

CERTIFIED TRUE COPY
Wilfredo V. Lapitan
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
NOV 21 2018



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ROSEMARIE Q. REY,

Petitioner,

G.R. No. 211206

Present:

- versus -

PERALTA, J., Chairperson,
LEONEN,
GESMUNDO,*
REYES, J., JR.,* and
HERNANDO, JJ.

CESAR G. ANSON,

Respondent.

Promulgated:

November 7, 2018

X-----

Wilfredo V. Lapitan

-----X

DECISION

PERALTA, J.:

This is a petition for review on *certiorari*,¹ under Rule 45 of the Rules of Court, of the Decision² of the Court of Appeals dated September 6, 2013 in CA-G.R. CV No. 95012, which reversed and set aside the Decision³ dated February 5, 2010 of the Regional Trial Court (RTC) of Legazpi City, Branch 5, and entered a new judgment ordering herein petitioner Rosemarie Q. Rey to pay respondent Cesar G. Anson the sum of ₱902,847.87, plus twelve percent (12%) interest per annum from September 1, 2013 until fully paid, and to pay legal interest of twelve percent (12%) per annum on the total award due, to be computed from the time the judgment becomes final and executory until the same is fully satisfied.

* On wellness leave.

¹ *Rollo*, pp. 40-67.

² *Id.* at 10-29. Penned by Associate Justice Ramon R. Garcia, and concurred in by Associate Justices Amelita G. Tolentino and Danton Q. Bueser.

³ *Id.* at 94-96. Penned by Judge Pedro R. Soriao.

W

The facts, as stated by the Court of Appeals, are as follows:

Rosemarie Rey is the President and one of the owners of Southern Luzon Technological College Foundation Incorporated, a computer school in Legazpi City. Sometime in August 2002, she needed a quick infusion of cash for the said school. She approached a friend, Ben Del Castillo, who introduced her to his acquaintance, Cesar Anson.

On August 23, 2002, Rosemarie Rey borrowed from Cesar Anson the amount of ₱200,000.00 payable in one year, and subject to 7.5% interest per month or ₱15,000.00 monthly interest, which would be paid bi-monthly by way of postdated checks. The loan was secured by a real estate mortgage on Spouses Teodoro and Rosemarie Rey's property, Lot 1271-C-4, covered by Transfer Certificate of Title (*TCT*) No. 50872. In the event of default, the Spouses Rey would pay a penalty charge of 10% of the total amount, plus 12% attorney's fees. The terms and conditions of the loan were embodied in a Deed of Real Estate Mortgage⁴ dated August 23, 2002. Rosemarie Rey thereafter issued 24 postdated checks for ₱7,500.00 each, as well as another postdated check for the principal amount of ₱200,000.00.

Three days later, or on August 26, 2002, Rosemarie Rey again borrowed from Cesar Anson ₱350,000.00, subject to 7% interest per month, and payable in four months. The second loan was secured by a real estate mortgage over a parcel of land covered by *TCT* No. 2776, registered in the name of Rosemarie Rey's mother, Isabel B. Quinto. The parties executed a second Deed of Real Estate Mortgage⁵ dated August 26, 2002.

Rosemarie Rey faithfully paid the interest on the first loan for twelve (12) months. She was, however, unable to pay the principal amount of ₱200,000.00 when it became due on August 24, 2003. She appealed to Cesar Anson not to foreclose the mortgage or to impose the stipulated penalty charges, but instead to extend the terms thereof. Cesar Anson agreed and Rosemarie Rey later signed a promissory note⁶ dated April 23, 2004 and executed a Deed of Real Estate Mortgage⁷ dated May 3, 2004, stating that the Spouses Rey's principal obligation of ₱200,000.00 shall be payable in four (4) months from the execution of the Deed of Real Estate Mortgage, and it shall be subject to interest of 7.5% per month. These two documents cancelled, updated and replaced the original agreement on the first loan. Rosemarie Rey once again issued postdated checks to cover the interest payments on the amended first loan, the latest of which was dated August 23, 2004, and another postdated check for ₱200,000.00 for the principal amount. Rosemarie Rey was able to make good on her interest payments, but thereafter failed to pay the principal amount of ₱200,000.00.

⁴ Exhibit "A"; records, pp. 180-181.

⁵ Exhibit "ZZ"; *id.* at 233-234.

⁶ Exhibit "21"; *id.* at 326.

⁷ Exhibit "B"; *id.* at 182-183.

Anent the second loan of ₱350,000.00, Rosemarie Rey failed to faithfully pay monthly interest thereon and she was unable to pay the principal amount thereof when it became due on December 26, 2002. Rosemarie Rey appealed to Cesar Anson not to foreclose the mortgage securing the same or to impose the penalty charges, but instead to extend the terms thereof. Cesar Anson agreed, and the parties executed anew a Deed of Real Estate Mortgage⁸ dated January 19, 2003 wherein Rosemarie Rey acknowledged her indebtedness to Cesar Anson in the amount of ₱611,340.00, payable within four months from the execution of the Deed of Real Estate Mortgage, and subject to 7% interest per month.

Four months thereafter, Rosemarie Rey again failed to fulfill her obligation on the second loan. The same was extended once more in a Deed of Real Estate Mortgage⁹ dated June 19, 2003 wherein Rosemarie Rey acknowledged indebtedness to Cesar Anson in the amount of ₱761,450.00, payable within six months from the execution of the Deed of Real Estate Mortgage, and subject to the same 7% interest per month.

On February 24, 2004, Rosemarie Rey obtained a third loan from Cesar Anson in the amount of ₱100,000.00. The third loan was not put in writing, but the parties verbally agreed that the same would be subject to 3% monthly interest.

A week later or on March 2, 2004, Rosemarie Rey obtained a fourth loan from Cesar Anson for ₱100,000.00. It was also not put in writing, but there was an oral agreement of 4% monthly interest.

On February 25, 2005, Cesar Anson sent Rosemarie Rey a Statement of Account¹⁰ seeking full payment of all four loans amounting to ₱2,214,587.50.

Instead of paying her loan obligations, Rosemarie Rey, through counsel, sent Cesar Anson a letter¹¹ dated August 8, 2005, stating that the interest rates imposed on the four loans were irregular, if not contrary to law. The 7.5% and 7% monthly interest rates imposed on the first and second loans, respectively, were excessive and unconscionable and should be adjusted to the legal rate. Moreover, no interest should have been imposed on the third and fourth loans in the absence of any written agreement imposing interest. Per Rosemarie Rey's computation using the legal rate of interest, all four loans were already fully paid, as well as the interests thereon. Rey contended that she had overpaid the amount of ₱283,434.19.

⁸ Exhibit "AAA"; *id.* at 236-238.

⁹ Exhibit "BBB"; *id.* at 239-241.

¹⁰ Exhibit "24"; *id.* at 328.

¹¹ *Id.* at 29.

She demanded from Cesar Anson the return of the excess payment; otherwise, she would be compelled to seek redress in court.

On August 16, 2005, the Spouses Rey and Isabel Quinto filed a Complaint¹² for Recomputation of Loans and Recovery of Excess Payments and Cancellation of Real Estate Mortgages and Checks against Cesar Anson with the RTC of Legazpi City. They prayed for the recomputation of all four loans reflecting the reduction of the interest rates of the first and second loans to 12% per annum and the disallowance of interest on the third and fourth loans; the return of overpayment amounting to ₱269,700.68; the cancellation and discharge of the real estate mortgages securing the first and second loans; and the award of ₱75,000.00 as attorney's fees and ₱25,000.00 as litigation expenses.

In his Answer with Counter-claim,¹³ Cesar Anson sought the dismissal of the complaint for lack of cause of action. He contended that with the suspension of the Usury Law, parties can freely stipulate on the imposable rates of interest that shall accrue on a loan. Cesar Anson alleged that the Spouses Rey freely agreed with him and even proposed the rate of interest to be imposed on Loan 1 and Loan 2. As the Spouses Rey have benefited from the proceeds of the loan, they cannot now be allowed to raise the alleged illegality of the interest rates imposed on the loans. Cesar Anson likewise prayed, by way of counterclaim, for the award of ₱100,000.00 as moral damages and ₱50,000.00 as attorney's fees.

In a Decision¹⁴ dated February 5, 2010, the RTC of Legazpi City, Branch 5 granted the Spouses Rey's complaint for recomputation of the loans.

In regard to the third and fourth loans, the RTC held that since the said loans were not in writing, they could not legally earn interest in accordance with Article 1956¹⁵ of the Civil Code. Therefore, whatever amounts of money that were applied as interest payments in either Loan 3 or Loan 4 were invalid.

Anent the first and second loans with stipulated monthly interest rates at 7.5% and 7%, respectively, the RTC ruled that the stipulated interest rates at 90% per annum and 84% per annum for the first and second loans, respectively, were void. It held that the appropriate interest for the first two loans should be at the legal rate of 12% per annum. It based its ruling on *New Sampaguita Builders Construction, Inc. (NSBCI) v. PNB*,¹⁶ which held

¹² *Rollo*, pp. 116-126.

¹³ *Id.* at 146-150.

¹⁴ *Id.* at 94.

¹⁵ Article 1956. No interest shall be due unless it has been expressly stipulated in writing.

¹⁶ 479 Phil. 483 (2004).

that a combined stipulated interest and surcharge ranging from 62% to 71% per annum is iniquitous, unconscionable and exorbitant and, therefore, void.

The RTC further held:

Rosemarie Rey paid the amount of 1,089,908 pesos as interest payments for the 4 loans x x x. Cesar Anson having received this amount must return it to Rosemarie Rey; otherwise he would unduly enrich himself at her expense.

The 4 loans and the interest payments that obviously made Cesar Anson and Rosemarie Rey in their own rights creditors and debtors to each other are money obligations that are past due. In such a legal condition, compensation will extinguish the obligations as explicitly provided by Article 1278 of the Civil Code x x x.

x x x x

However, Cesar Anson can be made liable on the interest payments that he received at the time that he was in default.

The plaintiffs' counsel's demand letter dated 08 August 2005 that Cesar Anson received on 11 August 2005 (Exhibit "GGGG") was a valid demand for the right amount regarding the interest payments that Cesar Anson may be liable (United Coconut Planters Bank v. Spouses Samuel and Odette Beluso, G.R. No. 159912). From 11 August 2005 and onwards Cesar Anson was in default on the interest payments that he received (Article 1169 of The Civil Code).

Thus, compensation must have taken place when the obligations arising from the 4 loans and the interest payments became both demandable, that is, the day Cesar Anson was in default on 11 August 2005.

Now, the total principal amount for the 4 loans that Rosemarie Rey received was 750,000 pesos. However, Loan 1's principal obligation in the amount of 200,000 pesos should earn interest at the legal rate of 12% per annum from 23 August 2002 until 11 August 2005. Furthermore, Loan 2's principal obligation in the amount of 350,000 pesos should earn interest also at the legal rate of 12% per annum from 26 August 2002 until 11 August 2005. The total amount of interest earned by Loan 1 and Loan 2 should be in the amount of 196,220 pesos, which amount should be added to the total principal obligation of 750,000 pesos. Thus, Rosemarie Rey's total obligation upon the 4 loans on the day that Cesar Anson was in default was 946,220 pesos.

On the other hand, the total amount of interest payments that Cesar Anson received was 1,089,908 pesos.

The above two debts in this case were not of the same amount. The compensation that took place was in the amount of 946,220 pesos which, obviously was partial. Thus, Cesar Anson must pay his remaining debt in the amount of 143,688 pesos.



Needless to say, Loan 1 and Loan 2 having been extinguished by compensation[,] the cancellation of the real estate mortgages that secured these two loans is in order.¹⁷

The dispositive portion of the Decision of the RTC reads:

WHEREFORE, Premises Considered, this Court renders judgment ordering Mr. Cesar Anson to pay Ms. Rosemarie Rey the amount of 143,688 pesos and furthermore orders the cancellation and revocation of the real estate mortgages that were constituted in favor of Cesar Anson over Lot 1271-C-4 and Lot 11 embraced by Transfer Certificates of Title No. 50872 and No. 2776, respectively. No pronouncement as to costs.¹⁸

Plaintiffs Spouses Rey and Isabel Quinto and defendant Cesar Anson appealed the Decision of the RTC before the Court of Appeals.

Cesar Anson made this assignment of errors: (1) the court *a quo* erred in ruling that the interest rates of the first and second loans agreed upon by the parties and fixed at 7.5% and 7% per month, respectively, and fixing the same at 12% per annum; and that the interest rates of the third and fourth loans fixed at 3% and 4% per month, respectively, to be void; (2) the court *a quo* erred in ordering the cancellation and revocation of the real estate mortgages that were constituted in favor of Cesar Anson; and (3) the court *a quo* erred in finding that the parties, in their own right, are creditors and debtors of each other, thereby resulting in Cesar Anson having a remaining debt to Rosemarie Rey in the amount of ₱143,688.00.¹⁹

On the other hand, the Spouses Rey and Isabel Quinto made this assignment of errors: (1) the court *a quo* erred in its recomputation of the excess payment made by Rosemarie Rey on her loans from Cesar Anson by awarding only ₱143,688.00 instead of the correct amount of ₱269,700.68, which the latter ought to refund to the former; (2) the court *a quo* erred in not holding Cesar Anson liable for the payment of legal interest on the excess payment made by Rosemarie Rey, computed from the date of receipt by the former of the written demand until fully paid; and (3) the court *a quo* erred in not awarding attorney's fees and litigation expenses in favor of Rosemarie Rey.²⁰

In a Decision²¹ dated September 6, 2013, the Court of Appeals reversed and set aside the Decision of the RTC. It found the appeal of Cesar Anson partly meritorious.

¹⁷ *Rollo*, pp. 95-96.

¹⁸ *Id.* at 96.

¹⁹ *Id.* at 78.

²⁰ *Id.* at 78-79.

²¹ *Supra* note 2.

Anent the third and fourth loans, the Court of Appeals held that the RTC correctly declared the interest provisions on the third and fourth loans invalid and that Cesar Anson must return the overpayments thereon to Rosemarie Rey. He admitted that the third and fourth loans were not put in writing. As such, their agreement to impose interests thereon remained verbal and, thus, invalid.

The Court of Appeals stated that the records show that as of March 18, 2005, Rosemarie Rey had already paid the amount of ₱141,360.00 for the third loan, resulting in overpayment amounting to ₱41,360.00. Moreover, as of February 2, 2005, she had paid the total amount of ₱117,960.00 for the fourth loan, resulting in ₱17,960.00 overpayment, or a total overpayment of ₱59,320.00 for the third and fourth loans. Hence, her obligation on the third and fourth loans was extinguished when Cesar Anson received full payment thereon. There being no interest due, he is obliged to return the overpayment of ₱59,320.00. The said obligation, not being a loan or forbearance of money, is subject to the legal interest of 6% per annum, pursuant to Article 2209 of the Civil Code and the rules on interest payment in the case of *Eastern Shipping Lines, Inc. v. Court of Appeals*,²² reckoned from the date of extrajudicial demand on August 11, 2005 until full payment.

In regard to the first and second loans, the Court of Appeals agreed with Cesar Anson that with the suspension of the Usury Law and the removal of interest ceiling, the parties are free to stipulate the interest to be imposed on monetary obligations. Hence, the RTC erred when it mitigated the interest rates of 7.5% and 7% due on the first and second loans, respectively. In doing so, it merely took the rates imposed in isolation, without taking into consideration the circumstances in which they were entered into.

The Court of Appeals stated that when Rosemarie Rey entered into the two loan transactions with Cesar Anson, she was fully aware of the imposable interests thereon, as it was the latter who proposed the interest rates of 7.5% and 7% per month. After years of benefiting from the proceeds of the loans, she cannot now be allowed to renege on her obligation to comply with what is incumbent upon her under the loan agreement.

In regard to the first loan in the amount of ₱200,000.00, the Court of Appeals said that the agreement of the parties was embodied in the Real Estate Mortgage dated May 3, 2004, which cancelled, updated and replaced the first Deed of Real Estate Mortgage dated August 23, 2002, wherein the parties agreed to a monthly interest rate of 7.5% from the moment of execution on August 23, 2002 until August 24, 2004. Pursuant to their agreement, the Court of Appeals ruled that the stipulated interest may be

²² 304 Phil. 236 (1994).

applied only for the period agreed upon. For the period thereafter, only the legal interest of 12% per annum shall apply, pursuant to Articles 1169²³ and 2209²⁴ of the Civil Code, reckoned from the date of extrajudicial demand on February 25, 2005. The records showed that Rey was faithful in paying the stipulated interest for the period agreed upon and only the principal amount of ₱200,000.00 remained unpaid. Being a loan obligation, this would earn legal interest at the rate of 12% per annum reckoned from extrajudicial demand on February 25, 2005 until fully paid.

Anent the second loan of ₱350,000.00, the Court of Appeals stated that pursuant to the Deed of Real Estate Mortgage dated June 19, 2003, which cancelled, updated and replaced the Deeds of Real Estate Mortgage dated August 26, 2002 and January 19, 2003, Rosemarie Rey acknowledged that as of June 19, 2003, she had an unpaid principal obligation of ₱500,000.00. She agreed to pay a fixed interest of 7% per month until December 19, 2003, equivalent to ₱261,450.00. Hence, her total obligation amounted to ₱761,450.00. She was able to pay only ₱440,588.00, leaving a balance of ₱320,862.00. Being a loan obligation, and pursuant to *Eastern Shipping Lines, Inc. v. Court of Appeals*,²⁵ the balance is subject to legal interest at the rate of 12% per annum reckoned from the extrajudicial demand made on February 25, 2005 until fully paid.

The Court of Appeals held:

In sum, We find that defendant-appellant Cesar Anson is obliged to return to plaintiff-appellant Rosemarie Rey the latter's overpayment in the third and fourth loans amounting to P59,320.00, subject to legal interest of 6% per annum reckoned from the date of extrajudicial demand on August 11, 2005. As of August 31, 2013, the total obligation amounted to P87,988.62.

For her part, plaintiff-appellant Rosemarie Rey is indebted to defendant-appellant Cesar Anson the amount of ₱200,000.00 and ₱320,862.00 for the first and second loans. Both amounts are subject to legal interest of 12% per annum computed from extrajudicial demand on

²³ ARTICLE 1169. Those obliged to deliver or to do something incur in delay from the time the obligee judicially or extrajudicially demands from them the fulfillment of their obligation.

However, the demand by the creditor shall not be necessary in order that delay may exist:

- (1) When the obligation or the law expressly so declare; or
- (2) When from the nature and the circumstances of the obligation it appears that the designation of the time when the thing is to be delivered or the service is to be rendered was a controlling motive for the establishment of the contract; or
- (3) When demand would be useless, as when the obligor has rendered it beyond his power to perform.

In reciprocal obligations, neither party incurs in delay if the other does not comply or is not ready to comply in a proper manner with what is incumbent upon him. From the moment one of the parties fulfills his obligation, delay by the other begins.

²⁴ ARTICLE 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, and in the absence of stipulation, the legal interest, which is six [percent] per annum.

²⁵ *Supra* note 22.



February 25, 2005. As of August 31, 2013, her obligations amounted to ₱380,460.27 for the first loan, and ₱610,376.22 for the second loan, or the total sum of ₱990,836.49.

We find that legal compensation under Article 1279 of the Civil Code is proper in this case.

x x x Here, plaintiff-appellant Rosemarie Rey and defendant-appellant Cesar Anson are creditors and debtors of each other. Anson owes Rey the amount of ₱87,988.62 representing her overpayment [on] the third and fourth loans plus interest as of August 31, 2013. In turn, Rey's outstanding obligation under the first and second loans to Anson is pegged at ₱990,836.49, also as of August 31, 2013. The obligations are due, liquidated, and demandable. Thus, compensation is proper. Consequently, Rey's remaining indebtedness as of August 31, 2013 is ₱902,847.87. The amount is still subject to the legal rate of interest of 12% per annum until fully paid.

Thereafter, plaintiff-appellant Rosemarie Rey is liable to pay legal interest at the rate of 12% per annum, to be computed from the time judgment herein becomes final and executory until the same is fully satisfied, again applying the rules in the case of *Eastern Shipping Line, Inc.* which states that when the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest shall be 12% per annum from such finality until its satisfaction, this interim period being deemed to be by then an equivalent to a forbearance of credit.²⁶ (Citations omitted.)

The Court of Appeals denied the appeal of Rosemarie Rey for payment of attorney's fees, since she was the one who enticed Cesar Anson to lend her money, and then she filed this case for the equitable reduction of her indebtedness for which she bore part, if not all, of the blame.

The dispositive portion of the Decision of the Court of Appeals reads:

WHEREFORE, premises considered, the appeal filed by plaintiff-appellant Rosemarie Rey is hereby DENIED while the appeal filed by defendant-appellant Cesar Anson is GRANTED. The Decision dated February 5, 2010 of the Regional Trial Court (RTC), Branch 5, Legazpi City is REVERSED and SET ASIDE. In lieu thereof, a new judgment is entered ordering plaintiff-appellant Rosemarie Rey to pay defendant-appellant Cesar Anson the amount of Nine Hundred Two Thousand Eight Hundred Forty Seven Pesos and 87/100 (₱902,847.87) plus twelve percent (12%) interest per annum from September 1, 2013 until fully paid; and twelve percent (12%) per annum of the total award due as legal interest, to be computed from the time the judgment becomes final and executory until the same is fully satisfied.²⁷ (Citation omitted.)



²⁶ *Rollo*, pp. 87-89.

²⁷ *Id.* at 89.

Appellants Spouses Rey's motion for reconsideration was denied by the Court of Appeals in a Resolution²⁸ dated January 10, 2014.

Petitioner Rosemarie Rey filed this petition, raising these issues:

- (1) THE COURT OF APPEALS COMMITTED SERIOUS REVERSIBLE ERROR AND ACTED CONTRARY TO THE APPLICABLE DECISIONS OF THE HONORABLE SUPREME COURT AFFIRMING THE SETTLED PRINCIPLE THAT STIPULATED INTEREST RATES OF 3% PER MONTH OR HIGHER ARE EXCESSIVE, UNCONSCIONABLE AND CONTRARY TO MORALS, WHEN IT REVERSED AND SET ASIDE THE DECISION OF THE TRIAL COURT DECLARING THE STIPULATED MONTHLY INTEREST RATES OF 7.5% AND 7% ON LOAN 1 AND LOAN 2 TO BE INIQUITOUS, UNCONSCIONABLE AND EXORBITANT AND REDUCING THE SAME TO 12% PER ANNUM;
- (2) THE TRIAL COURT, IN RE-COMPUTING THE LOANS OF PETITIONER, COMMITTED SERIOUS REVERSIBLE ERROR AND ACTED CONTRARY TO LAW AND THE APPLICABLE DECISIONS OF THE HONORABLE SUPREME COURT WHEN –
 - a) IT DID NOT APPLY AND CREDIT THE PAYMENTS MADE BY PETITIONER ON THE FOUR LOANS AT THE PRECISE TIME SAID PAYMENTS WERE MADE;
 - b) IT DID NOT APPLY AND CREDIT THE EXCESS PAYMENTS MADE BY PETITIONER ON LOAN 1 AS PAYMENT ON LOAN 2 AT THE TIME SAID EXCESS PAYMENTS WERE MADE;
 - c) IT DECLARED THAT THE EXCESS PAYMENT OF PETITIONER WAS ONLY ₱143,688.00; AND
 - d) IT DID NOT IMPOSE LEGAL INTEREST AGAINST RESPONDENT ON THE EXCESS PAYMENTS MADE BY PETITIONER, COMPUTED FROM WRITTEN DEMAND UNTIL THE SAME IS FULLY PAID;
- 3) THE COURT OF APPEALS AND THE TRIAL COURT COMMITTED SERIOUS REVERSIBLE ERROR AND ACTED CONTRARY TO LAW AND THE APPLICABLE DECISIONS OF THE HONORABLE SUPREME COURT WHEN THEY DID NOT AWARD ATTORNEY'S FEES AND LITIGATION EXPENSES IN FAVOR OF PETITIONER.²⁹

I. Whether or not the interest rates on the first and second

²⁸ *Id.* at 92-93.

²⁹ *Id.* at 48.

*loans are unconscionable
and contrary to morals.*

Petitioner contends that the Decision of the Court of Appeals insofar as it declared that the stipulated 7.5% and 7% monthly interest rates imposed on Loan 1 and Loan 2, respectively, are valid must be reversed and set aside, as it is contrary to the jurisprudential pronouncements of this Court that stipulated interest rates of 3% per month or higher are unconscionable and contrary to morals.

The Court agrees with petitioner.

The freedom of contract is not absolute. Article 1306 of the Civil Code provides that “[t]he contracting parties may establish such stipulations, clauses, terms and conditions as they may deem convenient, provided they are not contrary to law, morals, good customs, public order, or public policy.”

In *Sps. Albos v. Sps. Embisan, et al.*,³⁰ the Court held:

As case law instructs, the imposition of an unconscionable rate of interest on a money debt, *even if knowingly and voluntarily assumed*, is immoral and unjust. It is tantamount to a repugnant spoliation and an iniquitous deprivation of property, repulsive to the common sense of man. It has no support in law, in principles of justice, or in the human conscience nor is there any reason whatsoever which may justify such imposition as righteous and as one that may be sustained within the sphere of public or private morals.

Summarizing the jurisprudential trend towards this direction is the recent case of *Castro v. Tan* in which We held:

While we agree with petitioners that parties to a loan agreement have wide latitude to stipulate on any interest rate in view of the Central Bank Circular No. 905 s. 1982 which suspended the Usury Law ceiling on interest effective January 1, 1983, it is also worth stressing that interest rates whenever unconscionable may still be declared illegal. There is certainly nothing in said circular which 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 several cases, we have ruled that stipulations authorizing iniquitous or unconscionable interests are contrary to morals, if not against the law. In *Medel v. Court of Appeals*, we annulled a stipulated 5.5% per month or 66% per annum interest on a ₱500,000.00 loan and a 6% per month or 72% per annum interest on a ₱60,000.00 loan,

³⁰

748 Phil. 907 (2014).

respectively, for being excessive, iniquitous, unconscionable and exorbitant. In *Ruiz v. Court of Appeals*, we declared a 3% monthly interest imposed on four separate loans to be excessive. In both cases, the interest rates were reduced to 12% per annum.

In this case, the 5% monthly interest rate, or 60% per annum, compounded monthly, stipulated in the *Kasulatan* is even higher than the 3% monthly interest rate imposed in the *Ruiz* case. Thus, we similarly hold the 5% monthly interest to be excessive, iniquitous, unconscionable and exorbitant, contrary to morals, and the law. It is therefore void *ab initio* for being violative of Article 1306 of the Civil Code. With this, and in accord with the *Medel* and *Ruiz* cases, we hold that the Court of Appeals correctly imposed the legal interest of 12% per annum in place of the excessive interest stipulated in the *Kasulatan*.³¹ (Citations omitted; emphasis supplied.)

In the case before us, even if Rosemarie Rey initially suggested the interest rate on the first loan, voluntariness does not make the stipulation on an interest, which is iniquitous, valid.³² As Rosemarie Rey later realized through the counsel of her lawyer that the interest rates of the first and second loans were excessive and no interest should be imposed on the third and fourth loans, she came to court for recomputation of the loans and recovery of excess payments.

In this case, the first loan had a 7.5% monthly interest rate or 90% interest per annum, while the second loan had a 7% monthly interest rate or 84% interest per annum, which rates are very much higher than the 3% monthly interest rate imposed in *Ruiz v. Court of Appeals*³³ and the 5% monthly interest rate imposed in *Sps. Albos v. Sps. Embisan, et al.*³⁴ Based on the ruling of the *Spouses Albos* case, the Court holds that the interest rates of 7.5% and 7% are excessive, unconscionable, iniquitous, and contrary to law and morals; and, therefore, void *ab initio*. Hence, the Court of Appeals erred in sustaining the imposition of the said interest rates, while the RTC correctly imposed the legal interest of 12% per annum in place of the said interest rates.

Anent the third and fourth loans both in the amount of ₱100,000.00, the Court of Appeals correctly held that as the agreement of 3% monthly interest on the third loan and 4% monthly interest on the fourth loan was merely verbal and not put in writing, no interest was due on the third and fourth loans. This is in accordance with Article 1956 of the Civil Code which provides that “[n]o interest shall be due unless it has been stipulated in writing.” Hence, the payments made as of March 18, 2005 in the third loan amounting to ₱141,360.00³⁵ resulted in the overpayment of ₱41,360.00.

³¹ *Id.* at 918-919.

³² See *Menchavez v. Bermudez*, 697 Phil. 447, 458 (2012).

³³ 449 Phil. 419 (2003).

³⁴ *Supra* note 30.

³⁵ Exhibits “WWW,” “RRR,” “SSS,” “TTT,” “UUU,” and “VVV”; records, pp. 257-262.

Moreover, the payments made as of February 2, 2005 in the fourth loan amounting to ₱117,960.00³⁶ resulted in an overpayment of ₱17,960.00. Consequently, as found by the Court of Appeals, there was a total overpayment of ₱59,320.00 for the third and fourth loans.

II. Whether or not the computation of payment of interest and the principal amount is correct in Loan 1 and Loan 2, and whether interest is imposable on the excess payments.

Further, petitioner contends that the manner by which the RTC recomputed the four loans after the reduction of the interest rates to 12% per annum was erroneous and contrary to law. It simply added the principal amount of the four loans with the 12% per annum legal interest on Loan 1 and Loan 2, and thereafter deducted from the sum the total amount paid by petitioner. It did not take into consideration the principle that each particular payment should be applied and credited on the precise time it is made, to be applied first on the interest and thereafter on the principal of the loan, pursuant to Article 1253³⁷ of the Civil Code. Following this principle, petitioner contends that the recomputation of Loan 1, with a principal amount of ₱200,000.00 and an interest rate of 1% per month starting on August 23, 2002, should be as follows:

DATE	PRINCIPAL	MONTHLY INTEREST	PAYMENT	DATE OF PAYMENT	BALANCE	
					PRINCIPAL	INTEREST
09/23/2002	200,000.00	2,000.00	7,500.00 ³⁸	09/08/2002	187,000.00	0.00
			7,500.00 ³⁹	09/23/2002		
10/23/2002	187,000.00	1,870.00	7,500.00 ⁴⁰	10/08/2002	173,870.00	0.00
			7,500.00 ⁴¹	10/23/2002		
11/23/2002	173,870.00	1,738.70	7,500.00 ⁴²	11/08/2002	160,608.70	0.00
			7,500.00 ⁴³	11/23/2002		

³⁶ Exhibits "CCCC," "RRR," "YYY," "ZZZ," "AAAA," and "BBBB"; *id.* at 257, 263-267.

³⁷ Article 1253. If the debt produces interest, payment of the principal shall not be deemed to have been made until the interests have been covered.

³⁸ Exhibit "C"; records, p. 184.

³⁹ Exhibit "D"; *id.* at 185.

⁴⁰ Exhibit "E"; *id.* at 186.

⁴¹ Exhibit "F"; *id.* at 187.

⁴² Exhibit "G"; *id.* at 188.

⁴³ Exhibit "H"; *id.* at 189.

12/23/2002	160,608.70	1,606.09	7,500.00 ⁴⁴ 7,500.00 ⁴⁵	12/08/2002 12/23/2002	147,214.79	0.00
01/23/2003	147,214.79	1,472.15	7,500.00 ⁴⁶ 7,500.00 ⁴⁷	01/08/2003 01/23/2003	133,686.93	0.00
02/23/2003	133,686.93	1,336.87	7,500.00 ⁴⁸ 7,500.00 ⁴⁹	02/08/2003 02/23/2003	120,023.80	0.00
03/23/2003	120,023.80	1,200.24	7,500.00 ⁵⁰ 7,500.00 ⁵¹	03/08/2003 03/23/2003	106,224.04	0.00
04/23/2003	106,224.04	1,062.24	7,500.00 ⁵² 7,500.00 ⁵³	04/08/2003 04/23/2003	92,286.28	0.00
05/23/2003	92,286.28	922.86	7,500.00 ⁵⁴ 7,500.00 ⁵⁵	05/08/2003 05/23/2003	78,209.15	0.00
06/23/2003	78,209.15	782.09	7,500.00 ⁵⁶ 7,500.00 ⁵⁷	06/08/2003 06/23/2003	63,991.24	0.00
07/23/2003	63,991.24	639.91	7,500.00 ⁵⁸ 7,500.00 ⁵⁹	07/08/2003 07/23/2003	49,631.15	0.00
08/23/2003	49,631.15	496.31	7,500.00 ⁶⁰ 7,500.00 ⁶¹	08/08/2003 08/23/2003	35,127.46	0.00
09/23/2003	35,127.46	351.27	7,500.00 ⁶² 7,500.00 ⁶³	09/08/2003 09/23/2003	20,478.74	0.00
10/23/2003	20,478.74	204.79	7,500.00 ⁶⁴ 7,500.00 ⁶⁵	10/08/2003 10/23/2003	5,683.52	0.00

⁴⁴ Exhibit "I"; *id.* at 190.
⁴⁵ Exhibit "J"; *id.* at 191.
⁴⁶ Exhibit "K"; *id.* at 192.
⁴⁷ Exhibit "L"; *id.* at 193.
⁴⁸ Exhibit "M"; *id.* at 194.
⁴⁹ Exhibit "N"; *id.* at 195.
⁵⁰ Exhibit "O"; *id.* at 196.
⁵¹ Exhibit "P"; *id.* at 197.
⁵² Exhibit "Q"; *id.* at 198.
⁵³ Exhibit "R"; *id.* at 199.
⁵⁴ Exhibit "S"; *id.* at 200.
⁵⁵ Exhibit "T"; *id.* at 201.
⁵⁶ Exhibit "U"; *id.* at 202.
⁵⁷ Exhibit "V"; *id.* at 203.
⁵⁸ Exhibit "W"; *id.* at 204.
⁵⁹ Exhibit "X"; *id.* at 205.
⁶⁰ Exhibit "Y"; *id.* at 206.
⁶¹ Exhibit "Z"; *id.* at 207.
⁶² Exhibit "AA"; *id.* at 208.
⁶³ Exhibit "BB"; *id.* at 209.
⁶⁴ Exhibit "CC"; *id.* at 210.



11/23/2003	5,683.52	56.84	7,500.00 ⁶⁶ 7,500.00 ⁶⁷	11/08/2003 11/23/2003	(9,2[5]9.64)	0.00
12/23/2003	0.00	0.00	7,500.00 ⁶⁸ 7,500.00 ⁶⁹	12/08/2003 12/23/2003	(24,259.64)	0.00
01/23/2004			7,500.00 ⁷⁰ 7,500.00 ⁷¹	01/08/2004 01/23/2004	(39,259.64)	0.00
02/23/2004			7,500.00 ⁷² 7,500.00 ⁷³	02/08/2004 02/23/2004	(54,259.64)	0.00
03/23/2004			7,500.00 ⁷⁴ 7,500.00 ⁷⁵	03/08/2004 03/23/2004	(69,259.64)	0.00
04/23/2004			7,500.00 ⁷⁶ 7,500.00 ⁷⁷	04/08/2004 04/23/2004	(84,259.64)	0.00
05/23/2004			7,500.00 ⁷⁸ 7,500.00 ⁷⁹	05/08/2004 05/23/2004	(99,259.64)	0.00
06/23/2004			7,500.00 ⁸⁰ 7,500.00 ⁸¹	06/08/2004 06/23/2004	(114,259.64)	0.00
07/23/2004			7,500.00 ⁸² 7,500.00 ⁸³	07/08/2004 07/23/2004	(129,259.64)	0.00
08/23/2004			7,500.00 ⁸⁴ 7,500.00 ⁸⁵	08/08/2004 08/23/2004	(144,259.64)	0.00
TOTAL			360,000.00			

⁶⁵ Exhibit "DD"; *id.* at 211.

⁶⁶ Exhibit "EE"; *id.* at 212.

⁶⁷ Exhibit "FF"; *id.* at 213.

⁶⁸ Exhibit "GG"; *id.* at 214.

⁶⁹ Exhibit "HH"; *id.* at 215.

⁷⁰ Exhibit "II"; *id.* at 216.

⁷¹ Exhibit "JJ"; *id.* at 217.

⁷² Exhibit "KK"; *id.* at 218.

⁷³ Petitioner stated that this was paid in cash by Nemia Barrun from the proceeds of LOAN 3 in the amount of ₱100,000.00, and the remaining ₱92,500.00 was deposited in the bank as shown by the deposit slip marked as Exhibit "YY"; *id.* at 232.

⁷⁴ Exhibit "LL"; *id.* at 219.

⁷⁵ Exhibit "MM"; *id.* at 220.

⁷⁶ Exhibit "NN"; *id.* at 221.

⁷⁷ Exhibit "OO"; *id.* at 222.

⁷⁸ Exhibit "PP"; *id.* at 223.

⁷⁹ Exhibit "QQ"; *id.* at 224.

⁸⁰ Exhibit "RR"; *id.* at 225.

⁸¹ Exhibit "SS"; *id.* at 226.

⁸² Exhibit "TT"; *id.* at 227.

⁸³ Exhibit "UU"; *id.* at 228.

⁸⁴ Exhibit "VV"; *id.* at 229.

⁸⁵ Exhibit "WW"; *id.* at 230.

Petitioner points out that the computation above shows that Loan 1 was already fully paid as of November 8, 2003 and excess payments were made thereafter.

Moreover, petitioner contends that applying the same manner of computation to Loan 2, but at the same time crediting to Loan 2 the excess payments made in Loan 1, the recomputation of Loan 2, with a principal amount of ₱350,000.00 and an interest rate of 1% per month starting August 26, 2002, should be as follows:

DATE	PRINCIPAL	MONTHLY INTEREST	PAYMENT		BALANCE	
			LOAN 2	LOAN 1	PRINCIPAL	INTEREST
09/26/02	350,000.00	3,500.00	0.00		350,000.00	3,500.00
10/26/02	350,000.00	3,500.00	0.00		350,000.00	7,000.00
11/26/02	350,000.00	3,500.00	0.00		350,000.00	10,500.00
12/26/02	350,000.00	3,500.00	0.00		350,000.00	14,000.00
01/26/03	350,000.00	3,500.00	20,000.00 ⁸⁶ 10,000.00 ⁸⁷		337,500.00	0.00
02/26/03	337,500.00	3,375.00	0.00		337,500.00	3,375.00
03/26/03	337,500.00	3,375.00	0.00		337,500.00	6,750.00
04/26/03	337,500.00	3,375.00	0.00		337,500.00	10,125.00
05/26/03	337,500.00	3,375.00	0.00		337,500.00	13,500.00
06/26/03	337,500.00	3,375.00	71,770.00 ⁸⁸		282,605.00	0.00
07/26/03	282,605.00	2,826.05	35,885.00 ⁸⁹ 35,885.00 ⁹⁰		213,661.05	0.00
08/26/03	213,661.05	2,136.61	0.00		213,661.05	2,136.61
09/26/03	213,661.05	2,136.61	0.00		213,661.05	4,273.22
10/26/03	213,661.05	2,136.61	0.00		213,661.05	6,409.83
11/26/03	213,661.05	2,136.61	0.00	1,759.64 ⁹¹ 7,500.00 ⁹²	212,947.85	0.00
12/26/03	212,947.85	2,129.48	0.00	7,500.00 ⁹³	200,077.33	0.00

⁸⁶ Exhibit "CCC"; *id.* at 242.

⁸⁷ Exhibit "DDD"; *id.* at 243.

⁸⁸ Exhibit "EEE"; *id.* at 244.

⁸⁹ Exhibit "FFF"; *id.* at 245.

⁹⁰ Exhibit "GGG"; *id.* at 246.

⁹¹ First excess payment from LOAN 1; Exhibit "EE," *supra* note 66.

⁹² *Supra* note 67.

⁹³ *Supra* note 68.

				7,500.00 ⁹⁴		
01/26/04	200,077.33	2,000.77	0.00	7,500.00 ⁹⁵	187,078.10	0.00
				7,500.00 ⁹⁶		
02/26/04	187,078.10	1,870.78	29,631.00 ⁹⁷	7,500.00 ⁹⁸	144,317.88	0.00
				7,500.00 ⁹⁹		
03/26/04	144,317.88	1,443.18	30,369.00 ¹⁰⁰	7,500.00 ¹⁰¹	100,392.06	0.00
				7,500.00 ¹⁰²		
04/26/04	100,392.06	1,003.92	29,631.00 ¹⁰³	7,500.00 ¹⁰⁵	27,133.98	0.00
			29,631.00 ¹⁰⁴	7,500.00 ¹⁰⁶		
05/26/04	27,133.98	271.34	29,631.00 ¹⁰⁷	0.00	(31,856.68)	0.00
			29,631.00 ¹⁰⁸			
06/26/04	0.00	0.00	29,631.00 ¹⁰⁹	0.00	(61,487.68)	0.00
07/26/04	0.00	0.00	29,631.00 ¹¹⁰	0.00	(91,118.68)	0.00
08/26/04	0.00	0.00	29,631.00 ¹¹¹	0.00	(120,749.68)	0.00
09/26/04	0.00	0.00	29,631.00 ¹¹²	0.00	(150,380.68)	0.00
TOTAL			470,588.00	84,259.64		

Petitioner asserts that the computation above shows that Loan 2 was fully paid on May 26, 2004, and excess payments were made thereon in the

⁹⁴ *Supra* note 69.
⁹⁵ *Supra* note 70.
⁹⁶ *Supra* note 71.
⁹⁷ Exhibit "HHH"; records, p. 247.
⁹⁸ *Supra* note 72.
⁹⁹ *Supra* note 73.
¹⁰⁰ Exhibit "III"; records, p. 248.
¹⁰¹ *Supra* note 74.
¹⁰² *Supra* note 75.
¹⁰³ Exhibit "JJJ"; records, p. 249.
¹⁰⁴ Exhibit "KKK"; *id.* at 250.
¹⁰⁵ *Supra* note 76.
¹⁰⁶ *Supra* note 77.
¹⁰⁷ Exhibit "LLL"; records, p. 251.
¹⁰⁸ Exhibit "MMM"; *id.* at 252.
¹⁰⁹ Exhibit "NNN"; *id.* at 253.
¹¹⁰ Exhibit "OOO"; *id.* at 254.
¹¹¹ Exhibit "PPP"; *id.* at 255.
¹¹² Exhibit "QQQ"; *id.* at 256.

total amount of ₱150,380.68. The same computation also reveals that out of the excess payments in the total sum of ₱144,259.64 in Loan 1, the amount of ₱84,259.64 was applied and credited to Loan 2, thereby leaving an excess payment of only ₱60,000.00 for Loan 1.

Petitioner contends that as for Loan 3 and Loan 4, she has made excess payments in the sum of ₱41,360.00 and ₱17,960.00, respectively, since no interest was imposable in the absence of a written agreement.

Thus, petitioner contends that she has made excess payments for the four loans in the total sum of ₱269,700.68, which ought to be returned by Cesar Anson in accordance with the principle of *solutio indebiti* under Article 2154 of the Civil Code.

In addition, petitioner contends that Cesar Anson is liable for payment of interest on the excess payment from the time of extrajudicial demand until full payment.

The Court agrees with petitioner that Articles 1253 and 2154 of the Civil Code apply to this case, and Cesar Anson is obliged to return to petitioner excess payments received by him.

Article 1253 of the Civil Code states that “[i]f the debt produces interest, payment of the principal shall not be deemed to have been made until the interests have been covered.” The Court reviewed the computation above made by petitioner for Loan 1 and Loan 2, and found the computation to be correct.

The Court finds that in Loan 1, petitioner already paid in full the principal amount of ₱200,000.00 and monthly interest thereon on November 8, 2003, leaving an excess payment of ₱1,759.64. Further payments made by petitioner from November 23, 2003 to August 23, 2004 resulted in overpayment amounting to ₱144,259.64. The excess payment of ₱9,259.64 as of November 23, 2003 plus excess payments made from December 23, 2003 to April 23, 2004 amounting to ₱84,259.64 in Loan 1 may be applied to Loan 2, leaving a final excess payment of ₱60,000.00 for Loan 1.

As regards Loan 2, petitioner fully paid the principal amount of ₱350,000.00 and monthly interest thereon on May 26, 2004, leaving an excess payment of ₱31,856.68. Payments made thereafter, from June 26, 2004 to September 26, 2004, resulted in excess payments amounting to ₱150,380.68 for Loan 2. Petitioner also made excess payments of ₱41,360.00 in Loan 3, and ₱17,960.00 in Loan 4. Hence, the total excess payments made by petitioner in the four loans amounted to ₱269,700.68.



Since Cesar Anson received a total overpayment of ₱269,700.68 from petitioner, he is obliged to return the amount in accordance with the principle of *solutio indebiti* under Article 2154 of the Civil Code, to wit:

Article 2154. If something is received when there is no right to demand it, and it was unduly delivered **through mistake**, the obligation to return it arises. (Emphasis supplied.)

However, in regard to payment of interest on the overpayment made by petitioner, the Court notes its ruling in *Sps. Abella v. Sps. Abella*,¹¹³ thus:

As respondents made an overpayment, the principle of *solutio indebiti* as provided by Article 2154 of the Civil Code applies. xxx

x x x x

In *Moreno-Lentfer v. Wolff*, this court explained the application of *solutio indebiti*:

The quasi-contract of *solutio indebiti* harks back to the ancient principle that no one shall enrich himself unjustly at the expense of another. It applies where (1) a payment is made when there exists no binding relation between the payor, who has no duty to pay, and the person who received the payment, and (2) the payment is made through mistake, and not through liberality or some other cause.

As respondents had already fully paid the principal and all conventional interest that had accrued, they were no longer obliged to make further payments. Any further payment they made was only because of a mistaken impression that they were still due. Accordingly, petitioners are now bound by a quasi-contractual obligation to return any and all excess payments delivered by respondents.

Nacar provides that "[w]hen an obligation, not constituting a loan or forbearance of money, is breached, an interest on the amount of damages awarded may be imposed *at the discretion of the court* at the rate of 6% per annum." This applies to obligations arising from quasi-contracts such as *solutio indebiti*.

Further, Article 2159 of the Civil Code provides:

Art. 2159. Whoever **in bad faith accepts an undue payment, shall pay legal interest if a sum of money is involved**, or shall be liable for fruits received or which should have been received if the thing produces fruits.

He shall furthermore be answerable for any loss or impairment of the thing from any cause, and for damages to the person who delivered the thing, until it is recovered.

¹¹³ 763 Phil. 372 (2015).

Consistent however, with our finding that the excess payment made by respondents were borne out of a mere mistake that it was due, we find it in the better interest of equity to no longer hold petitioners liable for interest arising from their quasi-contractual obligation.¹¹⁴ (Citations omitted; emphasis supplied.)

In this case, the excess payments made by petitioner were also borne out of a mistake that they were due; hence, following the ruling in *Sps. Abella v. Sps. Abella*,¹¹⁵ the Court deems it in the better interest of equity not to hold Cesar Anson liable for interest on the excess payments.

Nevertheless, an interest at the rate of 6% per annum is imposable on the total judgment award pursuant to *Nacar v. Gallery Frames, et al.*,¹¹⁶ which held that “[w]hen the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest x x x shall be 6% per annum from such finality until its satisfaction, this interim period being deemed to be by then an equivalent to a forbearance of credit.”

III. Whether or not petitioner is entitled to the award of attorney's fees.

Petitioner contends that the Court of Appeals and the RTC erred in not awarding attorney's fees and litigation expenses in her favor.

Petitioner's contention is without merit.

It is a settled rule that attorney's fees and litigation expenses cannot be automatically recovered as part of damages in light of the policy that the right to litigate should bear no premium.¹¹⁷ Attorney's fees are awarded only in those cases enumerated in Article 2208¹¹⁸ of the Civil Code. Considering

¹¹⁴ *Id.* at 395-397.

¹¹⁵ *Supra* note 113.

¹¹⁶ 716 Phil. 267, 283 (2013).

¹¹⁷ *Land Bank of the Phils. v. Ibarra, et al.*, 747 Phil. 691, 701 (2014).

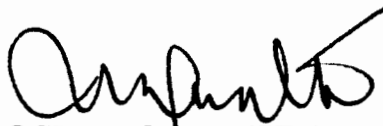
¹¹⁸ Article 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

- (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;
- (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.

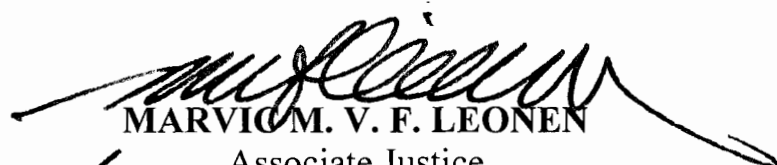
the absence of facts that justify the award of attorney's fees to herein petitioner, the Court of Appeals was correct in not awarding attorney's fees and litigation expenses to petitioner.

WHEREFORE, the Decision of the Court of Appeals dated September 6, 2013 and its Resolution dated January 10, 2014 in CA-G.R. CV No. 95012 are **REVERSED AND SET ASIDE**, and the Decision of the Regional Trial Court of Legazpi City, Branch 5 in Civil Case No. 10489 is **REINSTATED** with the following **MODIFICATION**: respondent Cesar G. Anson is ordered to pay petitioner Rosemary Q. Rey the amount of Two Hundred Sixty-Nine Thousand Seven Hundred Pesos and Sixty-Eight Centavos (₱269,700.68), with legal interest at the rate of 6% per annum reckoned from the finality of this Decision until full payment.

SO ORDERED.

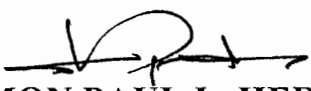

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:


MARVIC M. V. F. LEONEN
Associate Justice

On wellness leave
ALEXANDER G. GESMUNDO
Associate Justice

On wellness leave
JOSE C. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
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.



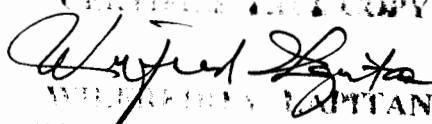
DIOSDADO M. PERALTA
Associate Justice
Chairperson, Third Division

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.



ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, Republic Act
No. 296, The Judiciary Act of
1948, as amended)

CERTIFIED TRUE COPY

WILFREDO M. LATTÁN
Division Clerk of Court
Third Division
NOV 21 2018