THIRD DIVISION

[CA-G.R. CV NO. 92246, March 18, 2014]

SUPERMAX PHILIPPINES, INC., NIKKO SOURCES INTERNATIONAL CORPORATION, AND CHARLES H.C. YANG, PLAINTIFFS-APPELLANTS, VS. PDCP DEVELOPMENT BANK, INC. AND 1ST E BANK, DEFENDANTS-APPELLANTS.

D E C I S I O N

DE GUIA-SALVADOR, R., J.:

At bench is an appeal[*] from the Decision dated March 28, 2008[1] of the Regional Trial Court (RTC) of Makati City, Branch 62, in Civil Case No. 01-1473, the dispositive portion of which states:

> WHEREFORE, premises considered, judgment is hereby rendered as follows:
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> > 1) The varying interest rates EXCEPT the expressly stipulated rate of twenty one (21%) per cent per annum imposed on the principal loan obligation of the plaintiffs amounting to P21,864,296.99 are hereby NULLIFIED. In sum, the principal amount so adjudged shall be charged, on top of the stipulated twenty one (21%) per cent per annum with the following: a) the mitigated amount representing twelve (12%) per cent per annum by way of penalty charges; b) legal interest of twelve (12%) per cent per annum from date of judicial demand until fully paid pursuant to 2212 New Civil Code and; c) Five (5%) per cent of the total amount due by way of attorney's fees. In accordance with this conclusion, the 1st E BANK through its successor-in-interest Philippine Deposit Insurance Corporation is ordered to re-compute plaintiffs' account subject of this suit;
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> > 2) Plaintiffs SUPERMAX PHILIPPINES, INC., NIKKO SOURCES INTERNATIONAL CORPORATION, AND CHARLES H.C. YANG are held solidarily liable for the payment of the sum as finally computed in No. 1 less payments already made by the plaintiffs;
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> > 3) Each party to bear the cost of their own lawyers;
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> > 4) No mention as to costs.
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> SO ORDERED.[2]

The Facts

The case arose out of a Complaint for Declaratory Relief, Accounting and Reformation of Contracts, and Damages filed by plaintiffs-appellants Supermax Philippines Inc., Nikko Sources International Corporation and Charles H.C. Yang ("Supermax" / "Nikko" / "Yang" / "plaintiffs-appellants") against defendants-appellants PDCP Development Bank, now known as 1st E Bank ("PDCP" / "1st E Bank" / "defendants-appellants").[3] The facts, as summarized by the trial court, are as follows:

> Plaintiffs SUPERMAX PHILIPPINES, INC. and NIKKO SOURCES INTERNATIONAL CORPORATION are both corporations duly organized under Philippine laws while CHARLES H.C. YANG is the executive vice-president and general manager of Supermax. Nikko is the sister company of Supermax.
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> On the other hand, 1st E BANK is a banking corporation duly registered under Philippine laws and is the same corporate entity pertaining to the previous name PDCP Development Bank. The change of corporate name from PDCP to 1st E Bank took place sometime May 2000.
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> In the course of operation then as PDCP, plaintiff (sic) extended a loan to the plaintiff Supermax in the total amount of P21,864,296.29 covered by Promissory Note bearing number 99-4326. To guarantee the same, plaintiffs Nikko and Yang executed an Assumption of Solidary Liability in favor of plaintiff Supermax. Apart from this guarantee, defendant required Supermax to issue post dated checks. Plaintiffs defaulted in the payment of the obligations thus prompting the defendant to send demand letters dated January 11, and September 2001 for the payment of the amount of P62,032,447.11.
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> Thereafter, defendant assigned the subject amount to Philippine Deposit Insurance Corporation.
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> *Plaintiffs' contention:*
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> Plaintiffs maintain that the interest rate that defendant should apply in their loan obligations should only be 16% per annum and any subsequent interest thereon should bear the written approval and consent of the plaintiffs. Further, they asserted that they are not bound by the terms of the loan agreement on the ground that Plaintiff Yang signed the purported promissory note in blank and they were never furnished with a copy thereof.
>
> Notwithstanding the difficulties the plaintiffs encountered in meeting up (sic) its (sic) obligations, plaintiffs tried religiously paying (sic) the same. Plaintiffs insisted that the interest rate as well as the penalty rate that defendant had been charging is grossly unconscionable and exorbitant making it a void stipulation. Moreover, they contend that the unilateral increase of the interest rate and the exorbitant penalty charges without the consent of the plaintiffs is contrary to law and whatever had been paid by reason thereof should be returned to the plaintiffs. Lastly, plaintiffs opine that they cannot be in default since PDCP has yet to send demand upon them on the theory that PDCP is not 1st E Bank.

To support the foregoing theses, witnesses for the plaintiffs testified that the plaintiff Supermax was extended a Credit Line Agreement in the amount (of) 55 million pesos by the defendant. Several loans were obtained by plaintiffs and the total amount of P21,864,296.99 covered by the note subject of this suit is a capitalization of these several promissory notes and trust receipts. Witness claimed that plaintiffs were not furnished with a copy of the note and that despite negotiations for the settlement of the reduced interest and waiver of penalties, defendant immediately demanded for the payment of the amount of P48,629,988.09. Moreover, witness declared that the note subject of this suit was signed by him in blank and was assured that it is the normal practice and their copy will be furnished them but that did not happen. Upon receipt of this demand, plaintiffs were shocked with what defendant had done in unilaterally imposing exorbitant interest rates contrary to their original agreement of 16% per annum. They confirmed that (a) proposal for settlement was made by plaintiffs but it was not responded to by the defendant. They are now demanding for 1 million peso(s) for (sic) nominal and temperate damages and P500,000.00 by way of attorney's fees.

Defendant's contention:

Defendant advanced that plaintiff Supermax is deemed to have consented to the terms and conditions of the note when it caused it to be signed by its duly authorized representative and co-plaintiff, Charles Yang. So, too, the interest and other charges that may have been collected by defendant have all been disclosed and consented to by Supermax. In fact, plaintiff Supermax made a proposal for the restructuring of its past due loan obligations with a proposed schedule of payment. In that proposal, plaintiff Supermax acknowledged that it is indebted to pay the sum of P31,297,525.46 to defendant.

Defendant 1st E Bank assigned the accounts covering the subject promissory note to the PDIC by virtue of a Deed of Assignment executed on December 29, 2004. PDIC's witness testified based on records in their custody pertaining to the account of the plaintiffs. He further adduced proof that the interest rate agreed upon and consented to by the plaintiffs was at 21% per annum as shown in the note subject of the suit. Likewise, the twin evidence attesting Assumption of Solidary Liability by the plaintiffs Yang and Nikko were presented. Demands were made upon plaintiffs but to no avail. The outstanding due obligations of plaintiff Supermax to defendant as of April 30, 2007 has amounted to P169,283,279.38, inclusive of interest and penalty charges.[4]

Incidentally, the claims and defenses of PDCP and 1st E Bank have been handled by their successor-in-interest, the Philippine Deposit Insurance Corporation (PDIC), through the latter's legal department.[5] Such stems from the assignment of the loan in question by 1st E Bank to PDIC, per a Deed of Assignment dated December 29, 2004.[6]

The RTC's Ruling

After trial, the RTC rendered the appealed decision in favor of the defendants-appellants. It ruled that the loan executed by the parties is undisputed, and the only remaining dispute is regarding the terms thereof. The court did not give credence to plaintiffs-appellants' assertion that the promissory note was signed in blank. It found their assertion implausible since the signatory, appellant Yang, was not illiterate and is an experienced businessman who knows the import of a loan document. The court also found that the plaintiffs-appellants, in fact, respected the terms of the note for three years.[7] It held that the contract is the law between the parties and must be complied with in good faith. As for Yang and Nikko, their solidary liability is likewise established by the public documents they signed assuming such responsibility.[8] Further, the court held that the escalation clause must be struck down as unenforceable because it does not provide for increase in interest rates that may be permitted "should a law or Monetary Board resolution intervene;" rather, it merely provided that any increase in interest rate is left to the sole determination of the bank.[9] Therefore, the court held that the stipulated interest rate of 21% per annum should prevail over the varying interest rates imposed by defendants-appellants; it should apply until the full payment of the P21,864,296.99 loan.[10]

Finally, the trial court found the penalty charges of 2.5% per month or 30% per annum as unconscionable and excessive, and reduced the same to 12% per annum of the overdue amount. It also found the late interest charges not to have been stipulated pursuant to the Truth in Lending Act, hence, nullified them. It further granted defendants-appellants' claim for attorneys fees but set it at 5% of the obligation that is due and demandable. Nominal, temperate and exemplary damages were denied, as the defendants-appellants bank did not act in bad faith.[11]

From this decision, both parties filed their respective notices of appeal.[12]

Plaintiffs-appellants seek the reversal of the appealed decision on the following grounds:

1. THE HONORABLE PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF MAKATI, BRANCH 62, COMMITTED GROSS, REVERSIBLE ERROR IN HOLDING THAT PLAINTIFFS-APPELLANTS' LOAN INTEREST IS TWENTY-ONE (21%) PER CENT PER ANNUM.

2. THE SAME HONORABLE PRESIDING JUDGE COMMITTED SERIOUS, REVERSIBLE ERROR IN AWARDING PENALTY AND ADDITIONAL INTEREST IN FAVOR OF THE DEFENDANT[S]-APPELL[ANTS] CONTRARY TO HER DECISION NULLIFYING THE VARYING INTEREST, ADDITIONAL INTEREST AND PENALTY CHARGES, HENCE, THE PLAINTIFFS-APPELLANTS CANNOT BE CONSIDERED IN DEFAULT TO JUSTIFY THE SAID AWARD.

3. THE SAME HONORABLE PRESIDING JUDGE COMMITTED GROSS, REVERSIBLE ERROR IN HOLDING THAT DEFENDANT[S]-APPELL[ANTS] IS ENTITLED TO ATTORNEY'S FEE.

4. THE SAME HONORABLE PRESIDING JUDGE COMMITTED SERIOUS, REVERSIBLE ERROR IN NOT HOLDING THAT, PLAINTIFFS-APPELLANTS ARE ENTITLED TO DAMAGES PRAYED FOR IN THEIR COMPLAINT.[13]

On the other hand, in support of their appeal, defendants-appellants ascribe to the trial court the following errors:

1. X X X WHEN IT NULLIFIED THE ESCALATION CLAUSE ON THE PROMISSORY NOTE DATED SEPTEMBER 30, 1998 AND FIXED THE INTEREST RATE TO TWENTY ONE (21%) PER CENT PER ANNUM.

2. X X X WHEN IT REDUCED THE PENALTY CHARGES AND ATTORNEY'S FEES FROM 30% TO 12% PER ANNUM AND FROM 25% TO 5% OF THE AMOUNT DUE.[14]

Plaintiffs-appellants argue that the agreement between the parties as to the interest rate on the loan was only at 16%.[15] Though they admit such agreement to be "verbal," plaintiffs-appellants contend that it is valid and binding between the parties.[16] They likewise assert that it is "general practice in the banking industry" that promissory notes are signed in blank. They further contend that the contract is a "pro-forma contract of adhesion" so that any ambiguity or doubt in it should be resolved against the bank.[17]

Plaintiffs-appellants assert that the court should have awarded the damages prayed for in their complaint and not ordered them to pay attorney's fees, considering its ruling "nullifying the varying interest and declaring the additional interest and penalties unconscionable and iniquitous."[18] They insist that the bank acted fraudulently in "unilaterally imposing excessive rates of interest" akin to unjust enrichment and, therefore, should be found liable for damages.[19]

For their part, defendants-appellants argue that the trial court should not have invalidated the escalation clause, as the anti-usury law has been lifted by Central Bank Circular No. 905. They insist that the de-escalation provision does not allow for one-sidedness. Allegedly, there is also a provision which says that "adjustment in the rate shall take effect automatically on the effectivity date of the increase or decrease in the maximum interest rate."[20] They went on to cite CB Circular No. 905 and jurisprudence stating that the 21% per annum interest rate (repriceable monthly) is valid.[21] They also argue that the 2.5% surcharge or penalty for every 30-day period stipulated on the loan is in the nature of liquidated damages that is allowed under Article 2227 of the Civil Code. Likewise, the 25% in attorney's fees is legal as it was part of the promissory note that was freely and voluntarily signed by Yang, which makes it the law between the parties.[22]

Furthermore, defendants-appellants contend that plaintiffs-appellants are now estopped from questioning the stipulated interest, since their letters dated September 12, 2000, February 5, 2001 and February 10, 2005 do not even refute such interest rate. They, in fact, asked for the restructuring of the loan in a series of negotiations; but no written evidence was presented wherein they questioned the interest rate.[23]

The Issues

Are plaintiffs-appellants bound by the interest rate of 21% as stipulated in the loan with defendants-appellants?

Is the escalation clause valid?