

**SOLID HOMES, INC. AND V.V. SOLIVEN REALTY CORPORATION,
PETITIONERS, VS. HON. INTERMEDIATE APPELLATE COURT,
BENJAMIN V. ZABAT AND LUNINGNING ZABAT, RESPONDENTS.**

G.R. NO. 74269. November 27, 2006

Ponente: TINGA, J.

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TINGA, J.:

These consolidated cases stemmed from a Decision[1] of the then Court of First Instance (CFI) of Rizal, Branch 15, awarding private respondents as plaintiffs in an action seeking rescission of contract with damages in the amount of P15,938.00, with interest, as well as actual, moral and exemplary damages plus attorney's fees.[2] The petition in G.R. No. 74269 seeks the review of the interest rate of 12% per annum imposed by the then Intermediate Appellate Court (IAC) when it affirmed the CFI's decision; while the other petition, G.R. No. 92137, questions the propriety of an order allowing the partial execution pending appeal of the CFI's decision.

The undisputed or admitted facts follow.

Solid Homes, Inc. is the owner and developer of a subdivision project known as Greenheights Newton Subdivision (Greenheights) located in Antipolo, Rizal.[3] V.V. Soliven Realty Corporation sold lots in this subdivision and Pedro B. de la Peña was one of its brokers. In January 1976, De la Peña was introduced to Colonel Benjamin V. Zabat (Zabat) and his wife Luningning (respondents) for the purpose of making them interested in buying lots in Greenheights. De la Peña offered Lot Nos. 1, 2 and 3 of Block 8 of Greenheights representing to respondents Lot No. 1 as having 296 square meters, Lot No. 2 with 240 square meters and Lot No. 3 with 296 square meters.[4] Respondents agreed to buy Lot No. 1 of Block 8 while expressing their desire to purchase Lot Nos. 2 and 3 of the same block, which were adjacent to Lot No. 1, for the purpose of turning the three lots into a family compound.[5] The purchase price for Lot No. 1 was P53,280.00 with down payment of 20% of the purchase price or P10,656.00. The parties agreed to pay the down payment of P10,656.00 according to the following arrangement—payment of P500.00 upon execution of the Reservation Application and the remainder to be offset by the value of G.I. sheets which respondents undertook to deliver to petitioners.[6]

On 29 January 1976, G.I. sheets worth P14,291.60 were delivered to Solid Homes, Inc. On the same date, Zabat signed and delivered to De la Peña the reservation agreements for Lot Nos. 1, 2 and 3.[7] Zabat retained a personal copy of these reservation agreements.[8] As the value of the G.I. sheets was higher than the agreed down payment for Lot No. 1, V.V. Soliven applied the excess of the value of the G.I. sheets as down payment for Lot Nos. 2 and 3.[9]

However, Solid Homes, Inc. still sold Lot Nos. 2 and 3 to third parties on 2 March 1976, alleging failure of respondents to submit the reservation application for Lot Nos. 2 and 3 on time.[10]

Respondents were only informed of the sale of Lot Nos. 2 and 3 in May 1976. Thus, on 11 May 1976, Zabat sent a letter to petitioners stating his intention to rescind the contract because of petitioners' failure to reserve Lot Nos. 2 and 3; the purchase of these lots being the principal consideration for the purchase of Lot No. 1.[11] Solid

Homes, Inc. countered by saying that the reservation applications for Lot Nos. 2 and 3 were submitted beyond the set deadline.[12]

Respondents then filed an action for specific performance or rescission of contract with damages on 29 September 1976 before the CFI, praying that petitioners comply with the agreement for petitioners to sell to respondents Lot Nos. 1, 2 and 3 or, in the alternative, that petitioners be required to return to respondents their payments, together with interest and damages.

Trial ensued. On 31 August 1979, the trial court rendered a Decision[13] in favor of respondents, ordering petitioners to return to respondents the sum of P15,938.00 with interest thereon at the legal rate computed from 11 February 1976 until full restoration. Petitioners were likewise declared liable to pay respondents P1,000.00 for actual damages, P20,000.00 as moral damages, P1,000.00 as exemplary damages plus P5,000.00 as attorney's fees.[14]

Upon appeal by petitioners,[15] the IAC affirmed[16] the decision of the trial court with modification. Petitioners were ordered to return to respondents the sum of P16,438.00[17] with interest thereon at 12% per annum from date of first demand, 11 May 1976,[18] until full payment. The award for moral damages was decreased to P10,000.00 while the award for actual damages was withdrawn. No reference was made to the award of exemplary damages and attorney's fees,[19] hence, it was deemed affirmed.

From the IAC's decision, petitioners filed the petition in G.R. No. 74269, raising the correct rate of interest to be imposed on petitioner's obligation as declared by the lower courts as the sole issue. As earlier noted, petitioners no longer raised before this Court the matter of their liability to pay for the principal obligation and moral damages.

After the filing of the instant petition in G.R. No. 74269, respondents filed a Motion for Partial Execution of Judgment before the Regional Trial Court (RTC) of Makati, Branch 132, to which the original case was transferred. On 28 January 1988, the lower court granted said motion on the ground that the sole issue still pending before this Court was merely the determination of the applicable rate of interest for the principal obligation, all other matters having become final and executory.[20] Initially, the Court of Appeals reversed the decision of the trial court.[21] However, upon motion for reconsideration, the appellate court promulgated an amended decision granting the motion for partial execution of judgment.[22] This amended decision is now challenged in G.R. No. 92137.

Back to the lone issue in G.R. No. 74269 on the applicable rate of interest on a money judgment. Strikingly, the IAC did not provide an explanation why it imposed the interest rate of 12%.

This precise issue was subsequently addressed by this Court in *Eastern Shipping Lines, Inc. vs. Court of Appeals*. [23] Although the filing of petition in G.R. No. 74269 preceded *Eastern Shipping*, the guidelines laid down therein are applicable to this case as they implemented and clarified laws that were already in existence even before this instant petition was filed.[24]

Respondents' cause of action in this case arose from petitioner's failure to reserve lots intended to be purchased by respondents in accordance with their contract. This prompted respondents to rescind the contract. The trial court ordered petitioners to return the sum of P15,938.00 with interest and to pay damages to respondents. The IAC affirmed the trial court's decision with modification by ordering petitioners to return to respondents P16,438.00 with interest at 12% per annum and to pay moral damages.[25]

Eastern Shipping teaches that, with respect to an award of interest in the concept of actual and compensatory damages, interest on the amount of damages awarded may be imposed at the discretion

of the Court at the rate of 6% per annum for a breach of an obligation not constituting a loan or forbearance of money. No interest, however, shall be adjudged on unliquidated claims or damages except when or until the demand can be established with reasonable certainty. Where the demand is established with reasonable certainty, the interest shall begin to run from the time the claim is made judicially or extrajudicially. But when such certainty cannot be 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.[26]

The ruling of the appellate court imposing the interest rate of 12% is incompatible with the consistently reiterated doctrine in *Eastern Shipping*. [27] In this case, an interest of only 6% should be imposed on the obligation of petitioners as such obligation did not constitute a loan or forbearance of credit. The 6% interest imposed on the principal obligation of P16,438.00 shall commence on the date of first demand as determined by the lower court which is 11 May 1976.[28]

As aforesaid, petitioners did not challenge their liability for the principal obligation, damages and attorney's fees as found by the trial court. Thus, petitioners' liability for the judgment amount, save for the interest, has become final and executory.[29]

In *Eastern Shipping*, the Court went on to state that when the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest, whether the obligation was in the form of a loan or forbearance of money or otherwise, 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.[30]

Accordingly, the principal obligation of P16,438.00 shall bear 6% interest from the date of first demand or from 11 May 1976. From the date the liability for the principal obligation, moral and exemplary damages and attorney's fees had become final and executory, an annual interest of 12% shall be imposed on these obligations until their final satisfaction, this interim period being deemed to be by then an equivalent to a forbearance of credit.

Turning to the petition in G.R. No. 92137, what needs to be asked is whether it is proper to issue a partial writ of execution of a decision ordering a return of a sum of money while the determination of the applicable rate of interest on said monetary obligation is still subject for final determination.

In resolving the motion for partial execution of judgment filed by respondents, the appellate court referred to Section 9, Rule 41 of the 1964 Rules of Court, to wit:

Sec. 9. When appeal deemed perfected; effect thereof. —If the notice of appeal, the appeal bond and the record on appeal have been filed in due time, the appeal is deemed perfected upon the approval of the record on appeal and of the appeal bond other than a cash bond, and thereafter the trial court loses its jurisdiction over the case, except to issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal, to approve compromises offered by the parties prior to the transmittal of the record on appeal to the appellate court, and to permit the prosecution of pauper's appeals.[31]

The appellate court then granted the motion for partial execution on the ground that the unappealed portion of the trial court's decision had become final and executory. The appellate court also followed the ruling in *Baldisimo v. CFI of Capiz, et al.*, [32] that it is within the power of the trial court to issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated in the appeal.[33]

On the other hand, petitioners contend that the case of *Alcober, et al. v. Hon. Garciano, et al.*, [34] should have been applied by the appellate court instead of *Baldisimo* as *Alcober* was rendered on a later date. An examination of the two cases would show, however, that it is *Baldisimo* and not *Alcober* that squarely addresses the issue in this instant case.

Alcober involved an action to establish title to a parcel of land and the Court therein applied the general rule set in Sec. 9, Rule 41 of the 1964 Rules that when an appeal is perfected, the trial court loses jurisdiction over the case. Even though Alcober applied the general rule, it nevertheless acknowledged that there are exceptions to the same, namely: 1) when the issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal; 2) to approve compromises offered by the parties prior to the transmittal of the record on appeal to the appellate court; and 3) to permit the prosecution of a pauper's appeal.[35]

The case of Baldesimo involved the application of the exception to the general rule. Petitioner in Baldesimo sought to recover the ownership and possession of a parcel of land. The lower court awarded ownership of the whole property to petitioner and declared him entitled to the possession thereof while respondent therein was declared entitled to the refund of expenses made for the construction of improvements on the land. Respondent raised in his appeal the reasonableness of the amount fixed for the value of the improvements but did not appeal the ruling adjudicating the ownership of the land and the right of possession thereto. Consequently, this Court held that under Sec. 9, Rule 41 of the then Rules of Court,[36] it was within the power of the trial court to issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated in the appeal.[37]

The principle in Baldesimo applies to the instant case because save for the determination of the applicable rate of interest, the decision of the appellate court awarding to respondents P16,438.00 plus P10,000.00 as moral damages had become final and executory. No similar complexity attended the appeal raised in Alcober. These aspects of the decision are matters that are no longer litigated in the appeal. Thus, the trial court can proceed with their execution.[38]

WHEREFORE, the petition in G.R. No. 74259 is GRANTED IN PART. The decision of the Intermediate Appellate Court is MODIFIED in that petitioners are ORDERED to pay interest at 6% per annum on the principal obligation in the amount of P16,438.00 from 11 May 1976, the date of first demand by respondent, until said decision on the principal obligation became final and executory, and interest at 12% per annum on the principal obligation, moral and exemplary damages, as well as attorney's fees, from the time said decision became final and executory until full payment of said amounts.

The petition in G.R. No. 92137 is DENIED and the amended decision of the Court of Appeals is AFFIRMED.

No pronouncement as to costs.

SO ORDERED

Quisumbing, (Chairperson), Carpio, Carpio Morales, and Velasco, Jr., JJ., concur.

[1] Rollo (G.R. No. 74269), pp. 52-68.

[2] Later amended by the IAC to P16,438.00 plus moral damages.

[3] Rollo, (G.R. No. 74269), pp. 92-93.

[4] Id. at 39.

[5] Id. at 93.

[6] Id. at 94.

[7]Id. at 55.

[8] Id.

[9]Id. at 94-95.

[10] Id. at 57.

[11]Id. at 56.

[12] Id. at 57.

[13]Id. at 165-181. Penned by Hon. Floreliana Castro-Bartolome.

[14]Rollo (G.R. No. 74269), p. 68.

[15] Docketed as AC - G.R. CV No. 70032.

[16] Rollo (G.R. No. 74269), pp. 18-26, Decision promulgated March 12, 1986, penned by Justice Serafin E. Camilon, with Justices Crisolito Pascual, Jose C. Campos, Jr. (later, Supreme Court Justice) and Desiderio P. Jurado, concurring .

[17]Id. at 25. The value of the G.I. sheets at P15,938.00 plus P500.00 cash payment.

[18] Id.

[19]Id. at 26.

[20] Rollo, (G.R. 92137), p. 9.

[21]Id. at 19-22; Decision dated September 18, 1989, penned by Associate Justice Luis L. Victor, with Associate Justices Ricardo L. Pronove, Jr. and Felipe B. Kalalo, concurring.

[22]Id. at 16-17; Dated February 12, 1990, penned by Associate Justice Luis L. Victor, with Associate Justices Ricardo L. Pronove, Jr. and Felipe B. Kalalo, concurring.

[23] G.R. No. 97412, July 12, 1994, 234 SCRA 78.

[24]The laws and regulations relevant for the guidelines formulated in Eastern Shipping were Central Bank Circular No. 416 [1974] and Article 2209 of the Civil Code, both were already effective at the time the instant petition was filed.

[25]Rollo (G.R. No. 74269), p. 26, to quote:

WHEREFORE, modified as follows:

1) ordering appellants, jointly and severally, to return to the appellees the sum of P16,438.00 with interest thereon at 12% per annum from date of first demand, May 11, 1976, until full payment;

2) ordering the appellants, jointly and severally, to pay the appellees the sum of P10,000.00 as moral damages;

3) eliminating the award of actual damages.

the decision appealed from is affirmed.

Costs against appellants.

SO ORDERED.

[26] *Eastern Shipping Lines, Inc. v. Court of Appeals*, supra note 22 at 96, see also *Biesterbos v. Court of Appeals*, G.R. No. 152529, 22 September 2003, 411 SCRA 396, 406-407; *Heirs of Ignacia Aguilar-Reyes v. Spouses Mijares*, 457 Phil. 120, 140 (2003).

[27] *Id.*

[28] *Rollo* (G.R. No. 74269), p. 34.

[29] RULES OF COURT (1964), Rule 45, Sec. 1 provides:

A party may appeal by certiorari, from a judgment of the Court of Appeals, by filing with the Supreme Court a petition for certiorari, within fifteen (15) days from notice of judgment or of the denial of his motion for reconsideration filed in due time, and paying at the same time, to the clerk of said court the corresponding docketing fee. xxx

In petitioner's Motion for Extension dated March 31, 1986, petitioners acknowledged receiving the appellate court's decision on March 17, 1986. *Rollo* (G.R. No. 74269), p. 2.

[30] *Eastern Shipping Lines, Inc. v. Court of Appeals*, supra note 22. Reiterated in *Almeda v. Cariño*, 443 Phil. 182, 192 (2003), *Biesterbos v. Court of Appeals*, supra; *Vicente v. Planters Development Bank*, 444 Phil. 309, 323-324 (2003).

[31] Emphasis supplied.

[32] 128 Phil. 368 (1967).

[33] *Id.* at 372.

[34] 132 Phil. 184 (1968).

[35] *Id.* at 188. See also *Commissioner of Internal Revenue v. Visayan Electric Co., et al.*, No. L-24921, March 31, 1967, 125 Phil. 1125, 1128 (1967) citing *Zulueta v. Paredes*, 63 Phil. 1, 4-5; *Arive v. Ybañez*, 92 Phil. 1069, 1070; *Facundo v. Pabalan*, L-17746, and *Ulep v. Carbonel*, L-17807, jointly decided on January 31, 1962.

[36] RULES OF COURT (1964).

[37] *Baldisimo v. Court of First Instance of Capi*, supra. Also see *Facundo v. Pabalan* No. L-17746, 31 January 1962, 4 SCRA 375, 383.

[38] The cases of *Baldisimo* and *Alcober* were decided applying the 1964 Rules of Court. Revised Rules of Court of 1997, Rule 41, Sec. 9, now provides for a different effect produced by perfected appeals, to wit:

SEC. 9. Perfection of Appeal; effect thereof. —A party's appeal by notice of appeal is deemed perfected as to him upon the filing of the notice of appeal in due time.

A party's appeal by record on appeal is deemed perfected as to him with respect to the subject matter thereof upon the approval of the record on appeal filed in due time.

In appeals by notice of appeal, the court loses jurisdiction over the case upon the perfection of the appeals filed in due time and the expiration of the time to appeal of the other parties.

In appeals by record on appeal, the court loses jurisdiction only over the subject matter thereof upon the approval of the records on appeal filed in due time and the expiration of the time to appeal of the other parties.

In either case, prior to the transmittal of the original record or the record on appeal, the court may issue orders

for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal, approve compromises, permit appeals of indigent litigants, order execution pending appeal on accordance with section 2 of Rule 39, and allow withdrawal of the appeal.

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