Republic of the Philippines
Supreme Court
Manila

**FIRST DIVISION**

| | |
|---|---|
| **MA. JULIETA[*] B. BENDECIO and MERLYN MASCARIÑAS,** Petitioners, | **G.R. NO. 242087** |
| | **Present:** |
| - *versus* - | GESMUNDO, *C.J.*, *Chairperson*, CAGUIOA, LAZARO-JAVIER, LOPEZ, M., and LOPEZ, J., *JJ.* |
| **VIRGINIA B. BAUTISTA,** Respondent. | **Promulgated:** DEC 07 2021 |

x----------x

# DECISION

**LOPEZ, J., *J.*:**

Before this Court is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court assailing the Decision[2] dated September 14, 2018 rendered by the Court of Appeals (*CA*) in CA-GR CV No. 109378, which affirmed the Decision[3] dated May 4, 2017 of the Regional Trial Court (*RTC*), Branch 59, Makati City in Civil Case No. 13-1126, granting the complaint for collection of sum of money and damages filed by respondent Virginia B. Bautista (*Bautista*) against petitioners Ma. Julieta B. Bendecio (*Bendecio*) and Merlyn Mascariñas (*Mascariñas*).

---

* Also appears as "Ma. Julieth" in CA Decision; *rollo*, p. 21.

1 *Rollo*, pp. 9-19.

2 Penned by Associate Justice Ronaldo Roberto B. Martin with Associate Justices Apolinario D. Bruselas, Jr. and Myra V. Garcia-Fernandez, concurring; *id.* at 21-30.

3 Penned by Judge Winlove M. Dumayas; records, pp. 411-423.

₱500,000.00, respectively. The loan, totaling ₱1,100,000.00, was payable in May 2013 with monthly interest at 8%.[4]

According to Bautista, Bendecio informed her in May 2013 that Mascariñas, Bendecio's friend and business partner, would be paying the loans by depositing a manager's check in her Banco De Oro (*BDO*) account. But the same never materialized. Instead, Mascariñas executed a promissory note in her favor promising to pay her the total amount of the loan on August 23, 2013, with the same interest rate. Still, neither Bendecio nor Mascariñas paid despite her oral demands and the demand letter she sent to them on September 5, 2013.[5] This led her to file a complaint before the RTC on September 25, 2013.[6]

On the one hand, Bendecio countered that on May 22, 2013, she informed Bautista that Mascariñas would pay the loan by depositing the total amount to Bautista's BDO account. But Bautista persuaded Mascariñas to pay her in cash, instead, and make it appear that Mascariñas already assumed the loan obligation. Bautista further required Mascariñas to execute a promissory note. As such, Bendecio insisted that she was no longer obligated to pay Bautista as she was already substituted by Mascariñas. Bendecio further maintained that payment can be presumed because the checks she issued in Bautista's favor as payment for the loan were already returned to her.[7]

On the other hand, Mascariñas claimed that she was the business partner of Bendecio who asked her to deposit ₱1,100,000.00 into Bautista's BDO account in the morning of May 22, 2013. Bautista first requested that she pay in cash but later turned down the offer to pay as such. Instead, Bautista proposed that the loan be assumed by Mascariñas thereby relieving Bendecio from her obligation and promising to return Bendecio's checks. According to Mascariñas, she agreed to the arrangement on the condition that the loan be less than three months. To show her good faith, she issued checks and executed a promissory note indicating that her loan will mature on August 23, 2013.[8]

Mascariñas further claimed that she stopped payment because Bautista was calling her banks to ask about her financial status. She then called Bautista to set up a meeting at her house on August 3, 2013 so she could pay the loan. At the meeting, Mascariñas recalled that Bautista promised to return all her checks and to issue a receipt for the payment she made but failed to comply with said promise.[9]

---

4 *Rollo*, p. 22.
5 Records, p. 4.
6 *Id.* at 1-5.
7 *Rollo*, pp. 22-23.
8 *Id.* at 23.
9 *Id.* at 23-24.

9

On May 4, 2017, the RTC ruled in favor of Bautista and disposed of the case as follows:

> WHEREFORE, in view of the foregoing evidence and in the lights (sic) of the provisions of law and jurisprudence on the matter, judgment is hereby rendered in favour of the plaintiff and against the defendants as follows:
>
> 1. Ordering defendants Ma. Julieta Bendecio and Merlyn Mascariñas jointly and solidarily to pay plaintiff the amount of One Million One Hundred Thousand Pesos (Php1,100,000.00) corresponding to the loan obtained plus interest of 12% per annum computed from the date of demand until fully paid;
>
> 2. Ordering defendants Ma. Julieta Bendecio and Merlyn Mascariñas jointly and solidarily to pay plaintiff the amount of One Hundred Thousand Pesos (Php100,000.00) as moral damages;
>
> 3. Ordering defendants Ma. Julieta Bendecio and Merlyn Mascariñas jointly and solidarily to pay plaintiff the amount of One Hundred Thousand Pesos (Php100,000.00) as and for attorney's fees;
>
> 4. To pay the costs of suit.
>
> SO ORDERED.[10]

In its Decision dated September 14, 2018, the CA affirmed the RTC ruling. According to the appellate court, the alleged payment made by Bendecio and Mascariñas was not proven by preponderance of evidence. Moreover, their solidary liability is justified as evidence which shows that the loan was actually obtained not by Bendecio alone, but by both parties in furtherance of their business partnership.[11]

Aggrieved, petitioners Bendecio and Mascariñas filed the present petition on November 8, 2018, seeking a reversal of the CA's Decision. They reiterated their claim that Bendecio's obligation was already extinguished when Mascariñas offered to pay Bautista ₱1,100,000.00 on behalf of Bendecio. This offer, however, was rejected by Bautista. Instead, the loan was assumed by Mascariñas who issued a promissory note in Bautista's favor. Since Bendecio was not privy to the promissory note, Bautista has no cause of action against Bendecio.[12]

---

10 *Id.* at 24-25.
11 *Id.* at 28-29.
12 *Id.* at 12-17.

9

## *Issue*

Whether the CA erred in finding Bendecio and Mascariñas liable to pay Bautista the loan amounting to ₱1,100,000.00.

## *Our Ruling*

Bendecio and Mascariñas essentially insist that Bautista can no longer claim from Bendecio since she was already released from liability when Mascariñas assumed the same. In effect, Bendecio's obligation was extinguished by novation when Mascariñas substituted her as debtor in the loan agreement.

The contention is devoid of merit.

At the outset, it must be noted that the determination of the existence of novation[13] and consent of a creditor to the substitution of debtors is a question of fact as it requires this Court to examine the evidence on record.[14] But questions of fact are not proper subjects of the present petition. Indeed, this Court is not a trier of facts, Our jurisdiction being limited to reviewing errors of law. As such, the trial court's findings of fact are binding upon this Court especially when they are affirmed by the appellate court. While there are recognized exceptions,[15] We find that none of the same obtain herein.

Novation is one of the means to extinguish an obligation where a subsequent obligation extinguishes or modifies the first.[16] It is a relative extinguishment whereby a new obligation is created in lieu of the old.[17] But in order that an obligation may be extinguished by another which substitutes the same, it is imperative that it be so declared in unequivocal terms, or that the old and the new obligations be on every point incompatible with each other.[18]

---

13 *Heirs of Dragon v. The Manila Banking Corp.*, G.R. No. 205068, March 6, 2019.

14 *Spouses Jorge v. Metropolitan Bank and Trust Co.*, G.R. No. 224339 (Resolution), June 20, 2019.

15 The exceptions are: (1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the findings of absence of facts are contradicted by the presence of evidence on record; (8) the findings of the Court of Appeals are contrary to those of the trial court; (9) the Court of Appeals manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the Court of Appeals are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties; *supra.*

16 *Bank of the Philippine Islands v. Domingo*, 757 Phil. 23, 38 (2015), citing *De Cortes v. Venturanza*, 170 Phil. 55, 68 (1977).

17 *Ever Electrical Manufacturing, Inc. v. Philippine Bank of Communications*, 792 Phil. 311, 320 (2016).

18 Article 1291, Civil Code of the Philippines.

Under Article 1291 of the Civil Code, novation is done by: (1) changing the object or principal conditions; (2) substituting the person of the debtor; or (3) subrogating a third person in the rights of the creditor.[19]

On the second type of novation, by substituting the person of the debtor,[20] law and jurisprudence recognize two forms: (1) *expromision* and (2) *delegacion*.[21] In *expromision*, the initiative for the change does not come from the debtor and may even be made without his knowledge, since it consists in a third person assuming the obligation. As such, it only requires the consent of the third person and the creditor. In *delegacion*, the debtor offers and the creditor accepts a third person who consents to the substitution and assumes the obligation. Hence, the intervention and the consent of these three persons are necessary. [22]

But in either mode of substitution, the consent of the creditor is indispensable. After all, substitution of one debtor for another may delay or prevent the fulfillment of the obligation by reason of the financial inability or insolvency of the new debtor.[23] It is only just, therefore, that the creditor expressly accepts the novation that extinguishes the obligation of the original debtor.

In the present case, Bendecio and Mascariñas insist that Bendecio, the first debtor, was already released from responsibility because she was substituted by Mascariñas, the new debtor, who assumed the loan and executed a promissory note therefor. The claim is untenable. The burden of establishing a novation is on the party who asserts its existence,[24] or in this case, Bendecio and Mascariñas. But apart from their bare allegation, nowhere in the records was it even remotely suggested that Bautista, the creditor, consented to the alleged novation.

It bears stressing that novation is never presumed. The mere fact that the creditor receives a guaranty or accepts payments from a third person who has agreed to assume the obligation, when there is no agreement that the first debtor shall be released from responsibility, does not constitute novation.[25] This will, at best, result merely in the addition of debtors,[26] with the creditor still being able to enforce the obligation against the original debtor. Indeed,

---

19 *Ever Electrical Manufacturing, Inc. v. Philippine Bank of Communications*, *supra* note 17, citing Article 1291 of the Civil Code which provides: Obligations may be modified by: (1) Changing their object or principal conditions; (2) Substituting the person of the debtor; (3) Subrogating a third person in the rights of the creditor.

20 Article 1293. Novation which consists in substituting a new debtor in the place of the original one, may be made even without the knowledge or against the will of the latter, but not without the consent of the creditor. Payment by the new debtor gives him the rights mentioned in Articles 1236 and 1237.

21 *Spouses Jorge v. Metropolitan Bank and Trust Co.*, *supra* note 14.

22 *Id.*

23 *Id.*

24 *Bank of the Philippine Islands v. Domingo*, *supra* note 16, at 42.

25 *Ever Electrical Manufacturing, Inc. v. Philippine Bank of Communications*, *supra* note 17, at 322, citing *Mercantile Insurance Co., Inc. v. Court of Appeals*, 273 Phil. 415, 423 (1991).

26 *Odiamar v. Valencia*, 788 Phil. 451, 462 (2016).

just because Bautista accepted Mascariñas' promissory note does not necessarily mean that Bendecio's obligation was already extinguished. In the absence of clear and unmistakable consent on the part of Bautista, her acceptance of Mascariñas' note does equate to the release of Bendecio from her obligation.

Still, Bendecio and Mascariñas insist on extinguishment, this time by payment, relying merely on the fact that the checks Bendecio issued were already returned to her. The argument is bereft of merit. Settled is the rule that mere delivery of checks does not discharge the obligation under a judgment. The obligation is not extinguished and remains suspended until the payment by commercial document is actually realized.[27] As such, Article 1249 of the Civil Code expressly provides that "the delivery of promissory notes payable to order, or bills of exchange or other mercantile documents shall produce the effect of payment only when they have been cashed, or when through the fault of the creditor they have been impaired."

As duly found by the RTC and CA, there was nothing in the records to show receipt by Bautista of cash in exchange for the checks she returned. On the contrary, Mascariñas merely issued a promissory note in favor of Bautista effectively extending the maturity date of the loan. Certainly, this cannot result in the extinguishment of Bendecio's obligation. Indeed, once the existence of an indebtedness is duly established by evidence, the burden of showing with legal certainty that the obligation has been discharged by payment rests on the debtor.[28] We find that Bendecio and Mascariñas failed in this regard.

In view of the foregoing, there is no cogent reason to deviate from the rulings of the courts below rejecting Bendecio and Mascariñas' claims of extinguishment by payment and novation. To repeat, the mere fact that Bautista accepted Mascariñas' note does not automatically result in novation in the absence of an express agreement to release Bendecio from liability. Neither was there any proof of payment herein. Since there was neither novation nor payment, case law dictates that Bautista may still proceed to collect from Bendecio, the original debtor of the loan agreement.[29]

Besides, it bears emphasis that Bendecio and Mascariñas cannot deny the fact that they were business partners who used the proceeds of the loan in furtherance of their business. They expressly admitted to this in their judicial affidavits and testimonies given during their respective cross examinations.

---

27 *Bognot v. RRI Lending Corp.*, 744 Phil. 59, 70 (2014), citing *Bank of the Philippine Islands v. Spouses Royeca*, 581 Phil. 188, 196 (2008).

28 *Bognot v. RRI Lending Corp., id.* at 69.

29 *Ever Electrical Manufacturing, Inc. v. Philippine Bank of Communications, supra* note 17, at 323.

Mascariñas revealed that she was partners with Bendecio, that she encashed the checks from Bautista representing the loan, that she was tasked to pay back Bautista using the funds of the partnership, and that as partners, she and Bendecio equally share the profits and losses of the partnership, to wit:

> Q-2: What is your relationship with your co-defendant Ma. Julieta B. Bendecio?
>
> A-2: **She and I are business partners, for over ten years now,** who offer, among others, to our client's appliances, gadgets and other things they need by paying the purchases in advance, while payments to us are on installment basis with interests. I use my credit card to purchase the goods or items. When payment is due, we pay the whole amount.
>
> x x x x
>
> Q-6: Aside from being a niece to plaintiff, do you know of other relations with Mary and her aunt?
>
> A-6: Yes, sir, because I learned later in February 2013 that Mary borrowed some money from the plaintiff. **I knew about this because Mary requested me to encash the BDO check** x x x.
>
> Q-7: **Were able to encash the said BDO check**?
>
> A-7: **Yes, sir, only after the bank teller had verified from plaintiff that said check can be encashed by me.**
>
> x x x x
>
> A-17: Sir, in the morning of May 22, 2013, **Mary called me and instructed me to deposit the amount of ₱1,100,000.00 to the account of plaintiff at BDO to fully pay her loan** with her aunt. **The money will be withdrawn from my account.**
>
> Q-18: Is amount your personal money?
>
> A-18: No, sir. **Those amounts were my collections from the various clients who had dealing with us. My collections are being deposited to my account to facilitate other transactions**. If May will need money, then I will transfer or deposit the amount so requested to her account.
>
> Q-19: Was there a request from Mary regarding the amount of P1,100,00.00?
>
> A-19: Yes, sir. But instead of depositing the said amount to her account, **she requested me to deposit the same to the account of plaintiff at BDO**. x x x.[30]
>
> Q: Is your partnership registered before the concern government agency or not?
>
> A: No sir.
>
> Q: Okay.. Based on this answer **when payment is due according to you, you both pay the whole amount, meaning to say both of you**

30 Records, pp. 273-276. (Emphases supplied).

**with co-defendant Ma. Julieta B. Bendecio will shoulder whatever is due for payment** as stated in your Judicial Affidavit, correct?

A: Yes, sir.

Q: Am I also correct Ms. Witness **since you were business partners with co-defendant Ma. Julieta B. Bendecio you are also sharing the profit out of entering into any transaction equally**?

A: **Yes sir.**[31]

In a similar manner, Bendecio disclosed that Mascariñas was her business partner, that they used the proceeds of the loan as capital for their business, and that Mascariñas was tasked to repay the amount of the loan to Bautista on the date the same falls due. Bendecio recounted as follows:

Q-2: What is your relationship with your co-defendant Merlyn Mascariñas?

A-2: **She and I are business partners, for over ten years now.**

x x x x

Q-4: Did you have any business dealings with your aunt, the plaintiff in the present case?

A-4: Yes, sir. **I borrowed money from her to use as capital in the business of my co-defendant and I.**

x x x x

Q-14: Do you have an agreement how payment to the loan should be made?

A-14: Plaintiff and I agreed that I will pay my loan fully in cash. After payment, all the checks I issued to her to secure my loan will be returned to me.

x x x x

A-25: Considering that plaintiff might really wanted to have the payment, **I instructed Merlyn Mascariñas to make the cash deposit to the account of the plaintiff at BDO.** x x x.[32]

Hence, Bendecio and Mascariñas may insist on denying their liability, but they can no longer renounce their admissions that they were, indeed, business partners who obtained a loan for their business. Article 1825[33] of

---

31 TSN, February 9, 2016, p. 10. (Emphases supplied).

32 Records, p. 292; pp. 294-295. (Emphases supplied).

33 Article 1825. When a person, by words spoken or written or by conduct, represents himself, or consents to another representing him to anyone, as a partner in an existing partnership or with one or more persons not actual partners, he is liable to any such persons to whom such representation has been made, who has, on the faith of such representation, given credit to the actual or apparent partnership, and if he has made such representation or consented to its being made in a public manner he is liable to such person, whether the representation has or has not been made or communicated to such person so giving credit by or with the knowledge of the apparent partner making the representation or consenting to its being made:

(1) When a partnership liability results, he is liable as though he were an actual member of the partnership;

(2) When no partnership liability results, he is liable pro rata with the other persons, if any, so consenting to the contract or representation as to incur liability, otherwise separately.

the Civil Code provides that when a person represents himself to anyone as a partner in a partnership, he is liable to such person who has given credit to the partnership. As such, both Bendecio and Mascariñas must be held liable to Bautista. As to the extent of their liability, again, this Court finds that the RTC and the CA correctly held Bendecio and Mascariñas solidarily liable to pay the loan.

In *Guy v. Gacott*,[34] (*Gacott*) this Court explained that pursuant to Article 1816[35] of the Civil Code, the general rule is that a partner's obligation to third persons with respect to the partnership liability is *pro rata* or joint. This means that a debtor is liable for the payment only of a proportionate part of the debt. The exception to this is found in Article 1207,[36] which states that there is solidary liability when the obligation expressly so states, or when the law or the nature of the obligation requires solidarity. Accordingly, a partner shall be solidarily liable to third persons for the entire debt in the cases under Articles 1822, 1823 and 1824 of the Civil Code, which state:

> Article 1822. Where, **by any wrongful act or omission of any partner** acting in the ordinary course of the business of the partnership or with the authority of his co-partners, **loss or injury is caused to any person**, not being a partner in the partnership, or any penalty is incurred, the partnership is liable therefor to the same extent as the partner so acting or omitting to act.
>
> Article 1823. The partnership is bound to make good the loss:
>
> (1) Where one partner acting within the scope of his apparent authority receives money or property of a third person and misapplies it; and
>
> (2) Where the partnership in the course of its business receives money or property of a third person and the money or property so received is misapplied by any partner while it is in the custody of the partnership.
>
> Article 1824. **All partners are liable solidarily with the partnership** for everything chargeable to the partnership under Articles 1822 and 1823.[37]

---

When a person has been thus represented to be a partner in an existing partnership, or with one or more persons not actual partners, he is an agent of the persons consenting to such representation to bind them to the same extent and in the same manner as though he were a partner in fact, with respect to persons who rely upon the representation. When all the members of the existing partnership consent to the representation, a partnership act or obligation results; but in all other cases it is the joint act or obligation of the person acting and the persons consenting to the representation.

34 778 Phil. 308 (2016).

35 Article 1816. All partners, including industrial ones, shall be liable pro rata with all their property and after all the partnership assets have been exhausted, for the contracts which may be entered into in the name and for the account of the partnership, under its signature and by a person authorized to act for the partnership. However, any partner may enter into a separate obligation to perform a partnership contract.

36 Article 1207. The concurrence of two or more creditors or of two or more debtors in one and the same obligation does not imply that each one of the former[s] has a right to demand, or that each one of the latter[s] is bound to render, entire compliance with the prestation. There is a solidary liability only when the obligation expressly so states, or when the law or the nature of the obligation requires solidarity.

37 Emphases supplied.

9

*Gacott* elucidates that in essence, it is the act of a partner which caused loss or injury to a third person that makes all other partners solidarily liable with the partnership. The obligation is solidary because the law protects the third person, who in good faith relied upon the authority of a partner, whether such authority is real or apparent.[38]

In this case, records show that the loss or injury endured by Bautista was not only due to Bendecio's non-payment of the loan on the initial due date, but also Mascariñas' failure to pay the same loan on the extended due date despite several demands from Bautista. In fact, because of these omissions committed by Bendecio and Mascariñas, Bautista is still experiencing the consequences of said inactions by having to enforce her claim before the courts. As such, both Bendecio and Mascariñas should be held solidarily liable for the loan, the proceeds of which were used as capital for their lending business.[39]

With respect to the interest imposed by the RTC and CA, however, this Court deems it necessary to adjust the rates thereof in accordance with prevailing jurisprudence. In this case, the monthly interest rate of 8% agreed to by the parties was excessive, iniquitous, and unconscionable, and must be equitably tempered. While the courts below correctly imposed a 12% *per annum* instead of 8% a month, case law dictates the imposition of additional interest charges.

In *Nacar v. Gallery Frames*,[40] (*Nacar*) this Court enunciated the following guidelines governing obligations and their corresponding interest rate:

> To recapitulate and for future guidance, the guidelines laid down in the case of *Eastern Shipping Lines* are accordingly modified to embody BSP-MB Circular No. 799, as follows:
>
> I. When an obligation, regardless of its source, i.e., law, contracts, quasi-contracts, delicts or quasi-delicts is breached, the contravenor can be held liable for damages. The provisions under Title XVIII on "Damages" of the Civil Code govern in determining the measure of recoverable damages.
>
> II. With regard particularly to an award of interest in the concept of actual and compensatory damages, the rate of interest, as well as the accrual thereof, is imposed, as follows:
>
> > 1. When the obligation is breached, and it consists in the payment of a sum of money, i.e., a loan or forbearance of money, the interest due should be that which may have been stipulated in writing. Furthermore, the interest due shall itself earn legal interest from the time it is judicially demanded. In the absence of

---

38 *Guy v. Gacott*, *supra* note 34, at 325.
39 *Rollo*, pp. 28-29.
40 716 Phil. 267 (2013).

> stipulation, the rate of interest shall be 6% *per annum* to be computed from default, i.e., from judicial or extrajudicial demand under and subject to the provisions of Article 1169 of the Civil Code.
>
> 2. When 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*. No interest, however, shall be adjudged on unliquidated claims or damages, except when or until the demand can be established with reasonable certainty. Accordingly, where the demand is established with reasonable certainty, the interest shall begin to run from the time the claim is made judicially or extrajudicially (Art. 1169, Civil Code), but when such certainty cannot be so reasonably established at the time the demand is made, the interest shall begin to run only from the date the judgment of the court is made (at which time the quantification of damages may be deemed to have been reasonably ascertained). The actual base for the computation of legal interest shall, in any case, be on the amount finally adjudged.
>
> 3. When the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest, whether the case falls under paragraph 1 or paragraph 2, above, 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.
>
> And, in addition to the above, judgments that have become final and executory prior to July 1, 2013, shall not be disturbed and shall continue to be implemented applying the rate of interest fixed therein.[41]

Accordingly, jurisprudence identifies two types of interest: (1) monetary interest; and (2) compensatory interest. This springs from the fact that "the right to recover interest arises only either by virtue of a contract (monetary interest) or as damages for delay or failure to pay the principal loan on which the interest is demanded (compensatory interest)."[42]

On the one hand, monetary interest is the compensation fixed by the parties for the use or forbearance of money. While parties are free to stipulate their preferred rate of interest, courts are allowed to equitably temper those that are found to be excessive, iniquitous, unconscionable, and/or exorbitant.[43]

In such instances, however, only the unconscionable interest rate is nullified and deemed not written in the contract. But the parties' agreement on the payment of interest on the principal loan obligation subsists, except only if they failed to specify the interest rate. Settled is the rule, moreover, that in this scenario, this Court shall apply the legal rate of interest

---

41 *Id.* at 281-283.

42 *Isla v. Estorga*, 834 Phil. 884, 891 (2018).

43 *Supra.*

prevailing at the time the agreement was entered into, being the presumptive reasonable compensation for borrowed money.[44] This rate at the time of the contract's execution shall persist regardless of shifts in the legal rate.[45] As explained in *Spouses Abella v. Spouses Abella:*[46]

> Thus, it remains that where interest was stipulated in writing by the debtor and creditor in a simple loan or mutuum, but no exact interest rate was mentioned, the legal rate of interest shall apply. At present, this is 6% *per annum*, subject to *Nacar*'s qualification on prospective application.
>
> *Applying this, the loan obtained by respondents from petitioners is deemed subjected to conventional interest at the rate of 12% per annum*, the legal rate of interest at the time the parties executed their agreement. Moreover, *should conventional interest still be due as of July 1, 2013, the rate of 12% per annum shall persist as the rate of* ***conventional interest.***
>
> This is so because interest in this respect is used as a surrogate for the parties' intent, as expressed as of the time of the execution of their contract. In this sense, the legal rate of interest is an affirmation of the contracting parties' intent; that is, by their contract's silence on a specific rate, the then prevailing legal rate of interest shall be the cost of borrowing money. This rate, which by their contract the parties have settled on, is deemed to persist regardless of shifts in the legal rate of interest. Stated otherwise, the legal rate of interest, *when applied as conventional interest*, shall always be the legal rate at the time the agreement was executed and shall not be susceptible to shifts in rate.[47]

Monetary or conventional interest evinces the intention of the parties to impose interest on account of the unavailability of the money owned by the creditor, as it is being used by the debtor. During the execution of the agreement, the intention to impose interest is already present considering that at this time, the creditor already parts with his own money, and from then, will not be able to use the same. The interest rate, insofar as monetary interest is concerned, must thus be that rate which has been agreed upon, or if declared void, the rate of legal interest prevailing at the time of the execution of the agreement. Moreover, when an extrajudicial demand is made, the creditor merely seeks the enforcement of the agreement, as approved by the parties, and not to seek for damages. It is therefore the rate at the time of the agreement, which is sought to be enforced, that should prevail.

On the other hand, compensatory interest is that imposed by law or by the courts as a penalty or indemnity for damages. This is an interest imposed on the monetary or conventional interest mentioned above. This is imposed as a penalty to the debtor, who is not able to pay the interest agreed upon with the creditor, and contemplates a situation where the creditor still has to resort to court action to collect the interest on the debt despite the agreement

---

44 *Id.*

45 *Id.* at 892, citing *Spouses Abella v. Spouses Abella*, 763 Phil. 372, 386 (2015).

46 763 Phil. 372 (2015).

47 *Spouses Abella v. Spouses Abella, id.* at 385-386. (Italics and emphasis supplied).

of the parties. As such, this is reckoned from the date of judicial demand. It has its legal underpinning under Article 2212 of the Civil Code, which provides that "[i]nterest due shall earn legal interest from the time it is judicially demanded, although the obligation may be silent upon this point."[48]

In this case, the parties intended and agreed on a stipulated monthly interest at 8% on the ₱1,100,000.00 loan.[49] This translates to 96% interest *per annum* on the loan. In a long line of cases, however, this Court did not hesitate to reduce interest rates similar to the rate agreed to by the parties herein for being excessive, iniquitous, and unconscionable.[50] A stipulated interest rate of 3% per month or higher is generally considered by this Court as excessive and unconscionable. In such instances, it is well to clarify that only the unconscionable interest rate is nullified and deemed not written in the contract; whereas the parties' agreement on the payment of interest on the principal loan obligation subsists. It is as if the parties failed to specify the interest rate to be imposed on the principal amount, in which case the legal rate of interest prevailing at the time the agreement was entered into would have to be applied by the Court.[51]

Note that at the time the loan was contracted on February 5, 7, and 15, 2013,[52] the prevailing rate of interest then was 12% *per annum* under Central Bank Circular No. 416[53] and not the reduced rate of 6% *per annum* under Bangko Sentral ng Pilipinas Monetary Board (*BSP-MB*) Circular No. 799, Series of 2013. This 12% rate shall apply pursuant to Our ruling in *Nacar*,[54] which provides that the BSP-MB Circular No. 799, Series of 2013 shall only be prospectively applied from its effectivity on July 1, 2013.

Thus, the principal amount of ₱1,100,000.00 shall earn a monetary/conventional interest of 12% *per annum* reckoned from the date of default or from extrajudicial demand on September 5, 2013[55] until finality of this Decision.[56]

As for the compensatory interest, *Nacar* provides that the accrued monetary interest shall itself earn compensatory interest at the legal rate

---

48 *Id.* at 390.

49 *Rollo*, p. 22.

50 *Chi v. Bank of the Philippine Islands*, G.R. No. 240496 (Resolution), May 12, 2021, citing *Uysipuo v. RCBC Bankard Services Corp.*, G.R. No. 248898, September 7, 2020; *Rey v. Anson*, G.R. No. 211206, November 7, 2018; *Buenaventura v. Metropolitan Bank and Trust Co.*, 792 Phil. 237, 258 (2016); *Spouses Guevarra v. The Commoner Lending Corp., Inc.*, 754 Phil. 292, 302-303 (2015); *MCMP Construction Corp. v. Monark Equipment Corp.* (Resolution), 746 Phil. 383, 391 (2014); *Macalinao v. Bank of the Philippine Islands*, 616 Phil. 60, 69 (2009); *Chua v. Timan*, 584 Phil. 144, 148-149 (2008).

51 *Uysipuo v. RCBC Bankard Services Corp.*, *id.*

52 *Rollo*, p. 22.

53 See *Allied Banking Corp. v. Spouses Macam*, G.R. No. 200635, February 1, 2021.

54 *Nacar v. Gallery Frames*, *supra* note 40, at 281.

55 Records, p. 4.

56 See *Decena v. Asset Pool A (SPV-AMC), Inc.*, G.R. No. 239418, October 12, 2020.

from the date of judicial demand until finality of the Decision.[57] Thus, the rate of this interest, imposed on the amount corresponding to 12% interest of ₱1,100,000.00, shall be the prevailing rate at the time of the filing of the complaint on September 25, 2013,[58] which is 6% *per annum* as provided under BSP-MB Circular No. 799, Series of 2013.

Finally, all monetary awards shall earn interest at the rate of 6% *per annum* from finality of this Decision until full payment.[59]

With respect to the award of moral damages, however, this Court finds the same improper for lack of sufficient basis. In *Arco Pulp and Paper Co., Inc. v. Lim*,[60] this Court ruled that an award of moral damages requires the claimant to satisfactorily prove the following conditions: (1) an injury, whether physical, mental, or psychological, clearly sustained by the claimant; (2) a culpable act or omission committed by the defendant; (3) the wrongful act or omission of the defendant is the proximate cause of the injury sustained by the claimant; and (4) the award of damages is predicated on any of the cases stated in Article 2219[61] of the Civil Code.[62] Apart from Article 2219, moral damages may also be awarded for breaches of contract under Articles 2220,[63] as well as Articles 19[64] and 20[65] in relation to Article 1159[66] of the Civil Code.[67]

It bears stressing, however, that moral damages are neither recoverable on a mere breach of contract nor awarded as a matter of right, but only after the party claiming it proves that the party from whom it is claimed acted fraudulently or in bad faith or in wanton disregard of his

---

57 *Supra.*

58 Records, pp. 1-5.

59 *Id.*

60 737 Phil. 133 (2014).

61 Article 2219. Moral damages may be recovered in the following and analogous cases:
(1) A criminal offense resulting in physical injuries;
(2) Quasi-delicts causing physical injuries;
(3) Seduction, abduction, rape, or other lascivious acts;
(4) Adultery or concubinage;
(5) Illegal or arbitrary detention or arrest;
(6) Illegal search;
(7) Libel, slander or any other form of defamation;
(8) Malicious prosecution;
(9) Acts mentioned in Article 309;
(10) Acts and actions referred to in Articles 21, 26, 27, 28, 29, 30, 32, 34, and 35.

62 *Arco Pulp and Paper Co., Inc. v. Lim, supra* note 60, at 148.

63 Article 2220. Willful injury to property may be a legal ground for awarding moral damages if the court should find that, under the circumstances, such damages are justly due. The same rule applies to breaches of contract where the defendant acted fraudulently or in bad faith.

64 Article 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

65 Article 20. Every person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same.

66 Article 1159. Obligations arising from contracts have the force of law between the contracting parties and should be complied with in good faith.

67 *Arco Pulp and Paper Co., Inc. v. Lim, supra* note 60, at 148-150, citing *Francisco v. Ferrer, Jr.*, 405 Phil. 741, 749-750 (2001).

contractual obligations.[68] To recover moral damages in an action for breach of contract, the breach must be palpably wanton, reckless and malicious, in bad faith, oppressive, or abusive.[69] On this matter, We held that:

> Bad faith does not simply connote bad judgment or negligence. It imports a dishonest purpose or some moral obliquity and conscious doing of a wrong, a breach of known duty through some motive or interest or ill will that partakes of the nature of fraud. It is, therefore, a question of intention, which can be inferred from one's conduct and/or contemporaneous statements.[70]

Thus, a person claiming bad faith must prove its existence by clear and convincing evidence for the law always presumes good faith.[71] Since a finding of bad faith is generally premised on the intent of the doer, the court is then tasked to examine the circumstances of each case.[72]

In this case, this Court finds no clear and convincing evidence of fraud or bad faith on the part of Bendecio and Mascariñas. The trial court awarded moral damages on the sole basis of Bautista's testimony saying that she was sad, lost weight, and could not sleep because Bendecio and Mascariñas did not pay her despite the fact that their obligation was already due and demandable.[73] But as discussed above, mere breach of contract, without bad faith, cannot be the basis for an award of moral damages.

Recall that upon maturity of the loan in May 2013, Bendecio's partner, Mascariñas met with Bautista and executed a promissory note that extended the maturity date of the loan to August 2013. Bautista signed said note, consenting to the extension.[74] When Bendecio and Mascariñas failed to pay in August, Bautista filed the collection case, without, however, proving that fraud or bad faith attended said failure. To this Court, just because Bautista experienced sleepless nights and lost her appetite does not necessarily mean that Bendecio and Mascariñas acted fraudulently or in bad faith. The award of moral damages, therefore, cannot be sustained.

As regards the award of attorney's fees, however, this Court affirms the RTC's grant thereof in the amount of ₱100,000.00. Settled is the rule that parties are free to stipulate in their agreement the recovery of attorney's fees, subject however to the court's discretion to temper the amount thereof if found unreasonable.[75] In this case, the parties agreed that Bautista shall be entitled to attorney's fees in the event of judicial or extra-judicial

---

68 *Id.* at 147-148, citing *Philippine Savings Bank v. Spouses Castillo*, 664 Phil. 774, 786 (2011).
69 *Id.* at 151, citing *Adriano v. Lasala*, 719 Phil. 408, 419 (2013).
70 *Id.*
71 *Id.*
72 *Id.*
73 Records, p. 422.
74 *Rollo*, pp. 23-24.
75 *BSA Tower Condominium Corp. v. Ilusorio*, G.R. No. 224694 (Notice), June 16, 2021; *Philippine International Trading Corp. v. Threshold Pacific Corp.*, G.R. No. 209119, October 3, 2018;

enforcement of obligation in the amount equivalent to 20% of the total amount due which in no case shall be less than ₱20,000.00.[76] Nevertheless, in view of the absence of bad faith, this Court affirms the RTC's reduction of the amount thereof from ₱220,000.00[77] to ₱100,000.00. Still, this award of attorney's fees shall earn legal interest at the rate of 6% *per annum* from the finality of this Decision until full payment in line with prevailing jurisprudence.[78]

**WHEREFORE**, premises considered, the instant petition is **DENIED**. The Decision dated September 14, 2018 of the Court of Appeals in CA-GR CV No. 109378, which affirmed the Decision dated May 4, 2017 of the Regional Trial Court, Branch 59, Makati City in Civil Case No. 13-1126, is **AFFIRMED** with **MODIFICATION**. Accordingly, petitioners Ma. Julieta B. Bendecio and Merlyn Mascariñas are **ORDERED TO PAY** respondent Virginia B. Bautista the following amounts:

1. The principal obligation in the amount of ₱1,100,000.00 plus **monetary interest** at the rate of twelve percent (12%) *per annum* from extrajudicial demand or on September 5, 2013, until finality of this Decision;

2. Compensatory interest on the accrued monetary interest at the rate of six percent (6%) *per annum* from the date of judicial demand or the filing of the complaint on September 25, 2013, until finality of this Decision;

3. Attorney's fees in the amount of ₱100,000.00;

4. Legal interest at the rate of six percent (6%) *per annum* imposed on all the monetary awards herein determined, from the finality of this Decision until full payment; and

5. Costs of suit.

**SO ORDERED.**

**JHOSEP Y. LOPEZ**
Associate Justice

---

76 Records, p. 4.
77 Computed as: ₱1,100,000.00 x 20% = ₱220,000.00.
78 *Supra* note 56.

**WE CONCUR:**

**ALEXANDER G. GESMUNDO**
Chief Justice

**ALFREDO BENJAMIN S. CAGUIOA**
Associate Justice

**AMY C. LAZARO-JAVIER**
Associate Justice

**MARIO V. LOPEZ**
Associate Justice

## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**ALEXANDER G. GESMUNDO**
Chief Justice