

BANCO FILIPINO SAVINGS AND MORTGAGE BANK, PETITIONERS, VS. THE HON. COURT OF APPEALS, AND CALVIN & ELSA ARCILLA, RESPONDENTS.*G.R. No. 129227. May 30, 2000*

Ponente: GONZAGA-REYES, J.

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Before us is a Petition for Review on Certiorari of the Decision of the Court of Appeals[1] in CA-G.R. CV No. 45891 entitled CALVIN S. ARCILLA and ELSA B. ARCILLA vs. BANCO FILIPINO SAVINGS and MORTGAGE BANK, ET. AL. which affirmed the decision of the Regional Trial Court (RTC), Branch 33, Manila ordering BANCO FILIPINO to pay CALVIN and ELSA ARCILLA the amount of P126,139.00 with interest thereon at 12% per annum from the filing of the complaint.

The undisputed facts as found by the Court of Appeals are as follows:

"Elsa Arcilla and her husband, Calvin Arcilla, the Appellees in the present recourse, secured, on three (3) occasions, loans from the Banco Filipino Savings and Mortgage Bank, the Appellant in the present recourse, in the total amount of P107,946.00 as evidenced by "Promissory Note" executed by the Appellees in favor of the Appellant. To secure the payment of said loans, the Appellees executed "Real Estate Mortgages" in favor of the Appellants over their parcels of land located in BF-Parañaque, covered by Transfer Certificate of Title Nos. 444645, 450406, 450407 and 455410 of the Registry of Deeds of Parañaque (Annexes "B" to "B-2", Amended Complaint). Under said deeds, the Appellant may increase the rate of interest, on said loans, within the limits allowed by law, as Appellant's Board of Directors may prescribe for its borrowers. At that time, under the Usury Law, Act 2655, as amended, the maximum rate of interest for loans secured by real estate mortgages was 12% per annum. On January 10, 1975, the Appellees and the Appellant executed a "Deed of Consolidation and Amendment of Real Estate Mortgage" whereby the aforementioned loans of the Appellees and the "Real Estate Mortgage" executed by them as security for the payment of said loans were consolidated (pages 33-35, Record). Likewise, under said deed, the loan of the Appellees from the Appellant was increased to P188,000.00. The Appellees executed a "Promissory Note", dated January 15, 1975, whereby they bound and obliged themselves, jointly and severally, to pay the Appellant the aforesaid amount of P188,000.00 with interest at the rate of 12% per annum, in nineteen (19) years from date thereof, in stated installments of P2,096.93 a month (page 32, Records).

On January 2, 1976, the Central Bank of the Philippines issued Central Bank Circular No. 494, quoted *infra*, as follows:

'x x x

'3. The maximum rate of interest, including commissions, premiums, fees and other charges on loans with maturity of more than seven hundred thirty (730) days, by banking institutions, including thrift banks, or by financial intermediaries authorized to engage in quasi-banking functions shall be nineteen percent (19%) per annum.

'x x x

‘7. Except as provided in this Circular and Circular No. 493, loans or renewals thereof shall continue to be governed by the Usury Law, as amended.’ (idem, supra)

In the meantime, the Skyline Builders, Inc., through its President, Appellee Calvin Arcilla, secured loans from the Bank of the Philippine Islands in the total amount of P450,000.00. To insure payment of the aforesaid loan, the FGU Insurance Corporation, issued PG Bond No. 1003 for the amount of P225,000.00 (pages 434-436, Records) in favor of the Bank of the Philippine Islands. Skyline Buildings, Inc., and the Appellees executed an "Agreement of Counter-Guaranty with Mortgage" in favor of the FGU Insurance Corporation covering the aforesaid parcels of land to assure payment of any amount that the insurance company may pay on account of said loans (pages 429-436, Records). The mortgage was annotated as Entry No. 58009 at the dorsal portion of Appellees' titles.

After October 30, 1978, the Appellant prepared and issued a "Statement of Account" to the Appellees on their loan account to the effect that, as of October 30, 1978, the balance of their loan account, inclusive of interests, computed at 17% per annum, amounted to 284,490.75 (page 555, Records). It turned out that the Appellant unilaterally increased the rate of interest on the loan account of the Appellees from 12% per annum, as covenanted in the "Real Estate Mortgage" and "Deed of Consolidated and Amended Real Estate Mortgage" to 17% per annum on the authority of the aforequoted Central Bank Circular.

The Appellees failed to pay their monthly amortizations to Appellant. The latter forthwith filed, on April 3, 1979, a petition, with the Provincial Sheriff, for the extrajudicial foreclosure of Appellees' "Real Estate Mortgage" in favor of the Appellant for the amount of P342,798.00 inclusive of the 17% per annum which purportedly was the totality of Appellees' account with the Appellant on their loans. The Appellant was the purchaser of the property at public auction for the aforesaid amount of P324,798.00. On May 25, 1979, the Sheriff executed a "Certificate of Sale" over the aforesaid properties in favor of the Appellant for the aforesaid amount (pages 37-38, Records).

The Appellant filed a "Petition for a Writ of Possession" with the Regional Trial Court entitled "Banco Filipino Savings and Mortgage Bank vs. Elsa Arcilla, et al., LRC Case No. P-7757-P". On February 28, 1980, the Court rendered a Decision granting the Petition of the Appellant. The Appellees appealed to the Court of Appeals but the latter Court, on June 29, 1985, promulgated a Decision affirming the Decision of the Regional Trial Court (pages 190-198, Records).

In the meantime, the FGU Insurance Corporation, Inc., redeemed the aforesaid properties from the Appellant by paying to the latter the amount of P389,289.41 inclusive of interest computed at 17% per annum. The Appellant and FGU Insurance Corp., Inc., executed, on May 27, 1980, a "Deed of Redemption" (pages 126-129, Records).

On September 2, 1985, the Appellees filed a complaint in the Court a quo for the "Annulment of the Loan Contracts, Foreclose Sale with Prohibition and Injunction, Etc." entitled "Calvin Arcilla, et al. vs. Banco Filipino Savings and Mortgage Bank, et al." (pages 1-38, Records).

The Appellees averred, in their complaint, inter alia, that the loan contracts and mortgages between the Appellees and the Appellant were null and void because: (a) the interests, charges, etc., were deducted in advance from the face value of the "Promissory Notes" executed by the Appellees; and (b) the rate of interests charged by the Appellant were usurious. The Appellees prayed that judgment be rendered in their favor as follows:

"x x x

WHEREFORE, it is respectfully prayed –

a) Pending hearing on the prayer for the issuance of the Writ of Preliminary Injunction, a restraining order be immediately issued against the defendants or anyone acting in their behalf from enforcing the writ of possession issued against the plaintiffs;

b) After notice and hearing, a writ of preliminary injunction be issued against the defendants, particularly defendants FGU Insurance Corporation and the City Sheriff of Pasay City, MM, or any of his deputies or anyone acting in their behalf from enforcing the writ of possession;

c) After trial –

1) To make the injunction permanent;

2) Declare the loan contracts null and void;

3) Declare the extrajudicial foreclosure null and void;

4) Ordering the defendants to pay the plaintiffs the sums of P100,000.00 as moral damages; P50,000.00 as attorney fees; and, costs of suit.

PLAINTIFFS further pray for such other reliefs and remedies just and equitable in the premises." (pages 88-89, Records)

In its Answer to the Complaint, the Appellant averred that the interests charged by it on Appellees' loan accounts and that the said loan contracts and mortgages were lawful. The Appellant further averred that the Appellees' action had already prescribed.

In the interim, the Supreme Court promulgated its Decision in the precedent - setting case of "Banco Filipino Savings and Mortgage Bank vs. Hon. Miguel Navarro, et al., 152 SCRA 346" where it declared that Central Bank Circular No. 494 was not the "law" envisaged in the mortgage deeds of borrowers of the Bank; that the escalation clause incorporated in said deeds giving authority to the Appellant to increase the rate of interests without the corresponding deescalation clause should not be given effect because of its one-sidedness in favor of the Appellant; that the aforesaid Central Bank Circular did not apply to loans secured by real estate mortgages, and that, therefore, the Appellant cannot rely said Circular as authority for it to unilaterally increase the rate of interests on loans secured by Real Estate Mortgages.

In the meantime, the FGU Insurance Corp., Inc., filed a "Motion for Substitution" with the Regional Trial Court, in LRC Case No. Pq-7757-P praying that it be substituted as the Petitioner in said case (pages 354-356, Records). The Appellees were served with a copy of said motion and filed their Opposition thereto. However, on November 10, 1987, the Regional Trial Court rendered a Decision granting the motion of FGU Insurance Company (page 369, Records)

On December 3, 1987, the Appellees filed a Motion, with the Court a quo, for leave to file an "Amended Complaint" to implead FGU Insurance Corporation as party defendant (pages 83-129, Records). The Court granted said motion and admitted Appellees' Amended Complaint.

After the requisite pre-trial, the Court a quo issued a Pre-Trial Order which defined, inter alia, Appellees' action against the Appellant, and the latter's defenses, to wit:

"x x x

On the part of the defendants Banco Filipino Savings to simplify the case, it seeks to declare as null and void plaintiff's loan contract with Banco Filipino obtained in May 1974, on the ground that the interest agreed in the contract was usurious. Plaintiffs also seek to declare as null and void the foreclosure of their mortgage by Banco Filipino on the ground that the loan with the said mortgagee foreclosure maybe validly done.

D E F E N S E S

- Prescription

- Laches
- Estoppel" (page 496, Records)

In the meantime, the Appellees and FGU Insurance Corporation entered into and forged a "Compromise Agreement." The Court a quo promulgated a Decision, dated April 3, 1991, based on said "Compromise Agreement." Under the "Compromise Agreement", the Appellees bound and obliged themselves, jointly and severally, to pay to FGU Insurance Corporation the amount of P1,964,117.00 in three (3) equal installments and that:

"x x x

6. Upon faithful compliance by plaintiffs Calvin S. Arcilla and Elsa B. Arcilla with their Agreement, defendant FGU Insurance Corporation shall renounce in their favor all its rights, interests and claims to the four (4) parcels of land mentioned in paragraph No. 4 of this Compromise Agreement, together with all the improvements thereon, and plaintiffs Calvin S. Arcilla and Elsa B. Arcilla shall be subrogated to all such rights, interests and claims. In addition, defendant FGU Insurance Corporation shall execute in favor of plaintiffs Calvin S. Arcilla and Elsa B. Arcilla a deed of cancellation of the real estate mortgage constituted in its favor on the above-mentioned four (4) parcels of land, together with all the improvements thereon. All documentary stamps and expenses for registration of the said deed of cancellation of mortgage shall be for the account of plaintiffs Calvin S. Arcilla and Elsa B. Arcilla.

7. Subject to the provisions of paragraph No. 4 of this Compromise Agreement, the execution of this Compromise Agreement shall be without prejudice to the prosecution of the claims of plaintiffs Calvin S. Arcilla and Elsa B. Arcilla. (pages 543-544, Records)

Thereafter, the Appellees and the Appellant agreed, upon the prodding of the Court a quo, that the only issue to be resolved by the Court a quo was, whether or not the Appellees were entitled to the refund, under the Decision of the Supreme Court in "Banco Filipino Savings and Mortgage Bank vs. Hon. Miguel Navarro, et al.," supra. On November 8, 1991, the Appellees filed a "Motion for Summary Judgment" appending thereto, inter alia, the Affidavit of Appellee Calvin S. Arcilla and the appendages thereof (pages 550-555, Records). Appellant filed its Opposition but did not append any affidavit to said Opposition. On March 26, 1993, the Court a quo promulgated a Decision, the decretal portion of which reads as follows:

‘WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs and against defendant Banco Filipino ordering defendant Banco Filipino to pay spouses Calvin S. Arcilla and Elsa B. Arcilla the sum of P126,139.00 with interest thereon at 12% per annum reckoned from the filing of the complaint.

SO ORDERED.’ (pages 584-585, Records)"[2]

Petitioner appealed to the Court of Appeals, which affirmed the decision of the RTC the dispositive portion of which reads:

"IN THE LIGHT OF ALL THE FOREGOING, the assailed Decision is AFFIRMED. Appellant’s appeal is DISMISSED. With costs against the Appellant.

SO ORDERED."[3]

Their Motion for Reconsideration[4] was denied hence this petition where the petitioner assigns the following errors:

"I. THE HONORABLE COURT OF APPEALS ERRED WHEN IT HELD THAT THE CAUSE OF ACTION OF THE PRIVATE RESPONDENTS ACCRUED ON OCTOBER 30, 1978, AND THEREFORE THE

FILING OF THEIR COMPLAINT FOR ANNULMENT OF THEIR LOAN CONTRACTS WITH THE PETITIONER IN 1985 WAS NOT YET BARRED BY PRESCRIPTION.

II. THE HONORABLE COURT OF APPEALS ERRED WHEN IT HELD THAT THE MATERIAL ALLEGATIONS OF THE PRIVATE RESPONDENTS COMPLAINT WERE SUFFICIENT TO WARRANT THE RELIEFS GRANTED TO THEM BY THE LOWER COURT, PARTICULARLY THE REFUND OF P126,139.00 REPRESENTING ALLEGED EXCESS INTEREST PAID ON THEIR LOAN.

III. THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT THE PRIVATE RESPONDENTS WERE ENTITLED TO THE SAID REFUND OF P126,139.00 CLAIMED BY THEM."[5]

The petitioner maintains that the complaint filed by herein private respondents was an action for Annulment of Loan Contracts, foreclosure sale with prohibition and injunction. It is contended that these causes of action accrued on the date of the execution of the promissory note and deed of mortgage on January 15, 1975 and not October 30, 1978 as found by the Court of Appeals. Thus, private respondents cause of action has already prescribed inasmuch as the case was filed on September 2, 1985 or more than ten years thereafter. Petitioner further contends that private respondents cannot rely on the ruling in the case of *Banco Filipino Savings & Mortgage Bank vs. Navarro*[6] considering that they were not parties to said case. Petitioner also maintains that the order of the lower court, which was affirmed by the Court of Appeals ordering the petitioner to refund the excess interest paid by private respondents in the amount of P126,318.00 was without any legal basis since private respondents never raised the issue of interest nor prayed for any relief with respect thereto. Moreover, the private respondents never paid said amount to the petitioner. While the amount was included in the bid price of the bank when it bought the mortgaged properties during the public auction, said bid price did not prejudice the private respondents because when the private respondents repurchased the properties, the amount they paid was different and independent of the redemption price of the bank. Besides, the agreement between the private respondents and FGU Insurance Corporation was one of sale and not redemption. Thus, any amount paid by the private respondents to FGU was voluntarily entered into by them and was not a consequence of the foreclosure of the mortgage properties.

Conversely, private respondents allege that their action has not prescribed considering that prescription begins to run from the day the action may be brought; the date their right of action accrued. It is their contention that the period of prescription of their action should commence to run from October 30, 1978 when the petitioner unilaterally increased the rate of interest on private respondents' loan to 17% per annum. Thus, when private respondents filed their action against the petitioner on September 2, 1985 or almost eight years thereafter, their action had not yet prescribed. Moreover, private respondents aver that they are entitled to the refund inasmuch as the escalation clause incorporated in the loan contracts do not have a corresponding de-escalation clause and is therefore illegal.

The appeal is unmeritorious.

There are only two issues, which must be resolved in the present appeal. First, has the action of the private respondents prescribed; and second, are the respondents entitled to the refund of the alleged interest overpayments.

Petitioner's claim that the action of the private respondents has prescribed is bereft of merit. Under Article 1150 of the Civil Code, the time for prescription of all kinds of actions, when there is no special provision which ordains otherwise, shall be counted from the day they may be brought. Thus, the period of prescription of any cause of action is reckoned only from the date the cause of action accrued.[7] And a cause of action arises when that which should have been done is not done, or that which should not have been done is done.[8] The period

should not be made to retroact to the date of the execution of the contract on January 15, 1975 as claimed by the petitioner for at that time, there would be no way for the respondents to know of the violation of their rights.[9] The Court of Appeals therefore correctly found that respondents' cause of action accrued on October 30, 1978, the date they received the statement of account showing the increased rate of interest, for it was only from that moment that they discovered the petitioner's unilateral increase thereof. We quote with approval the pertinent portions of the Court of Appeals decision as follows:

"It is the legal possibility of bringing the action that determines the starting point for the computation of the period of prescription (*Constancia C. Telentino vs. Court of Appeals, et al.*, 162 SCRA 66). In fine, the ten-year prescriptive period is to be reckoned from the accrual of Appellees' right of action, not necessarily on the very date of the execution of the contracts subject of the action (*Naga Telepone Co. Inc. vs. Court of Appeals, et al.*, 230 SCRA 351). A party's right of action accrues only when the confluence of the following elements is established:

"xxx: a) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; b) an obligation on the part of defendant to respect such right; and c) an act or omission on the part of such defendant violative of the right of the plaintiff (*Cole vs. Vda. de Gregorio*, 116 SCRA 670 [1982]; *Mathay vs. Consolidated Bank & Trust Co.*, 58 SCRA 559 [1974]; *Vda. de Enriquez vs. Dela Cruz*, 54 SCRA 1 [1973]. It is only when the last element occurs or takes place that it can be said in law that a cause of action has arisen (*Cole vs. Vda. De Gregorio, supra*)" (*Maria U. Español vs. Chairman, etc., et al.*, 137 SCRA 314, page 318)

More, the aggrieved must have either actual or presumptive knowledge of the violation, by the guilty party of his rights either by an act or omission. The question that now comes to the fore is when the Appellees became precisely aware of the unilateral increase, by the Appellant, of the rate of interest on their loan account to 17% per annum. As can be ascertained from the records, the Appellees discovered or should have discovered, for the first time, the unilateral increase by the Appellant of the rate of interest to 17% per annum when they received the "Statement of Account" of the Appellant as of October 30, 1978. Hence, it was only then that the prescriptive period for the Appellees to institute their action in the Court a quo commenced. Since the Appellees filed their complaint in the Court a quo on September 2, 1985, the same was seasonably filed within the ten-year prescriptive period." [10]

Anent the second issue as to whether the respondents are entitled to recover the alleged overpayments of interest, we find that they are despite the absence of any prayer therefor. This Court has ruled that it is the material allegations of fact in the complaint, not the legal conclusion made therein or the prayer that determines the relief to which the plaintiff is entitled.[11] It is the allegations of the pleading which determine the nature of the action and the Court shall grant relief warranted by the allegations and the proof even if no such relief is prayed for.[12] Thus, even if the complaint seeks the declaration of nullity of the contract, the Court of Appeals correctly ruled that the factual allegations contained therein ultimately seek the return of the excess interests paid.

The amended complaint[13] of herein private respondents specifically allege that the contracts of loan entered into by them and the petitioner were contrary to and signed in violation of the Usury Law[14] and consequentially pray that said contracts be declared null and void. The amended complaint reads:

"6. The aforementioned loans granted by defendant Banco Filipino to the plaintiffs as stated on the face of the promissory note and real estate mortgage (Annexes "B" to "D", inclusive) were not actually received by the plaintiffs because interests, charges, etc. were deducted in advance from the face value of the loans not in accordance with the contracts;

7. Even the loan contracts (Annexes "B" to "D", inclusive) required by defendant Banco Filipino to be signed by the plaintiffs were contrary to and in violation of the then Usury Law, as amended;

8. Assuming arguendo that the loan contracts between plaintiffs and defendant Banco Filipino are valid, the extra-judicial foreclosure of the properties of the plaintiffs on May 24, 1979 was null and void for having been conducted in clear violation of the law (Act 3135), namely: a) lack of proper notice to the plaintiffs; b) lack of proper publication and posting as required by law; c) the alleged sale was conducted at the place other than that prescribed by law, among others;

9. On May 27, 1990, defendant Banco Filipino purportedly executed in favor of defendant FGU Insurance Corporation a Deed of Redemption over the foreclosed properties of the plaintiffs, again, without notice to the latter, as evidenced by the said Deed of Redemption, copy of which is hereto attached and marked as Annex "F".

10. The Deed of Redemption (Annex "F") is clearly null and void for having been executed in violation of Rule 39, Rules of Court, and other related provisions of the Rules of Court."^[15]

The loan contracts with real estate mortgage entered into by and between the petitioner and respondent stated that the petitioner may increase the interest on said loans, within the limits allowed by law, as petitioner's Board of Directors may prescribe for its borrowers. At the time the contracts were entered into, said escalation clause was valid.^[16] It was only pursuant to P.D. No. 1684 which became effective March 17, 1980 wherein to be valid, escalation clauses should provide: 1.) that there can be an increase in interest if increased by law or by the Monetary Board; and 2.) in order for such stipulation to be valid, it must include a provision for the reduction of the stipulated interest in the event that the maximum rate of interest is reduced by law or by the Monetary Board.^[17]

Given the validity of the escalation clause, could the petitioner increase the stipulated interest pursuant to the Central Bank Circular 494 from 12% to 17%.

We rule that it may not.

The escalation clause in the loan contracts reads as follows:

"xxx g) 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 paragraph (b) and (d) hereof, shall be subject, during the terms of this contract, to such an increase, within the limits allowed by law, as the Board of Directors of the Mortgagee may prescribe for its debtors; xxx" (emphasis supplied)^[18]

In *Banco Filipino Savings & Mortgage Bank vs. Navarro*,^[19] which involved a similar escalation clause^[20], we ruled that Central Bank Circular 494, although it has the force and effect of law, is not a law and is not the law contemplated by the parties which authorizes the petitioner to unilaterally raise the interest rate of the loan.^[21] Consequently, the reliance by the petitioner on Central Bank Circular 494 to unilaterally raise the interest rates on the loan in question was without any legal basis.

Petitioner's argument that the *Banco Filipino* case cannot be applied to the present case since the respondents were not intervenors therein is flawed. Only the judgment in said case cannot bind the respondents as they were not parties thereto, however, the doctrine enunciated therein is a judicial decision and forms part of the legal system of the land.^[22] It forms a precedent, which must be adhered to under the doctrine of *stare decisis*.^[23] Thus, even if the respondents were not parties to the above-mentioned case, the doctrine enunciated therein may be applied to the present case.

WHEREFORE, the decision of the Court of Appeals in CA-G.R. CV No. 45891 is AFFIRMED and the instant petition is hereby DENIED.

No pronouncement as to costs.

SO ORDERED.

Melo, (Chairman), Vitug, and Purisima, JJ., concur.

Panganiban, J., on leave.

[1] Special Fourth Division composed of the ponente, J. Romeo J. Callejo; and the members J. Gloria C. Paras (Chairman) and J. Conrado M. Vasquez, Jr. concurring.

[2] Decision of the Court of Appeals, pp. 1-8.

[3] Ibid., p. 19.

[4] Rollo, p. 35.

[5] Petition, pp. 10-11; Rollo, pp. 18-19.

[6] 152 SCRA 347 [1987].

[7] Lim Tay vs. CA, 293 SCRA 634 at p. 655 [1998].

[8] Arturo M. Tolentino, The Civil Code, Volume IV (1997), p. 44.

[9] Ibid.

[10] Decision p. 11-12; Rollo, pp. 47-48.

[11] Metropolitan Waterworks and Sewerage System vs. Court of Appeals, 297 SCRA 287 at p. 302 [1998].

[12] Solid Homes, Inc. vs. Court of Appeals, 271 SCRA 157 at p. 164 [1997].

[13] Admitted on December 8, 1987; Record, p. 138.

[14] The Usury Law was suspended only on December 10, 1982 pursuant to Central Bank Circular No. 905, Series of 1982. See Liam Law vs. Olympic Sawmill Co., 129 SCRA 439.

[15] Amended Complaint, pp. 2 to 3; Record, pp. 86 to 87.

[16] Banco Filipino Savings & Mortgage Bank vs. Navarro, 152 SCRA 346 at p. 353 [1987].

[17] Ibid., at p. 355.

[18] Record at pp. 21, 25 and 29.

[19] See note 6.

[20] "I/We hereby authorize Banco Filipino to correspondingly increase the interest rate stipulated in this contract without advance notice to me/us in the event a law increasing the lawful rates of interest that may be charged on this particular kind of loan."

[21] See note 16, Supra at pp. 354-355.

[22] Article 8, Civil Code.

[23] Arturo M. Tolentino, The Civil Code, Volume I (1997), p. 37.

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