

SECOND DIVISION

[G.R. NO. 161397, June 30, 2005]

**DEVELOPMENT BANK OF THE PHILIPPINES, PETITIONER, VS.
FELIPE P. ARCILLA, JR., RESPONDENT.**

[G.R. NO. 161426. June 30, 2005]

**FELIPE P. ARCILLA, JR., PETITIONER, VS. DEVELOPMENT BANK
OF THE PHILIPPINES,RESPONDENT.**

D E C I S I O N

CALLEJO, SR., J.:

Atty. Felipe P. Arcilla, Jr. was employed by the Development Bank of the Philippines (DBP) in October 1981. About five or six months thereafter, he was assigned to the legal department, and thereafter, decided to avail of a loan under the Individual Housing Project (IHP) of the bank.^[1] On September 12, 1983, DBP and Arcilla executed a Deed of Conditional Sale ^[2] over a parcel of land, as well as the house to be constructed thereon, for the price of P160,000.00. Arcilla borrowed the said amount from DBP for the purchase of the lot and the construction of a residential building thereon. He obliged himself to pay the loan in 25 years, with a monthly amortization of P1,417.91, with 9% interest per annum, to be deducted from his monthly salary.^[3]

DBP obliged itself to transfer the title of the property upon the payment of the loan, including any increments thereof. It was also agreed therein that if Arcilla availed of optional retirement, he could elect to continue paying the loan, provided that the loan/amount would be converted into a regular real estate loan account with the prevailing interest assigned on real estate loans, payable within the remaining term of the loan account.^[4]

Arcilla was notified of the periodic release of his loan.^[5] During the period of July 1984 to December 31, 1986, the monthly amortizations for the said account were deducted from his monthly salary, for which he was issued receipts.^[6]

The monthly amortization was increased to P1,468.92 in November 1984, and to P1,691.51 beginning January 1985. However, Arcilla opted to resign from the bank in December 1986. Conformably with the Deed of Conditional Sale, the bank informed him, on June 11, 1987, that the balance of his loan account with the bank had been converted to a regular housing loan, thus:

<u>Amount converted to PH Loan</u>	<u>Interest Rate</u>	<u>Remaining Term</u>	<u>Monthly Amortization</u>

P 155,218.79 - 1	9%	22 yrs. & 6 mos	P1,342.72
6,802.45 - 2	9%	21 yrs. & 10 mos.	59.41
24,342.91 - 3	9%	22 yrs.	212.07

Plus: MRI at PC. 41/thousand P1,614.20
76.41

P186,364.15 Total P1,690.61^[7]
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On July 24, 1987, Arcilla signed three Promissory Notes^[8] for the total amount of P186,364.15. He was also obliged to pay service charge and interests, as follows:

a.1 On the amount advanced or balance thereof that remains unpaid for 30 days* or less:

- i. Interest on advances at 7% p.a. over DBP's borrowing cost:
- ii. No 2% service charge
- iii. No 8% penalty charge

a.2 On the amount advanced or balance thereof that remains unpaid for more than 30 days:

- i. Interest on the advance at 7% p.a.]
over DBP's borrowing cost;]
- ii. One time 2% service charge]-- To be computed from
- iii. Interest on the service charge] the start of the 30-
day
- iv. 8% penalty charge on the balances] period
of the advances and service charge.^[9]

Arcilla also agreed to pay to DBP the following:

*Insurance Premiums - 30-day period to be computed from date of advances

Other Advances - 30-day period to be computed from date of notification

b. Taxes

b.1 One time service charge 2% of the amount advanced
b.2 Interest and penalty charge Interest - 7% p.a. over borrowing

cost
Penalty charge - 8% p.a. if unpaid

after 30 days from date of advance

i. Interest of the advance at]
7% p.a. over DBP's]

- borrowing costs;]-- To be computed from start
- ii One time 2% service charge] of 30-day period
- iii Interest on the service charge]
- iv. 8% penalty charge on the]
- balances of the advance and]
- service charge.]

*Insurance Premiums - 30-day period to be computed from date of advances.

Other Advances - 30-day period to be computed from date of notification.

- b. Tax
- b.1 One time service charge 2% of the amount advanced
- b.2 Interest and penalty charge Interest - 7% p.a. over borrowing
- cost
- Penalty charge - 8% p.a. if unpaid
- after 30 days from date of advance

However, Arcilla also agreed to the reservation by the DBP of its right to increase (with notice to him) the "rate of interest on the loan, as well as all other fees and charges on loans and advances pursuant to such policy as it may adopt from time to time during the period of the loan; Provided, that the rate of interest on the loan shall be reduced by law or by the Monetary Board; Provided, further, that the adjustment in the rate of interest shall take effect on or after the effectivity of the increase or decrease in the maximum rate of interest."^[10]

Upon his request, DBP agreed to grant Arcilla an additional cash advance of P32,000.00. Thereafter, on May 23, 1984, a Supplement to the Conditional Sale Agreement was executed in which DBP and Arcilla agreed on the following terms of the loan:

<u>Amount</u>	<u>Interest Rate Per Annum</u>	<u>Terms</u>
<u>Amortization</u>		
P32,000.00	Nine (9%) per cent MRI	24 years
P271.57	for P32,000.00 at P0.40/1,000.00	
<u>12.80</u>		
P32,000.00	same to be consolidated with the	(Est. P
284.37	original advance in accordance	Amort.)
=====		
	with Condition No. 8 hereof. ^[11]	

The additional advance was, thus, consolidated to the outstanding balance of Arcilla's original advance, payable within the remaining term thereof at 9% per annum. However, he failed to pay his loan account, advances, penalty charges and

interests which, as of October 31, 1990, amounted to P241,940.93.^[12] DBP rescinded the Deed of Conditional Sale by notarial act on November 27, 1990.^[13] Nevertheless, it wrote Arcilla, on January 3, 1992, giving him until October 24, 1992, within which to repurchase the property upon full payment of the current appraisal or updated total, whichever is lesser; in case of failure to do so, the property would be advertised for bidding.^[14] DBP reiterated the said offer on October 7, 1992.^[15] Arcilla failed to respond. Consequently, the property was advertised for sale at public bidding on February 14, 1994.^[16]

Arcilla filed a complaint against DBP with the Regional Trial Court (RTC) of Antipolo, Rizal, on February 21, 1994. He alleged that DBP failed to furnish him with the disclosure statement required by Republic Act (R.A.) No. 3765 and Central Bank (CB) Circular No. 158 prior to the execution of the deed of conditional sale and the conversion of his loan account with the bank into a regular housing loan account. Despite this, DBP immediately deducted the account from his salary as early as 1984. Moreover, the bank applied its own formula and imposed its usurious interests, penalties and charges on his loan account and advances. He further alleged, thus:

13. That when plaintiff could no longer cope-up with defendant's illegal and usurious impositions, the DBP unilaterally increased further the rate of interest, without notice to the latter, and heaped-up usurious interests, penalties and charges;

...

14. That to further bend the back of the plaintiff, defendant rescinded the subject deed of conditional sale on 4 December 1990 without giving due notice to plaintiff;

15. That much later, on 10 October 1993, plaintiff received a letter from defendant dated 19 September 1993, informing plaintiff that the subject deed of conditional sale was already rescinded on 4 December 1990 (xerox copy of the same is hereto attached and made an integral part hereof as Annex "C");^[17]

In its answer to the complaint, the DBP alleged that it substantially complied with R.A. No. 3765 and CB Circular No. 158 because the details required in said statements were particularly disclosed in the promissory notes, deed of conditional sale and the required notices sent to Arcilla. In any event, its failure to comply strictly with R.A. No. 3765 did not affect the validity and enforceability of the subject contracts or transactions. DBP interposed a counterclaim for the possession of the property.

On April 27, 2001, the trial court rendered judgment in favor of Arcilla and nullified the notarial rescission of the deeds executed by the parties. The *fallo* of the decision reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendant. Defendant is hereby directed to furnish the disclosure statement to the plaintiff within five (5) days upon

receipt hereof in the manner and form provided by R.A. No. 3765 and submit to this Court for approval the total obligation of the plaintiff as of this date, within ten (10) days from receipt of this order. The Notarial Rescission (Exh. "16") dated November 27, 1990 is hereby declared null and void. Costs against the defendant.

SO ORDERED.^[18]

DBP appealed the decision to the Court of Appeals (CA) wherein it made the following assignment of errors:

4.1. The trial court erred in ruling that the provision of the details of the loan without the issuance of a "Disclosure Statement" is not compliance with the "Truth in Lending Act;"

4.2. The trial court erred in declaring the Notarial Rescission null and void; and

4.3. The trial court erred in denying DBP's counterclaims for recovery of possession, back rentals and litigation expenses.^[19]

On May 29, 2003, the CA rendered judgment setting aside and reversing the decision of the RTC. In ordering the dismissal of the complaint, the appellate court ruled that DBP substantially complied with R.A. No. 3765 and CB Circular No. 158. Arcilla filed a motion for reconsideration of the decision. For its part, DBP filed a motion for partial reconsideration of the decision, praying that Arcilla be ordered to vacate the property. However, the appellate court denied both motions.

The parties filed separate petitions for review on *certiorari* with this Court. The first petition, entitled *Development Bank of the Philippines v. Court of Appeals*, was docketed as G.R. No. 161397; the second petition, entitled *Felipe Arcilla, Jr. v. Court of Appeals*, was docketed as G.R. No. 161426. The Court resolved to consolidate the two cases.

The issues raised in the two petitions are the following: a) whether or not petitioner DBP complied with the disclosure requirement of R.A. No. 3765 and CB Circular No. 158, Series of 1978, in the execution of the deed of conditional sale, the supplemental deed of conditional sale, as well as the promissory notes; and b) whether or not respondent Felipe Arcilla, Jr. is mandated to vacate the property and pay rentals for his occupation thereof after the notarial rescission of the deed of conditional sale was rescinded by notarial act, as well as the supplement executed by DBP.

On the first issue, Arcilla avers that under R.A. No. 3765 and CB Circular No. 158, the DBP, as the creditor bank, was mandated to furnish him with the requisite information in such form prescribed by the Central Bank before the commutation of the loan transaction. He avers that the disclosure of the details of the loan contained in the deed of conditional sale and the supplement thereto, the promissory notes and release sheet, do not constitute substantial compliance with the law and the CB Circular. He avers that the required disclosure did not include the following: