

PHILIPPINE NATIONAL BANK, PETITIONER, VS. COURT OF APPEALS, MARIA AMOR BASCOS AND MARCIANO BASCOS, RESPONDENTS.

G.R. No. 109563. July 09, 1996

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition seeking review of the decision dated August 10, 1992,[1] of the Eight Division of the Court of Appeals and its resolution dated March 25, 1993,[2] both rendered in CA-G.R. CV No. 27653, which affirmed the decision of the Regional Trial Court (RTC) of San Jose City (Branch 38).

The facts are as follows:

On June 4, 1979, private respondent spouses Maria Amor and Marciano Bascos obtained a loan from the Philippine National Bank in the amount of P15,000.00 evidenced by a promissory note and secured by a real estate mortgage.

The promissory note contained the following stipulation:[3]

For value received, I/we, [private respondents] jointly and severally promise to pay to the ORDER of the PHILIPPINE NATIONAL BANK, at its office in San Jose City, Philippines, the sum of FIFTEEN THOUSAND ONLY (P15,000.00), Philippine Currency, together with interest thereon at the rate of 12 % per annum until paid, which interest rate the Bank may at any time without notice, raise within the limits allowed by law, and I/we also agree to pay jointly and severally ____% per annum penalty charge, by way of liquidated damages should this note be unpaid or is not renewed on due dated.

Payment of this note shall be as follows:

THREE HUNDRED SIXTY FIVE DAYS AFTER DATE

On the reverse side of the note the following condition was stamped:[4]

All short-term loans to be granted starting January 1, 1978 shall be made subject to the condition that any and/or all extensions hereof that will leave any portion of the amount still unpaid after 730 days shall automatically convert the outstanding balance into a medium or long-term obligation as the case may be and give the Bank the right to charge the interest rates prescribed under its policies from the date the account was originally granted.

To secure payment of the loan the parties executed a real estate mortgage contract which provided:[5]

(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 December 12, 1980, PNB extended the period of payment of the loan to June 5, 1981, thus converting the loan from a short-term to a medium-term loan, i.e., a loan which matured over two to five years.[6] PNB also increased the rate of interest per annum, first to 14%, effective December 1, 1979;[7] then to 22% effective February 21, 1983;[8] to 22.5% effective June 20, 1983;[9] to 23% from November 2, 1983;[10] to 25% effective March 2, 1984;[11] and finally to 28% from April 10, 1984.[12]

Because private respondents defaulted in paying their obligation, the Provincial Sheriff of Nueva Ecija scheduled the extrajudicial foreclosure of the mortgage on June 15, 1984 to pay private respondents' indebtedness which, according to PNB, had increased from P15,000.00 to P35,125.84, plus 28% annual interest.[13]

Private respondents brought suit against PNB, its Branch Manager Jetro Godoy, and the Provincial Sheriff of Nueva Ecija Numeriano Y. Galang (1) for a declaration of nullity of C.B. Monetary Board Resolution No. 2126 dated November 29, 1979 (embodied in C.B. Circular No. 705 dated December 1, 1979), which increased the ceiling on the interest rate of secured and unsecured loans to 16% per annum and 14% per annum, respectively, on the ground that it was contrary to the Usury Law, good morals, public policy, customs and traditions, social justice, due process and the equal protection clause of the Constitution; and (2) for a declaration that the interest rate increases on their loan were contrary to Art. 1959 of the Civil Code which provides that interest due and unpaid shall not earn interest. Pending final determination of the case, private respondents asked that the auction sale be enjoined.

PNB filed an answer with compulsory counterclaim. It alleged that private respondents had no cause of action because §1-a of the Usury Law, as amended by P.D. No. 1684, did not limit the number of times the interest could be increased and that private respondents were estopped from questioning the increases because they failed to object to the same. PNB asked that the complaint be dismissed and that private respondents be ordered to pay P35,125.84, plus interest from April 10, 1984, until the obligation was fully paid, attorney's fees and moral damages in such amount as may be determined by the court.

On June 13, 1984 private respondents deposited with the clerk of court P8,000.00[14] and on January 15, 1985 P2,000.00,[15] in partial payment of their loan.

On June 15, 1990, the RTC rendered a decision, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered as follows:

1. There having [sic] no evidence against the defendants Jetro Godoy, and the Provincial Sheriff of Nueva Ecija, Numeriano Galang, the case against them is dismissed;
2. The increase in interest rates based on the escalation clauses in the Promissory Note and the Real Estate Mortgage, par. K, being contrary to Sec. 3, P.D. No. 116 are declared null and void, that henceforth, the defendant PNB is hereby directed to desist from enforcing the increased rate of interest more than TWELVE (12%) per cent on plaintiffs' loan;
3. The compulsory counterclaim of the defendants is also dismissed;
4. On the other hand, the plaintiffs can settle their unpaid obligation with the defendant PNB at the interest rate of TWELVE (12%) per cent per annum computed from the inception of the loan until the same is fully paid; advances made by the PNB for insurance premiums and penalties added; and the 10,000.00 paid to and defendant bank to be credited as payment by the plaintiffs;
5. Plaintiffs' claim for damages is, likewise, dismissed; and
6. The parties shall each bear out [sic] the expenses incurred by them.

SO ORDERED.

The RTC invalidated the stipulations in the promissory note and the real estate mortgage, which authorized PNB to increase the interest rate, on the ground that there was no corresponding stipulation that the interest rate would be reduced in the event the law reduced the applicable maximum rate as provided under P.D. No. 1684; that P.D. No. 116, which sets a ceiling of 12% interest on secured loans, is a "law," which should prevail over Circular No. 705, used by PNB to increase the interest; that collection of the increased interest sanctions unjust enrichment contrary to Art. 22 of the Civil Code; and that the promissory note and real estate mortgage were contracts of adhesion which should be interpreted in favor of private respondents.

PNB appealed. However, the Court of Appeals affirmed the trial court's decision. The appellate court held that the escalation clause in the promissory note could not be given effect because of the absence of a provision for a de-escalation in the event a reduction of interest was ordered by law. In addition it held that pursuant to the escalation clause any increase in interest must be within "the limits allowed by law" but C.B. circulars, on the basis of which PNB increased the interest, could not be considered "laws."

PNB moved for a reconsideration. As its motion was denied, it filed this petition. PNB's argument is that the Court of Appeals erred in applying §2 of P.D. No. 1684, which makes the validity of an escalation clause turn on the presence of a de-escalation clause, to the promissory note and the real estate mortgage in this case. PNB contends that the two had been executed on June 4, 1979, before the effectivity of P.D. No. 1684 on March 17, 1980.

To begin with, PNB's argument rests on a misapprehension of the import of the appellate court's ruling. The Court of Appeals nullified the interest rate increases not because the promissory note did not comply with P.D. No. 1684 by providing for a de-escalation, but because the absence of such provision made the clause so one-sided as to make it unreasonable.

That ruling is correct. It is in line with our decision in *Banco Filipino Savings & Mortgage Bank v. Navarro*[16] that although P.D. 1684 is not to be retroactively applied to loans granted before its effectivity, there must nevertheless be a de-escalation clause to mitigate the one-sidedness of the escalation clause. Indeed because of concern for the unequal status of borrowers vis-a-vis the banks, our cases after *Banco Filipino* have fashioned the rule that any increase in the rate of interest made pursuant to an escalation clause must be the result of agreement between the parties.

Thus in *Philippine National Bank v. Court of Appeals*,[17] two promissory notes authorized PNB to increase the stipulated interest per annum "within the limits allowed by law at any time depending on whatever policy [PNB] may adopt in the future; Provided, that the interest rate on this note shall be correspondingly decreased in the event that the applicable maximum interest rate is reduced by law or by the Monetary Board." The real estate mortgage likewise provided:

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 provisions 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.

Pursuant to these clauses, PNB successively increased the interest from 18% to 32%, then to 41% and then to 48%. This Court declared the increases unilaterally imposed by PNB to be in violation of the principle of mutuality as embodied in Art. 1308 of the Civil Code, which provides that "[t]he contract must bind both contracting parties; its validity or compliance cannot be left to the will of one of them." As the Court explained:[18]

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 (Garcia vs. Rita Legarda, Inc., 21 SCRA 555). Hence, even assuming that the P1.8 million 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" (Qua vs. Law Union & Rock Insurance Co., 95 Phil. 85). Such a contract is a veritable trap for the weaker party whom the courts of justice must protect against abuse and imposition.

A similar ruling was made in *Philippine National Bank v. Court of Appeals*.^[19] The credit agreement in that case provided:

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

As in the first case, PNB successively increased the stipulated interest so that what was originally 12% per annum became, after only two years, 42%. In declaring the increases invalid, we held:^[20]

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.

Only recently we invalidated another round of interest increases decreed by PNB pursuant to a similar agreement it had with other borrowers:^[21]

[W]hile the Usury Law ceiling on interest rates was lifted by C.B. Circular 905, nothing in the said circular could possibly be read as granting respondent bank carte blanche authority to raise interest rates to levels which would either enslave its borrowers or lead to a hemorrhaging of their assets.

In this case no attempt was made by PNB to secure the conformity of private respondents to the successive increases in the interest rate. Private respondents' assent to the increases can not be implied from their lack of response to the letters sent by PNB, informing them of the increases. For as stated in one case,^[22] no one receiving a proposal to change a contract is obliged to answer the proposal.

WHEREFORE, the decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Regalado (Chairman), Romero, Puno, and Torres, Jr., JJ., concur.

[1] Rollo, pp. 19-24; per Justice Luis A. Javellana and concurred in by Justices Eduardo R. Bengson and Quirino D. Abad Santos, Jr.

[2] Id., pp. 26-27; per Justice Luis A. Javellana and concurred in by Justices Quirino D. Abad Santos, Jr. and Consuelo Yñares-Santiago.

[3] Exh. B, Folder of Exhibits, p. 3.

[4] Reverse side of Exh. B, id.

[5] Exh. C, id., p. 5.

[6] Supra at note 4.

[7] PNB's letter to private respondents dated December 20, 1979, Exh. D, Folder of Exhibits, p. 6.

[8] PNB's letter to private respondents dated March 12, 1984, Exh. A, id., p.2.

[9] Id.

[10] Id.

[11] Id.

[12] Exh. E, id., p. 7.

[13] Ibid.

[14] Exh. H, Folder of Exhibits, p. 28.

[15] Exh. H-1, id., p. 29.

[16] 152 SCRA 346 (1987).

[17] 196 SCRA 536 (1991).

[18] Id., at 545.

[19] 238 SCRA 20 (1994).

[20] Id., at 26.

[21] Spouses Almeda v. Court of Appeals, G.R. No. 113412, April 17, 1996.

[22] Philippine National Bank v. Court of Appeals, 238 SCRA 20 (1994).

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