

LAND BANK OF THE PHILIPPINES, PETITIONER, VS. ALFREDO ONG, RESPONDENT.

G.R. No. 190755. November 24, 2010

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

This is an appeal from the October 20, 2009 Decision of the Court of Appeals (CA) in CA-G.R. CR-CV No. 84445 entitled *Alfredo Ong v. Land Bank of the Philippines*, which affirmed the Decision of the Regional Trial Court (RTC), Branch 17 in Tabaco City.

The Facts

On March 18, 1996, spouses Johnson and Evangeline Sy secured a loan from Land Bank Legazpi City in the amount of PhP 16 million. The loan was secured by three (3) residential lots, five (5) cargo trucks, and a warehouse. Under the loan agreement, PhP 6 million of the loan would be short-term and would mature on February 28, 1997, while the balance of PhP 10 million would be payable in seven (7) years. The Notice of Loan Approval dated February 22, 1996 contained an acceleration clause wherein any default in payment of amortizations or other charges would accelerate the maturity of the loan.[1]

Subsequently, however, the Spouses Sy found they could no longer pay their loan. On December 9, 1996, they sold three (3) of their mortgaged parcels of land for PhP 150,000 to Angelina Gloria Ong, Evangeline's mother, under a Deed of Sale with Assumption of Mortgage. The relevant portion of the document[2] is quoted as follows:

WHEREAS, we are no longer in a position to settle our obligation with the bank;

NOW THEREFORE, for and in consideration of the sum of ONE HUNDRED FIFTY THOUSAND PESOS (P150,000.00) Philippine Currency, we hereby these presents SELL, CEDE, TRANSFER and CONVEY, by way of sale unto ANGELINA GLORIA ONG, also of legal age, Filipino citizen, married to Alfredo Ong, and also a resident of Tabaco, Albay, Philippines, their heirs and assigns, the above-mentioned debt with the said LAND BANK OF THE PHILIPPINES, and by reason hereof they can make the necessary representation with the bank for the proper restructuring of the loan with the said bank in their favor;

That as soon as our obligation has been duly settled, the bank is authorized to release the mortgage in favor of the vendees and for this purpose VENDEES can register this instrument with the Register of Deeds for the issuance of the titles already in their names.

IN WITNESS WHEREOF, we have hereunto affixed our signatures this 9[th] day of December 1996 at Tabaco, Albay, Philippines.

(signed)

(signed)

EVANGELINE O. SY

JOHNSON B. SY

Vendor

Vendor

Evangeline's father, petitioner Alfredo Ong, later went to Land Bank to inform it about the sale and assumption of mortgage.[3] Atty. Edna Hingco, the Legazpi City Land Bank Branch Head, told Alfredo and his counsel Atty. Ireneo de Lumen that there was nothing wrong with the agreement with the Spouses Sy but provided them with requirements for the assumption of mortgage. They were also told that Alfredo should pay part of the principal which was computed at PhP 750,000 and to update due or accrued interests on the promissory notes so that Atty. Hingco could easily approve the assumption of mortgage. Two weeks later, Alfredo issued a check for PhP 750,000 and personally gave it to Atty. Hingco. A receipt was issued for his payment. He also submitted the other documents required by Land Bank, such as financial statements for 1994 and 1995. Atty. Hingco then informed Alfredo that the certificate of title of the Spouses Sy would be transferred in his name but this never materialized. No notice of transfer was sent to him.[4]

Alfredo later found out that his application for assumption of mortgage was not approved by Land Bank. The bank learned from its credit investigation report that the Ongs had a real estate mortgage in the amount of PhP 18,300,000 with another bank that was past due. Alfredo claimed that this was fully paid later on. Nonetheless, Land Bank foreclosed the mortgage of the Spouses Sy after several months. Alfredo only learned of the foreclosure when he saw the subject mortgage properties included in a Notice of Foreclosure of Mortgage and Auction Sale at the RTC in Tabaco, Albay. Alfredo's other counsel, Atty. Madrilejos, subsequently talked to Land Bank's lawyer and was told that the PhP 750,000 he paid would be returned to him.[5]

On December 12, 1997, Alfredo initiated an action for recovery of sum of money with damages against Land Bank in Civil Case No. T-1941, as Alfredo's payment was not returned by Land Bank. Alfredo maintained that Land Bank's foreclosure without informing him of the denial of his assumption of the mortgage was done in bad faith. He argued that he was lured into believing that his payment of PhP 750,000 would cause Land Bank to approve his assumption of the loan of the Spouses Sy and the transfer of the mortgaged properties in his and his wife's name.[6] He also claimed incurring expenses for attorney's fees of PhP 150,000, filing fee of PhP 15,000, and PhP 250,000 in moral damages.[7]

Testifying for Land Bank, Atty. Hingco claimed during trial that as branch manager she had no authority to approve loans and could not assure anybody that their assumption of mortgage would be approved. She testified that the breakdown of Alfredo's payment was as follows:

PhP 101,409.59 applied to principal
216,246.56 accrued interests receivable
396,571.77 interests
18,766.10 penalties
16,805.98 accounts receivable

Total: 750,000.00

According to Atty. Hingco, the bank processes an assumption of mortgage as a new loan, since the new borrower is considered a new client. They used character, capacity, capital, collateral, and conditions in determining who can qualify to assume a loan. Alfredo's proposal to assume the loan, she explained, was referred to a separate office, the Lending Center. [8]

During cross-examination, Atty. Hingco testified that several months after Alfredo made the tender of payment, she received word that the Lending Center rejected Alfredo's loan application. She stated that it was the Lending Center and not her that should have informed Alfredo about the denial of his and his wife's assumption of mortgage. She added that although she told Alfredo that the agreement between the spouses Sy and Alfredo was valid between them and that the bank would accept payments from him, Alfredo did not pay any further amount so the foreclosure of the loan collaterals ensued. She admitted that Alfredo demanded the return of the PhP 750,000 but said that there was no written demand before the case against the bank was filed in court. She said that Alfredo had made the payment of PhP 750,000 even before he applied for the assumption of mortgage and that the bank received the said amount because the subject account was past due and demandable; and the Deed of Assumption of Mortgage was not used as the basis for the payment. [9]

The Ruling of the Trial Court

The RTC held that the contract approving the assumption of mortgage was not perfected as a result of the credit investigation conducted on Alfredo. It noted that Alfredo was not even informed of the disapproval of the assumption of mortgage but was just told that the accounts of the spouses Sy had matured and gone unpaid. It ruled that under the principle of equity and justice, the bank should return the amount Alfredo had paid with interest at 12% per annum computed from the filing of the complaint. The RTC further held that Alfredo was entitled to attorney's fees and litigation expenses for being compelled to litigate.[10]

The dispositive portion of the RTC Decision reads:

WHEREFORE, premises considered, a decision is rendered, ordering defendant bank to pay plaintiff, Alfredo Ong the amount of P750,000.00 with interest at 12% per annum computed from Dec. 12, 1997 and attorney's fees and litigation expenses of P50,000.00.

Costs against defendant bank.

SO ORDERED.[11]

The Ruling of the Appellate Court

On appeal, Land Bank faulted the trial court for (1) holding that the payment of PhP 750,000 made by Ong was one of the requirements for the approval of his proposal to assume the mortgage of the Sy spouses; (2) erroneously ordering Land Bank to return the amount of PhP 750,000 to Ong on the ground of its failure to effect novation; and (3) erroneously affirming the award of PhP 50,000 to Ong as attorney's fees and litigation expenses.

The CA affirmed the RTC Decision.[12] It held that Alfredo's recourse is not against the Sy spouses. According to the appellate court, the payment of PhP 750,000 was for the approval of his assumption of mortgage and not for payment of arrears incurred by the Sy spouses. As such, it ruled that it would be incorrect to consider Alfredo a third person with no interest in the fulfillment of the obligation under Article 1236 of the Civil Code. Although Land Bank was not bound by the Deed between Alfredo and the Spouses Sy, the appellate court found that Alfredo and Land Bank's active preparations for Alfredo's assumption of mortgage essentially novated the agreement.

On January 5, 2010, the CA denied Land Bank's motion for reconsideration for lack of merit. Hence, Land Bank appealed to us.

The Issues

I

Whether the Court of Appeals erred in holding that Art. 1236 of the Civil Code does not apply and in finding that there is no novation.

II

Whether the Court of Appeals misconstrued the evidence and the law when it affirmed the trial court decision's ordering Land Bank to pay Ong the amount of Php750,000.00 with interest at 12% annum.

III

Whether the Court of Appeals committed reversible error when it affirmed the award of Php50,000.00 to Ong as attorney's fees and expenses of litigation.

The Ruling of this Court

We affirm with modification the appealed decision.

Recourse is against Land Bank

Land Bank contends that Art. 1236 of the Civil Code backs their claim that Alfredo should have sought recourse against the Spouses Sy instead of Land Bank. Art. 1236 provides:

The creditor is not bound to accept payment or performance by a third person who has no interest in the fulfillment of the obligation, unless there is a stipulation to the contrary.

Whoever pays for another may demand from the debtor what he has paid, except that if he paid without the knowledge or against the will of the debtor, he can recover only insofar as the payment has been beneficial to the debtor.

We agree with Land Bank on this point as to the first part of paragraph 1 of Art. 1236. Land Bank was not bound to accept Alfredo's payment, since as far as the former was concerned, he did not have an interest in the payment of the loan of the Spouses Sy. However, in the context of the second part of said paragraph, Alfredo was not making payment to fulfill the obligation of the Spouses Sy. Alfredo made a conditional payment so that the properties subject of the Deed of Sale with Assumption of Mortgage would be titled in his name. It is clear from the records that Land Bank required Alfredo to make payment before his assumption of mortgage would be approved. He was informed that the certificate of title would be transferred accordingly. He, thus, made payment not as a debtor but as a prospective mortgagor. But the trial court stated:

[T]he contract was not perfected or consummated because of the adverse finding in the credit investigation which led to the disapproval of the proposed assumption. There was no evidence presented that plaintiff was informed of the disapproval. What he received was a letter dated May 22, 1997 informing him that the account of spouses Sy had matured but there [were] no payments. This was sent even before the conduct of the credit investigation on June 20, 1997 which led to the disapproval of the proposed assumption of the loans of spouses Sy.[13]

Alfredo, as a third person, did not, therefore, have an interest in the fulfillment of the obligation of the Spouses Sy, since his interest hinged on Land Bank's approval of his application, which was denied. The circumstances of the instant case show that the second paragraph of Art. 1236 does not apply. As Alfredo made the payment for his own interest and not on behalf of the Spouses Sy, recourse is not against the latter. And as Alfredo was not paying for another, he cannot demand from the debtors, the Spouses Sy, what he has paid.

Novation of the loan agreement

Land Bank also faults the CA for finding that novation applies to the instant case. It reasons that a substitution of

debtors was made without its consent; thus, it was not bound to recognize the substitution under the rules on novation.

On the matter of novation, *Spouses Benjamin and Agrifina Lim v. M.B. Finance Corporation*[14] provides the following discussion:

Novation, in its broad concept, may either be extinctive or modificatory. It is extinctive when an old obligation is terminated by the creation of a new obligation that takes the place of the former; it is merely modificatory when the old obligation subsists to the extent it remains compatible with the amendatory agreement. An extinctive novation results either by changing the object or principal conditions (objective or real), or by substituting the person of the debtor or subrogating a third person in the rights of the creditor (subjective or personal). Under this mode, novation would have dual functions – one to extinguish an existing obligation, the other to substitute a new one in its place – requiring a conflux of four essential requisites: (1) a previous valid obligation; (2) an agreement of all parties concerned to a new contract; (3) the extinguishment of the old obligation; and (4) the birth of a valid new obligation. x x x

In order that an obligation may be extinguished by another which substitutes the same, it is imperative that it be so declared in unequivocal terms, or that the old and the new obligations be on every point incompatible with each other. The test of incompatibility is whether or not the two obligations can stand together, each one having its independent existence. x x x (Emphasis supplied.)

Furthermore, Art. 1293 of the Civil Code states:

Novation which consists in substituting a new debtor in the place of the original one, may be made even without the knowledge or against the will of the latter, but not without the consent of the creditor. Payment by the new debtor gives him rights mentioned in articles 1236 and 1237.

We do not agree, then, with the CA in holding that there was a novation in the contract between the parties. Not all the elements of novation were present. Novation must be expressly consented to. Moreover, the conflicting intention and acts of the parties underscore the absence of any express disclosure or circumstances with which to deduce a clear and unequivocal intent by the parties to novate the old agreement.[15] Land Bank is thus correct when it argues that there was no novation in the following:

[W]hether or not Alfredo Ong has an interest in the obligation and payment was made with the knowledge or consent of Spouses Sy, he may still pay the obligation for the reason that even before he paid the amount of P750,000.00 on January 31, 1997, the substitution of debtors was already perfected by and between Spouses Sy and Spouses Ong as evidenced by a Deed of Sale with Assumption of Mortgage executed by them on December 9, 1996. And since the substitution of debtors was made without the consent of Land Bank - a requirement which is indispensable in order to effect a novation of the obligation, it is therefore not bound to recognize the substitution of debtors. Land Bank did not intervene in the contract between Spouses Sy and Spouses Ong and did not expressly give its consent to this substitution.[16]

Unjust enrichment

Land Bank maintains that the trial court erroneously applied the principle of equity and justice in ordering it to return the PhP 750,000 paid by Alfredo. Alfredo was allegedly in bad faith and in estoppel. Land Bank contends that it enjoyed the presumption of regularity and was in good faith when it accepted Alfredo's tender of PhP 750,000. It reasons that it did not unduly enrich itself at Alfredo's expense during the foreclosure of the mortgaged properties, since it tendered its bid by subtracting PhP 750,000 from the Spouses Sy's outstanding loan obligation. Alfredo's recourse then, according to Land Bank, is to have his payment reimbursed by the Spouses Sy.

We rule that Land Bank is still liable for the return of the PhP 750,000 based on the principle of unjust

enrichment. Land Bank is correct in arguing that it has no obligation as creditor to recognize Alfredo as a person with interest in the fulfillment of the obligation. But while Land Bank is not bound to accept the substitution of debtors in the subject real estate mortgage, it is estopped by its action of accepting Alfredo's payment from arguing that it does not have to recognize Alfredo as the new debtor. The elements of estoppel are:

First, the actor who usually must have knowledge, notice or suspicion of the true facts, communicates something to another in a misleading way, either by words, conduct or silence; second, the other in fact relies, and relies reasonably or justifiably, upon that communication; third, the other would be harmed materially if the actor is later permitted to assert any claim inconsistent with his earlier conduct; and fourth, the actor knows, expects or foresees that the other would act upon the information given or that a reasonable person in the actor's position would expect or foresee such action.[17]

By accepting Alfredo's payment and keeping silent on the status of Alfredo's application, Land Bank misled Alfredo to believe that he had for all intents and purposes stepped into the shoes of the Spouses Sy.

The defense of Land Bank Legazpi City Branch Manager Atty. Hingco that it was the bank's Lending Center that should have notified Alfredo of his assumption of mortgage disapproval is unavailing. The Lending Center's lack of notice of disapproval, the Tabaco Branch's silence on the disapproval, and the bank's subsequent actions show a failure of the bank as a whole, first, to notify Alfredo that he is not a recognized debtor in the eyes of the bank; and second, to apprise him of how and when he could collect on the payment that the bank no longer had a right to keep.

We turn then on the principle upon which Land Bank must return Alfredo's payment. Unjust enrichment exists "when a person unjustly retains a benefit to the loss of another, or when a person retains money or property of another against the fundamental principles of justice, equity and good conscience." [18] There is unjust enrichment under Art. 22 of the Civil Code when (1) a person is unjustly benefited, and (2) such benefit is derived at the expense of or with damages to another.[19]

Additionally, unjust enrichment has been applied to actions called accion in rem verso. In order that the accion in rem verso may prosper, the following conditions must concur: (1) that the defendant has been enriched; (2) that the plaintiff has suffered a loss; (3) that the enrichment of the defendant is without just or legal ground; and (4) that the plaintiff has no other action based on contract, quasi-contract, crime, or quasi-delict.[20] The principle of unjust enrichment essentially contemplates payment when there is no duty to pay, and the person who receives the payment has no right to receive it.[21]

The principle applies to the parties in the instant case, as, Alfredo, having been deemed disqualified from assuming the loan, had no duty to pay petitioner bank and the latter had no right to receive it.

Moreover, the Civil Code likewise requires under Art. 19 that "[e]very person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith." Land Bank, however, did not even bother to inform Alfredo that it was no longer approving his assumption of the Spouses Sy's mortgage. Yet it acknowledged his interest in the loan when the branch head of the bank wrote to tell him that his daughter's loan had not been paid.[22] Land Bank made Alfredo believe that with the payment of PhP 750,000, he would be able to assume the mortgage of the Spouses Sy. The act of receiving payment without returning it when demanded is contrary to the adage of giving someone what is due to him. The outcome of the application would have been different had Land Bank first conducted the credit investigation before accepting Alfredo's payment. He would have been notified that his assumption of mortgage had been disapproved; and he would not have taken the futile action of paying PhP 750,000. The procedure Land Bank took in acting on Alfredo's application cannot be said to have been fair and proper.

As to the claim that the trial court erred in applying equity to Alfredo's case, we hold that Alfredo had no other remedy to recover from Land Bank and the lower court properly exercised its equity jurisdiction in resolving the collection suit. As we have held in one case:

Equity, as the complement of legal jurisdiction, seeks to reach and complete justice where courts of law, through the inflexibility of their rules and want of power to adapt their judgments to the special circumstances of cases, are incompetent to do so. Equity regards the spirit and not the letter, the intent and not the form, the substance rather than the circumstance, as it is variously expressed by different courts.[23]

Another claim made by Land Bank is the presumption of regularity it enjoys and that it was in good faith when it accepted Alfredo's tender of PhP 750,000.

The defense of good faith fails to convince given Land Bank's actions. Alfredo was not treated as a mere prospective borrower. After he had paid PhP 750,000, he was made to sign bank documents including a promissory note and real estate mortgage. He was assured by Atty. Hingco that the titles to the properties covered by the Spouses Sy's real estate mortgage would be transferred in his name, and upon payment of the PhP 750,000, the account would be considered current and renewed in his name.[24]

Land Bank posits as a defense that it did not unduly enrich itself at Alfredo's expense during the foreclosure of the mortgaged properties, since it tendered its bid by subtracting PhP 750,000 from the Spouses Sy's outstanding loan obligation. It is observed that this is the first time Land Bank is revealing this defense. However, issues, arguments, theories, and causes not raised below may no longer be posed on appeal.[25] Land Bank's contention, thus, cannot be entertained at this point.

Land Bank further questions the lower court's decision on the basis of the inconsistencies made by Alfredo on the witness stand. It argues that Alfredo was not a credible witness and his testimony failed to overcome the presumption of regularity in the performance of regular duties on the part of Land Bank.

This claim, however, touches on factual findings by the trial court, and we defer to these findings of the trial court as sustained by the appellate court. These are generally binding on us. While there are exceptions to this rule, Land Bank has not satisfactorily shown that any of them is applicable to this issue.[26] Hence, the rule that the trial court is in a unique position to observe the demeanor of witnesses should be applied and respected[27] in the instant case.

In sum, we hold that Land Bank may not keep the PhP 750,000 paid by Alfredo as it had already foreclosed on the mortgaged lands.

Interest and attorney's fees

As to the applicable interest rate, we reiterate the guidelines found in *Eastern Shipping Lines, Inc. v. Court of Appeals*: [28]

II. With regard particularly to an award of interest in the concept of actual and compensatory damages, the rate of interest, as well as the accrual thereof, is imposed, as follows:

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.

No evidence was presented by Alfredo that he had sent a written demand to Land Bank before he filed the collection suit. Only the verbal agreement between the lawyers of the parties on the return of the payment was mentioned.[29] Consequently, the obligation of Land Bank to return the payment made by Alfredo upon the former's denial of the latter's application for assumption of mortgage must be reckoned from the date of judicial demand on December 12, 1997, as correctly determined by the trial court and affirmed by the appellate court.

The next question is the propriety of the imposition of interest and the proper imposable rate of applicable interest. The RTC granted the rate of 12% per annum which was affirmed by the CA. From the above-quoted guidelines, however, the proper imposable interest rate is 6% per annum pursuant to Art. 2209 of the Civil Code. *Sunga-Chan v. Court of Appeals* is illuminating in this regard:

In *Reformina v. Tomol, Jr.*, the Court held that the legal interest at 12% per annum under Central Bank (CB) Circular No. 416 shall be adjudged only in cases involving the loan or forbearance of money. And for transactions involving payment of indemnities in the concept of damages arising from default in the performance of obligations in general and/or for money judgment not involving a loan or forbearance of money, goods, or credit, the governing provision is Art. 2209 of the Civil Code prescribing a yearly 6% interest. Art. 2209 pertinently provides:

Art. 2209. If the obligation consists in the payment of a sum of money, and the debtor incurs in delay, the indemnity for damages, there being no stipulation to the contrary, shall be the payment of the interest agreed upon, and in the absence of stipulation, the legal interest, which is six per cent per annum.

The term "forbearance," within the context of usury law, has been described as a contractual obligation of a lender or creditor to refrain, during a given period of time, from requiring the borrower or debtor to repay the loan or debt then due and payable.

Eastern Shipping Lines, Inc. synthesized the rules on the imposition of interest, if proper, and the applicable rate, as follows: The 12% per annum rate under CB Circular No. 416 shall apply only to loans or forbearance of money, goods, or credits, as well as to judgments involving such loan or forbearance of money, goods, or credit, while the 6% per annum under Art. 2209 of the Civil Code applies "when the transaction involves the payment of indemnities in the concept of damage arising from the breach or a delay in the performance of obligations in general," with the application of both rates reckoned "from the time the complaint was filed until the [adjudged] amount is fully paid." In either instance, the reckoning period for the commencement of the running of the legal interest shall be subject to the condition "that the courts are vested with discretion, depending on the equities of each case, on the award of interest." [30] (Emphasis supplied.)

Based on our ruling above, forbearance of money refers to the contractual obligation of the lender or creditor to

desist for a fixed period from requiring the borrower or debtor to repay the loan or debt then due and for which 12% per annum is imposed as interest in the absence of a stipulated rate. In the instant case, Alfredo's conditional payment to Land Bank does not constitute forbearance of money, since there was no agreement or obligation for Alfredo to pay Land Bank the amount of PhP 750,000, and the obligation of Land Bank to return what Alfredo has conditionally paid is still in dispute and has not yet been determined. Thus, it cannot be said that Land Bank's alleged obligation has become a forbearance of money.

On the award of attorney's fees, attorney's fees and expenses of litigation were awarded because Alfredo was compelled to litigate due to the unjust refusal of Land Bank to refund the amount he paid. There are instances when it is just and equitable to award attorney's fees and expenses of litigation.[31] Art. 2208 of the Civil Code pertinently states:

In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

x x x x

(2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest.

Given that Alfredo was indeed compelled to litigate against Land Bank and incur expenses to protect his interest, we find that the award falls under the exception above and is, thus, proper given the circumstances.

On a final note. The instant case would not have been litigated had Land Bank been more circumspect in dealing with Alfredo. The bank chose to accept payment from Alfredo even before a credit investigation was underway, a procedure worsened by the failure to even inform him of his credit standing's impact on his assumption of mortgage. It was, therefore, negligent to a certain degree in handling the transaction with Alfredo. It should be remembered that the business of a bank is affected with public interest and it should observe a higher standard of diligence when dealing with the public.[32]

WHEREFORE, the appeal is DENIED. The CA Decision in CA-G.R. CR-CV No. 84445 is AFFIRMED with MODIFICATION in that the amount of PhP 750,000 will earn interest at 6% per annum reckoned from December 12, 1997, and the total aggregate monetary awards will in turn earn 12% per annum from the finality of this Decision until fully paid.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Peralta,[*] and Perez, JJ., concur,

[*] Additional member per Special Order No. 913 dated November 2, 2010.

[1] Rollo, p. 44.

[2] Records, pp. 63-64.

[3] Rollo, p. 45.

[4] Id. at 45-46.

[5] Id. at 46.

[6] Id.

- [7] Id. at 92.
- [8] Records, pp. 162-163.
- [9] Id. at 160.
- [10] Id. at 168.
- [11] CA rollo, p. 87. Penned by Judge Virginia G. Almonte.
- [12] Rollo, p. 53. The CA Decision was penned by Associate Justice Jose C. Reyes, Jr. and concurred in by Presiding Justice Conrado M. Vasquez, Jr. and Associate Justice Apolinario D. Bruselas, Jr.
- [13] CA rollo, p. 87.
- [14] G.R. No. 164300, November 29, 2006, 508 SCRA 556, 560-561; citing *Fabrigas v. San Francisco del Monte, Inc.*, G.R. No. 152346, November 25, 2005, 476 SCRA 247, 258-259.
- [15] *Philippine Savings Bank v. Spouses Mañalac*, G.R. No. 145441, April 26, 2005, 457 SCRA 203, 218.
- [16] Rollo, p. 23.
- [17] *Philippine Bank of Communications v. Court of Appeals*, G.R. No. 109803, April 20, 1998, 289 SCRA 185, 186.
- [18] *Car Cool Philippines v. Ushio Realty and Development Corporation*, G.R. No. 138088, January 23, 2006, 479 SCRA 404, 412.
- [19] *H.L. Carlos Corporation, Inc. v. Marina Properties Corporation*, G.R. No. 147614, January 29, 2004, 421 SCRA 428, 437; citing *MC Engineering, Inc. v. Court of Appeals*, G.R. No. 104047, April 3, 2002, 380 SCRA 116, 138.
- [20] 1 Tolentino, CIVIL CODE OF THE PHILIPPINES COMMENTARIES AND JURISPRUDENCE 77 (1990).
- [21] *Gil Miguel T. Puyat v. Ron Zabarte*, G.R. No. 141536. February 26, 2001, 352 SCRA 738, 750.
- [22] CA rollo, p. 86.
- [23] *LCK Industries Inc. v. Planters Development Bank*, G.R. No. 170606, November 23, 2007, 538 SCRA 634, 652; citing *Tamio v. Ticson*, G.R. No. 154895, November 18, 2004, 443 SCRA 44, 55.
- [24] CA rollo, p.86.
- [25] *Agra v. Philippine National Bank*, G.R. No. 133317, June 29, 1999, 514 SCRA 509, 528.
- [26] See *Royal Cargo Corporation v. DFS Sports Unlimited Inc.*, G.R. No. 158621, December 10, 2008, 573 SCRA 414, 421-422.
- [27] See *Tugade v. Court of Appeals*, G.R. No. 120874, July 31, 2003, 407 SCRA 497, 508.
- [28] G.R. No. 97412, July 12, 1994, 234 SCRA 78, 95-97.
- [29] Records, p. 255.
- [30] G.R. No. 164401, June 25, 2008, 555 SCRA 275, 287-288 [citations omitted].
- [31] *Trade & Investment Development Corporation v. Roblett Industrial Construction Corp.*, G.R. No. 139290, November 11, 2005, 474 SCRA 510, 540-541.

[32] Philippine Bank of Communications v. Court of Appeals, supra note 17.

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