Supreme Court E-Library

SECOND DIVISION

[G.R. No. 52478. October 30, 1986]

THE GOVERNMENT SERVICE INSURANCE SYSTEM, *petitioner-appellant, vs.* **HONORABLE COURT OF APPEALS, NEMENCIO R. MEDINA and JOSEFINA G. MEDINA,** *respondents-appellants.*

SYLLABUS

1. **CIVIL LAW; CONTRACT; INTERPRETATION OF CONTRACTS; RULE.**— It is a basic and fundamental rule in the interpretation of contract that if the terms thereof are clear and leave no doubt as to the intention of the contracting parties, the literal meaning of the stipulations shall control but when the words appear contrary to the evident intention of the parties, the latter shall prevail over the former. In order to judge the intention of the parties, their contemporaneous and subsequent acts shall be principally considered. (*Sy v. Court of Appeals,* 131 SCRA 116, July 31, 1984).

2. **ID.; USURY LAW; RULE ON INTEREST RATES; APPLIES ONLY TO INTEREST BY WAY OF COMPENSATION FOR THE USE OR FORBEARANCE OF MONEY.**— As to whether or not the interest rates on the loan accounts of the Medinas are usurious, it has already been settled that the Usury Law applies only to interest by way of compensation for the use or forbearance of money (*Lopez v. Hernaez*, 32 Phil. 631; and other cases cited). Interest by way of damages is governed by Article 2209 of the Civil Code of the Philippines. In the *Bachrach* case (52 Phil. 346) the Supreme Court ruled that the Civil Code permits the agreement upon a penalty apart from the interest, Should there be such an agreement, the penalty does not include the interest, and as such the two are different and distinct things which may be demanded separately. Reiterating the same principle in the later case of *Equitable Banking Corp.* (32 SCRA 293) where this Court held that the stipulation about payment of such additional rate partakes of the nature of a penalty clause, which is sanctioned by law.

Supreme Court E-Library

APPEARANCES OF COUNSEL

Coronel Law Office for private respondents.

Alberto C. Lerma collaborating counsel for private respondents.

D E C I S I O N

PARAS, *J*.:

This is a petition for review on *certiorari* of the decision of the Court of Appeals in CA-G.R. No. 62541-R (*Nemencio R. Medina and Josefina G. Medina, Plaintiffs-Appellants vs. The Government Service Insurance System, Defendant-Appellant*) affirming the January 21, 1977 Decision of the trial court, and at the same time ordering the GSIS to reimburse the amount of P9,580.00 as over-payment and to pay the spouses Nemencio R. Medina and Josefina G. Medina P3,000.00 and P1,000.00 as attorney's fees and litigation expenses.

In 1961, herein private respondents spouses Nemencio R. Medina and Josefina G. Medina (Medinas for short) applied with the herein petitioner Government Service Insurance System (GSIS for short) for a loan of P600,000.00. The GSIS Board of Trustees, in its Resolution of December 20, 1961, approved under Resolution No, 5041 only the amount of P350,000.00, subject to the following conditions: that the rate of interest shall be 9% per annum compounded monthly; repayable in ten (10) years at a monthly amortization of P4,433.65 including principal and interest, and that any installment or amortization that remains due and unpaid shall bear interest at the rate of 9%/12% per month. The Office of the Economic Coordinator, in a 2nd Indorsement dated March 26, 1962, further reduced the approved amount to P295,000.00. On April 4, 1962, the Medinas accepting the reduced amount, executed a promissory note and a real estate mortgage in favor of GSIS. On May 29, 1962, the GSIS, and on June 6, 1962, the Office of the Economic Coordinator, upon request of the Medinas, both approved the restoration of the amount of P350,000.00 (P295,000.00 +

Supreme Court E-Library

P55,000.00) originally approved by the GSIS. This P350,000.00 loan was denominated by the GSIS as Account No. 31055.

On July 6, 1962, the Medinas executed in favor of the GSIS an Amendment of Real Estate Mortgage, the pertinent portion of which reads:

"WHEREAS, on the 4th day of April 1962, the Mortgagor executed, signed and delivered a real estate mortgage to and in favor of the Mortgagee on real estate properties located in the City of Manila, x x x to secure payment to the mortgages of a loan of Two Hundred Ninety Five Thousand Pesos (P295,000.00) Philippine Currency, granted by the mortgagee to the Mortgagors, x x x;

"WHEREAS, the parties herein have agreed as they hereby agree to increase the aforementioned loan from Two Hundred Ninety Five Thousand Pesos (P295,000.00) to Three Hundred Fifty Thousand Pesos (P350,000.00), Philippine Currency;

"NOW, THEREFORE, for and in consideration of the foregoing premises, the aforementioned parties have amended and by these presents do hereby amend the said mortgage dated April 4, 1962, mentioned in the second paragraph hereof by increasing the loan from Two Hundred Ninety Five Thousand Pesos (P295,000.00) to Three Hundred Fifty Thousand Pesos (P350,000.00) subject to this additional condition.

"(1) That the mortgagor shall pay to the system P4,433.65 monthly including principal and interest.

"It is hereby expressly understood that with the foregoing amendment, all other terms and conditions of the said real estate mortgage dated April 4, 1962 insofar as they are not inconsistent herewith, are hereby confirmed, ratified and continued in full force and effect and that the parties thereto agree that this amendment be an integral part of said real estate mortgage." (*Rollo*, pp. 153-154).

Upon application by the Medinas, the GSIS Board of Trustees adopted Resolution No. 121 on January 18, 1963, as amended by Resolution No. 348 dated February 25, 1963, approving an *additional* loan of P230,000.00 in favor of the Medinas on the security of the same mortgaged properties and the additional properties covered by TCT Nos. 49234, 49235 and 49236, to

Supreme Court E-Library

bear interest at 9% per annum compounded monthly and repayable in ten years. This additional loan of P230,000.00 was denominated by the GSIS as Account No. 31442.

On March 18, 1963, the Economic Coordinator thru the Auditor General interposed no objection thereto, subject to the conditions of Resolution No. 121 as amended by Resolution No. 348 of the GSIS.

Beginning 1965, the Medinas having defaulted in the payment of the monthly amortization on their loan, the GSIS imposed 9%/12% interest on all installments due and unpaid. In 1967, the Medinas began defaulting in the payment of fire insurance premiums.

On May 3, 1974, the GSIS notified the Medinas that they had arrearages in the aggregate amount of P575,652.42 as of April 18, 1974 (Exhibit "9," p. 149, Joint Record on Appeal, *Rollo*, p. 79), and demanded payment within seven (7) days from notice thereof, otherwise, it would foreclose the mortgage.

On April 21, 1975, the GSIS filed an Application for Foreclosure of Mortgage with the Sheriff of the City of Manila (Exhibit "22," pp. 63 and 149; *Rollo*, p. 79). On June 30, 1975, the Medinas filed with the Court of First Instance of Manila a complaint, praying, among other things, that a restraining order or writ of preliminary injunction be issued to prevent the GSIS and the Sheriff of the City of Manila from proceeding with the extra-judicial foreclosure of their mortgaged properties (CFI Decision, p. 121; *Rollo*, p. 79). However, in view of Section 2 of Presidential Decree No. 385, no restraining order or writ of preliminary injunction was issued by the trial court (CFI Decision, p. 212; *Rollo*, p. 79). On April 25, 1975, the Medinas made a last partial payment in the amount of P209,662.80.

Under a Notice of Sale on Extra-Judicial Foreclosure dated June 18, 1975, the real properties of the Medinas covered by Transfer Certificates of Title Nos. 32231, 43527, 51394, 58626, 60534, 63304, 67550, 67551 and 67552 of the Registry of Property of the City of Manila were sold at public auction to the GSIS as the highest bidder for the total amount of

Supreme Court E-Library

P440,080.00 on January 12, 1976, and the corresponding Certificate of Sale was executed by the Sheriff of Manila on January 27, 1976 (CFI Decision, pp. 212-213; *Rollo*, p. 79).

On January 30, 1976, the Medinas filed an Amended Complaint with the trial court, praying for (a) the declaration of nullity of their two real estate mortgage contracts with the GSIS as well as of the extra-judicial foreclosure proceedings; and (b) the refund of excess payments, plus damages and attorney's fees (CFI Decision, p. 213; *Rollo*, p. 79).

On March 19, 1976, the GSIS filed its Amended Answer (Joint Record on Appeal, pp. 99-105; *Rollo*, p. 79). After trial, the trial court rendered a Decision dated January 21, 1977 (Joint Record on Appeal, pp. 210-232), the pertinent dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered declaring the extra-judicial foreclosure conducted by the Sheriff of Manila of real estate mortgage contracts executed by plaintiffs on April 4, 1962, as amended on July 6, 1962, and February 17, 1963, null and void and the Sheriff's Certificate of Sale dated January 27, 1976, in favor of the GSIS of no legal force and effect; and directing plaintiffs to pay the GSIS the sum of P1,611.12 in full payment of their obligation to the latter with interest of 9% per annum from December 11, 1975, until fully paid."

Dissatisfied with the said judgment, both parties appealed with the Court of Appeals.

The Court of Appeals, in a Decision promulgated on January 18, 1980 (Record, pp. 72-77), ruled in favor of the Medinas —

"WHEREFORE, the defendant GSIS is ordered to reimburse the amount of P9,580.00 as overpayment and to pay plaintiffs P3,000.00 and P1,000.00 as attorney's fees and litigation expenses, respectively. With these modifications, the judgment appealed from is AFFIRMED in all other respects, with costs against defendant GSIS."

Hence this petition.

The Second Division of this Court, in a Resolution dated April 25, 1980 (*Rollo*, p. 88), resolved to deny the petition for lack of merit.

Supreme Court E-Library

Petitioner filed on June 26, 1980 a Motion for Reconsideration dated June 17, 1980 (*Rollo*, pp. 95-103), of the abovestated Resolution and respondents in a Resolution dated July 9, 1980 (*Rollo*, p. 105), were required to comment thereon which comment they filed on August 6, 1980. (*Rollo*, pp. 106-116).

The petition was given due course in the Resolution dated July 6, 1981 (*Rollo*, p. 128). Petitioner filed its brief on November 26, 1981 (*Rollo*, pp. 147-177); while private respondents filed their brief on January 27, 1982 (*Rollo*, pp. 181-224), and the case was considered submitted for decision in the Resolution of July 19, 1982 (*Rollo*, p. 229).

The issues in this case are:

1. WHETHER OR NOT THE COURT OF APPEALS ERRED IN HOLDING THAT THE AMENDMENT OF REAL ESTATE MORTGAGE DATED JULY 6, 1962 SUPERSEDED THE MORTGAGE CONTRACT DATED APRIL 4, 1962, PARTICULARLY WITH RESPECT TO COMPOUNDING OF INTEREST;
2. WHETHER OR NOT THE COURT OF APPEALS ERRED IN SUSTAINING THE RESPONDENT-APPELLEE SPOUSES MEDINA'S CLAIM OR OVERPAYMENT, BY CREDITING THE FIRE INSURANCE PROCEEDS IN THE SUM OF P11,152.02 TO THE TOTAL PAYMENT MADE BY SAID SPOUSES AS OF DECEMBER 11, 1975;
3. WHETHER OR NOT THE COURT OF APPEALS ERRED IN HOLDING THAT THE INTEREST RATES ON THE LOAN ACCOUNTS OF RESPONDENT-APPELLEE SPOUSES ARE USURIOUS;
4. WHETHER OR NOT THE COURT OF APPEALS ERRED IN AFFIRMING THE ANNULMENT OF THE SUBJECT EXTRAJUDICIAL FORECLOSURE AND SHERIFF'S CERTIFICATE OF SALE; AND
5. WHETHER OF NOT THE COURT OF APPEALS ERRED IN HOLDING THE GSIS LIABLE FOR ATTORNEY'S FEES, EXPENSES OF LITIGATION ON COSTS.

The petition is impressed with merit.

Supreme Court E-Library

There is no dispute as to the facts of the case. By agreement of the parties the issues in this case are limited to the loan of P350,000.00 denominated as Account No. 31065 (*Rollo*, p. 79; Joint Record on Appeal, p. 129) subject of the Amendment of Real Mortgage dated July 6, 1962, the interpretation of which is the major issue in this case.

GSIS claims that the amendment of the real estate mortgage did not supersede the original mortgage contract dated April 4, 1962 which was being amended only with respect to the amount secured thereby, and the amount of monthly amortizations. All other provisions of aforesaid mortgage contract including that on compounding of interest were deemed re-written and thus binding on and enforceable against the respondent spouses. (*Rollo*, pp. 162-166).

Accordingly, payments made by the Medinas in the total amount of P991,845.53 was applied as follows: the amount of P600,495.31 to Account No. 31055, P466,965.31 of which to interest and P133,530.20 to principal and P390,845.66 to Account No. 31442, P230,774.29 to interest and P159,971.37 to principal. (Joint Record on Appeal, p. 216; *Rollo*, p. 79).

On the other hand the Medinas maintain that there is no express stipulation on compounded interest in the amendment of mortgage contract of July 6, 1962 so that the compounded interest stipulation in the original mortgage contract of April 4, 1962 which has been superseded cannot be enforced in the later mortgage. (*Rollo*, p. 185).

Hence the Medinas claim an overpayment in Account No. 31055. The application of their total payment in the amount of P991,845.53 as computed by the trial court and by the Court of Appeals is as follows:

"x x x It appearing and so the parties admit in their own exhibits that as of December 11, 1975, plaintiffs had paid a total of P991,241.17 excluding fire insurance, P532,038.00 of said amount should have been applied to the full payment of Acct. No. 31055 and the balance of P459,203.17 applied to the payment of Acct. No. 31442.

"According to the computation of the GSIS (Exhibit C, also Exhibit 38) the total amounts, collected on Acct. No. 31442 as of December

Supreme Court E-Library

11, 1975 total P390,745.66 thus leaving an unpaid balance of P70,028.63. The total amount plaintiffs should pay on said account should therefore be P460,774.29. Deduct this amount from P459,163.17 which has been shown to be the difference between the total payments made by plaintiffs to the G.S.I.S. as of December 11, 1975 and the amount said plaintiffs should pay under their Acct. No. 31055, there remains an outstanding balance of P1,611.12. This amount represents the balance of the obligation of the plaintiffs to the G.S.I.S. on Acct. No. 31442 as of December 11, 1975." (Decision, Civil Case No. 98390; Joint Record on Appeal pp. 227-228; *Rollo*, p. 79).

To recapitulate, the difference in the computation lies in the inclusion of the compounded interest as demanded by the GSIS on the one hand and the exclusion thereof, as insisted by the Medinas on the other.

It is a basic and fundamental rule in the interpretation of contract that if the terms thereof are clear and leave no doubt as to the intention of the contracting parties, the literal meaning of the stipulations shall control but when the words appear contrary to the evident intention of the parties, the latter shall prevail over the former. In order to judge the intention of the parties, their contemporaneous and subsequent acts shall be principally considered. (*Sy v. Court of Appeals,* 131 SCRA 116; July 31, 1984).

There appears no ambiguity whatsoever in the terms and conditions of the amendment of the mortgage contract herein quoted earlier. On the contrary, an opposite conclusion cannot be otherwise but absurd.

As correctly stated by the GSIS in its brief (*Rollo*, pp. 162-166), a careful perusal of the title, preamble and body of the Amendment of Real Estate Mortgage dated July 6, 1962, taking into account the prior, contemporaneous, and subsequent acts of the parties, ineluctably shows that said Amendment was never intended to completely supersede the mortgage contract dated April 4, 1962.

First, the title "Amendment of Real Estate Mortgage" recognizes the existence and effectivity of the previous mortgage contract. Second, nowhere in the aforesaid Amendment did

Supreme Court E-Library

the parties manifest their intention to supersede the original contract. On the contrary in the WHEREAS clauses, the existence of the previous mortgage contract was fully recognized and the fact that the same was just being amended as to amount and amortization is fully established as to obviate any doubt. Third, the Amendment of Real Estate Mortgage dated July 6, 1962 does not embody the act of conveyancing the subject properties by way of mortgage. In fact the intention of the parties to be bound by the unaffected provisions of the mortgage contract of April 4, 1962 expressed in unmistakable language is clearly evident in the last provision of the Amendment of Real Estate Mortgage dated July 6, 1962 which reads:

"It is hereby expressly understood that with the foregoing amendment, *all other terms and conditions of the said real estate mortgage dated April 4, 1962, insofar as they are not inconsistent herewith, are hereby confirmed ratified and continued to be in full force and effect and that the parties hereto agree that the amendment be an integral part of said real estate mortgage*." (Italics supplied).

A review of prior, contemporaneous, and subsequent acts supports the conclusion that both contracts are fully subsisting insofar as the latter is not inconsistent with the former, The fact is the GSIS, as a matter of policy, imposes *uniform* terms and conditions for all its real estate loans, particularly with respect to compounding of interest. As shown in the case at bar, the original mortgage contract embodies the same terms and conditions as in the additional loan denominated as Account No. 31442 while the amendment carries the provision that it shall be subject to the same terms and conditions as the real estate mortgage of April 4, 1962 except as to amount and amortization.

Furthermore, it would be contrary to human experience and to ordinary practice for the mortgagee to impose less onerous conditions on an increased loan by the deletion of compound interest exacted on a lesser loan.

II.

There is an obvious error in the ruling of the Court of Appeals in its Decision dated January 18, 1980, which reads:

Supreme Court E-Library

"x x x We agree that plaintiff should be credited with P11,152.02 of the fire insurance proceeds as the same is admitted in paragraph (4) of its Answer and should be added to their payments." (par. 13).

Contrary thereto, paragraph 4 of the Answer of the GSIS states:

"That they (GSIS) specifically deny the allegations in Paragraph 11, the truth being that plaintiffs are not entitled to a credit of P19,381.07 as fire insurance proceeds since they were only entitled to, and were credited with, the amount of P11,152.02 as proceeds of their fire insurance policy." (par. 4, Amended Answer).

As can be gleaned from the foregoing, petitioner-appellant GSIS had *already* credited the amount of P11,152.02. Thus, when the Court of Appeals made the aforequoted ruling, it was actually doubly crediting the amount of P11,152.02 which had been *previously* credited by petitioner-appellant GSIS (*Rollo*, pp. 170-171).

III.

As to whether or not the interest rates on the loan accounts of the Medinas are usurious, it has already been settled that the Usury Law applies only to interest by way of compensation for the use or forbearance of money (*Lopez v. Hernaez*, 32 Phil. 631; *Bachrach Motor Co. v. Espiritu*, 52 Phil. 346; *Equitable Banking Corporation v. Liwanag*, 32 SCRA 293, March 30, 1970). Interest by way of damages is governed by Article 2209 of the Civil Code of the Philippines which provides:

"Art. 2209. If the obligation consists in the payment of a sum of money, and the debtor incurs in delay, the indemnity for damages, there being no stipulation to the contrary, shall be the payment of the interest agreed upon, x x x"

In the *Bachrach* case (*supra*) the Supreme Court ruled that the Civil Code permits the agreement upon a penalty apart from the interest, Should there be such an agreement, the penalty does not include the interest, and as such the two are different and distinct things which may be demanded separately. Reiterating the same principle in the later case of *Equitable*

Supreme Court E-Library

Banking Corp. (*supra*), where this Court held that the stipulation about payment of such additional rate partakes of the nature of a penalty clause, which is sanctioned by law.

IV.

Based on the finding that the GSIS had the legal right to impose an interest 9% per annum, compounded monthly, on the loans of the Medinas and an interest of 9%/12% per annum on all due and unpaid amortizations or installments, there is no question that the Medinas failed to settle their accounts with the GSIS which as computed by the latter reached an outstanding balance of P630,130.55 as of April 12, 1975 and that the GSIS had a perfect right to foreclose the mortgage.

In the same manner, there is obvious error in invalidating the extra-judicial foreclosure on the basis of a typographical error in the Sheriff's Certificate of Sale which stated that the mortgage was foreclosed on May 17, 1963 instead of February 17, 1963.

There is merit in GSIS' contention that the Sheriff's Certificate of Sale is merely provisional in character and is not intended to operate as an absolute transfer of the subject property, but merely to identify the property, to show the price paid and the date when the right of redemption expires (Section 27, Rule 39, Rules of Court, Francisco, The Revised Rules of Court, 1972 Vol., IV-B, Part I, p. 681). Hence the date of the foreclosed mortgage is not even a material content of the said Certificate. (*Rollo*, p. 174).

V.

PREMISES CONSIDERED, the decision of the Court of Appeals, in CA-G.R. No. 62541-R *Medina, et al. v. Government Service Insurance System, et al.* is hereby REVERSED and SET ASIDE, and a new one is hereby RENDERED, affirming the validity of the extra-judicial foreclosure of the real estate mortgages of the respondent-appellee spouses Medina dated April 4, 1962, as amended on July 6, 1962, and February 17, 1963.

Supreme Court E-Library

SO ORDERED.

Feria (Chairman), Fernan, Alampay, and *Gutierrez, Jr., JJ.*, concur.

FIRST DIVISION

[G.R. No. L-32507. November 4, 1986]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **FRANCISCO PANCHO, et al.,** *accused-appellants.*

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; GUILT BEYOND REASONABLE DOUBT, NOT ESTABLISHED; DECLARATIONS OF EYEWITNESSES CONTAINED INTERNAL INCONSISTENCIES AND DISCREPANCIES.**— Upon careful review of the evidence, we are not convinced that the guilt of the accused-appellant Teodoro Pabalate has been established beyond reasonable doubt. The declarations of the eyewitnesses relied upon by the prosecution contained material inconsistencies and discrepancies which leave their trustworthiness open to serious doubt. This kind of evidence does not produce degree of moral certainty required to sustain the conviction of the accused. As we held in *People vs. Dramayo,* "Their (the accused's) freedom is forfeit only if the requisite quantum of proof necessary for conviction be in existence. Their guilt must be shown beyond reasonable doubt. To such standard, this Court has always been admitted. There is need, therefore, for the most careful scrutiny of the testimony of the state, both oral and documentary, independently of whatever defense is offered by the accused." In our view, the evidence adduced against appellant Teodoro Pabalate fail to satisfy the quantum of proof needed to overcome the constitutional right to presumption of innocence of the accused. His guilt not having been established beyond reasonable doubt, he is entitled to acquittal.