

**PILIPINAS BANK, PETITIONER, VS. THE HON. COURT OF APPEALS,
AND LILIA R. ECHAUS, RESPONDENTS.***G.R. No. 97873. August 12, 1993*

Ponente: QUIASON, J.

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This is a petition for certiorari under Rule 45 of the Revised Rules of Court to review the Resolution of the Court of Appeals in CA-G.R. CV No. 06017 promulgated on March 14, 1991. The Resolution was rendered in response to private respondent's motion for clarification of the decision of the Court of Appeals in CA-G.R. No. 06017. The matters sought to be clarified arose in the course of the execution of the decision of the Regional Trial Court, Branch 71, Antipolo, Rizal in Civil Case No. 239-A, as modified by the decision of the Court of Appeals in CA-G.R. CV No. 06017.

In Civil Case No. 239-A, private respondent filed a complaint against petitioner and its president, Constantino Bautista, for collection of a sum of money. The complaint alleged: (1) that petitioner and Greatland Realty Corporation (Greatland) executed a "Dacion en Pago," wherein Greatland conveyed to petitioner several parcels of land in consideration of the sum of P7,776,335.69; (2) that Greatland assigned P2,300,000.00 out of the total consideration of the Dacion en Pago, in favor of private respondent; and (3) that notwithstanding her demand for payment, petitioner in bad faith, refused and failed to pay the said amount assigned to her.

Petitioner, while admitting the execution of the Dacion en Pago, claimed: (1) that its former president had no authority to enter into such agreement; (2) that it never ratified the same; and (3) that assuming arguendo that the agreement was binding, the conditions stipulated therein were never fulfilled.

Dismissing petitioner's defenses as unmeritorious, the trial court ruled in favor of private respondent. The trial court ordered petitioner and its co-defendant, jointly and severally, to pay private respondent as follows:

- "1) P2,300,000.00 the total amount assigned by Greatland in her favor out of the P2,300,000.00 liability of defendant Pilipinas to Greatland plus legal interest from the dates of assignments until fully paid;
- 2) P3,217,707.00 representing the total actual damages suffered by the plaintiff plus legal interest until fully paid;
- 3) P1,000,000.00 in moral damages to partially assuage the extreme moral sufferings of plaintiff inflicted upon her person considering the bad faith on the part of the defendants and their failure to act with justice, and to give what is lawfully due her and observe honesty and good faith;
- 4) P100,000.00 exemplary and nominal damages to vindicate plaintiff's violated rights;
- 5) Attorney's fees equivalent to 15% of the total award in favor of the plaintiff;
- 6) Costs of suit" (Rollo, p. 78).

On March 22, 1985, petitioner appealed the decision of the trial court to the Court of Appeals, which docketed the

appeal as CA-G.R. No. 06017. On the same day, private respondent filed a Motion for Immediate Execution Pending Appeal. The trial court granted the motion for execution pending appeal in an Order dated April 3, 1985. Petitioner challenged the Order dated April 3, 1985 before the Court of Appeals in CA-G.R. No. SP No. 05909.

On October 30, 1986, the Court of Appeals modified the Order dated April 3, 1985, by limiting the execution pending appeal against petitioner to P5,517,707.00 and deferring the execution of the award for moral, exemplary and nominal damages to await the final judgment of the main case in CA-G.R. No. 06017. On June 17, 1987, the Supreme Court in G.R. No. L-76506 affirmed the Order dated October 30, 1986 of the Court of Appeals.

On July 1, 1988, the trial court granted the new motion for execution pending appeal filed by private respondent pursuant to the Resolution of the Supreme Court dated June 17, 1987, upon the filing of the required bond. Petitioner complied with the writ of execution pending appeal by issuing two manager's checks in the total amount of P5,517,707.00 (one for P4,965,936.30 payable to private respondent and another for P551,770.70 payable to the Clerk of Court, RTC, Antipolo, Rizal).

The check payable to private respondent was encashed on July 15, 1988.

On June 28, 1990, the Court of Appeals rendered a decision in CA-G.R. No. CV-06017, which modified the judgment of the trial court as follows:

"1. The defendant-appellant Pilipinas Bank, formerly known as Filipinas Manufacturers Bank is ordered to pay the plaintiff-appellee the following:

- (a) The sum of Two Million Three Hundred Thousand (2,300,000.00) Pesos, representing the total amount assigned by Greatland to her, with interest at the legal rate starting July 24, 1981, date when demand was first made (Exh. "F" and "G");
- (b) The sum of One Hundred Thousand (P100,000.00) Pesos in moral damages, to assuage moral sufferings and embarrassment of plaintiff-appellee as a consequence of appellant-bank's unwarranted acts;
- (c) The sum of Twenty Five Thousand (P25,000.00) Pesos, as exemplary damages to serve as an example or correction for the public good;
- (d) The sum equivalent to ten (10) percent of the principal claim awarded, representing attorney's fees; and

2. Constantino Bautista is absolved of personal liability". (Rollo, pp. 31-32).

Petitioner filed a motion for extension of time to file a Petition for Review on Certiorari with the Supreme Court, which however was withdrawn on July 23, 1990. Private respondent, on her part, filed a motion for reconsideration of the decision of the Court of Appeals in CA-G.R. No. 06017, which likewise was withdrawn on August 13, 1990.

Hence, the decision of the Court of Appeals rendered in CA-G.R. No. 06017 became final and executory.

On September 4, 1990, petitioner filed a motion in the trial court praying that private respondent and Standard Insurance Co. (which furnished the bond required in the advance execution of the decision of the trial court) to refund to her the excess payment of P1,898,623.67 with interests at 6% (Rollo, pp. 83-84).

It must be recalled that while private respondent was able to collect P5,517,707.00 from petitioner pursuant to the writ of advance execution allowed in CA--G.R. No. SP No. 05909, the final judgment in the main case (CA-G.R. No. 06017) awarded to private respondent damages in the total amount of only P2,655,000.00 (P2,300,000.00 representing the amount assigned by Greatland to private respondent, P100,000.00 as moral damages; P25,000.00 as exemplary damages and attorney's fees equivalent to 10% of the P2,300,000.00), together "with interest on the

amount of P2,300,000.00 at the legal rate starting July 24, 1981, date when demand was first made (Exh. "F" and "G")."

Private respondent opposed the motion of petitioner with respect to the rate of interest to be charged on the amount of P2,300,000.00. According to private respondent, the legal interest on the principal amount of P2,300,000.00 due her should be 12% per annum pursuant to CB Circular No. 416 and not 6% per annum as computed by petitioner.

On October 12, 1990, the trial court, while ordering the refund to petitioner of the excess payment, fixed the interest rate due on the amount of P2,300,000.00 at 12% per annum as proposed by private respondent, instead of 6% per annum as proposed by petitioner.

On October 16, 1990, petitioner moved to reconsider the Order dated October 12, 1990 of the trial court, which however could not be acted upon because on October 23, 1990, private respondent filed a Motion for Clarification with the Court of Appeals in CA-G.R. CV No. 06017, regarding the following matters:

- "a) The 'legal rate' of interest on the principal award of P2,300,000.00 from July 24, 1981 (as per decision) up to July 14, 1988 (date of actual payment made by defendant-appellant to plaintiff-appellee per execution pending appeal);
- b) The imposition of such 'legal rate' of interest on the 'accrued interest' from July 24, 1981 up to July 14, 1988;
- c) The amount of the costs of suit will include premium on surety bond;
- d) The discharge of the surety bond whether total or partial, depending on the computation of the interest;
- e) The award of attorney's fees equivalent to 10% of the principal award, whether this should totally go to plaintiff-appellee's former counsel or to be shared on the basis of quantum meruit with the undersigned counsel; and
- f) Aside from this final award of 10% attorney's fees chargeable against defendant-appellant, whether or not former counsel of plaintiff-appellee can still collect from her the balance of 15% out of the 25% attorney's fees under Exh. 'N'" (Rollo, p. 32).

In its Resolution promulgated on March 14, 1991, the Court of Appeals clarified that:

- "a) The legal rate of interest on the principal award of P2,300,000.00 should be 12% per annum in accordance with Circular No. 416 dated July 29, 1974 of the Central Bank.
- b) The computation of compounding interest annually has no basis, therefore, not allowed in the instant case;
- c) The payment of premium on the bond in the sum of P259,813.50 as cost, being without legal and factual basis, is denied;
- d) The surety bond posted by plaintiff-appellee may be released after satisfaction of the decision; and
- e) Payment/distribution of attorney's fees may/shall be litigated in a separate proceeding if the parties cannot settle their differences amicably.

SO ORDERED" (Rollo, pp. 35-36).

In this appeal, petitioner claims that the Court of Appeals erred:

- (1) In ruling that the legal rate of interest on the amount of P2,300,000.00 adjudged to be paid by petitioner to private respondent is 12% per annum.

(2) In not holding that the refund to which petitioner is entitled should earn interest at the rate of 12% per annum.

(3) In not holding that the surety bond should only be released after actual refund (Rollo, p. 18).

The Court of Appeals was of the theory that the action in Civil Case No. 239-A filed by private respondent against petitioner "involves forbearance of money, as the principal award to plaintiff-appellee (private respondent) in the amount of P2,300,000.00 was the overdue debt of defendant-appellant to her since July 1981. The case is, in effect, a simple collection of the money due to plaintiff-appellee, as the unpaid creditor from the defendant bank, the debtor" (Resolution, p. 3; Rollo, p. 33). Applying Central Bank Circular No. 416, the Court of Appeals held that the applicable rate of interest is 12% per annum.

Petitioner argues that the applicable law is Article 2209 of the Civil Code, not the Central Bank Circular No. 416. Said Article 2209 provides:

"Art. 2209. If the obligation consists in the payment of a sum of money, and the debtor incurs in delay, the indemnity for damages, there being no stipulation to the contrary, shall be the payment of the interest agreed upon, and in the absence of stipulation, the legal interest, which is six per cent per annum."

Presidential Decree No. 116 authorized the Monetary Board to prescribe the maximum rate or rates of interest for the loan or renewal thereof or the forbearance of any money, goods or credits and amended the Usury Law (Act No. 2655) for that purpose.

As amended, the Usury Law now provides:

"SECTION 1. The rate of interest for the loan or forbearance of any money, goods, or credits and the rate allowed in judgments, in the absence of express contract as to such rate of interest, shall be six per centum per annum or such rate as may be prescribed by the Monetary Board of the Central Bank of the Philippines for that purpose in accordance with the authority hereby granted."

"SECTION. 1-a. The Monetary Board is hereby authorized to prescribe the maximum rate or rates of interest for the loan or renewal thereof or the forbearance of any money, goods or credits, and to charge such rate or rates whenever warranted by prevailing economic and social conditions: Provided, That such changes shall not be made oftener than once every twelve months.

'In the exercise of the authority herein granted, the Monetary Board may prescribe higher maximum rates for consumer loans or renewals thereof as well as such loans made by pawnshops, finance companies and other similar credit institutions although the rates prescribed for these institutions need not necessarily be uniform."

Acting on the authority vested on it by the Usury Law, as amended by P.D. No. 116, the Monetary Board of Central Bank issued Central Bank Circular No. 416, which provides:

"By virtue of the authority granted to it under Section 1 of Act 2655, as amended, otherwise known as the 'Usury Law' the Monetary Board in its Resolution No. 1622 dated July 29, 1974, has prescribed that the rate of interest for the loan, or forbearance of any money, goods, or credits and the rate allowed in judgments, in the absence of express contract as to such rate of interest, shall be twelve (12%) per cent per annum. This Circular shall take effect immediately." (underscoring supplied)

Note that Circular No. 416, fixing the rate of interest at 12% per annum, deals with (1) loans; (2) forbearance of any money, goods or credit; and (3) judgments.

In *Reformina v. Tomol, Jr.*, 139 SCRA 260 [1985], the Court held that the judgments spoken of and referred to in Circular No. 416 are "judgments in litigation involving loans or forbearance of any money, goods or credits. Any other kind of monetary judgment which has nothing to do with nor involving loans or forbearance of any money,

goods or credits does not fall within the coverage of the said law for it is not, within the ambit of the authority granted to the Central Bank."

Reformina was affirmed in *Philippine Virginia Tobacco Administration v. Tensuan*, 188 SCRA 628 [1990], which emphasized that the "judgments" contemplated in Circular No. 417 "are judgments involving said loans or forbearance only and not in judgments in litigation that have nothing to do with loans x x x."

We held that Circular No. 416 does not apply to judgments involving damages (*Reformina v. Tomol, Jr.*, supra; *Philippine Virginia Tobacco Administration v. Tensuan*, supra) and compensation in expropriation proceedings (*National Power Corporation v. Angas*, 208 SCRA 542 [1992]). We also held that Circular No. 416 applies to judgments involving the payment of unliquidated cash advances to an employee by his employer (*Villarica v. Court of Appeals*, 123 SCRA 259 [1983]) and the return of money paid by a buyer of a leasehold right but which contract was voided due to the fault of the seller (*Buisier v. Court of Appeals*, 154 SCRA 438 [1987]).

What then is the nature of the judgment ordering petitioner to pay private respondent the amount of P2,300,000.00?

The said amount was a portion of the P7,776,335.69 which petitioner was obligated to pay Greatland as consideration for the sale of several parcels of land by Greatland to petitioner. The amount of P2,300,000.00 was assigned by Greatland in favor of private respondent. The said obligation therefore arose from a contract of purchase and sale and not from a contract of loan or mutuum. Hence, what is applicable is the rate of 6% per annum as provided in Article 2209 of the Civil Code of the Philippines and not the rate of 12% per annum as provided in Circular No. 416.

Petitioner next contends that, consistent with its thesis that Circular No. 416 applies only to judgments involving the payment of loans or forbearance of money goods and credit, the Court of Appeals should have ordered private respondent to pay interest at the rate of 12% on the overpayment collected by her pursuant to the advance execution of the judgment.

Again, we sustain petitioner's contention as correct.

Private respondent was paid in advance the amount of P5,517,707.00 by petitioner pursuant to the order for the execution pending appeal of the judgment of the trial court. On appeal, the Court of Appeals reduced the total damages to P3,619,083.33, leaving a balance of P1,898,623.67 to be refunded by private respondent to petitioner. In an execution pending appeal, funds are advanced by the losing party to the prevailing party with the implied obligation of the latter to repay the former, in case the appellate court cancels or reduces the monetary award.

Under Section 5 of Rule 39 of the Revised Rules of Court where "the judgment executed is reversed totally or partially on appeal, the trial court, on motion, after the case is remanded to it, may issue such orders of restitution, as equity and justice may warrant under the circumstances." It was to guarantee the restitution contemplated by Section 5 of Rule 39 of the Revised Rules of Court that private respondent was required by the trial court to post a bond before the writ of advance execution was issued.

In the case before us, the excess amount ordered to be refunded by private respondent falls within the ruling in *Viloria* and *Buisier* that Circular No. 416 applies to cases where money is transferred from one person to another and the obligation to return the same or a portion thereof is subsequently adjudged.

Finally, petitioner questions as vague the ruling of the Court of Appeals that the surety bond given to secure the advance execution may be discharged "upon the finality and satisfaction of the decision." We believe that this ruling of the Court of Appeals is clear enough in ordering that the surety bond shall be released only after private

respondent has fully refunded the overpayment to petitioner.

WHEREFORE, the petition is GRANTED. The Resolution of the Court of Appeals appealed from is MODIFIED in that (1) the amount of P2,300,000.00 adjudged to be paid by petitioner to private respondent shall earn interest of 6% per annum and (2) the amount of P1,898,623.67 to be refunded by private respondent to petitioner shall earn interest of 12% per annum. Costs against private respondent.

SO ORDERED.

Cruz, (Chairman), Griño-Aquino, Davide, Jr., and Bellosillo, JJ., concur.

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