Republic of the Philippines
Supreme Court
Baguio City

THIRD DIVISION

SPOUSES FLORANTE E. JONSAY and LUZVIMINDA L. JONSAY and MOMARCO IMPORT CO., INC., Petitioners,	**G.R. No. 206459**
	Present:
	VELASCO, JR., *J.*, *Chairperson*,
	PEREZ,
	MENDOZA,*
- versus -	REYES, and
	JARDELEZA, *JJ.*
	Promulgated:
SOLIDBANK CORPORATION (now METROPOLITAN BANK AND TRUST COMPANY), Respondent.	April 6, 2016

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DECISION

REYES, *J.*:

Before this Court is a Petition for Review[1] from the Amended Decision[2] dated November 26, 2012 of the Court of Appeals (CA) in CA-G.R. CV No. 94012, which reconsidered its earlier Decision[3] therein dated April 27, 2012, and granted in part the appeal of herein respondent Solidbank Corporation (Solidbank) from the Amended Decision[4] dated July 7, 2009 of the Regional Trial Court (RTC) of Calamba City, Branch 35, in Civil Case No. 2912-2000-C, which annulled the extrajudicial foreclosure proceedings instituted by Solidbank against the Spouses Florante E. Jonsay

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* Additional Member per Raffle dated June 29, 2015 *vice* Associate Justice Diosdado M. Peralta.

1 *Rollo*, pp. 9-27.

2 Penned by Associate Justice Socorro B. Inting, with Associate Justices Jose C. Reyes, Jr. and Mario V. Lopez concurring; CA *rollo*, pp. 254-272.

3 Penned by Associate Justice Socorro B. Inting, with Associate Justices Fernanda Lampas Peralta and Mario V. Lopez concurring; id. at 194-210.

4 Rendered by Judge Romeo C. De Leon; records, Vol. 2, pp. 343-352.

(Florante) and Luzviminda L. Jonsay (Luzviminda) (Spouses Jonsay) and Momarco Import Co., Inc. (Momarco) (petitioners) over the mortgaged properties.

Factual Antecedents

Momarco, controlled and owned by the Spouses Jonsay, is an importer, manufacturer and distributor of animal health and feedmill products catering to cattle, hog and poultry producers. On November 9, 1995, and again on April 28, 1997, Momarco obtained loans of ₱40,000,000.00 and ₱20,000,000.00, respectively, from Solidbank for which the Spouses Jonsay executed a blanket mortgage over three parcels of land they owned in Calamba City, Laguna registered in their names under Transfer Certificates of Title Nos. T-224751, T-210327 and T-269668 containing a total of 23,733 square meters.[5] On November 3, 1997,[6] the loans were consolidated under one promissory note[7] for the combined amount of ₱60,000,000.00, signed by Florante as President of Momarco, with his wife Luzviminda also signing as co-maker.[8] The stipulated rate of interest was 18.75% *per annum*, along with an escalation clause tied to increases in pertinent Central Bank-declared interest rates, by which Solidbank was eventually able to unilaterally increase the interest charges up to 30% *per annum*.[9]

Momarco religiously paid the monthly interests charged by Solidbank from November 1995[10] until January 1998, when it paid ₱1,370,321.09. Claiming business reverses brought on by the 1997 Asian financial crisis, Momarco tried unsuccessfully to negotiate a moratorium or suspension in its interest payments. Due to persistent demands by Solidbank, Momarco made its next, and its last, monthly interest payment in April 1998 in the amount of ₱1,000,000.00. Solidbank applied the said payment to Momarco's accrued interest for February 1998. Momarco sought a loan from Landbank of the Philippines to pay off its aforesaid debt but its application fell through. The anticipated expropriation by the Department of Public Works and Highways of the mortgaged lots for the extension of the South Luzon Expressway (SLEX) also did not materialize.[11]

Solidbank proceeded to extrajudicially foreclose on the mortgage, and at the auction sale held on March 5, 1999, it submitted the winning bid of ₱82,327,249.54,[12] representing Momarco's outstanding loans, interests and

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5 Id. at 343.
6 Id. at 347.
7 Records, Vol. 1, p. 106.
8 Records, Vol. 2, p. 343.
9 *Rollo*, p. 48.
10 Total amount of ₱21,906,972.18 from November 1995 to December 1997.
11 Records, Vol. 2, pp. 343-344.
12 Records, Vol. 1, p. 177.

penalties, plus attorney's fees of ₱3,600,000.00. But Momarco now claims that on the date of the auction the fair market value of their mortgaged lots had increased sevenfold to ₱441,750,000.00.[13] On March 22, 1999, Sheriff Adelio Perocho (Sheriff Perocho) issued a certificate of sale to Solidbank, duly annotated on April 15, 1999 on the lots' titles.[14]

On March 9, 2000, a month before the expiration of the period to redeem the lots, the petitioners filed a Complaint[15] against Solidbank, Sheriff Perocho and the Register of Deeds of Calamba, Laguna, docketed as Civil Case No. 2912-2000-C, for *Annulment of the Extrajudicial Foreclosure of Mortgage, Injunction, Accounting and Damages with Prayer for the Immediate Issuance of a Writ of Preliminary Prohibitory Injunction.* They averred that: (a) the amount claimed by Solidbank as Momarco's total loan indebtedness is bloated; (b) Solidbank's interest charges are illegal for exceeding the legal rate of 12% *per annum*; (c) the filing fee it charged has no legal and factual basis; (d) the attorney's fees of ₱3,600,000.00 it billed the petitioners is excessive and unconscionable; (e) their previous payments from 1995 to 1997 were not taken into account in computing their principal indebtedness; (f) Sheriff Perocho's certificate of posting was invalid; and (g) the publication of the notice of the auction sale was defective because the *Morning Chronicle* which published the said notice was not a newspaper of general circulation in Calamba, Laguna.[16]

After Solidbank filed its Answer with Counterclaim[17] on April 12, 2000, the RTC heard and granted the petitioners' application for temporary restraining order on April 13, 2000,[18] followed on May 2, 2000[19] by issuance of a writ of preliminary prohibitory injunction, thus suspending the consolidation of Solidbank's titles to the subject lots.

The petitioners' principal witness was Florante, whose testimony was summarized by the RTC in its amended decision, as follows:

> [Florante] signed the loan documents in blank and the signing took place at his office in Quezon City; he asserted that they were able to pay more than Twenty-Four Million Pesos but the same were not deducted by the bank to arrive at the correct amount of indebtedness. He said that his accountant prepared statement of payments showing the payments made to the bank. He further claimed that there are still other payments, the receipts of which are being retrieved by his accountant. He also asserted that the newspaper where the notice of foreclosure sale was published is not a newspaper of general circulation.

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13 Id. at 6.
14 Records, Vol. 2, pp. 344, 348.
15 Records, Vol. 1, pp. 1-12.
16 Id. at 7.
17 Id. at 91-99.
18 Id. at 123-124.
19 Id. at 191-193.

> The same cannot be found in a newspaper stand in the place where the mortgaged properties are located; he further claimed that [he] suffered moral, emotional and mental injury; he is a graduate of Doctor of Veterinary Medicine; a permanent member of the Philippine Veterinary Medical Association; graduated and passed the Board; he is the President of [Momarco] and the President of Momarco Resort; he has been engaged in this line of business for 31 years now; his wife is a graduate of Dental Medicine and partner of [Momarco]; he has four (4) children three of them had already graduated and one still in college; x x x he is also claiming for exemplary damages of Five Million Pesos to set an example for other banks like Solidbank, to refrain from filing acts which are irregular and affect borrowers like him, he claimed also for attorney[']s fees of Three Million Pesos.[20]

Solidbank's witnesses, Lela Quijano, head of its collection division, and Benjamin Apan, its senior manager for retail operations, admitted that the monthly interests it collected from 1995 to 1998 ranged from 18.75% to 30%, and that for 1998, Momarco paid ₱2,370,321.09 in interest.[21]

Ruling of the RTC

On July 7, 2009, the RTC issued its Amended Decision, the *fallo* of which reads, as follows:

> Wherefore, premises considered, judgment is rendered in favor of the [petitioners] and against the defendant[s] by:
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> 1) Declaring the extra-judicial foreclosure proceedings NULL and VOID and without any legal effect and the defendants are prohibited to consolidate the titles in the name of [Solidbank] without prejudice to the filing of the action for collection or recovery of the sum of money secured by the real estate mortgage in the proper forum;
>
> 2) Ordering that the interest rates on the [petitioners'] indebtedness be reduced to 12% per annum;
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> 3) Declaring that the attorney's fees and filing fee being collected by [Solidbank] to be devoid of any legal basis;
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> 4) Ordering [Solidbank] to pay the [petitioners] the following sums, to wit:
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> a) Php20,000,000.00 - moral damages;
> b) Php2,500,000.00 - exemplary damages;
> c) Php1,[500],000.00 - for attorney's fees.

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20 Records, Vol. 2, pp. 346-347.

21 Id. at 347-348; Records, Vol. 1, p. 179.

5) Ordering the dismissal of the counterclaim for lack of merit.

SO ORDERED.[22]

The RTC ruled that the mortgage contract and the promissory notes prepared by Solidbank, which the Spouses Jonsay signed in blank, were contracts of adhesion; that Solidbank failed to take into account Momarco's payments in the two years preceding 1998 totaling ₱24,277,293.22 (this amount was not disputed by Solidbank); that the interest rates, ranging from 19% to 30%, as well as the penalties, charges and attorney's fees imposed by Solidbank, were excessive, unconscionable and immoral, and that Solidbank has no *carte blanche* authority under the Usury Law to unilaterally raise the interest rates to levels as to enslave the borrower and hemorrhage its assets; that Solidbank's verification in its application for foreclosure of mortgage was defective because it was signed not by its President but only by a vice-president; that the *Morning Chronicle*, in which the notice of auction was published, was not a newspaper of general circulation because it had no *bona fide* list of paying subscribers; that Solidbank manipulated the foreclosure sale through a defective publication of the notice of auction and by submitting an unconscionably low bid of ₱82,327,000.00, whereas the value of the lots had risen sevenfold since the rehabilitation of the SLEX.[23]

Ruling of the CA

On appeal to the CA, Solidbank interposed the following errors of the RTC, to wit:

> THE [RTC] GRAVELY ERRED IN NULLIFYING THE FORECLOSURE PROCEEDINGS CONDUCTED AGAINST [THE PETITIONERS'] PROPERTIES ON THE GROUND THAT THE REAL ESTATE MORTGAGE EXECUTED BY THE PARTIES WAS A CONTRACT OF ADHESION;
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> THE [RTC] GRAVELY ERRED IN NULLIFYING THE FORECLOSURE PROCEEDINGS CONDUCTED AGAINST [THE PETITIONERS'] PROPERTIES ON THE GROUND THAT THE NEWSPAPER WHERE THE NOTICE OF FORECLOSURE WAS PUBLISHED IS NOT A NEWSPAPER OF GENERAL CIRCULATION;
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> THE [RTC] GRAVELY ERRED IN NULLIFYING THE FORECLO[S]URE PROCEEDINGS CONDUCTED AGAINST [THE PETITIONERS'] PROPERTIES ON THE GROUNDS THAT THE INTEREST RATES, PENALTIES, ATTORNEY'S FEES CHARGED ARE EXCESSIVE, UNCONSCIONABLE AND IMMORAL AND THAT THE [SOLIDBANK] DID NOT TAKE INTO ACCOUNT [THE PETITIONERS'] PREVIOUS PAYMENT[S] IN THE AMOUNT OF P24,277,293.27;

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22 Id. at 351-352.

23 Id. at 348-350.

> THE [RTC] GRAVELY ERRED IN AWARDING MORAL DAMAGES, EXEMPLARY DAMAGES AND ATTORNEY'S FEES IN FAVOR OF THE [PETITIONERS];
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> THE [RTC] GRAVE[LY] ERRED IN FAILING TO REGARD [THE PETITIONERS] [IN] ESTOPPEL WHEN THE LATTER DID NOT IMPUGN THE VALIDITY OF THE LOAN AND MORTGAGE DOCUMENTS WITHIN A REASONABLE TIME.[24]

On April 27, 2012, the CA rendered judgment affirming the RTC *in toto*. It agreed that Solidbank did not comply with the publication requirements under Section 3, Act No. 3135, which provides:

> Sec. 3. Notice shall be given by posting notices of the sale for not less than twenty days in at least three public places of the municipality or city where the property is situated, and if such property is worth more than four hundred pesos, such notice shall also be published once a week for at least three consecutive weeks **in a newspaper of general circulation in the municipality or city**.[25] (Emphasis ours)

According to the CA, the *Morning Chronicle* was not a newspaper of general circulation, notwithstanding the affidavit of publication issued by its publisher, Turing R. Crisostomo (Crisostomo), to that effect as well as the certification of the Clerk of Court of RTC-Calamba City that it was duly accredited by the court since May 28, 1997 to publish legal notices. The CA ruled that it was not enough for Crisostomo to merely state in his affidavit that the *Morning Chronicle* was published and edited in the province of Laguna and in San Pablo City without a showing that it was published to disseminate local news and general information, that it had a *bona fide* list of paying subscribers, that it was published at regular intervals, and that it was in general circulation in Calamba City where the subject properties are located.[26]

In *Metropolitan Bank and Trust Company, Inc. v. Peñafiel*,[27] cited by the CA, the Court explained that: (1) the object of a notice of sale is to achieve a reasonably wide publicity of the auction by informing the public of the nature and condition of the property to be auctioned, and of the time, place and terms of the sale, and thereby secure bidders and prevent a sacrifice of the property; (2) a newspaper to be considered one of general circulation need not have the largest circulation but must be able to appeal to the public in general and thus ensure a wide readership, and must not be devoted solely to entertainment or the interest of a particular class,

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24 CA *rollo*, pp. 201-202.
25 Id. at 202.
26 Id. at 202-204.
27 599 Phil. 511 (2009).

profession, trade, calling, race, or religious denomination; and (3) Section 3 of Act No. 3135, as amended by Act No. 4118, does not only require the newspaper to be of general circulation but also that it is circulated in the municipality or city where the property is located.[28]

The CA held that the accreditation of the *Morning Chronicle* by the Clerk of Court of the RTC to publish legal notices is not determinative of whether it is a newspaper of general circulation in Calamba City.[29]

Concerning the loans due from the petitioners, the CA noted that under the *pro forma* promissory note which Solidbank prepared and which the Spouses Jonsay signed in blank, Solidbank enjoyed unrestrained freedom to unilaterally increase the interest rate in any month. The note gave it authority to increase or decrease the interest rate from time to time, "without any advance notice" and "in the event the Monetary Board of the Central Bank of the Philippines raises or lowers the interest rates on loans." According to the CA, this provision violated the principle of mutuality of contracts embodied in Article 1308[30] of the Civil Code.[31]

The CA also held that the herein petitioners were not in estoppel for failing to seasonably question the validity of the mortgage loan since the prescriptive period is reckoned from their notice of the statements of account issued by Solidbank showing the unilateral increases in the interest, for only by then would their cause of action have accrued. Since only three years had elapsed from the execution of the mortgage contract to the filing of the complaint on March 15, 2000, the action was brought within the 10-year prescriptive period.[32]

Solidbank moved for reconsideration[33] of the decision, which the CA granted in part on November 26, 2012, *via* its Amended Decision, to wit:

> **WHEREFORE**, premises considered, the Motion is GRANTED IN PART. Our Decision promulgated on April 27, 2012 is hereby amended. Paragraphs 2 and 5 of the dispositive portion of the July 7, 2009 Decision of the [RTC] of Calamba City, Branch 35 remain affirmed. Paragraphs 1, 3 and 4 thereof are hereby reversed and set aside.
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> **SO ORDERED**.[34]

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28 Id. at 519-520.

29 CA *rollo*, p. 205.

30 Art. 1308. The contract must bind both contracting parties; its validity or compliance cannot be left to the will of one of them.

31 CA *rollo*, pp. 205-206.

32 Id. at 208-209.

33 Id. at 219-245.

34 Id. at 271.

Thus, in a complete reversal of its decision, the CA now not only found the parties' mortgage contract valid, but also declared that Solidbank's extrajudicial foreclosure of the mortgage enjoyed the presumption of regularity. It took into account the (a) Affidavit of Publication issued by Crisostomo that it duly published the notice of auction sale on February 8, 15, and 22, 1999, (b) the Certification by the Clerk of Court of the RTC-Calamba City that the *Morning Chronicle* was duly accredited by the court to publish legal notices, and (c) the Raffle of Publication dated February 1, 1999 showing that the said newspaper participated in and won the raffle on February 1, 1999 to publish the subject notice. The CA stressed that since the selection of *Morning Chronicle* to publish the notice was through a court-supervised raffle, Solidbank was fully justified in relying on the regularity of the publication of its notice in the aforesaid newspaper, in the choice of which it had no hand whatsoever.[35]

The CA further held that no malice can be imputed on Solidbank's refusal to accept the petitioners' offer of *dacion en pago*, since it was duly authorized under the parties' mortgage contract to extrajudicially foreclose on the mortgage in the event that Momarco defaulted in its interest payments. Thus, when Solidbank opted to foreclose on the mortgage, it was merely exercising its contractual right to protect its interest, and Solidbank's supposed insensitivity or lack of sympathy toward Momarco's financial plight is irrelevant and is not indemnifiable as bad faith.[36]

On the other hand, the CA pointed out that other than Florante's bare testimonial allegations, the petitioners failed to adduce evidence to debunk Solidbank's compliance with the publication of its auction notice. They were unable to show that the *Morning Chronicle* was not a newspaper of general circulation in Calamba City, that it was not published once a week, or that it could not be found in newsstands.[37]

Thus, the CA in its amended decision: (a) upheld the validity of the extrajudicial foreclosure proceedings, the consolidation of the titles of Solidbank in the foreclosed properties, and the dismissal of Solidbank's counterclaim; (b) ordered the reduction of the interest rates on the petitioners' indebtedness to the legal rate of 12% *per annum*, thereby affirming that the unilateral increases in the monthly interest rates, which averaged 2.19% per month or 26.25% *per annum*, "without notice to the mortgagors," are void for being iniquitous, excessive and unconscionable; and (c) upheld the collection by the Solidbank of attorney's fees and filing fee. Nonetheless, the CA invalidated for lack of basis the award by the RTC to the petitioners of ₱20,000,000.00 as moral damages, ₱2,500,000.00 as

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35 Id. at 262-263.
36 Id. at 264-266.
37 Id. at 262.

exemplary damages, and ₱1,500,000.00 as attorney's fees.[38]

The petitioners moved for partial reconsideration[39] of the CA's Amended Decision dated November 26, 2012, but the CA denied the same in its Resolution[40] dated March 19, 2013.

Petition for Review in the Supreme Court

In this petition for review, the petitioners interpose the following assignment of errors, to wit:

> 1. WITH ALL DUE RESPECT, THE [CA] GRAVELY ERRED BY RENDERING TWO (2) CONFLICTING DECISIONS ON THE SAME SET OF FACTS AND EVIDENCE. THE AMENDED DECISION IS NOT IN ACCORD WITH LAW AND EXISTING JURISPRUDENCE[; AND]
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> 2. WITH ALL DUE RESPECT, THE [CA] GRAVELY ERRED IN NOT CORRECTLY APPLYING THE LAW AND JURISPRUDENCE ON EXTRAJUDICIAL FORECLOSURE OF REAL ESTATE MORTGAGE, DAMAGES AND CONTRACT OF ADHESION IN THE AMENDED DECISION.[41]

The petitioners decry how, after first declaring that "[a]ll told, we find no reason to disturb, much less reverse, the assailed decision of the RTC," the CA could now be permitted to make a complete turn-around from its previous decision over the same set of facts, and declare that the subject foreclosure is valid, order the consolidation of Solidbank's titles, and delete the award of moral and exemplary damages, attorney's fees and costs of suit.[42]

Ruling of the Court

There is merit in the petition.

There is no legal proscription against an adjudicating court adopting on motion for reconsideration by a party a

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38 Id. at 271; 419-420.
39 Id. at 276-290.
40 Id. at 348-349.
41 *Rollo*, p. 13.
42 Id. at 18-19.

position that is completely contrary to one it had previously taken in a case.

The petitioners' dismay over how the same division of the CA could make two opposite and conflicting decisions over exactly the same facts is understandable. Yet, what the CA simply did was to admit that it had committed an error of judgment, one which it was nonetheless fully authorized to correct upon a timely motion for reconsideration. Sections 1, 2 and 3 of Rule 37 of the Rules of Court are pertinent:

> Sec. 1. *Grounds of and period for filing motion for new trial or reconsideration.* — x x x.
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> Within the same period, the aggrieved party may move for reconsideration upon the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law.
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> Sec. 2. *Contents of motion for new trial or reconsideration and notice thereof.* — x x x.
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> x x x x
>
> A motion for reconsideration shall point out specifically the findings or conclusions of the judgment or final order which are not supported by the evidence or which are contrary to law[,] making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings or conclusions.
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> x x x x
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> Sec. 3. *Action upon motion for new trial or reconsideration.* — x x x If the court finds that excessive damages have been awarded or that the judgment or final order is contrary to the evidence or law, it may amend such judgment or final order accordingly.

The rule is that while the decision of a court becomes final upon the lapse of the period to appeal by any party,[43] but the filing of a motion for reconsideration or new trial interrupts or suspends the running of the said period, and prevents the finality of the decision or order from setting in.[44] A motion for reconsideration allows a party to request the adjudicating court or quasi-judicial body to take a second look at its earlier judgment and correct any errors it may have committed.[45] As explained in *Salcedo II v. COMELEC*,[46] a motion for reconsideration allows the adjudicator or judge to take a second opportunity to review the case and to grapple anew with the

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43 *Teodoro v. CA*, 328 Phil. 116, 122 (1996); RULES OF COURT, Rule 36, Section 2.
44 RULES OF COURT, Rule 40, Section 2 and Rule 41, Section 3.
45 *Reyes v. Pearlbank Securities, Inc.*, 582 Phil. 505, 522 (2008).
46 371 Phil. 377 (1999).

issues therein, and to decide again a question previously raised, there being no legal proscription imposed against the deciding body adopting thereby a new position contrary to one it had previously taken.[47]

Solidbank has sufficiently complied with the requirement of publication under Section 3 of Act No. 3135.

In *Philippine Savings Bank v. Spouses Geronimo*,[48] the Court stressed that the right of a bank to extrajudicially foreclose on a real estate mortgage is well-recognized, provided it faithfully complies with the statutory requirements of foreclosure:

> While the law recognizes the right of a bank to foreclose a mortgage upon the mortgagor's failure to pay his obligation, it is imperative that such right be exercised according to its clear mandate. Each and every requirement of the law must be complied with, lest, the valid exercise of the right would end. It must be remembered that the exercise of a right ends when the right disappears, and it disappears when it is abused especially to the prejudice of others.[49]

In *Cristobal v. CA*,[50] the Court explicitly held that foreclosure proceedings enjoy the presumption of regularity and the mortgagor who alleges the absence of a requisite has the burden of proving such fact:

> Further, as respondent bank asserts, a mortgagor who alleges absence of a requisite has the burden of establishing that fact. Petitioners failed in this regard. Foreclosure proceedings have in their favor the presumption of regularity and the burden of evidence to rebut the same is on the petitioners. x x x.[51] (Citation omitted)

The petitioners insist that the CA was correct when it first ruled in its Decision dated April 27, 2012 that there was no valid publication of the notice of auction, since the *Morning Chronicle* was not shown to be a newspaper of general circulation in Calamba City. The CA disregarded the affidavit of publication executed by its publisher to that effect, as well as the certification by the Clerk of Court of RTC-Calamba City that the said paper was duly accredited by the court to publish legal notices. It ruled that there was no showing by the Solidbank that the *Morning Chronicle* was published to disseminate local news and general information, that it had a *bona fide* list of paying subscribers, that it was published at regular intervals, and that it was in circulation in Calamba City where the subject properties are located.

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47 Id. at 392.
48 632 Phil. 378 (2010).
49 Id. at 390, citing *Metropolitan Bank v. Wong*, 412 Phil. 207, 220 (2001).
50 384 Phil. 807 (2000).
51 Id. at 815.

But in its Amended Decision on November 26, 2012, the CA now ruled that the questioned foreclosure proceedings enjoy the presumption of regularity, and it is the burden of the petitioners to overcome this presumption. The CA stated:

> It is an elementary rule that the burden of proof is the duty of a party to present evidence on the facts in issue necessary to establish his claim or defense as required by law. The Court has likewise ruled in previous cases that foreclosure proceedings enjoy the presumption of regularity and that the mortgagor who alleges absence of a requisite has the burden of proving such fact.[52] (Citation omitted)

In *Fortune Motors (Phils.) Inc. v. Metropolitan Bank and Trust Co.*,[53] it was stressed that in order for publication to serve its intended purpose, the newspaper should be in general circulation in the place where the foreclosed properties to be auctioned are located.[54] But in *Metropolitan Bank and Trust Co. v. Spouses Miranda*,[55] the Court also clarified that the matter of compliance with the notice and publication requirements is a factual issue which need not be resolved by the high court:

> It has been our consistent ruling that the question of compliance or non-compliance with notice and publication requirements of an extrajudicial foreclosure sale is a factual issue, and the resolution thereof by the trial court is generally binding on this Court. The matter of sufficiency of posting and publication of a notice of foreclosure sale need not be resolved by this Court, especially when the findings of the RTC were sustained by the CA. Well-established is the rule that factual findings of the CA are conclusive on the parties and carry even more weight when the said court affirms the factual findings of the trial court.[56] (Citation omitted)

In *Spouses Miranda*, the Court ruled that the foreclosing bank could not invoke the presumption of regularity of the publication of the notice of auction absent any proof whatsoever of the fact of publication.[57] In the case at bar, there is no dispute that there was publication of the auction notice, which the CA in its amended decision now held to have sufficiently complied with the requirement of publication under Section 3 of Act No. 3135. Unfortunately, against the fact of publication and the presumption of regularity of the foreclosure proceedings, the petitioners' only contrary evidence is Florante's testimonial assertion that the *Morning Chronicle* was not a newspaper of general circulation in Calamba City and that it could not

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52 CA *rollo*, p. 305.
53 332 Phil. 844 (1996).
54 Id. at 850.
55 655 Phil. 265 (2011).
56 Id. at 272.
57 Id. at 273.

be found in the local newsstands.

Admittedly, the records are sparse as to the details of the publication. In his Affidavit of Publication, publisher Crisostomo stated concerning the circulation of his paper, as follows:

> I, [CRISOSTOMO], legal age, Filipino, resident of Brgy. III-D, San Pablo City with postal address at San Pablo City, after having been duly sworn in accordance to law, depose and say[:]
>
> That I am the Publisher of The Morning Chronicle Weekly newspaper of Luzon Province and Greater Manila Area, Cavite, [p]ublished and edited in the Province of Laguna and San Pablo City.
>
> x x x x[58]

In *Spouses Geronimo*,[59] it was held that the affidavit of publication executed by the account executive of the newspaper is *prima facie* proof that the newspaper is generally circulated in the place where the properties are located.[60] But in substance, all that Crisostomo stated is that his newspaper was "*published and edited in the province of Laguna and San Pablo City.*" He did not particularly mention, as the CA seemed to demand in its initial decision, that the *Morning Chronicle* was published and circulated to disseminate local news and general information in Calamba City where the foreclosed properties are located.

Nonetheless, when the RTC accredited the *Morning Chronicle* to publish legal notices in Calamba City, it can be presumed that the RTC had made a prior determination that the said newspaper had met the requisites for valid publication of legal notices in the said locality, guided by the understanding that for the publication of legal notices in Calamba City to serve its intended purpose, it must be in general circulation therein. This presumption lays the burden upon the petitioners to show otherwise, contrary to the CA's first ruling.

It is true that the Court also held in *Peñafiel*,[61] concerning the evidentiary weight of the publisher's affidavit of publication, that the accreditation by the RTC executive judge is not decisive on the issue of whether a newspaper is of general circulation:

> The accreditation of *Maharlika Pilipinas* by the Presiding Judge of the RTC is not decisive of whether it is a newspaper of general circulation

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58 Records, Vol. I, p. 151.

59 Supra note 48.

60 Id. at 387, citing *China Banking Corp. v. Sps. Martir*, 615 Phil. 728, 739 (2009).

61 Supra note 27.

> in Mandaluyong City. This Court is not bound to adopt the Presiding Judge's determination, in connection with the said accreditation, that *Maharlika Pilipinas* is a newspaper of general circulation. The court before which a case is pending is bound to make a resolution of the issues based on the evidence on record.[62]

But as the Court has seen, the petitioners failed to present proof to overcome the presumption of regularity created by the publisher's affidavit of publication and the accreditation of the *Morning Chronicle* by the RTC.[63] Significantly, in A.M. No. 01-1-07-SC,[64] the Court now requires all courts beginning in 2001 to accredit local newspapers authorized to publish legal notices.[65]

The petitioners' mere proposal to extinguish their loan obligations by way of *dacion en pago* does not novate the mortgage contract.

On the question of the petitioners' failed proposal to extinguish their loan obligations by way of *dacion en pago*, no bad faith can be imputed to Solidbank for refusing the offered settlement as to render itself liable for moral and exemplary damages after opting to extrajudicially foreclose on the mortgage.[66] In *Tecnogas Philippines Manufacturing Corporation v. Philippine National Bank*,[67] the Court held:

> *Dacion en pago* is a special mode of payment whereby the debtor offers another thing to the creditor who accepts it as equivalent of payment of an outstanding obligation. The undertaking is really one of sale, that is, the creditor is really buying the thing or property of the debtor, payment for which is to be charged against the debtor's debt. As such, the essential elements of a contract of sale, namely, consent, object certain, and cause or consideration must be present. It is only when the thing offered as an equivalent is accepted by the creditor that novation takes place, thereby, totally extinguishing the debt.
>
> On the first issue, the Court of Appeals did not err in ruling that Tecnogas has no clear legal right to an injunctive relief because its proposal to pay by way of *dacion en pago* did not extinguish its obligation. Undeniably, Tecnogas' proposal to pay by way of *dacion en pago* was not accepted by PNB. Thus, the unaccepted proposal neither novates the parties' mortgage contract nor suspends its execution as there was no meeting of the minds between the parties on whether the loan will be extinguished by way of *dacion en pago*. Necessarily, upon Tecnogas'

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62 Id. at 516.

63 CA *rollo*, p. 262.

64 Re: Guidelines in the Accreditation of Newspapers and Periodicals and in the Distribution of Legal Notices and Advertisements for Publication. October 16, 2001.

65 *See Phil. Savings Bank v. Spouses Geronimo*, supra note 48, at 386.

66 CA *rollo*, p. 266.

67 574 Phil. 340 (2008).

> default in its obligations, the foreclosure of the REM becomes a matter of right on the part of PNB, for such is the purpose of requiring security for the loans.[68] (Citation omitted)

An escalation clause in a loan agreement granting the lending bank authority to unilaterally increase the interest rate without prior notice to and consent of the borrower is void.

After annulling the foreclosure of mortgage, the RTC reduced the interest imposable on the petitioners' loans to 12%, the legal interest allowed for a loan or forbearance of credit, citing *Medel v. CA*.[69] In effect, the RTC voided not just the unilateral increases in the monthly interest, but also the contracted interest of 18.75%. The implication is to allow the petitioners to recover what they may have paid in excess of what was validly due to Solidbank, if any.

In *Floirendo, Jr. v. Metropolitan Bank and Trust Co.*,[70] the promissory note provided for interest at 15.446% *per annum* for the first 30 days, subject to upward/downward adjustment every 30 days thereafter.[71] It was further provided that:

> The rate of interest and/or bank charges herein stipulated, during the term of this Promissory Note, its extension, renewals or other modifications, may be increased, decreased, or otherwise changed from time to time by the Bank *without advance notice to me/us in the event of changes in the interest rate prescribed by law or the Monetary Board of the Central Bank of the Philippines, in the rediscount rate of member banks with the Central Bank of the Philippines, in the interest rates on savings and time deposits, in the interest rates on the bank's borrowings, in the reserve requirements, or in the overall costs of funding or money*[.][72] (Italics ours)

The Court ordered the "reformation" of the real estate mortgage contract and the promissory note, in that any increases in the interest rate beyond 15.446% *per annum* could not be collected by respondent bank since it was devoid of prior consent of the petitioner, as well as ordered that the interest paid by the debtor in excess of 15.446% be applied to the payment of the principal obligation.[73]

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68 Id. at 346.
69 359 Phil. 820 (1998).
70 558 Phil. 654 (2007).
71 Id. at 657.
72 Id. at 658.
73 Id. at 665.

In *Philippine National Bank v. CA*,[74] the Court declared void the escalation clause in a credit agreement whereby the "*bank reserves the right to increase the interest rate within the limits allowed by law at any time depending on whatever policy it may adopt in the future x x x.*"[75] The Court said:

> It is basic that there can be no contract in the true sense in the absence of the element of agreement, or of mutual assent of the parties. If this assent is wanting on the part of one who contracts, his act has no more efficacy than if it had been done under duress or by a person of unsound mind.
>
> Similarly, contract changes must be made with the consent of the contracting parties. The minds of all the parties must meet as to the proposed modification, especially when it affects an important aspect of the agreement. In the case of loan contracts, it cannot be gainsaid that the rate of interest is always a vital component, for it can make or break a capital venture. Thus, any change must be *mutually* agreed upon, otherwise, it is bereft of any binding effect.
>
> We cannot countenance petitioner bank's posturing that the escalation clause at bench gives it unbridled right to *unilaterally* upwardly adjust the interest on private respondents' loan. That would *completely* take away from private respondents the right to assent to an important modification in their agreement, and would negate the element of mutuality in contracts. x x x.[76] (Citation omitted and italics in the original)

In *New Sampaguita Builders Construction, Inc. (NSBCI) v. PNB*,[77] the Court condemned as the "zenith of farcicality" a mortgage contract whereby the parties "specify and agree upon rates that could be subsequently upgraded at whim by only one party to the agreement."[78] The Court declared as a contract of adhesion a pro forma promissory note which creates a "take it or leave it" dilemma for borrower and gives the mortgagee bank an unbridled right to adjust the interest independently and upwardly, thereby completely taking away from the borrower the "right to assent to an important modification in their agreement," thus negating the element of mutuality in their contracts.[79] The Court quotes:

> ***Increases in Interest Baseless***
>
> ***Promissory Notes***. In each drawdown, the Promissory Notes specified the interest rate to be charged: 19.5 percent in the first, and 21.5 percent in the second and again in the third. However, a uniform clause therein permitted respondent to increase the rate **"within the limits allowed by law at any time depending on whatever policy it may adopt**

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74 G.R. No. 107569, November 8, 1994, 238 SCRA 20.
75 Id. at 24.
76 Id. at 25-26.
77 479 Phil. 483 (2004).
78 Id. at 497.
79 *PNB v. CA*, 328 Phil. 54, 62-63 (1996).

in the future x x x," without even giving prior notice to petitioners. The Court holds that petitioners' accessory duty to pay interest did not give respondent unrestrained freedom to charge any rate other than that which was agreed upon. No interest shall be due, unless expressly stipulated in writing. It would be the zenith of farcicality to specify and agree upon rates that could be subsequently upgraded at whim by only one party to the agreement.

The "unilateral determination and imposition" of increased rates is "violative of the principle of mutuality of contracts ordained in Article 1308 of the Civil Code." One-sided impositions do not have the force of law between the parties, because such impositions are not based on the parties' essential equality.

Although escalation clauses are valid in maintaining fiscal stability and retaining the value of money on long-term contracts, giving respondent an unbridled right to adjust the interest independently and upwardly would completely take away from petitioners the "right to assent to an important modification in their agreement" and would also negate the element of mutuality in their contracts. The clause cited earlier made the fulfillment of the contracts "dependent exclusively upon the uncontrolled will" of respondent and was therefore void. Besides, the pro forma promissory notes have the character of a *contract d'adhésion*, "where the parties do not bargain on equal footing, the weaker party's [the debtor's] participation being reduced to the alternative 'to take it or leave it.'"

"While the Usury Law ceiling on interest rates was lifted by [Central Bank] Circular No. 905, nothing in the said Circular grants lenders *carte blanche* authority to raise interest rates to levels which will either enslave their borrowers or lead to a hemorrhaging of their assets." In fact, we have declared nearly ten years ago that neither this Circular nor PD 1684, which further amended the Usury Law, "authorized either party to unilaterally raise the interest rate without the other's consent."

Moreover, a similar case eight years ago pointed out to the same respondent (PNB) that borrowing signified a capital transfusion from lending institutions to businesses and industries and was done for the purpose of stimulating their growth; yet respondent's continued "unilateral and lopsided policy" of increasing interest rates "without the prior assent" of the borrower not only defeats this purpose, but also deviates from this pronouncement. Although such increases are not usurious, since the "Usury Law is now legally inexistent" — the interest ranging from 26 percent to 35 percent in the statements of account — "must be equitably reduced for being iniquitous, unconscionable and exorbitant." Rates found to be iniquitous or unconscionable are void, as if it there were no express contract thereon. Above all, it is undoubtedly against public policy to charge excessively for the use of money.[80] (Citations omitted and emphasis ours)

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80 *New Sampaguita Builders Construction, Inc. (NSBCI) v. PNB*, supra note 77, at 496-499.

In *New Sampaguita*, the Court invoked Article 1310[81] of the Civil Code which grants courts authority to reduce or increase interest rates equitably. It eliminated the escalated rates, insurance and penalties and imposed only the stipulated interest rates of 19.5% and 21.5% on the notes, *to be reduced to the legal rate of 12% upon their automatic conversion into medium-term loans* ***after maturity***:[82]

> [T]o give full force to the Truth in Lending Act, only the interest rates of 19.5 percent and 21.5 percent stipulated in the Promissory Notes may be imposed by respondent on the respective availments. After 730 days, the portions remaining unpaid are automatically converted into medium-term loans at the legal rate of 12 percent. In all instances, the simple method of interest computation is followed. x x x.[83]

Thus, all payments made by the petitioners were applied pro-rated to the notes, and after eliminating the charges, penalties and insurance, the result of the recomputation was an overcollection by the bank of ₱3,686,101.52, which the Court ordered refunded to the petitioners with straight interest at 6% *per annum* from the filing of the complaint until finality.[84]

In *Equitable PCI Bank v. Ng Sheung Ngor*,[85] the Court annulled the escalation clause and imposed the original stipulated rate of interest on the loan, until ***maturity***, and thereafter, the legal interest of 12% *per annum* was imposed on the outstanding loans. Thus, the Court ordered the borrower to pay Equitable the stipulated interest rate of 12.66% *per annum* for the dollar denominated loans, and the stipulated 20% *per annum* for the peso denominated loans, up to maturity, and afterwards Equitable was to collect legal interest of 12% *per annum* on all loans due.[86] Incidentally, under Monetary Board Circular No. 799, the rate of interest for the loan or

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81 Art. 1310. The determination shall not be obligatory if it is evidently inequitable. In such case, the courts shall decide what is equitable under the circumstances.

82 *New Sampaguita Builders Construction, Inc. (NSBCI) v. PNB*, supra note 77, at 529.

83 Id.

84 Id. at 529-530.

85 565 Phil. 520 (2007).

86 Id. at 539.
The dispositive portion of the Court decision reads:
x x x x
2. ordering respondents Ng Sheung Ngor, doing business under the name and style of "Ken Marketing," Ken Appliance Division, Inc. and Benjamin E. Go to pay petitioner Equitable PCI Bank interest at:
a) 12.66% p.a. with respect to their dollar-denominated loans from January 10, 2001 to July 9, 2001;
b) 20% p.a. with respect to their peso-denominated loans from January 10, 2001 to July 9, 2001;
c) pursuant to our ruling in *Eastern Shipping Lines v. Court of Appeals,* the total amount due on July 9, 2001 shall earn legal interest at 12% p.a. from the time petitioner Equitable PCI Bank demanded payment, whether judicially or extra-judicially; and
d) after this Decision becomes final and executory, the applicable rate shall be 12% p.a. until full satisfaction;
x x x x. Id. at 544-545.

forbearance of money, in the absence of stipulation, shall now be 6% *per annum* starting July 1, 2013.[87]

Thus, the Court disregarded the unilaterally escalated interest rates and imposed the mutually stipulated rates, which it applied up to the maturity of the loans. Thereafter, the Court imposed the legal rate of 12% *per annum* on the outstanding loans, or 6% *per annum* legal rate on the excess of the borrower's payments.

Attorney's fees do not form an integral part of the cost of borrowing, but arise only when collecting upon the notes or loans becomes necessary. Courts have the power to determine their reasonableness based on *quantum meruit* and to reduce the amount thereof if excessive.

Concerning the ₱3,000,000.00 attorney's fees charged by Solidbank and added to the amount of its auction bid, as part of the cost of collecting the loans by way of extrajudicial foreclosure, the Court finds no factual basis to justify such an excessive amount. The Court has not hesitated to delete or equitably reduce attorney's fees which are baseless or excessive. In *New Sampaguita*, the Court reduced from 10% to 1% the attorney's fees, holding that they are not an integral part of the cost of borrowing but arise only on the basis of *quantum meruit* when the lender collects upon the notes.[88]

Mortgagee institutions are reminded that extrajudicial foreclosure proceedings are not adversarial suits filed before a court. It is not commenced by filing a complaint but an *ex-parte* application for extrajudicial foreclosure of mortgage before the executive judge, pursuant to Act No. 3135, as amended, and special administrative orders issued by this Court, particularly Administrative Matter No. 99-10-05-0 (Re: Procedure in Extra-Judicial Foreclosure of Mortgage). The executive judge receives the application neither in a judicial capacity nor on behalf of the court; the conduct of extrajudicial foreclosure proceedings is not governed by the rules on ordinary or special civil actions. The executive judge performs therein an administrative function to ensure that all requirements for the extrajudicial foreclosure of a mortgage are satisfied before the clerk of court, as the *ex-officio* sheriff, goes ahead with the public auction of the mortgaged property. Necessarily, the orders of the executive judge in such proceedings, whether

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87 *Nacar v. Gallery Frames*, G.R. No. 189871, August 13, 2013, 703 SCRA 439, 454-455; *S.C. Megaworld Construction and Development Corporation v. Parada*, G.R. No. 183804, September 11, 2013, 705 SCRA 584, 610.

88 *New Sampaguita Builders Construction, Inc. (NSBCI) v. PNB*, supra note 77, at 509-510.

they be to allow or disallow the extrajudicial foreclosure of the mortgage, are not issued in the exercise of a judicial function but in the exercise of his administrative function to supervise the ministerial duty of the Clerk of Court as *Ex-Officio* Sheriff in the conduct of an extrajudicial foreclosure sale.[89]

The recomputation of the petitioners' total loan indebtedness based on the stipulated interest, and the exclusion of the penalties and reduction of the attorney's fees results in an excess of the auction proceeds which must be paid to the petitioners.

Coming now to the question of whether Solidbank must refund any excess interest to the petitioners, the CA agreed with the RTC that the loans should earn only 12% for Solidbank, which would result in a drastic reduction in the interest which the petitioners would be obliged to pay to Solidbank. Notwithstanding what this Court has said concerning the invalidity of the unilateral increases in the interest rates, the ruling nonetheless violates the contractual agreement of the parties imposing an interest of 18.75% *per annum*, besides the fact that an interest of 18.75% *per annum* cannot *per se* be deemed as unconscionable back in 1995 or in 1997.

In the recent cases of *Mallari v. Prudential Bank (now Bank of the Philippine Islands)*[90] and *Spouses Villanueva v. The CA, et al.*,[91] the Court did not consider unconscionable the contractual interest rates of 23% or 24% *per annum*. In *Mallari*, the Court upheld the loans obtained between 1984 and 1989 which bore interest from 21% to 23% per year; in *Spouses Villanueva*, the loans secured in 1994 carried interest of 24% per year were upheld. In *Advocates for Truth in Lending, Inc. v. Bangko Sentral Monetary Board*,[92] the Court noted that in the later 1990s, the banks' prime lending rates which they charged to their best borrowers ranged from 26% to 31%.[93]

To answer, then, the question of whether Solidbank must refund anything to the petitioners, the contracted rate of 18.75%, not the legal rate of 12%, will be applied to the petitioners' loans. Any excess either in the interest payments of the petitioners or in the auction proceeds, over what is validly due to Solidbank on the loans, will be refunded or paid to the

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89 *Ingles v. Estrada*, G.R. No. 141809, April 8, 2013, 695 SCRA 285, 313-314, citing *First Marbella Condominium Ass'n., Inc. v. Gatmaytan*, 579 Phil. 432, 438-439 (2008).

90 G.R. No. 197861, June 5, 2013, 697 SCRA 555.

91 671 Phil. 467 (2011).

92 G.R. No. 192986, January 15, 2013, 688 SCRA 530.

93 Id. at 538.

petitioners. Thus:

> (1) The first loan of ₱40,000.000.00 carried a stipulated interest of 18.75% *per annum,* and from November 9, 1995 to March 5, 1999, which is the auction date and the date the mortgage was terminated, a period of 3 years and 116 days, or 3.3178 years, and total interest earned by the bank thereon is **₱24,883,500.00**; the second loan, for ₱20,000,000.00, was also agreed to earn 18.75% *per annum*, and from April 28, 1997 to March 5, 1999, a period of 1 year and 311 days, or 1.8520 years, it earned **₱6,945,000.00** in interest. In all, Solidbank earned **₱31,828,500.00** in interest up to March 5, 1999 from both loans.
>
> (2) From November 9, 1995 to April 1998, the petitioners paid monthly interests totaling **₱24,277,283.22**. Deducting ₱24,277,283.22 from the sum of the total loan principal of ₱60,000,000.00 and the total interest due of ₱31,828,500.00, which is **₱91,828,500.00,** leaves the amount of **₱67,551,216.78** in interest owed by the petitioners as of March 5, 1999.
>
> (3) As in *New Sampaguita Builders*, the Court shall exclude all the penalties or surcharges charged by the bank, and shall allow the bank to recover only 1% as attorney's fees, or **₱675,512.17**, not the ₱3,600,000.00 awarded by the RTC. Thus, all in all, the petitioners owed the bank **₱68,226,728.95** (₱67,551,216.78 plus ₱675,512.17) as of March 5, 1999.
>
> (4) Deducting **₱68,226,728.95** from Solidbank's winning bid of **₱82,327,000.00** leaves an excess of **₱14,100,271.05** in the proceeds of the auction over the outstanding loan obligation of the petitioners. This amount must be paid by Solidbank to the petitioners.
>
> (5) Since the **₱14,100,271.05** is the excess in the auction proceeds, thus an ordinary monetary obligation and not a loan or a forbearance of credit, it shall earn simple interest at six percent (6%) *per annum* from judicial demand up to finality, following *Eastern Shipping Lines, Inc. v. Court of Appeals*;[94] thereafter, both the said amount and the accumulated interest shall together earn six percent (6%) *per annum,* pursuant to Monetary Board Circular No. 799, until full satisfaction.

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94 G.R. No. 97412, July 12, 1994, 234 SCRA 78.

Thus:

Particulars			Amount
Solidbank's Winning Bid			**₱82,327,000.00**
Less: Amount Due from Petitioners, as of March 5, 1999			
Loan No. 1 Principal		₱40,000,000.00	
Loan No. 2 Principal		20,000,000.00	
Total		**60,000,000.00**	
Add: Interest Due			
Loan No. 1 - November 9, 1995 to March 5, 1999 (₱40,000,000.00 x 18.75% p.a. x 3.3178)	₱24,883,500.00		
Loan No. 2 - April 28, 1997 to March 5, 1999 or (₱20,000,000.00 x 18.75% p.a. x 1.8520)	6,945,000.00	**31,828,500.00**	
Total		**91,828,500.00**	
Less: Interest paid from November 1995 to April 1998		24,277,283.22	
Net Amount Due from Petitioners		67,551,216.78	
Add: Attorney's fees (1% of ₱67,551,216.78)		675,512.17	**68,226,728.95**
Balance Payable to Petitioners			**₱14,100,271.05**

WHEREFORE, premises considered, the Amended Decision dated November 26, 2012 of the Court of Appeals in CA-G.R. CV No. 94012 is **AFFIRMED with MODIFICATION** in that the stipulated interest rate on the loan obligation of 18.75% shall be applied, resulting in ₱67,551,216.78 as the amount due from the Spouses Florante E. Jonsay and Luzviminda L. Jonsay and Momarco Import Co., Inc. to Solidbank Corporation (now Metropolitan Bank and Trust Company). In addition, the Spouses Florante E. Jonsay and Luzviminda L. Jonsay and Momarco Import Co., Inc. are **ORDERED** to **PAY** attorney's fees in the amount of ₱675,512.17, which is one percent (1%) of the loan obligation.

Thus, Solidbank Corporation (now Metropolitan Bank and Trust Company) is **ORDERED** to **PAY** to the petitioners the amount of **₱14,100,271.05,** representing the excess of its auction bid over the total loan obligation due from the petitioners, plus interest at six percent (6%) *per annum* computed from the date of filing of the complaint or March 15, 2000 up to finality; and thereafter, both the excess of the auction proceeds and the cumulative interest shall earn six percent (6%) *per annum* until fully paid.

SO ORDERED.

BIENVENIDO L. REYES
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

JOSE PORTUGAL PEREZ
Associate Justice

JOSE CATRAL MENDOZA
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

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

MAY 26 2016