

CJ JEROME



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

ESTANISLAO and AFRICA  
SINAMBAN,

G.R. No. 193890

Petitioners, Present:

VELASCO, JR., J.,  
Chairperson,  
PERALTA,  
VILLARAMA, JR.,  
REYES, and  
JARDELEZA, JJ.

- versus -

CHINA BANKING  
CORPORATION,

Promulgated:

Respondent. March 11, 2015

X-----*Wynne D. Lagutan*-----X

DECISION

REYES, J:

Before this Court is a Petition for Review on *Certiorari*<sup>1</sup> of the Decision<sup>2</sup> dated May 19, 2010 of the Court of Appeals (CA) in CA-G.R. CV. No. 66274 modifying the Decision<sup>3</sup> dated July 30, 1999 of the Regional Trial Court (RTC) of San Fernando City, Pampanga, Branch 45 for Sum of Money in Civil Case No. 11708.

<sup>1</sup> Rollo, pp. 9-26.

<sup>2</sup> Penned by Associate Justice Celia C. Librea-Leagogo, with Associate Justices Remedios A. Salazar-Fernando and Michael P. Elbinias, concurring; id. at 28-53.

<sup>3</sup> Issued by Judge Adelaida Ala-Medina; id. at 101-104.

A

### Factual Antecedents

On February 19, 1990, the spouses Danilo and Magdalena Manalastas (spouses Manalastas) executed a Real Estate Mortgage (REM)<sup>4</sup> in favor of respondent China Banking Corporation (Chinabank) over two real estate properties covered by Transfer Certificate of Title Nos. 173532-R and 173533-R, Registry of Deeds of Pampanga, to secure a loan from Chinabank of ₱700,000.00 intended as working capital in their rice milling business. During the next few years, they executed several amendments to the mortgage contract progressively increasing their credit line secured by the aforesaid mortgage. Thus, from ₱700,000.00 in 1990, their loan limit was increased to ₱1,140,000.00 on October 31, 1990, then to ₱1,300,000.00 on March 4, 1991, and then to ₱2,450,000.00 on March 23, 1994.<sup>5</sup> The spouses Manalastas executed several promissory notes (PNs) in favor of Chinabank. In two of the PNs, petitioners Estanislao and Africa Sinamban (spouses Sinamban) signed as co-makers.

On November 18, 1998, Chinabank filed a Complaint<sup>6</sup> for sum of money, docketed as Civil Case No. 11708, against the spouses Manalastas and the spouses Sinamban (collectively called the defendants) before the RTC. The complaint alleged that they reneged on their loan obligations under the PNs which the spouses Manalastas executed in favor of Chinabank on different dates, namely:

1. PN No. OACL 634-95, dated April 24, 1995, for a loan principal of ₱1,800,000.00, with interest at 23% *per annum*; the spouses Manalastas signed alone as makers.<sup>7</sup>
2. PN No. OACL 636-95, dated May 23, 1995, for a loan

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<sup>4</sup> Id. at 64-66.

<sup>5</sup> Id. at 67-72.

<sup>6</sup> Id. at 56-60.

<sup>7</sup> Id. at 61.

principal of ₱325,000.00, with interest at 21% *per annum*; the spouses Sinamban signed as solidary co-makers;<sup>8</sup>

3. PN No. CLF 5-93, dated February 26, 1991, for a loan principal of ₱1,300,000.00, with interest at 22.5% *per annum*; only Estanislao Sinamban signed as solidary co-maker.<sup>9</sup>

All of the three promissory notes carried an acceleration clause stating that if the borrowers failed to pay any stipulated interest, installment or loan amortization as they accrued, the notes shall, at the option of Chinabank and without need of notice, immediately become due and demandable. A penalty clause also provides that an additional amount shall be paid equivalent to 1/10 of 1% per day of the total amount due from date of default until fully paid, and the further sum of 10% of the total amount due, inclusive of interests, charges and penalties, as and for attorney's fees and costs.<sup>10</sup>

In Chinabank's Statement of Account<sup>11</sup> dated May 18, 1998, reproduced below, the outstanding balances of the three loans are broken down, as follows:

- (a) PN No. OACL 636-95 has an outstanding principal of ₱325,000.00, cumulative interest of ₱184,679.00, and cumulative penalties of ₱258,050.00, or a total amount due of **₱767,729.00**;
- (b) PN No. OACL 634-95 has an outstanding principal of ₱1,800,000.00, cumulative interest of ₱1,035,787.50, and

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<sup>8</sup> Id. at 62.

<sup>9</sup> Id. at 63.

<sup>10</sup> Id. at 57.

<sup>11</sup> Id. at 75.

cumulative penalties of ₱1,429,200.00, or a total amount due of **₱4,264,987.50**; and

- (c) PN No. CLF 5-93 has an outstanding principal of ₱148,255.08, cumulative interest of ₱64,461.84, and cumulative penalties of ₱156,541.58, or a total amount due of **₱369,258.50**. Note that from the original amount of ₱1,300,000.00, the loan principal had been reduced to only ₱148,255.08 as of May 18, 1998.<sup>12</sup>

CHINA BANKING CORPORATION  
San Fernando, Pampanga  
SPS. DANILO & MAGDALENA MANALASTAS  
STATEMENT OF ACCOUNT  
As of May 18, 1998

PN NUMBER	PRINCIPAL	INTEREST	36% PENALTY FEE	TOTAL
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OACL 636-95	325,000.00	184,679.00	258,050.00	<b>767,729.00</b>
OACL 634-95	1,800,000.00	1,035,787.50	1,429,200.00	<b>4,264,987.50</b>
CLF 005-93	148,255.08	64,461.84	156,541.58	<b>369,258.50</b>
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TOTAL P	<u>2,273,255.08</u>	<u>1,284,928.34</u>	<u>1,843,791.58</u>	<b>5,401,975.00</b>
TOTAL AMOUNT DUE	-----			5,401,975.00
PLUS 10% ATTORNEY'S FEE	-----			540,197.50
				-----
				5,942,172.50
ADD: OTHER EXPENSES				
INSURANCE PREMIUM				22,618.37
POSTING OF NOTICE OF SALE				700.00
PUBLICATION FEE				17,500.00
REGISTRATION OF CERTIFICATE OF SALE (MISC.)				1,000.00
REGISTRATION OF CERTIFICATE OF SALE (REGISTER OF DEEDS)				
Registration fee				10,923.00
Entry fee				30.00
Legal fund				20.00
BIR certification				60.00
Doc. stamps tax				69,000.00
Capital Gains tax				276,000.00
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EXPENSES INCURRED ON OCULAR INSPECTION MADE ON TCT#173532-R & TCT#173533-R				404.00
ATTORNEY'S FEE				<u>18,000.00</u>
				<b>416,255.37</b>
LESS: BID PRICE				<b>4,600,000.00</b>
				-----
GRAND TOTAL	-----			<b><u>1,758,427.87</u></b> <sup>13</sup>

<sup>12</sup> Id.

<sup>13</sup> Id.

On the basis of the above statement of account, and pursuant to the promissory notes, Chinabank instituted extrajudicial foreclosure proceedings against the mortgage security. The foreclosure sale was held on May 18, 1998, with Chinabank offering the highest bid of ₱4,600,000.00, but by then the defendants' total obligations on the three promissory notes had risen to ₱5,401,975.00, before attorney's fees of 10% and auction expenses, leaving a loan deficiency of ₱1,758,427.87.<sup>14</sup> Thus, in the complaint before the RTC, Chinabank prayed to direct the defendants to jointly and severally settle the said deficiency, plus 12% interest per *annum* after May 18, 1998,<sup>15</sup> the date of the auction sale.<sup>16</sup>

The spouses Sinamban, in their Answer<sup>17</sup> dated February 26, 1999, averred that they do not recall having executed PN No. OACL 636-95 for ₱325,000.00 on May 23, 1995, or PN No. CLF 5-93 for ₱1,300,000.00 on February 26, 1991, and had no participation in the execution of PN No. OACL 634-95 for ₱1,800,000.00 on April 24, 1995. They however admitted that they signed some PN forms as co-makers upon the request of the spouses Manalastas who are their relatives; although they insisted that they derived no money or other benefits from the loans. They denied knowing about the mortgage security provided by the spouses Manalastas, or that the latter defaulted on their loans. They also refused to acknowledge the loan deficiency of ₱1,758,427.87 on the PNs, insisting that the mortgage collateral was worth more than ₱10,000,000.00, enough to answer for all the loans, interests and penalties. They also claimed that they were not notified of the auction sale, and denied that they knew about the Certificate of Sale<sup>18</sup> and the Statement of Account dated May 18, 1998, and insisted that Chinabank manipulated the foreclosure sale to exclude them therefrom. By

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<sup>14</sup> Id. at 58-59.

<sup>15</sup> But note that the PNs stipulated interest rates from 21% to 23% *per annum*, plus a penalty of 1% per month of delay.

<sup>16</sup> *Rollo*, p. 59.

<sup>17</sup> Id. at 79-82.

<sup>18</sup> Id. at 73-74.

way of counterclaim, the Spouses Sinamban prayed for damages and attorney's fees of 25%, plus litigation expenses and costs of suit.

The spouses Manalastas were declared in default in the RTC Order<sup>19</sup> dated April 6, 1999, and Chinabank was allowed to present evidence *ex parte* as against them, but at the pre-trial conference held on July 5, 1999, the spouses Sinamban and their counsel also did not appear;<sup>20</sup> hence, in the Order<sup>21</sup> dated July 5, 1999, the RTC allowed Chinabank to present evidence *ex parte* against the defendants before the Branch Clerk of Court. During the testimony of Rosario D. Yabut, Branch Manager of Chinabank-San Fernando Branch, all the foregoing facts were adduced and confirmed, particularly the identity of the pertinent loan documents and the signatures of the defendants. On July 21, 1999, the court admitted the exhibits of Chinabank and declared the case submitted for decision.<sup>22</sup>

### **Ruling of the RTC**

On July 30, 1999, the RTC rendered its Decision<sup>23</sup> with the following dispositive portion:

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiff China Banking Corporation and against defendant Sps. Danilo and Magdalena Manalastas and defendant Sps. Estanislao and Africa Sinamban to jointly and severally pay [Chinabank] the amount of ₱ 1,758,427.87, representing the deficiency between the acquisition cost of the foreclosed real estate properties and the outstanding obligation of defendants at the time of the foreclosure sale; interest at the legal rate of 12% per annum from and after May 18, 1998; attorney's fees equivalent to 10% of the aforesaid deficiency amount and the litigation and costs of suit.

SO ORDERED.<sup>24</sup>

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<sup>19</sup> Id. at 89.

<sup>20</sup> Id. at 97.

<sup>21</sup> Id.

<sup>22</sup> Id. at 98.

<sup>23</sup> Id. at 101-104.

<sup>24</sup> Id. at 104.

On Motion for Reconsideration<sup>25</sup> of the spouses Sinamban dated August 27, 1999, to which Chinabank filed an Opposition<sup>26</sup> dated September 14, 1999, the RTC in its Order<sup>27</sup> dated October 22, 1999 set aside the Decision dated July 30, 1999 with respect to the spouses Sinamban, in this wise:

As it is undisputed that Exhibit "B" (Promissory Note dated April 24, 1995 in the amount of ₱1,800,000.00), was not signed by the Spouses Sinamban it would not be equitable that the said defendants be made solidarily liable for the payment of the said note as co-makers of their co-defendants Spouses Manalastas who are the one[s] principally liable thereto. Prescinding from this premise, the movant spouses could only be held liable for the two (2) promissory notes they have signed, Promissory Notes dated May 23, 1995 in the amount of P325,000.00 and February 26, 1991 in the amount of ₱1,300,000.00, Exhibits "A" and "C", respectively. **As the total amount of the said notes is only ₱1,625,000.00, so even if we would add the interests due thereon, there is no way that the said outstanding loan exceed[s] the acquisition cost of the foreclosed real estate properties subject hereof in the amount of ₱4,600,000.00.** It would appear then that the Spouses Sinamban could not be held liable for the deficiency in the amount of ₱1,758,427.87 which should justly be borne alone by the defendant Spouses Manalastas. Guided by law and equity on the matter, the court will not hesitate to amend a portion of its assailed decision to serve the interest of justice.

**WHEREFORE, premises considered, the decision dated July 30, 1999 is hereby Reconsidered and Set Aside with respect to the Spouses Estanislao and Africa Sinamban hereby Relieving them from any liability arising from the said Decision which is affirmed in toto with respect to Spouses Manalastas.**

**SO ORDERED.**<sup>28</sup> (Emphases ours)

The RTC ruled that the proceeds of the auction were sufficient to answer for the two PNs co-signed by the spouses Sinamban, including interest and penalties thereon, and therefore the spouses Manalastas should solely assume the deficiency of ₱1,758,427.87. Chinabank moved for reconsideration on November 11, 1999,<sup>29</sup> to which the spouses Sinamban filed their comment/opposition on November 23, 1999.<sup>30</sup>

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<sup>25</sup> Id. at 105-110.

<sup>26</sup> Id. at 115-119.

<sup>27</sup> Id. at 120-122.

<sup>28</sup> Id. at 121-122.

<sup>29</sup> Id. at 123-126.

<sup>30</sup> Id. at 127-128.

On December 8, 1999, the RTC set aside its Order dated October 22, 1999 and reinstated its Decision dated July 30, 1999, with *modification*, as follows:<sup>31</sup>

WHEREFORE, premises considered, the instant Motion for Reconsideration of plaintiff is Granted.

Order dated October 22, 1999 is hereby Set Aside.

Accordingly, the dispositive portion of the Decision dated July 30, 1999 is hereby Modified to read as follows:

WHEREFORE, premises considered, judgment [is] hereby rendered in favor of plaintiff China Banking Corporation and against the defendant Sps. Danilo and Magdalena Manalastas and defendant Sps. Estanislao and Africa Sinamban, ordering them to pay as follows:

1. For defendant Sps. Danilo and Magdalena Manalastas, the amount of ₱ 1,758,427.87, the deficiency between the acquisition cost of the foreclosed real properties and their outstanding obligation;

2. For defendant Sps. Sinamban a percentage of ₱ 1,758,427.87, jointly and severally with the defendant Sps. [Manalastas] only on two (2) promissory notes;

3. The corresponding interests thereon at legal rate;

4. Attorney's fees; and

5. Costs of suit.

SO ORDERED.<sup>32</sup>

This time the RTC held that the spouses Sinamban must, solidarily with the spouses Manalastas, proportionately answer for the loan deficiency pertaining to the two PNs they co-signed, since the mortgage security provided by the spouses Manalastas secured all three PNs and thus also benefited them as co-makers. But since they did not co-sign PN No. OACL 634-95, the deficiency judgment pertaining thereto will be the sole liability of the spouses Manalastas.

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<sup>31</sup> Id. at 131-133.

<sup>32</sup> Id. at 132-133.



### Ruling of the CA

From the Order dated December 8, 1999 of the RTC, the spouses Sinamban appealed to the CA on January 4, 2000, docketed as CA-G.R. CV. No. 66274, interposing the following errors of the RTC, *viz*:

#### I

THE LOWER COURT ERRED WHEN IT HELD DEFENDANTS-APPELLANTS SPS. SINAMBAN LIABLE TO PAY A PERCENTAGE OF P1,758,427.87, JOINTLY AND SEVERALLY WITH THE DEFENDANTS SPS. MANALASTAS ON THE TWO PROMISSORY NOTES (EXHIBITS 'C' AND 'A').

#### II

THE LOWER COURT ERRED WHEN IT RECONSIDERED AND SET ASIDE ITS PREVIOUS ORDER DATED 22 OCTOBER 1999 RELIEVING DEFENDANTS-APPELLANTS SPS. SINAMBAN FROM ANY LIABILITY ARISING FROM THE DECISION DATED 30 JULY 1999.

#### III

THE LOWER COURT ERRED WHEN IT RENDERED THE VAGUE ORDER OF 8 DECEMBER 1999 (ANNEX 'B' HEREOF).<sup>33</sup>

On May 19, 2010, the CA rendered judgment denying the appeal, the *fallo* of which reads:

**WHEREFORE**, considering the foregoing disquisition, the appeal is **DENIED**. The Decision dated 30 July 1999 and the Order dated 08 December 1999 of the Regional Trial Court of San Fernando, Pampanga, Branch 45 in *Civil Case No. 11708* are hereby **AFFIRMED** with **MODIFICATION** in that:

1. Sps. Danilo and Magdalena Manalastas are solidarily liable for the deficiency amount of **Php507,741.62** (inclusive of 10% attorney's fees) on Promissory Note No. OACL 634-95 dated 24 April 1995;
2. Sps. Estanislao and Africa Sinamban are solidarily liable with Sps. Danilo and Magdalena Manalastas for the amount of **Php844,501.90** (inclusive of 10% attorney's fees) on

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<sup>33</sup> Id. at 39-40.

Promissory Note No. OACL00636-95 dated 23 May 1995;

3. Estanislao Sinamban and Sps. Danilo and Magdalena Manalastas are solidarily liable for the amount of **Php406,184.35** (inclusive of 10% attorney's fees) on Promissory Note No. CLF 5-93 dated 26 February 1991; and
4. The foregoing amounts shall bear interest at the rate of 12% per annum from 18 November 1998 until fully paid.

**SO ORDERED.**<sup>34</sup> (Some emphasis ours)

### **Petition for Review to the Supreme Court**

In this petition for review, the spouses Sinamban seek to be completely relieved of any liability on the PNs, solidary or otherwise, by interposing the following issues:

5.1 Whether or not the Honorable Court of Appeals erred in not considering that the Sps. Sinamban's obligations under PN# OACL 636-95 dated May 23, 1995 in the principal sum of Php325,000.00 and PN# CLF 5-93 dated February 26, 1991 in the principal sum of Php1,300,000.00 are more onerous and burdensome on their part as mere sureties (co-makers) of their co-defendants-spouses Danilo and Magdalena Manalastas' (hereinafter referred to as the "Sps. Manalastas") obligations over the same, compared to the Sps. Manalastas' sole obligation under PN# OACL 634-95 dated 24 April 1995 in the principal amount of Php1,800,000.00, such that the proceeds of the auction sale of the properties securing all the three (3) promissory notes should first be applied to satisfy the promissory notes signed by the Sps. Sinamban; and

5.2 Whether or not the Honorable Court of Appeals erred in not considering the facts indubitably showing that it is the Sps. Sinamban, as the debtors, and not the respondent bank, who are given the choice under Article 1252 of the Civil Code to have the proceeds of the auction sale applied as payments to their obligations under PN# OACL 636-95 dated 23 May 1995 and PN# CLF 5-93 dated 26 February 1991.<sup>35</sup>

### **Ruling of the Court**

The Court modifies the CA decision.

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<sup>34</sup> Id. at 49-50.

<sup>35</sup> Id. at 18-19.

**A co-maker of a PN who binds himself with the maker “jointly and severally” renders himself directly and primarily liable with the maker on the debt, without reference to his solvency.**

“A promissory note is a solemn acknowledgment of a debt and a formal commitment to repay it on the date and under the conditions agreed upon by the borrower and the lender. A person who signs such an instrument is bound to honor it as a legitimate obligation duly assumed by him through the signature he affixes thereto as a token of his good faith. If he reneges on his promise without cause, he forfeits the sympathy and assistance of this Court and deserves instead its sharp repudiation.”<sup>36</sup>

Employing words of common commercial usage and well-accepted legal significance, the three subject PNs uniformly describe the solidary nature and extent of the obligation assumed by each of the defendants in Civil Case No. 11708, to wit:

*“FOR VALUE RECEIVED, I/We **jointly and severally** promise to pay to the CHINA BANKING CORPORATION or its order the sum of PESOS x x x[.]”<sup>37</sup> (Emphasis ours)*

According to Article 2047 of the Civil Code,<sup>38</sup> if a person binds himself solidarily with the principal debtor, the provisions of Articles 1207 to 1222 of the Civil Code (Section 4, Chapter 3, Title I, Book IV) on joint and solidary obligations shall be observed. Thus, where there is a concurrence of two or more creditors or of two or more debtors in one and the same obligation, Article 1207 provides that among them, “[t]here is a solidary liability only when the obligation

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<sup>36</sup> *Sierra v. Court of Appeals*, G.R. No. 90270, July 24, 1992, 211 SCRA 785, 795.

<sup>37</sup> *Rollo*, pp. 61-63.

<sup>38</sup> Art. 2047. By guaranty a person, called the guarantor, binds himself to the creditor to fulfill the obligation of the principal debtor in case the latter should fail to do so.

If a person binds himself solidarily with the principal debtor, the provisions of Section 4, Chapter 3, Title I of this Book shall be observed. In such case the contract is called a suretyship.

expressly so states, or when the law or the nature of the obligation requires solidarity.” It is settled that when the obligor or obligors undertake to be “jointly and severally” liable, it means that the obligation is solidary.<sup>39</sup> In this case, the spouses Sinamban expressly bound themselves to be jointly and severally, or solidarily, liable with the principal makers of the PNs, the spouses Manalastas.

Moreover, as the CA pointed out, in Paragraph 5 of the PNs, the borrowers and their co-makers expressly authorized Chinabank, as follows:

[T]o apply to the payment of this note and/or any other particular obligation or obligations of all or any one of us to the CHINA BANKING CORPORATION as the said Corporation may select, irrespective of the dates of maturity, whether or not said obligations are then due, any or all moneys, securities and things of value which are now or which may hereafter be in its hands on deposit or otherwise to the credit of, or belonging to, all or any one of us, and the CHINA BANKING CORPORATION is hereby authorized to sell at public or private sale such securities or things of value for the purpose of applying their proceeds to such payments.<sup>40</sup>

**Pursuant to Article 1216 of the Civil Code, as well as Paragraph 5 of the PNs, Chinabank opted to proceed against the co-debtors simultaneously, as implied in its May 18, 1998 statement of account when it applied the entire amount of its auction bid to the aggregate amount of the loan obligations.**

The PNs were executed to acknowledge each loan obtained from the credit line extended by Chinabank, which the principal makers and true beneficiaries, the spouses Manalastas, secured with a REM they executed over their properties. As the RTC noted in its Order dated December 8, 1999,

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<sup>39</sup> *Crystal v. Bank of the Philippine Islands*, G.R. No. 172428, November 28, 2008, 572 SCRA 697, 703. See also *Escaño v. Ortigas, Jr.*, 553 Phil. 24, 39 (2007).

<sup>40</sup> *Rollo*, pp. 61-63.

“the real estate mortgage was constituted to secure all the three (3) promissory notes,” concluding that “[j]ust as the liability of the [spouses] Sinamban was lessened by the foreclosure proceedings, so must they also share in the deficiency judgment, in proportion to the PNs they co-signed with the [spouses] Manalastas, but not the entire deficiency judgment of ₱1,758,427.87.”<sup>41</sup>

Significantly, in modifying the RTC’s second amended decision, which provides for the *pro rata* distribution of the loan deficiency of ₱1,758,427.87, the CA *first* applied the entire net proceeds of the auction sale of ₱4,183,744.63 (after auction expenses of ₱416,255.37), to PN No. OACL 634-95, which on May 18, 1998 had an outstanding balance of ₱4,264,987.50, inclusive of interest and penalties, plus 10% attorney’s fees, or a total of ₱4,691,486.25. Thus, ₱4,691,486.25 less ₱4,183,744.63 leaves a deficiency on PN No. OACL 634-95 of ₱**507,741.62**, which is due solely from the spouses Manalastas.

As for PN No. OACL 636-95, the CA ordered the spouses Sinamban to pay, solidarily with the spouses Manalastas, the entire amount due thereon, ₱**844,501.90**, consisting of the loan principal of ₱767,729.00 plus accrued interest, penalties and 10% attorney’s fees; concerning PN No. CLF 5-93, the CA ordered the spouses Sinamban to pay, solidarily with the spouses Manalastas, the amount of ₱**406,184.35**, consisting of the balance of the loan principal of ₱369,258.50 plus accrued interest, penalties and 10% attorney’s fees. The CA further ordered the payment of 12% interest *per annum* from November 18, 1998, the date of judicial demand, until fully paid, on the above deficiencies.

Article 1216 of the Civil Code provides that “[t]he creditor may proceed against any one of the solidary debtors or some or all of them simultaneously. The demand made against one of them shall not be an

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<sup>41</sup> Id. at 132.

obstacle to those which may subsequently be directed against the others, so long as the debt has not been fully collected.” Article 1252<sup>42</sup> of the Civil Code does not apply, as urged by the petitioners, because in the said article the situation contemplated is that of a debtor with several debts due, whereas the reverse is true, with each solidary debt imputable to several debtors.

While the CA correctly noted that the choice is given to the solidary creditor to determine against whom he wishes to enforce payment, the CA stated that *Chinabank, in the exercise of the aforesaid option, chose to apply the net proceeds of the extrajudicial foreclosure sale first to the PN solely signed by spouses Manalastas.*<sup>43</sup> Thus, the net proceeds were applied first to PN No. OACL 634-95 in the principal amount of ₱1,800,000.00, instead of *pro rata* to all three PNs due.

The Court finds this factual conclusion of the CA not supported by any evidence or any previous arrangement. To the contrary, as clearly shown in its Statement of Account dated May 18, 1998, Chinabank opted to apply the entire auction proceeds to the aggregate amount of the three PNs due, ₱5,401,975.00 (before attorney’s fees and auction expenses). Had it chosen to enforce the debts as ruled by the CA, the Statement of Account would have shown that the loan due on PN No. OACL 634-95 which is ₱4,691,486.25, should have been deducted first from the net auction proceeds of ₱4,183,744.63, arriving at a deficiency of ₱507,741.62 on PN No. OACL 634-95 alone; thereby, leaving no remainder of the proceeds available to partially settle the other two PNs. As it appears, the auction proceeds are not even sufficient to cover just PN No. OACL 634-95 alone.

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<sup>42</sup> ART. 1252. He who has various debts of the same kind in favor of one and the same creditor, may declare at the time of making the payment, to which of them the same must be applied. Unless the parties so stipulate, or when the application of payment is made by the party for whose benefit the term has been constituted, application shall not be made as to debts which are not yet due.

If the debtor accepts from the creditor a receipt in which an application of the payment is made, the former cannot complain of the same, unless there is a cause for invalidating the contract.

<sup>43</sup> *Rollo*, p. 47.

But as the Court has noted, by deducting the auction proceeds from the aggregate amount of the three loans due, Chinabank in effect opted to apply the entire proceeds of the auction simultaneously to all the three loans. This implies that each PN will assume a *pro rata* portion of the resulting deficiency on the total indebtedness as bears upon each PN's outstanding balance. Contrary to the spouses Sinamban's insistence, none of the three PNs is more onerous than the others to justify applying the proceeds according to Article 1254 of the Civil Code, in relation to Articles 1252 and 1253.<sup>44</sup> Since each loan, represented by each PN, was obtained under a single credit line extended by Chinabank for the working capital requirements of the spouses Manalastas' rice milling business, which credit line was secured also by a single REM over their properties, then each PN is simultaneously covered by the same mortgage security, the foreclosure of which will also benefit them proportionately. No PN enjoys any priority or preference in payment over the others, with the only difference being that the spouses Sinamban are solidarily liable for the deficiency on two of them.

Pursuant, then, to the order or manner of application of the auction proceeds chosen by Chinabank, the solidary liability of the defendants pertaining to each PN shall be as follows:

- a) PN No. OACL 634-95, with a balance as of May 18, 1998 of ₱4,264,987.50: its share in the total deficiency is computed as the ratio of ₱4,264,987.50 to ₱5,401,975.00, multiplied by

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<sup>44</sup> Art. 1252. He who has various debts of the same kind in favor of one and the same creditor, may declare at the time of making the payment, to which of them the same must be applied. Unless the parties so stipulate, or when the application of payment is made by the party for whose benefit the term has been constituted, application shall not be made as to debts which are not yet due.

If the debtor accepts from the creditor a receipt in which an application of the payment is made, the former cannot complain of the same, unless there is a cause for invalidating the contract.

Art. 1253. If the debt produces interest, payment of the principal shall not be deemed to have been made until the interests have been covered.

Art. 1254. When the payment cannot be applied in accordance with the preceding rules, or if application can not be inferred from other circumstances, the debt which is most onerous to the debtor, among those due, shall be deemed to have been satisfied.

If the debts due are of the same nature and burden, the payment shall be applied to all of them proportionately.

□1,758,427.87, or **□1,388,320.55**, (not □507,741.62 as found by the CA);

b) PN No. OACL 636-95, with a balance of □767,729.00 as of May 18, 1998: its share in the deficiency is computed as the ratio of □767,729.00 to □5,401,975.00, multiplied by □1,758,427.87, or **□249,907.87**, (not □844,501.90 as computed by the CA);

c) PN No. CLF 5-93, with an outstanding balance of □369,258.50 as of May 18, 1998: its share in the deficiency is computed as the ratio of □369,258.50 to □5,401,975.00, multiplied by □1,758,427.87, or **□120,199.45**, (not □406,184.35 as found by the CA).

In short, in the CA decision, the spouses Manalastas would be solely liable on PN No. OACL 634-95 for only **□507,741.62** (instead of the much bigger amount of **□1,388,320.55** which this Court found), whereas the spouses Sinamban would be solidarily liable with the spouses Manalastas for a total deficiency of **□1,250,686.25** on PN No. OACL 636-95 and PN No. CLF 5-93. But under the Court's interpretation, the spouses Sinamban are solidarily liable with the spouses Manalastas for only **□370,107.32** on the said two PNs, for a significant difference of **□880,578.93**.

**Pursuant to Monetary Board Circular No. 799, effective July 1, 2013, the rate of interest for the loan or forbearance of any money, goods or credits and the rate allowed in judgments, in the absence of an express contract as to such rate of interest, has been reduced to six percent (6%) *per annum*.**

The subject three PNs bear interests ranging from 21% to 23% *per annum*, exclusive of penalty of 1% on the overdue amount per month of



delay, whereas in its complaint, Chinabank prayed to recover only the legal rate of 12% on whatever judgment it could obtain. Meanwhile, the Monetary Board of the Bangko Sentral ng Pilipinas in its Resolution No. 796 dated May 16, 2013, and now embodied in Monetary Board Circular No. 799, has effective July 1, 2013 reduced to **6%**, from 12%, the legal rate of interest for the loan or forbearance of any money, goods or credits and the rate allowed in judgments, in the absence of stipulation.<sup>45</sup> Since Chinabank demanded only the legal, not the stipulated, interest rate on the deficiency and attorney's fees due, the defendants will solidarily pay interest on their shares in the deficiency at the rate of 12% from November 18, 1998 to June 30, 2013, and 6% from July 1, 2013 until fully paid.

**WHEREFORE**, the Decision of the Court of Appeals dated May 19, 2010 in CA-G.R. CV No. 66274 is **MODIFIED**. The Decision dated July 30, 1999 and the Order dated December 8, 1999 of the Regional Trial Court of San Fernando City, Pampanga, Branch 45 in Civil Case No. 11708 are hereby **AFFIRMED with MODIFICATIONS** as follows:

1. Spouses Danilo and Magdalena Manalastas are solidarily liable for the deficiency amount of **₱1,388,320.55** (inclusive of 10% attorney's fees) on Promissory Note No. OACL 634-95 dated April 24, 1995;

2. Spouses Estanislao and Africa Sinamban are solidarily liable with spouses Danilo and Magdalena Manalastas for the deficiency amount of **₱249,907.87** (inclusive of 10% attorney's fees) on Promissory Note No. OACL 636-95 dated May 23, 1995;

3. Estanislao Sinamban and spouses Danilo and Magdalena Manalastas are solidarily liable for the deficiency amount of **₱120,199.45** (inclusive of 10% attorney's fees) on Promissory Note No. CLF 5-93 dated February 26, 1991; and

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<sup>45</sup> *S.C. Megaworld Construction and Development Corporation v. Parada*, G.R. No. 183804, September 11, 2013, 705 SCRA 584, 608; *Nacar v. Gallery Frames*, G.R. No. 189871, August 13, 2013, 703 SCRA 439, 455-456.

4. The foregoing amounts shall bear interest at the rate of twelve percent (12%) *per annum* from November 18, 1998 to June 30, 2013, and six percent (6%) *per annum* from July 1, 2013 until fully paid.

**SO ORDERED.**




**BIENVENIDO L. REYES**  
Associate Justice


**WE CONCUR:**




**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson



**DIOSDADO M. PERALTA**  
Associate Justice




**MARTIN S. VILLARAMA, JR.**  
Associate Justice



**FRANCIS H. JARDELEZA**  
Associate Justice

**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice