

SECOND DIVISION

[G.R. No. 208638, January 24, 2018]

**SPOUSES FRANCISCO ONG AND BETTY LIM ONG, AND SPOUSES
JOSEPH ONG CHUAN AND ESPERANZA ONG CHUAN,
PETITIONERS, V. BPI FAMILY SAVINGS BANK, INC.,
RESPONDENT.**

D E C I S I O N

REYES, JR., J:

This is a Petition for Review under Rule 45 of the Rules of Court, as amended, seeking to reverse and set aside the Decision^[1] dated January 31, 2013 and Resolution^[2] dated August 16, 2013 of the Court of Appeals (CA) in CA-G.R. CV No. 92348

The Facts

Spouses Francisco Ong and Betty Lim Ong and Spouses Joseph Ong Chuan and Esperanza Ong Chuan (collectively referred to as the petitioners) are engaged in the business of printing under the name and style "MELBROS PRINTING CENTER."^[3]

Sometime in December 1996, Bank of Southeast Asia's (BSA) managers, Ronnie Denila and Rommel Nayve, visited petitioners' office and discussed the various loan and credit facilities offered by their bank. In view of petitioners' business expansion plans and the assurances made by BSA's managers, they applied for the credit facilities offered by the latter.

Sometime in April 1997, they executed a real estate mortgage (REM) over their property situated in Paco, Manila, covered by Transfer Certificate of Title No. 143457, in favor of BSA as security for a P15,000,000.00 term loan and P5,000,000.00 credit line or a total of P20,000,000.00.

With regard to the term loan, only P10,444,271.49 was released by BSA (the amount needed by the petitioners to pay out their loan with Ayala life assurance, the balance was credited to their account with BSA).

With regard to the P5,000,000.00 credit line, only P3,000,000.00 was released. BSA promised to release the remaining P2,000,000.00 conditioned upon the payment of the P3,000,000.00 initially released to petitioners.

Petitioners acceded to the condition and paid the P3,000,000.00 in full. However, BSA still refused to release the P2,000,000.00. Petitioners then refused to pay the amortizations due on their term loan.

Later on, BPI Family Savings Bank (BPI) merged with BSA, thus, acquired all the latter's rights and assumed its obligations. BPI filed a petition for extrajudicial foreclosure of the REM for petitioners' default in the payment of their term loan.

In order to enjoin the foreclosure, petitioners instituted an action for damages with Temporary Restraining Order and Preliminary Injunction against BPI praying for P23,570,881.32 as actual damages; P1,000,000.00 as moral damages; P500,000.00 as attorney's fees, litigation expenses and costs of suit.

On November 10, 2008, the trial court rendered its Decision,^[4] disposing, thus:

WHEREFORE, in view of all the foregoing, the Court hereby resolves in favor of the plaintiffs and against the defendant bank for the latter to pay the former the above-cited sum of Php20,469,498.00 by way of actual damages and Php500,000.00 by way of attorney's fees.

No pronouncement as to costs.

SO ORDERED.^[5]

BPI thereafter appealed to the CA averring that the court a quo erred when it ruled that petitioners were entitled to damages. BPI posited that petitioners are liable to them on the principal balance of the mortgage loan agreement.

The CA reversed the decision of the lower court and ruled in favor of BPI, the dispositive portion of which states:

WHEREFORE, in the light of the foregoing, the assailed Decision dated 10 November 2008 of the Regional Trial Court, Branch 49, Manila, in Civil Case No. 02-105189 is hereby **REVERSED** and **SET ASIDE**. The Complaint for Damages below is **DISMISSED** for lack of merit.

SO ORDERED.

Petitioners filed a Motion for Reconsideration but the same was denied by the CA in a Resolution dated August 16, 2013, viz.:

Finding no new matter of substance which would warrant the modification much less the reversal of the assailed decision, plaintiffs-appellees' motion for reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.^[6]

Aggrieved, petitioners filed the present petition.

The Issues

- I. WHETHER OR NOT THERE WAS ALREADY AN EXISTING AND BINDING CONTRACT BETWEEN PETITIONERS AND BSA WITH REGARD TO THE OMNIBUS CREDIT LINE;
- II. WHETHER OR NOT BSA INCURRED DELAY IN THE PERFORMANCE OF ITS OBLIGATIONS;
- III. WHETHER OR NOT PETITIONERS ARE ENTITLED TO DAMAGES; and
- IV. WHETHER OR NOT BPI CAN FORECLOSE THE MORTGAGE ON THE LAND OF HEREIN PETITIONERS.^[7]

Ruling of the Court

The Court finds merit in the petition.

In fine, petitioners contend that the CA in its assailed decision erred in ruling that that there was no perfected contract between the parties with respect to the omnibus credit line and that being so, no delay could be attributed to BPI, the successor-in-interest of BSA. Petitioners likewise pointed out that it was error for the CA to delve into the matter regarding existence or perfection of a contract, especially when such issue was never raised by BPI in any of its pleadings or proceedings in the lower court.

As a rule, a contract is perfected upon the meeting of the minds of the two parties. It is perfected by mere consent, that is, from the moment that there is a meeting of the offer and acceptance upon the thing and the cause that constitute the contract.

[8]

In the case of *Spouses Palada v. Solidbank Corporation, et al.*,^[9] this Court held that under Article 1934 of the Civil Code, a loan contract is perfected only upon the delivery of the object of the contract. In that case, although therein petitioners applied for a P3,000,000.00 loan, only the amount of P1,000,000.00 was approved by therein respondent bank because petitioners became collaterally deficient. Nonetheless, the loan contract was deemed perfected on March 17, 1997, the date when petitioners received the P1,000,000.00 loan, which was the object of the contract and the date when the REM was constituted over the property.^[10]

Applying this to the case at bench, there is no iota of doubt that when BSA approved and released the P3,000,000.00 out of the original P5,000,000.00 credit facility, the contract was perfected.

The conclusion reached by the appellate court that only the term loan of P15,000,000.00 was proved to have materialized into an actual contract while the P5,000,000.00 omnibus line credit remained non-existent is ludicrous. A careful perusal of the records reveal that the credit facility that BSA extended to petitioners was a credit line of P20,000,000.00 consisting of a term loan in the sum of P15,000,000.00 and a revolving omnibus line of P3,000,000.00 to be used in the petitioner's printing business. In separate Letters both dated January 31, 1997, BSA approved the term loan and the credit line. Such approval and subsequent release of the amounts, albeit delayed, perfected the contract between the parties.

Loan is a reciprocal obligation, as it arises from the same cause where one party is the creditor and the other the debtor.^[11] The obligation of one party in a reciprocal obligation is dependent upon the obligation of the other, and the performance should ideally be simultaneous. This means that in a loan, the creditor should release the full loan amount and the debtor repays it when it becomes due and demandable.^[12]

In this case, BSA did not only incur delay in releasing the pre-agreed credit line of P5,000,000.00 but likewise violated the terms of its agreement with petitioners when it *deliberately* failed to release the amount of P2,000,000.00 after petitioners complied with their terms and paid the first P3,000,000.00 in full. The default attributed to petitioners when they stopped paying their amortizations on the term loan cannot be sustained by this Court because long before they sent a Letter to

BSA informing the latter of their refusal to continue paying amortizations, BSA had already reneged on its obligation to release the amount previously agreed upon, i.e., the P5,000,000.00 covered by the credit line.

Article 1170 of the Civil Code enumerates the instances when parties to a contract may be held liable for damages, viz.:

Article 1170. Those who in the performance of their obligations are guilty of fraud, negligence, or delay, and those who in any manner contravene the tenor thereof, are liable for damages.

It bears stressing that petitioners entered into a credit agreement with BSA to enable them to buy machineries and equipment for their printing business. On its face, it can be gleaned that the purpose of the credit agreement with BSA was indeed to assist and finance petitioner's business by way of providing additional funds as working capital or revolving fund.^[13]

The direct consequences therefore of the acts of BSA are: the machinery and equipment that were essential to petitioners' business and requisite for its operations had to be procured so late in time and had crippled the printing of school supplies, hence, petitioners were constrained to cancel purchase orders of their clients to petitioners' damage.^[14]

BSA claims that the release of the amount covered by the credit line was subject to the "availability of funds" thus only a part of the proceeds of the entire omnibus line was released.

Assuming for the sake of discussion that the funds at the time were insufficient to cover the entire P5,000,000.00, BSA should have at least informed petitioners in advance so that the latter could have resorted to other means to secure the amount needed for their printing business. The omnibus line was approved and became effective on January 1997 yet BSA did not allow petitioners to draw from the line until November 1997. Moreover, BSA downgraded petitioners' drawdown to only P3,000,000.00 despite the clear wordings of their credit agreement whereby petitioners were allowed to draw any portion or all of the omnibus line not to exceed P5,000,000.00. The almost 10 months delay in releasing the amount applied for by petitioners negates good faith on the part of BSA.

BPI insists that it acted in good faith when it sought extrajudicial foreclosure of the mortgage and that it was not responsible for acts committed by its predecessor, BSA. Good faith, however, is not an excuse to exempt BPI from the effects of a merger or consolidation, viz.:

Section 80. *Effects of merger or consolidation.* - The merger or consolidation shall have the following effects:

1. The constituent corporations shall become a single corporation which, in case of merger, shall be the surviving corporation designated in the plan of merge; and, in case of consolidation, shall be the consolidated corporation designated in the plan of consolidation;

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