

THE GOVERNMENT OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. MARIANO CONDE, DEFENDANT AND APPELLANT.

G.R. No. 41715. August 07, 1935

Ponente: IMPERIAL, J.

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IMPERIAL, J.:

The Government of the Philippine Islands brought this action to recover from the defendant the amount of a promissory note executed by him, together with the stipulated interest, and to foreclose the mortgage constituted by said defendant on a real property to secure the obligation contracted by him.

The defendant appealed from the judgment ordering him to pay to the plaintiff the sum of P10,678.75 with interest thereon at eight per cent (8%) per annum, computed semiannually, with costs. It was provided in the same judgment that the defendant should make payment or deposit it with the clerk of court within three (3) months and, in case of failure to do so, the mortgaged property should be sold and the proceeds thereof applied to satisfy the judgment. The present appeal was taken by the defendant to modify the judgment in so far as it orders him to pay compound interest.

There is no question as to the existence of the debt and the defendant's default. The promissory note incorporated with the mortgage deed which was duly registered in the registry of deeds, contains a stipulation to the effect that the defendant would pay interest at the rate of eight per cent (8%) per annum, payable semi-annually, on the capital of P8,300 and t>n any other amount due and unpaid.

Pursuant to this stipulation, the plaintiff liquidated the defendant's account and charged him the interest accrued semi-annually plus the interest on the interest so liquidated and the unpaid capital, resulting in the amount stated in the judgment.

The defendant contends that to collect the interest accrued semi-annually plus the interest on said interest at eight per cent (8%) per annum violates the Usury Law because the rate of interest so charged would exceed twelve per cent (12%) per annum. This contention lacks merit because it is well settled in this jurisdiction that when there is an express agreement to charge interest on interest, such fact should not be taken into consideration in determining whether or not the stipulated interest exceeds the limit prescribed by the Usury Law. (Government of the Philippine Islands vs. Schenkel and Gonzales, 43 Phil., 616; Villaruel vs. Alvayda and Vicencio, 46 Phil., 277; Valdezco vs. Francisco, 52 Phil., 350.)

In the last case above cited, this court, passing upon the same question then raised, stated as follows:

"Defendant also contends in this instance that the transaction between her and plaintiff is usurious, because interest was charged on interest due, so that if the former is added to the stipulated interest, the sum would exceed the rate fixed by law. It is sufficient to state on this point that such interest upon interest was collected on March 20, 1924, and defendant claims it only in her answer to this case filed February 12, 1927. The law fixes the period of two years within which to claim the usurious interest, and this period has already elapsed (Arevalo vs. Dimayuga, 49 Phil., 894). Furthermore, this court has already held (Government of the Philippine

Islands vs. Schenkel and Gonzales, 43 Phil., 610; Villaruel vs. Alvayda and Vicencio 46 Phil., 277), that interest charged upon the stipulated interest, if agreed upon, should not be counted in determining whether the interest exceeds the legal rate or not."

The stipulation in question is contrary to no law, morals nor public order, and is perfectly valid and binding (article 1255, Civil Code). And the obligations arising therefrom have the force of law between the parties who are bound to perform them in accordance with their stipulation (article 1091, Civil Code).

Finding no merit in any of the three assignments of error relied upon by the defendant, and the appealed judgment being in accordance with law, it is affirmed in all its parts, with the costs of this instance to the appellant. So ordered.

Malcolm, Villa-Real, Butte, and Goddard, JJ., concur.

Judgment affirmed.

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