

## THIRD DIVISION

[ G.R. No. 225562, March 08, 2017 ]

**WILLIAM C. LOUH, JR. AND IRENE L. LOUH, PETITIONERS, VS.  
BANK OF THE PHILIPPINE ISLANDS, RESPONDENT.**

### R E S O L U T I O N

**REYES, J.:**

Before the Court is the instant petition for review on *certiorari*<sup>[1]</sup> filed by William C. Louh, Jr. (William) and Irene L. Louh (Irene) (collectively, the Spouses Louh) to assail the Decision<sup>[2]</sup> and Resolution,<sup>[3]</sup> dated August 11, 2015 and May 23, 2016, respectively, of the Court of Appeals (CA) in CA-G.R. CV No. 100754.

#### **Antecedents**

The herein respondent, Bank of the Philippine Islands (BPI), issued a credit card in William's name, with Irene as the extension card holder. Pursuant to the terms and conditions of the cards' issuance, 3.5% finance charge and 6% late payment charge shall be imposed monthly upon unpaid credit availments.<sup>[4]</sup>

The Spouses Louh made purchases from the use of the credit cards and paid regularly based on the amounts indicated in the Statement of Accounts (SOAs). However, they were remiss in their obligations starting October 14, 2009.<sup>[5]</sup> As of August 15, 2010, their account was unsettled prompting BPI to send written demand letters dated August 7, 2010, January 25, 2011 and May 19, 2011. By September 14, 2010, they owed BPI the total amount of P533,836.27. Despite repeated verbal and written demands, the Spouses Louh failed to pay BPI.<sup>[6]</sup>

On August 4, 2011, BPI filed before the Regional Trial Court (RTC) of Makati City a Complaint<sup>[7]</sup> for Collection of a Sum of Money.

On February 21, 2012, William filed before the RTC a Motion for Extension of Time to File an Answer or Responsive Pleading.<sup>[8]</sup> In its Order<sup>[9]</sup> dated February 27, 2012, the RTC granted an extension of 15 days or up to March 4, 2012, but the Spouses Louh still failed to comply within the prescribed period.<sup>[10]</sup>

On June 11, 2012, BPI filed a motion to declare the Spouses Louh in default.<sup>[11]</sup> Before the RTC can rule on BPI's motion, the Spouses Louh filed an Answer<sup>[12]</sup> on July 20, 2012 or more than three months after the prescribed period, which ended on March 4, 2012.

On July 24, 2012, the RTC issued an Order<sup>[13]</sup> declaring the Spouses Louh in default and setting BPI's *ex-parte* presentation of evidence on August 7, 2012. The Branch

Clerk of Court thereafter submitted a Commissioner's Report<sup>[14]</sup> dated September 7, 2012, and the RTC considered the case submitted for decision on November 27, 2012.<sup>[15]</sup>

On November 29, 2012, the RTC rendered a Decision,<sup>[16]</sup> the *fallo* of which ordered the Spouses Louh to solidarily pay BPI (1) P533,836.27 plus 12% finance and 12% late payment annual charges starting from August 7, 2010 until full payment, and (2) 25% of the amount due as attorney's fees, plus P1,000.00 per court hearing and P8,064.00 as filing or docket fees; and (3) costs of suit.<sup>[17]</sup>

The RTC explained that BPI had adduced preponderant evidence proving that the Spouses Louh had in fact availed of credit accommodations from the use of the cards. However, the RTC found the 3.5% finance and 6% late payment monthly charges<sup>[18]</sup> imposed by BPI as iniquitous and unconscionable. Hence, both charges were reduced to 1% monthly. Anent the award of attorney's fees equivalent to 25% of the amount due, the RTC found the same to be within the terms of the parties' agreement.<sup>[19]</sup>

The Spouses Louh filed a Motion for Reconsideration,<sup>[20]</sup> which the RTC denied in the Order<sup>[21]</sup> issued on April 8, 2013. The appeal<sup>[22]</sup> they filed was likewise denied by the CA in the herein assailed decision and resolution.

In affirming *in toto* the RTC's judgment, the CA explained that the Spouses Louh were properly declared in default for their failure to file an answer within the reglementary period. The Spouses Louh further filed no motion to set aside the order of default. The CA also found that BPI had offered ample evidence, to wit: (1) delivery receipts pertaining to the credit cards and the terms and conditions governing the use thereof signed by the Spouses Louh; (2) computer-generated authentic copies of the SOAs; and (3) demand letters sent by BPI, which the Spouses Louh received but ignored. As to the award of attorney's fees, the CA ruled that the terms governing the use of the cards explicitly stated that should the account be referred to a collection agency, then 25% of the amount due shall be charged as attorney's fees.<sup>[23]</sup>

In the herein assailed Resolution<sup>[24]</sup> dated May 23, 2016, the CA denied the Spouses Louh's Motion for Reconsideration.<sup>[25]</sup>

### **Issue**

Aggrieved, the Spouses Louh are before the Court raising the sole issue of whether or not the CA erred in sustaining BPI's complaint.<sup>[26]</sup>

The Spouses Louh pray for the dismissal of BPI's suit. They likewise seek a relaxation of procedural rules claiming that their failure to file a timely Answer was due to William's medical condition, which required him to undergo a heart by-pass surgery.<sup>[27]</sup> They further alleged that BPI failed to establish its case by preponderance of evidence. Purportedly, BPI did not amply prove that the Spouses Louh had in fact received and accepted the SOAs, which were, however, unilaterally prepared by the bank.<sup>[28]</sup> They allege the same circumstance as to the receipt of

the demand letters. The computations likewise did not show the specific amounts pertaining to the principal, interests and penalties. They point out that since their credit limit was only P326,000.00, it is evident that the amount of P533,836.27 demanded by BPI included unconscionable charges.<sup>[29]</sup>

BPI failed to file a comment to the instant petition within the prescribed period, which expired on September 23, 2016.

### **Ruling of the Court**

The Court affirms the herein assailed decision and resolution, but modifies the principal amount and attorney's fees awarded by the RTC and the CA.

The Spouses Louh reiterate that the RTC wrongly declared them in default since by reason of William's sickness, they were entitled to a relaxation of the rules. Moreover, BPI had failed to offer preponderant evidence relative to the actual amount of the Spouses Louh's indebtedness.

*The foregoing claims are untenable.*

In *Magsino v. De Ocampo*,<sup>[30]</sup> the Court instructs that:

Procedural rules are tools designed to facilitate the adjudication of cases. Courts and litigants alike are thus enjoined to abide strictly by the rules. And while the Court, in some instances, allows a relaxation in the application of the rules, this, we stress, was never intended to forge a bastion for erring litigants to violate the rules with impunity. The liberality in the interpretation and application of the rules applies only in proper cases and under justifiable causes and circumstances. While it is true that litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to insure an orderly and speedy administration of justice.

Like all rules, procedural rules should be followed **except** only when, for the most persuasive of reasons, they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the prescribed procedure.

The rules were instituted to be faithfully complied with, and allowing them to be ignored or lightly dismissed to suit the convenience of a party like the petitioner was impermissible. Such rules, often derided as merely technical, are to be relaxed only in the furtherance of justice and to benefit the deserving. Their liberal construction in exceptional situations should then rest on a showing of justifiable reasons and of at least a **reasonable attempt at compliance with them**. x x x.<sup>[31]</sup> (Citations omitted and emphasis and italics ours)

In the case at bar, the CA aptly pointed out that the Spouses Louh filed their Answer with the RTC only on July 20, 2012 or more than three months after the prescribed period, which expired on March 4, 2012. When they were thereafter declared in default, they filed no motion to set aside the RTC's order, a remedy which is allowed under Rule 9, Section 3<sup>[32]</sup> of the Rules of Civil Procedure. The Spouses Louh failed to show that they exerted due diligence in timely pursuing their cause so as to entitle them to a liberal construction of the rules, which can only be made in exceptional cases.

The Spouses Louh claim as well that BPI's evidence are insufficient to prove the amounts of the former's obligation; hence, the complaint should be dismissed. The Court, in *Macalinao v. BPI*,<sup>[33]</sup> emphatically ruled that:

Considering the foregoing rule, respondent BPI should not be made to suffer for petitioner Macalinao's failure to file an answer and concomitantly, to allow the latter to submit additional evidence by dismissing or remanding the case for further reception of evidence. Significantly, petitioner Macalinao herself admitted the existence of her obligation to respondent BPI, albeit with reservation as to the principal amount. Thus, a dismissal of the case would cause great injustice to respondent BPI. Similarly, a remand of the case for further reception of evidence would unduly prolong the proceedings of the instant case and render inutile the proceedings conducted before the lower courts.<sup>[34]</sup>

BPI had offered as evidence the (1) testimony of Account Specialist Carlito M. Igos, who executed a Judicial Affidavit in connection with the case, and (2) documentary exhibits, which included the (a) delivery receipts pertaining to the credit cards and the terms and conditions governing the use thereof signed by the Spouses Louh, (b) computer-generated authentic copies of the SOAs,<sup>[35]</sup> and (c) demand letters sent by BPI, which the Spouses Louh received.<sup>[36]</sup> The Clerk of Court subsequently prepared a Commissioner's Report, from which the RTC based its judgment.

The Spouses Louh slept on their rights to refute BPI's evidence, including the receipt of the SOAs and demand letters. BPI cannot be made to pay for the Spouses Louh's negligence, omission or belated actions.

*Be that as it may, the Court finds excessive the principal amount and attorneys fees awarded by the RTC and CA. A modification of the reckoning date relative to the computation of the charges is in order too.*

In *Macalinao*,<sup>[37]</sup> where BPI charged the credit cardholder of 3.25% interest and 6% penalty per month,<sup>[38]</sup> and 25% of the total amount due as attorney's fees, the Court unequivocally declared that:

**[T]his is not the first time that this Court has considered the interest rate of 36% per annum as excessive and unconscionable.**

We held in *Chua vs. Timan*:

The stipulated interest rates of 7% and 5% per month imposed on respondents' loans must be **equitably reduced to 1% per month or 12% per annum**. We need not unsettle the principle we had affirmed in a plethora of cases