

INVESTORS FINANCE CORPORATION, PETITIONER, VS. COURT OF APPEALS, RICHMANN TRACTORS, INC., RICARDO B. PAJARILLAGA, ELLA P. PAJARILLAGA, JOHN DOE, RICHARD DOE AND PETER DOE, RESPO...*G.R. No. 91334. February 07, 1991*

Ponente: GRINO-AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-91334/>**GRINO-AQUINO, J.:**

This is a case where a financing company that sued to collect its credit of some P1 million was, instead, ordered to pay its debtor approximately P5 million as actual, moral, and exemplary damages and attorney's fees. The case involves a judgment by compromise which was rendered on July 12, 1978 by the Court of First Instance, Branch XXI, in Pasig, Rizal, in Civil Case No. 29671, "Investors' Finance Corporation vs. Richmann Tractors, et al.," but which the Court of First Instance, Branch V, in Quezon City, in a decision dated March 26, 1986, in Civil Case No. Q-26754, "Richmann Tractors, Inc., et al. vs. Investors' Finance Corporation," annulled for extrinsic fraud. The following antecedent facts are culled from the decision of the Court of Appeals which affirmed that decision of the Quezon City court:

"Before April 30, 1974, private respondents (Richmann Tractors Inc. is a corporation of the Pajarillagas with Ricardo Pajarillaga as president)[1] were the owners of certain construction equipment, and, being in need of financing (for the operation of their construction and logging business)[2] they went to the Investors' Finance Corporation (or FNCB Finance) with their equipment as collateral. In the appropriate documents[3] which were executed, it was made to appear that FNCB was the owner of the equipments and that private respondents were merely leasing them. As a consideration for the lease, private respondents were to pay monthly amortizations (over a period of 36 months).[4] So that on April 30, 1974, petitioner FNCB Finance and respondent Richmann Tractors, Inc. executed a 'Lease Agreement' (Annex A, Petition) covering various properties described in the Lease Schedules attached to the Lease Agreement. As security for the payment of respondent Richmann's obligations under the lease Agreement, respondent Ricardo B. Pajarillaga and Ella P. Pajarillaga (respondent spouses) executed a Continuing Guaranty dated April 30, 1974 (Annex B, Petition).

"On May 20, 1976, respondent Richmann also applied for and was granted credit financing facilities by petitioner in the amount of P977,034.88, payable in 24 equal monthly installments commencing on June 20, 1976 and every month thereafter until fully paid, as evidenced by the Non-Negotiable Promissory Note (Annex C, Petition) executed by said respondent. The payment of respondent Richmann's obligations under said Promissory Note is secured by a Continuing Guaranty dated July 31, 1974 (Annex D, Petition) executed by respondent spouses.

"Private respondents defaulted, in their respective obligations under the Lease Agreement, non-Negotiable Promissory Note and the two (2) Deeds of Continuing Guaranty aforementioned. Upon their failure to pay said defaulted obligations notwithstanding petitioner FNCB Finance demands, the latter filed a complaint (Annex E, Petition) for replevin and sum of money, on June 1, 1978, against said respondents, which case was docketed as Civil Case No. 29671." [in the Court of First Instance of Rizal, Branch XXI, hereafter referred to

as the Rizal case.] (pp. 63-65, Rollo.)

"x x x. On June 6, 1978, the writ of replevin prayed in the complaint was issued for the seizure of the heavy equipment and machineries subject of the lease agreement. When the said writ of replevin was served upon plaintiff Ricardo Pajarillaga in his construction project in Cagayan where some of the machineries and equipment sought to be seized were being used, the latter panicked and forthwith proceeded to the office of FNCR and its counsel and thereafter signed the following Compromise Agreement (Exh. P):

"PLAINTIFF, assisted by counsel, and defendants RICHMANN TRACTORS, INC. herein represented by its President Mr. Ricardo B. Pajarillaga, and the Spouses RICARDO B. PAJARILLAGA and ELLA P. PAJARILLAGA, in their respective personal capacities, for and in their own behalf, to this Honorable Court most respectfully manifest that -

"1. Defendants acknowledge their joint and solidary indebtedness to the plaintiff in the above-entitled case consisting of (a) rentals in arrears due under the Lease Agreement in the amount of P537, 284.71, and (b) the outstanding obligation under the Non-Negotiable Promissory in the amount of P559,738.81, or the aggregate sum of ONE MILLION NINETY SEVEN THOUSAND TWENTY THREE AND 52/100 (P1,097,023.52) PESOS, Philippine Currency, as of May 22, 1978.

"2. Defendants acknowledge that plaintiff is the owner of all the properties, subject of the Lease Agreement and the Lease Schedules all attached to the Complaint.

"3. Defendants acknowledge that plaintiff cancelled the Lease Agreement by reason of defendants' failure to pay the obligations thereunder, and demanded for the immediate return of the leased properties described as follows:

[Here follows a list of heavy equipment consisting of 2 road rollers, 2 payloaders, 1 compactor, 2 crawler tractor, 6 dump trucks, 6 bulldozers, subject of the Writ Seizure issued by the Regional Trial Court in the above entitled case.] (pp. 49-50, Rollo.)

"4. Defendants have requested plaintiff to allow them to temporarily operate the above-described properties under the direct control and supervision of plaintiff and/or its representatives with the express understanding that defendants acknowledge and recognize plaintiff's ownership and right to repossess and take custody of the said leased properties in the event of defendants' failure to comply with the terms and conditions hereof, without the necessity of securing an alias writ of seizure on the part of the plaintiff.

"5. In consideration of said defendants' acknowledging all the foregoing, and their representations and requests, plaintiff has agreed to give them time and other concessions regarding payment of their aforesaid outstanding obligations consisting of rentals-in-arrears due under and pursuant to the terms and conditions of the Lease Agreement. Conformably thereto, the parties have agreed to move, as they hereby move, for judgment based on the following terms and conditions:

"(a) On or before June 30, 1978, defendants shall pay to the plaintiff the sum of P100,000.00 to partially liquidate their past due and mature obligations, and to AGCAOILI & ASSOCIATES the sum of P30,300.00, representing the reduced attorney's fees, as well as the sum of P19,700.00, representing the filing fee, cost of replevin bond, summons fee, sheriff's fee and other miscellaneous expenses incurred in the enforcement of the Writ of Seizure, or an aggregate sum of [P150,000.00].

"(b) On or before July 31, 1978, defendants shall pay to the plaintiff the sum of P100,000.00 to further partially liquidate their past due and matured obligations and continuously pay the sum of P100,000.00 every end of the month thereafter until the account is fully paid and satisfied.

"6. It is understood that defendants' faithful compliance with the foregoing schedule of payment is necessary to liquidate its accounts. Failure to comply or make the payments stipulated in paragraph 5 hereof shall constitute a

default hereunder.

“7. It is further understood that defendants shall continue to operate the properties leased under the direct control and supervision of plaintiff, and plaintiff shall be entitled to the rights stated in the Lease Agreement and its accompanying Lease Schedules, particularly the payment of monthly rentals.

“8. In the event that defendants default or delay in the payment of their aforementioned monthly installments as well as the stipulated monthly rentals to the plaintiff in the manner stated therein, or that defendants should fail to well and truly perform the terms and conditions hereof, then (i) the whole obligation remaining unpaid and outstanding under the Compromise Agreement, together with the rentals accruing under the Lease Agreement and its accompanying Lease Schedules, plus attorney's fees equivalent to 25% thereof shall immediately become due and payable; (ii) plaintiff, on its motion ex-parte, shall be entitled to the immediate issuance of a writ of seizure, without any necessity of filing any replevin bond therefor, to seize from the defendants the leased properties; and (iii) plaintiff, on its motion, shall likewise be entitled to an immediate issuance ex-parte of a Writ of Execution to satisfy the judgment to be rendered by this Honorable Court based on this Compromise Agreement.

“WHEREFORE, the parties respectfully pray that judgment be rendered in accordance with the foregoing Compromise Agreement.’

“The said Compromise Agreement was subsequently approved by Branch XXI of this Court and a decision was rendered (on July 12, 1978)[1] enjoining the parties thereto to faithfully comply with the terms and conditions thereof. The plaintiffs were able to pay FNCB the amount of P200,000.00 pursuant to the terms of the said compromise agreement but failed to strictly comply with the same. Whereupon, FNCB filed a motion for execution of the decision and the same was granted by Branch XXI of this Court and the corresponding writ of execution was issued and Sheriff Reyes was specially appointed to enforce the same.” (pp. 52-55, Rollo.)

On January 11, 1979, Sheriff Reyes levied on 18 pieces of heavy equipment in the Richmann compound in Magapit, Lal-lo, Cagayan, and on January 15, 1979, nine (9) pieces in San Isidro, Cabanatuan City (pp. 55-56, Rollo).

On January 17, 1979, Richmann and the Pajarillaga spouses filed in the Court of First Instance in Quezon City a complaint for annulment of the judgment by compromise, rescission of contract and damages (Civil Case No. Q-26754, hereafter referred to as the Quezon City case). Upon receipt of the complaint, Judge Eduardo Tutaan issued an order restraining the Sheriff of Rizal from implementing the writ of execution that was issued by Judge Gregorio Pineda in Civil Case No. 29671 of the Court of First Instance of Rizal at Pasig.

Investors Finance filed a motion to dismiss the complaint for lack of jurisdiction but the motion was denied by Judge Tutaan. A petition for certiorari and prohibition was filed by the petitioner against Judge Tutaan's order denying the motion to dismiss, but it was upheld by the Court of Appeals (CA-G.R. SP No. 08816, April 3, 1979)[2] and by this Court (G.R. No. 50929 promulgated on July 15, 1981)[3] for under the then existing rules (before B.P. Blg. 129 of 1981 transferred such jurisdiction to the Court of Appeals), a court of first instance had authority to annul the judgment of a co-equal court.

After the trial, Judge Tutaan annulled Judge Pineda's decision in the Rizal case on the grounds that:

“In the instant case, there are circumstances of weight indicating that the process of justice has been so completely thwarted or distorted in obtaining the decision in Civil Case No. 29671 that this Court is persuaded in fairness and good conscience to set it aside. They are as follows:

- “1. The plaintiffs (defendants therein) did not file their answer or any responsive pleading in Civil Case No. 29671 and thus were unable to present the merits of their case and interpose valid defenses such as the nullity

of the Lease Agreement for being simulated, not representative of the true and real intention of the parties, or for being against public policy as it sought to circumvent the provisions of the usury law. By making the agreement appear as a lease instead of a simple loan secured by a mortgage, the FNCB was able to impose, as it indeed imposed, usurious rates of interest under the guise of rentals.

"2. The failure of the plaintiffs to file their answer was due to the fact that they were asked to sign a Compromise Agreement which became the basis of the decision under circumstances which left them no alternative but to adhere. The compromise agreement was prepared by the counsel of the FNCB in its Office and signed by the plaintiff spouses without the assistance of counsel notwithstanding the complicated nature of the case and the substantial amount it involved and after making them understand that it was the only way to stay the seizure of their equipment then being used in their construction projects. It is therefore clear that at the time the compromise agreement was presented for signature to the plaintiff spouses they were not capable of and equal to protecting themselves, and that the act of having them sign the same under said circumstances constitutes extrinsic fraud.

"3. By its nature, a Compromise Agreement is a contract with reciprocal concessions between the parties to avoid a litigation. A cursory reading of the compromise agreement submitted in Civil Case No. 29671 shows that it is not a true compromise as the essence of reciprocal concessions is absent and the concessions were solely on the part of the defendants therein (plaintiffs herein)." (pp. 58-59, Rollo.)

The dispositive portion of Judge Tutaan's decision dated March 26, 1986 reads:

"WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and, against the defendants as follows:

"1. The decision rendered in Civil Case No. 29671 entitled 'Investors Finance Corporation vs. Richmann Tractors, Inc., et al.' by Branch XXI of the defunct Court of First Instance of Rizal is declared null and void;

"2. The Lease Contract, Lease Schedules, and Continuing Guaranty executed between plaintiffs and defendant FNCB are declared null and void and of no further legal effect, the transaction being one of simple loan;

"3. The defendant FNCB is held liable to the plaintiffs in the amount of P8,269,411.80 as actual damages representing loss of income, the amount of P1,000,000.00 as moral damages, the amount of P500,000.00 as exemplary damages, and the amount of P150,000.00 as attorney's fees;

"4. The defendants' counterclaim is dismissed.

"Costs against the defendant FNCB." (pp. 47-48, Rollo.)

Petitioner appealed to the Court of Appeals (CA--G.R. CV No. 12027). On September 28, 1989, the Court of Appeals affirmed the judgment of the lower court but reduced the damages. The dispositive portion of its decision reads:

"PREMISES CONSIDERED, the judgment appealed from is hereby amended to read as follows:

"1. The decision rendered in Civil Case No. 29671 entitled, 'Investors Finance Corporation vs. Richmann Tractors, Inc., et al.' by Branch XXI of the defunct Court of First Instance of Rizal is declared null and void;

"2. The Lease Contract, Lease Schedules, and Continuing Guaranty executed between plaintiffs and defendant FNCB are declared null and void and of no further legal effect, the transaction being one of simple loan, which has been fully paid;

"3. The defendant FNCB is held liable to the plaintiffs in the amount of P4,134,705.90 as actual damages representing net loss of income due to seizure of plaintiffs' equipments, plus legal interest of (6%) percent per annum, from the date of the decision on March 6, 1986, until fully paid; and

"4. The defendant FNCB is ordered to pay the plaintiffs the amount of P500,000.00 as moral damages, P200,000.00 as exemplary damages, and P150,000.00 as attorney's fees.

"Costs against the defendant FNCB.

"All other claims and/or counterclaims are hereby DISMISSED for lack of merit." (pp. 69-70, Rollo.)

In due time, after its motion for reconsideration was denied by the Court of Appeals, the petitioner appealed by certiorari to the Supreme Court under Rule 45, alleging that the Court of Appeals erred:

1. in annulling the decision in the Rizal case, Civil Case No. 29671, for extrinsic fraud:
2. in annulling the (1) Lease Agreement, (2) Lease Schedules and (3) Continuing Guaranty and in declaring that the transaction between the parties was a simple loan;
3. in ordering petitioner to pay the private respondents P4,134,705.90 as actual damages plus legal rate of interest from date of the decision until fully paid, P500,000 as moral damages, P200,000 as exemplary damages and P150,000 as attorney's fees and costs;
4. in dismissing petitioner's counterclaim.

While a finding of extrinsic fraud is a factual conclusion, an issue as to the correctness of that conclusion, given the admitted facts, is a legal question which this Court may review under Rule 45 of the Rules of Court.

The finding of the trial court and the Court of Appeals that the judgment by compromise in Civil Case No. 29671 was obtained through extrinsic fraud, was based on the following perceptions of the trial court that:

1. The Pajarillagas failed to file an answer and interpose valid defenses to the complaint in Civil Case No. 29671 because they were asked to sign a compromise agreement which became the basis of the decision.
2. The compromise agreement was prepared by the counsel of FNCB and was signed by the Pajarillagas without the assistance of counsel, hence the spouses were not capable of protecting themselves.
3. The spouses were made to understand that signing the compromise agreement was the only way to stay the seizure of their equipment then being used in their construction projects.
4. The compromise agreement was not a true compromise agreement for it was one-sided in favor of FNCB. (pp. 16-17, Rollo.)
5. FNCB acted with willful deception in clear breach of legal and equitable duty, taking undue and unconscientious advantage of plaintiffs-appellees Pajarillaga spouses (p. 18, Rollo.)

After a careful evaluation of the pleadings and admissions of the parties, the Court does not agree with the lower courts' conclusion that there was extrinsic fraud in securing the judgment by compromise in Civil Case No. 29671.

"x x x. Extrinsic or collateral fraud, as distinguished from intrinsic fraud, connotes any fraudulent scheme executed by a prevailing litigant 'outside the trial of a case against the defeated party, or his agents, attorneys or witnesses, whereby said defeated party is prevented from presenting fully and fairly his side of the case.' But intrinsic fraud takes the form of 'acts of a party in a litigation during the trial, such as the use of forged instruments or perjured testimony, which did not affect the presentation of the case, but did prevent a fair and just determination of the case.'

"Thus, relief is granted to a party deprived of his interest in land where the fraud consists in a deliberate misrepresentation that the lots are not contested when in fact they are; or in applying for and obtaining

adjudication and registration in the name of a co-owner of land which he knows had not been allotted to him in the partition; or in intentionally concealing facts, and conniving with the land inspector to include in the survey plan the bed of a navigable stream; or in willfully misrepresenting that there are no other claims; or in deliberately failing to notify the party entitled to notice; or in inducing him not to oppose an application; or in misrepresenting about the identity of the lot to the true owner by the applicant causing the former to withdraw his opposition. In all these examples the over-riding consideration is that the fraudulent scheme of the prevailing litigant prevented a party from having his day in court or from presenting his case. The fraud, therefore, is one that affects and goes into the jurisdiction of the court." (Libudan vs. Gil, 17 SCRA 27-29; Sterling Investment Corp. vs. Ruiz, 30 SCRA 318, 323.)

None of these fraudulent acts was committed by the petitioner/plaintiff in Civil Case No. 29671, hence the judgment therein is not annulable for extrinsic fraud.

The execution of a compromise agreement by the parties in Civil Case No. 29671 in order to put an end to the litigation, did not constitute extrinsic fraud. Compromises and amicable settlements are in fact encouraged by law and the Rules of Court. One of the purposes of a pre-trial is to abort a law suit by compromise (Rule 20, Rules of Court). A compromise duly approved by the court has the effect and authority of *res judicata* and is immediately executory (Arts. 2028 and 2029, Civil Code).

The Court of Appeals overlooked the fact that the compromise in Civil Case No. 29671 was sought by the Pajarillagas themselves, not by the FNCB, to stop the implementation of the writ of replevin which the trial court had issued in the case. They could have filed a counter-replevin bond and achieved the same objective, but they chose to compromise. They were able to obtain the relief they sought: an extension of time to pay their past due obligation. It is not correct to say, therefore, that the compromise was "one-sided," i.e., that all the advantages were stacked on the creditor's side, with no gain whatsoever to the debtors.

The appellate court's finding that the Pajarillagas did not have the benefit of counsel, and for that reason they were "not capable of protecting themselves," is not correct. Mrs. Pajarillaga admitted in the course of her testimony in court, that she was assisted by a lawyer when she signed the compromise agreement (p. 6, t.s.n., April 8, 1983; see page 34, Rollo). That admission was never withdrawn by her, nor disputed by her husband who also admitted that nobody prevented him from obtaining legal advice before signing the compromise agreement (pp. 15-16, t.s.n., April 8, 1983; p. 23, Rollo).

Absent extrinsic fraud in procuring the judgment by compromise in Civil Case No. 29671, Judge Tutaan's decision annulling said judgment cannot be sustained.

If there was fraud in the compromise in Civil Case No. 29671, it was intrinsic, not extrinsic, for the compromise was based on documents - (1) the Lease Agreement, (2) Lease Schedules, and (3) Continuing Guaranty, which had been simulated to conceal the true agreement of the parties which was: that petitioner would extend to Pajarillaga or Richmann Tractors, Inc. a loan payable in installments, secured by a lien on the borrower's construction equipment and machinery. Instead of executing a chattel mortgage on his various construction equipment and machinery, Pajarillaga fictitiously "sold" them to FNCB which fictitiously "leased" them back to Pajarillaga. Instead of paying monthly amortizations on the loan which he obtained from FNCB, Pajarillaga paid "monthly rentals" for "leasing" his own property from FNCB (pp. 16-17, t.s.n., May 21, 1982, page 35, Rollo).

Petitioner defends the legality of its transaction with Pajarillaga on the theory that financing companies are authorized under Section 3(a) of the Financing Company Act, Republic Act No. 5980, to extend credit facilities to consumers and industrial, commercial or agricultural enterprises by "leasing of x x x heavy equipment and industrial machinery x x x." However, a true "financial leasing" contemplates the extension of credit to assist a buyer in acquiring such heavy equipment and industrial machinery so he can use, and eventually own, them. Thus

is it defined in Section 1, paragraph (1) of the Revised Rules and Regulations implementing Republic Act No. 5980 promulgated by the Securities and Exchange Commission, as follows:

"Section 1. Definition of Terms

"xxx xxx xxx

"i. 'Leasing' shall refer to financial leasing which is a mode of extending credit through a non-cancellable contract under which the lessor purchases or acquires at the instance of the lessee heavy equipment, motor vehicles, industrial machinery, appliances, business and office machines, and other movable property in consideration of the periodic payment by the lessee of a fixed amount of money sufficient to amortize at least 70% of the purchase price or acquisition cost, including any incidental expenses and a margin of profit, over the lease period. The contract shall extend over an obligatory period during which the lessee has the right to hold and use the leased property and shall bear the cost of repairs, maintenance, insurance and preservation thereof, but with no obligation or option on the part of the lessee to purchase the leased property at the end of the lease contract."

Thus, in a true "financial leasing," a finance company purchases on behalf or at the instance of the lessee the heavy equipment or machinery which the latter is interested to buy but has insufficient funds for the purpose. The finance company thereafter leases the equipment to the lessee in consideration of the periodic payment by the lessee of a fixed amount of "rental" sufficient to amortize at least 70% of the acquisition cost of the equipment, including any incidental expenses and a margin of profit, over the lease period during which the lessee has the right to possess and use the leased equipment and to purchase it at the end of the lease period.

Another form of financial leasing is when the seller or dealer of the heavy equipment leases it to the interested buyer who pays a fixed amount of "rental" sufficient to amortize at least 70% of the purchase price including any incidental expenses and a margin of profit.

In both cases, the purpose of the financial leasing transaction is to enable the prospective buyer of the heavy equipment, who cannot yet pay for it in cash, to lease it in the meantime for his use, at a fixed rental sufficient to amortize 70% of the acquisition cost including the expenses and a margin of profit, with the expectation that at the end of the lease period he will be able to pay the balance of the purchase price.

In the present case, however, the transaction between the FNCB and Pajarillaga was not a true financial leasing for the intention of the parties was not to enable Pajarillaga to acquire and use the various heavy equipment and machinery (which already belonged to him or Richmann Tractors Inc.) but to extend to him a loan to use as capital for his construction and logging businesses. As correctly observed by the trial court and the Court of Appeals, the lease agreements were simulated to disguise the true transaction between the parties, which was a loan upon the security of Pajarillaga's various heavy equipment and machinery.

Pajarillaga's action for annulment of the simulated lease agreement was seasonably filed in 1979, within ten years from the date of its execution in 1974 (Art. 1144, Civil Code). However, the trial court and the Court of Appeals should have treated it as an action for reformation of contract.

For, when the true intention of the parties to a contract is not expressed in the instrument purporting to embody their agreement by reason of mistake, fraud, inequitable conduct or accident, the remedy of the aggrieved party is to ask for the reformation, not annulment, of the instrument to the end that their true agreement maybe expressed therein (Arts. 1359 and 1362, Civil Code).

If the true transaction between FNCB and Pajarillaga or Richmann Tractors, Inc. - a loan with chattel mortgage - had been reflected in the documents, instead of a simulated financial leasing, the creditor-mortgagee (FNCB),

upon the mortgagors' default in paying the debt, would have been entitled to seize the mortgaged machinery and equipment from Pajarillaga or Richmann Tractors for the purpose of foreclosing the chattel mortgage thereon. The mortgagors would have had no cause of action for actual, moral and exemplary damages arising from the replevin of their mortgaged machinery and equipment by the creditor, FNCB.

The trial court's finding that Pajarillaga suffered "lost income" of P15,000,000 from construction projects that were allegedly abandoned as a result of the seizure of his construction equipment and machinery, was based on Pajarillaga's own self-serving testimony. The trial court had ordered Pajarillaga's counsel to produce those project contracts "because you cannot just claim P15 million without those papers." (p. 21, t.s.n., May 21, 1982.) No such evidence was presented by Pajarillaga.

Indeed, Pajarillaga's default in meeting his loan obligation to FNCB, forcing the latter to sue for collection of the same, is the most eloquent rebuttal of his vaunted claim to a supposed "lost income" of P15 million from his allegedly "abandoned" construction projects.

Without saying so in so many words, the Court of Appeals itself expressed doubt over Pajarillaga's claim of millions of "lost income" and damages for the seizure of his construction equipment and machinery pursuant to the execution of the judgment in Civil Case No. 29671. Said the Appellate Court:

"However, it appears that, the operating conditions of the equipments; the age of the equipments; nor for that matter, any standby due to breakdown or waiting time of the equipments, were not take[n] into account, matters which affect the so-called ACEL rates. In fact, IT CANNOT BE PRESUMED, MUCH LESS ASSUMED, that during the period that plaintiffs were deprived of the possession of their equipments, ALL the equipments seized would have been rented CONTINUOUSLY during said period, if plaintiffs were in possession thereof. MOREOVER, ASIDE FROM THE BARE CLAIM THAT THE EQUIPMENTS SEIZED WERE BEING USED IN CONSTRUCTION PROJECTS OF THE PLAINTIFFS WHICH HAD TO BE ABANDONED, RESULTING IN LOSS OF INCOME OF P15,000,000.00, NO DOCUMENTARY EVIDENCE TO PROVE THE EXISTENCE OF SAID ALLEGED PROJECT CONTRACTS WAS SUBMITTED IN EVIDENCE. (Underscoring supplied; p. 21. Decision of the CA.)" (pp. 39-40, Rollo.)

In light of those pointed observations of the Court of Appeals, its decision awarding to Pajarillaga one-half of the damages awarded by the trial court, has no rational or factual basis.

Equally devoid of evidentiary basis is its finding (also the trial court's) that respondents Pajarillaga and Richmann Tractors, Inc. paid the total sum of P3,214,864.24 on their obligations to FNCB. The records show that the only evidence adduced by Pajarillaga was the "Schedule of Payments" (Exh. L) prepared by his own accountant Abelardo de Jesus, unsupported by the corresponding official receipts of FNCB which would have been the best evidence that the checks issued by Pajarillaga to FNCB were good and that they were applied to the accounts in question.

Respondents' allegation in their comment that the "Schedule of Payments" is supported by checks, receipts and official commercial books of entries (Exhs. L-19, L-19A, L-19A-1, L-19B, L-19B-1, L-19C, L-19C-1, L-19C-2, L-19D, L-19D-1, L-19D-2, L-19E, L-19E-1, L-20, L-21, L- 22, L-23) and the testimony of Cecilia Dangan who identified them, is belied by the records. The checks (Exhs. L-1, L-3, L-5, L-7, L-8, L-10, L-11, L-15, L-16 and one without marking) do not show that they were issued in payment of the accounts in question identified as follows:

Account No. 501-702252 (Leasing Facility dated April 30, 1974)

Account No. 501-700900 (Lease Agreement dated April 30, 1974)

Account No. 501-700918 (Leasing Facility dated April 30, 1974)

Account No. 501-702351 (Amortization Commercial Loan for Promissory Note dated May 20, 1976)[*]

The Court of Appeals (and the trial court) committed an egregious error in dismissing FNCB's counter-claim for its credits against the private respondents, to wit:

(i)

P79,085.78 on the leasing facility under Lease Schedule No. 48-002 (Exh. 21);

(ii)

P786,669.44 on the leasing facility under Lease Schedule No. 48-003 (Exh. 22);

(iii)

P172,545.20 on the leasing facility under Lease Schedule No. 48-004 (Exh. 23); and

(iv)

P1,056,644.70 on the loan evidenced by the Promissory Note dated May 20, 1976 (Exh. 24).

The private respondents' admission of their unpaid obligations to FNCB in the compromise agreement which they signed and submitted to the Rizal Court, Civil Case No. 29671, is binding on them. Being a judicial admission, it cannot be contradicted unless previously shown to have been made through palpable mistake (Sec. 2, Rule 129, Rules of Court; Cunanan vs. Amparo, 80 Phil. 227; Sta. Ana vs. Maliwat, 24 SCRA 1018 [1968]). As the evidence of the private respondents failed to prove that they had fully paid (much less "overpaid") their obligations to FNCB, the trial Court and the Court of Appeals erred in dismissing FNCB's counter-claim for the recovery of the same.

WHEREFORE, the petition for review is granted. The decision of the Court of Appeals in CA-G.R. CV No. 12027 is hereby annulled and set aside. The Court hereby declares the transaction between the petitioner and private respondents to be a loan with chattel mortgage on the machinery and equipment subject of the Leasing Schedules dated April 30, 1974 and Promissory Note dated May 30, 1976 (Exhs. 21 to 24); orders the private respondents to pay within thirty (30) days after entry or final judgment in this case the sum of P1,046,606.58 due the petitioner (per Writ of Execution dated January 4, 1979, Exh. 2) with 14% interest per annum from January 4, 1979 until fully paid; in default of such payment, the petitioner-mortgagee, Investors Finance Corporation (or FNCB Finance), may foreclose its chattel mortgage on the private respondents machinery and equipment to satisfy the mortgage debt. Costs against the private respondents. SO ORDERED.

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

[1] Words in parenthesis supplied

[2] See p. 104, Rollo

[3] Presumably "sales" of the equipment to FNCB by Richmann Tractors or the Pajarillagas who thereafter

"leased" them from FNCB.

[4] Words in parenthesis supplied.

[1] Words in parenthesis supplied.

[2] See p. 100, Rollo.

[3] See p. 101, Rollo.

[*] (Exhs. 21, 22, 23, & 24)

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