BONIFACIO SANZ MACEDA, JR., PETITIONER, VS. DEVELOPMENT BANK OF THE PHILIPPINES, RESPONDENT.

G.R. No. 174979. August 11, 2010

Ponente: CARPIO, J.

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CARPIO, J.:

G.R. Nos. 174979 and 175010 are petitions for review[1] assailing the Decision [2]promulgated on 2 July 2004 by the Court of Appeals (appellate court) as well as the Resolution[3] promulgated on 9 October 2006 in CA-G.R. CV No. 69823. In G.R. No. 174979, the petitioner is Bonifacio Sanz Maceda, Jr. (Maceda) while Development Bank of the Philippines (DBP) is the respondent. In G.R. No. 175010, DBP is the petitioner and Maceda is the respondent.

In CA-G.R. CV No. 69823, the appellate court dismissed the petitions filed by Maceda and DBP. The appellate court affirmed the decision in Civil Case No. 8737 of the Regional Trial Court of Makati City, Branch 134 (trial court) dated 25 February 1997 as well as the 2 October 1997 Order which amended the 25 February 1997 Decision.

The Facts

The appellate court narrated the facts as follows:

> It appears that on July 28, 1976 plaintiff Bonifacio Maceda, Jr. (Maceda) obtained a loan from the defendant DBP in the amount of P7.3 million to finance the expansion of the Old Gran Hotel in Leyte. Upon approval of said loan, plaintiff Maceda executed a promissory note and a mortgage of real estate. Project cost of the New Gran Hotel was P10.5M. DBP fixed a debt-equity ratio of 70%-30%, corresponding to DBP and Maceda's respective infusion in the hotel project. Maceda's equity infusion was P2.93M, or 30% of P10.5M. The DBP Governor at that time, Recio Garcia, in-charge of loans for hotels, allegedly imposed the condition that DBP would choose the building contractor, namely, Moreman Builders Co. (Moreman). The contractor would directly receive the loan releases from DBP, after verification by DBP of the construction progress. The period of loan availment was 360 days from date of initial release of the loan. Similarly, suppliers of equipment and furnishings for the hotel were also to be paid directly by DBP. The construction deadline was set for December 22, 1977.
>
> Maceda filed a complaint for Rescission of the building contract with Damages against the contractor Moreman, before the then Manila Court of First Instance Branch 39, which was docketed as Civil Case No. 113498. In its decision dated November 28, 1978, the CFI rescinded the building contract, suspended the period of availment, allowed Maceda to himself take over construction, and directed DBP to release to Maceda the sum of P1.003M, which had previously been approved for release in January 1978. The DBP was further ordered to give plaintiff Maceda such other amounts still pending release. Moreman filed an appeal which was subsequently dismissed in 1990 by the Supreme Court. Entry of judgment on this case was issued on April 23, 1990.
>
> In the meantime, Maceda also instituted the case a quo for Specific Performance with Damages against

> defendant DBP before the Makati RTC in 1984. The Manila CFI's November 28, 1978 Decision and the factual findings therein contained became part of the evidence submitted before the Makati RTC as Exh. "D." In essence, Maceda's complaint before the Makati RTC alleged that DBP conspired with the contractor, Moreman, by approving anomalous loan releases to the latter despite exaggerated charges and valuation made by said contractor on the hotel project. In effect, it was alleged that despite only a 15% accomplishment which should have cost only P700,000.00, the contractor, thru the active connivance of the DBP, was able to rake in a total of P3,174,358.38 or 60% of the cost of the projected hotel building. When plaintiff Maceda himself tried to resume the completion and construction of the hotel project, after the building contract with Moreman was already rescinded by the CFI Manila, defendant allegedly blocked efforts of the plaintiff by delaying the release of funds from his loan with the DBP and imposing onerous conditions which made it difficult for plaintiff to pursue the construction of the New Gran Hotel. It was further alleged that due to such delays on the part of the DBP, the period of availment of the loan expired without the plaintiff's [sic] having availed of the total approved amount of their loan. The construction of the hotel was never finished. Worse, due to interests and penalties, the obligation of the plaintiff has ballooned to P11,817,365.90 as of January 31, 1984, not to mention the amount of P810,702.68 supposedly representing interests and charges for the period of February 1, 1978 to October 1979. Finally, DBP allegedly threatened to foreclose the mortgaged properties of the plaintiff.[4]

The Trial Court's Ruling

On 25 February 1997, the trial court promulgated its Decision in favor of Maceda. The dispositive portion of the Decision reads as follows:

> WHEREFORE, in view of all the foregoing premises, the Court renders judgment, to wit:
>
> 1. The preliminary injunction issued on December 12, 1984 is hereby made permanent;
>
> 2. Defendant Development Bank of the Philippines is ordered, to wit:
>
> (a) To immediately release in favor of Plaintiff Bonifacio Maceda, Jr. the unreleased loan balance of P1,952,489.10. In addition, as to the portion thereof amounting to P1.003M, DBP is further directed to pay interest thereon at the rate of 12% per annum beginning and counted from January, 1978;
>
> (b) To immediately return to plaintiff Bonifacio Maceda, Jr. the sum of P797,988.95 representing the interest/other charges for the period October 31, 1979 to April 1, 1980;
>
> (c) To pay Plaintiff Bonifacio Maceda, Jr. the sum of Five Hundred Thousand Pesos as moral damages;
>
> (d) To pay plaintiff Bonifacio Maceda, Jr. the sum of One Hundred Thousand Pesos as exemplary damages;
>
> (e) To pay plaintiff Bonifacio Maceda, Jr. the sum of P17,547,510.90 representing the additional cost to complete and finish the New Gran Hotel;
>
> (f) To pay plaintiff Bonifacio Maceda, Jr. the sum of P100,000.00 as attorney's fees and litigation expense.
>
> The counterclaims of defendants are hereby dismissed.
>
> SO ORDERED.[5]

DBP filed a Notice of Appeal. Maceda, on the other hand, filed a Motion for Reconsideration of the trial court's Decision and sought to increase the awarded amounts. Maceda also filed a Motion for Partial Execution Pending Appeal and a Supplemental Motion for Partial Execution Pending Appeal to which DBP filed its Oppositions.

The trial court issued an Order dated 2 October 1997 and amended the dispositive portion of its 25 February 1997 Decision, thus:

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> WHEREFORE, in view of the foregoing and by way of recapitulation, the Court directs and orders that all other dispositions in the Decision dated February 25, 1997 are hereby maintained, except the dispositions under paragraph 2 (subparagraphs C, D, E) which are hereby amended as underlined, and paragraph G added hereunder in conformity with the guidelines in the case of Eastern Shipping Lines, supra, p. 97. The entire dispositive portion shall be as follows:
>
> 1. The preliminary injunction issued on December 12, 1984 is hereby made permanent;
>
> 2. Defendant Development Bank of the Philippines is ordered, to wit:
>
> (a) To immediately release in favor of plaintiff Bonifacio Maceda, Jr. the unreleased loan balance of P1,952,489.10. In addition, as to the portion thereof amounting to P1.003M, DBP is further directed to pay interest thereon at the rate of 12% per annum beginning and counted from January 1978;
>
> (b) To immediately return to plaintiff Bonifacio Maceda, Jr. the sum of P797,988.95 representing the interest/other charges for the period October 31, 1979 to April 1, 1980;
>
> (c) To pay plaintiff Bonifacio Maceda, Jr. the sum of Seven Hundred Thousand Pesos as moral damages;
>
> (d) To pay plaintiff Bonifacio Maceda, Jr. the sum of One Hundred Fifty Thousand Pesos as exemplary damages; and the sum of Five Hundred Thousand Pesos as temperate damages;
>
> (e) To pay plaintiff Bonifacio Maceda, Jr. the sum of P17,547,510.90 representing the additional cost to complete and finish the New Gran Hotel, plus six percent interest (6%) thereon effective as of the year 1987 until finality.
>
> (f) To pay plaintiff Bonifacio Maceda, Jr. the sum of P100,000.00 as attorney's fees and litigation expense.
>
> (g) After the finality of the Decision, all the foregoing monetary awards in their totality, including the interest imposed thereon as the case may be, shall earn 12% interest from date of such finality until satisfaction.
>
> The counterclaims of defendants are hereby dismissed.
>
> The Court further orders the execution pending appeal of the award under disposition 2(a), as maintained, without bond, and the award under disposition 2(e), as amended, to be covered by plaintiff's bond in the equivalent sum thereof, including the six percent interest (6%) thereon effective as of the year 1987 until date of the said bond.
>
> SO ORDERED.[6] (Underlining in the original)

DBP filed a Petition for Certiorari as regards the execution pending appeal before the appellate court. The appellate court, in DBP v. Hon. Ignacio Capulong[7] granted DBP's petition and annulled the trial court's order of partial execution pending appeal. We affirmed the appellate court's Decision on 26 August 1999.[8]

On 5 November 1997, DBP filed a Notice of Appeal of the trial court's Decision dated 25 February 1997 as amended by the Order dated 2 October 1997. Maceda and his sibling, Teresita Maceda-Docena, filed a Notice of Appeal before the appellate court. On 23 July 2002, the appellate court dismissed Teresita Maceda-Docena's appeal for her failure to file her Appellant's Brief.[9]

The Appellate Court's Ruling

On 2 July 2004, the appellate court rendered its Decision which affirmed the 2 October 1997 Order of the trial court.

> Thus, We find that the records support the ruling and conclusions made by the RTC in its assailed Decision.

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> Conclusions and findings of fact by the lower courts are entitled to great weight on appeal and will not be disturbed except for strong and cogent reasons. (Atlantic Gulf and Pacific Company of Manila, Inc. vs. Court of Appeals, 247 SCRA 606)
>
> WHEREFORE, based on the foregoing premises, the appeal of plaintiff-appellant is DISMISSED for lack of merit. Likewise, defendant-appellant's appeal is DISMISSED. Accordingly, the assailed February 25, 1997 Decision of the Regional Trial Court of Makati City - Branch 134 in Civil Case No. 8737, and its October 2, 1997 Order which amended the said February 25, 1997 Decision, are AFFIRMED.
>
> SO ORDERED.[10]

The appellate court denied Maceda's and DBP's Motions for Reconsideration for lack of merit. Maceda's Motion for Execution Pending Appeal was likewise denied.[11]

Issues

In G.R. No. 174979, Maceda assigned a single error of the appellate court. Maceda submitted that "the granted awards are so unrealistic as to be pyrrhic. For example, even as both the Makati RTC and the Court of Appeals admit that the award of "P17,547,510.90 representing the additional cost to complete and finish the New Gran Hotel" reflects "only the cost estimate as of 1987," both courts felt there was no way to increase the award - except by imposing a "6% interest thereon effective as of the year 1987 until finality" -- simply because, as both courts said, there were "no fresher data to guide it. In short, no evidence was submitted as to the construction cost in post-1987 years."[12]

In G.R. No. 175010, DBP enumerated the following grounds to support its Petition:

> I. Whether the Honorable Court of Appeals was correct in holding DBP liable for the acts of Moreman Builders;
>
> II. Whether the Honorable Court of Appeals was correct in upholding private respondent's contention that petitioner connived with Moreman Builders in the alleged anomalous releases;
>
> III. Whether there was reasonable ground for DBP to stop the loan releases;
>
> IV. Whether the Honorable Court of Appeals was correct in upholding the trial court:
>
> - In imposing interest on the unreleased portion of the loan;
>
> - For the return of interests paid on the loan already released to Maceda;
>
> V. Whether the damages awarded in favor of Maceda are unreasonable and excessive.[13]

The Court's Ruling

DBP's petition has merit. We affirm with modification the ruling of the appellate court.

The trial court and appellate court made the following findings:

> x x x We find credit in the finding that DBP actively connived with the contractor in the anomalous loan releases. DBP falsely argues that releases on the loan were coursed thru the plaintiff-appellant and the checks were drawn jointly in the names of Maceda and Moreman. As found by the RTC, the records show that checks were drawn only in the name of Moreman and plaintiff's conformity to fund releases were solicited by DBP after the fact of release, not before. Direct releases to the plaintiff, instead of Moreman, began only after Moreman was discharged as contractor. Further, it was agreed that payment to Moreman Builders would be assessed against actual construction of the project upon DBP's verification. Thus, DBP contributed in the

> swindling perpetrated by Moreman against the plaintiff because it improperly discharged its duty as verifier of the construction project.
>
> DBP was also at fault in not releasing the amount of P1.003 Million which had already been approved for release as early as January 1978. We agree with the RTC that it is apparent that such delay in the release of plaintiff's loan is directly attributable to DBP and contributed to the construction delay, such that radical rise in construction cost and prices of materials had already caught up with the hotel project. The P7.3 million loan is a "straight loan" as described in the document dated March 7, 1977 by A.S. Martinez, a DBP managerial officer. In releasing other sums but not the P1.003 million, and in failing to release the bigger sum of P1,952,489.10 which is the total unreleased balance of the loan, DBP treated its prestation according to its likes and dislikes.
>
> As aptly observed by the RTC, "DBP never released the P1.003M. While DBP resumed releases on October 31, 1979 (Exh. "11"), this resumption of releases came more than three years counted from July 1976 when the loan was approved; nearly two years counted from the construction deadline of December 1977; and eleven months counted from plaintiff's letter request dated December 4, 1978. As already found, the fact is that the last resumed release was on October 10, 1980, but leaving out the P1.003 million which was already approved and scheduled for release in January 1978, and leaving P1.95M as the total unreleased balance." (RTC Decision, February 25, 1997, p. 31)
>
> "Had defendant DBP voluntarily released the full loan long ago, (1) as scheduled by DBP itself in January 1978; or (2) as directed by the Manila CFI in the latter's own decision dated November 28, 1978; or (3) as requested by plaintiff in his letter dated December 4, 1978; or (4) as again promised by DBP in its letter dated July 19, 1979, obviously there would be no need for plaintiff to file the "Motion to Direct Defendant DBP to Release Balance of Loan." (RTC Order, October 2, 1997, p. 10)
>
> x x x x
>
> We affirm the RTC in ruling that DBP was at fault when defendant-appellant DBP gave the impression to suppliers that it was not supporting the hotel project and verbally advised suppliers to pull out their units from the jobsite of the hotel. Moreover, when plaintiff-appellant Maceda personally took over the project after the contract with Moreman was rescinded, some suppliers who submitted their claims to DBP were refused payment by the defendant-appellant bank. Thus, said suppliers were constrained to file collection cases and replevin suits against herein plaintiff-appellant.[14]

Conclusions and findings of fact of the lower courts are entitled to great weight on appeal and will not be disturbed except for strong and cogent reasons. It is not the function of this Court to analyze or weigh such evidence all over again. Indeed, the findings of the appellate court by itself, and which are supported by substantial evidence, are almost beyond the power of review by this Court.[15]

DBP established a debt-equity ratio of 70%-30%, and asked Maceda for a collateral of 80%. DBP placed the project cost of the hotel at P10.5 million. DBP required Maceda to put up P2.93 million, part of which comprised land worth P326,900.00. As of 24 June 1977, Maceda paid Moreman P1,262,998.38 as his advance participation in the hotel. Moreman also received a total of P1,911,360.00 from DBP as of 29 November 1977. Moreman thus received a total of P3,174,358.38 from Maceda and DBP.[16] Over the years, DBP changed the debt-equity ratio. As of 31 July 1980, DBP's investment was P4,784,210.00 while Maceda's equity amounted to P6,480,298.05.[17] As of 27 June 1983, properties mortgaged to DBP to secure Maceda's loan amounted to P16,080,000.00, while DBP released only P5,347,510.90 out of the approved P7.3 million loan.[18]

Maceda filed the present complaint for specific performance so he could finish the construction of the hotel. In an action for specific performance, the party at fault will be required to perform its undertaking under the contract. In this case, the trial court and the appellate court should have required DBP, as creditor under the loan agreement, to

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lend (and not to pay) Maceda the amount needed to finish the construction of the hotel. The trial court and the appellate court thus erred in requiring DBP to pay Maceda P17,547,510.90 to finish the construction of the hotel.

Maceda put in cash equity worth P6,153,398.05 as of 31 July 1980. [19] Under Article 1191 of the Civil Code,[20] the aggrieved party has a choice between specific performance and rescission with damages in either case. However, we have ruled that if specific performance becomes impractical or impossible, the court may order rescission with damages to the injured party. [21] After the lapse of more than 30 years, it is now impossible to implement the loan agreement as it was written, considering the absence of evidence as to the rising costs of construction, as well as the obvious changes in market conditions on the viability of the operations of the hotel. We deem it equitable and practicable to rescind the obligation of DBP to deliver the balance of the loan proceeds to Maceda. In exchange, we order DBP to pay Maceda the value of Maceda's cash equity of P6,153,398.05 by way of actual damages, plus the applicable interest rate. The present ruling comes within the purview of Maceda's and DBP's prayers for "other reliefs, just or equitable under the premises."

The trial court also awarded the following amounts: P700,000 as moral damages; P150,000 as exemplary damages; P500,000 as temperate damages; and P100,000 as attorney's fees. We find these amounts appropriate under the circumstances, and not unconscionable or exorbitant.

In accordance with our ruling in Sta. Lucia Realty and Development v. Spouses Buenaventura,[22] the applicable interest rate on the P6,153,398.05 to be paid by DBP to Maceda is 6% per annum, to be reckoned from the time of the filing of the complaint on 15 October 1984, because the case at bar involves a breach of obligation and not a loan or forbearance of money. We guide ourselves with the rules of thumb established in Eastern Shipping Lines, Inc. v. Court of Appeals.[23]

> 1. When the obligation is breached, and it consists in the payment of a sum of money, i.e., a loan or forbearance of money, the interest due should be that which may have been stipulated in writing. Furthermore, the interest due shall itself earn legal interest from the time it is judicially demanded. In the absence of stipulation, the rate of interest shall be 12% per annum to be computed from default, i.e., from judicial or extrajudicial demand under and subject to the provisions of Article 1169 of the Civil Code.
>
> 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 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 finally adjudged.
>
> 3. When the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest, whether the case falls under paragraph 1 or paragraph 2, above, shall be 12% per annum from such finality until its satisfaction, this interim period being deemed to be by then an equivalent to a forbearance of credit.[24]

Pursuant to these rules, the interest rate of 12% per annum shall apply from the finality of judgment until the total amount awarded is fully paid. The imposition of interest already takes into account the passage of time, and is meant to compensate Maceda for any further delays in payment by DBP.

WHEREFORE, we GRANT the petitions. We AFFIRM with MODIFICATION the Decision promulgated on 2 July 2004 by the Court of Appeals as well as the Resolution promulgated on 9 October 2006 in CA-G.R. CV No.

69823. The Development Bank of the Philippines is ordered to pay Bonifacio Sanz Maceda, Jr. P6,153,398.05 as actual damages, with interest at 6% per annum, to be reckoned from the time of the filing of the complaint. The Development Bank of the Philippines is further ordered to pay Bonifacio Sanz Maceda, Jr. P700,000 as moral damages; P150,000 as exemplary damages; P500,000 as temperate damages; and P100,000 as attorney's fees. The interest rate of 12% per annum shall apply from the finality of judgment until the total amount awarded is fully paid.

SO ORDERED.

Nachura, Peralta, Abad, and Mendoza, JJ., concur..

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[1]Under Rule 45 of the 1997 Rules of Civil Procedure.[2] Rollo (G.R. No. 174979), pp. 30-38; rollo (G.R. No. 175010), pp. 8-16. Penned by Associate Justice Elvi Jon S. Asuncion, with associate Justices Mariano C. Del Castillo (now an Associate Justice of this Court) and Hakim S. Abdulwahid, concurring.[3] Rollo (G.R. No. 174979), pp. 40-43; rollo (G.R. No. 175010), pp. 18-21. Penned by Associate Justice Elvi Jon S. Asuncion, with associate Justices Mariano C. Del Castillo (now an Associate Justice of this Court) and Hakim S. Abdulwahid, concurring.
[4]Rollo (G.R. No. 174979), pp. 32-33; rollo (G.R. No. 175010), pp. 10-11.[5]Records, pp. 1351-1352.[6]Id. at 1405-1406.[7]CA-G.R. SP No. 47405 (14 August 1998.)[8]Maceda, Jr. v. Development Bank of the Philippines, 372 Phil. 107 (1999).[9] CA rollo, p. 204.[10]Rollo (G.R. No. 174979), p. 38; rollo, (G.R. No. 175010), p. 66.[11]Rollo (G.R. No. 174979), pp. 40-43; rollo, (G.R. No. 175010), pp. 68-71. [12]Rollo (G.R. No. 174979), p. 9[13]Rollo (175010), p. 34.[14]Rollo (G.R. No. 174979), pp. 34-36; rollo, (G.R. No. 175010), pp. 62-64.
[15]See Atlantic Gulf and Pacific Co. of Manila, Inc. v. CA, 317 Phil. 707 (1995).[16]Records, pp. 1299-1302, 1319-1320, 1323.[17]Records, pp. 902, 1305-1306.[18] Id at 1308.[19] Id. at 902. Owner's equity of P6,480,2980.05 less land worth P326,900.00.[20]Article 1191 of the Civil Code of the Philippines reads:

The power to rescind obligations is implied in reciprocal ones, in case one od the obligors should not comply with what is incumbent upon him.

The injured party may choose between the fulfillment and teh rescission of the obligation, with the payment of damages in either case. He may also seek rescission, even after he has chosen fulfillment, if the latter should become impossible.

The court shall decree the rescission claimed, unless there be just cause authorizing the fixing of a period.

This is understood to be without prejudice to the rights of third persons who have acquired the thing, in accordance with Articles 1385 and 1388 and the Mortgage Law.[21]Sta. Lucia Realty & Development, Inc. v. Spouses Buenaventura, G.R. No. 177113, 2 October 2009, 602 SCRA 463.[22]Id.[23]G.R. No. 97412, 12 July 1994, 234 SCRA 78.[24] Id. at 95-97.

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