

ATOK FINANCE CORPORATION, PETITIONER, VS. COURT OF APPEALS, SANYU CHEMICAL CORPORATION, DANILO E. ARRIETA, NENI-TA B. ARRIETA, PABLITO BERMUNDO AND LEOPOLDO HALILI, RESPONDENTS.

G.R. No. 80078. May 18, 1993

Ponente: FELICIANO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-80078/>

FELICIANO, J.:

Atok Finance Corporation ("Atok Finance") asks us to review and set aside the Decision of the Court of Appeals which reversed a decision of the trial court ordering private respondents to pay jointly and severally to petitioner Atok Finance certain sums of money.

On 27 July 1979, private respondents Sanyu Chemical Corporation ("Sanyu Chemical") as principal and Sanyu Trading Corporation ("Sanyu Trading") along with individual private stockholders of Sanyu Chemical, namely, private respondents spouses Danilo E. Arrieta and Nenita B. Arrieta, Leopoldo G. Halili and Pablito Bermundo as sureties, executed a Continuing Suretyship Agreement in favor of Atok Finance as creditor. Under this Agreement, Sanyu Trading and the individual private respondents who were officers and stockholders of Sanyu Chemical did:

"(1) For Valuable and/or other consideration x x x, jointly and severally unconditionally guarantee to ATOK FINANCE CORPORATION (hereinafter called Creditor), the full, faithful and prompt payment and discharge of any and all indebtedness of [Sanyu Chemical] x x x (hereinafter called Principal) to the Creditor. The word 'indebtedness' is used herein in its most comprehensive sense and includes any and all advances, debts, obligations and liabilities of Principal or any one or more of them, here [to] fore, now or hereafter made, incurred or created, whether voluntary or involuntary and however arising, whether direct or acquired by the Creditor by assignment or succession, whether due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined and whether the Principal may be liable individually or jointly with others, or whether recovery upon such indebtedness may be or hereafter become barred by any statute of limitations, or whether such indebtedness may be or otherwise become unenforceable." [1] (Underscoring supplied)

Other relevant provisions of the Continuing Suretyship Agreement follow:

"(2) This is a continuing suretyship relating to any indebtedness, including that arising under successive transactions which shall either continue the indebtedness from time to time or renew it after it has been satisfied. This suretyship is binding upon the heirs, successors, executors, administrators and assigns of the surety, and the benefits hereof shall extend to and include the successors and assigns of the Creditor.

(3) The obligations hereunder are joint and several and independent of the obligations of the Principal. A separate action or actions may be brought and prosecuted against the Principal and whether or not the Principal be joined in any such action or actions.

x x x x x x x x

(6) In addition to all liens upon, and rights of set-off against the moneys, securities or other property of the Surety given to the Creditor by law, the Creditor shall have a lien upon and a right of set-off against all moneys, securities, and other property of the Surety now or hereafter in the possession of the Creditor; and every such lien or right of set-off may be exercised without need of demand upon or notice to the Surety. No lien or right of set-off shall be deemed to have been waived by any act, omission or conduct on the part of the Creditor, or by any neglect to exercise such right of set-off or to enforce such lien, or by any delay in so doing, and every right of set-off or lien shall continue in full force and effect until such right of set-off or lien is specifically waived or released by an instrument in writing executed by the Creditor.

(7) Any indebtedness of the Principal now or hereafter held by the Surety is hereby subordinated to the indebtedness of the Principal to the Creditor; and if the Creditor so requests, such indebtedness of the Principal to the Surety shall be collected, enforced and received by the Surety as trustee for the Creditor and shall be paid over to the Creditor on account of the indebtedness of the Principal to the Creditor but without reducing or affecting in any manner the liability of the Surety under the other provisions of this suretyship.

x x x x x x x x.”[2]

(Emphases supplied)

On 27 November 1981, Sanyu Chemical assigned its trade receivables outstanding as of 27 November 1981 with a total face value of P125,871.00 to Atok Finance in consideration of receipt from Atok Finance of the amount of P105,000.00. The assigned receivables carried a standard term of thirty (30) days; it appeared, however, that the standard commercial practice was to grant an extension of up to one hundred twenty (120) days without penalties. The relevant portions of this Deed of Assignment read as follows:

"1. FOR VALUE RECEIVED, the ASSIGNOR does hereby SELL, TRANSFER and ASSIGN all his/its rights, title and interest in the contracts, receivables, accounts, notes, leases, deeds of sale with reservation of title, invoices, mortgages, checks, negotiable instruments and evidences of indebtedness listed in the schedule forming part hereinafter called 'Contract' or 'Contracts.'

2. To induce the ASSIGNEE to purchase the above Contracts, the ASSIGNOR does hereby certify, warrant and represent that:

(a) He/It is the sole owner of the assigned Contracts free and clear of claims of any other party except the herein ASSIGNEE and has the right to transfer absolute title thereto the ASSIGNEE;

(b) Each assigned Contract is bonafide and the amount owing and to become due on each contract is correctly stated upon the schedule or other evidences of the Contract delivered pursuant thereto;

(c) Each assigned Contract arises out of the sale of merchandise/s which has been delivered and/or services which have been rendered and none of the Contract is now, nor will at any time become, contingent upon the fulfillment of any contract or condition whatsoever, or subject to any defense, offset or counterclaim;

(d) No assigned Contract is represented by any note or other evidence of indebtedness or other security document except such as may have been endorsed, assigned and delivered by the ASSIGNOR to the ASSIGNEE simultaneously with the assignment of such Contract;

(e) No agreement has been made, or will be made, with any debtor for any deduction discount or return of merchandise, except as may be specifically noted at the time of the assignment of the Contract;

(f) None of the terms or provisions of the assigned Contracts have been amended, modified or waived;

(g) The debtor/s under the assigned Contract/s are solvent and his/its/their failure to pay the assigned Contracts

and/or any installment thereon upon maturity thereof shall be conclusively considered as a violation of this warranty; and

(h) Each assigned Contract is a valid obligation of the buyer of the merchandise and/or service rendered under the Contract and that no Contract is overdue.

The foregoing warranties and representations are in addition to those provided for in the Negotiable Instruments Law and other applicable laws. Any violation thereof shall render the ASSIGNOR immediately and unconditionally liable to pay the ASSIGNEE jointly and severally with the debtors under the assigned contracts, the amounts due thereon.

x x x x x x x x

4. The ASSIGNOR shall without compensation or cost, collect and receive in trust for the ASSIGNEE all payments made upon the assigned contracts and shall remit to the ASSIGNEE all collections on the said Contracts as follows:

P5,450.00 due on January 2, 1982 on every 15th day (semi-monthly) until November 1, 1982

P110,550.00 balloon payment after 12 months."[3] (Emphases supplied)

Later, additional trade receivables were assigned by Sanyu Chemical to Atok Finance with a total face value of P100,378.45.

On 13 January 1984, Atok Finance commenced action against Sanyu Chemical, the Arrieta spouses, Pablito Bermundo and Leopoldo Halili before the Regional Trial Court of Manila to collect the sum of P120,240.00 plus penalty charges amounting to P0.03 for every peso due and payable for each month starting from 1 September 1983. Atok Finance alleged that Sanyu Chemical had failed to collect and remit the amounts due under the trade receivables.

Sanyu Chemical and the individual private respondents sought dismissal of Atok's claim upon the ground that such claim had prescribed under Article 1629 of the Civil Code and for lack of cause of action. The private respondents contended that the Continuing Suretyship Agreement, being an accessory contract, was null and void since, at the time of its execution, Sanyu Chemical had no pre-existing obligation due to Atok Finance.

At the trial, Sanyu Chemical and the individual private respondents failed to present any evidence on their own behalf, although the individual private respondents submitted a memorandum in support of their argument. After trial, on 1 April 1985, the trial court rendered a decision in favor of Atok Finance. The dispositive portion of this decision reads as follows:

"ACCORDINGLY, judgment is hereby rendered in favor of the plaintiff ATOK FINANCE CORPORATION; and against the defendants SANYU CHEMICAL CORPORATION, DANILO E. ARRIETA, NENITA B. ARRIETA, PABLITO BERMUNDO and LEOPOLDO HALILI, ordering the said defendants, jointly and severally, to pay the plaintiff:

- (1) P120,240.00 plus P0.03 for each peso for each month from September 1, 1983 until the whole amount is fully paid;
- (2) P5,000.00 as attorney's fees; and
- (3) To pay the costs.

SO ORDERED."[4]

Private respondents went on appeal before the then Intermediate Appellate Court ("IAC"), and the appeal was there docketed as AC-G.R. No. 07005-CV. The case was raffled to the Third Civil Cases Division of the IAC. In a resolution dated 21 March 1986, that Division dismissed the appeal upon the ground of abandonment, since the private respondents had failed to file their appeal brief notwithstanding receipt of the notice to do so. On 4 June 1986, entry of judgment was made by the Clerk of Court of the IAC. Accordingly, Atok Finance went before the trial court and sought a writ of execution to enforce the decision of the trial court of 1 April 1985. The trial court issued a writ of execution on 23 July 1986.[5] Petitioner alleged that the writ of execution was served on private respondents.[6]

However, on 27 August 1986, private respondents filed a Petition for Relief from Judgment before the Court of Appeals. This Petition was raffled off to the 15th Division of the Court of Appeals. In that Petition, private respondents claimed that their failure to file their appeal brief was due to excusable negligence, that is, that their previous counsel had entrusted the preparation and filing of the brief to one of his associates, which associate, however, had unexpectedly resigned from the law firm without returning the records of cases he had been handling, including the appeal of private respondents. Atok Finance opposed the Petition for Relief arguing that no valid ground existed for setting aside the resolution of the Third Division of the then IAC.

The 15th Division of the Court of Appeals nonetheless granted the Petition for Relief from Judgment "in the paramount interest of justice,"[7] set aside the resolution of the Third Civil Cases Division of the then IAC, and gave private respondents a non-extendible period of fifteen (15) days within which to file their appeal brief. Private respondents did file their appeal brief.

The 15th Division, on 18 August 1987, rendered a Decision on the merits of the appeal, and reversed and set aside the decision of the trial court and entered a new judgment dismissing the complaint of Atok Finance, ordering it to pay private respondents P3,000.00 as attorney's fees and to pay the costs.

Atok Finance moved to set aside the decision of the 15th Division of the Court of Appeals, inviting attention to the resolution of the IAC's Third Civil Cases Division of 21 March 1986 originally dismissing private respondents' appeal for abandonment thereof. In a resolution dated 18 August 1987, the 15th Division denied Atok Finance's motion stating that it had granted the Petition for Relief from Judgment and given private respondents herein fifteen (15) days within which to file an appeal brief, while Atok Finance did not file an appellee's brief, and that its decision was arrived at "on the basis of appellant's brief and the original records of the appeal case."

In the present Petition for Review, Atok Finance assigns the following as errors on the part of the Court of Appeals in rendering its decision of 18 August 1987:

- "(1) that it had erred in ruling that a continuing suretyship agreement cannot be effected to secure future debts;
- (2) that it had erred in ruling that the continuing suretyship agreement was null and void for lack of consideration without any evidence whatsoever [being] adduced by private respondents;
- (3) that it had erred in granting the Petition for Relief from Judgment while execution proceedings [were] on-going in the trial court." [8] (Underscoring in the original)

As a preliminary matter, we note that a Division of the Court of Appeals is co-equal with any other Division of the same court. Accordingly, a Division of the Court of Appeals has no authority to consider and grant a petition for relief from a judgment rendered by another Division of the same court. In the case at bar, however, we must note that an intervening event had occurred between the resolution of 21 March 1986 of the Third Civil Cases Division of the IAC dismissing private respondents' appeal and the 30 September 1986 order of the 15th Division

of the Court of Appeals granting the Petition for Relief from Judgment. On 28 July 1986, the old Intermediate Appellate Court went out of existence and a new court, the Court of Appeals, came into being, was organized and commenced functioning.[9] This event, and the probability that some confusion may have accompanied the period of transition from the IAC to the Court of Appeals, lead us to believe that the defect here involved should be disregarded as being of secondary importance. At the same time, nothing in this decision should be read as impliedly holding that a petition for relief from judgment is available in respect of a decision rendered by the Court of Appeals; this issue is best reserved for determination in some future case where it shall have been adequately argued by the parties.

We turn, therefore, to a consideration of the first substantive issue addressed by the Court of Appeals in rendering its Decision on the merits of the appeal: whether the individual private respondents may be held solidarily liable with Sanyu Chemical under the provisions of the Continuing Suretyship Agreement, or whether that Agreement must be held null and void as having been executed without consideration and without a pre-existing principal obligation to sustain it.

The Court of Appeals held on this first issue as follows:

"It is the contention of private appellants that the suretyship agreement is null and void because it is not in consonance with the laws on guaranty and security. The said agreement was entered into by the parties two years before the Deed of Assignment was executed. Thus, allegedly, it ran counter to the provision that guaranty cannot exist independently because by nature it is merely an accessory contract. The law on guaranty is applicable to surety to some extent *Manila Surety and Fidelity Co. v. Baxter Construction & Co.*, 53 O.G. 8836; and, *Arran v. Manila Fidelity & Surety Co.*, 53 O.G. 7247.

We find merit in this contention.

Although obligations arising from contracts have the force of law between the contracting parties, (Article 1159 of the Civil Code) this does not mean that the law is inferior to it; the terms of the contract could not be enforced if not valid. So, even if, as in this case, the agreement was for a continuing suretyship to include obligations enumerated in paragraph 2 of the agreement, the same could not be enforced. First, because this contract, just like guaranty, cannot exist without a valid obligation (Art. 2052, Civil Code); and, second, although it may be given as security for future debt (Art. 2053, C.C.), the obligation contemplated in the case at bar cannot be considered 'future debt' as envisioned by this law.

There is no proof that when the suretyship agreement was entered into, there was a pre-existing obligation which served as the principal obligation between the parties. Furthermore, the 'future debts' alluded to in Article 2053 refer to debts already existing at the time of the constitution of the agreement but the amount thereof is unknown, unlike in the case at bar where the obligation was acquired two years after the agreement." [10] (Underscoring supplied)

We consider that the Court of Appeals here was in serious error. It is true that a guaranty or a suretyship agreement is an accessory contract in the sense that it is entered into for the purpose of securing the performance of another obligation which is denominated as the principal obligation. It is also true that Article 2052 of the Civil Code states that "a guarantee cannot exist without a valid obligation." This legal proposition is not, however, like most legal principles, to be read in an absolute and literal manner and carried to the limit of its logic. This is clear from Article 2052 of the Civil Code itself:

"Art. 2052. A guaranty cannot exist without a valid obligation.

Nevertheless, a guaranty may be constituted to guarantee the performance of a voidable or an unenforceable contract. It may also guarantee a natural obligation." (Emphases supplied)

Moreover, Article 2053 of the Civil Code states:

"Art. 2053. A guaranty may also be given as security for future debts, the amount of which is not yet known; there can be no claim against the guarantor until the debt is liquidated. A conditional obligation may also be secured." (Underscoring supplied)

The Court of Appeals apparently overlooked our caselaw interpreting Articles 2052 and 2053 of the Civil Code. In *National Rice and Corn Corporation (NARIC) v. Jose A. Fojas and Alto Surety Co., Inc.*,^[11] the private respondents assailed the decision of the trial court holding them liable under certain surety bonds filed by private respondent Fojas and issued by private respondent Alto Surety Co. in favor of petitioner NARIC, upon the ground that those surety bonds were null and void "there being no principal obligation to be secured by said bonds." In affirming the decision of the trial court, this Court, speaking through Mr. Justice J.B.L. Reyes, made short shrift of the private respondents' doctrinaire argument:

"Under his third assignment of error, appellant Fojas questions the validity of the additional bonds (Exhs. D and D-1) on the theory that when they were executed, the principal obligation referred to in said bonds had not yet been entered into, as no copy thereof was attached to the deeds of suretyship. This defense is untenable, because in its complaint the NARIC averred, and the appellant did not deny that these bonds were posted to secure the additional credit that Fojas has applied for, and the credit increase over his original contract was sufficient consideration for the bonds. That the latter were signed and filed before the additional credit was extended by the NARIC is no ground for complaint. Article 1825 of the Civil Code of 1889, in force in 1948, expressly recognized that 'a guaranty may also be given as security for future debts the amount of which is not yet known.'" (Underscoring supplied)

In *Rizal Commercial Banking Corporation v. Arro*,^[12] the Court was confronted again with the same issue, that is, whether private respondent was liable to pay a promissory note dated 29 April 1977 executed by the principal debtor in the light of the provisions of a comprehensive surety agreement which petitioner bank and the private respondent had earlier entered into on 19 October 1976. Under the comprehensive surety agreement, the private respondents had bound themselves as solidary debtors of the Diacor Corporation not only in respect of existing obligations but also in respect of future ones. In holding private respondent surety (Residoro Chua) liable under the comprehensive surety agreement, the Court said:

"The surety agreement which was earlier signed by Enrique Go, Sr. and private respondent, is an accessory obligation, it being dependent upon a principal one which, in this case is the loan obtained by Daicor as evidenced by a promissory note. What obviously induced petitioner bank to grant the loan was the surety agreement whereby Go and Chua bound themselves solidarily to guaranty the punctual payment of the loan at maturity. By terms that are unequivocal, it can be clearly seen that the surety agreement was executed to guarantee future debts which Daicor may incur with petitioner, as is legally allowable under the Civil Code. Thus—?

'Article 2053.- A guarantee may also be given as security for future debts, the amount of which is not yet known; there can be no claim against the guarantor until the debt is liquidated. A conditional obligation may also be secured.' "[13] (Underscoring supplied)

It is clear to us that the *Rizal Commercial Banking Corporation* and the *NARIC* cases rejected the distinction which the Court of Appeals in the case at bar sought to make with respect to Article 2053, that is, that the "future debts" referred to in that Article relate to "debts already existing at the time of the constitution of the agreement but the amount [of which] is unknown," and not to debts not yet incurred and existing at that time. Of course, a surety is not bound under any particular principal obligation until that principal obligation is born. But there is no theoretical or doctrinal difficulty inherent in saying that the suretyship agreement itself is valid and binding even

before the principal obligation intended to be secured thereby is born, any more than there would be in saying that obligations which are subject to a condition precedent are valid and binding before the occurrence of the condition precedent.[14]

Comprehensive or continuing surety agreements are in fact quite commonplace in present day financial and commercial practice. A bank or a financing company which anticipates entering into a series of credit transactions with a particular company, commonly requires the projected principal debtor to execute a continuing surety agreement along with its sureties. By executing such an agreement, the principal places itself in a position to enter into the projected series of transactions with its creditor; with such suretyship agreement, there would be no need to execute a separate surety contract or bond for each financing or credit accommodation extended to the principal debtor. As we understand it, this is precisely what happened in the case at bar.

We turn to the second substantive issue, that is, whether private respondents are liable under the Deed of Assignment which they, along with the principal debtor Sanyu Chemical, executed in favor of petitioner, on the receivables thereby assigned.

The contention of Sanyu Chemical was that Atok Finance had no cause of action under the Deed of Assignment for the reason that Sanyu Chemical's warranty of the debtors' solvency had ceased. In submitting this contention, Sanyu Chemical relied on Article 1629 of the Civil Code which reads as follows:

"Art. 1629. In case the assignor in good faith should have made himself responsible for the solvency of the debtor, and the contracting parties should not have agreed upon the duration of the liability, it shall last for one year only, from the time of the assignment if the period had already expired.

If the credit should be payable within a term or period which has not yet expired, the liability shall cease one year after the maturity."

Once more, the Court of Appeals upheld the contention of private respondents and held that Sanyu Chemical was free from liability under the Deed of Assignment. The Court of Appeals said:

"x x x Article 1629 provides for the duration of assignor's warranty of debtor's solvency depending on whether there was a period agreed upon for the existence of such warranty, analyzing the law thus:

- (1) if there is a period (or length of time) agreed upon, then, for such period;
- (2) if no period (or length of time) was agreed upon, then:
 - (a) one year from assignment - if debt was due at the time of the assignment
 - (b) one year from maturity - if debt was not yet due at the time of the assignment.

The debt referred to in this law is the debt under the assigned contract or the original debts in favor of the assignor which were later assigned to the assignee. The debt alluded to in the law, is not the debt incurred by the assignor to the assignee as contended by the appellant.

Applying the said law to the case at bar, the records disclose that none of the assigned receivables had matured on November 27, 1981 when the Deed of Assignment was executed. The oldest debt then existing was that contracted on November 3, 1981 and the latest was contracted on December 4, 1981.

Each of the invoices assigned to the assignee contained a term of 30 days (Exhibits B-3-A to 5 and extended by the notation which appeared in the 'Schedule of Assigned Receivables' which states that the 'x x x the terms stated on our invoices were normally extended up to a period of 120 days x x x.' (Exhibit B-2). Considering the terms in the invoices plus the ordinary practice of the company, thus, the assigned debts matured between April 3, 1982 to May 4, 1982. The assignor's warranty for debtor's warranty, in this case, would then be from

the maturity period up to April 3, 1983 or May 4, 1983 to cover all of the receivables in the invoices.

The letter of demand executed by appellee was dated August 29, 1983 (Exhibit D) and the complaint was filed on January 13, 1984. Both dates were beyond the warranty period.

In effect, therefore, company-appellant was right when it claimed that appellee had no cause of action against it or had lost its cause of action."^[15] (Underscoring supplied)

Once again, however, we consider that the Court of Appeals was in reversible error in so concluding. The relevant provision of the Deed of Assignment may be quoted again in this connection:

"2. To induce the ASSIGNEE [Atok Finance] to purchase the above contracts, the ASSIGNOR [Sanyu Chemical] does hereby certify, warrant and represent that x x x

(g) the debtor/s under the assigned contract/s are solvent and his/its/their failure to pay the assigned contract/s and/or any installment thereon upon maturity thereof shall be conclusively considered as a violation of this warranty; and x x x

The foregoing warranties and representations are in addition to those provided for in the Negotiable Instruments Law and other applicable laws. Any violation thereof shall render the ASSIGNOR immediately and unconditionally liable to pay the ASSIGNEE jointly and severally with the debtors under the assigned contracts, the amounts due thereon.

x x x x x x x x."

(Emphases supplied)

It may be stressed as a preliminary matter that the Deed of Assignment was valid and binding upon Sanyu Chemical. Assignment of receivables is a commonplace commercial transaction today. It is an activity or operation that permits the assignee to monetize or realize the value of the receivables before the maturity thereof. In other words, Sanyu Chemical received from Atok Finance the value of its trade receivables it had assigned; Sanyu Chemical obviously benefitted from the assignment. The payments due in the first instance from the trade debtors of Sanyu Chemical would represent the return of the investment which Atok Finance had made when it paid Sanyu Chemical the transfer value of such receivables.

Article 1629 of the Civil Code invoked by private respondents and accepted by the Court of Appeals is not, in the case at bar, material. The liability of Sanyu Chemical to Atok Finance rests not on the breach of the warranty of solvency; the liability of Sanyu Chemical was not *ex lege* (ex Article 1629) but rather *ex contractu*. Under the Deed of Assignment, the effect of non-payment by the original trade debtors was a breach of warranty of solvency by Sanyu Chemical, resulting in turn in the assumption of solidary liability by the assignor under the receivables assigned. In other words, the assignor Sanyu Chemical becomes a solidary debtor under the terms of the receivables covered and transferred by virtue of the Deed of Assignment. And because assignor Sanyu Chemical became, under the terms of the Deed of Assignment, solidary obligor under each of the assigned receivables, the other private respondents (the Arrieta spouses, Pablito Bermundo and Leopoldo Halili), became solidarily liable for that obligation of Sanyu Chemical, by virtue of the operation of the Continuing Suretyship Agreement. Put a little differently, the obligations of individual private respondent officers and stockholders of Sanyu Chemical under the Continuing Suretyship Agreement, were activated by the resulting obligations of Sanyu Chemical as solidary obligor under each of the assigned receivables by virtue of the operation of the Deed of Assignment. That solidary liability of Sanyu Chemical is not subject to the limiting period set out in Article 1629 of the Civil Code.

It follows that at the time the original complaint was filed by Atok Finance in the trial court, it had a valid and

enforceable cause of action against Sanyu Chemical and the other private respondents. We also agree with the Court of Appeals that the original obligors under the receivables assigned to Atok Finance remain liable under the terms of such receivables.

WHEREFORE, for all the foregoing, the Petition for Review is hereby GRANTED DUE COURSE, and the Decision of the Court of Appeals dated 18 August 1987 and its Resolution dated 30 September 1987 are hereby REVERSED and SET ASIDE. A new judgment is hereby entered REINSTATING the Decision of the trial court in Civil Case No. 84-22198 dated 1 April 1985, except only that, in the exercise of this Court's discretionary authority equitably to mitigate the penalty clause attached to the Deed of Assignment, that penalty is hereby reduced to eighteen percent (18%) per annum (instead of P0.03 for every peso monthly [or 36% per annum]). As so modified, the Decision of the trial court is hereby AFFIRMED. Costs against private respondents.

SO ORDERED.

Bidin, Davide, Jr., Romero, and Melo, JJ., concur.

[1] Exhibit "A," Records, p. 60.

[2] Id.

[3] Records, p. 63.

[4] Record, p. 136.

[5] Annex "F" of Petition, Rollo, p. 37.

[6] Rollo, p. 12.

[7] See Annex "J" of Petition, Rollo, p. 56.

[8] Rollo, pp. 13-14.

[9] Letter of Associate Justice Reynato S. Puno, Court of Appeals, dated 14 November 1990, A.M. No. 90-11-2697-CA, 29 June 1992; 210 SCRA 589 (1992).

[10] Court of Appeals' Decision, pp. 10-11; Rollo, pp. 52-53.

[11] 103 Phil. 1131 (1958).

[12] 115 SCRA 777 (1982).

[13] 115 SCRA at 781-782.

[14] Please see 12 Manresa, Comentarios al Código Civil Español (5th Revised Edition, 1951), pp. 221-222. Scaevola offers the following terse comment on this point:

"Se reduce a admitir la constitucion de fianza precediendo al nacimiento de la obligacion afianzada. Fidejussor et praecedere obligationem et sequi potest.

Ello es de lo mas natural, porque a la manera que puede contraerse una deuda para lo futuro, deudas sujetas a condicion suspensiva, es logico que se admita la fianza de ahora bajo el supuesto o condicion misma de que la deuda u obligacion principal lleque a constituirse o producirse efectivamente.

Despues de todo, aun en las obligaciones condicionales, que pueden llegar a tener efectividad o no, segun el

evento puesto en condicion, existe ya, desde luego, una obligacion, la de estar a las resultas del evento mismo, e igual, identicamente, ocurrira con la fianza ofrecida en garantia de la obligacion futura.

Donde podria haber duda, si la ley no lo previese cumplidamente, seria en el segundo inciso, en lo de poder prestarse fianza por deudas de cuantia desconocida de momento.

x x x x x x x x"

(Vol. 28, Codigo Civil, pp. 540-541 [1953]; emphases supplied)

[15] Court of Appeals' Decision, pp. 7-8; Rollo, pp. 49--50.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.