

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS.
CLOTILDE REYES DE VALENZUELA, DEFENDANT AND APPELLEE.***G.R. No. 45520. October 11, 1938*

Ponente: LAUREL, J.

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Aniceta Borja Vda. de Reyes was found by the Anti-Usury Board to have engaged in the lending of money at usurious rates of interest during the period herein-below mentioned. To avoid court proceedings, Atty. Pio Reyes, in behalf of his mother, Aniceta Borja Vda. de Reyes, in a letter dated November 11, 1935, admitted the charge of usury against her and formally offered a compromise ((Annex A of the prosecution, p. 39, rec.) The offer appears to have been accepted by the Anti-Usury Board and on the same date, November 11, 1935, a compromise was formally entered into. (Annex A of the defense, p. 14, rec.) In the compromise, Aniceta Borja Vda. de Reyes acknowledged that on or about September 22, 1933 and September 2, 1932, she granted loans to Hilarion Calderon in the sum of P260 and P1,500, respectively, and charged and collected from him an interest of 2 per cent per month. The amount of P500 as a compromise fee was paid to the Secretary-Treasurer of the Anti-Usury Board as evidenced by official receipt No. 9408298. Upon the recommendation of the agent in charge and the chief law officer of the board, the compromise was approved by the Secretary of Justice, acting in his capacity as chairman of the board. As a result of the compromise, the charges contemplated against Aniceta Borja Vda. de Reyes were dropped. Later on, however, she filed against Hilarion Calderon in the Court of First Instance of Manila civil case No. 50077, seeking to enforce the terms of the alleged usurious contract. She also refused to return the alleged usurious interest she had collected from Hilarion Calderon. The Anti-Usury Board referred the papers to the City Fiscal of Manila, who, on December 12, 1936, filed a criminal information not against Aniceta Borja Vda. de Reyes but against her daughter, Clotilde Reyes de Valenzuela, for violation of the Usury Law. The information was filed against the latter for the reason that the transactions appear to have been made in her name and the receipts for payments of usurious rates of interest were signed by her. Upon arraignment, the accused pleaded not guilty to the charge and forthwith filed a petition for dismissal of the case on the following grounds:

* * * * *

"3. Dicho arreglo extrajudicial para los efectos de extinguir la accion penal fue aceptado y aprobado por el Honorable Secretario de Justicia en su capacidad de Chairman de la Junta contra la Usura; copia certificada del convenio de transaccion se une a la presente como anexo A y forma parte integrante de la misma.

"4. La alegada transaccion usuraria en que consiste el motivo de accion de la querella de autos es la misma transaccion de venta con pacto de retro que consta en la indicada escritura publica de fecha 9 de septiembre de 1932 que fue transigida con la Junta contra La Usura, bajo la Ley No. 4168, mediante el pago a dicha Junta de Quinientos (P500) pesos como 'compromise fee'.

"5. La razon que alega la Junta contra la Usura en la presentacion de la querella de autos era que la aqui acusada y su madre dejaron de devolver a la parte ofendida unos alegados intereses en exceso del tipo que provee la Ley de Usura, lo cual solo envuelve una responsabilidad civil, y esta cuestion se sometio a la Junta

contra la Usura mediante un memorandum, cuya copia se acompaña a la presente como Anexo B y forma parte integrante de la misma.

"6. Sobre la causa a que se contrae la querrela de autos pende en el Juzgado de Primera Instancia de esta ciudad una accion civil (Causa Civil No. 50077) promovida por la acusada contra la parte ofendida, mucho antes de la presentacion de la querrela de autos, en la que se resolvera la expresada responsabilidad civil que la parte ofendida, como demandada en la citada causa civile plantea en su contestacion a la demanda. Copia de dicha contestacion se une a la presente como Anexo C." By an order dated March 6, 1937, the lower court granted the petition for dismissal. Upon denial of its motion for reconsideration, the prosecution appealed to this court.

The principal question presented in this appeal is whether or not the lower court erred in dismissing the criminal case against the defendant-appellee, Clotilde Reyes de Valenzuela. It is contended by the prosecution that the accused had not fulfilled all the conditions of the compromise entered into in her behalf with the Anti-Usury Board, because of her refusal to return the alleged usurious interests collected from Hilarion Calderon notwithstanding her promise to do so. (Annex A of the prosecution.) We note, however, that this Annex A of the prosecution appearing on page 39 of the record, was a proposal to return all the interests collected in excess of that allowed by law. Aside from the fact that the amount of the unauthorized interests collected was not determined, we find that the return thereof was not incorporated as part of the compromise. Upon the other hand, the determination of the usurious character of the interests charged appears now pending determination in civil case No. 50077 filed by Aniceta Borja Vda. de Reyes against Hilarion Calderon.

Under paragraph (a), section 1 of (Act No. 4168, the Anti-Usury Board is empowered to settle extra judicially certain cases of violation of that Act, subject to the following conditions: (a) that the usurer is a non-recidivist; (b) that his operating capital is less than five thousand pesos; (c) that the per capita fine to be imposed shall not be less than fifty nor more than one thousand pesos; and (d) that the usurer shall promise formally and in writing not to repeat his usurious operations. The printed form used in the present case (Annex A of the defense, p. 14, rec.) appears to have been prepared in accordance with the prescribed conditions. Under the circumstances and, in view of the acceptance of the offer of the defendant-appellee for compromise and of the payment of P500 as a compromise fee, which payment was accepted and received by the Anti-Usury Board, we hold that penal action against the accused no longer lies. "A compromise necessarily implies two elements, one of which is the offer and the other the acceptance, in order that the penal action may be extinguished and there remain only the civil liability to deal with." (U. S. vs. Torres and Padilla, 34 Phil., 994, 999.)

The order of March 6, 1937, appealed from is hereby affirmed, without any pronouncement regarding costs. So ordered.

Avanceña, C. J., Villa-Real, Abad Santos, Imperial, Diaz, and Concepcion, JJ., concur.

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