



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

CATALINA F. ISLA, G.R. No. 233974
ELIZABETH ISLA, and
GILBERT F. ISLA,
Petitioners,

Present:

CARPIO, J., Chairperson,
PERALTA,
PERLAS-BERNABE,
CAGUIOA, and
REYES, JR., JJ.

- versus -

GENEVIRA* P. ESTORGA,
Respondent.

Promulgated:

02 JUL 2018

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DECISION

PERLAS-BERNABE, J.:

Before the Court is a petition for review on *certiorari*¹ filed by petitioners Catalina F. Isla (Catalina), Elizabeth Isla, and Gilbert F. Isla (collectively, petitioners) assailing the Decision² dated May 31, 2017 and the Resolution³ dated August 24, 2017 of the Court of Appeals (CA) in CA-G.R. CV No. 101743, which affirmed with modification the Decision⁴ dated December 10, 2012 of the Regional Trial Court of Pasay City, Branch 112 (RTC) in Civil Case No. 07-0014, directing petitioners to pay respondent Genevira P. Estorga (respondent) the following sums: (a) ₱100,000.00 representing the principal of the loan obligation; (b) an amount equivalent to twelve percent (12%) of ₱100,000.00 computed from November 16, 2006 until full payment, representing interest on the loan; (c) an amount equivalent to six percent (6%) of the sums due in (a) and (b) *per annum*

* Also spelled as "Genevera" in some parts of the *rollo*.

¹ *Rollo*, pp. 25-41.

² *Id.* at 46-55. Penned by Associate Justice Nina G. Antonio-Valenzuela with Associate Justices Jose C. Reyes, Jr. and Stephen C. Cruz concurring.

³ *Id.* at 57-58.

⁴ *Id.* at 82-84. Penned by Presiding Judge Jesus B. Mupas.

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computed from the finality of the CA Decision until full payment, representing legal interest; and (d) ₱20,000.00 as attorney's fees.

The Facts

On December 6, 2004, petitioners obtained a loan in the amount of ₱100,000.00 from respondent, payable anytime from six (6) months to one (1) year and subject to interest at the rate of ten percent (10%) per month, payable on or before the end of each month. As security, a real estate mortgage⁵ was constituted over a parcel of land located in Pasay City, covered by Transfer Certificate of Title (TCT) No. 132673⁶ and registered under the name of Edilberto Isla (Edilberto), who is married to Catalina (subject property). When petitioners failed to pay the said loan, respondent sought assistance from the barangay, and consequently, a *Kasulatan ng Pautang*⁷ dated December 8, 2005 was executed. Petitioners, however, failed to comply with its terms, prompting respondent to send a demand letter⁸ dated November 16, 2006. Once more, petitioners failed to comply with the demand, causing respondent to file a Petition for Judicial Foreclosure⁹ against them before the RTC.¹⁰

For their part,¹¹ petitioners maintained that the subject mortgage was not a real estate mortgage but a mere loan, and that the stipulated interest of ten percent (10%) per month was exorbitant and grossly unconscionable.¹² They also insisted that since petitioners were not the absolute owners of the subject property – as the same was allegedly owned by Edilberto – they could not have validly constituted the subject mortgage thereon.¹³

The RTC Ruling

In a Decision¹⁴ dated December 10, 2012, the RTC granted the Petition for Judicial Foreclosure, finding that petitioners themselves admitted that: (a) they obtained a loan in the amount of ₱100,000.00 and that the said loan was secured by a real estate mortgage over the subject property; and (b) the subject mortgage was annotated on TCT No. 132673.¹⁵ Further, the RTC observed that while it is true that the present action pertains to a judicial foreclosure, the underlying principle is that a real estate mortgage is but a security and not a satisfaction of indebtedness. Thus, it is

⁵ See the Deed of Real Estate Mortgage dated December 6, 2004; id. at 80-81.

⁶ Id. at 69.

⁷ Id. at 70.

⁸ Id. at 72.

⁹ Dated July 19, 2007. Id. at 61-65.

¹⁰ See id. at 47.

¹¹ See Opposition dated October 9, 2007; id. at 73-79.

¹² See id. at 73-76.

¹³ See id. at 77.

¹⁴ Id. at 82-84.

¹⁵ See id. at 83.

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only proper to render petitioners solidarily liable to pay respondent and/or foreclose the subject mortgage should they fail to fulfill their obligation.¹⁶

Consequently, the RTC directed petitioners to pay respondent the amounts of ₱100,000.00 with twelve percent (12%) interest per annum from December 2007 until fully paid and ₱20,000.00 as attorney's fees. Alternatively, in the event that petitioners fail to pay or deposit with the Clerk of Court the said amounts within a period of six (6) months from receipt of a copy of the RTC Decision, it held that the subject property will be foreclosed and sold at public auction to satisfy the mortgage debt, and the surplus, if any, will be delivered to petitioners with reasonable interest under the law.¹⁷

Aggrieved, respondent appealed¹⁸ to the CA.

The CA Ruling

In a Decision¹⁹ dated May 31, 2017, the CA affirmed with modification the RTC Decision, and accordingly, ordered petitioners to pay respondent the following sums: (a) ₱100,000.00 representing the principal of the loan obligation; (b) an amount equivalent to twelve percent (12%) of ₱100,000.00 computed per year from November 16, 2006 until full payment, representing interest on the loan; (c) an amount equivalent to six percent (6%) of the sums due in (a) and (b) per annum computed from the finality of the CA Decision until full payment, representing legal interest; and (d) ₱20,000.00 as attorney's fees.²⁰

The CA held that in light of the registry return receipt bearing the signature of Catalina, it was established that petitioners indeed received the demand letter dated November 16, 2006.²¹ Meanwhile, it did not agree with the RTC's order providing petitioners alternative remedies, which remedies are, by law, mutually exclusive. Thus, since respondent's Petition for Judicial Foreclosure was essentially an action to collect a sum of money, she is then barred from causing the foreclosure of the subject mortgage.²²

Moreover, the CA ruled that the RTC erred in imposing the interest rate of twelve percent (12%) per annum from December 2007 until full payment. It likewise held that the stipulated interest of ten percent (10%) per

¹⁶ See *id.* at 84.

¹⁷ See *id.*

¹⁸ See Notice of Appeal dated October 21, 2013 (*id.* at 85-86) and Brief for the Defendants-Appellants dated October 27, 2014 (*id.* at 91-101).

¹⁹ *Id.* at 46-55.

²⁰ *Id.* at 54.

²¹ See *id.* at 52-53.

²² *Id.* at 53.

month on the real estate mortgage is exorbitant. And finally, it declared that respondent is entitled to the award of attorney's fees based on equity and in the exercise of its discretion.²³

Undaunted, petitioners sought partial reconsideration,²⁴ claiming that the award of attorney's fees was without factual, legal, and equitable justification and should therefore be deleted.²⁵ The same, however, was denied in a Resolution²⁶ dated August 24, 2017; hence, the instant petition, claiming that the CA gravely erred not only in awarding attorney's fees despite the absence of factual justification in the body of its Decision but also in imposing interest of twelve percent (12%) per annum interest until full payment.²⁷

In her Comment,²⁸ respondent retorted that the CA's award of attorney's fees was proper and within the discretion of the court. Likewise, the CA correctly imposed interest at the rate of twelve percent (12%) per annum to the principal loan obligation of petitioners.²⁹

The Issues Before the Court

The issue for the Court's resolution is whether or not the CA erred in awarding: (a) twelve percent (12%) interest on the principal obligation until full payment; and (b) attorney's fees.

The Court's Ruling

The petition is partly meritorious.

I.

In their petition, petitioners contest the interest imposed on the principal amount of the loan at the rate of twelve percent (12%) per annum from the date of extrajudicial demand until full payment, as stated in paragraph 2 of the CA ruling. In this regard, they argue that pursuant to *ECE Realty and Development, Inc. v. Hernandez (ECE Realty)*,³⁰ the applicable interest rate should only be six percent (6%).³¹

²³ See *id.* at 54.

²⁴ See Motion for Partial Reconsideration dated June 23, 2017; *id.* at 117-120.

²⁵ See *id.* at 119.

²⁶ *Id.* at 57-58.

²⁷ See *id.* at 31-36.

²⁸ Dated April 23, 2018. *Id.* at 128-134.

²⁹ See *id.* at 130-133.

³⁰ 740 Phil. 784 (2014).

³¹ See *rollo*, pp. 31-33.

The argument is untenable.

Case law states that there are two (2) types of interest, namely, monetary interest and compensatory interest. Monetary interest is the compensation fixed by the parties for the use or forbearance of money. On the other hand, compensatory interest is that imposed by law or by the courts as penalty or indemnity for damages. Accordingly, the right to recover interest arises only either by virtue of a contract (monetary interest) or as damages for delay or failure to pay the principal loan on which the interest is demanded (compensatory interest).³²

Anent monetary interest, the parties are free to stipulate their preferred rate. However, courts are allowed to equitably temper interest rates that are found to be excessive, iniquitous, unconscionable, and/or exorbitant,³³ such as stipulated interest rates of three percent (3%) per month or higher.³⁴ In such instances, it is well to clarify that only the unconscionable interest rate is nullified and deemed not written in the contract; whereas the parties' agreement on the payment of interest on the principal loan obligation subsists.³⁵ It is as if the parties failed to specify the interest rate to be imposed on the principal amount, in which case the legal rate of interest prevailing at the time the agreement was entered into is applied by the Court.³⁶ This is because, according to jurisprudence, the legal rate of interest is the presumptive reasonable compensation for borrowed money.³⁷

In this case, petitioners and respondent entered into a loan obligation and clearly stipulated for the payment of monetary interest. However, the stipulated interest of ten percent (10%) per month was found to be unconscionable, and thus, the courts *a quo* struck down the same and pegged a new monetary interest of twelve percent (12%) per annum, which was the prevailing legal rate of interest for loans and forbearances of money at the time the loan was contracted on December 6, 2004.

In *Spouses Abella v. Spouses Abella*,³⁸ the Court was also faced with a situation where the parties entered into a loan with an agreement to pay monetary interest. Since the stipulated rate of interest by the parties was found to be unconscionable, the Court struck down the same and substituted it with the prevailing legal interest rate at the time the loan was perfected, *i.e.*, twelve percent (12%) per annum. In holding that such rate shall persist in spite of supervening events, the Court held:

³² See *Pen v. Santos*, G.R. No. 160408, January 11, 2016, 778 SCRA 56, 68.

³³ See *Trade & Investment Development Corporation of the Philippines v. Roblett Industrial Construction Corporation*, 523 Phil. 360, 366 (2006).

³⁴ *Chua v. Timan*, 584 Phil. 144, 148 (2008).

³⁵ *Limso v. Philippine National Bank*, G.R. No. 158622, January 27, 2016, 782 SCRA 137, 229..

³⁶ *Id.* at 230, citing *Spouses Abella v. Spouses Abella*, 763 Phil. 372, 385-386 (2015).

³⁷ See *id.* at 386.

³⁸ *Id.*

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Jurisprudence is clear about the applicable interest rate if a written instrument fails to specify a rate. In *Spouses Toring v. Spouses Olan* [(589 Phil. 362 [2008])], this court clarified the effect of Article 1956 of the Civil Code and noted that the legal rate of interest (then at 12%) is to apply: “In a loan or forbearance of money, according to the Civil Code, the interest due should be that stipulated in writing, and *in the absence thereof, the rate shall be 12% per annum.*”

Spouses Toring cites and restates (practically verbatim) what this court settled in *Security Bank and Trust Company v. Regional Trial Court of Makati, Branch 61* [(331 Phil. 787 [1996])]: “In a loan or forbearance of money, the interest due should be that stipulated in writing, and *in the absence thereof, the rate shall be 12% per annum.*”

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The rule is not only definite; it is cast in mandatory language. From *Eastern Shipping [Lines, Inc. v. CA]* [(G.R. No. 97412, July 12, 1994, 234 SCRA 78)] to *Security Bank* to *Spouses Toring*, jurisprudence has repeatedly used the word “shall,” a term that has long been settled to denote something imperative or operating to impose a duty. Thus, the rule leaves no room for alternatives or otherwise does not allow for discretion. It *requires* the application of the legal rate of interest.

Our intervening Decision in *Nacar v. Gallery Frames* [(716 Phil. 267 [2013])] recognized that the legal rate of interest has been reduced to 6% per annum[.]

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Nevertheless, both Bangko Sentral ng Pilipinas Circular No. 799, Series of 2013 and *Nacar* retain the definite and mandatory framing of the rule articulated in *Eastern Shipping*, *Security Bank*, and *Spouses Toring*. *Nacar* even restates *Eastern Shipping*:

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Thus, it remains that where interest was stipulated in writing by the debtor and creditor in a simple loan or mutuum, but no exact interest rate was mentioned, the legal rate of interest shall apply. At present, this is 6% per annum, subject to *Nacar*'s qualification on prospective application.

Applying this, the loan obtained by respondents from petitioners is deemed subjected to conventional interest at the rate of 12% per annum, the legal rate of interest at the time the parties executed their agreement. Moreover, should conventional interest still be due as of July 1, 2013, the rate of 12% per annum shall persist as the rate of conventional interest.

This is so because interest in this respect is used as a surrogate for the parties' intent, as expressed as of the time of the execution of their contract. In this sense, **the legal rate of interest is an affirmation of the contracting parties' intent; that is, by their contract's silence on a specific rate, the then prevailing legal rate of interest shall be the cost of borrowing money. This rate, which by their contract the parties have settled on, is deemed to persist regardless of shifts in the legal rate of interest. Stated otherwise, the legal rate of interest, when**

applied as conventional interest, shall always be the legal rate at the time the agreement was executed and shall not be susceptible to shifts in rate.³⁹ (Emphases and underscoring supplied)

Following this pronouncement, the Court rules that the CA correctly imposed a straight monetary interest rate of twelve percent (12%) per annum on the principal loan obligation of petitioners to respondent, reckoned from the date of extrajudicial demand until finality of this ruling. At this point, suffice it to say that petitioner's reliance on *ECE Realty* is misplaced primarily because unlike in this case, the amount due therein does not partake of a loan obligation or forbearance of money.

In addition, not only the principal amount but also the monetary interest due to respondent as discussed above shall itself earn compensatory interest at the legal rate, pursuant to Article 2212 of the Civil Code, which states that "[i]nterest due shall earn legal interest from the time it is judicially demanded, although the obligation may be silent upon this point."⁴⁰ To be sure, Article 2212 contemplates the presence of stipulated or conventional interest, *i.e.*, monetary interest, which has accrued when demand was ***judicially*** made. In cases where no monetary interest had been stipulated by the parties, no accrued monetary interest could further earn compensatory interest upon judicial demand.⁴¹ Thus, the principal amount and monetary interest due to respondent shall earn compensatory interest of twelve percent (12%) per annum from judicial demand, *i.e.*, the date of the filing of the complaint on July 24, 2007,⁴² to June 30, 2013, and thereafter, at the rate of six percent (6%) per annum from July 1, 2013 until fully paid.

II.

On the issue of attorney's fees, the general rule is that the same cannot be recovered as part of damages because of the policy that no premium should be placed on the right to litigate. They are not to be awarded every time a party wins a suit.⁴³ The power of the court to award attorney's fees under Article 2208⁴⁴ of the Civil Code demands factual, legal, and equitable

³⁹ *Id.* at 382-386.

⁴⁰ See also *Eastern Shipping Lines, Inc. v. CA*, G.R. No. 97412, July 12, 1994, 234 SCRA 78, 95 and *Nacar v. Gallery Frames*, 716 Phil. 267, 282 (2013).

⁴¹ See *David v. CA*, 375 Phil. 177, 185 (1999), citing *The Philippine American Accident Insurance Company, Inc. vs. Flores*, 186 Phil. 563, 566 (1980).

⁴² See *rollo*, p. 61.

⁴³ See *Delos Santos v. Abejon*, G.R. No. 215820, March 20, 2017, citing *Spouses Vergara v. Sonkin*, 759 Phil. 402, 414 (2015).

⁴⁴ Article 2208 of the Civil Code reads:

Article 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

- (1) When exemplary damages are awarded;
- (2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;
- (3) In criminal cases of malicious prosecution against the plaintiff;
- (4) In case of a clearly unfounded civil action or proceeding against the plaintiff;

justification.⁴⁵ It must clearly state the reasons for awarding attorney's fees in the body of its decision, and not merely in its dispositive portion.⁴⁶

In this case, the CA awarded the amount of ₱20,000.00 as attorney's fees premised merely on the general statement "upon equity and in the exercise of [its] discretion."⁴⁷ Hence, since the CA failed to "clearly state the reasons for awarding attorney's fees in the body of its decision", the Court finds it proper to delete the same.

WHEREFORE, the petition is **PARTIALLY GRANTED**. The Decision dated May 31, 2017 and the Resolution dated August 24, 2017 of the Court of Appeals in CA-G.R. CV No. 101743 are hereby **MODIFIED** as follows:

1. Petitioners Catalina F. Isla, Elizabeth Isla, and Gilbert F. Isla are **ORDERED** to pay respondent Genevira P. Estorga:

(a) ₱100,000.00 representing the principal loan obligation;

(b) Monetary interest on the principal loan obligation at the rate of twelve percent (12%) per annum from the date of default, *i.e.*, extrajudicial demand on November 16, 2006, until finality of this ruling;

(c) Compensatory interest on the monetary interest as stated in letter (b) at the rate of twelve percent (12%) per annum from judicial demand, *i.e.*, July 24, 2007, to June 30, 2013, and thereafter, at the rate of six percent (6%) per annum from July 1, 2013 until finality of this ruling; and

(d) Legal interest at the rate of six percent (6%) per annum imposed on the sums due in letters (a), (b), and (c) from finality of this ruling until full payment; and

2. The award of attorney's fees in favor of respondent is **DELETED**.

(5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;

(6) In actions for legal support;

(7) In actions for the recovery of wages of household helpers, laborers and skilled workers;

(8) In actions for indemnity under workmen's compensation and employer's liability laws;

(9) In a separate civil action to recover civil liability arising from a crime;

(10) When at least double judicial costs are awarded;

(11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable.

⁴⁵ See *Delos Santos v. Abejon*, supra note 43.

⁴⁶ See *Marilag v. Martinez*, 764 Phil. 576, 593 (2015).

⁴⁷ *Rollo*, p. 54.

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SO ORDERED.

MP. Bernabe
ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:

Antonio T. Carpio
ANTONIO T. CARPIO
Senior Associate Justice

Diosdado M. Peralta
DIOSDADO M. PERALTA
Associate Justice

Alfredo Benjamin S. Caguioa
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

Reyes
ANDRES B. REYES, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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
ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, Republic Act No. 296,
The Judiciary Act of 1948, As Amended)