Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PHILIPPINE NATIONAL BANK, Petitioner,	**G.R. No. 171865**
	Present:
- *versus* -	*SERENO, *C.J.*, LEONARDO-DE CASTRO, Acting Chairperson, BERSAMIN, PERLAS-BERNABE, and CAGUIOA, *JJ.*
HEIRS OF BENEDICTO AND AZUCENA ALONDAY, Respondents.	Promulgated: **OCT 12 2016**

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DECISION

BERSAMIN, *J.*:

The issue is whether the all-embracing or dragnet clause contained in the first mortgage contract executed between the parties for the security of the first loan could authorize the foreclosure of the property under the mortgage to secure a second loan despite the full payment of the second loan.

Antecedents

On September 26, 1974, the Spouses Benedicto and Azucena Alonday (Spouses Alonday) obtained an agricultural loan of ₱28,000.00 from the petitioner at its Digos, Davao del Sur Branch, and secured the obligation by constituting a real estate mortgage on their parcel of land situated in Sta. Cruz, Davao del Sur registered under Original Certificate of Title (OCT) No. P-3599 of the Registry of Deeds of Davao del Sur.[1]

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* On leave.

1 *Rollo*, p. 12.

On June 11, 1980, the Spouses Alonday obtained a commercial loan for ₱16,700.00 from the petitioner's Davao City Branch, and constituted a real estate mortgage over their 598 square meter residential lot situated in Ulas, Davao City registered under Transfer Certificate of Title (TCT) No. T-66139 of the Registry of Deeds of Davao City.

It is noted that the mortgage contracts contained the following identical provision, to wit:

> That for and in consideration of certain loans, overdrafts, and other credit accommodations, obtained from the Mortgagee, which is hereby fixed at _____, Philippine Currency, and to secure the payment of the same and those others that the Mortgagee may extend to the Mortgagor, including interests and expenses, and other obligations owing by the Mortgagor to the Mortgagee, whether direct or indirect, principal or secondary, as appearing in the accounts, books and records of the Mortgagee, the Mortgagor does hereby transfer and convey by way of mortgage unto the Mortgagee, its successors or assigns, the parcel of land which is/are described in the list inserted at the back of this document xxx. In case the Mortgagor executes subsequent promissory note or notes either as renewal of the former note, as an extension thereof, or as a new loan, or is given any other kind of accommodation, xxx, this mortgage shall also stand as security for the payment of the said promissory note or notes, and/or accommodations without the necessity of executing a new contract and this mortgage shall have the same force and effect as if the said promissory note or notes and/or accommodations were existing on the date thereof, notwithstanding full payments of any or all obligations of the Mortgagors. This mortgage shall also stand as security for said obligations and any and all other obligations of the Mortgagor to the Mortgagee of whatever kind and nature, whether such obligations have been contracted before, during or after the constitution of this mortgage. However, if the Mortgagor shall pay the Mortgagee, its successors or assigns, the obligations secured by this mortgage, together with interests, costs and other expenses, on or before the date they are due, and shall keep and perform all the covenants and agreements herein contained for the Mortgagor to keep and perform, then this mortgage shall be null and void, otherwise, it shall remain in full force and effect.[2]

The Spouses Alonday made partial payments on the commercial loan, which they renewed on December 23, 1983 for the balance of ₱15,950.00. The renewed commercial loan, although due on December 25, 1984, was fully paid on July 5, 1984.[3]

On August 6, 1984, respondents Mercy and Alberto Alonday, the children of the Spouses Alonday, demanded the release of the mortgage over the property covered by TCT No. T-66139. The petitioner informed them, however, that the mortgage could not be released because the agricultural

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2 Id. at 16-17.
3 Id. at 12.

loan had not yet been fully paid, and that as the consequence of the failure to pay, it had foreclosed the mortgage over the property covered by OCT No. P-3599 on August 17, 1984.

It appeared that notwithstanding such foreclosure, a deficiency balance of ₱91,525.22 remained.[4] Hence, the petitioner applied for the extra-judicial foreclosure of the mortgage on the property covered by TCT No. T-66139. A notice of extra-judicial sale was issued on August 20, 1984, and the property covered by TCT No. T-66139 was sold on September 28, 1984 to the petitioner in the amount of ₱29,900.00. Since the Alondays were unable to redeem the property, the petitioner consolidated its ownership. Later on, the property was sold for ₱48,000.00 to one Felix Malmis on November 10, 1989.[5]

According to the petitioner, the deed of mortgage relating to the property covered by TCT No. T-66139 included an "all-embracing clause" whereby the mortgage secured not only the commercial loan contracted with its Davao City Branch but also the earlier agricultural loan contracted with its Digos Branch.

Judgment of the RTC

On July 8, 1994, therefore, the respondents instituted a complaint against the petitioner in the Regional Trial Court (RTC) in Davao City to recover damages and attorney's fees (Civil Case No. 23,021-94), averring that the foreclosure and sale of the property covered by TCT No. T-66139 was illegal.

On November 28, 1997, the RTC rendered judgment finding in favor of the respondents,[6] and disposed as follows:

> WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against defendant bank, ordering said defendant bank:
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> 1. To pay plaintiffs the sum of One Million Seven Hundred Thousand (₱1,700,000.00) Pesos, representing the value of the land covered by TCT No. T-66139;
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> 2. To pay plaintiffs the sum of ₱20,000.00 as attorney's fees; and

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4 Id. at 12-13.
5 Id. at 13-14.
6 Id. at 85-92; penned by Judge Virginia Hofileña-Europa.

3. To pay the costs of this suit.

SO ORDERED.[7]

The RTC observed that if the petitioner had intended to have the second mortgage secure the pre-existing agricultural loan, it should have made an express reservation to that effect; that based on the all-embracing clause, the mortgage was a contract of adhesion, and the ambiguities therein should be construed strictly against the petitioner; that the last sentence of the all-embracing clause provided that the mortgage would be null and void upon the payment of the obligations secured by the mortgage; and that the petitioner was guilty of bad faith in refusing to nullify the mortgage despite full payment of the commercial loan prior to its maturity.

The RTC also ruled that because the property had already been sold to Malmis, a third party not brought within the trial court's jurisdiction, it could not order the return of the property; and that it was ordering the petitioner instead to pay the respondents the value of the property under its present market valuation.

Decision of the CA

Dissatisfied, the petitioner appealed to the Court of Appeals (CA). The appeal was docketed as C.A.-G.R. CV No. 60625.

On August 31, 2005, the CA affirmed the RTC,[8] observing that the mortgage, being a contract of adhesion, should be construed strictly against the petitioner as the party who had drafted the same; and that although the petitioner had argued, citing *Mojica v. Court of Appeals*,[9] that all-embracing clauses were valid to secure past, present and future loans, *Mojica v. Court of Appeals* was not in point inasmuch as the facts therein were different from the facts herein.

The petitioner filed a motion for reconsideration, but the CA denied the motion on February 27, 2006.[10]

Hence, this appeal by petition for review on *certiorari*.

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7 Id. at 92.

8 Id. at 11-22; penned by Associate Justice Myrna Dimaranan-Vidal (retired), and concurred in by Associate Justice Teresita Dy-Liacco Flores (retired) and Associate Justice Edgardo A. Camello.

9 G.R. No. 94247, September 11, 1991, 201 SCRA 517.

10 *Rollo*, pp. 24-25.

Issues

The petitioner assigns the following errors to the CA, to wit:

> I. The Court of Appeals grievously erred in restricting and delimiting the scope and validity of the standard "all-embracing clause" in real estate mortgage contracts solely to future indebtedness and not to prior ones, contrary to leading Supreme Court decisions on the matter.
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> II. Even assuming *arguendo* that the xxx decisions are inapplicable to the case at bar, the Court of Appeals grievously erred in awarding the unsubstantiated amount of ₱1.7 million in damages and ₱20,000.00 as attorney's fees against PNB without factual and legal basis.[11]

The petitioner submits that *Mojica v. Court of Appeals* validates the use of an all-embracing clause in a mortgage agreement to secure not only the amount indicated on the mortgage instrument, but also the mortgagor's future and past obligations; that by denying the applicability to the case of *Mojica v. Court of Appeals* and other similar rulings, the CA disregarded the principle of *stare decisis*; and that the CA in effect thereby regarded all-embracing clauses invalid as to prior obligations.

Ruling of the Court

The appeal lacks merit.

The CA opined as follows:

> The real estate mortgage on the property covered by TCT No. T-66139 was specifically constituted to secure the payment of the commercial loan of the Spouses ALONDAY. In the same manner, the real estate mortgage on the property covered by OCT No. P-3599 was constituted to secure the payment of their agricultural loan with the PNB. With the execution of separate mortgage contracts for the two (2) loans, it is clear that the intention of the parties was to limit the mortgage to the loan for which it was constituted.
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> x x x x
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> The [Mojica] case is not in point since the facts therein are different from the case at bench. In *Mojica vs. Court of Appeals*, the mortgaged real estate property was made to answer for future advancement or renewal of the loan, whereas in the instant case, the foreclosure sale included a property which was used as a security for a commercial loan which was obtained after the agricultural loan.

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[11] Id. at 40-41.

> The mortgage provision relied upon by appellant is known in American jurisprudence as a "dragnet" clause, which is specifically phrased to subsume all debts of past or future origin. Such clauses pursuant to the pronouncement of the Supreme Court in *DBP vs. Mirang* must be "carefully scrutinized and strictly construed."[12]

The petitioner wrongly insists that the CA, through the foregoing ratiocination, held that the all-embracing or dragnet clauses were altogether invalid as to prior obligations. What the CA, although reiterating that the Court upheld the validity of using real estate mortgages to secure future advancements, only thereby pointed out that it could not find similar rulings as to mortgages executed to secure prior loans.

There is no question, indeed, that all-embracing or dragnet clauses have been recognized as valid means to secure debts of both future and past origins.[13] Even so, we have likewise emphasized that such clauses were an exceptional mode of securing obligations, and have held that obligations could only be deemed secured by the mortgage if they came fairly within the terms of the mortgage contract.[14] For the all-embracing or dragnet clauses to secure future loans, therefore, such loans must be sufficiently described in the mortgage contract.[15] If the requirement could be imposed on a future loan that was uncertain to materialize, there is a greater reason that it should be applicable to a past loan, which is already subsisting and known to the parties.

Nonetheless, it was undeniable that the petitioner had the opportunity to include some form of acknowledgement of the previously subsisting agricultural loan in the terms of the second mortgage contract. The mere fact that the mortgage constituted on the property covered by TCT No. T-66139 made no mention of the pre-existing loan could only strongly indicate that each of the loans of the Spouses Alonday had been treated *separately* by the parties themselves, and this sufficiently explained why the loans had been secured by *different* mortgages.

Another indication that the second mortgage did not extend to the agricultural loan was the fact that the second mortgage was entered into in connection only with the commercial loan. Our ruling in *Prudential Bank v. Alviar*[16] is then relevant, to wit:

> x x x The parties having conformed to the "blanket mortgage clause" or "dragnet clause," it is reasonable to conclude that they also agreed to an implied understanding that subsequent loans need not be

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12 Id. at 17-19.
13 *Traders Royal Bank v. Castañares*, G.R. No. 172020, December 6, 2010, 636 SCRA 519, 528.
14 *Asiatrust Development Bank v. Tuble*, G.R. No. 183987, July 25, 2012, 677 SCRA 519, 532-533.
15 Supra note 13, at 528-529.
16 G.R. No. 150197, July 28, 2005, 464 SCRA 353.

> secured by other securities, as the subsequent loans will be secured by the first mortgage. In other words, the sufficiency of the first security is a corollary component of the "dragnet clause." But of course, there is no prohibition, as in the mortgage contract in issue, against contractually requiring other securities for the subsequent loans. Thus, when the mortgagor takes another loan for which another security was given it could not be inferred that such loan was made in reliance solely on the original security with the "dragnet clause," but rather, on the new security given. This is the "reliance on the security test."
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> x x x Accordingly, finding a different security was taken for the second loan no intent that the parties relied on the security of the first loan could be inferred, so it was held. The rationale involved, the court said, was that the "dragnet clause" in the first security instrument constituted a continuing offer by the borrower to secure further loans under the security of the first security instrument, and that when the lender accepted a different security he did not accept the offer.[17]

Although the facts in *Prudential Bank* were not entirely on all fours with those of this case because the prior mortgage in *Prudential Bank* was sought to be enforced against a subsequent loan already secured by other securities, the logic in *Prudential Bank* is applicable here. The execution of the subsequent mortgage by the parties herein to secure the subsequent loan was an indication that they had intended to treat each loan as distinct from the other, and that they had intended to secure each of the loans individually and separately.

We further concur with the CA and the RTC in their holding that the mortgage contracts executed by the Spouses Alonday were contracts of adhesion exclusively prepared by the petitioner. Under Article 1306 of the *Civil Code*, the contracting parties "*may establish such stipulations, clauses, terms and conditions as they may deem convenient, provided they are not contrary to law, morals, good customs, public order or public policy.*" This is an express recognition by the law of the right of the people to enter into all manner of lawful conventions as part of their safeguarded liberties. The objection against a contract of adhesion lies most often in its negation of the autonomy of the will of the parties in contracts. A contract of adhesion, albeit valid, becomes objectionable only when it takes undue advantage of one of the parties – the weaker party – by having such party just adhere to the terms of the contract. In such situation, the courts go to the succor of the weaker party by construing any obscurity in the contract against the party who prepared the contract, the latter being presumed as the stronger party to the agreement, and as the party who caused the obscurity.[18]

To reiterate, in order for the all-embracing or dragnet clauses to secure future and other loans, the loans thereby secured must be sufficiently

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[17] Id. at 366.

[18] *Philippine National Bank v. Manalo*, G.R. No. 174433, February 24, 2014, 717 SCRA 254, 269-270.

described in the mortgage contract. Considering that the agricultural loan had been pre-existing when the mortgage was constituted on the property covered by TCT No. T-66139, it would have been easy for the petitioner to have expressly incorporated the reference to such agricultural loan in the mortgage contract covering the commercial loan. But the petitioner did not. Being the party that had prepared the contract of mortgage, its failure to do so should be construed that it did not at all contemplate the earlier loan when it entered into the subsequent mortgage.

Anent the value of the property covered by TCT No. T-66139, the findings of the RTC on the valuation were as follows:

> Considering that the property is located at the junction of the roads leading to Toril and Calinan districts with big establishments all around, plaintiffs claim that at the time of the filing of this case which was in 1994, the reasonable market value of the land was ₱1,200.00 per square meter. To date, the value could reasonably be ₱3,000.00 per square meter.[19]

Opining that the respondents should be indemnified the value of the loss suffered from the illegal foreclosure of the property covered by TCT No. T-66139, the CA adopted the valuation by the RTC on the established fair market value of the property being ₱3,000.00/square meter, for a total of ₱1,700,000.00 as damages to be awarded.[20]

The petitioner challenges the valuation as devoid of basis. It points out that the complaint of the Spouses Alonday had placed the value of the property at ₱1,200.00/square meter; and that respondent Alberto Alonday had testified during the trial that the value of the property had been only ₱1,200.00/square meter.

We uphold the challenge by the petitioner.

We are at a loss at how the RTC had computed and determined the valuation at ₱3,000.00/square meter. Such determination was easily the product of guesswork on the part of the trial court, for the language employed in its judgment in reference to such value was "could reasonably be."[21] On its part, the CA adverted to the valuation as "approximately ₱3,000.00,"[22] indicating that its own determination of the fair market value was of similar tenor as that by the RTC. Accordingly, the valuation by both lower courts cannot be upheld, for it is basic enough that in their determination of actual damages, the courts should eschew mere assertions,

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19 *Rollo*, p. 91.
20 Id. at 20-21.
21 Supra note 6.
22 Supra note 8.

speculations, conjectures or guesswork;[23] otherwise, they would be guilty of arbitrariness and whimsicality.

Moreover, the courts cannot grant reliefs not prayed for in the pleadings or in excess of what is being sought by the party.[24]

To accord with what is fair, based on the records, we reduce the basis of the actual damages to ₱1,200.00/square meter. Such valuation is insulated from arbitrariness because it was made by the Spouses Alonday themselves in their complaint, rendering a total of ₱717,600.00 as actual damages.

The lower courts did not impose interest on the judgment obligation to be paid by the petitioner. Such interest is in the nature of compensatory interest, as distinguished from monetary interest. It is relevant to elucidate on the distinctions between these kinds of interest. In this regard, the Court has expounded in *Siga-an v. Villanueva*:[25]

> Interest is a compensation fixed by the parties for the use or forbearance of money. This is referred to as monetary interest. Interest may also be imposed by law or by courts as penalty or indemnity for damages. This is called compensatory interest. The right to interest arises only by virtue of a contract or by virtue of damages for delay or failure to pay the principal loan on which interest is demanded.
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> Article 1956 of the Civil Code, which refers to monetary interest, specifically mandates that no interest shall be due unless it has been expressly stipulated in writing. As can be gleaned from the foregoing provision, payment of monetary interest is allowed only if: (1) there was an express stipulation for the payment of interest; and (2) the agreement for the payment of interest was reduced in writing. The concurrence of the two conditions is required for the payment of monetary interest. Thus, we have held that collection of interest without any stipulation therefor in writing is prohibited by law.
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> There are instances in which an interest may be imposed even in the absence of express stipulation, verbal or written, regarding payment of interest. Article 2209 of the Civil Code states that if the obligation consists in the payment of a sum of money, and the debtor incurs delay, a legal interest of 12% *per annum* may be imposed as indemnity for damages if no stipulation on the payment of interest was agreed upon. Likewise, Article 2212 of the Civil Code provides that interest due shall earn legal interest from the time it is judicially demanded, although the obligation may be silent on this point.

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23 *De Guzman v. Tumolva*, G.R. No. 188072, October 19, 2011, 659 SCRA 725, 732.
24 *Diona v. Balangue*, G.R. No. 173559, January 7, 2013, 688 SCRA 22, 35.
25 G.R. No. 173227, January 20, 2009, 576 SCRA 696.

> All the same, the interest under these two instances may be imposed only as a penalty or damages for breach of contractual obligations. It cannot be charged as a compensation for the use or forbearance of money. In other words, the two instances apply only to compensatory interest and not to monetary interest.[26] x x x

The petitioner should be held liable for interest on the actual damages of ₱717,600.00 representing the value of the property with an area 598 square meters that was lost to them through the unwarranted foreclosure, the same to be reckoned from the date of judicial demand (*i.e.*, the filing of the action by the Spouses Alonday). At the time thereof, the rate was 12% *per annum*, and such rate shall run until June 30, 2013. Thereafter, or starting on July 1, 2013, the rate of interest shall be 6% *per annum* until full payment of the obligation, pursuant to the ruling in *Nacar v. Gallery Frames*,[27] which took into consideration the lowering of interest rates by the Monetary Board.

In addition, Article 2212[28] of the *Civil Code* requires that interest due shall earn legal interest from the time it is judicially demanded, although the obligation may be silent upon this point. Accordingly, the interest due shall itself earn legal interest of 6% *per annum* from the date of finality of the judgment until its full satisfaction, the interim period being deemed to be an equivalent to a forbearance of credit.[29]

WHEREFORE, the Court **AFFIRMS** the decision promulgated in C.A.-G.R. CV No. 60625 on August 31, 2005 in all respects subject to the following **MODIFICATIONS,** namely: (1) the award of ₱1,700,000.00 representing the value of the land covered by Transfer Certificate of Title No. T-66139 of the Registry of Deeds of Davao City is **REDUCED** to ₱717,600.00, the same to be paid by petitioner Philippine National Bank; (2) the principal amount of ₱717,600.00 shall earn interest of 12% *per annum* from the filing of the complaint until June 30, 2013, and interest of 6% *per annum* from July 1, 2013 until full payment; and (3) the interests thus earned shall also earn interest of 6% *per annum* from the finality of this decision until full payment.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

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[26] Id. at 704-705, 707.

[27] G.R. No. 189871, August 13, 2013, 703 SCRA 439, 455-457.

[28] Article 2212. Interest due shall earn legal interest from the time it is judicially demanded, although the obligation may be silent upon this point. (1109a)

[29] *Planters Development Bank v. Lopez*, G.R. No. 186332, October 23, 2013, 708 SCRA 481, 501-503.

WE CONCUR:

(On Leave)
MARIA LOURDES P. A. SERENO
Chief Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
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.

TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting 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.

ANTONIO T. CARPIO
Acting Chief Justice