

DELFIN TAN, PETITIONER, VS. ERLINDA C. BENOLIRAO, ANDREW C. BENOLIRAO, ROMANO C. BENOLIRAO, DION C. BENOLIRAO, SPS. REYNALDO TANGCO AND NORMA D. BENOLIRAO, EVELYN T. MONREAL, ...

G.R. No. 153820. October 16, 2009

Ponente: BRION, J.

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BRION, J.:

Is an annotation made pursuant to Section 4, Rule 74 of the Rules of Court (Rules) on a certificate of title covering real property considered an encumbrance on the property? We resolve this question in the petition for review on certiorari[1] filed by Delfin Tan (Tan) to assail the decision of the Court of Appeals (CA) in CA-G.R. CV No. 52033[2] and the decision of the Regional Trial Court (RTC)[3] that commonly declared the forfeiture of his P200,000.00 down payment as proper, pursuant to the terms of his contract with the respondents.

THE ANTECEDENTS

The facts are not disputed. Spouses Lamberto and Erlinda Benolirao and the Spouses Reynaldo and Norma Tangingco were the co-owners of a 689-square meter parcel of land (property) located in Tagaytay City and covered by Transfer Certificate of Title (TCT) No. 26423. On October 6, 1992, the co-owners executed a Deed of Conditional Sale over the property in favor of Tan for the price of P1,378,000.00. The deed stated:

a)

An initial down-payment of TWO HUNDRED (P200,000.00) THOUSAND PESOS, Philippine Currency, upon signing of this contract; then the remaining balance of ONE MILLION ONE HUNDRED SEVENTY EIGHT THOUSAND (P1,178,000.00) PESOS, shall be payable within a period of one hundred fifty (150) days from date hereof without interest;

b)

That for any reason, BUYER fails to pay the remaining balance within above mentioned period, the BUYER shall have a grace period of sixty (60) days within which to make the payment, provided that there shall be an interest of 15% per annum on the balance amount due from the SELLERS;

c)

That should in case (sic) the BUYER fails to comply with the terms and conditions within the above stated grace period, then the SELLERS shall have the right to forfeit the down payment, and to rescind this conditional sale without need of judicial action;

d)

That in case, BUYER have complied with the terms and conditions of this contract, then the SELLERS shall

execute and deliver to the BUYER the appropriate Deed of Absolute Sale;

Pursuant to the Deed of Conditional Sale, Tan issued and delivered to the co-owners/vendors Metrobank Check No. 904407 for P200,000.00 as down payment for the property, for which the vendors issued a corresponding receipt.

On November 6, 1992, Lamberto Benolirao died intestate. Erlinda Benolirao (his widow and one of the vendors of the property) and her children, as heirs of the deceased, executed an extrajudicial settlement of Lamberto's estate on January 20, 1993. On the basis of the extrajudicial settlement, a new certificate of title over the property, TCT No. 27335, was issued on March 26, 1993 in the names of the Spouses Reynaldo and Norma Taningco and Erlinda Benolirao and her children. Pursuant to Section 4, Rule 74 of the Rules, the following annotation was made on TCT No. 27335:

x x x any liability to credirots (sic), excluded heirs and other persons having right to the property, for a period of two (2) years, with respect only to the share of Erlinda, Andrew, Romano and Dion, all surnamed Benolirao

As stated in the Deed of Conditional Sale, Tan had until March 15, 1993 to pay the balance of the purchase price. By agreement of the parties, this period was extended by two months, so Tan had until May 15, 1993 to pay the balance. Tan failed to pay and asked for another extension, which the vendors again granted. Notwithstanding this second extension, Tan still failed to pay the remaining balance due on May 21, 1993. The vendors thus wrote him a letter demanding payment of the balance of the purchase price within five (5) days from notice; otherwise, they would declare the rescission of the conditional sale and the forfeiture of his down payment based on the terms of the contract.

Tan refused to comply with the vendors' demand and instead wrote them a letter (dated May 28, 1993) claiming that the annotation on the title, made pursuant to Section 4, Rule 74 of the Rules, constituted an encumbrance on the property that would prevent the vendors from delivering a clean title to him. Thus, he alleged that he could no longer be required to pay the balance of the purchase price and demanded the return of his down payment.

When the vendors refused to refund the down payment, Tan, through counsel, sent another demand letter to the vendors on June 18, 1993. The vendors still refused to heed Tan's demand, prompting Tan to file on June 19, 1993 a complaint with the RTC of Pasay City for specific performance against the vendors, including Andrew Benolirao, Romano Benolirao, Dion Benolirao as heirs of Lamberto Benolirao, together with Evelyn Monreal and Ann Karina Taningco (collectively, the respondents). In his complaint, Tan alleged that there was a novation of the Deed of Conditional Sale done without his consent since the annotation on the title created an encumbrance over the property. Tan prayed for the refund of the down payment and the rescission of the contract.

On August 9, 1993, Tan amended his Complaint, contending that if the respondents insist on forfeiting the down payment, he would be willing to pay the balance of the purchase price provided there is reformation of the Deed of Conditional Sale. In the meantime, Tan caused the annotation on the title of a notice of lis pendens.

On August 21, 1993, the respondents executed a Deed of Absolute Sale over the property in favor of Hector de Guzman (de Guzman) for the price of P689,000.00.

Thereafter, the respondents moved for the cancellation of the notice of lis pendens on the ground that it was inappropriate since the case that Tan filed was a personal action which did not involve either title to, or possession of, real property. The RTC issued an order dated October 22, 1993 granting the respondents' motion to cancel the lis pendens annotation on the title.

Meanwhile, based on the Deed of Absolute Sale in his favor, de Guzman registered the property and TCT No. 28104 was issued in his name. Tan then filed a motion to carry over the lis pendens annotation to TCT No. 28104

registered in de Guzman's name, but the RTC denied the motion.

On September 8, 1995, after due proceedings, the RTC rendered judgment ruling that the respondents' forfeiture of Tan's down payment was proper in accordance with the terms and conditions of the contract between the parties.[4] The RTC ordered Tan to pay the respondents the amount of P30,000.00, plus P1,000.00 per court appearance, as attorney's fees, and to pay the cost of suit.

On appeal, the CA dismissed the petition and affirmed the ruling of the trial court in toto. Hence, the present petition.

THE ISSUES

Tan argues that the CA erred in affirming the RTC's ruling to cancel the lis pendens annotation on TCT No. 27335. Due to the unauthorized novation of the agreement, Tan presented before the trial court two alternative remedies in his complaint - either the rescission of the contract and the return of the down payment, or the reformation of the contract to adjust the payment period, so that Tan will pay the remaining balance of the purchase price only after the lapse of the required two-year encumbrance on the title. Tan posits that the CA erroneously disregarded the alternative remedy of reformation of contract when it affirmed the removal of the lis pendens annotation on the title.

Tan further contends that the CA erred when it recognized the validity of the forfeiture of the down payment in favor of the vendors. While admitting that the Deed of Conditional Sale contained a forfeiture clause, he insists that this clause applies only if the failure to pay the balance of the purchase price was through his own fault or negligence. In the present case, Tan claims that he was justified in refusing to pay the balance price since the vendors would not have been able to comply with their obligation to deliver a "clean" title covering the property.

Lastly, Tan maintains that the CA erred in ordering him to pay the respondents P30,000.00, plus P1,000.00 per court appearance as attorney's fees, since he filed the foregoing action in good faith, believing that he is in the right.

The respondents, on the other hand, assert that the petition should be dismissed for raising pure questions of fact, in contravention of the provisions of Rule 45 of the Rules which provides that only questions of law can be raised in petitions for review on certiorari.

THE COURT'S RULING

The petition is granted.

No new issues can be raised in the
Memorandum

At the onset, we note that Tan raised the following additional assignment of errors in his Memorandum: (a) the CA erred in holding that the petitioner could seek reformation of the Deed of Conditional Sale only if he paid the balance of the purchase price and if the vendors refused to execute the deed of absolute sale; and (b) the CA erred in holding that the petitioner was estopped from asking for the reformation of the contract or for specific performance.

The Court's September 27, 2004 Resolution expressly stated that "No new issues may be raised by a party in his/its Memorandum." Explaining the reason for this rule, we said that:

The raising of additional issues in a memorandum before the Supreme Court is irregular, because said

memorandum is supposed to be in support merely of the position taken by the party concerned in his petition, and the raising of new issues amounts to the filing of a petition beyond the reglementary period. The purpose of this rule is to provide all parties to a case a fair opportunity to be heard. No new points of law, theories, issues or arguments may be raised by a party in the Memorandum for the reason that to permit these would be offensive to the basic rules of fair play, justice and due process.[5]

Tan contravened the Court's explicit instructions by raising these additional errors. Hence, we disregard them and focus instead on the issues previously raised in the petition and properly included in the Memorandum.

Petition raises a question of law

Contrary to the respondents' claim, the issue raised in the present petition - defined in the opening paragraph of this Decision - is a pure question of law. Hence, the petition and the issue it presents are properly cognizable by this Court.

Lis pendens annotation not proper in personal actions

Section 14, Rule 13 of the Rules enumerates the instances when a notice of lis pendens can be validly annotated on the title to real property:

Sec. 14. Notice of lis pendens.

In an action affecting the title or the right of possession of real property, the plaintiff and the defendant, when affirmative relief is claimed in his answer, may record in the office of the registry of deeds of the province in which the property is situated a notice of the pendency of the action. Said notice shall contain the names of the parties and the object of the action or defense, and a description of the property in that province affected thereby. Only from the time of filing such notice for record shall a purchaser, or encumbrancer of the property affected thereby, be deemed to have constructive notice of the pendency of the action, and only of its pendency against the parties designated by their real names.

The notice of lis pendens hereinabove mentioned may be cancelled only upon order of the court, after proper showing that the notice is for the purpose of molesting the adverse party, or that it is not necessary to protect the rights of the party who caused it to be recorded.

The litigation subject of the notice of lis pendens must directly involve a specific property which is necessarily affected by the judgment.[6]

Tan's complaint prayed for either the rescission or the reformation of the Deed of Conditional Sale. While the Deed does have real property for its object, we find that Tan's complaint is an in personam action, as Tan asked the court to compel the respondents to do something - either to rescind the contract and return the down payment, or to reform the contract by extending the period given to pay the remaining balance of the purchase price. Either way, Tan wants to enforce his personal rights against the respondents, not against the property subject of the Deed. As we explained in *Domagas v. Jensen*: [7]

The settled rule is that the aim and object of an action determine its character. Whether a proceeding is in rem, or in personam, or quasi in rem for that matter, is determined by its nature and purpose, and by these only. A proceeding in personam is a proceeding to enforce personal rights and obligations brought against the person and is based on the jurisdiction of the person, although it may involve his right to, or the exercise of ownership of, specific property, or seek to compel him to control or dispose of it in accordance with the mandate of the court. The purpose of a proceeding in personam is to impose, through the judgment of a court, some responsibility or liability directly upon the person of the defendant. Of this character are suits to compel a defendant to specifically perform some act or actions to fasten a pecuniary liability on him.

Furthermore, as will be explained in detail below, the contract between the parties was merely a contract to sell where the vendors retained title and ownership to the property until Tan had fully paid the purchase price. Since Tan had no claim of ownership or title to the property yet, he obviously had no right to ask for the annotation of a *lis pendens* notice on the title of the property.

Contract is a mere contract to sell

A contract is what the law defines it to be, taking into consideration its essential elements, and not what the contracting parties call it.[8] Article 1485 of the Civil Code defines a contract of sale as follows:

Art. 1458. By the contract of sale one of the contracting parties obligates himself to transfer the ownership and to deliver a determinate thing, and the other to pay therefor a price certain in money or its equivalent.

A contract of sale may be absolute or conditional.

The very essence of a contract of sale is the transfer of ownership in exchange for a price paid or promised.[9]

In contrast, a contract to sell is defined as a bilateral contract whereby the prospective seller, while expressly reserving the ownership of the property despite delivery thereof to the prospective buyer, binds himself to sell the property exclusively to the prospective buyer upon fulfillment of the condition agreed, i.e., full payment of the purchase price.[10] A contract to sell may not even be considered as a conditional contract of sale where the seller may likewise reserve title to the property subject of the sale until the fulfillment of a suspensive condition, because in a conditional contract of sale, the first element of consent is present, although it is conditioned upon the happening of a contingent event which may or may not occur.[11]

In the present case, the true nature of the contract is revealed by paragraph D thereof, which states:

x x x

d) That in case, BUYER has complied with the terms and conditions of this contract, then the SELLERS shall execute and deliver to the BUYER the appropriate Deed of Absolute Sale;

x x x

Jurisprudence has established that where the seller promises to execute a deed of absolute sale upon the completion by the buyer of the payment of the price, the contract is only a contract to sell.[12] Thus, while the contract is denominated as a Deed of Conditional Sale, the presence of the above-quoted provision identifies the contract as being a mere contract to sell.

A Section 4, Rule 74 annotation is an encumbrance on the property

While Tan admits that he refused to pay the balance of the purchase price, he claims that he had valid reason to do so - the sudden appearance of an annotation on the title pursuant to Section 4, Rule 74 of the Rules, which Tan considered an encumbrance on the property.

We find Tan's argument meritorious.

The annotation placed on TCT No. 27335, the new title issued to reflect the extrajudicial partition of Lamberto Benolirao's estate among his heirs, states:

x x x any liability to credirots (sic), excluded heirs and other persons having right to the property, for a period of two (2) years, with respect only to the share of Erlinda, Andrew, Romano and Dion, all surnamed Benolirao [Emphasis supplied.]

This annotation was placed on the title pursuant to Section 4, Rule 74 of the Rules, which reads:

Sec. 4. Liability of distributees and estate. - If it shall appear at any time within two (2) years after the settlement and distribution of an estate in accordance with the provisions of either of the first two sections of this rule, that an heir or other person has been unduly deprived of his lawful participation in the estate, such heir or such other person may compel the settlement of the estate in the courts in the manner hereinafter provided for the purpose of satisfying such lawful participation. And if within the same time of two (2) years, it shall appear that there are debts outstanding against the estate which have not been paid, or that an heir or other person has been unduly deprived of his lawful participation payable in money, the court having jurisdiction of the estate may, by order for that purpose, after hearing, settle the amount of such debts or lawful participation and order how much and in what manner each distributee shall contribute in the payment thereof, and may issue execution, if circumstances require, against the bond provided in the preceding section or against the real estate belonging to the deceased, or both. Such bond and such real estate shall remain charged with a liability to creditors, heirs, or other persons for the full period of two (2) years after such distribution, notwithstanding any transfers of real estate that may have been made. [Emphasis supplied.]

Senator Vicente Francisco discusses this provision in his book *The Revised Rules of Court in the Philippines*,^[13] where he states:

The provision of Section 4, Rule 74 prescribes the procedure to be followed if within two years after an extrajudicial partition or summary distribution is made, an heir or other person appears to have been deprived of his lawful participation in the estate, or some outstanding debts which have not been paid are discovered. When the lawful participation of the heir is not payable in money, because, for instance, he is entitled to a part of the real property that has been partitioned, there can be no other procedure than to cancel the partition so made and make a new division, unless, of course, the heir agrees to be paid the value of his participation with interest. But in case the lawful participation of the heir consists in his share in personal property of money left by the decedent, or in case unpaid debts are discovered within the said period of two years, the procedure is not to cancel the partition, nor to appoint an administrator to re-assemble the assets, as was allowed under the old Code, but the court, after hearing, shall fix the amount of such debts or lawful participation in proportion to or to the extent of the assets they have respectively received and, if circumstances require, it may issue execution against the real estate belonging to the decedent, or both. The present procedure is more expedient and less expensive in that it dispenses with the appointment of an administrator and does not disturb the possession enjoyed by the distributees.^[14] [Emphasis supplied.]

An annotation is placed on new certificates of title issued pursuant to the distribution and partition of a decedent's real properties to warn third persons on the possible interests of excluded heirs or unpaid creditors in these properties. The annotation, therefore, creates a legal encumbrance or lien on the real property in favor of the excluded heirs or creditors. Where a buyer purchases the real property despite the annotation, he must be ready for the possibility that the title could be subject to the rights of excluded parties. The cancellation of the sale would be the logical consequence where: (a) the annotation clearly appears on the title, warning all would-be buyers; (b) the sale unlawfully interferes with the rights of heirs; and (c) the rightful heirs bring an action to question the transfer within the two-year period provided by law.

As we held in *Vda. de Francisco v. Carreon*:^[15]

And Section 4, Rule 74 xxx expressly authorizes the court to give to every heir his lawful participation in the real estate "notwithstanding any transfers of such real estate" and to "issue execution" thereon. All this implies that, when within the amendatory period the realty has been alienated, the court in re-dividing it among the heirs has the authority to direct cancellation of such alienation in the same estate proceedings, whenever it becomes necessary to do so. To require the institution of a separate action for such annulment would run counter to the letter of the above rule and the spirit of these summary settlements. [Emphasis supplied.]

Similarly, in *Sps. Domingo v. Roces*,^[16] we said:

The foregoing rule clearly covers transfers of real property to any person, as long as the deprived heir or creditor vindicates his rights within two years from the date of the settlement and distribution of estate. Contrary to petitioners' contention, the effects of this provision are not limited to the heirs or original distributees of the estate properties, but shall affect any transferee of the properties. [Emphasis supplied.]

Indeed, in *David v. Malay*,^[17] although the title of the property had already been registered in the name of the third party buyers, we cancelled the sale and ordered the reconveyance of the property to the estate of the deceased for proper disposal among his rightful heirs.

By the time Tan's obligation to pay the balance of the purchase price arose on May 21, 1993 (on account of the extensions granted by the respondents), a new certificate of title covering the property had already been issued on March 26, 1993, which contained the encumbrance on the property; the encumbrance would remain so attached until the expiration of the two-year period. Clearly, at this time, the vendors could no longer compel Tan to pay the balance of the purchase since considering they themselves could not fulfill their obligation to transfer a clean title over the property to Tan.

Contract to sell is not rescinded but terminated

What then happens to the contract?

We have held in numerous cases^[18] that the remedy of rescission under Article 1191 cannot apply to mere contracts to sell. We explained the reason for this in *Santos v. Court of Appeals*,^[19] where we said:

[I]n a contract to sell, title remains with the vendor and does not pass on to the vendee until the purchase price is paid in full. Thus, in a contract to sell, the payment of the purchase price is a positive suspensive condition. Failure to pay the price agreed upon is not a mere breach, casual or serious, but a situation that prevents the obligation of the vendor to convey title from acquiring an obligatory force. This is entirely different from the situation in a contract of sale, where non-payment of the price is a negative resolutive condition. The effects in law are not identical. In a contract of sale, the vendor has lost ownership of the thing sold and cannot recover it, unless the contract of sale is rescinded and set aside. In a contract to sell, however, the vendor remains the owner for as long as the vendee has not complied fully with the condition of paying the purchase price. If the vendor should eject the vendee for failure to meet the condition precedent, he is enforcing the contract and not rescinding it. x x x Article 1592 speaks of non-payment of the purchase price as a resolutive condition. It does not apply to a contract to sell. As to Article 1191, it is subordinated to the provisions of Article 1592 when applied to sales of immovable property. Neither provision is applicable [to a contract to sell]. [Emphasis supplied.]

We, therefore, hold that the contract to sell was terminated when the vendors could no longer legally compel Tan to pay the balance of the purchase price as a result of the legal encumbrance which attached to the title of the property. Since Tan's refusal to pay was due to the supervening event of a legal encumbrance on the property and not through his own fault or negligence, we find and so hold that the forfeiture of Tan's down payment was clearly unwarranted.

Award of Attorney's fees

As evident from our previous discussion, Tan had a valid reason for refusing to pay the balance of the purchase price for the property. Consequently, there is no basis for the award of attorney's fees in favor of the respondents.

On the other hand, we award attorney's fees in favor of Tan, since he was compelled to litigate due to the

respondents' refusal to return his down payment despite the fact that they could no longer comply with their obligation under the contract to sell, i.e., to convey a clean title. Given the facts of this case, we find the award of P50,000.00 as attorney's fees proper.

Monetary award is subject to
legal interest

Undoubtedly, Tan made a clear and unequivocal demand on the vendors to return his down payment as early as May 28, 1993. Pursuant to our definitive ruling in *Eastern Shipping Lines, Inc. v. Court of Appeals*,^[20] we hold that the vendors should return the P200,000.00 down payment to Tan, subject to the legal interest of 6% per annum computed from May 28, 1993, the date of the first demand letter.

Furthermore, after a judgment has become final and executory, the rate of legal interest, whether the obligation was in the form of a loan or forbearance of money or otherwise, shall be 12% per annum from such finality until its satisfaction. Accordingly, the principal obligation of P200,000.00 shall bear 6% interest from the date of first demand or from May 28, 1993. From the date the liability for the principal obligation and attorney's fees has become final and executory, an annual interest of 12% shall be imposed on these obligations until their final satisfaction, this interim period being deemed to be by then an equivalent to a forbearance of credit.

WHEREFORE, premises considered, we hereby GRANT the petition and, accordingly, ANNUL and SET ASIDE the May 30, 2002 decision of the Court of Appeals in CA-G.R. CV No. 52033. Another judgment is rendered declaring the Deed of Conditional Sale terminated and ordering the respondents to return the P200,000.00 down payment to petitioner Delfin Tan, subject to legal interest of 6% per annum, computed from May 28, 1993. The respondents are also ordered to pay, jointly and severally, petitioner Delfin Tan the amount of P50,000.00 as and by way of attorney's fees. Once this decision becomes final and executory, respondents are ordered to pay interest at 12% per annum on the principal obligation as well as the attorney's fees, until full payment of these amounts. Costs against the respondents.

SO ORDERED.

[*]Quisumbing, (Chairperson), Carpio-Morales,**]Nachura, and Abad, JJ., concur.

[*] Designated Acting Chief Justice effective October 12 to 16, 2009 per Special Order No. 721 dated October 5, 2009.

**] Designated additional Member of the Second Division effective October 7, 2009 per Special Order No. 730 dated October 5, 2009.

[1] Under Rule 45 of the Rules of Court, dated July 25, 2002; rollo, pp. 30-50.

[2] Penned by Associate Justice Romeo J. Callejo, Sr. (retired member of this Court), with the concurrence of Associate Justice Remedios Salazar-Fernando and Associate Justice Danilo B. Pine; id., pp. 6- 26.

[3] Dated September 8, 1995; id, pp. 76-82.

[4] Id., pp. 76-82.

[5] *Heirs of Marasigan v. Marasigan*, G.R. No. 156078, March 14, 2008, 548 SCRA 409.

[6] *Heirs of Eugenio Lopez, Sr. v. Enriquez*, G.R. No. 146262, January 21, 2005, 449 SCRA 173.

[7] G.R. No. 158407, January 17, 2005, 448 SCRA 663.

- [8] Quiroga v. Parsons Hardware Co., 38 Phil. 501 (1918).
- [9] Schmid & Oberly, Inc. v. RJL Martinez Fishing Corp., G.R. No. 75198, October 18, 1988, 166 SCRA 493, citing Commissioner of Internal Revenue v. Constantino, 31 SCRA 779 (1970); Ker & Co., Ltd. v. Lingad, No. L-20871, April 30, 1971, 38 SCRA 524, citing Salisbury v. Brooks, 94 SE 117 (1917).
- [10] Sps. Ebrada v. Sps. Ramos, G.R. No. 154413, August 31, 2005, 468 SCRA 597.
- [11] Sps. Reyes v. Salvador, et al., G.R. No. 139047, September 11, 2008, citing Coronel v. CA, 263 SCRA 15 (1996).
- [12] Philippine National Bank v. Court of Appeals, 330 Phil. 1048 (1996).
- [13] Volume V-A (1970 ed.).
- [14] Id., pp. 701-702, citing McMicking v. Sy Combieng, 21 Phil. 211 (1912); Lopez v. Enriquez, 16 Phil. 336 (1910); Espino v. Rovira, 50 Phil. 152 (1927).
- [15] 95 Phil. 237 (1954).
- [16] G.R. No. 147468, April 9, 2003, 401 SCRA 197.
- [17] G.R. No. 132644, November 19, 1999, 318 SCRA 711.
- [18] Gomez v. Court of Appeals, G.R. No. 120747, September 21, 2000, 340 SCRA 720; Padilla v. Paredes, G.R. No. 124874, March 17, 2000, 328 SCRA 434; Valarao v. Court of Appeals, G.R. No. 130347, March 3, 1999, 304 SCRA 155; Pangilinan v. Court of Appeals, G.R. No. 83588, September 29, 1997, 279 SCRA 590; Rillo v. Court of Appeals, G.R. No. 125347, June 19, 1997, 274 SCRA 461.
- [19] G.R. No. 120820, August 1, 2000, 337 SCRA 67.
- [20] G.R. No. 97412, July 12, 1994, 234 SCRA 78.

The Court held:

"2. When an obligation, not constituting a loan or forbearance of money, is breached, an interest on the amount of damages awarded may be imposed at the discretion of the court at the rate of 6% per annum. No interest, however, shall be adjudged on unliquidated claims or damages except when or until the demand can be established with reasonable certainty. Accordingly, where the demand is established with reasonable certainty, the interest shall begin to run from the time the claim is made judicially or extrajudicially (Art. 1169, Civil Code) but when such certainty cannot be so reasonably established at the time the demand is made, the interest shall begin to run only from the date of the judgment of the court is made (at which time the quantification of damages may be deemed to have been reasonably ascertained). The actual base for the computation of legal interest shall, in any case, be on the amount of finally adjudged."

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