

## THIRD DIVISION

[ G.R. No. 111584, September 17, 2001 ]

**PRODUCERS BANK OF THE PHILIPPINES, PETITIONER, VS.  
COURT OF APPEALS AND SPOUSES SALVADOR Y. CHUA AND  
EMILIA U. CHUA, RESPONDENTS.**

### D E C I S I O N

**MELO, J.:**

The instant petition assails the decision of the Court of Appeals in its CA-G.R.CV No. 20220, dated October 31, 1991, affirming with modification the decision of Branch 48 of the Regional Trial Court of the 6<sup>th</sup> Judicial Region stationed in Bacolod City, as well as the resolution dated August 12, 1993 denying petitioner's motion for partial consideration. Undersigned *ponente* was given this case in pursuance of A. M. No. 00-9-03-SC dated February 27, 2001 distributing the so-called back-log cases.

The generative facts of the case may be chronicled as follows:

Sometime in April, 1982, respondent Salvador Chua was offered by Mr. Jimmy Rojas, manager of petitioner bank, to transfer his account from Pacific Banking Corporation to herein petitioner Producers Bank of the Philippines. In view of Rojas' assurances of longer loan terms and lower rates of interest, respondent spouses opened and maintained substantial savings and current deposits with the Bacolod branch of petitioner bank. Likewise, private respondents obtained various loans from petitioner bank, one of which was a loan for P2,000,000.00 which was secured by a real estate mortgage and payable within a period of three (3) years or from 1982 to 1985. On January 20, 1984, private respondents deposited with petitioner bank the total sum of P960,000.00, which was duly entered in private respondents' savings account passbook. However, petitioner bank failed to credit this deposit in private respondents' savings account due to the fact that its Branch Manager, Sixto Castillo, absconded with the money of the bank's depositors. Also, petitioner bank dishonored the checks drawn out by private respondents in favor of their various creditors on the ground of insufficient funds, despite the fact that at that time, the balance of private respondents' deposit was in the amount of P1,051,051.19. These events prompted private respondents to request for copies of their ledgers covering their savings and current accounts, but petitioner bank refused. Due to petitioner bank's refusal to furnish private respondents copies of their ledgers, private respondents instituted on January 30, 1984 an action for damages against petitioner bank which was docketed as Civil Case No. 2718. On the other hand, petitioner bank filed with the City Sheriff of Bacolod a petition for extrajudicial foreclosure of the real estate mortgage during the pendency of Civil Case No.2718. As a result, private respondents filed a complaint for injunction and damages docketed as Civil Case No. 3276, alleging that the petition for extrajudicial foreclosure was without basis and was instituted maliciously in order to harass private respondents. On April 26, 1988, the trial court rendered its decision on the latter case, the dispositive

portion of which reads:

WHEREFORE, from the evidence adduced, judgment is hereby rendered in favor of plaintiff ordering the defendant as follows:

- 1) To pay plaintiff the sum of P2,000,000.00 as moral damages, with legal rate of interest; the sum of P90,000.00 per month and P18,000.00 per month representing plaintiff's unrealized profits from his cement and gasoline station business, respectively, to commence from October 16, 1984, with legal rate of interest until fully paid; the sum of P250,000.00 as exemplary damages;
- 2) To off-set the sum of P960,000.00 deposited by plaintiff on January 20, 1984 and entered in his Passbook No. 38240, together with its incremental interests computed at banking rate and to commence from January 20, 1984 with his agricultural loan account in the sum of P1,300,000.00 with interest thereon computed at fourteen (14%) percent per annum, to commence from January 4, 1984, covered by a real estate mortgage, both of which shall have a cut-off time frame on the date of this decision;
- 3) That should the said savings deposit and its interest be sufficient to cover the off-setting, compensation shall take place and to be taken from the amounts awarded to plaintiff in the form of moral, actual and compensatory damages;
- 4) That the time loan in the sum of P175,000.00 and the clean loan of P400,000.00, both without interest, shall be off-settled by the moral, actual and compensatory damages herein awarded to plaintiff;
- 5) That after compensation or set-off had taken place, to pay plaintiff the balance of the adjudged moral, actual and compensatory damages, with legal rate of interest until fully paid;
- 6) To render an accounting to plaintiff with respect to his Account Nos. 0142-0014-0 and 042-0014-1 for the period covering January to December, 1982;
- 7) That in order to make the bank's record complete, to reform the deed of real estate mortgage conformably with the agreement by

stipulating in the said document that the maturity date of the agricultural loan is April 15, 1987 at the same rate of interest of fourteen (14%) percent per annum, deducting from the original amount of the loan the payments made on the principal and interests; this reformation shall take place simultaneously with the off-setting of accounts;

8) To pay plaintiff the sum equivalent to fifteen (15%) percent of the amount representing the balance of the sums awarded as moral, actual and compensatory damages as attorney's fees;

9) To pay plaintiff the costs of suit;

10) The writ of preliminary injunction issued by this Court is rendered permanent; and

11) The counterclaim is hereby dismissed.

SO ORDERED.

(Rollo, pp. 261-263.)

On October 31, 1991, upon appeal by petitioner bank, the Court of Appeals modified the decision of the trial court as follows:

WHEREFORE, from the evidence adduced, judgment is hereby rendered as follows:

1. Ordering the defendant -

a. To pay plaintiff the sum of P500,000.00 as moral and exemplary damages;

b. To pay the sum of P18,000.00 per month representing plaintiffs' unrealized profits from his gasoline station business to commence from October 16, 1984, with legal rate of interest, until fully paid;

c. To allow the plaintiffs to offset their financial obligation with the defendant bank by the moral, exemplary, actual and compensatory damages herein awarded in favor of the aforesaid plaintiffs;

d. If, after the off-setting, a balance remains in favor of the plaintiffs, to pay the said plaintiffs such balance of the adjudged moral, exemplary, actual and compensatory damages, with legal rate of interest until fully paid, as of the time of off-setting;

e. To render an accounting to plaintiffs with respect to their Account Nos. 0142-0014-0 and 042-0014-1 for the period covering January to

December, 1982;

f. To pay plaintiffs the sum of P100,000.00 as attorney's fees.

g. To pay the costs of suit.

2. Ordering the plaintiffs-

a. To settle their loan obligation with the defendant bank within 90 days from the finality of this decision, subject to the resolution of this Court to the effect that they shall be relieved from the payment of penalties and surcharges on their outstanding balance starting January 20, 1984;

3. The plaintiffs' prayer for reformation of their mortgage contract or annulment thereof is hereby denied;

4. The counterclaim of defendant-appellant are hereby dismissed.

SO ORDERED.

(Rollo, pp. 86-87.)

Petitioner moved for a partial reconsideration of the above decision but the same was denied on August 12, 1993. Hence, the instant petition with the following submissions which allegedly warrant our review of the assailed decision, *viz.*:

1. The Court of Appeals erred in not ruling that the application for extrajudicial foreclosure of real estate mortgage is legal and valid;
2. The Court of Appeals erred in not granting petitioner bank its right to foreclose extrajudicially the real estate mortgage and to proceed with its application for extrajudicial foreclosure of real estate mortgage;
3. The Court of Appeals erred in ruling that private respondents be relieved from the payment of penalties and surcharges on their outstanding balance starting January 20, 1984;
4. The Court of Appeals erred in awarding moral and exemplary damages of P500,000.00, unrealized profit of P18,000.00 per month, and attorney's fees of P100,000.00 against petitioner bank;
5. The Court of Appeals erred in ordering an accounting to private respondents with respect to their Account Nos. 0142-0014-0 and 042-0014-1 for the period covering January to December, 1982.

It should at once be apparent that except for the first and second imputed errors which involve petitioner bank's right to foreclose extrajudicially the real estate mortgage, the resolution of the assigned errors entails a review of the factual