

PHILIPPINE NATIONAL BANK, PETITIONER, VS. THE HON. COURT OF APPEALS AND AMBROSIO PADILLA, RESPONDENTS.

G.R. No. 88880. April 30, 1991

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

The Philippine National Bank (PNB) has appealed by certiorari from the decision promulgated on June 27, 1989 by the Court of Appeals in CA-G.R. CV No. 09791 entitled, "AMBROSIO PADILLA, plaintiff-appellant versus PHILIPPINE NATIONAL BANK, defendant-appellee," reversing the decision of the trial court which had dismissed the private respondent's complaint "to annul interest increases." (p. 32, Rollo.) The Court of Appeals rendered judgment:

"x x x declaring the questioned increases of interest as unreasonable, excessive and arbitrary and ordering the defendant-appellee [PNB] to refund to the plaintiff-appellant the amount of interest collected from July, 1984 in excess of twenty-four percent (24%) per annum. Costs against the defendant-appellee." (pp. 14-15, Rollo.)

In July 1982, the private respondent applied for, and was granted by petitioner PNB, a credit line of P1.8 million, secured by a real estate mortgage, for a term of two (2) years, with 18% interest per annum. Private respondent executed in favor of the PNB a Credit Agreement, two (2) promissory notes in the amount of P900,000.00 each, and a Real Estate Mortgage Contract.

The Credit Agreement provided that —

"9.06 Other Conditions. The Borrowers hereby agree to be bound by the rules and regulations of the Central Bank and the current and general policies of the Bank and those which the Bank may adopt in the future, which may have relation to or in any way affect the Line, which rules, regulations and policies are incorporated herein by reference as if set forth herein in full. Promptly upon receipt of a written request from the Bank, the Borrowers shall execute and deliver such documents and instruments, in form and substance satisfactory to the Bank, in order to effectuate or otherwise comply with such rules, regulations and policies." (p. 85, Rollo.)

The Promissory Notes, in turn, uniformly authorized the PNB to increase the stipulated 18% interest per annum "within the limits allowed by law at any time depending on whatever policy it [PNB] may adopt in the future; Provided, that, the interest rate on this note shall be correspondingly decreased in the event that the applicable maximum interest rate is reduced by law or by the Monetary Board." (pp. 85-86, Rollo; underlining ours.)

The Real Estate Mortgage Contract likewise provided that:

"(k) INCREASE OF INTEREST RATE

"The rate of interest charged on the obligation secured by this mortgage as well as the interest on the amount which may have been advanced by the MORTGAGEE, in accordance with the provisions hereof, shall be subject during the life of this contract to such an increase within the rate allowed by law, as the Board of Directors of the MORTGAGEE may prescribe for its debtors." (p. 86, Rollo; emphasis supplied.)

Four (4) months advance interest and incidental expenses/charges were deducted from the loan, the net proceeds of which were released to the private respondent by crediting or transferring the amount to his current account with the bank.

On June 20, 1984, PNB informed the private respondent that (1) his credit line of P1.8 million "will expire on July 4, 1984," (2) "[i]f renewal of the line for another year is intended, please submit soonest possible your request," and (3) the "present policy of the Bank requires at least 30% reduction of principal before your line can be renewed." (pp. 86-87, Rollo.) Complying, private respondent on June 25, 1984, paid PNB P540,000.00 (30% of P1.8 million) and requested that "the balance of P1,260,000.00 be renewed for another period of two (2) years under the same arrangement" and that "the increase of the interest rate of my mortgage loan be from 18% to 21%" (p. 87, Rollo.)

On July 4, 1984, private respondent paid PNB P360,000.00.

On July 18, 1984, private respondent reiterated in writing his request that "the increase in the rate of interest from 18% be fixed at 21% or 24%. (p. 87, Rollo.)

On July 26, 1984, private respondent made an additional payment of P100,000.

On August 10, 1984, PNB informed private respondent that "we can not give due course to your request for preferential interest rate in view of the following reason: Existing Loan Policies of the bank requires 32% for loan of more than one year; Our present cost of funds has substantially increased." (pp. 87-88, Rollo.)

On August 17, 1984, private respondent further paid PNB P150,000.00.

In a letter dated August 24, 1984 to PNB, private respondent announced that he would "continue making further payments, and instead of a 'loan of more than one year,' I shall pay the said loan before the lapse of one year or before July 4, 1985. * * * I reiterate my request that the increase of my rate of interest from 18% 'be fixed at 21% or 24%.'" (p. 88, Rollo.)

On September 12, 1984, private respondent paid PNB P160,000.00.

In letters dated September 12, 1984 and September 13, 1984, PNB informed private respondent that "the interest rate on your outstanding line/loan is hereby adjusted from 32% p.a. to 41% p.a. (35% prime rate + 6%) effective September 6, 1984;" and further explained "why we can not grant your request for a lower rate of 21% or 24%." (pp. 88-89, Rollo.)

In a letter dated September 24, 1984 to PNB, private respondent registered his protest against the increase of interest rate from 18% to 32% on July 4, 1984 and from 32% to 41% on September 6, 1984.

On October 15, 1984, private respondent reiterated his request that the interest rate should not be increased from 18% to 32% and from 32% to 41%. He also attached (as payment) a check for P140,000.00.

Like rubbing salt on the private respondent's wound, the petitioner informed private respondent on October 29, 1984, that "the interest rate on your outstanding line/loan is hereby adjusted from 41% p.a. to 48% p.a. (42% prime rate plus 6% spread) effective 25 October 1984." (p. 89, Rollo.)

In November 1984 private respondent paid PNB P50,000.00 thus reducing his principal loan obligation to P300,000.00.

On December 18, 1984, private respondent filed in the Regional Trial Court of Manila a complaint against PNB entitled, "AMBROSIO PADILLA vs. PHILIPPINE NATIONAL BANK" (Civil Case No. 84-28391), praying that judgment be rendered:

"a. Declaring that the unilateral increase of interest rates from 18% to 32%, then to 41% and again to 48% are illegal, not valid nor binding on plaintiff, and that an adjustment of his interest rate from 18% to 24% is reasonable, fair and just;

"b. The interest rate on the P900,000.00 released on September 27, 1982 be counted from said date and not from July 4, 1984;

"c. The excess of interest payment collected by defendant bank by debiting plaintiff's current account be refunded to plaintiff or credited to his current account;

"d. Pending the determination of the merits of this case, a restraining order and/or a writ of preliminary injunction be issued (1) to restrain and/or enjoin defendant bank for [sic] collecting from plaintiff and/or debiting his current account with illegal and excessive increases of interest rates; and (2) to prevent defendant bank from declaring plaintiff in default for non-payment and from instituting any foreclosure proceeding, extrajudicial or judicial, of the valuable commercial property of plaintiff." (pp. 89-90, Rollo.)

In its answer to the complaint, PNB denied that the increases in interest rates were illegal, unilateral excessive and arbitrary and recited the reasons justifying said increases.

On March 31, 1985, the private respondent paid the P300,000-balance of his obligation to PNB (Exh. 5).

The trial court rendered judgment on April 14, 1986, dismissing the complaint because the increases of interest were properly made.

The private respondent appealed to the Court of Appeals. On June 27, 1989, the Court of Appeals reversed the trial court, hence, PNB's recourse to this Court by a petition for review under Rule 45 of the Rules of Court.

The assignments of error raised in PNB's petition for review can be resolved into a single legal issue of whether the bank, within the term of the loan which it granted to the private respondent, may unilaterally change or increase the interest rate stipulated therein at will and as often as it pleased.

The answer to that question is no.

In the first place, although Section 2, P.D. No. 116 of January 29, 1973, authorizes the Monetary Board to prescribe the maximum rate or rates of interest for loans or renewal thereof and to change such rate or rates whenever warranted by prevailing economic and social conditions, it expressly provides that "such changes shall not be made oftener than once every twelve months."

In this case, PNB, over the objection of the private respondent, and without authority from the Monetary Board, within a period of only four (4) months, increased the 18% interest rate on the private respondent's loan obligation three (3) times: (a) to 32% in July 1984; (b) to 41% in October 1984; and (c) to 48% in November 1984. Those increases were null and void, for if the Monetary Board itself was not authorized to make such changes oftener than once a year, even less so may a bank which is subordinate to the Board.

Secondly, as pointed out by the Court of Appeals, while the private respondent-debtor did agree in the Deed of Real Estate Mortgage (Exh. 5) that the interest rate may be increased during the life of the contract "to such increase within the rate allowed by law, as the Board of Directors of the MORTGAGEE may prescribe" (Exh. 5-e-1) or "within the limits allowed by law" (Promissory Notes. Exhs. 2, 3, and 4), no law was ever passed in July to November 1984 increasing the interest rates on loans or renewals thereof to 32%, 41% and 48% (per annum), and no documents were executed and delivered by the debtor to effectuate the increases. The Court of Appeals observed.

"x x x We focus Our attention first of all on the agreement between the parties as embodied in the following

instruments, to wit: (1) Exhibit '1' — Credit Agreement dated July 1, 1982; (2) Exhibit '2' — Promissory Note dated July 5, 1982; (3) Exhibit '3' — Promissory Note dated January 3, 1983; (4) Exhibit '4' — Promissory Note dated December 13, 1983; and (5) Exhibit '5' — Real Estate Mortgage contract dated July 1, 1982.

"Exhibit '1' states in its portion marked Exhibit '1-g-1':

'9.06 Other Conditions. The borrowers hereby agree to be bound by the rules and regulations of the Central Bank and the current and general policies of the Bank and those which the Bank may adopt in the future, which may have relation to or in any way affect the Line, which rules, regulations and policies are incorporated herein by reference as if set forth herein in full. Promptly upon receipt of a written request from the Bank, the Borrowers shall execute and deliver such documents and instruments, in form and substance satisfactory to the Bank, in order to effectuate or otherwise comply with such rules, regulations and policies.'

"Exhibits '2,' '3,' and '4' in their portions respectively marked Exhibits '2-B', '3-B,' and '4-B' uniformly authorize the defendant bank to increase the stipulated interest rate of 18% per annum 'within the limits allowed by law at any time depending on whatever policy it may adopt in the future: Provided, that, the interest rate on this note shall be correspondingly decreased in the event that the applicable maximum interest rate is reduced by law or by the Monetary Board.'

"Exhibit '5' in its portion marked Exhibit '5-e-1' stipulates:

'(k) INCREASE OF INTEREST RATE

'The rate of interest charged on the obligation secured by this mortgage as well as the interest on the amount which may have been advanced by the MORTGAGEE, in accordance with the provisions hereof, shall be subject during the life of this contract to such an increase within the rate allowed by law, as the Board of Directors of the MORTGAGEE may prescribe for its debtors.'

"Clearly, then, the agreement between the parties authorized the defendant bank to increase the interest rate beyond the original rate of 18% per annum but 'within the limits allowed by law' or 'within the rate allowed by law.' it being declared the obligation of the plaintiff as borrower to execute and deliver the corresponding documents and instruments to effectuate the increase." (pp. 11-12, Rollo.)

In *Banco Filipino Savings and Mortgage Bank vs. Navarro*, 152 SCRA 346 (1987), this Court disauthorized the bank from raising the interest rate on the borrowers' loan from 12% to 17% despite an escalation clause in the loan agreement signed by the debtors authorizing Banco Filipino "to correspondingly increase the interest rate stipulated in this contract without advance notice to me/us in the event a law should be enacted increasing the lawful rates of interest that may be charged on this particular kind of loan." (Underscoring supplied.)

In the *Banco Filipino* case, the bank relied on Section 3 of CB Circular No. 494 dated July 1, 1976, (72 O.G. No. 3, p. 676-J) which provided that "the maximum rate of interest, including commissions premiums, fees and other charges on loans with a maturity of more than 730 days by banking institution x x x shall be 19%."

This Court disallowed the increase for the simple reason that said "Circular No. 494, although it has the effect of law is not a law." Speaking through Mine Justice Ameurfina M. Herrera, this Court held:

"It is now clear that from March 17, 1980, escalation clauses to be valid should specifically provide: (1) that there can be an increase in interest if increased by law or by the Monetary Board; and (2) in order for such stipulation to be valid, it must include a provision for reduction of the stipulated interest 'in the event that the applicable maximum rate of interest is reduced by law or by the Monetary Board.'" (p. 111, Rollo.)

In the present case, the PNB relied on its own Board Resolution No. 681 (Exh. 10), PNB Circular No. 40-79-84 (Exh. 13), and PNB Circular No. 40-129-84 (Exh. 15), but those resolution and circulars are neither laws nor

resolutions of the Monetary Board.

CB Circular No. 905, Series of 1982 (Exh. 11) removed the Usury Law ceiling on interest rates —

"x x x increases in interest rates are not subject to any ceiling prescribed by the Usury Law."

but it did not authorize the PNB, or any bank for that matter, to unilaterally and successively increase the agreed interest rates from 18% to 48% within a span of four (4) months, in violation of P.D. 116 which limits such changes to "once every twelve months."

Besides violating P.D. 116, the unilateral action of the PNB in increasing the interest rate on the private respondent's loan, violated the mutuality of contracts ordained in Article 1308 of the Civil Code:

"ART. 1308. The contract must bind both contracting parties; its validity or compliance cannot be left to the will of one of them."

In order that obligations arising from contracts may have the force of law between the parties, there must be mutuality between the parties based on their essential equality. A contract containing a condition which makes its fulfillment dependent exclusively upon the uncontrolled will of one of the contracting parties, is void (*Garcia vs. Rita Legarda, Inc.*, 21 SCRA 555). Hence, even assuming that the P1.8 million loan agreement between the PNB and the private respondent gave the PNB a license (although in fact there was none) to increase the interest rate at will during the term of the loan, that license would have been null and void for being violative of the principle of mutuality essential in contracts. It would have invested the loan agreement with the character of a contract of adhesion, where the parties do not bargain on equal footing, the weaker party's (the debtor) participation being reduced to the alternative "to take it or leave it" (*Qua vs. Law Union & Rock Insurance Co.*, 95 Phil. 85). Such a contract is a veritable trap for the weaker party whom the courts of justice must protect against abuse and imposition.

PNB's successive increases of the interest rate on the private respondent's loan, over the latter's protest, were arbitrary as they violated an express provision of the Credit Agreement. (Exh. 1) Section 9.01 that its terms "may be amended only by an instrument in writing signed by the party to be bound as burdened by such amendment." The increases imposed by PNB also contravene Art. 1956 of the Civil Code which provides that "no interest shall be due unless it has been expressly stipulated in writing."

The debtor herein never agreed in writing to pay the interest increases fixed by the PNB beyond 24% per annum, hence, he is not bound to pay a higher rate than that.

That an increase in the interest rate from 18% to 48% within a period of four (4) months is excessive, as found by the Court of Appeals, is indisputable.

WHEREFORE, finding no reversible error in the decision of the Court of Appeals in CA-G.R. CV No. 09791, the Court resolved to deny the petition for review for lack of merit, with costs against the petitioner.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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