

## **PHILIPPINE NATIONAL BANK, PETITIONER, VS. COURT OF APPEALS, REMEDIOS JAYME-FERNANDEZ AND AMADO FERNANDEZ, RESPONDENTS.**

*G.R. No. 107569. November 08, 1994*

Ponente: PUNO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-107569/>

---

### **PUNO, J.:**

Petitioner bank seeks the review of the decision, dated October 15, 1992, of the Court of Appeals[1] in CA--G.R. CV No. 27195, the dispositive portion of which reads as follows:

"WHEREFORE, the judgment appealed from is hereby SET ASIDE and a new one is entered ordering defendant-appellee PNB to re-apply the interest rate of 12% per annum to plaintiffs-appellants' (referring to herein private respondents) indebtedness and to accordingly take the appropriate charges from plaintiffs-appellants' (private respondents') payment of P81,000.00 made on December 26, 1985. Any balance on the indebtedness should, likewise, be charged interest at the rate of 12% per annum.

"SO ORDERED."

The parties do not dispute the facts as laid down by respondent court in its impugned decision, viz.:

"On April 7, 1982, (private respondents) as owners of a NACIDA-registered enterprise, obtained a loan under the Cottage Industry Guaranty Loan Fund (CIGLF) from the Philippine National Bank (PNB) in the amount of Fifty Thousand (P50,000.00) Pesos, as evidenced by a Credit Agreement. Under the Promissory Note covering the loan, the loan was to be amortized over a period of three (3) years to end on March 29, 1985, at twelve (12%) percent interest annually.

"To secure the loan, (private respondents) executed a Real Estate Mortgage over a 1.5542-hectare parcel of unregistered agricultural land located at Cambang-ug, Toledo City, which was appraised by the PNB at P1,062.52 and given a loan value of P531.26 by the Bank. In addition, (private respondents) executed a Chattel Mortgage over a thermo plastic-forming machine, which had an appraised value of P8,800 and a loan value of P4,400.00.

"The Credit Agreement provided inter alia, that --

'(a) The BANK reserves the right to increase the interest rate within the limits allowed by law at any time depending on whatever policy it may adopt in the future: Provided, that the interest rate on this accommodation shall be correspondingly decreased in the event that the applicable maximum interest is reduced by law or by the Monetary Board. In either case, the adjustment in the interest rate agreed upon shall take effect on the effectivity date of the increase or decrease in the maximum interest rate.'

"The Promissory Note, in turn, authorized the PNB to raise the rate of interest, at any time without notice, beyond the stipulated rate of 12% but only 'within the limits allowed by law.'

The Real Estate Mortgage contract likewise provided that --?

'(k) INCREASE OF INTEREST RATE: The rate of interest charged on the obligation secured by this mortgage as well as the interest on the amount which may have been advanced by the MORTGAGEE, in accordance with the provision hereof, shall be subject during the life of this contract to such an increase within the rate allowed by law, as the Board of Directors of the MORTGAGEE may prescribe for its debtors.'

"On February 17, 1983, (private respondents) were granted an additional NACIDA loan of Fifty Thousand (P50,000.00) Pesos by the PNB, for which (private respondents) executed another Promissory Note, which was to mature on April 1, 1985. Other than the date of maturity, the second promissory note contained the same terms and stipulations as the previous note. The parties likewise executed a new Credit Agreement, changing the amount of the loan from P50,000.00 to P100,000.00, but otherwise preserving the stipulations contained in the original agreement.

"As additional security for the loan, (private respondents) constituted another real estate mortgage over 2 parcels of registered land, with a combined area of 311 square meters, located at Guadalupe, Cebu City. The land, upon which several buildings are standing, was appraised by the PNB to have a value of P40,000.00 and a loan value of P28,000.00.

"In a letter dated August 1, 1984, the PNB informed (private respondents) 'that the interest rate of your CIGLF loan account with us is now 25% per annum plus a penalty of 6% per annum on past dues.' The PNB further increased this interest rate to 30% on October 15, 1984; and to 42% on October 25, 1984.

"The records show that as of December 1985, (private respondents) had an outstanding principal account of P81,000.00 of which P18,523.14 was credited to the principal, P57,488.89 to the interest, and the rest to penalty and other charges. Thus, as of said date, the unpaid principal obligation of (private respondents) amounted to P62,830.32.

"Thereafter, (private respondents) exerted efforts to get the PNB to re-adopt the 12% interest and to condone the present interest and penalties due; but to no avail."[2] (Citations omitted.)

On December 15, 1987, private respondents filed a suit for specific performance against petitioner PNB and the NACIDA. It was docketed as Civil Case No. CEB-5610, and raffled to the Regional Trial Court, 7th Judicial Region, Cebu City, Br. 7.[3] Private respondents prayed the trial court to order:

- "1. The PNB and NACIDA to issue in (private respondents') favor, a release of mortgage;
- "2. The PNB to pay pecuniary consequential damages for the destruction of (private respondents') enterprise;
- "3. The PNB to pay moral and exemplary damages as well as the costs of suit; and
- "4. Granting (private respondents) such other relief as may be found just and equitable in the premises."[4]

On February 28, 1990, the trial court dismissed private respondents' complaint in Civil Case No. CEB--5610. On October 15, 1992, the Court of Appeals reversed the dismissal with respect to petitioner bank, and disallowed the increases in interest rates.

Petitioner bank now contends that "respondent Court of Appeals committed grave error when it ruled (1) that the increase in interest rates are unauthorized; (2) that the Credit Agreement and the Promissory Notes are not the law between the parties; (3) that CB Circular No. 773 and CB Circular No. 905 are not applicable; and (4) that private respondents are not estopped from questioning the increase of rate of interest made by petitioner."[5]

The petition is bereft of merit.

In making the unilateral increases in interest rates, petitioner bank relied on the escalation clause contained in their credit agreement which provides, as follows:

"The Bank reserves the right to increase the interest rate within the limits allowed by law at any time depending on whatever policy it may adopt in the future and provided, that, the interest rate on this accommodation shall be correspondingly decreased in the event that the applicable maximum interest rate is reduced by law or by the Monetary Board. In either case, the adjustment in the interest rate agreed upon shall take effect on the effectivity date of the increase or decrease in maximum interest rate."

This clause is authorized by Section 2 of Presidential Decree (P.D.) No. 1684 which further amended Act No. 2655 ("The Usury Law"), as amended, thus:

"Section 2. The same Act is hereby amended by adding a new section after Section 7, to read as follows:

'Sec. 7-a. Parties to an agreement pertaining to a loan or forbearance of money, goods or credits may stipulate that the rate of interest agreed upon may be increased in the event that the applicable maximum rate of interest is increased by law or by the Monetary Board: Provided, That such stipulation shall be valid only if there is also a stipulation in the agreement that the rate of interest agreed upon shall be reduced in the event that the applicable maximum rate of interest is reduced by law or by the Monetary Board: Provided further, That the adjustment in the rate of interest agreed upon shall take effect on or after the effectivity of the increase or decrease in the maximum rate of interest."

Section 1 of P.D. No. 1684 also empowered the Central Bank's Monetary Board to prescribe the maximum rates of interest for loans and certain forbearances. Pursuant to such authority, the Monetary Board issued Central Bank (C.B.) Circular No. 905, series of 1982, Section 5 of which provides:

"SEC. 5. Section 1303 of the Manual of Regulations (for Banks and Other Financial Intermediaries) is hereby amended to read as follows:

'SEC. 1303. Interest and Other Charges. The rate of interest, including commissions, premiums, fees and other charges, on any loan, or forbearance of any money, goods or credits, regardless of maturity and whether secured or unsecured, shall not be subject to any ceiling prescribed under or pursuant to the Usury Law, as amended."

P.D. No. 1684 and C.B. Circular No. 905 no more than allow contracting parties to stipulate freely regarding any subsequent adjustment in the interest rate that shall accrue on a loan or forbearance of money, goods or credits. In fine, they can agree to adjust, upward or downward, the interest previously stipulated. However, contrary to the stubborn insistence of petitioner bank, the said law and circular did not authorize either party to unilaterally raise the interest rate without the other's consent.

It is basic that there can be no contract in the true sense in the absence of the element of agreement, or of mutual assent of the parties. If this assent is wanting on the part of one who contracts, his act has no more efficacy than if it had been done under duress or by a person of unsound mind.[6]

Similarly, contract changes must be made with the consent of the contracting parties. The minds of all the parties must meet as to the proposed modification, especially when it affects an important aspect of the agreement. In the case of loan contracts, it cannot be gainsaid that the rate of interest is always a vital component, for it can make or break a capital venture. Thus, any change must be mutually agreed upon, otherwise, it is bereft of any binding effect.

We cannot countenance petitioner bank's posturing that the escalation clause at bench gives it unbridled right to unilaterally upwardly adjust the interest on private respondents' loan. That would completely take away from private respondents the right to assent to an important modification in their agreement, and would negate the element of mutuality in contracts. In *Philippine National Bank v. Court of Appeals, et al.*, 196 SCRA 536, 544-545 (1991) we held --

"xxx (T)he unilateral action of the PNB in increasing the interest rate on the private respondent's loan violated the mutuality of contracts ordained in Article 1308 of the Civil Code:

'ART. 1308. The contract must bind both contracting parties; its validity or compliance cannot be left to the will of one of them.'

In order that obligations arising from contracts may have the force of law between the parties, there must be mutuality between the parties based on their essential equality. A contract containing a condition which makes its fulfillment dependent exclusively upon the uncontrolled will of one of the contracting parties, is void xxx. Hence, even assuming that the xxx loan agreement between the PNB and the private respondent gave the PNB a license (although in fact there was none) to increase the interest rate at will during the term of the loan, that license would have been null and void for being violative of the principle of mutuality essential in contracts. It would have invested the loan agreement with the character of a contract of adhesion, where the parties do not bargain on equal footing, the weaker party's (the debtor) participation being reduced to the alternative 'to take it or leave it' xxx. Such a contract is a veritable trap for the weaker party whom the courts of justice must protect against abuse and imposition." (Citations omitted.)

Private respondents are not also estopped from assailing the unilateral increases in interest rate made by petitioner bank. No one receiving a proposal to change a contract to which he is a party, is obliged to answer the proposal, and his silence per se cannot be construed as an acceptance.[7] In the case at bench, the circumstances do not show that private respondents implicitly agreed to the proposed increases in interest rate which by any standard were too sudden and too stiff.

IN VIEW WHEREOF, the instant petition is DENIED for lack of merit, and the decision of the Court of Appeals in CA-G.R. CV No. 27195, dated October 15, 1992, is AFFIRMED. Costs against petitioner.

### **SO ORDERED.**

Narvasa, C.J., (Chairman), Regalado, and Mendoza, JJ., concur.

---

[1] Through its Second Division, composed of Associate Justices Santiago M. Kapunan (chairman and ponente), Oscar M. Herrera, and Serafin V.C. Guingona.

[2] Rollo, pp. 32-34.

[3] Presided by Judge Generoso A. Juaban.

[4] Rollo, p. 35.

[5] Petition, p. 9; Rollo, p. 16.

[6] See *Mutual Life Ins. Co. of New York v. Young's Adm'rs*, 23 L.Ed. 152; *Noland Co. v. Graver Tank & Mfg. Co.*, 301 F.2d 43; *Miller v. Miller*, 134 F.2d 583, 588; See also *Linne v. Ronkienen*, 37 N.W.2d 237, 239.

[7] See *Suitter v. Thompson*, 358 P.2d 267; *Levy v. Baetjer*, 81 A.2d 644.

**ABOUT BATAS.ORG**

# Study smarter at BATAS.org

*The Philippine bar review and law-school companion built around how your brain actually remembers.*

**The complete Philippine law library - free for everyone.**

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

**Audio case-brief lectures.**

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

**Bar review built on the science of memory.**

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

**The full law-school curriculum.**

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

**Mock exams that tell you where you stand.**

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

**A study planner that keeps you on pace.**

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

**Start free at <https://batas.org>**

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.