

## LAND BANK OF THE PHILIPPINES, PETITIONER, VS. YOLANDA G. DAVID, RESPONDENT.

*G.R. No. 176344. August 22, 2008*

Ponente: CARPIO MORALES, J.

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### CARPIO MORALES, J.:

Respondent, Yolanda G. David, doing business under the trade name David Poultry Farm with address at Arayat, Pampanga, obtained on April 21, 1993 a P1,100,000 loan from petitioner, Land Bank of the Philippines (Land Bank), to bear interest "based on the prevailing lender's rates/special financing rate"[1] and penalty charge of 12% per annum in case of default in the settlement thereof. To secure the payment of the loan, respondent mortgaged[2] a parcel of land covered by Transfer Certificate of Title No. 334702-R.[3]

Due to serious business reverses suffered by respondent, she and petitioner executed on April 18, 1996 a Restructuring Agreement[4] with the following terms:

As conditions for restructuring, the BORROWER hereby undertakes and promises, without need for any notice or demand or any act or deed to perform the following:

- Restructuring of BORROWER's subject's [sic] outstanding obligation of PESOS: ONE MILLION ONE HUNDRED SEVENTY ONE THOUSAND FOUR HUNDRED SIXTY SEVEN & 18/100 CTS. (P1,171,467.18) as of February 29, 1996 as follows:

a)

Upfront payment of PESOS: THREE HUNDRED THOUSAND SIX HUNDRED TWENTY THREE & 55/100 CTS. (P300,623.55) presently lodged to Accounts Payable (A/P) shall be applied as follows:

P165,146.85 - to settle the penalty

& interest

135,476.70 - to partially pay the

===== principal

P300,625.55

b)

The remaining principal balance of PESOS: EIGHT HUNDRED SEVENTY THOUSAND EIGHT HUNDRED FORTY THREE & 63/100 (P870,843.63) after above application shall be charged interest at 17% per annum (p.a.) effective March 1, 1996. The restructured loan shall be paid in fifteen quarterly amortizations of PESOS: SEVENTY NINE THOUSAND (P79,000.00) starting April 30, 1996, and every quarter thereafter

after fully paid.

- Failure of the BORROWER to remit two consecutive quarterly amortizations shall be sufficient ground to initiate foreclosure proceedings;

x x x x

- All other terms and conditions of the original Loan Agreement as well as existing collateral documents not inconsistent herewith shall remain in force and effect.[5] (Emphasis supplied)

Respondent defaulted in the payment of monthly amortizations of the loan; hence, the entire balance of the loan became due and demandable[6] which, as of March 31, 1997, stood at P971,324.89.[7] Despite demand,[8] respondent failed to settle her obligation, prompting petitioner to initiate foreclosure proceedings.[9]

Respondent thereupon filed on July 28, 1997 before the Regional Trial Court (RTC) of San Fernando, Pampanga a Complaint with prayer for Preliminary Injunction[10] against petitioner, the Clerk of Court and Ex-Officio Sheriff of the RTC of Pampanga, and Sheriff Efren Cannivel. Arguing that the interest on the loan is usurious, respondent prayed:

- That immediately upon the filing of th[e] action, a Restraining Order issue, prohibiting and stopping the defendant from proceeding with the Sale of the aforesaid property on July 28 and until the final resolution of th[e] case;

- After hearing converting said Restraining Order into a Writ of Preliminary Injunction;

- After trial: --

- Declaring CB Circular No. 905 basis of high interest rate and any other circular floating the interest rate as without legal basis whatsoever and therefore null and void;

- Declaring PD No. 116 which authorizes the CB now BSP to fix interest rates or ceiling as unconstitutional for being among others an undue delegation of legislative power.

- Declaring that all payments made by the plaintiff to defendant be considered as payment of the principal without interest whatsoever;

- Ordering defendant Bank to pay attorney's fee of P50,000.00.[11] (Underscoring supplied)

As prayed for by respondent, the Executive Judge-Presiding Judge of Branch 42 of the San Fernando, Pampanga RTC immediately issued a Temporary Restraining Order.[12]

Petitioner filed its Answer (With Compulsory Counterclaim [for damages and attorney's fees]).

After conducting a hearing on respondent's application for the issuance of writ of preliminary injunction, Branch 43 of the San Fernando RTC to which the case was raffled denied the application by Order[13] of January 28, 1998.

Respondent subsequently filed on June 8, 1998 a Supplemental Complaint[14] alleging that even before the denial of her application for writ of preliminary injunction, the mortgaged property was sold at public auction for P1,298,460.88, pursuant to which a Certificate of Sale[15] was issued. She thus prayed for the annulment of the Certificate of Sale on the ground that "the amount for which [petitioner sought] to have the property sold at public auction is mostly an accumulation of usurious interest x x x." [16] The Supplemental Complaint was admitted[17] by the trial court as was a subsequently filed Amended Supplemental Complaint.[18]

After trial, the trial court, by Decision[19] of April 18, 2000, dismissed respondent's complaint and, acting on

petitioner's Counterclaim, ordered respondent to pay moral damages, exemplary damages, attorney's fees, expenses of litigation, and costs of suit.

On appeal,[20] the Court of Appeals, noting that the loan extended to respondent was part of the social assistance program to improve the plight of farmers, found the interest rate of 17% per annum and the penalty charge of 12% per annum exorbitant and thus reduced them to 12% per annum and 5% per annum, respectively. And it nullified the sale at public auction of the mortgaged property. Thus the appellate court disposed in its challenged Decision of July 22, 2005:[21]

WHEREFORE, in view of the foregoing, the Decision dated April 18, 2000 is hereby MODIFIED. Accordingly, the Extrajudicial Foreclosure Sale of the property covered by TCT No. 334702-R of the Registry of Deeds of Pampanga is hereby declared NULL and VOID.

Appellant is, however, directed to PAY appellee LBP the amount of Five Hundred Ninety Two Thousand and Seven Hundred Ninety Two Pesos and 42/100 (P592,792.42) with interest at the legal rate from March 29, 1999, upon payment of which appellee LBP shall RETURN title of the mortgaged property to plaintiff-appellant and RESTORE her in possession thereof.

The award of moral and exemplary damages, attorney's fees and expenses of litigation to defendant LBP is SET ASIDE.

SO ORDERED.[22] (Emphasis in the original)

Its Motion for Reconsideration[23] having been denied,[24] petitioner filed the present Petition for Review on Certiorari,[25] raising the following issues:

(A)

WHETHER OR NOT THE INTEREST RATE OF 17% PER ANNUM, AS PROVIDED IN THE RESTRUCTURING AGREEMENT, AS WELL AS THE PENALTY CHARGES OF 12% PER ANNUM CAN BE CONSIDERED AS EXORBITANT AND UNCONSCIONABLE.

(B)

WHETHER OR NOT THE FORECLOSURE PROCEEDINGS CAN BE NULLIFIED ON THE GROUND THAT THE INTEREST RATES IMPOSED BY LAND BANK WAS UNCONSCIONABLE.[26]

The petition fails.

Jurisprudence empowers courts to equitably reduce interest rates.[27] And the law empowers them to reduce penalty charges. Thus, Article 1229 of the Civil Code provides:

The judge shall equitably reduce the penalty when the principal obligation has been partly or irregularly complied with by the debtor. Even if there has been no partial performance, the penalty may also be reduced by the courts if it is iniquitous or unconscionable. (Emphasis and underscoring supplied)

Whether an interest rate or penalty charge is reasonable or iniquitous is addressed to the sound discretion of the courts.[28] In determining what is iniquitous and unconscionable, courts must consider the circumstances of each case,[29] for what may be just in one case may be iniquitous and unconscionable in another.[30] Thus, while this Court sustained the validity of a 21% per annum interest in *Spouses Bautista v. Pilar Development Corporation*,[31] it reduced an 18% per annum interest rate to 12% per annum in *Trade & Investment Development Corporation of the Phils. v. Roblett*: [32]

Section 24 of R.A. No. 8435 (The Agriculture and Fisheries Modernization Act of 1997) provides that "[t]he Land

Bank of the Philippines shall, in accordance with its original mandate, focus primarily on plans and programs in relation to the financing of agrarian reform and the delivery of credit services to the agriculture and fisheries sectors, especially to small farmers and fisherfolk." In the case at bar, the purpose of the loan was to finance the construction of two broiler houses and a feeds warehouse.[33] The observation by the Court of Appeals that the loan extended to respondent was part of the social assistance program to improve the plight of farmers is thus well-taken.

The Court notes respondent's claim, that even after the restructuring on April 18, 1996 of the original loan, which was not refuted by petitioner, her profits greatly diminished due to the poor quality of feeds provided by Vitarich such that in April 1997, she earned a profit of only P8,236.43.[34]

Given the business losses that respondent suffered, coupled with the fact that she had made partial payments on both the original loan and the restructured loan,[35] the reduction by the appellate court of the interest rate and penalty charge is justified.[36]

While, as petitioner argues, the nullity of the interest rate and penalty charge does not affect its right to recover the principal amount of the loan, the public auction of the mortgaged property is nevertheless void,[37] the amount indicated as mortgage indebtedness having included excessive, iniquitous, and exorbitant interest rate and penalty charge.

x x x The nullity of the stipulation on the usurious interest does not x x x affect the lender's right to recover the principal of the loan. Nor would it affect the terms of the real estate mortgage. The right to foreclose the mortgage remains with the creditors, and said right can be exercised upon the failure of the debtors to pay the debt due. The debt due is to be considered without the stipulation of the excessive interest.

While the terms of the Real Estate Mortgage remain effective, the foreclosure proceedings held on 31 October 1990 cannot be given effect. In the Notice of Sheriff's Sale dated 5 October 1990, and in the Certificate of Sale dated 31 October 1990, the amount designated as mortgage indebtedness amounted to P874,125.00. Likewise, in the demand letter dated 12 December 1989, Zoilo Espiritu demanded from the Spouses Landrito the amount of P874,125.00 for the unpaid loan. Since the debt due is limited to the principal of P350,000.00 with 12% per annum as legal interest, the previous demand for payment of the amount of P874,125.00 cannot be considered as a valid demand for payment. For an obligation to become due, there must be a valid demand. Nor can the foreclosure proceedings be considered valid since the total amount of the indebtedness during the foreclosure proceedings was pegged at P874,125.00 which included interest and which this Court now nullifies for being excessive, iniquitous, and exorbitant. x x x (Emphasis and underscoring supplied)[38]

WHEREFORE, the petition is, in light of the foregoing disquisition, DENIED.

### **SO ORDERED.**

Quisumbing, (Chairperson), Tinga, Velasco, Jr., and Brion, JJ., concur.

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[1] Loan Agreement, Exhibit "1," Exhibits (Defendant).

[2] Real Estate Mortgage, Exhibit "2," Exhibits (Defendant).

[3] Transfer Certificate of Title, Exhibit "3," Exhibits (Defendant).

[4] Restructuring Agreement, Exhibit "4," Exhibits (Defendant).

[5] Ibid.

- [6]TSN, May 6, 1999, pp. 33-34.
- [7] Statement of Account as of March 31, 1997, Exhibit "6," Exhibits (Defendants).
- [8]Vide Exhibit "7," Exhibits (Defendants); TSN, May 6, 1999, pp. 35-38.
- [9] TSN, May 6, 1999, p. 38; Exhibit "8," Exhibits (Defendant).
- [10] Records, pp. 1-6.
- [11]Id. at 5.
- [12]Id. at 29.
- [13]Id. at 113-114.
- [14] Id. at 138.
- [15]Id. at 138-A.
- [16] Id. at 138.
- [17]Id. at 141.
- [18] Id. at 169-169-A.
- [19] Id. at 368-375.
- [20] Id. at 381.
- [21] Penned by Court of Appeals Associate Justice Arcangelita M. Romilla-Lontok with the concurrence of Associate Justices Rodrigo V. Cosico and Danilo B. Pine. CA rollo, pp. 86-101. Vide pp. 97-98.
- [22] CA rollo, p. 101.
- [23] Id. at 104-107.
- [24]Id. at 117.
- [25]Rollo, pp. 29-41.
- [26]Id. at 36.
- [27]Vide Ruiz v. Court of Appeals, 449 Phil. 419, 433-435 (2003).
- [28] Poltan v. BPI Family Savings Bank, G.R. No. 164307, March 5, 2007, 517 SCRA 430, 446.
- [29]Vide Trade & Investment Development Corporation of the Philippines v. Roblett Industrial Construction Corporation, G.R. No. 139290, May 19, 2006, 490 SCRA 1, 6.
- [30] Vide *ibid*.
- [31] 371 Phil. 533, 543-544 (1999).
- [32]Supra note 29 at 7-8.
- [33] Loan Agreement, Exhibit "1," Exhibits (Defendant).
- [34]TSN, November 12, 1998, pp. 23-39; Growership Agreement Settlement Sheet, Exhibit "Q," Exhibits (Plaintiff).

[35] TSN, May 6, 1999, p. 43; Exhibits "F" - "N," Exhibits (Plaintiff).

[36] Lo v. Court of Appeals, 458 Phil. 414, 419 (2003).

[37] Heirs of Zoilo Espiritu v. Landrito, G.R. No. 169617, April 3, 2007, 520 SCRA 383.

[38] Id. at 394-395.

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