

PHILIPPINE NATIONAL BANK, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND THE PHILIPPINE PHOENIX SURETY AND INSURANCE, INC., RESPONDENTS.

G.R. No. L-30937. January 21, 1987

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Marino P. Rubin obtained from the Binalbagan Branch of petitioner Philippine National Bank (Bank, for short) a 1954-1955 sugar crop loan in the amount of P40,200.00, secured by a chattel mortgage executed by Rubin as debtor-mortgagor and Jose A. Campos as mortgagor. As additional security, private respondent Philippine Phoenix Surety and Insurance, Inc. (Phoenix for short) issued Surety Bond No. 88 for P10,000.00 in favor of petitioner Bank. Liability under said bond was to expire one (1) year from the date thereof, unless within ten (10) days from its expiration, the surety is notified of any existing obligations thereunder.

Three months later, petitioner Bank increased the loan from P40,200.00 to P56,800.00, without the knowledge and consent of private respondent Phoenix.

When Rubin failed to liquidate said loan, petitioner Bank demanded of private respondent Phoenix that it make good its undertaking as surety for Rubin up to the stated amount of P10,000.00. Private respondent Phoenix denied liability, resulting in petitioner instituting a collection case against Rubin, his guarantors and sureties, including private respondent Phoenix.

The trial court ruled in favor of petitioner Bank, ordering, among others, private respondent Phoenix to pay petitioner the sum of P10,000 upon failure of the principal debtor Rubin and his guarantors to pay the judgment amount. On appeal, the Court of Appeals modified the trial court's decision by exonerating private respondent Phoenix from liability under its surety bond. Hence, the instant petition for review.

The discharge of private respondent Phoenix from liability under Surety Bond No. 88 is correct. Contrary to petitioner's thinking, the contract in question is not a continuing chattel mortgage for which consent and knowledge of the surety is unnecessary for an increase in the amount of the principal obligation. The contract of chattel mortgage itself fixed the credits, loans, overdrafts, etc. and other valuable consideration received thereunder at Forty Thousand Two Hundred Pesos [P40,200.00]. The undertaking under said contract was "for the purpose of securing their payment including the interest thereon, the cost of collection and other obligations owing by the Debtor-Mortgagor to the mortgagee, whether direct or indirect, principal or secondary as appears in the accounts, books and records of the mortgagee x x x." [p. 179, Record on Appeal]. Applying the principle of *eiusdem generis*, the term "other obligations" must be limited to such as are of the same nature as interest and costs of collection. The term cannot be enlarged to include future additional advances to debtor-mortgagor, much less be interpreted as a previous authorization from the surety to increase the principal amount fixed in the contract.

The increase in the indebtedness from P40,200.00 to P56,800.00 is material and prejudicial to private respondent

Phoenix. While the liability of private respondent under the bond is limited to P10,000.00, the increase in the amount of the debt proportionally decreased the probability of the principal debtor being able to liquidate the debt; thus, increasing the risk undertaken by the surety to answer for the failure of the debtor to pay. "A material alteration of the principal contract, effected by the creditor and principal debtor without the knowledge and consent of the surety, completely discharges the surety from all liability in the contract of suretyship." [Asiatic Petroleum Co. vs. Hizon and David, 45 Phil. 532; Phil. National Bank vs. Veraguth, 50 Phil. 253].

ACCORDINGLY, the decision of the Court of Appeals under review is hereby affirmed. Costs against petitioner.

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