

**UNITED COCONUT PLANTERS BANK, PLAINTIFF-APPELLANT, VS.
ADVANCE AUTOMATION ACCESS, INC., JOSE ANTONIO M.
BALTAZAR, AND SPOUSES JOSE D. BALTAZAR AND VIOLETA M.
BALTAZAR, DEFENDANT...**

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the May 14, 2002 Decision[1] of the Regional Trial Court, Branch 148, Makati City, in Civil Case No. 98-1057, an action for Sum of Money with Preliminary Attachment, filed by the United Coconut Planters Bank (UCPB) against Advance Automation Access, Inc., Jose Baltazar, and spouses Jose D. Baltazar and Violeta M. Baltazar (defendants), the dispositive portion of which reads:

“WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendants, and the latter are hereby ordered to pay jointly and severally the plaintiff the following amounts:

- The sum of P27,834,356.00, inclusive of penalties and charges as of the filing of the Complaint with legal interest of 12% per annum computed from the date of filing the complaint until fully paid;
- 25% of the total amount due as and for attorney’s fees; plus
- Costs of suit.

SO ORDERED.”

The trial court summarized the factual and the procedural antecedents as follows:

“This is an action for Sum of Money with Prayer for Preliminary Attachment.

Plaintiff filed the instant complaint on May 15, 1998. In support of plaintiff’s Application for Preliminary Attachment, an ex-parte hearing was conducted by the Court. Subsequently, a Writ of Preliminary Attachment was issued by the Court on May 22, 1998.

Summons were served to the defendants on May 28, 1998. However, instead of filing a responsive pleading or answer, defendant filed an urgent Motion to Discharge Attachment on June 8, 1998, which was opposed by plaintiff. On August 20, 1998, plaintiff filed a Motion to Declare Defendants in Default on the ground that the Motion (Urgent Motion to Discharge Attachment), which defendants filed on June 8, 1998 is not the responsive pleading contemplated under the rules. Subsequently, on September 4, 1998, defendants filed Motion to Admit Responsive Pleading, attached thereto was defendants’ Answer, which was opposed by the plaintiff. Defendants’ Motion to Discharge Attachment was, in the meantime, partially denied by the court in its Order dated August 10, 1998, prompting plaintiff to move for reconsideration. In its Joint Order dated June 15, 2001, the Court resolved the pending incidents by declaring the defendants in default and setting aside the Order of August 10, 1998.

Consequently, plaintiff filed Motion to Render Judgment pursuant to the pronouncement of the Court declaring defendants in default. However, considering that on July 2, 2001, counsel for the defendants has already

withdrawn his appearance as counsel for all the defendants, and so as not to prejudice the interest of the defendants and to afford them the opportunity to file the necessary pleading in relation to the Joint Order dated June 15, 2001, the Court opted to hold in abeyance the resolution of the aforesaid motion of the plaintiff.

On February 6, 2002, plaintiff was allowed to present its evidence ex-parte considering the continued silence on the part of the defendants.

During the presentation of plaintiff's evidence ex-parte, it was established that sometime in November 1996, defendants Advance and /or Jose Antonio Baltazar applied for a credit accommodation in the form of an Omnibus Line in the amount of 20 million pesos. Upon the approval by plaintiff bank, the parties executed a Credit Agreement (Exh. 'A'). To induce plaintiff UCPB to approve the application for an Omnibus Line, defendants represented to plaintiff that they will faithfully comply with the terms and conditions of the Credit Agreement. Also, defendant Jose Antonio Baltazar unconditionally and irrevocably guaranteed the full payment of the loan obligations of defendant Advance as a surety by executing a Surety Agreement (Exh. 'B'). Aside from the aforesaid documents, defendants Jose Antonio executed Promissory Notes (Exhs. 'C' & 'D'), Trust Receipts (Exhs. 'E', 'F', 'G', 'H') in order that the loan applied for by the defendants may be finally approved. After the execution of said Promissory Notes, Trust Receipts and Credit Agreement, defendants made their loan availments up to the time that they were able to consume the amount of P20 million loan accommodation, which consists of direct loan and use of the Letters of Credit, Domestic and International. When December 31, 1997 came, defendants Advance and/or Jose Antonio Baltazar failed to pay their outstanding obligation and what has been paid was only more or less US\$26,000.00. Efforts were executed through demand letters to collect the outstanding obligation of the aforesaid to no avail until defendants Spouses Jose and Violeta Baltazar have agreed to execute a Surety Agreement to pave the way for the suspension of the immediate institution of legal proceedings against the defendants Advance and/or Jose Antonio Baltazar (Exh. 'J' and submarkings). Despite the promise of Spouses Jose and Violeta Baltazar to fully settle the outstanding obligations of the principal defendants on or before March 31, 1998, the loans were not fully settled. Defendants then became in default in their obligations with plaintiff. Written demands for payment of the loan obligation were made upon the defendants (Exhs. 'I' & 'I-2', inclusive)."

As stated earlier, the trial court ruled in favor of plaintiff UCPB by ordering the defendants to pay their obligation to it. The trial court, however, limited the defendants' liability to just the sum of P27,834,356.00 inclusive of penalties and charges instead of the amount of P82,277,623.12 inclusive of penalties, charges and attorney's fees claimed by UCPB. The pertinent portion of the trial court's decision reads as follows:

"As of February 6, 2002, plaintiff claims that the outstanding liabilities amounted to P82,277,623.12 inclusive of penalties, charges and attorney's fees. A Statement of Account (Exh. M and submarkings) was offered in evidence to prove the aforesaid amount. The amount, however, is quite enormous brought about by the penalties and charges which were added to the principal amount of P19,990,829.87 and US\$153,794.63, which were the amount owing at the time of the filing of the complaint. The said figures were also the basis used in the assessment of docket fees, hence, the Court only acquired jurisdiction over the principal claim of P19,990,829.87 and US\$153,794.63 (US\$153,794.63 x 51 exchange rate) or a total of P27,834, 356.00 in Philippine Currency.

It is the amount that can be awarded to herein plaintiff subject to legal interest of 12% per annum computed from the date of filing the complaint."

Not satisfied, both parties appealed.[2] The defendants, either as appellants or appellees, however, did not file any brief paving the way for the Court to declare the case submitted for decision[3] on the basis only of the Appellant's Brief filed by UCPB.

UCPB interposed this present appeal praying for the partial reversal of the subject decision insofar as it failed to award in its favor the penalties due on the outstanding loan obligations of the defendants. In its Brief, UCPB

presented this lone

ASSIGNMENT OF ERROR

I

THE LOWER COURT ERRED IN HOLDING THAT IT ONLY HAD JURISDICTION OVER THE CLAIMS STATED IN THE COMPLAINT AND THAT NO PENALTIES MAY BE AWARDED.

Appellant UCPB is not in conformity with the subject decision because the trial court [1] ruled that it had no jurisdiction to award an amount more than what was prayed for in the Complaint; and [2] did not award penalties contrary to what was agreed upon in their agreement.

Specifically, in its Appeal Brief,[4] UCPB criticizes the trial court when it reasoned out that it acquired jurisdiction only over the principal claim of P19,990,829.87 and US\$153,794.63 x 51 (exchange rate) or a total of P27,834,356.00 and that it was not entitled to the penalties. UCPB contends that the trial court erred in its interpretation on the payment of docket fees vis-à-vis jurisdiction of courts. It maintains that it paid the correct docket fees based on the amount of P19,990,829.87 and US\$153,794.63 inclusive of accrued interest and penalties as of January 30, 1998. Such payment was consistent with Section 5, Rule 141 of the Rules of Court and Circular No. 7 which states that the initiatory pleading should specify the amount of damages being prayed. Hence, it concludes that the ruling of the trial court that it had no jurisdiction over claims which accrued since the filing of the complaint was not correct. Plaintiff UCPB insists that the trial court had jurisdiction and could render judgment on the additional figures. Summing it up, UCPB claims that it is entitled to receive the total amount of P82,277,623.12 representing its total outstanding loan obligations from the filing of the instant complaint up to February 6, 2002, inclusive of interests, penalties, charges and attorney's fees.

It is not disputed that the defendants applied for a credit accommodation with UCPB executing a Credit Agreement (Exh. A),[5] Surety Agreements (Exh. B & Exh. J),[6] Promissory Notes (Exh. C & Exh. D),[7] and Trust Receipts (Exhs. E, F, G, and H).[8] Likewise, not in issue is the fact that, despite UCPB's demand letters (Exh. I),[9] defendants failed to pay their outstanding loan obligations upon maturity thereof.

After a study of the problem, the rules and the applicable jurisprudence, We find that the lower court erred on those points. On docket fees, Section 5, Rule 141 of the Rules of Court and Circular No. 7 provide that the initiatory pleading should specify the amount of damages being prayed for and the total amount shall be the basis of the assessment therefor. Thus, UCPB paid the correct docket fees based on the amounts of P19,990,829.87 and US\$153,794.63 including accrued interest and penalties as of January 30, 1998. The payment of the prescribed docket fees vested the trial court with jurisdiction not only the claims prayed for in the complaint but also the accruing interests and penalties.

The reasoning of the trial court that it had no jurisdiction over the claims which accrued since the filing of the Complaint because the docket fees were not paid is flawed. Of course, the corresponding additional docket fees were not paid because those additional amounts, while somewhat determinable, had not yet accrued as of the filing of the complaint.

Prescribed docket fees are determined as of the time of the filing of the initiatory pleading. The ruling in the case of *Carlos v. Sandoval*, G.R. No. 135830, September 30, 2005, is clear: "Section 1, Rule 141 of the Rules of Court provides that legal fees are prescribed upon the filing of the pleading or other application which initiates an action or proceeding." The case of *Pagcor v. Hon. Lopez*, A.M. No. RTJ-04-1848, October 25, 2005, reiterated the rule laid down in *Sun Insurance Office v. Asuncion*,[10] regarding payment of docket fees, to wit

- It is not simply the filing of the complaint or appropriate initiatory pleading, but the payment of the

prescribed docket fee, that vests a trial court with jurisdiction over the subject-matter or nature of the action. Where the filing of the initiatory pleading is not accompanied by payment of the docket fee, the court may allow payment of the fee within a reasonable time but in no case beyond the applicable prescriptive or reglementary period.

- The same rule applies to permissive counterclaims, third-party claims and similar pleadings, which shall not be considered filed until and unless the filing fee prescribed therefor is paid. The court may also allow payment of said fee within a reasonable time but also in no case beyond its applicable prescriptive or reglementary period.

- Where the trial court acquires jurisdiction over a claim by the filing of the appropriate pleading and payment of the prescribed filing fee but, subsequently, the judgment awards a claim not specified in the pleading, or if specified the same has been left for determination by the court, the additional filing fee therefor shall constitute a lien on the judgment. It shall be the responsibility of the Clerk of Court or his duly authorized deputy to enforce said lien and assess and collect the additional fee.

From the foregoing, it is clear that the trial court had jurisdiction over claims for amounts which had not yet accrued as of the filing of the complaint.. It is only that the party concerned shall pay additional fees which shall constitute a lien on the judgment. The case of *Proton Pilipinas v. Banque Nationale de Paris*, G.R. No. 151242, June 15, 2005, is instructive:

“With respect to the interest accruing after the filing of the complaint, the same can only be determined after a final judgment has been handed down. Respondent cannot thus be made to pay the corresponding docket fee therefor. Pursuant, however, to Section 2, Rule 141, as amended by Administrative Circular No. 11-94, respondent should be made to pay additional fees which shall constitute a lien in the event the trial court adjudges that it is entitled to interest accruing after the filing of the complaint. Section 2. Fees as lien. Where the court in its final judgment awards a claim not alleged, or a relief different or more than that claimed in the pleading, the party concerned shall pay the additional fees which shall constitute a lien on the judgment in satisfaction of said lien. The clerk of court shall assess and collect the corresponding fees.”

The trial court having jurisdiction over the case, it had authority to rule on the additional penalties accruing after the filing of the case. Certainly, plaintiff UCPB is entitled to the penalties as it was so stipulated in the contract. The trial court cannot justify its refusal to award penalties on the ground that the amount of the indebtedness had ballooned. It cannot take the cudgels for the defendants and excise the penalties just because the rate is “quite enormous.” In the case of *Pryce Corporation v. Pagcor*, G.R. No. 157480, May 6, 2005, it was enunciated:

“Being the primary law between the parties, it governs the adjudication of their rights and obligations. A court has no alternative but to enforce the contractual stipulations in the manner they have been agreed upon and written. X x “As long as the terms of the contract are not contrary to law, morals, good customs, public order or public policy, they shall be respected by courts. The judiciary is not authorized to make or modify contracts; neither may it rescue parties from disadvantageous stipulations.”

What it should have done, if the amount was exorbitant, was to have the rate of the penalty reduced. A reduction of the penalty is sanctioned by law. In the same case of *Pryce Corporation*, it was stated:

“In certain cases, a stipulated penalty may nevertheless be equitably reduced by the courts. This power is explicitly sanctioned by Articles 1229 and 2227 of the Civil Code, which we quote: ‘Art. 1229. The judge shall equitably reduce the penalty when the principal obligation has been partly or irregularly complied with by the debtor. Even if there has been no performance, the penalty may also be reduced by the courts if it is iniquitous or unconscionable.’ ‘Art. 2227. Liquidated damages, whether intended as an indemnity or a penalty, shall be equitably reduced if they are iniquitous or unconscionable.’

The question of whether a penalty is reasonable or iniquitous is addressed to the sound discretion of the courts. To be considered in fixing the amount of penalty are factors such as — but not limited to — the type, extent and purpose of the penalty; the nature of the obligation; the mode of the breach and its consequences; the supervening realities; the standing and relationship of the parties; and the like.”

As can be gleaned from the trust receipts (Exhs. E, F, G, and H),[11] the defendants obligated themselves to pay the penalty of 15% per month in case of default. We find this unconscionable and iniquitous as this is equivalent to at least 180% per annum considering that the increment is on a monthly basis. This amount is certainly enslaving to defendants and could lead to the hemorrhaging of their assets. It is Our view that the penalty was prescribed to force the defendants to pay on time and not to compensate the banks for losses. As for earnings, the interests took care of that.

In the interest of justice, We believe that a reduction of the rate of the penalty is in order. It is Our considered view that a rate of three (3) percent a month reckoned from January 30, 1998, which is still high considering that it is on top of the interest, is fair and equitable.

In the evidentiary records, the Court noticed that there is a disparity in the figures given by plaintiff UCPB. A comparison of the financial documents discloses that in UCPB’s Consolidated Statement of Account (Exh. M)[12] as certified correct by its Bookkeeper, Rizza S. Baltazar, the defendants owed it the amount of P65,535,274.88 as of February 6, 2002 inclusive of penalties, charges and attorney’s fees. On the other hand, the Statement of Account (Exh. M-1)[13] prepared by its account assistant, Soraya D. Serrano, stated that the total loan obligation amounted to P69,384,138.90 as of February 6, 2002 inclusive of penalties and charges only. The attorney’s fees were not even taken into account.

In view thereof, We shall consider the amount of the obligation stated in the Complaint, the amounts of P19,990,829.87 and US\$153,794.63, as the total obligations of the defendants as of January 30, 1998. Using these amounts, which are inclusive of “accrued interest and penalties as of January 30, 1998,” as bases for the computation of the additional interests, penalty charges and attorney’s fees, the total obligation of the defendants can be determined. Needless to state, the amounts paid by the defendants after said date shall be taken into account in the computation.

As heretofore explained, following the ruling in Proton, the plaintiff UCPB shall be made to pay additional fees on the additional amounts of interests and penalties accruing after the filing of the complaint which shall constitute a lien on the judgment

WHEREFORE, the May 14, 2002 Decision of the Regional Trial Court, Branch 148, Makati City, is hereby MODIFIED to read as follows:

“WHEREFORE, judgment is hereby rendered ordering the defendants to pay, jointly and severally, plaintiff UCPB the sum of P19,990,829.87 (Philippine Currency) and US\$153,794.63 (its peso equivalent) plus 12 % interest per annum and 3 % penalty per month both reckoned from January 30, 1998.

The defendants shall also pay plaintiff UCPB the amount of 25% of the obligation as and for attorney’s fees and the costs of the suit.

Plaintiff UCPB shall pay additional fees on the additional amounts of interests and penalties accruing after the filing of the complaint.

SO ORDERED.

Asuncion, (Chairman) and Villon, JJ., concur.

[1] Decision, Records, pp. 242-245

[2] Records, pp. 246 & 249

[3] Rollo, p. 50

[4] Rollo, pp. 16-34

[5] Records, pp. 217-219

[6] Records, p. 220 & pp. 233-235

[7] Records, pp. 221-222

[8] Records, pp. 223-226

[9] Records, pp. 227, 229, 231 & 232

[10] G.R. No. 79937, February 13, 1989

[11] Records, pp. 223-226

[12] Records, p. 240

[13] Records, p. 241

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