

TWENTY-SECOND DIVISION

[CA-G.R. CV NO. 02501-MIN, February 23, 2015]

HEIRS OF THE ESTATE OF JOSE RAMOS, SR., AND LOURDES RAMOS, REPRESENTED BY THEIR ATTORNEY-IN-FACT, JOSE RAMOS, PLAINTIFFS-APPELLANTS, VS. SPS. JOSE SAAVEDRA, SR. AND LILIA J. SAAVEDRA, JOCELYN SARDAN, OFFICE OF THE CLERK OF COURT-SHERIFF, DAVAO CITY, REGISTER OF DEEDS OF DAVAO CITY, DEFENDANTS-APPELLEES

CA-G.R. SP NO. 04373-MIN

SPOUSES JOSE S. RAMOS, SR. AND LOURDES N. RAMOS (ALL DECEASED) SUBSTITUTED HEREIN BY THEIR SON JOSE N. RAMOS, JR., (WHO IS ALSO THEIR REPRESENTATIVE IN THE RTC BRANCH CASE ENTITLED "IN THE MATTER OF THE PETITION FOR ISSUANCE OF A WRIT OF POSSESSION OF PROPERTY COVERED BY TCT NO. T-358363 UNDER THE NAME OF JOCELYN S. SARDAN DOCKETED AS OTHER CASE NO. 1,020-2012.) PETITIONER, VS. HON. RIDGWAY M. TANJILI, THE PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, 11TH JUDICIAL REGION, BRANCH 15, DAVAO CITY, SHERRIFF ROBERT M. MEDIALDEA AND JOCELYN S. SARDAN, RESPONDENTS.

D E C I S I O N

PEREZ, J.:

Before this Court are two cases consolidated by virtue of a Resolution^[1] dated 16 August 2011.

CA G.R. CV. No. 02501 is an ordinary appeal^[2] under Rule 41 of the Rules of Court seeking reversal of the 25 March 2011 Decision^[3] of the Regional Trial Court, Branch 15, of Davao City in Civil Case No. 28, 767-2001, dismissing the case filed by Spouses Jose Ramos and Lourdes Ramos for Quieting of Title with Prayer to Set a Period to Pay Loan Obligation and Application for Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction for lack of merit.

CA G.R. SP No. 04373 is a petition for certiorari^[4] under Rule 65 of the Rules of Court seeking to annul the Order^[5] dated 13 May 2011 issued by the same RTC denying the plaintiff-appellants' Motion to Quash Writ of Possession and Notice to Vacate^[6], as well as the Order^[7] dated 06 June 2011 denying the Motion for Reconsideration⁸ thereof.

The Facts

On 12 October 1998, Spouses Jose Ramos, Sr. and Lourdes Ramos (Spouses Ramos) entered into a contract of short-term loan with Jose Saavedra, Sr. (Saavedra), in the amount of P1,200,000.00 with an interest rate of six percent (6 %) per month payable within one year.^[9] In consideration of the loan, Spouses Ramos executed a promissory note for P1,200,000.00.^[10] Also, as security for the loan Spouses Ramos executed, in favor of Saavedra, a Deed of Real Estate Mortgage^[11] over a parcel of land covered by Original Certificate of Titled No. P-12841^[12] registered under the name of "Jose S. Ramos, Sr. married to Lourdes Noel."

Spouses Ramos paid the first month amortization on the loan, but were not able to pay subsequent debt payments such that by October 1999 the debt had ballooned to P 2,064,000.00.^[13]

The loan default of Spouses Ramos persisted, and as a result, Saavedra extra-judicially foreclosed the real estate mortgage on the former's property.^[14]

In the auction sale for the foreclosed property, appellee Jocelyn Sardan (Sardan) emerged as the highest bidder. For plaintiff-appellants' failure to redeem the property within the redemption period, the title was consolidated in favor of Sardan on 14 February 2003, OCT No. P-12841 in the name of Spouses Ramos was cancelled and Transfer of Certificate of Title No. T-358363^[15] was issued in Sardan's name on 13 February 2003.

On 19 September 2001, Spouse Ramos filed a complaint against Saavedra for "*Annulment of the Loan Interest, Cancellation of the Deed of Real Estate Mortgage, Annulment of the Extra-judicial foreclosure proceedings, Cancellation of Certificate of Sale and Consolidation of Ownership with prayer for issuance of Writ of Preliminary Injunction*"^[16] docketed as Civil Case No. 28,767-2001. The complaint was amended later to convert the principal cause of action to one for quieting of title.

When Jose Ramos, Sr. died on 02 January 2002, he was substituted by his heirs (plaintiff-appellants) as party to this case.^[17]

On 14 November 2003, plaintiff-appellants amended their complaint into an action for "Quieting of Title with prayer to Set a Period to Pay Loan Obligation, and application for the issuance of a Temporary Restraining Order, and Injunction."^[18]

On 03 March 2007, Lourdes Ramos died due to cardiorespiratory arrest, thus, she was substituted by her heirs.^[19] From then on, Civil Case No. 28,767-2001 was prosecuted by the heirs of the late Spouses Ramos.

On 27 October 2010, pending the resolution of the Civil Case No. 28,767-2001, Sardan filed a "*Petition for Issuance of a Writ of Possession*"^[20] before the court *a quo*, which came to plaintiff-appellants' knowledge only upon the receipt of the 08 March 2011 Order^[21] granting the issuance of the writ of possession. The said petition was docketed as Other Case No. 1,020-10.

On 18 March 2011, the Writ of Possession^[22] was issued by the court *a quo*. Following the issuance of the writ of possession in favor of Sardan, the court *a quo* issued a Notice to Vacate^[23] to plaintiff-appellants on 04 April 2011.

Meanwhile, on 25 March 2011, the court *a quo* dismissed plaintiff-appellants complaint in Civil Case No. 28, 767-2001, ruling that since plaintiff-appellants had already lost title to the mortgaged property due to foreclosure they no longer had any interest to pursue an action for quieting of title. This Decision is the subject of appeal in CA G.R. CV. No. 02501 in this Court.

In Other Case No. 1,020-10, aggrieved with the issuance of the writ of possession, Jose N. Ramos, Jr., representing the heirs of Spouses Ramos, pursuant to Section 8 of Act 3135 as amended,^[24] filed a Petition to Cancel and to Hold in Abeyance the Issuance of the Writ of Possession and/or to Cancel the Same, if one is already issued^[25] on 07 April 2011.

Consequently, on 18 April 2011, plaintiff-appellant moved to quash the writ of possession and notice to vacate,^[26] which was subsequently denied by the court *a quo* in the assailed 13 May 2011 Order.

On 01 June 2011, petitioner filed an Urgent Motion for Reconsideration of the 13 May 2011 Order. On 06 June 2011, the court *a quo* denied the said motion; hence the filing of CA G.R. SP No. 04373 for petition for certiorari before this Court.

In their Brief with Memorandum, plaintiffs-appellants imputed the following errors allegedly committed by the court *a quo*:^[27]

1. THE COURT A QUO ERRED IN HOLDING THAT THE INTEREST RATE EQUIVALENT TO SEVENTY-TWO PERCENT (72%) PER ANNUM, IMPOSED ON THE PRINCIPAL LOAN OF PLAINTIFF-APPELLANTS/PETITIONER DID NOT RENDER THE PROMISSORY NOTE AND THE REAL ESTATE MORTGAGE EXECUTED VOID DESPITE BEING CONTRARY TO MORALS, GOOD CUSTOMS AND PUBLIC POLICY.

2. THE COURT A QUO ERRED IN HOLDING THAT PLAINTIFFS-APPELLANTS/ PETITIONER HAS NO CAUSE OF ACTION TO INSTITUTE THE COMPLAINT FOR QUIETING OF TITLE AGAINST DEFENDANTS-APPELLEES.

3. THE COURT A QUO ERRED IN DENYING THE URGENT MOTION TO QUASH WRIT OF POSSESSION AND NOTICE TO VACATE DESPITE PENDENCY OF THE PETITION TO CANCEL SALE FILED BY THE PLAINTIFFS-APPELLANTS/PETITIONER.

The Court's Ruling

CA G.R. CV. No. 02501

Does an iniquitous and

unconscionable stipulation on
interest rates void the contract of loan?

Plaintiff-appellants argue that the interest stipulation in their contract of loan is void, and thus the accessory contract of mortgage, the subsequent foreclosure as well as the writ of possession in favor of the buyer at foreclosure are also void and should be set aside in this appeal.

Central Bank Circular No. 905, which took effect on 01 January 1983 made usury legally inexistent by removing the ceiling on the interest rates that can be charged for secured and unsecured loans. In this regime the lender and borrower in a contract of loan may freely stipulate on the chargeable interest rates mutually acceptable to them.

However, it is well settled that while there is no law at present setting ceilings on interest rates, lenders do not have carte blanche authority to raise interest rates to unreasonable and oppressive levels. Principles of contract law empower the courts to void interest stipulations and to reduce interest rates and penalty charges that are found to be iniquitous, unconscionable and exorbitant.^[28]

In the case at bar, the chargeable monthly interest rate was 6% per month or 72 % for the full term of the loan for one year. Plaintiff-appellants posit that such rate is iniquitous, unconscionable and therefor void.

Plaintiff-appellants raise a valid point.

We declare that the 6% interest monthly interest rate or 72% per annum, is iniquitous, immoral and unconscionable. We borrow the wisdom in *Medel v. Court of Appeals*,^[29] where the Supreme Court held that a 5.5% stipulated interest rate is unconscionable and contrary to morals, to wit:

"Basically, the issue revolves on the validity of the interest rate stipulated upon. Thus, the question presented is whether or not the stipulated rate of interest at 5.5% per month on the loan in the sum of P500,000.00, that plaintiffs extended to the defendants is usurious. In other words, is the Usury Law still effective, or has it been repealed by Central Bank Circular No. 905, adopted on December 22, 1982, pursuant to its powers under P.D. No. 116, as amended by P.D. No. 1684?

We agree with petitioners that the stipulated rate of interest at 5.5% per month on the P500,000.00 loan is excessive, iniquitous, unconscionable and exorbitant. However, we can not consider the rate "usurious" because this Court has consistently held that Circular No. 905 of the Central Bank, adopted on December 22, 1982, has expressly removed the interest ceilings prescribed by the Usury Law 14 and that the Usury Law is now "legally inexistent".

In *Security Bank and Trust Company vs. Regional Trial Court of Makati, Branch 61* the Court held that CB Circular No. 905 "did not repeal nor in anyway amend the Usury Law but simply suspended the latter's effectivity." Indeed, we have held that "a Central Bank Circular can not repeal a law. Only a law can repeal another law." In the recent case of

Florendo vs. Court of Appeals, the Court reiterated the ruling that "by virtue of CB Circular 905, the Usury Law has been rendered ineffective". "Usury has been legally non-existent in our jurisdiction. Interest can now be charged as lender and borrower may agree upon."

Nevertheless, we find the interest at 5.5% per month, or 66% per annum, stipulated upon by the parties in the promissory note iniquitous or unconscionable, and, hence, contrary to morals ("contra bonos mores"), if not against the law. The stipulation is void. The courts shall reduce equitably liquidated damages, whether intended as an indemnity or a penalty if they are iniquitous or unconscionable."

However, despite the nullity of the stipulated interest rate, the contract of loan between the parties subsists and plaintiff-appellants' obligation to pay the principal of the unpaid obligation remains. The loan shall then be considered to have no agreed interest rate. In a contract of loan, the cause is as to the borrower, the acquisition of the thing loaned and as to the lender, the right to demand its return or its equivalent.^[30] Interest is not an essential part of the contract as in fact a loan agreement without stipulation as to interest is a completely valid contract. The obligation to pay the principal amount borrowed is separable from the obligation to pay interest.^[31]

To nullify the loan and relieve the debtor of all obligations arising from the loan and not just the void interest violates the basic principle of equity and fairness. To deny the lender the right to demand performance of the debtor's obligation to pay the loan would be to unjustly enrich the debtor at the borrower's expense. If the loan contract including the accessory contract of mortgage is to be nullified, then this Court will commit a wrong by impairing the parties' contract and give the plaintiffs-appellants the property of appellees gratuitously.

In this case, there is no dispute that Spouses Ramos owe Saavedra the principal amount of P1,200,000.00, of which the former paid only the first loan amortization. There is no allegation much less any evidence of payment. There is thus no issue that the principal obligations remains unperformed and the appellants are clearly in default of the loan.

Do plaintiff-appellants have a cause of action for quieting of title?

Plaintiff-appellants contend that since the contract of loan is void because the interest stipulation is void, then it follows that the accessory real estate mortgage on the subject property is also void and the sale and subsequent transfer of the subject property to appellee Sardan by way of foreclosure should with the same reasoning be set aside. It is on this premise that plaintiff-appellants filed the case below for quieting of title.

The theory is unsound.

As already settled, the contract of loan is valid, which means that the accessory contract of real estate mortgage executed by Spouses Ramos in favor of Saavedra is also valid. Considering the validity of these contracts, the extra-judicial foreclosure