

SPOUSES DANILO SOLANGON AND URSULA SOLANGON, PETITIONERS, VS. JOSE AVELINO SALAZAR, RESPONDENT.

G.R. No. 125944. June 29, 2001

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, of the decision of the Court of Appeals in CA-G.R. CV No. 37899, affirming the decision of the Regional Trial Court, Branch 16, Malolos, Bulacan, in Civil Case No. 375-M-91, "Spouses Danilo and Ursula Solangon vs. Jose Avelino Salazar" for annulment of mortgage. The dispositive portion of the RTC decision reads:

"WHEREFORE, judgment is hereby rendered against the plaintiffs in favor of the defendant Salazar, as follows:

1. Ordering the dismissal of the complaint;
2. Ordering the dissolution of the preliminary injunction issued on July 8, 1991;
3. Ordering the plaintiffs to pay the defendant the amount of P10,000.00 by way of attorney's fees; and
4. To pay the costs.

SO ORDERED."[1]

The facts as summarized by the Court of Appeals in its decision being challenged are:

"On August 22, 1986, the plaintiffs-appellants executed a deed or real estate mortgage in which they mortgaged a parcel of land situated in Sta. Maria, Bulacan, in favor of the defendant-appellee, to secure payment of a loan of P60,000.00 payable within a period of four (4) months, with interest thereon at the rate of 6% per month (Exh. "B").

On May 27, 1987, the plaintiffs-appellants executed a deed of real estate mortgage in which they mortgaged the same parcel of land to the defendant-appellee, to secure payment of a loan of P136,512.00, payable within a period of one (1) year, with interest thereon at the legal rate (Exh. "1").

On December 29, 1990, the plaintiffs-appellants executed a deed of real estate mortgage in which they mortgaged the same parcel of land in favor of defendant-appellee, to secure payment of a loan in the amount of P230,000.00 payable within a period of four (4) months, with interest thereon at the legal rate (Exh. "2", Exh. "C").

This action was initiated by the plaintiffs-appellants to prevent the foreclosure of the mortgaged property. They alleged that they obtained only one loan from the defendant-appellee, and that was for the amount of P60,000.00, the payment of which was secured by the first of the above-mentioned mortgages. The subsequent mortgages were merely continuations of the first one, which is null and void because it provided for unconscionable rate of interest. Moreover, the defendant-appellee assured them that he will not foreclose the

mortgage as long as they pay the stipulated interest upon maturity or within a reasonable time thereafter. They have already paid the defendant-appellee P78,000.00 and tendered P47,000.00 more, but the latter has initiated foreclosure proceedings for their alleged failure to pay the loan P230,000.00 plus interest.

On the other hand, the defendant-appellee Jose Avelino Salazar claimed that the above-described mortgages were executed to secure three separate loans of P60,000.00 P136,512.00 and P230,000.00, and that the first two loans were paid, but the last one was not. He denied having represented that he will not foreclose the mortgage as long as the plaintiffs-appellants pay interest."

In their petition, spouses Danilo and Ursula Solangon ascribe to the Court of Appeals the following errors:

1. The Court of Appeals erred in holding that three (3) mortgage contracts were executed by the parties instead of one (1);
2. The Court of Appeals erred in ruling that a loan obligation secured by a real estate mortgage with an interest of 72% per cent per annum or 6% per month is not unconscionable;
4. The Court of Appeals erred in holding that the loan of P136,512.00 HAS NOT BEEN PAID when the mortgagee himself states in his ANSWER that the same was already paid; and
5. The Court of Appeals erred in not resolving the SPECIFIC ISSUES raised by the appellants.

In his comment, respondent Jose Avelino Salazar avers that the petition should not be given due course as it raises questions of facts which are not allowed in a petition for review on certiorari.

We find no merit in the instant petition.

The core of the present controversy is the validity of the third contract of mortgage which was foreclosed.

Petitioners contend that they obtained from respondent Avelino Salazar only one (1) loan in the amount of P60,000.00 secured by the first mortgage of August 1986. According to them, they signed the third mortgage contract in view of respondent's assurance that the same will not be foreclosed. The trial court, which is in the best position to evaluate the evidence presented before it, did not give credence to petitioners' corroborated testimony and ruled:

"The testimony is improbable. The real estate mortgage was signed not only by Ursula Solangon but also by her husband including the Promissory Note appended to it. Signing a document without knowing its contents is contrary to common experience. The uncorroborated testimony of Ursula Solangon cannot be given weight."[2]

Petitioners likewise insist that, contrary to the finding of the Court of appeals, they had paid the amount of P136,512.00, or the second loan. In fact, such payment was confirmed by respondent Salazar in his answer to their complaint.

It is readily apparent that petitioners are raising issues of fact in this petition. In a petition for review under Rule 45 of the 1997 Rules of Civil Procedure, as amended, only questions of law may be raised and they must be distinctly set forth. The settled rule is that findings of fact of the lower courts (including the Court of Appeals) are final and conclusive and will not be reviewed on appeal except: (1) when the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when the Court of Appeals, in making its findings, went beyond the issues of the case and such findings are contrary to the admission of both appellant and appellee; (6) when the findings of the Court of Appeals are contrary to those of the trial court; and (7) when the findings of fact

are conclusions without citation of specific evidence on which they are based.[3]

None of these instances are extant in the present case.

Parenthetically, petitioners are questioning the rate of interest involved here. They maintain that the Court of Appeals erred in decreeing that the stipulated interest rate of 72% per annum or 6% per month is not unconscionable.

The Court of Appeals, in sustaining the stipulated interest rate, ratiocinated that since the Usury Law had been repealed by Central Bank Circular No. 905 there is no more maximum rate of interest and the rate will just depend on the mutual agreement of the parties. Obviously, this was in consonance with our ruling in *Liam Law v. Olympic Sawmill Co.*[4]

The factual circumstances of the present case require the application of a different jurisprudential instruction. While the Usury Law ceiling on interest rates was lifted by C.B. Circular No. 905, nothing in the said circular 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.[5] In *Medel v. Court of Appeals*,[6] this court had the occasion to rule on this question - whether or not the stipulated rate of interest at 5.5% per month on a loan amounting to P500,000.00 is usurious. While decreeing that the aforementioned interest was not usurious, this Court held that the same must be equitably reduced for being iniquitous, unconscionable and exorbitant, thus:

"We agree with petitioners that the stipulated rate of interest at 5.5% per month on the P500,000.00 loan is excessive, iniquitous, unconscionable and exorbitant. However, we can not consider the rate 'usurious' because this Court has consistently held that Circular No. 905 of the Central Bank, adopted on December 22, 1982, has expressly removed the interest ceilings prescribed by the Usury Law and that the Usury Law is now 'legally inexistent.'

In *Security Bank and Trust Company vs. Regional Trial Court of Makati, Branch 61* the Court held that CB Circular No. 905 did not repeal nor in any way amend the Usury Law but simply suspended the latter's effectivity. Indeed, we have held that 'a Central Bank Circular can not repeal a law. Only a law can repeal another law. In the recent case of *Florendo v. Court of Appeals*, the Court reiterated the ruling that 'by virtue of CB Circular 905, the Usury Law has been rendered ineffective.' 'Usury Law has been legally non-existent in our jurisdiction. Interest can now be charged as lender and borrower may agree upon.'

Nevertheless, we find the interest at 5.5 % per month, or 66% per annum, stipulated upon by the parties in the promissory note iniquitous or unconscionable, and hence, contrary to morals ('contra bonos mores'), if not against the law. The stipulation is void. The courts shall reduce equitably liquidated damages, whether intended as an indemnity or a penalty if they are iniquitous or unconscionable." (Emphasis supplied)

In the case at bench, petitioners stand on a worse situation. They are required to pay the stipulated interest rate of 6% per month or 72% per annum which is definitely outrageous and inordinate. Surely, it is more consonant with justice that the said interest rate be reduced equitably. An interest of 12% per annum is deemed fair and reasonable.

WHEREFORE, the appealed decision of the Court of Appeals is AFFIRMED subject to the MODIFICATION that the interest rate of 72% per annum is ordered reduced to 12 % per annum.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Gonzaga-Reyes, JJ., concur.

[1] Rollo, p. 85.

[2] Decision, p. 6; Rollo, 83.

[3] Republic vs. Court of Appeals, 258 SCRA 712 [1996].

[4] 129 SCRA 439 (1984)

"Moreover, for sometime now, usury has been legally non-existent. Interest can now be charged as lender and borrower may agree upon. The Rules of Court in regards to allegations of usury, procedural in nature, should be considered repealed with retroactive effect."

[5] Almeda v. Court of Appeals, 256 SCRA 292 (1996)

[6] 299 SCRA 481 (1998)

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