

SECOND DIVISION

[G.R. NO. 180274, September 04, 2009]

**VIRGILIO C. CRYSTAL AND GLYNNA F. CRYSTAL, PETITIONERS,
VS. BANK OF THE PHILIPPINE ISLANDS, RESPONDENT.**

DECISION

CARPIO MORALES, J.:

On September 5, 1995, Virgilio C. Crystal and Glynna F. Crystal (petitioners) obtained a P3,000,000 loan from Citytrust Banking Corporation (Citytrust) to secure which they mortgaged a parcel of land located in the Banilad Estate, Cebu City.

In 1996, the Bank of the Philippine Islands (respondent) merged with and absorbed Citytrust.

Petitioners failed to settle their loan, drawing respondent to extra-judicially foreclose the mortgage. The mortgaged property was sold at public auction on July 21, 1997 to respondent which was the highest bidder for P5,604,000. The amount was applied to the mortgage obligation.

Respondent subsequently filed on March 19, 2001 before the Regional Trial Court (RTC) of Cebu City a complaint against petitioners, for collection of deficiency of mortgage obligation and damages, alleging that

x x x [O]n the date of the auction the mortgage obligation amounted to P6,490,623.18 so there was a resulting deficiency of P886,623.18 due the plaintiff from the defendants, the same to earn stipulated interest of 27% per annum from July 21, 1997 to January 1, 2001 and at 20% per annum from January 1, 2001 to March 15, 2001.

After the auction sale on July 21, 1997, plaintiff incurred expenses for Sheriff's commissions, capital gains tax, documentary stamp tax, real estate taxes and other expenses incidental to the transfer of the certificate of title to the plaintiff all in all amounting to P1,665,946.69 which defendants are liable to plaintiff x x x. Plaintiff's total claim, therefore, for deficiency as alleged in the preceding paragraph and for other contractual liability as alleged in this paragraph, is P3,425,386.27 x x x.^[1] (Underscoring supplied)

In their Answer,^[2] petitioners contended that respondent violated the Truth in Lending Act by not disclosing that it was charging them 27% *per annum* in interest; and that the extrajudicial foreclosure was illegal because the mortgaged property was not foreclosed for the correct amount. They thus prayed that the extrajudicial

foreclosure be declared null and void or, in the alternative, that the excess of their P3,000,000 principal obligation plus interest at 12% *per annum* be ordered returned to them and that respondent pay them attorney's fees and expenses of litigation.

Branch 20 of the Cebu City RTC, by Decision of September 27, 2004, reduced petitioners' total outstanding obligation to P5,284,888.65^[3] after finding that the interests, penalty charges and liquidated damages were exorbitant and the attorney's fees unreasonable. After deducting the said reduced amount of P5,284,888.65 from the P5,604,000.00 proceeds of the foreclosure sale to thus yield a remainder of P319,111.35, the trial court disposed:

WHEREFORE, premises considered, it is hereby ordered that plaintiff Bank of the Philippine Islands *pay Spouses Virgilio and Glynna Crystal the amount of P319,111.35 representing the excess amount of the proceeds of the foreclosure sale* over the recomputed obligation of the defendants, plus interest of 12% per annum, from the [sic] July 21, 1997 until the same is fully paid.

SO ORDERED.^[4] (Emphasis in the original; italics and underscoring supplied)

On appeal, the Court of Appeals affirmed the trial court's decision but deleted the award of interest on the P319,111.35 to be returned by respondent to petitioners.^[5]

The parties filed their respective motions for reconsideration^[6] which were denied.^[7] They thereupon filed their respective petitions for review on certiorari before this Court.

By Resolution of January 23, 2008,^[8] the Court denied respondent's petition, docketed as G.R. No. 180129, for failure to sufficiently show that the appellate court committed any reversible error in the challenged decision and resolution.

With respect to herein petitioners' petition^[9] subject of the present Decision, petitioners question only the deletion by the appellate court of the imposition by the trial court of interest on the amount to be refunded to them by respondent.^[10]

Respondent, in its Comment, posits that it is not obliged to pay petitioners any "surplus,"^[11] citing *Dio v. Japor*^[12] which held:

We note that the "surplus" was the result of the computation by the Court of Appeals of respondents' outstanding liability based on a reduced interest rate of 12% *per annum* and the reduced penalty rate of 1% per month. The court *a quo* then proceeded to apply our ruling in *Sulit v. Court of Appeals*, to the effect that in case of surplus in the purchase price, the mortgagee is liable for such surplus as actually comes into his hands, but where he sells on credit instead of cash, he must still account for the proceeds as if the price were paid in cash, for such surplus stands in the place of the land itself with respect to liens thereon or vested rights therein particularly those of the mortgagor or his assigns.

In the instant case, however, there is no "surplus" to speak of. In adjusting the interest and penalty rates to equitable and conscionable levels, what this Court did was merely to reflect the true price of the land in the foreclosure sale. The amount of the petitioner's bid merely represented the true amount of the mortgagee's debt. No surplus in the purchase price was thus created to which the respondents as the mortgagors have a vested right.^[13] (Emphasis and underscoring supplied)

The petition is impressed with merit.

Section 4 of Rule 68 of the Rules of Civil Procedure mandates that:

[t]he amount realized from the foreclosure sale of the mortgaged property shall, after deducting the costs of the sale, be paid to the person foreclosing the mortgage, and when there shall be any balance or residue, after paying off the mortgage debt due, the same shall be paid to junior encumbrancers in the order of priority, to be ascertained by the court, or if there be no encumbrances or there be a balance or residue after payment to them, then to the mortgagor or his duly authorized agent, or to the person entitled to it. (Emphasis, italics and underscoring supplied)

In the present case, the appellate court affirmed the trial court's finding, after a recomputation-reduction of the amount of petitioners' outstanding obligation, that there was an excess amount of the proceeds of the foreclosure sale that must be returned to petitioners.

Respondent's reliance on *Dio* thus fails. It must thus return to petitioners the residue or excess amount of P319,111.35.

The only issue in the present case is in fact whether the excess amount of P319,111.35 should earn legal interest, the judgment directing respondent to refund such excess having been laid to rest when, as reflected above, the Court denied respondent's petition in G.R. No. 180129.

The Court resolves the issue in the affirmative.

While it is settled that the imposition of legal interest on monetary awards is subject to the sound discretion of the court which, if properly exercised, will not be disturbed on appeal,^[14] the appellate court inexplicably deleted the award in the *dispositive* portion of its assailed Decision, without indicating in any portion of the Decision the reason therefor.

The Court finds well-taken the imposition by the trial court of legal interest on the excess amount, not, however, at 12% *per annum*, but at 6%, and to be computed as *LCK Industries Inc. v. Planters Development Bank*^[15] teaches, viz: