



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

SPS. LITO AND LYDIA TUMON,
 Petitioners,

G.R. No. 243999

Present:

- versus -

PERALTA, *C.J.*, Chairperson,
 CAGUIOA,
 CARANDANG,
 ZALAMEDA, and
 GAERLAN, *JJ.*

RADIOWEALTH FINANCE
COMPANY, INC., Respondent.

Promulgated:

MAR 18 2021

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DECISION

CAGUIOA, J.:

Before the Court is a Rule 45 Petition for Review on *Certiorari*¹ (Petition) assailing the Decision² dated March 16, 2018 and Resolution³ dated December 14, 2018 of the Court of Appeals⁴ (CA) in CA-G.R. SP No. 147138, which ruled that the Regional Trial Court (RTC) of San Mateo, Rizal, Branch 76 did not commit grave abuse of discretion in denying petitioners' application for the issuance of a writ of preliminary injunction (WPI) in Civil Case No. 2844-16, entitled *Sps. Lito P. Tumon & Lydia G. Tumon v. Radiowealth Finance Company, Inc.* (Main Case).

Facts

Main Case

As summarized by the CA, the version of the facts according to petitioners Sps. Lito P. Tumon and Lydia G. Tumon (petitioners) are as follows:

¹ *Rollo*, pp. 10-18.

² *Id.* at 84-95. Penned by Associate Justice Ramon M. Bato, Jr. and concurred in by Associate Justices Ramon A. Cruz and Pablito A. Perez.

³ *Id.* at 100-101.

⁴ Eleventh Division and Former Eleventh Division.

x x x Sometime in or before September 2014, petitioners applied for a loan with Radiowealth [Finance Company, Inc. (Radiowealth)] to finance their *tokwa* business; Radiowealth granted them a loan in the total amount of P2,811,456.00, to be paid within four (4) years x x x [However,] petitioners received only P1,500,000.00 after a processing fee/documentation expense of P100,000.00 and interest of P1,311,456.00 were charged by Radiowealth; the loan was secured by a real estate mortgage constituted upon petitioners' real property covered by Transfer Certificate of Title (TCT) No. 009-2010000083; petitioners paid the monthly amortizations amounting to P58,572.00 starting November 30, 2014, P27,322.00 or 87% of which went to Radiowealth as interest payment; the 87% monthly interest rate is unconscionable, unreasonable, exorbitant and immoral; the imposition of the 87% monthly interest is against the law; prior to and after the transaction, Radiowealth did not furnish petitioners a copy of a finance statement, in violation of the "Truth in Lending Act"; as a result of the lack of a finance statement, petitioners did not immediately realize that they were going to pay 87% in monthly interest and they did not know that they were going to shoulder the P100,000.00 processing fee/documentation expense; petitioners were also not furnished with a copy of the Real Estate Mortgage and Promissory Note x x x during the fourth quarter of 2015, petitioners suffered losses due to intense market competition and, starting October 2015, petitioners failed to pay their monthly amortizations; the eleven (11) monthly amortizations paid by petitioners from November 2014 to September 2015 totaled P644,292.00; sometime in late November to December 2015, representatives of Radiowealth came to petitioners' residence and threatened that if they failed to pay 2 consecutive amortizations, Radiowealth would have the right to take over their house, the property subject of the mortgage; at the time they applied for the loan, the agreement was that petitioners had four (4) years to pay off the loan; there was no agreement or explanation to petitioners that they could lose their family home before the lapse of the four-year period x x x Sometime in December 2015, petitioner asked Radiowealth to lower the monthly amortization and to extend the payment period, which they were promised; however, around December 15, 2015, representatives of Radiowealth asked petitioners to sign a Deed of Sale under Pacto de Retro instead of a restructuring agreement as promised x x x Radiowealth defrauded petitioners and took advantage of their ignorance of the law, low educational attainment and dire need of funding; for lack of consent and [the] presence of fraud, the loan documents and the promissory note signed by petitioners are [void ab initio] x x x.⁵

Based on the above allegations, petitioners filed on January 14, 2016 a Complaint for Nullification of Mortgage Documents, Promissory Note, and Damages⁶ against Radiowealth Finance Company, Inc. (Radiowealth) asking the RTC to order the following: (1) the nullification of the real estate mortgage, promissory notes and other loan documents for being contrary to law, or in the alternative, to reduce the interest rate to moral or legal rate; (2) Radiowealth to return to petitioners the amount of P100,000.00 spent as processing fee/documentation expense by way of actual damages; and (3)

⁵ Id. at 85-86.

⁶ Id. at 85.

Radiowealth to pay petitioners ₱50,000.00 as exemplary damages, ₱30,000.00 plus ₱2,500.00 per hearing as attorney's fees, and cost of suit.⁷

On March 11, 2016, Radiowealth filed before the Executive Judge of the RTC an Application for Extrajudicial⁸ Foreclosure of Real Estate Mortgage⁹ against petitioners' property, stating that, as of April 2015, the outstanding balance on the loan is ₱2,044,338.10, exclusive of penalty and other charges.¹⁰

On March 16, 2016, a Notice of Extrajudicial Foreclosure¹¹ was issued, setting the public auction for April 26, 2016.¹²

On April 11, 2016, petitioners filed with the RTC an Application for the Issuance of a Temporary Restraining Order (TRO) and/or WPI¹³ to restrain Radiowealth and any person acting in its behalf from foreclosing and selling petitioners' real property.

On April 14, 2016, the RTC issued an Order¹⁴ granting the TRO and scheduling the hearing on the Application for the Issuance of the WPI on April 26, 2016.

The RTC then issued an Order¹⁵ dated May 3, 2016 denying the Application for the WPI. According to the RTC, Sps. Tumon did not deny their indebtedness to Radiowealth in the amount of ₱2,811,456.00, as evidenced by a Promissory Note and they paid 11 monthly amortizations of ₱58,572.00 per month. The RTC noted that, initially petitioners did not question the terms and conditions of the loan and they only started questioning the amount of monthly amortization and the allegedly unconscionable interest when they suffered business losses and they no longer had the ability to pay the monthly amortizations. Moreover, the RTC stated that the unconscionable nature of the interest may only be determined after the Main Case has been decided. Finding that Radiowealth had a clear right to foreclose the mortgage and that the principal obligation of petitioners to pay Radiowealth remained, the RTC denied the application for the issuance of a WPI.

Petitioners filed a Partial Motion for Reconsideration¹⁶ dated May 17, 2016, but this was denied by the RTC in an Order¹⁷ dated June 10, 2016. In the Order, the RTC emphasized that it may not resolve the issue on the validity

⁷ Id. at 86.

⁸ Also spelled as "Extra-Judicial" and "Extra Judicial" in some parts of the *rollo*.

⁹ *Rollo*, pp. 54-56.

¹⁰ Id. at 54.

¹¹ Id. at 59.

¹² Id.

¹³ Id. at 60-69.

¹⁴ Id. at 75-76. Penned by Presiding Judge Josephine Zarate Fernandez.

¹⁵ Id. at 34-35.

¹⁶ Id. at 77-80.

¹⁷ Id. at 36-37.

of interest imposed by Radiowealth in an application for WPI because it would result on a prejudgment of the Main Case.¹⁸

Rule 65 proceedings

Aggrieved, petitioners filed a Rule 65 petition for *certiorari* with the CA, alleging that the RTC committed grave abuse of discretion in denying the WPI and their Partial Motion for Reconsideration.¹⁹

In the assailed Decision²⁰ dated March 16, 2018, the CA dismissed the petition for lack of merit. The CA ruled that the RTC's orders refusing to issue the WPI were not tainted with grave abuse of discretion based on the following reasons: (1) a court should avoid issuing a WPI which would in effect dispose of the main case without trial;²¹ (2) unlike respondent whose right to foreclose the properties was clear,²² petitioners failed to prove that they had a right to have their property shielded from foreclosure;²³ and (3) petitioners did not show that the injury to be suffered was irreparable.²⁴ Petitioners moved to reconsider the CA Decision, but this was denied by the CA in the assailed Resolution²⁵ dated December 14, 2018.

Thus, petitioners filed with the Court the instant Petition asking for the invalidation and annulment of the CA rulings for being violative of A.M. No. 99-10-05-0.²⁶ Petitioners argue that there are three requisites for the issuance of a WPI under Rule 2 of A.M. No. 99-10-05-0: (1) allegation of unconscionable interest; (2) evidence supporting the allegation; and (3) payment of at least 12% p.a. interest on the principal obligation.²⁷ However, according to petitioners, despite the RTC's acknowledgment that there was an allegation of unconscionable interest and there was documentary evidence in support of the allegation, the RTC did not proceed with the determination of the willingness and capacity of petitioners to pay Radiowealth 12% p.a. interest on the principal obligation, which violates petitioners' due process rights.²⁸

On June 19, 2019, the Court required Radiowealth to file a Comment. However, despite its motion for extension,²⁹ Radiowealth did not file its comment. This prompted petitioners to file a Motion to Waive Comment of Respondent,³⁰ which the Court granted.

¹⁸ Id. at 37.

¹⁹ Id. at 87.

²⁰ Supra note 2.

²¹ Id. at 90.

²² Id. at 91-92.

²³ Id. at 89-91.

²⁴ Id. at 92-93.

²⁵ Supra note 3.

²⁶ A.M. No. 99-10-05-0, PROCEDURE IN EXTRAJUDICIAL OR JUDICIAL FORECLOSURE OF REAL ESTATE MORTGAGES, February 20, 2007, as amended by OCA Circular No. 25-07 issued on March 5, 2007.

²⁷ *Rollo*, p. 17.

²⁸ Id.

²⁹ Id. at 112-114.

³⁰ Id. at 120-123.



Issue

The primordial issue in the case at bar is whether the CA committed reversible error in ruling that the RTC did not commit grave abuse of discretion in denying petitioners' application for WPI.

Ruling

At the outset, it is important to underscore that the Court is reviewing in this Rule 45 Petition the decision of the CA in a Rule 65 petition. The Court is thus limited to reviewing the questions of law raised against the assailed CA decision. In other words, the Court has to examine the CA decision from the prism of whether it correctly determined the absence of grave abuse of discretion in the RTC's orders.³¹

The Petition is denied for lack of merit. The CA correctly ruled that the RTC's denial of petitioners' application for the issuance of a WPI was not tainted with grave abuse of discretion.

I

Section 3, Rule 58 of the Rules of Court provides the grounds for the issuance of a preliminary injunction, *viz.*:

SECTION 3. *Grounds for issuance of preliminary injunction.* — A preliminary injunction may be granted when it is established:

(a) That the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts, either for a limited period or perpetually;

(b) That the commission, continuance or non-performance of the act or acts complained of during the litigation would probably work injustice to the applicant; or

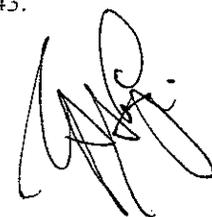
(c) That a party, court, agency or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done, some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual.

This provision was explained in *Borlongan v. Banco de Oro (formerly Equitable PCI Bank)*³² (*Borlongan*) as follows:

From the foregoing provision, “[i]t is clear that a writ of preliminary injunction is warranted where there is a showing that there exists a right to be protected and that the acts against which the writ is to be directed violate an established right. Otherwise stated, for a court to decide on the propriety of issuing a TRO and/or a WPI, it must only inquire into the existence of two

³¹ See *Montoya v. Transmed Manila Corp.*, G.R. No.183329, August 27, 2009, 597 SCRA 334, 343.

³² G.R. Nos. 217617 & 218540, April 5, 2017, 822 SCRA 418.



things: (1) a clear and unmistakable right that must be protected; and (2) an urgent and paramount necessity for the writ to prevent serious damage.”³³

In addition to these requirements, the issuance of a WPI in the context of a judicial or an extrajudicial foreclosure of real estate mortgage requires compliance with the additional rules in A.M. No. 99-10-05-0, as amended,³⁴ viz.:

(1) No [TRO or WPI] against the extrajudicial foreclosure of real estate mortgage shall be issued on the allegation that the loan secured by the mortgage has been paid or is not delinquent unless the application is verified and supported by evidence of payment.

(2) No [TRO or WPI] against the extrajudicial foreclosure of real estate mortgage shall be issued on the allegation that the interest on the loan is unconscionable, unless the debtor pays the mortgagee at least twelve percent per annum interest on the principal obligation as stated in the application for foreclosure sale, which shall be updated monthly while the case is pending.

(3) Where a [WPI] has been issued against a foreclosure of mortgage, the disposition of the case shall be speedily resolved. To this end, the court concerned shall submit to the Supreme Court, through the Office of the Court Administrator, quarterly reports on the progress of the cases involving ten million pesos and above.

(4) All requirements and restrictions prescribed for the issuance of a [TRO or WPI], such as the posting of a bond, which shall be equal to the amount of the outstanding debt, and the time limitation for its effectivity, shall apply as well to a *status quo* order. (Emphasis supplied)

Here, petitioners argue that based on A.M. No. 99-10-05-0, as amended, the RTC should have issued the WPI to prevent the foreclosure sale. However, a perusal of the records would reveal that petitioners did not comply with the requirements for its issuance.

Jurisprudence emphasizes that the guidelines in A.M. No. 99-10-05-0, as amended, speak of strict exceptions and conditions.³⁵ Rule 2 clearly states that, as a rule, no TRO/WPI shall be issued against the extrajudicial foreclosure of real estate mortgage on the allegation that the interest on the loan is unconscionable. However, a TRO/WPI may be issued if the debtor pays the mortgagee the 12% required interest on the principal obligation as stated in the application for foreclosure sale, which shall be updated monthly. Digressing a bit, it should be noted that when these guidelines were issued in 2007, the legal rate of interest was still twelve percent *per annum* (12% p.a.). Pursuant to Circular No. 799, Series of 2013,³⁶ which became effective on July 1, 2013, the legal interest rate is now only six percent *per annum* (6% p.a.).³⁷

³³ Id. at 429-430.

³⁴ Supra note 26.

³⁵ *Philippine National Bank v. Castallo Technology Corp.*, G.R. No. 178367, March 19, 2012, 668 SCRA 415, 424.

³⁶ RATE OF INTEREST IN THE ABSENCE OF STIPULATION, issued by the Bangko Sentral ng Pilipinas Monetary Board on June 21, 2013.

³⁷ See *Nacar v. Gallery Frames*, G.R. No. 189871, August 13, 2013, 703 SCRA 439, 454-456.



In *Icon Development Corp. v. National Life Insurance Company of the Philippines*,³⁸ the Court ruled that the trial court committed grave abuse of discretion because, among other reasons, it issued the TRO/WPI despite non-payment of the required interest stated in A.M. No. 99-10-05-0, as amended, *viz.*:

A.M. No. 99-10-05-0 embodies the guidelines in extra judicial and judicial foreclosure of real estate mortgages thus:

X X X X

With the foregoing yardstick, it is crystal clear that a WPI or TRO cannot be issued against extrajudicial foreclosure of real estate mortgage on a mere allegation that the debt secured by mortgage has been paid or is not delinquent unless the debtor presents an evidence of payment. **Even an allegation of unconscionable interest being imposed on the loan by the mortgagee shall no longer be a ground to apply for WPI. In addition, the rule prohibits the issuance of TRO or WPI unless the debtor pays the mortgagee at least 12% *per annum* interest on the principal obligation as stated in the application for foreclosure sale which shall be updated monthly while the case is pending.** Likewise, it is mandated that all the requirements and restrictions prescribed for the issuance of a TRO and WPI, such as the posting of a bond, which shall be equal to the amount of the outstanding debt, and the time limitation for its effectivity, shall apply.

In the present case, the Court finds that the trial court judge erred in issuing the TRO and WPI based simply on petitioner's allegations of payment, overpayment, and the respondent's imposition of unconscionable interest. It must be emphasized that the petitioner did not present a single evidence of overpayment of the obligation or even proof of payment thereof. Evidently, the RTC's Order enjoining the foreclosure proceedings is a patent circumvention of the guidelines outlined in A.M. No. 99-10-05-0.

Moreover, nothing in the records shows that the petitioner paid the respondent at least 12% *per annum* interest on the principal obligation as stated in the application for foreclosure sale. Lastly, the petitioner failed to post a bond which is equal to the amount of the outstanding debt. It appears that the petitioner posted a bond in the amount of ₱2,500,000.00 only, which is way below the outstanding debt of ₱274,497,565.60. The bond posted is even short of the principal loan of ₱31,034,510.00. Thus, the trial court judge should have applied A.M. No. 99-10-05-0 and denied the petitioner's application for TRO and WPI.³⁹ (Emphasis supplied)

Here, since petitioners filed the application for the issuance of a TRO/WPI in 2016, the applicable interest rate is 6% p.a. Accordingly, to be entitled to a TRO/WPI under Rule 2 of A.M. No. 99-10-05-0, as amended, petitioners were required to pay at least 6% p.a. interest on the principal obligation as stated in the application for foreclosure sale. However, there was no showing that petitioners had complied with this requirement upon filing the application for TRO/WPI. In fact, petitioners fault the RTC for not checking if they were "willing and able" to pay the required interest, *viz.*:

³⁸ G.R. No. 220686, March 9, 2020.

³⁹ *Id.* at 12-13. *N.B.*: The applicable interest rate in *Icon Development Corp. v. National Life Insurance Company of the Philippines* is 12% p.a. since the complaint with application for TRO/WPI was filed in 2011.

23. In other words, there is a process by which courts hearing real estate foreclosure matters should abide by, that is, determine first if there is an allegation of unconscionable interest, then look for evidence supporting the allegation and **if there is, require the plaintiff-mortgagor applying for the writ of injunction, if the latter is willing and able, to pay at least 12% per annum interest on the principal obligation.**

24. In this case, however, the *Court a quo* short-circuited the process. While it concedes that there is an allegation of unconscionable interest as well as the existence of documentary evidence therefor, the *Court a quo* stopped right there and **did not proceed with the determination of the willingness and capacity of the Petitioners to pay [Radiowealth] 12% per annum interest on the principal obligation. A clear violation of the due process and rights of the Petitioners under the Constitution.**⁴⁰ (Emphasis supplied)

Contrary to petitioners' interpretation, however, a plain reading of the rule reveals that it is not the trial court's duty to prod petitioners if they are willing to fall under the exceptional situation where a WPI may be ordered based on the allegation that interest on the loan is unconscionable. To be sure, petitioners' willingness should have resulted in them, at the very least, depositing with the Court the required interest on the principal obligation.

To justify the issuance of WPI in their favor, it is incumbent upon petitioners to positively show their clear and unmistakable right to be protected. Pertinently, *Lerias v. Court of Appeals*⁴¹ states that: "For the writ of preliminary injunction to issue, the applicant must show a clear legal right to be protected. In the absence of a clear legal right, the issuance of the writ constitutes grave abuse of discretion."⁴²

II

In light of the foregoing, the Court agrees with the dismissal of petition. Nevertheless, it is important to highlight that the Court does not fully agree with the premises of the CA Decision.

To recall, the RTC orders stated that "[t]he matters pertaining to the amount of interest if indeed exorbitant or unconscionable may only be determined after the main case for Nullification of Mortgage and Documents has been heard and decided upon by this [c]ourt"⁴³ and "it is not proper for this [c]ourt to resolve the issue of the validity of interest imposed by [Radiowealth] because it would result on a pre-judgment of the main case considering that the issue of whether or not the interest is exorbitant or excessive is a factual matter that must be threshed out during the parties' presentation of their respective evidence."⁴⁴ The CA affirmed the RTC's point

⁴⁰ *Rollo*, p. 17.

⁴¹ G.R. No. 193548, April 8, 2019, accessed at <<https://sc.judiciary.gov.ph/4400/>>.

⁴² *Id.* at 1.

⁴³ *Rollo*, p. 34.

⁴⁴ *Id.* at 37.

by citing jurisprudence that “[t]he prevailing rule is that a court should avoid issuing a [WPI] which would in effect dispose of the [M]ain [C]ase.”⁴⁵

This is erroneous. Contrary to the ruling of the RTC and CA, the trial court’s preliminary finding that the interest rate is unconscionable for the purpose of issuing a TRO/WPI under A.M. No. 99-10-05-0 would not have effectively disposed of the Main Case without trial. If the Court were to uphold the logic of the RTC and the CA, it would effectively render illusory the exceptional circumstance contemplated in Rule 2 of A.M. No. 99-10-05-0, as amended. Indeed, the practical effect of this reasoning is that trial courts shall always decline issuing a TRO/WPI when there are allegations of unconscionable interest for fear of prejudging the main case.

The exceptional circumstance contemplated in Rule 2 of A.M. No. 99-10-05-0, as amended, merely contemplates an “allegation that the interest on the loan is unconscionable,” not a trial court’s conclusive determination that the interest rate is unconscionable based on comprehensive evidence. The discussion in *Borlongan* is instructive, *viz.*:

In *Levi Strauss (Phils.), Inc. v. Vogue Traders Clothing Company*, the Court already explained that the issuance of a TRO is not conclusive of the outcome of the case as it requires but a sampling of the evidence, *viz.*:

Indeed, a [WPI] is generally based solely on initial and incomplete evidence adduced by the applicant (herein petitioner). **The evidence submitted during the hearing of the incident is not conclusive, for only a “sampling” is needed to give the trial court an idea of the justification for its issuance pending the decision of the case on the merits.** As such, the findings of fact and opinion of a court when issuing the writ of preliminary injunction are interlocutory in nature. Moreover, **the sole object of a preliminary injunction is to preserve the *status quo* until the merits of the case can be heard.** Since Section 4 of Rule 58 of the Rules of Civil Procedure gives the trial courts sufficient discretion to evaluate the conflicting claims in an application for a provisional writ which often involves a factual determination, the appellate courts generally will not interfere in the absence of manifest abuse of such discretion. **A writ of preliminary injunction would become a prejudgment of a case only when it grants the main prayer in the complaint or responsive pleading,** so much so that there is nothing left for the trial court to try except merely incidental matters. x x x

Notably, the primary prayer of the Petition for Annulment before the appellate court is the declaration of the nullity of the proceedings in the RTC and its Decision dated November 29, 2007; it is not merely confined to the prevention of the issuance of the writ of possession and the consolidation of

⁴⁵ Id. at 90. Emphasis omitted.

the ownership of the subject property in BDO's name — the concerns of the prayer for the TRO and/or WPI.⁴⁶ (Additional emphasis supplied)

Jurisprudence does not require the presentation of overwhelming evidence to establish the right to be protected. Mere *prima facie* evidence of the right to be protected, or such evidence as, in the judgment of the law, is sufficient to establish a given fact, or the group or chain of facts constituting the party's claim or defense and which, if not rebutted or contradicted, will remain sufficient.⁴⁷

Thus, to clarify and summarize the requirements in establishing a clear and unmistakable right to have a TRO/WPI under Rule 2⁴⁸ of A.M. No. 99-10-05-0, as amended, be issued, the applicant must: (i) allege in the application for TRO/WPI that the interest rate on the loan is unconscionable; (ii) support this allegation with *prima facie* evidence; and (iii) prove that, upon filing the application, he or she has paid to the mortgagee at least the legal rate of interest on the principal obligation as stated in the application for foreclosure sale, which shall be updated monthly while the case is pending.

At this juncture, it is also important to highlight that Rule 2 clearly conveys that the obligation to pay at least the legal rate of interest to the mortgagee is reckoned from the time the applicant asks for the issuance of a TRO/WPI, which obligation shall continue while the case is still pending. Thus, any previous payments made by the applicant — or any “overpayment”,⁴⁹ assuming that the legal rate of interest is applied on the loan — shall not be deemed as fulfillment of the condition to pay interest under Rule 2 of A.M. No. 99-10-05-0.

As discussed, petitioners failed to prove compliance with Rule 2 of A.M. No. 99-10-05-0, as amended; thus, they failed to establish their clear and unmistakable right to be protected. Accordingly, the Court agrees with the CA's finding that the RTC did not act with grave abuse of discretion in denying petitioners' application for the issuance of a WPI.

WHEREFORE, the Petition is **DENIED**. The assailed Decision dated March 16, 2018 and Resolution dated December 14, 2018 of the Court of Appeals in CA-G.R. SP No. 147138 are **AFFIRMED**.

⁴⁶ *Borlongan v. Banco de Oro (formerly Equitable PCI Bank)*, supra note 32, at 430-431.

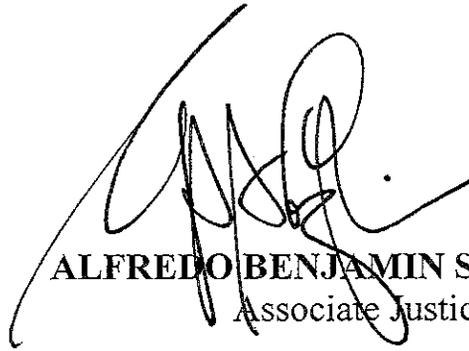
⁴⁷ *Lerias v. Court of Appeals*, supra note 41, at 7.

⁴⁸ For ease of reference, Rule 2 of A.M. No. 99-10-05-0, as amended, states: “No [TRO or WPI] against the extrajudicial foreclosure of real estate mortgage shall be issued on the allegation that the interest on the loan is unconscionable, unless the debtor pays the mortgagee at least twelve percent per annum interest on the principal obligation as stated in the application for foreclosure sale, which shall be updated monthly while the case is pending.”

⁴⁹ *N.B.*: The legal rate of interest is 6% p.a. or 0.5% monthly interest. Here, petitioners allege that they have paid 87% p.a. in interest.



SO ORDERED.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:



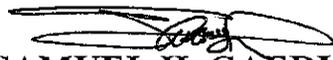
DIOSDADO M. PERALTA
Chief Justice
Chairperson



ROSMARI D. CARANDANG
Associate Justice



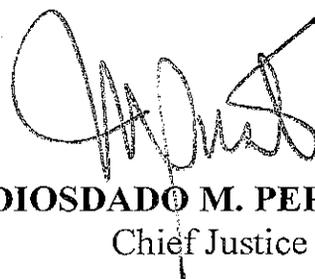
RODIL V. ZALAMEDA
Associate Justice



SAMUEL H. GAERLAN
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.



DIOSDADO M. PERALTA
Chief Justice