

ALEJANDRA CUNANAN, PETITIONER, VS. FIDELA NUQUI DE LAZATIN AND ANTONIO LAZATIN, RESPONDENTS.*G.R. No. 47053. July 31, 1944*

Ponente: OZAETA, J.

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Commenced as an action to recover lands and rents, this case has developed into one of liquidation of a debt secured by a mortgage. The Court of First Instance of Pampanga, wherein the action was commenced by the respondents, found that, as contended by the petitioner, the real contract between the parties was not one of absolute sale coupled with a lease and an option to repurchase but one of loan secured by a mortgage on the parcels of land purported to have been conveyed; and rendered judgment which, as modified on motion for new trial and reconsideration, was of the following tenor: That the petitioner shall pay to the respondents the sum of P27,000 with interest thereon at the rate of 10% per annum which amounts to P15,700, plus P5,690 as compound interest plus the sum of P965.05 as taxes, and the costs; and that if within ninety days the petitioner shall fail to pay the said sums the sheriff shall sell the mortgaged properties at public auction without prejudice to the mortgage in favor of the Peoples Bank, which shall be paid by the respondents or deducted from the petitioner's indebtedness.

The petitioner (defendant below) appealed from that judgment to the Court of Appeals insofar as the amount found to be due was concerned, and the appellate court modified the judgment appealed from as follows:

"En virtud de todo lo arriba expuesto, modificamos la sentencia recaida en esta causa en el sentido de declarar, como por la presente se declara, que las cantidades tomadas en prestamo por la apelante, con sus intereses devengados y no pagados hasta el 30 de septiembre de 1925 y que ascendieron a P23,040, debe devengar intereses a raz6n de 10% al ano por cinco años, desde el 30 de septiembre de 1925 hasta el 30 de septiembre de 1930, que arrojan un total de P11,520, el cual, sumado al capital, asciende a P34,560. De esta suma, debe deducirse la de P13,250 pagada a cuenta por la apelante, segun los Exhs. 110 al 115 inclusive, quedando, por tanto, un remanente por pagar de P21,310, el cual vendria a ser el capital al otorgarse "el documento Exh. N el 30 de septiembre de 1930.

"Se condena, por cbrisiguiente, a la apelahte a pagar a la apelada la suma de P21,310 con sus interests, a razon de 10 % al año desde el 30 de septiembre de 1930 hasta su complete pago, debiendo sin embargo, acreditarse a la apelante la otra suma de P3,200 pagada a cuenta de dichos intereses segun los Exhs. 1,116 y 117. Se le condena, ademas, a pagar los intereses compuestos al mismo tipo de 10% al año, sobre los intereses devengados y no pagados desde el 30 de septiembre de 1930.

"Se mantiene en todo 16 demas la referida decision."

From that judgment the petitioner has appealed to this Court by certiorari, making the following assignment of errors:

"1. El Tribunal de Apelaciones incurrio en error de derecho al declarar que la deuda del causante de la recurrente Cunanan en la fecha de la escritura de venta a retro de 30 de septiembre de 1925 (Exh. 'A') es de

P23,040, en vez de P18,336.

"2. El Tribunal de Apelaciones incurrió también en error de derecho al condenar a la recurrente Cunanan al pago de un 10% de interés de la supuesta deuda.

"3. El Tribunal de Apelaciones incurrió igualmente en error de derecho al condenar a la recurrente Cunanan a pagar los intereses compuestos al mismo tipo de 10% al año, sobre los intereses devengados y no pagados desde el 30 de septiembre de 1930."

1. The amount disputed in the first assignment of error is P4,704, which is the last item in exhibit 119, signed by petitioner's predecessor in interest and reading as follows:

"Exh. 119

"La escritura de venta otorgada por mi en esta fecha septiembre 30, 1925 a favor de Da. Macaria Lacsamana (Exh. 'A') de nueve (9) lotes de terrenos constituidos como garantía a favor de la compradora y por el precio de P23,040 esta formado de las cantidades adeudadas y no pagadas a la mencionada compradora y son, como sigue:

"Junio 30, 1917 préstamo recibido no pagado (Exh. '3')

P3,000.00

"Mayo 15, 1920 préstamo recibido no pagado (Exh. '5')

3,336.00

"Octubre 27, 1924 préstamo recibido no pagado (Exhs. '6' y '120')

12,000.00

Cargados al capital en Sept. 30, 1925: Por canon, intereses debidos no pagados según la acreedora Da. Macaria Lacsamana y que no me ha sido posible comprobarlo debido a que los recibos por canon pagados en vida del finado Apolinario Cunanan no pudieron ser hallados, a pesar de las diligencias empleadas por encontrarlos

4,704.00

"Total

P23,040.00

It is an undisputed fact that at the new trial, in the Court of First Instance the petitioner introduced in evidence exhibits 101 to 109, inclusive, consisting of receipts for rents paid by Apolonio Cunanan to Macaria Lacsamana, predecessors in interest of the petitioner, and the respondents, respectively during the period, from March, 1918, to June 8, 1925, aggregating P4,430 in cash and 268 cavans of palay. Since the item of P4,704 in question was supposed to consist of rents or interests due and unpaid as of September 30, 1925, on which date the said receipts, exhibits 101 to 109, had not been found, and since it now appears from said exhibits that the rents or interest up to June 8, 1925, had been paid, the petitioner contends that the inclusion of said item was a mistake and that, therefore, it should be discarded from the liquidation of her indebtedness to the respondents. The Court of Appeals overruled petitioner's contention (1) because in exhibit Y petitioner's predecessor in interest had admitted that the amount due to Macaria Lacsamana was, P23,040, which admission was affirmed by the testimony of Mariano Cunanan; and (2) because if the item of P4,704 were discarded from exhibit 119 the balance of P18,336 would be insufficient to cover the items of expense therein specified.

We are of the opinion and so hold, that the Court of Appeals committed an error of law in thus refusing to take into account the undisputed payments shown by the receipts, exhibits 101 to 109. The admission in exhibit Y as well as in the testimony of Mariano Cunanan during the trial was apparently made thru mistake because at that time the receipts exhibits 101 to 109. The second reason given, by the Court of Appeals is likewise untenable in fact and in law because exhibit 119 itself shows that the balance of P18,336 is fully covered by the three items specified in exhibits 3, 5, 6, and 120, the last of which contains the different items of expenses aggregating P12,000, which added to the loans evidenced by exhibits 3 and 5 of P3,000 and P3,336, respectively, amount exactly to P18,336. Therefore, the statement of the Court of Appeals that if the item of P4,704, were deducted from exhibit 119 the balance of P18,336 would be insufficient to cover all the expenses, has no legal basis, unless it be insisted that the rents now proven to have been already paid and which were then supposed to be still unpaid should be paid over again as an item of expense.

There is no question of fact here because the facts are admittedly proven. Whether or not the conclusion drawn by the Court of Appeals from those facts is correct, is a question of law which this Court is authorized to pass upon.

It results from the foregoing that the petitioner's first assignment of error must be sustained.

2. We find petitioner's second assignment of error to be entirely devoid of merit. In her answer to the complaint (paragraph 8, page 23, B. of E.), the petitioner herself admitted her liability to pay interest at the rate of 10% per annum, but that said interest is simple and not compound. Petitioner contends for the first time in this Court that the contract is usurious because if the true amount of the capital be taken as a basis the rent stipulated amounts to 18% per annum on the capital, which would make the contract void under the Usury Law, with the result that the loan should bear no interest at all. But if the contract were usurious, the total rents or interests found by the Court of Appeals to have been paid by the petitioner, aggregating P16,450, would be a total loss to the petitioner because under the Usury Law usurious interests paid may be recovered only within two years after they were paid; and moreover, there was no counterclaim filed in this case for the recovery of any allegedly usurious interest. But the contract was not usurious, for both parties, in agreeing upon the rate of 10% per annum, acted in the bona fide belief that the amount of the capital on which that rate was based was correct. As a matter of fact, there was no issue regarding usury raised by either party in the lower courts.

Hence petitioner's second assignment of error must be overruled.

3. The third assignment of error is directed against the imposition of compound interest by the Court of Appeals. Section 5 of the Usury Law provides that in computing interest on any obligation, promissory note, or other instrument or contract, compound interest shall not be reckoned except by agreement, or, in default thereof, whenever the debt is judicially claimed, in which case it shall draw interest at 6% per annum. Was there an agreement between the parties to pay compound interest? The stipulation relied upon by the respondents and the Court of Appeals on this point reads as follows:

"(e) Que en caso de incumplimiento en el pago del canon convenido en el tiempo de su vencimiento, la arrendadora tendra derecho a posesionarse inmediatamente de los terrenos, objeto del arrendamiento, sin perjuicio de cobrar el canon vencido y no pagado con sus intereses y los danos y perjuicios que haya sufrido con motivo de dicho incumplimiento." (Exhibit N.)

From this it is clear that the agreement of the parties is that the creditor may recover the interest due with interest thereon. In the absence of an express agreement that the interest on interest shall be compounded annually, compound interest cannot be reckoned, for that is prohibited by the Usury Law. The agreement is clear that the rent or interest that may be due at the time the action is brought shall bear interest; it does not say that if the rent or interest is not paid every year, the same shall automatically form part of the capital and bear interest at the same rate. It is not suggested that the principal bears compound interest but that the interest due does. We do not believe the contract lends itself to such construction. To justify the collection of compound interest, the agreement thereon must be clear and free from any doubt.

Petitioner's third assignment of error is well taken and is hereby sustained.

It results from the foregoing considerations that the amount of petitioner's indebtedness to respondents as of September 30, 1925, was P18,336, with interest thereon at 10% per annum from said date until fully paid. The interest due as of September 30, 1930—a period of five years at 10% a year—is P9,168. The petitioner, according to the finding of the Court of Appeals, has paid to the respondents by way of interest during the same period the total sum of P13,250, which is P4,082 more than the interest due. Deducting this excess from the principal, there is left a balance of P14,254 as of September 30, 1930. The interest on this balance of the capital up to September 30, 1936, shortly before the commencement of this action, is P7,127, of which the petitioner paid P3,200, leaving a balance of P3,927 unpaid interest, which added to the balance of the principal, makes a total of P18,181 due as of September 30, 1935.

Wherefore, let judgment be entered in favor of the plaintiffs (respondents herein) and against the defendant (petitioner) for the sum of P18,181, with interest thereon at 10% per annum from September 30, 1935, until fully paid. Upon payment of said amount, which shall be made within ninety days from the date this judgment becomes final, the plaintiffs shall reconvey to the defendant the parcels of land described in transfer certificates of title Nos. 4574, 4575, and 8528 of the land records of the province of Pampanga, free from any mortgage that said plaintiffs may have constituted thereon in favor of third parties. Should the defendant fail to make the payment within the said period, the provincial sheriff shall sell the property in question at public auction, without prejudice to the mortgage in favor of the Peoples Bank or any other third party, which mortgage shall be paid by the plaintiffs or deducted from the defendant's indebtedness. There is no pronouncement as to costs in this instance, it being understood that the costs awarded to the plaintiffs by the trial court remain undisturbed.

Yulo, C.J., Moran, and Horrilleno, JJ., concur,

BOCOBO, J.: I concur in the result.

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