

**DEVELOPMENT BANK OF THE PHILIPPINES, PETITIONER, VS.
FAMILY FOODS MANUFACTURING CO. LTD., AND SPOUSES
JULIANCO AND CATALINA CENTENO, RESPONDENT.**

G.R. NO. 180458. July 30, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

At bar is a petition for review on certiorari under Rule 45 of the Rules of Court filed by petitioner Development Bank of the Philippines (DBP), challenging the May 11, 2007 Decision[1] and the October 24, 2007 Resolution[2] of the Court of Appeals (CA) in CA-G.R. CV No. 81360.

On September 15, 1982, respondent Family Foods Manufacturing Co. Ltd. (FAMILY FOODS), a partnership owned and operated by Spouses Julianco and Catalina Centeno (spouses Centeno) obtained an industrial loan of P500,000.00 from DBP. The loan was evidenced by a promissory note dated September 15, 1982 and payable in seven (7) years, with quarterly amortizations of P31,760.40. The loan carried an interest rate of 18% per annum, and penalty charge of 8% per annum. As security, spouses Centeno executed a real estate mortgage on the parcels of land in Los Baños, Laguna, covered by Transfer Certificate of Title (TCT) Nos. T-651217, T-96878 and T-96689; and a chattel mortgage over the buildings, equipment and machineries therein, in favor of DBP.

On October 14, 1984, FAMILY FOODS was granted an additional loan of P440,000.00, payable on or before November 8, 1989, with interest at 22% per annum and penalty charge of 8%. The loan was, likewise, secured by the same real estate and chattel mortgages.

FAMILY FOODS failed to pay the loans when they became due. Demand to pay was made, but it was not heeded. Accordingly, DBP filed a petition for extrajudicial foreclosure of mortgage with the Office of the Clerk of Court of the Regional Trial Court (RTC) of Laguna. A notice of sale, setting the auction sale on August 20, 1990, was issued and was published in The Barangay on July 19, August 5 and August 12, 1990. As scheduled, the sale proceeded, and the properties were awarded to DBP as the highest bidder. A certificate of sale was issued and was registered with the Register of Deeds.

On January 10, 1991, before the redemption period expired, FAMILY FOODS entered into a contract of lease over the foreclosed properties with DBP for agreed monthly rentals of P12,000.00. Spouses Centeno paid P24,000.00 as advanced rentals, but refused to pay the succeeding rentals. They, likewise, failed to redeem the foreclosed properties; hence, DBP consolidated its title over the same.

On March 3, 1994, spouses Centeno filed a suit for Annulment of Sale with Prayer for Issuance of a Writ of Injunction and/or Restraining Order.[3] They admitted obtaining loans in the amount of P940,000.00 from DBP, but claimed that they made substantial payments amounting to P773,466.59. DBP, however, imposed interest and other charges in excess of those provided in the promissory note and in the real estate and chattel mortgages, thus, unnecessarily increasing their outstanding obligation. Spouses Centeno further claimed that the foreclosure was void, because the notice of public action was not published in a newspaper of general circulation, as required by

law. The Barangay, the newspaper where the notice of auction sale was published, they asserted, was not a newspaper of general circulation in Laguna. The certificate of posting issued by the Sheriff was, likewise, defective, as it was not in affidavit form or under oath, as required by Act No. 3135. Finally, spouses Centeno prayed for the issuance of a restraining order to enjoin DBP from taking possession of the property pending adjudication of the case.

DBP filed its answer[4] asserting lack of cause of action, as a defense. It averred that the foreclosure proceeding was valid and in accordance with law, arguing that it was not flawed by lack of notice or publication. FAMILY FOODS and spouses Centeno were duly notified of the scheduled auction sale. The notices of foreclosure sale were posted and published, as required by law. DBP further averred that respondents were estopped from questioning the foreclosure proceeding, because respondents already entered into a contract of lease with DBP. In so doing, respondents acknowledged DBP's ownership of the subject properties, thereby admitting the validity of the foreclosure proceeding. It added that respondents, as tenants, could not deny the DBP's title over the property, citing Sec. 4 (b), Rule 31 of the Rules of Court.

In due course and after hearing, the RTC rendered a decision[5] on January 30, 2003, dismissing the complaint. It rejected respondents' assertion that the notice of auction sale was not published and posted, as required by law. It also sustained DBP's argument that respondents are estopped from assailing the auction sale after the execution of the contract of lease. Respondents' claim of payment was, likewise, rejected for lack of factual and legal basis. Respondents filed a motion for reconsideration, but the RTC denied the same.[6]

Forthwith, respondents appealed to the Court of Appeals (CA). In its May 11, 2007 Decision, the appellate court modified the RTC decision. While upholding the validity of the auction sale, the CA reduced the interest rates and penalty charges stipulated in the two (2) promissory notes for being iniquitous and unconscionable. The dispositive portion of the CA decision reads:

WHEREFORE, premises considered, the assailed January 30, 2003 Decision of the Regional Trial Court of Calamba, Laguna, Branch 92, in Civil Case No. 2082-94-C, is hereby MODIFIED with respect to the penalty which is hereby REDUCED to three percent (3%) per annum and with respect to the interest rates charged in the two promissory notes, these iniquitous interest rates are hereby REDUCED to twelve percent (12%) per annum each of the two promissory notes. All other aspects of the decision are hereby AFFIRMED.

SO ORDERED.[7]

Respondents filed a motion for reconsideration, while DBP moved for partial reconsideration of the decision, but these were both denied by the CA on October 24, 2007.

Respondents and DBP then came to us with their respective petitions for review assailing the CA ruling. Respondents' petition was docketed as G.R No. 180318, while that of DBP was docketed as G. R. No. 180458. The petitions, however, were not consolidated.

On February 2, 2008, this Court dismissed G.R. No. 180318 and affirmed the CA ruling. Thus, what remains to be resolved is DBP's petition, raising the following issues:

- WHETHER THE REASONABLENESS OF THE STIPULATED PENALTY CHARGE AND INTEREST RATES ARE WITHIN THE ISSUES OF THE INSTANT CASE;
- WHETHER THE JUSTIFICATION PROVIDED FOR THE REDUCTION OF THE STIPULATED PENALTY CHARGE AND INTEREST RATES IS SUPPORTED BY THE EVIDENCE ON RECORD;
- WHETHER THE STIPULATED PENALTY CHARGE OF 8% PER ANNUM AND INTEREST RATES OF 18% AND 22% PER ANNUM ARE UNREASONABLE, INIQUITOUS AND UNCONSCIONABLE

UNDER THE APPLICABLE DECISIONS OF THE SUPREME COURT.[8]

We will first address the procedural issue raised by the respondents in their comment.

Respondents moved for the outright dismissal of the petition on the ground that DBP did not attach material portions of the record, i.e. promissory notes, real estate and chattel mortgages, and other documents, which are necessary for a complete determination of the merits of the petition. They assert that DBP violated Sec. 4, Rule 45[9] of the Rules of Civil Procedure, thus, justifying the outright dismissal of the petition.

We disagree.

As a general rule, a petition lacking copies of essential pleadings and portions of the case record may be dismissed.[10] This rule, however, is not petrified. As the exact nature of the pleadings and parts of the case record that must accompany a petition is not specified, much discretion is left to the court to determine the necessity for copies of pleadings and other documents. [11]

A careful perusal of the records of the case shows that the petitioners substantially complied with the procedural requirements of Section 4, Rule 45 of the Rules of Court. Attached to the petition for review as annexes are legible certified duplicate originals of the assailed CA decision and resolution. DBP also attached the pleadings filed before the RTC and the latter's decision. The attachment of the pleadings and of the decisions of the RTC and CA provides sufficient basis to resolve the instant controversy.

As held by this Court in *Air Philippines Corporation v. Zamora*: [12]

[E]ven if a document is relevant and pertinent to the petition, it need not be appended if it is shown that the contents thereof can also found in another document already attached to the petition. Thus, if the material allegations in a position paper are summarized in a questioned judgment, it will suffice that only a certified true copy of the judgment is attached.

Third, a petition lacking an essential pleading or part of the case record may still be given due course or reinstated (if earlier dismissed) upon showing that petitioner later submitted the documents required, or that it will serve the higher interest of justice that the case be decided on the merits.

Nevertheless, even if the pleadings and other supporting documents were not attached to the petition, the dismissal is unwarranted because the CA records containing the promissory notes and the real estate and chattel mortgages were elevated to this Court. Without a doubt, we have sufficient basis to actually and completely dispose of the case.

We must stress that cases should be determined on the merits, after all parties have been given full opportunity to ventilate their causes and defenses, rather than on technicalities or procedural imperfections. In that way, the ends of justice would be served better. Rules of procedure are mere tools designed to expedite the decision or resolution of cases and other matters pending in court. A strict and rigid application of rules, resulting in technicalities that tend to frustrate rather than promote substantial justice, must be avoided. In fact, Section 6 of Rule 1 states that the Rules shall be liberally construed in order to promote their objective of ensuring the just, speedy and inexpensive disposition of every action and proceeding.[13]

Now we resolve the merit of the petition.

DBP faults the CA for ruling on the reasonableness of the stipulated interest and, accordingly, modifying the RTC decision. It points out that respondents never questioned the interest and charges stipulated in the promissory notes and in the real estate and chattel mortgages throughout the proceedings in the court a quo. What respondents questioned were the interest and charges allegedly imposed or collected in excess of those provided in the real

estate and chattel mortgages. Thus, it contends that the CA committed reversible error in ruling on the issue, which was neither raised in the complaint nor ventilated during the trial. In any case, there was nothing illegal in the stipulated rate of interest. DBP, therefore, prays for the reversal of the assailed decision and resolution.

We grant the petition.

The records show that respondents in their complaint never raised as a ground or basis for the annulment of the auction sale the nullity of the stipulated interest;^[14] that during the pre-trial conference,^[15] and in the course of trial, the validity of the stipulated interest was never put as an issue. What respondents questioned were the interest and charges that were allegedly imposed or collected in excess of those provided in the real estate and chattel mortgages. It was only in the appellants' brief that respondents raised the validity of the stipulated interest rate and invoked this Court's ruling in *Medel v. Court of Appeals*.^[16] Clearly, respondents raised the issue for the first time on appeal.

It is well settled that issues raised for the first time on appeal are barred by estoppel. Arguments not raised in the original proceedings cannot be considered on review; otherwise, it would violate basic principles of fair play.^[17] The CA, therefore, had no basis for, and erred in, reducing the stipulated interest rates.

Moreover, respondents' own evidence shows that they agreed on the stipulated interest rates of 18% and 22%, and on the penalty charge of 8%, in each promissory note. It is a basic principle in civil law that parties are bound by the stipulations in the contracts voluntarily entered into by them. Parties are free to stipulate terms and conditions that they deem convenient, provided these are not contrary to law, morals, good customs, public order, or public policy.^[18]

There is nothing in the records, and in fact, there is no allegation, showing that respondents were victims of fraud when they signed the promissory notes. Neither is there a showing that in their contractual relations with DBP, respondents were at a disadvantage on account of their moral dependence, mental weakness, tender age or other handicap, which would entitle them to the vigilant protection of the courts as mandated by Article 24^[19] of the Civil Code.

As held by this Court in *Vales v. Villa*,^[20] and *Spouses Pascual v. Ramos*: ^[21]

All men are presumed to be sane and normal and subject to be moved by substantially the same motives. When of age and sane, they must take care of themselves. In their relations with others in the business of life, wits, sense, intelligence, training, ability and judgment meet and clash and contest, sometimes with gain and advantage to all, sometimes to a few only, with loss and injury to others. In these contests men must depend upon themselves - upon their own abilities, talents, training, sense, acumen, judgment. The fact that one may be worsted by another, of itself, furnishes no cause of complaint. One man cannot complain because another is more able, or better trained, or has better sense or judgment than he has; and when the two meet on a fair field the inferior cannot murmur if the battle goes against him. The law furnishes no protection to the inferior simply because he is inferior, any more than it protects the strong because he is strong. The law furnishes protection to both alike - to one no more or less than to the other. It makes no distinction between the wise and the foolish, the great and the small, the strong and the weak. The foolish may lose all they have to the wise; but that does not mean that the law will give it back to them again. Courts cannot follow one every step of his life and extricate him from bad bargains, protect him from unwise investments, relieve him from one-sided contracts, or annul the effects of foolish acts. Courts cannot constitute themselves guardians of persons who are not legally incompetent. Courts operate not because one person has been defeated or overcome by another, but because he has been defeated or overcome illegally. Men may do foolish things, make ridiculous contracts, use miserable judgment, and lose money by then - indeed, all they have in the world; but not for that alone can the law intervene and restore. There must be, in addition, a violation of law, the commission of what the law knows as an actionable wrong, before the courts are authorized to lay hold of the situation and remedy it.

Likewise, the 18% and 22% stipulated rates of interest in the two (2) promissory notes are not unconscionable or excessive, contrary to the CA ruling.

In *Garcia v. Court of Appeals*,^[22] this Court sustained the interest rates of 18% and 24% per annum on the loans obtained by Chemark from Security Bank. Also, in *Bautista v. Pilar Development Corporation*,^[23] the validity of the 21% interest rate was upheld. Thus, the stipulated rates on respondents' promissory notes cannot be stricken down for being contrary to public policy.

Similarly, we uphold the validity of the 8% penalty charge. In *Development Bank of the Philippines v. Go*,^[24] this Court had the occasion to state that the 8% penalty charge is valid, viz.:

This Court has recognized a penalty clause as an accessory obligation which the parties attach to a principal obligation for the purpose of insuring the performance thereof by imposing on the debtor a special prestation (generally consisting in the payment of a sum of money) in case the obligation is not fulfilled or is irregularly or inadequately fulfilled. The enforcement of the penalty can be demanded by the creditor only when the non-performance is due to the fault or fraud of the debtor. The non-performance gives rise to the presumption of fault; in order to avoid the payment of the penalty, the debtor has the burden of proving an excuse -- the failure of the performance was due to either force majeure or the acts of the creditor himself.^[25]

In this case, respondents failed to discharge the burden. Thus, they cannot avoid the payment of the agreed penalty charge.

WHEREFORE, the petition is GRANTED. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 81360 are REVERSED and SET ASIDE. The January 30, 2003 Decision of the Regional Trial Court of Calamba, Branch 92, dismissing Civil Case 2082-94-C, is REINSTATED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Velasco, Jr., and Peralta, JJ., concur.

[1] Penned by Associate Justice Vicente Q. Roxas (dismissed), with Associate Justices Josefina Guevarra-Salonga and Ramon R. Garcia, concurring; rollo, pp. 8-19.

[2] *Id.* at 21.

[3] *Id.* at 64-70.

[4] *Id.* at 77-85.

[5] *Id.* at 86-103.

[6] *Id.* at 104-105.

[7] *Id.* at 60.

[8] *Id.* at 34.

[9] SEC. 4. Contents of petition. - The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner, and shall xxx (d) be accompanied by a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court a quo and the requisite number of plain copies thereof, and such material portion of the record as would support the petition; xxx

[10] SEC. 5. Dismissal or denial of petition. - The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

The Supreme Court may on its own initiative deny the petition on the ground that the appeal is without merit, or is prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration.

[11] *Air Philippines Corporation v. Zamora*, G.R. No. 148247, August 7, 2006, 498 SCRA 59, 69.

[12] *Id.* at 70.

[13] *Posadas-Moya & Associates Construction Co., Inc. v. Greenfield Development Corp.*, 451 Phil. 647, 661 (2003).

[14] See complaint, rollo, pp. 64-70, at 66.

[15] See RTC Decision, *id.* at 86-103, 93.

[16] 359 Phil. 821 (1998).

[17] *Ong Lim Sing, Jr. v. FEB Leasing and Finance Corp.*, G.R. No. 168115, June 8, 2007, 524 SCRA 333, 343.

[18] *Spouses Pascual v. Ramos*, 433 Phil. 449, 460 (2002).

[19] Art. 24. In all contractual, property or other relations, when one of the parties is at a disadvantage on account of his moral dependence, ignorance, indigence, mental weakness, tender age or other handicap, the courts must be vigilant for his protection.

[20] 35 Phil 769, 787-788 (1916).

[21] 433 Phil. 449, 461 (2002).

[22] Nos. L-82282-83, November 24, 1988, 167 SCRA 815, 830.

[23] 371 Phil. 533, 544 (1999).

[24] G.R. No. 168779, September 14, 2007, 533 SCRA 460.

[25] *Id.* at 470-471.

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