

**BPI FAMILY SAVINGS BANK, INC., PLAINTIFF-APPELLEE, VS.
GREGORIO D. CANEDA, JR., CHERRY L. CANEDA AND JOHN DOE,
DEFENDANTS-APPELLANTS.**

Ponente: LIBREA-LEAGOGO, C.C., J.

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LIBREA-LEAGOGO, C.C., J.:

Before this Court is an appeal under Rule 41 of the Rules of Court, assailing the Decision[1] dated 10 March 2014 of the Regional Trial Court, National Capital Judicial Region, Branch 1, Manila in the case entitled “BPI Family Savings Bank, Inc. v. Gregorio D. Caneda, Jr., Cherry L. Caneda and John Doe,” docketed as Civil Case No. 10-123066, which ruled in favor of the plaintiff.

Defendants-appellants filed their Appellants' Brief[2] dated 16 October 2014. Plaintiff-appellee also filed its Appellee's Brief[3] dated 25 November 2014. Per JRD verification[4] dated 13 February 2015, no reply brief has been filed as per docket book entry. Thus the case is submitted for decision.

FACTUAL ANTECEDENTS

A Complaint[5] dated 23 February 2010 for Replevin and Damages was filed by plaintiff BPI Family Savings Bank, Inc. (“BPI Family,” for brevity) against defendants Gregorio D. Caneda, Jr., (“Gregorio,” for brevity), Cherry L. Caneda (“Cherry,” for brevity) and John Doe, in the case docketed as Civil Case No. 10-123066, before the Regional Trial Court of Manila, and raffled off to Branch 1.

In the said Complaint it was alleged, inter alia, that: on 01 August 2006, for value received, defendants executed and delivered to Citimotors, Inc.-Las Pinas, (“Citimotors,” for brevity) a Promissory Note with Chattel Mortgage (“PNCM,” for brevity) where they jointly and severally obligated themselves to pay the latter, the sum of Php1,081,920.00 payable in monthly installments; said obligation, together with the other obligations defined in the PNCM, are secured by a chattel mortgage on a certain motor vehicle; said motor vehicle is described as a one (1) unit 2006 Mits. Adventure GLS A/T, with Motor No. 4G63AC4084 and Serial No. PAEVB2RX16B00754; said PNCM was registered with the proper Register of Deeds and the Land Transportation Office; on 01 August 2006, Citimotors with notice to defendants, assigned to plaintiff all its rights, title and interest to the aforesaid PNCM, as shown by the Deed of Assignment executed by Citimotors in favor of plaintiff; defendants Gregorio, Cherry and John Doe, defaulted in complying with the terms and conditions of the PNCM by their failure to pay the ten (10) consecutive monthly installments which fell due on 03 May 2009 up to 03 February 2010; plaintiff demanded from said defendants the whole balance of the PNCM in the sum of Php536,652.11 including accrued late payment charges and interest for the purpose of foreclosure in accordance with the undertaking stated in the PNCM; said defendants failed to comply with plaintiff's demands; it is provided in the PNCM that failure on the part of defendants Gregorio and Cherry to pay any installment when due shall make the subsequent installment and the entire balance of the obligation immediately due and payable; by virtue of the refusal of the defendants to pay the entire balance of the obligation in the amount of Php491,893.23, together with the accrued late payment charges/interest thereon at the rate of 5% per month as of 24 September 2010, plaintiff was constrained to institute

the instant action; defendants became liable to the plaintiff for the additional sum of Php225,579.78 representing the amount stipulated in the PNCM as attorney's fees, liquidated damages and other expenses; defendants' obligation is itemized in a statement of account; it is provided in the PNCM that defendants agree that any legal action arising therefrom may be instituted in the courts of the City of Manila, Philippines, and that plaintiff shall be entitled to 24% attorney's fees and 15% liquidated damages computed against the amounts due from defendants; plaintiff is entitled to the possession of the mortgaged motor vehicle and expenses for recovery of possession; defendants are wrongfully detaining the said motor vehicle for the purpose of defeating plaintiff's mortgage lien; said mortgaged motor vehicle has not been taken for any tax assessment or fine pursuant to law or seized under an execution of attachment or otherwise placed under custodia legis, or if so seized, the same is exempt from such seizure and that the actual value of the said motor vehicle does not exceed Php492,000.00; plaintiff is willing to file a sufficient bond in an amount double the actual value of the motor vehicle for the return of the same to the defendants if the return thereof be adjudged; it is respectfully prayed that upon approval of the bond, a writ of replevin be issued ordering the seizure of the motor vehicle, complete with its accessories and equipment, with the registration certificate thereof; in the event that manual delivery of said motor vehicle cannot be effected, to render judgment in favor of plaintiff and against defendants ordering them to pay plaintiff jointly and severally the sum of Php491,893.23 plus late payment charges/interest at the rate of 5% per month from 24 September 2010 until fully paid; in either case, to order defendants to pay jointly and severally the sum of Php225,579.78 as attorney's fees, liquidated damages, bonding fees, other expenses incurred in the seizure of the motor vehicle; and costs of suit.

Summons was issued dated 02 March 2010[6] and per Sheriff's Return[7] dated 31 January 2011, the original of the summons was returned to the trial court as it was unserved for the reason that the defendants were always out of town. Alias Summons[8] dated 07 March 2011 was served as per Server's Return[9] dated 06 January 2012.

A Motion to Declare Defendants in Default and to Allow Plaintiff to Present Evidence Ex Parte[10] dated 23 February 2012 was filed by plaintiff as the reglementary period within which defendants should have filed their answer has expired. In an Order[11] dated 07 March 2012, the same was granted by the trial court.

Trial ensued.

Plaintiff's witness Lilie C. Ultu ("Ultu," for brevity) executed a Judicial Affidavit[12] and testified in court.[13]

A Manifestation with Vigorous Opposition to Plaintiff's Motion to Declare Defendants in Default[14] dated 26 April 2012 was filed by defendants, which was received by the trial court on 16 May 2012.

In an Order[15] dated 24 July 2012, defendant Gregorio appeared before the trial court, explained himself and in conformity with plaintiff's counsel, agreed to settle whatever obligation he has with plaintiff. Upon the prayer of both counsel to suspend proceedings, the trial court ordered the suspension of proceedings for three months.

An Urgent Motion for Additional Time to Submit Compromise Agreement[16] dated 22 October 2012 was filed by defendant Gregorio for himself and for the other defendant.

In an Order[17] dated 28 May 2013, it was stated therein that: there is an Urgent Motion for Additional Time to Submit Compromise Agreement filed by defendants, but plaintiff's counsel manifested that they have yet to receive a copy of the Compromise Agreement; the records show that on 07 March 2012, plaintiff's Motion to Declare Defendants in Default was already granted and the same should stay; and plaintiff was ordered to continue the presentation of its evidence ex parte on 25 June 2013.

Plaintiff filed its Formal Offer of Evidence[18] dated 02 July 2013, offering Exhibits "A" to "G", and in an Order[19] dated 04 July 2013, plaintiff's Exhibits "A" to "G" were admitted. A Memorandum[20] dated 26

November 2013 was filed by plaintiff.

On 10 March 2014, the trial court rendered the assailed Decision,[21] the dispositive portion of which reads:

“WHEREFORE, in view of the foregoing considered, judgment is hereby rendered in favor of plaintiff and against defendants Caneda, ordering them to pay the plaintiff jointly and severally the sum of P491,893.23 with penalty charges thereon for late payment at a reduced rate of 12% per annum from September (sic) May 3, 2009, until fully paid, and attorney's fees in the amount of P50,000.00, plus the costs of this suit.

SO ORDERED.”[22]

A Notice of Appeal[23] was filed by defendants on 02 June 2014, which was given due course in the Order[24] dated 04 June 2014.

RULING

Defendants-appellants assign the following errors, viz:

“-I-

THE COURT OF ORIGIN GRIEVOUSLY ERRED WHEN IT RENDERED THE ASSAILED DECISION DATED MARCH 10, 2014 IN FAVOR OF THE APPELLEE WITHOUT GIVING THE APPELLANTS THEIR DAY IN COURT.

-II-

THE COURT OF ORIGIN GRIEVOUSLY ERRED WHEN IT CONDUCTED AN EX-PARTE HEARING PRIOR TO THE RENDITION OF THE ASSAILED DECISION.

-III-

THE COURT OF ORIGIN ERRED WHEN IT COMPLETELY IGNORED AND CAPRICIOUSLY OPTED NOT TO PASS UPON THE ARGUMENTS AND EXPLANATION RAISED IN APPELLANTS' MANIFESTATION WITH VIGOROUS OPPOSITION TO PLAINTIFF'S MOTION TO DECLARE DEFENDANTS IN DEFAULT.” [25]

Defendants-appellants contend, inter alia, that: the trial court erred when it ordered that the reception of plaintiff-appellee's evidence be conducted ex parte and thereafter submitted for decision; in the Order dated 07 March 2012, they were declared in default despite their opposition to plaintiff-appellee's motion to declare them in default; it is aggravated by the trial court's failure to consider and pass upon their explanation embodied in their Manifestation with Vigorous Opposition to the Motion to Declare them in Default; what is equally capricious is the trial court's actuation in taking as gospel truth the Server's Return particularly the statement that they were allegedly served with summons together with a copy of the Complaint; the Server's Return dated 06 January 2012 is inaccurate; it is incorrect to state that a certain Ronaldo Tanalgo is their caretaker; they do not know a certain Tanalgo and neither is there any caretaker of the three adjoining lots owned by their family; it is inaccurate to state in the return that defendant-appellant Cherry allegedly instructed the process server to serve the summons to the caretaker considering the fact that they never met nor did Cherry personally talk to the process server; there is no legal and factual bases to favorably consider plaintiff-appellee's motion to declare them in default; the process server ought to know that substituted service is justified only when personal service is impracticable or cannot be made within a reasonable time; assuming arguendo that service of the summons was made to Tanalgo, still such service is a defective service since the process server was actually talking to defendant-appellant Cherry as attested to in the Server's Return; their vigorous opposition to plaintiff-appellee's motion for default cannot be construed as an indication of any waiver to present evidence on their behalf; the abuse of authority in declaring them in default is grave abuse of judicial discretion which is tantamount to lack of jurisdiction, and there cannot

be any final judgment on the merits; it has been held that where there is absence of defective service of summons, the court never acquires jurisdiction over their persons; and the assailed Decision should be set aside.

Plaintiff-appellee ripostes, inter alia, that: it has the legal right to demand for the balance of the defendants-appellants' obligation which ultimately became due and demandable after the latter defaulted in the payment thereof as stated in the PNCM; it being the rightful possessor of the subject vehicle, it had the right to collect from defendants-appellants the payment of their obligation; in the instant case, as long as it had a legal right to recover possession of the motor vehicle, the remedy of replevin would apply; evidence of non-payment of the loan for four (4) months was properly presented by plaintiff-appellee, together with the oral and written demand; the total obligation of defendants-appellants was shown by the Statement of Account; their claim that they substantially paid their obligation with the bank is of no moment, for they failed to show proof of substantial payment; the only issue raised in the Appellants' Brief is the death of one of the defendants-appellants which was not however proved; the loan documents best answer the right of plaintiff-appellee to collect from defendants-appellants; with their failure to prove full payment of the loan obligation, it was validly decided that plaintiff-appellee has a valid cause of action to collect from them; defendants-appellants voluntarily appeared and offered settlement, hence, there was a valid service of summons and jurisdiction was obtained by the court; with their admission that they indeed appeared in court and requested for time to settle, the jurisdiction was already obtained by the trial court which even gave defendants-appellants more than a year to negotiate and settle with the bank but to no avail; and the appeal of defendants-appellants must be denied for utter lack of merit.

The appeal is bereft of merit.

Burden of proof is the duty of a party to present evidence on the facts in issue necessary to establish his claim or defense by the amount of evidence required by law. It is basic that whoever alleges a fact has the burden of proving it because a mere allegation is not evidence. Generally, the party who denies has no burden to prove. In civil cases, the burden of proof is on the party who would be defeated if no evidence is given on either side. xxx By preponderance of evidence xxx is meant that the evidence as a whole adduced by one side is superior to that of the other. It refers to the weight, credit and value of the aggregate evidence on either side and is usually considered to be synonymous with the term "greater weight of evidence" or "greater weight of the credible evidence." It is evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto. xxx (T)he plaintiff must rely on the strength of his own evidence and not upon the weakness of the defendant's.[26]

In this case, defendants-appellants Gregorio and Cherry entered into a transaction with Citimotors as evinced by the PNCM[27] (Exh. "B"), and acknowledged before the Notary Public on 01 August 2006. In the said document executed by defendants-appellants, it is provided that the latter as mortgagors, jointly and severally promise to pay Citimotors as the mortgagee, it being understood that any reference to the mortgagee shall likewise refer to plaintiff-appellee BPI Family as assignee, the amount of One Million Eighty One Thousand Nine Hundred Twenty Pesos (Php1,081,920.00), in monthly installments of Php18,032.00 payable in sixty (60) months. The said obligation is secured by a 2006 Mitsubishi Adventure GLS Sport Gas A/T under Motor No. 4G63AC4084, under Serial No. PAEBV2RX16B00754.[28] Defendants-appellants also executed BPI Family Auto Loan Application[29] dated 27 July 2006 (Exh. "F").

In the Judicial Affidavit[30] (Exh. "A") of plaintiff-appellee's witness Ultu, she stated that: she is an employee and an Account Servicing Officer of plaintiff-appellee bank; she is in charge of attending to the proper application of payments made by their clients to their respective accounts, and she analyzes delinquent accounts, with access to the records of delinquent clients; in the performance of her duties as an Account Service Officer, she came across the account of defendants-appellants; defendants-appellants executed a PNCM in favor of Citimotors,

which was subsequently assigned to plaintiff-appellee, over a one (1) unit of 2006 Mitsubishi Adventure with Motor Number 4G63AC4084 and Serial Number PAEVB2RX16B00754; said account was subsequently assigned to plaintiff-appellee as shown in a Deed of Assignment; with respect to the PNCM on the prompt payment of the stipulated monthly installments, defendants-appellants did not comply with the provisions stated therein; defendants-appellants failed to pay the monthly installments which fell due on 03 May 2009 up to 03 February 2010 as of the filing of the Complaint; plaintiff-appellee made oral and written demands upon them to settle their obligation or to surrender the chattel; the demand letters to defendants-appellants were sent by registered mail; defendants-appellants did not comply with the demands and the obligation was not paid in full nor was the chattel surrendered to the plaintiff-appellee; at the time of the filing of the Complaint, as per Statement of Account, the PNCM still has a balance of Php491,893.23 as of 22 February 2010 exclusive of interests and other stipulated expenses; no payments were made after the filing of the Complaint and the possession of the unit subject of the case is with defendants-appellants.

As shown by the Statement of Account[31] dated 22 February 2010 (Exh. "D") of plaintiff-appellee, the total amount being claimed by it, inclusive of interest, attorney's fees, liquidated damages, estimated repossession expense and bonding fee as of 22 February 2010 is Php762,231.89.

A demand letter[32] dated 28 January 2010 (Exh. "C") was made to defendant-appellant Gregorio, stating therein that: the entire outstanding balance of his account in the amount of Php491,893.23 plus interest and other charges has become due and demandable; as a result of defendant-appellant's default, his payments were first applied to satisfy the amount paid in advance for the insurance premium and only the residue was applied to the installments due, resulting in arrears for the period covering 03 May 2009 to 03 January 2010; and payment in full, plus stipulated interest and other charges, or for return of the chattel covered by the account, was demanded. For failure of defendants-appellants to heed the demand, plaintiff-appellee filed the Complaint[33] dated 23 February 2010 for Replevin and Damages.

Defendants-appellants posit that the trial court erred in conducting an ex parte hearing, in issuing the assailed Decision without giving them a day in court and in not passing upon the arguments raised by them in their manifestation with vigorous opposition to plaintiff-appellee's motion to declare them in default.

We are unpersuaded.

When a defendant is served with summons and a copy of the complaint, he or she is required to answer within 15 days from the day he or she was served with summons.[34] Fifteen days is sufficient time for a defendant to answer with good defenses against the plaintiff's allegations in the complaint. Thus, a defendant who fails to answer within 15 days from service of summons either presents no defenses against the plaintiff's allegations in the complaint or was prevented from filing his or her answer within the required period due to fraud, accident, mistake or excusable negligence. In either case, the court may declare the defendant in default on plaintiff's motion and notice to defendant.[35]

In this case, summons was issued for defendants-appellants but, as per Sheriff's Return[36] dated 31 January 2011, the same was unserved. An Urgent Ex-Parte Motion for Issuance of an Alias Summons[37] dated 22 February 2011 was filed by plaintiff-appellee and Alias Summons[38] dated 07 March 2011 was served as per Server's Return[39] dated 06 January 2012. The said Server's Return provides that "on many occasions several attempts were made to serve the copy of the summons, complaints and its annexes issued in the above-captioned case upon defendants, Gregorio D. Caneda, Jr. and Cherry L. Caneda at the given address located at B6 L11 & 13 Ph2 Fatima Hts. Subd., Sampaloc III Dasmarinas, Cavite at reasonable hours of the day but to no avail for the reason that said defendant is always out of the premises and there (were) times that the unit of the defendant(s)

were closed. That finally on January 6, 2011, said summons was served thru the caretaker, Ronaldo Tanalgo upon the instruction of the defendant, Cherry L. Caneda to acknowledged (sic) the receipt thereof as evidenced by the signature of the said caretaker (which) appeared on the face of the said summons.”[40]

Based on the records, no answer was filed by defendants-appellants. Thus, a Motion to Declare Defendants in Default and to Allow Plaintiff to Present Evidence Ex-Parte[41] dated 23 February 2012 was filed by plaintiff-appellee, which was granted in the Order[42] dated 07 March 2012. Defendants-appellants filed only on 08 May 2012,[43] by registered mail, their belated Manifestation with Vigorous Opposition to Plaintiff's Motion to Declare Defendants in Default,[44] or two (2) months after they were already declared in default by the trial court.

A defendant declared in default loses his or her standing in court. He or she is "deprived of the right to take part in the trial and forfeits his [or her] rights as a party litigant," has no right "to present evidence [supporting his or her] allegations," and has no right to "control the proceedings [or] cross-examine witnesses." Moreover, he or she "has no right to expect that [the court] would [act] upon [his or her pleadings]" or that he or she "may [oppose] motions filed against him [or her]."[45] (T)he defendant(s) declared in default "does not [waive] all of [his or her] rights." He or she still has the right to "receive notice of subsequent proceedings." Also, the plaintiff must still present evidence supporting his or her allegations "despite the default of [the defendant]."[46]

After notice of the declaration of default but before the court renders the default judgment, the defendant may file, under oath, a motion to set aside order of default. The defendant must properly show that his or her failure to answer was due to fraud, accident, mistake or excusable negligence. The defendant must also have a meritorious defense.[47] Thus, if a defendant discovers his or her default before the trial court renders judgment, he or she shall file a motion to set aside order of default.[48]

In the Order[49] dated 24 July 2012, it was stated that during the continuation of the reception of plaintiff-appellee's evidence ex parte on 24 July 2012, defendant-appellant Gregorio, who is a lawyer, appeared and explained himself, and with conformity of plaintiff-appellee's counsel, agreed to settle whatever obligation he has with plaintiff-appellee bank; and both counsel prayed for the suspension of proceedings in order that defendant-appellant Gregorio can settle whatever obligation he has with plaintiff-appellee. As further stated in the said Order, the trial court “xxx hereby order the suspension of herein proceedings, giving the parties three (3) months from today, or until October 24, 2012. For any result of settlement, let the parties hereto file any appropriate motion or pleading on or before October 24, 2012 for Court's resolution.”[50]

An Urgent Motion for Additional Time to Submit Compromise Agreement[51] dated 22 October 2012 was even filed by defendant-appellant Gregorio, for himself and as counsel for the other defendant,[52] wherein they reiterated their willingness to enter into any possible settlement with plaintiff-appellee; and Gregorio could not find time to see and arrange with plaintiff-appellee's representative owing to his poor health as he was being physically conditioned for surgery to remove the “mumps” on the left middle portion of his neck. However, defendant-appellant Gregorio did not exert any effort to settle with the plaintiff-appellee bank despite the passage of more than six (6) months, thus, plaintiff-appellee filed a Motion to Set Case for Hearing[53] dated 29 January 2013, copy furnished defendants-appellants.

Clearly, defendants-appellants were not deprived of their day in court. They never moved for the setting aside of the Order dated 07 March 2012 which declared them in default and allowed the ex parte presentation of evidence of plaintiff-appellee. Being declared in default, they have no right to present evidence on their behalf. Neither did they question the Order[54] dated 24 July 2012 which ordered the suspension of the proceedings to give defendant-appellant Gregorio time to settle his obligation with the plaintiff-appellee bank. Defendant-appellant

Gregorio, for himself and the other defendant-appellant, even further prayed for additional time to submit the compromise agreement,[55] which never happened.

Thus, the trial court did not err when it granted plaintiff-appellee's Motion to Set Case for Hearing[56] dated 29 January 2013, in its Order[57] dated 28 May 2013 and ordered the continuation of the presentation of its evidence ex parte on 25 June 2013. In the same Order, the trial court also stated that “(r)ecords will show that on March 7, 2012 xxx, the Court has already granted plaintiff's Motion to Declare Defendants in Default. Let therefore that (sic) the same stay.”[58]

Defendants-appellants cannot now belatedly question before Us the service of summons on them and the Server's Return[59] dated 06 January 2012. The certificate of service of the process server is prima facie evidence of the facts as set out therein. This is fortified by the presumption of the regularity of performance of official duty. To overcome the presumption of regularity of official functions in favor of such sheriff's return, the evidence against it must be clear and convincing. Sans the requisite quantum of proof to the contrary, the presumption stands deserving of faith and credit.[60]

More importantly, defendants-appellants submitted to the jurisdiction of the trial court by their voluntary appearance. It has been held that a party's appearance in a case is equivalent to service of summons and that objections must be timely raised. In this regard, (defendants-appellants) should be reminded of the provision in the Rules of Court that a defendant's voluntary appearance in an action shall be equivalent to service of summons. Further, the lack of jurisdiction over the person of the defendant may be waived either expressly or impliedly. When a defendant voluntarily appears, he is deemed to have submitted himself to the jurisdiction of the court. If he does not wish to waive this defense, he must do so seasonably by motion, and object thereto,[61] which defendants-appellants did not do in the instant case.

Here, the trial court ruled in favor of plaintiff-appellee, and ordered defendants-appellants to pay the former jointly and severally the sum of Php491,893.23 with penalty charges for late payment at a reduced rate of 12% per annum from 03 May 2009, until fully paid, and attorney's fees in the amount of P50,000.00, plus the costs of this suit.

We find no cogent reason to overturn the sum of money awarded by the trial court in plaintiff-appellee's favor, except for the interest imposed thereon, which was stated as penalty charges.

Plaintiff-appellee's witness Ultu testified on the due and demandable obligation of defendants-appellants. Plaintiff-appellee also presented in evidence their Exhs. “A” to “G”[62] which were formally offered[63] and admitted[64] by the trial court. Thus, plaintiff-appellee was able to establish in evidence their cause of action against defendants-appellants.

We agree with the trial court when it reduced the excessive 60% interest per annum to 12% per annum. (T)he interest rate of 5% per month, which when summed up would reach 60% per annum, is null and void for being excessive, iniquitous, unconscionable and exorbitant, contrary to morals, and the law.[65] (Indeed, the) Court is not unmindful of the fact that parties to a loan contract have wide latitude to stipulate on any interest rate in view of the Central Bank Circular No. 905 s. 1982 which suspended the Usury Law ceiling on interest effective January 1, 1983. It is, however, worth stressing that interest rates whenever unconscionable may still be declared illegal. There is nothing in said circular which grants lenders carte blanche authority to raise interest rates to levels which will either enslave their borrowers or lead to a hemorrhaging of their assets.[66]

(However,) pursuant to Circular No. 799, series of 2013, issued by the Office of the Governor of the Bangko Sentral ng Pilipinas on 21 June 2013, and in accordance with the ruling of the Supreme Court in the recent case of

Dario Nacar v. Gallery Frames and/or Felipe Bordey, Jr., effective 01 July 2013, the rate of interest for the loan or forbearance of any money, goods or credits and the rate allowed in judgments, in the absence of an express contract as to such rate of interest, shall be six percent (6%) per annum. Accordingly, the rate of interest of 12% per annum on (defendants-appellants') obligation shall apply from (03 May 2009) — the date of default — until 30 June 2013 only. From 01 July 2013 until fully paid, the legal rate of 6% per annum shall be applied to (defendants-appellants') unpaid obligation.[67]

WHEREFORE, premises considered, the appeal is DENIED. The Decision dated 10 March 2014 of the Regional Trial Court, National Capital Judicial Region, Branch 1, Manila in Civil Case No. 10-123066 is AFFIRMED with MODIFICATION in that the interest rate (not penalty charges) shall be 12% per annum from 03 May 2009 until 30 June 2013 , and from 01 July 2013 until fully paid, the legal rate of interest shall be 6% per annum. Costs against defendants-appellants.

SO ORDERED.

Lazaro-Javier, and Sadang, JJ., concur.

[1] Rollo, pp. 8-12; penned by Hon. Tita Bughao Alisuag

[2] Id. at 17-35

[3] Id. at 78-84

[4] Id. at 89 (dorsal side)

[5] Record, pp. 1-8

[6] Id. at 41

[7] Id. at 42

[8] Id. at 46

[9] Id. at 47

[10] Id. at 48-50

[11] Id. at 54

[12] Id. at 110-113

[13] TSN, 08 May 2012, pp. 1-17

[14] Record, pp. 63-65

[15] Id. at 78

[16] Id. at 81-83

[17] Id. at 101

[18] Id. at 108-109

[19] Id. at 137

[20] Id. at 141-146

- [21] Id. at 155-159
- [22] Id. at 159
- [23] Id. at 161-162
- [24] Id. at 167
- [25] Rollo, p. 25
- [26] BJDC Construction, etc. v. Nena E. Lanuzo, et al., G.R. No. 161151, 24 March 2014
- [27] Record, pp. 129-130
- [28] Id. at 129
- [29] Id. at 134
- [30] Id. at 123-126
- [31] Id. at 132
- [32] Id. at 131
- [33] Id. at 1-8
- [34] Lui Enterprises, Inc. v. Zuellig Pharma Corporation, et al., G.R. No. 193494, 12 March 2014
- [35] Id.
- [36] Record, p. 42
- [37] Id. at 43
- [38] Id. at 46
- [39] Id. at 47
- [40] Id.
- [41] Id. at 48-50
- [42] Id. at 54
- [43] Id. at 69 (dorsal side)
- [44] Id. at 63-65
- [45] Lui Enterprises, Inc. v. Zuellig Pharma Corporation, et al., *supra*
- [46] Id.
- [47] Id.
- [48] Id.
- [49] Record, p. 78
- [50] Id.
- [51] Id. at 81-83

[52] Id. at 81

[53] Id. at 89-90

[54] Id. at 78

[55] Id. at 82

[56] Id. at 89-90

[57] Id. at 101

[58] Id.

[59] Id. at 47

[60] Sansio Philippines, Inc. v. Spouses Alicia and Leodegario Mogol, Jr., G.R. No. 177007, 14 July 2009

[61] Spouses Rodolfo Berot and Lilia Berot v. Felipe C. Siapno, G.R. No. 188944, 09 July 2014, citing Gonzales v. Balikatan Kilusang Bayan sa Panlalapi, Inc., G.R. No. 150859, 494 Phil. 105 (2005)

[62] Record, pp. 110 -119

[63] Id. at 108-109

[64] Id. at 137

[65] Florpina Benavidez v. Nestor Salvador, G.R. No. 173331, 11 December 2013, citing Menchavez v. Bermudez, G.R. No. 185368, 11 October 2012, 684 SCRA 168

[66] Id.

[67] Spouses Bayani H. Andal and Gracia G. Andal v. Philippine National Bank, et al., G.R. No. 194201, 27 November 2013, citing Dario Nacar v. Gallery Frames and/or Felipe Bordey, Jr., G.R. No. 189871, 13 August 2013

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