

## SECOND DIVISION

**[ G.R. NO. 156903, November 24, 2006 ]**

**SPOUSES CARLOS AND TERESITA RUSTIA, PETITIONERS, VS.  
EMERITA RIVERA, RESPONDENT.**

### DECISION

**SANDOVAL-GUTIERREZ, J.:**

For our resolution is the instant Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision<sup>[1]</sup> of the Court of Appeals, dated August 29, 2002, in CA-G.R. SP No. 63265.

In September 1995, Emerita Rivera, respondent, filed with the Metropolitan Trial Court (MeTC), Branch 36, Quezon City, a complaint for sum of money against spouses Carlos and Teresita Rustia, petitioners, and Rosemarie F. Rocha. The complaint was docketed as Civil Case No. 0206. Respondent alleged therein that petitioners obtained from her a loan of P130,000.00, payable within thirty (30) days without need of prior demand. As security for the loan, petitioners executed a promissory note, with Rosemarie Rocha as their co-maker. The loan bears an interest of five percent (5%) per month. Petitioners paid the interest corresponding to the period from January 1991 to March 1994. Thereafter, despite respondent's written demands, they failed to pay any interest or the principal obligation. Respondent then prayed that judgment be rendered ordering petitioners to pay the loan, the accrued interest thereon, and attorney's fees.

After the court's denial of their motion to dismiss the complaint, petitioners filed their answer admitting that respondent extended to them a loan of P130,000.00. However, they denied having agreed to pay interest thereon. While they paid respondent P6,500.00 every month, however, it was for the settlement of the principal obligation. In fact, they overpaid P123,500.00. They prayed that the case be dismissed and that respondent be ordered to refund to them their overpayment plus damages, attorney's fees, and litigation expenses.

During the hearing, respondent offered in evidence petitioners' promissory note and petitioner Teresita Rustia's letter addressed to respondent agreeing to pay 5% monthly interest.

Teresita denied having borrowed P130,000.00 from respondent; that respondent delivered the said amount to petitioners as investment in the latter's business; and that the monthly payment of P6,500.00 they tendered to respondent corresponds to her share in the profits.

On June 11, 1999, the trial court rendered its Decision,<sup>[2]</sup> the dispositive portion of which reads:

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

1. Ordering the defendants to pay, jointly and severally, the plaintiff the sum of P130,000.00 plus accrued interest of 5% per month to be reckoned from April 1994 until the same is fully paid;
2. Ordering the defendants to pay, jointly and severally, the sum of P10,000.00 as and for attorney's fees;
3. Ordering the defendants to pay the costs of suit.

SO ORDERED.

On appeal by petitioners, the Regional Trial Court (RTC), Branch 77, Quezon City affirmed the MeTC's Decision *in toto*.

Petitioners filed a motion for reconsideration but it was denied by the RTC as it does not contain a notice of the time and place of hearing required by Sections 4 and 5, Rule 15 of the 1997 Rules of Civil Procedure, as amended.

Petitioners filed with the Court of Appeals a petition for review, docketed as CA-G.R. SP No. 63265, but it was denied in a Decision dated August 29, 2002. Their motion for reconsideration was likewise denied.

Hence, the instant petition raising the following issues:

1. Whether the Court of Appeals erred in holding that the motion for reconsideration filed with the RTC by petitioners is but a mere scrap of paper for lack of notice of hearing;
2. Whether the Court of Appeals erred when it failed to apply Article 1956 of the Civil Code providing that no interest shall be due unless it has been expressly stipulated in writing;

On the first issue, Sections 4 and 5, Rule 15 of the 1997 Rules of Civil Procedure, as amended, provide:

SEC. 4. *Hearing of motion.* – Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and **the notice of the hearing** thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

SEC. 5. *Notice of hearing.* – The **notice of hearing** shall be addressed to all parties concerned, and **shall specify the time and date of the hearing** which must not be later than ten (10) days after the filing of the motion.