formal letter from the counsel of defendant-appellee PDB demanding full payment of the loans.

On March 7, 2011, plaintiffs-appellants filed their Formal Offer of Evidence.[21]

The defense, on the other hand, offered the testimonies of Ma. Bella Dinero and Eleuterio Hermosa.

Ma. Bella Dinero, Loan Officer and Collateral Custodian of defendant-appellee PDB's Davao Branch testified[22] that: plaintiffs-appellants are borrowers of defendant-appellee PDB; it was Aloyon who dealt with them; she identified the credit line agreements and promissory notes; she likewise identified the signatures of plaintiffs-appellants Spouses Ang, the interest rates, and whether the same were paid or not; defendant-appellee PDB sent demand letters dated May 6, 2008, May 13, 2008 and May 23, 2008 for these outstanding obligations; and, she identified the continuing surety agreement executed by the plaintiffs-appellants as well as their signatures.

Eleuterio Hermosa, Head of the Loan Release Section of defendant-appellee PDB, testified[23] that: he checked and reviewed plaintiffs-appellants' account for the requested preparation of a Statement of Account; he identified plaintiffs-appellants' Statement of Account as of June 30, 2011, which is a computer-generated computation; he personally checked the Statement of Account manually through the use of calculator; defendant-appellee PDB is a thrift bank; one of the purposes of defendant-appellee PDB is to grant development loans; as to the interest rates, they just followed what was approved in the credit proposal; he identified and explained the Application of Payments; plaintiffs-appellants were in default as they were not able to update the payments until the promissory notes matured; it was Rico Aloyon who told him to prepare the Statement of Account; he prepared the Statement of Account based on the records of the bank; and, the outstanding balance under Promissory Note No. 2007-044-00291 is P24,900,000.00 as plaintiffs-appellants gave partial payment in the amount of P100,000.00 on July 5, 2007.

Defendant-appellee PDB subsequently filed its Formal Offer of Evidence.[24] On rebuttal[25], plaintiffs-appellants presented letters[26] from Chinabank showing alleged payment of cash dividends and stock dividends as a result of the pledge agreement executed in favor of defendant-appellee PDB.

The parties filed their respective memoranda.[27]

On April 22, 2013, the lower court rendered the assailed Decision[28] dismissing plaintiffs-appellants' complaint and partially granting defendant-appellee PDB's counterclaim. The lower court held that the freedom to contract is both a constitutional and statutory right. Contracts of adhesion are not invalid per se and are not entirely prohibited. The lower court observed that plaintiffs-appellants had not signified their opposition to the terms and conditions of defendant-appellee PDB for a long period of time since their initial transaction. There was violation of the terms and conditions of the subject agreements when plaintiffs-appellants failed and refused to comply with the same. The lower court likewise noted that the interest rates imposed by defendant-appellee PDB did not reach unreasonable levels. Nonetheless, the penalty charges of 24% per annum was reduced to 12% per annum.

Hence, this appeal raising the following errors[29]:

I.

THE TRIAL COURT GRAVELY ERRED IN NOT ANNULING THE PROMISSORY NOTES DUE TO APPELLEE'S UNILATERALLY IMPOSED INTEREST RATES

II.

THE TRIAL COURT ALSO GRAVELY ERRED IN NOT ANNULING THE PROMISSORY NOTES FOR BEING CONTRACTS OF ADHESION

III.

THE TRIAL COURT LIKEWISE GRAVELY ERRED IN NOT HOLDING THAT APPELLANT IS ENTITLED TO ACCOUNTING

IV.

THE TRIAL COURT FINALLY ERRED IN ORDERING APPELLANT TO PAY THE LOAN OBLIGATIONS UNDER THE PROMISSORY NOTES

The appeal lacks merit.

In a nutshell, plaintiffs-appellants contend that: the subject documents were blank and were pre-signed; it cannot be said that the borrower agreed to the interest rate as there was none indicated; there was inequality in bargaining positions and plaintiffs-appellants' freedom to contract was necessarily impaired; the promissory notes should be declared as contrary to public policy; the promissory notes, being contracts of adhesion, should be disregarded because the stipulation on interest was not mutually agreed upon; as the loan documents do not contain a severability clause, the invalidity of the interest provision impairs the whole instrument; plaintiff-appellant David Ang paid the interest rate under protest; and, until the controversy on the interest rate is settled, the exact amount of plaintiffs-appellants' obligation to defendant-appellee PDB could not be determined.

After a judicious examination of the records of the case, as well as the law and jurisprudence pertinent thereto, this Court finds that the lower court committed no reversible error in ruling that plaintiffs-appellants are liable to defendant-appellee PDB for the amount reflected in the subject Promissory Notes, plus interest at the rate of 15% per annum and penalty charges of 12% per annum. Succinctly, the superficial arguments raised by the plaintiffs-appellants to evade their clear contractual liability are tenuous and unconvincing.

At the outset, it has not escaped this Court's attention that plaintiffs-appellants failed to comply with Section 13, Rule 44 of the Revised Rules of Court as to the required contents of their brief[30], particularly the subject index, digest of arguments with page references, table of cases, textbooks, statutes cited, and page references to the record. It bears stressing that under Section 1 (f), Rule 50 of the Revised Rules of Court, absence of specific assignment of errors in the appellant's brief, or of page references to the record, as required in Section 13, paragraphs (a), (c), (d), and (f) of Rule 44 is a ground[31] for the dismissal of an appeal.

Going to the substantive issues, it should be emphasized that the principal amounts under the subject Promissory Notes are not disputed by the plaintiffs-appellants. During the pre-trial conference, plaintiffs-appellants already admitted the genuineness and due execution of Promissory Note No. 2007-044-00291 in the amount of P25,000,000.00, Promissory Note No. 2007-044-00588 in the amount of P950,754.69, and Promissory Note No. 2007-044-00726 in the amount of P43,750,000.00. Essentially, what plaintiffs-appellants contest in the instant case are the terms and conditions of these Promissory Notes, particularly the interest rate and penalty charges. Plaintiffs-appellants feign ignorance thereof, claiming that they signed blank documents and therefore should not be bound by them.

This Court is not persuaded.

All men are presumed to be sane, normal and subject to be moved by substantially the same motives. When of age and sane, they must take care of themselves. In their relations with others in the business of life, wits, sense, intelligence, training, ability and judgment meet and clash and contest, sometimes with gain and advantage to all, sometimes to a few only, with loss and injury to others. In these contests, men must depend upon themselves - upon their own abilities, talents, training, sense, acumen, and judgment.[32]

Indeed, courts cannot follow every step of a man's life and extricate him from bad bargains, protect him from unwise investments, relieve him from one-sided contracts, or annul the effects of foolish acts. Men may do foolish things, make ridiculous contracts, use miserable judgment, and lose money by then - indeed, all they have in the world; but not for that alone can the law intervene and restore. There must be, in addition, a violation of law, the commission of what the law knows as an actionable wrong, before the courts are authorized to lay hold of the situation and remedy it.[33]

Plaintiffs-appellants' insinuation that the subject Promissory Notes were signed in blank without specifying the interest rate is unavailing. Under the factual milieu of this case, it is evident that they are clutching at straws to defeat a valid, existing contractual obligation. It has been held that to permit a party, when sued on a written contract, to admit that he signed it but deny that it expresses the agreement he made, or to allow him to admit that he signed it but did not read it or know its stipulations, would absolutely destroy the value of all contracts.[34]

Incidentally, the rule that one who signs a contract is presumed to know its contents has been applied even to contracts of illiterate persons.[35] In this case, far from being illiterate, plaintiff-appellants Spouses Ang are of age and experienced businessmen, who are presumed to have acted with due care, and to have signed the documents in question with full knowledge of its contents.[36]

It is improbable that someone with investment experience would sign a document in blank or without reading it first. Plaintiff-appellant David Ang, President and General Manager of Golden Bell, is a seasoned and accomplished business executive. In the normal exercise of his functions, plaintiff-appellant David Ang doubtlessly dealt with numerous documents, such as the subject Promissory Notes, and is therefore presumed to know the import thereof. It cannot be overemphasized that it behooves every contracting party to learn and know the contents of an instrument before signing and agreeing to it.[37]

Plaintiff-appellant David Ang testified:

“Q:

can you tell us when did you start to Take charge of the operation of Golden Bell?

A:

it was sometime in 1978.”[38] (Emphasis supplied)

xxx

xxx

xxx

“Q:

since when did you commence to be The president of Golden Bell?

A:

I think it was sometime like 1985.”[39] (Emphasis supplied)

xxx

xxx

xxx

“Q:

can you tell us the net worth of Golden Bell before the filing of this Case, more or less?

A:

net worth, is it the total asset?

Q:

including the inventories.

A:

I really cannot come out with the Exact figure.

Q:

would it be less than 20 million?

A:

more than that.

Q:

would it be more than 50 million?

A:

more than that.

Q:

more than 100 million?

A:

I believe so.”[40]

xxx

xxx

xxx

“Q:

so Mr. Witness, in fact, it is true that Your business skills and management Expertise that the operation of Golden Bell expanded into that huge Amount of money?

A:

yes, sir.

Q:

in fact, you were the one who Converted it into a corporation?

A:

yes, sir.

Q:

Mr. Witness, being a good experienced Businessman, would you confirm that You do not just go into a venture or Into a particular transaction without First knowing the stage or the odds You would be faced with, do you Confirm that?

A:

of course, we do feasibility studies And I have to consult with some Consultants and we have to come up (with) A decision among ourselves whether To pursue with this project or not.

Q:

in short, you study first a particular Business before entering into a new Venture, right?

A:

yes, sir.

Q:

and I would assume that you do not Just sign documents without reading The stipulations of that particular Document?

A:

it depends, sir, because that time...

Q:

no, just answer in general. In your Business practice as an expert Businessman, you do not just sign A document without reading first The contents thereof, is that correct?

A:

yes, sir.

Q: and you have been transacting with Banks in your business?

A: yes, sir.

Q: and that includes Planters Development Bank?

A: yes, sir.

Q: Mr. Witness, do you confirm that you First transacted with Planters Development Bank in 2003?

A: yes, sir.”[41] (Emphasis supplied)

Basic is the rule of actori incumbit onus probandi, or the burden of proof lies with the plaintiff. Differently stated,

upon the plaintiff in a civil case, the burden of proof never parts.[42] Corollarily, mere allegation is not evidence and is not equivalent to proof. Here, the principal argument of plaintiffs-appellants that the interest rate and penalty charges were merely inserted was not sufficiently substantiated. In fact, there is a presumption that private transactions have been fair and regular and that a person takes ordinary care of his or her concerns.[43]

Circumstances likewise show that the parties knew and agreed to these terms and conditions. Plaintiffs-appellants obtained such a hefty amount totaling P69,600,755.00, and this Court finds it difficult to believe that they were utterly unaware and clueless of the matter of interest. It is highly contrary to common experience that the parties herein, a financial institution and a corporation which owns a chain of department stores, never stipulated the interest on a whopping seventy million loan. It is of common knowledge that banks earn through interest on loans obtained from them. In any case, it is clear that the interest rate was put into writing not only in the subject Promissory Notes but in other documents as well. Worth noting also is that the stipulated rate of 15% is just slightly above the legal rate of 12% per annum.

More importantly, there were several transactions executed prior to the subject Promissory Notes reflecting similar interest rates and penalty charges, with corresponding payments. For instance, in the two (2) loans entered into on March 8, 2006[44], and the one executed on August 16, 2006[45], the interest rate was already 15% per annum. Parenthetically, there is not very much difference between the said interest rates with that of the first two loans in 2003, which were 17% and 13.5%.[46] This Court is convinced that when plaintiffs-appellants transacted for the subject Promissory Notes in 2007[47], they were fully aware of the terms and conditions, as with the previous years. Otherwise stated, plaintiffs-appellants repeatedly applied for loans under similar terms and conditions, received the corresponding amounts, and made partial payments through the years. Interestingly, since the initial transaction in 2003, it was only in 2008 when they filed the instant complaint. On that note, there is a presumption in law that acquiescence resulted from a belief that the thing acquiesced in was conformable to the law or fact.[48]

Noteworthy are the following portions of plaintiff-appellant David Ang's testimony:

“Q:

Now, after this Promissory Note was executed, can you tell the Court since this loan is interest bearing and from the Promissory Note it is 15%, can you tell the Court what your company did in respect to the payment of the stipulated interest which is due every month?

A:

We were required to issue postdated checks before the loan is being released.”[49] (Emphasis supplied)

xxx

xxx

xxx

“Q:

Aside from Planters Development Bank, does your company have other banking transactions with other banks?

A:

Yes, we have.

Q:

And based on your experience with the other banks, what can you say about this interest that was being collected from you by Planters Development Bank?

A:

During that time of 2003, I felt that the 17% was quite high compared with the other commercial banks but when they came in to the 2nd loan at 13.5%, it was more realistic during that time.

Q:

Now, you said that you were negotiating with Mr. Aloyon and you received a reply to the effect that he was powerless to grant your request about the discrepancy. Now, what happened later on with respect to the interest rates on these various loans some of which have been renewed as evidenced by Exhibits “B” and “C”?

A:

When the 1st loan was fully paid and there was a renewal, it went down, they offered to us at 15%.

Q:

What did you respond to this interest rate?

A:

We proceeded reluctantly despite the fact that we thought we could get it at much lower than that because there was already precedent being set by them at 13.5%

Q:

What year was this when you're granted another loan at 15% rate of interest?

A: That was a new P10,000,000.00 line in March 2005.”[50] (Emphasis supplied)

xxx

xxx

xxx

“Q:

What about this item no. 4, Mr. Witness?

A:

At first when they granted this line to us, the interest rate is 17.5%, I made a special request to ask them to reduce it, and it was reduced to P15%.”[51] (Emphasis supplied)

xxx

xxx

xxx

“Q:

aside from these checks and check Vouchers which were already Presented, what other documents do You have in payment of interest of 17% on the first loan of 20 million?

A:

I have here original amortization Schedule given by Planters Bank and The payment transmittal slip Certifying certain payments on these Loans.

Q:

what is the first document you Referred to?

A:

amortization schedule wherein the Interest is 17%.”[52] (Emphasis supplied)

xxx

xxx

xxx

“Q:

aside from those that you already Mentioned, do you have any other Documents to prove your payment Of 17% interest on this loan?

A:

we have this payment transmittal Slip and the loan payment slip.”[53]

xxx

xxx

xxx

“Q:

is it indicated in that document that The computation of amortization Schedule is computed at the rate of 17% relative in that Exh. T?

A:

yes sir, it is being listed here and the Interest rate is 17%.”[54] (Emphasis supplied)

xxx

xxx

xxx

“Q:

on the basis of what document if any Did you make out these checks which According to you was computed at 13.5%?

A:

It is indicated in the statement of Account.

Q: showing to you a document, is that The one?

A: yes, sir.”[55] (Emphasis supplied)

xxx

xxx

xxx

“Q:

showing to you a copy of this Amortization schedule which is now Marked as Exh. II and my question To you is, can you explain how this Document served as your basis for 13.5% interest, is there anything in That document that indicates the 13.5%?

A:

you will also notice on the left side Column, it is stated there the interest Rate of 13.5%.”[56]

xxx

xxx

xxx

“Q:

those checks that you issued, were These in conformity of the schedule?

A:

yes, sir.”[57] (Emphasis supplied)

xxx

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“Q: Mr. Witness, you have already Identified various proof of payment Of 17% interest and 13.5% interest referring To the loans 1 and 2. I am showing To you Exh. J, can you point out in This Exh. J which loan you have with Planters Bank where you paid 15%?

A: the 15% is the Promissory Note 00065 (.) It is a revolving credit line for 15 Million which we paid the interest Rate of 15% and also a credit line of 1.25 million that is the Promissory Note 00322 which we also paid 15% Interest.”[58] (Emphasis supplied)

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“Q:

Mr. Witness, showing you this Original copy of a check voucher, at The back is a document, what is that Document?

A:

this is also an amortization slip for The loan amount of 1.25 million and The interest rate at 15% per annum.

Q:

this is only a photocopy, where did You get that?

A:

this was furnished by Planters Bank.”[59]

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“Q:

let's go back to Exh. KK which is An amortization schedule for the loan Of 15 million. I failed to ask you Where in this Exh. KK which Indicates that it is also 15%?

A:

from the left side of the statement, the Loan amount is 15million and the Interest rate is at 15%.”[60]

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“Q: in your Exh. J, this is Planters Bank Loan summary. You indicated 8 Promissory notes. For the record, You admitted that you executed these Promissory notes. The signatures Above your name is yours?

A: yes, sir.

Q: do you admit that you received the Proceeds indicated in this loan?

A: yes, sir.

Q: each one of them?

A: yes, sir.

Q: particularly promissory note No. 1, it Indicates here that the interest rate Is 17%, you agreed to that interest Rate, in fact, you even fully paid that Promissory note?

A: yes, sir.

Q: in promissory note No. 2, the interest Rate is 13.5%, I assume that you also Agreed to that interest because you Even fully paid?

A: yes, sir.”[61] (Emphasis supplied)

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“Q: but you already received the proceeds?

A:

yes, sir.

Q:

did you make any payment?

A:

only interest.

Q:

how about in promissory note no. 6, Is this a new loan you mentioned in Your direct testimony, do you confirm That?

A:

yes, sir.

Q:

did you make any payment?

A:

this is a revolving credit line.

Q:

at least partial payment, did you make Any payment at least to the interest?

A:

only the interest was paid every Month.

Q:

how about in promissory note no. 7?

A:

this no. 7 is the one coming from no. 5 They just have it renewed.

Q:

again, you already received the Proceeds, did you make any payment?

A:

no, it's a revolving credit line, so we Are only required to pay the interest Every month.

Q:

but have you paid the interest?

A:

yes, sir.

Q:

is that full payment of the interest Or partial?

A: no, interest only for every month.

Q: in promissory note no. 8?

A: in the promissory note no. 8, what They did, they just consolidate the Two loans, the 50 (sic) million and the 30 million into one promissory note.

Q: so, again, you already received the Proceeds?

A: we have received it before, it was only A renewal and they consolidate it.

Q: have you made any payment?

A: for the no. 8, there was a partial Payment on the interest and also for The 1.25 there is also partial payment On the principal.”[62] (Emphasis supplied)

Prescinding from the foregoing, it is clear that plaintiffs-appellants are well aware of the interest rate which is reflected not only in the Promissory Notes, but on other documents as well, and that they had been paying the same, albeit partially. The amortization schedule[63] of the P15,000,000.00 loan executed on March 8, 2006, or prior to the subject Promissory Notes, plainly discloses an interest rate of 15% per annum. The said amortization schedule was with the conformity of plaintiffs-appellants Spouses Ang as evidenced by their signatures therein. The corresponding Disclosure Statement[64] of the said loan reflecting the said interest rate was likewise signed by them. On even date, a P30,000,000.00 loan was also executed with the same interest rate of 15% per annum. The promissory note[65], as well as the disclosure statement[66], were both signed by plaintiffs-appellants Spouses Ang.

Further, the amortization schedule[67] of the P20,000,000.00 loan back in 2003, which plainly indicates the interest rate of 17% per annum, was signed by the plaintiffs-appellants Spouses Ang. They likewise expressed

their conformity to the amortization schedule[68] of the P1,250,000.00 loan in 2006 at 15% interest. The same goes for the P43,750,000.00 loan executed on March 27, 2007[69] at 16.25 % interest. In all these transactions, Disclosure Statements[70] stating that plaintiffs-appellants acknowledged receipt of copies thereof prior to the consummation of the credit transactions and that they understood and fully agreed to the terms and conditions, were signed by them.

From their collective actuations in all these transactions, this Court rejects plaintiffs-appellants' insinuation that they did not consent to the interest rate and penalty charges under the subject Promissory Notes. The fact that there were several transactions for which they received the amount loaned and issued the corresponding checks belie their insinuation of protest. Indeed, to affirm plaintiffs-appellants' stance, which is only supported by plaintiff-appellant David Ang's lone testimony, would negate all the documentary evidence extant in the records.

Plaintiff-appellant David Ang's allegation that they started to protest way back in 2003 is not worthy of belief. Again, there was no evidence presented to prove the same, except his bare testimony. It appears from a reading of his testimony that these supposed protests were simply requests to make the interest rate lower. His statement that they were trying to negotiate for a lower rate meant that they were nevertheless aware of the interest rates. It goes without saying that mere requests to lower the interest rate do not diminish the obligatory nature of contracts that they already entered into. The fact remains that the interest rate, as with the previous loans, was 15% and that they proceeded with the transactions. Frankly, it is quite ridiculous to voluntarily enter and benefit from these transactions and then protest later on regarding the interest rates. They pushed through with these transactions spanning a period of more than four (4) years, which effectively belies their claim that the terms were not acceptable to them.

Moreover, defendant-appellee PDB did not force the plaintiffs-appellants to enter into these transactions and there was nothing that prevented them to apply for loans with other banks. Plaintiff-appellant David Ang in fact admitted that they transacted with other financial institutions. Plaintiffs-appellants could have refused to sign the documents altogether, but they did not. In the same vein, they were not forced to issue postdated checks for the payment of interest. In the instant appeal, plaintiffs-appellants beseech justice and equity, but it is in fact their actuation of voluntarily entering into a contract, reaping benefits, and then denying the same, which is highly inequitable. Verily, plaintiffs-appellants' position is antithetical to the very nature and purpose of contracts.

Plaintiffs-appellants' justification that they stopped making payments in order to get Aloyon's attention is likewise flimsy, not to mention that it shows their callous disregard of their contractual obligations despite knowing that the interest on the seventy million loan continued to run.

The evidence of plaintiffs-appellants consisted mainly of plaintiff-appellant David Ang's testimony, which to the mind of this Court, is utterly insufficient to nullify the binding force of the subject Promissory Notes. From the totality of the documentary evidence presented, comprising of Promissory Notes, Disclosure Statements, Statements of Account, amortization schedules, among other things, this Court is convinced that the interest rate of 15% per annum and the penalty charges, which the lower court correctly reduced to 12% per annum, are binding upon the plaintiffs-appellants.

On another point, contrary to the contention of plaintiffs-appellants, the interest rate of 15% per annum and penalty charges of 12% per annum cannot be considered as iniquitous and unconscionable.

It is a basic principle in civil law that parties are bound by the stipulations in the contracts voluntarily entered into by them. Parties are free to stipulate terms and conditions which they deem convenient provided they are not contrary to law, morals, good customs, public order, or public policy. With the suspension of the Usury Law and the removal of interest ceiling, parties are free to stipulate the interest to be imposed on loans. Absent any

evidence of fraud, undue influence, or any vice of consent, as in this case, the interest agreed upon is binding upon them.[71]

Thus, in the recent case of *Spouses Florentino and Aurea Mallari v. Prudential Bank* (now Bank of the Philippine Islands)[72], the Supreme Court revisited the jurisprudential pronouncements on interest rates and ruled that a 24% per annum interest rate is not excessive or unconscionable. In *Mallari*, aside from affirming the validity of the 23% per annum interest rate imposed by respondent therein, the Supreme Court likewise recognized the penalty charges of 12% per annum as valid. In this case, the interest rate of 15% per annum and penalty charges of 12% per annum are well within the limits set forth in *Mallari*. Incidentally, in *Spouses Silvestre and Celia Pascual v. Rodrigo Ramos*,[73] the High Court even upheld an interest rate of 7% per month.

Anent plaintiffs-appellants' insistence that the subject transactions should be annulled for being contracts of adhesion, it bears stressing that such contracts are as binding as ordinary contracts. This is because those who adhere to the contract, such as plaintiffs-appellants, are in reality free to reject it entirely, and if they adhere, they give their consent.[74] Well-entrenched is the principle that courts have no power to make or modify contracts between the parties, nor can the courts save them from disadvantageous provisions.

Relatedly, escalation clauses are valid and do not contravene public policy. These clauses are common in credit agreements as means of maintaining fiscal stability and retaining the value of money on long-term contracts.[75]

As to the amount due to defendant-appellee PDB, this Court finds no reason to disturb the lower court's findings. The Statement of Account[76], loan summary[77], and demand letters[78] show the outstanding amounts under the three Promissory Notes as P43,750,000.00, P950,754.69, and P24,900,000.00. The aggregate of these sums is P69,600,755.00, as adjudged by the lower court in the assailed Decision while the deduction for payments is based on the Application of Payments.[79] At any rate, a reading of plaintiffs-appellants' brief discloses that their prayer for accounting is anchored on their contention that the interest rates imposed, such as the 17% interest per annum in 2003, were invalid.[80] Having affirmed the validity of these provisions, plaintiffs-appellants thus failed to advance any cogent reason in their brief for this Court to reverse or modify the factual findings of the lower court pertaining to the amount due.

The lower court aptly held:

“xxx In this case, there was no clear indication that plaintiffs-spouses Ang were forced or constrained to sign the surety agreement. Same goes with the promissory note. Both being of age, financially stable and with their multiple business ventures and experience, plaintiffs-spouses Ang are presumed to have acted with due care and to have signed the assailed contract with full knowledge of its import. Under the premises, it would be difficult to assume that they were constrained to sign the agreements. They were free to reject the agreements if they wanted to.

In addition, it is clear that the plaintiffs-spouses Ang, aside from acting for and on behalf of Golden Bell Grand Center, Inc., also acted in their personal capacities when they signed as sureties in the surety agreement. It actually disturbs the Court to figure that the plaintiffs, for a long period of time since their initial transaction, had not signified their opposition to the terms and conditions proposed by the defendant bank involving the subject loans and, in fact, on 2007, even executed a Continuing Surety Agreement, a Credit Line Agreement, and four Promissory Notes. It cannot be said therefore that the plaintiffs, during that span of time, were not given the opportunity to contest its terms and conditions. To the mind of the Court, the plaintiffs freely and knowingly assented to it, for (if) it was otherwise, they would not have executed the said agreements during the latter years of their business relationship or in the year 2007.”[81]

The obligatory nature of contracts is one of the most, if not the most, fundamental principle in civil law. Against an array of proofs taken together with the subject Promissory Notes, all plaintiffs-appellants could muster is the

bare allegation that these Promissory Notes were pre-signed. The evidence adduced by the parties clearly preponderates in favor of defendant-appellee PDB. All told, this Courts finds that plaintiffs-appellants raised no substantial argument to warrant reversal or modification of the assailed Decision.

WHEREFORE, premises considered, the instant appeal is DENIED. The assailed Decision dated April 22, 2013 of the RTC, Branch 133, Makati City in Civil Case No. 08-257 is hereby AFFIRMED.

No costs.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Bruselas, Jr., A.D., and Gaerlan, S.H., JJ., concur.

[1] Rollo, pp. 31-44, penned by Judge Elpidio R. Calis

[2] Rollo, pp. 43-44

[3] Rollo, pp. 23-30; Records, pp. 1-43

[4] Records, p. 15

[5] Records, pp. 17, 16

[6] Records, pp. 18-19

[7] Records, pp. 20-23

[8] Records, pp. 24-29

[9] Records, pp. 38-39

[10] Records, pp. 46, 45

[11] Records, pp. 55-140

[12] Records, p. 138

[13] Records, p. 139

[14] Records, p. 140

[15] Records, pp. 141-144

[16] Records, pp. 150-154; 155-162

[17] Records, p. 164

[18] Records, p. 171

[19] Records, pp. 183-186

- [20] Transcript of Stenographic Notes of the testimony of the witness David Ang taken on November 12, 2009; May 13, 2010; July 19, 2010, November 11, 2010, January 27, 2011
- [21] Records, pp. 215-243
- [22] Transcript of Stenographic Notes of the testimony of the witness Ma. Bella Dinero taken on May 19, 2011
- [23] Transcript of Stenographic Notes of the testimony of the witness Eleuterio Hermosa taken on January 30, 2012, February 27, 2012, March 5, 2012
- [24] Records, pp. 326-389
- [25] Records, pp. 400-401, 406-407
- [26] Records, pp. 402-405
- [27] Records, pp. 408-425, 445-471
- [28] Records, pp. 473-487; Rollo, pp. 31-44
- [29] Rollo, p. 56
- [30] Rollo, pp. 53-68
- [31] Section 1, Rule 50, Revised Rules of Court
- [32] *Development Bank of the Philippines v. Family Foods Manufacturing Co. Ltd., et al.*, G.R. No. 180458. July 30, 2009 citing *Vales v. Villa*, 35 Phil 769, 787-788 (1916) and *Spouses Pascual v. Ramos*, 433 Phil. 449, 461 (2002).
- [33] *Ibid.*
- [34] *Tan Tua Sia, et al. v. Yu Biao Sontua, et al.*, G.R. No. 34533. March 31, 1932.
- [35] *Pepito Bernardo, et al. v. Court of Appeals, et al.*, G. R. No. 107791. May 12, 2000.
- [36] *Tan Tua Sia, et al. v. Yu Biao Sontua, et al.*, G.R. No. 34533. March 31, 1932.
- [37] *Teresita Dio v. St. Ferdinand Memorial Park, Inc., et al.*, G.R. No. 169578. November 30, 2006.
- [38] Transcript of Stenographic Notes dated January 27, 2011, pp. 3-4
- [39] Transcript of Stenographic Notes dated January 27, 2011, p. 5
- [40] Transcript of Stenographic Notes dated January 27, 2011, pp. 5-6
- [41] Transcript of Stenographic Notes dated January 27, 2011, pp. 8-11
- [42] *Heirs of Cipriano Reyes v. Jose Calumpang, et al.* G.R. No. 138463. October 30, 2006.
- [43] Rule 131, Section 3 (p), (d), Revised Rules of Court
- [44] Records, pp. 296-299
- [45] Records, pp. 302-303
- [46] Records, p. 222
- [47] Records, pp. 138-140

- [48] Rule 131, Section 3 (x), Revised Rules of Court
- [49] Transcript of Stenographic Notes dated November 12, 2009, pp. 16-17
- [50] Transcript of Stenographic Notes dated November 12, 2009, pp. 31-33
- [51] Transcript of Stenographic Notes dated May 13, 2010, pp. 17-18
- [52] Transcript of Stenographic Notes dated November 11, 2010, pp. 9-10
- [53] Transcript of Stenographic Notes dated November 11, 2010, p. 13
- [54] Transcript of Stenographic Notes dated November 11, 2010, p. 16
- [55] Transcript of Stenographic Notes dated November 11, 2010, pp. 22-23
- [56] Transcript of Stenographic Notes dated November 11, 2010, pp. 24-25
- [57] Transcript of Stenographic Notes dated November 11, 2010, p. 26
- [58] Transcript of Stenographic Notes dated November 11, 2010, pp. 26-27
- [59] Transcript of Stenographic Notes dated November 11, 2010, pp. 34-35
- [60] Transcript of Stenographic Notes dated November 11, 2010, p. 37
- [61] Transcript of Stenographic Notes dated January 27, 2011, pp. 15-17
- [62] Transcript of Stenographic Notes dated January 27, 2011, pp. 20-23
- [63] Records, p. 239
- [64] Records, p. 297
- [65] Records, p. 298
- [66] Records, p. 299
- [67] Records, p. 228
- [68] Records, p. 243
- [69] Records, p. 301
- [70] Records, pp. 287, 289, 291
- [71] Spouses Silvestre and Celia Pascual v. Rodrigo Ramos, G.R. No. 144712. July 4, 2002.
- [72] G.R. No. 197861. June 5, 2013.
- [73] G.R. No. 144712. July 4, 2002.
- [74] Asian Construction and Development Corporation v. Cathay Pacific Steel Corporation, G.R. No. 167942. June 29, 2010.
- [75] Spouses Humberto and Carmencita Delos Santos v. Metropolitan Bank and Trust Company. G.R. No. 153852. October 24, 2012.
- [76] Records, pp. 80, 385

[77] Records, p. 196

[78] Records, pp. 71-79

[79] Records, p. 387

[80] Rollo, pp. 66-67

[81] Rollo, p. 41

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