

**G.R. No. 225433 – LARA’S GIFTS & DECORS, INC., v. MIDTOWN INDUSTRIAL SALES, INC.**

**Promulgated:**

September 20, 2022



X-----X

**CONCURRENCE & DISSENT**

**LAZARO-JAVIER, J.:**

***Additional award of legal interest on conventional interest must be deleted as it was never put in issue***

The Resolution, through the highly esteemed Senior Associate Justice Marvic Mario Victor F. Leonen, adopted my humble suggestion to delete the additional award of legal interest on conventional interest as Midtown Industrial Sales (*Midtown*) did not appeal the trial court’s judgment which notably did not include the aforesaid award; nor was Article 2212<sup>1</sup> of the Civil Code ever brought to fore since the inception of the case up until it got elevated to the Court.<sup>2</sup> Thus, the Resolution ruled that there is no valid justification to modify or reverse the Majority Decision save for the imposition of *legal interest on the 24% per annum interest which was consequently ordered deleted*. The Resolution likewise recognized that the judgment award already became final and executory insofar as Midtown is concerned. As it was, the Majority Decision earlier imposed, albeit *motu proprio*, legal interest on top of the conventional interest of 24%. But as correctly enunciated in the present Resolution the sudden and unsought award of legal interest on interest in the Majority Decision was *ultra vires*.

Surely, in civil cases, only errors claimed and assigned by a party will be considered by the Court, except errors affecting its jurisdiction over the subject matter. Further, while it is true that the Court has recognized that appellate court is imbued with sufficient discretion to review matters, not otherwise assigned as errors on appeal, in the following instances: (a) grounds not assigned as errors affect the jurisdiction of the court over the subject matter; (b) matters not assigned as errors on appeal are evidently plain or clerical errors within contemplation of law; (c) the consideration of matters

<sup>1</sup> ARTICLE 2212. Interest due shall earn legal interest from the time it is judicially demanded, although the obligation may be silent upon this point. (1109a), (Republic Act No. 386, CIVIL CODE OF THE PHILIPPINES, Approved on June 18, 1949).

<sup>2</sup> [Letter] dated September 6, 2022, Associate Justice Amy Lazaro-Javier, *Lara’s Gift v. Midtown*, G.R. No. 255433.



not assigned as errors on appeal is necessary in arriving at a just decision and complete resolution of the case or to serve the interests of justice or to avoid dispensing piecemeal justice; (d) matters not specifically assigned as errors on appeal were raised in the trial court and are matters of record having some bearing on the issue submitted which the parties failed to raise or which the lower court ignored; (e) matters not assigned as errors on appeal but are closely related to an error assigned; and (f) the determination of a question properly assigned is dependent on matters not assigned as errors on appeal<sup>3</sup>—the present case does not fall under any of these exceptions. As stated, therefore, the present Resolution deleting the award of legal interest on interest is in order.

In any event, I respectfully submit that the deletion of the award of legal interest on interest is enough to put closure to the present case. With due respect however, the present Resolution went on to lay down the rule that the award of interest on interest under Article 2212 is dictated by law and consequently proceeded to formulate the guidelines on its imposition, among others. For me, the substantive discussion on the subject is not necessary at all, hence, it is a mere *obiter*. Inarguably, these guidelines were not even applied to the present case which was simply disposed of, in this wise:

Now to this case, we modify our earlier Decision and hold that the contract involved is not a loan or forbearance of money, goods, or credit, but a sale of goods on credit. From January to December 2007, petitioner Lara's Gifts purchased from respondent Midtown various industrial and construction materials totaling P1,263,104.22. The purchases were on a 60-day credit term, with the condition that a 24% interest rate *per annum* would be charged on all accounts overdue. This means that the 24% interest rate *per annum* would run only upon petitioner's failure to pay on the due date.

Thus, the 24% interest rate is a compensatory interest, imposed as indemnity for damages caused by the delay in the payment of the raw materials' purchase price, pursuant to Article 2209.

By the express provision of Article 2212, the 24% compensatory interest, which have accrued at the time of judicial demand, may be subject to "interest on interest." However, as Justice Lazaro-Javier pointed out the Regional Trial Court adjudged in favor of Midtown Industrial Sales only P1,263,104.22 plus interest at 24% *per annum*, computed from February 5, 2008 until fully paid; and P50,000.00 as attorney's fees. This judgment award became final and executory as to Midtown Industrial Sales as it did not appeal. Thus, the additional award of legal interest on the 24% interest, in an appeal brought by Lara's Gifts, is *ultra vires*.

WHEREFORE, the Motion for Reconsideration is PARTIALLY GRANTED. The Court's Decision dated August 28, 2019 is modified in that the award of legal interest on the 24% *per annum* compensatory interest is hereby DELETED.

---

<sup>3</sup> See *Law Firm of Abrenica v. Court of Appeals*, 438 Phil. 53, 61-62 (2002).

Petitioner Lara's Gifts & Decors, Inc. is ordered to pay respondent Midtown Industrial Sales, Inc. the following:

1. ONE MILLION TWO HUNDRED SIXTY THREE THOUSAND ONE HUNDRED FOUR PESOS and 22/100 (P1,263,104.22) representing the principal amount plus stipulated interest at 24% *per annum* to be computed from 22 January 2008, the date of extrajudicial demand, until full payment.
2. The sum of FIFTY THOUSAND PESOS (P50,000.00) as attorney's fees.
3. Cost of the suit.

The total monetary award shall bear legal interest of 6% *per annum* from finality of this Decision until full payment.

SO ORDERED.

On this score, *Bermon v. Sps. Yaco* is apropos:<sup>4</sup>

While, this Court is aware that in the recent case of *CJH Development Corporation v. Aniceto*, it held that a provision in the contract which grants the lessor right to appropriate the improvement without any obligation to reimburse directly contradicts Article 1678 of the Civil Code and that the lessor cannot own the improvement without paying the lessee, the same is simply an *obiter dictum* since the right of reimbursement was not even put into issue since CJH Development Corporation did not appropriate and used the improvements used by Aniceto. It is settled that "an *obiter dictum* is a remark made, or opinion expressed, by a judge, in his decision upon a cause by the way, that is, incidentally or collaterally, and not directly upon the question before him, or upon a point not necessarily involved in the determination of the cause, or introduced by way of illustration, or analogy or argument. It does not embody the resolution or determination of the court, and is made without argument, or full consideration of the point. It lacks the force of an adjudication, being a mere expression of an opinion with no binding force for purposes of *res judicata*." Thus, it cannot be used as a guiding principle in this case to uphold petitioner's right of reimbursement.<sup>5</sup> (Emphases and underscoring supplied)

*Ratio decidendi* is defined as the principle or rule of law on which a court's decision is founded, or the rule of law on which a later court thinks that a previous court founded its decision.<sup>6</sup> An *obiter dictum*, on the other hand, is an opinion expressed by a court upon some question of law which is not necessary to the decision of the case before it. It is a remark made, or opinion expressed, by a judge, in his or her decision upon a cause, "by the

<sup>4</sup> G.R. No. 224552, March 3, 2021.

<sup>5</sup> Id.


<sup>6</sup> See *People v. Sandiganbayan*, 723 Phil. 444, 465 (2013).

A

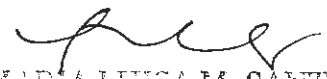
way,” that is, incidentally or collaterally, and not directly upon the question before him or her or upon a point not necessarily involved in the determination of the cause, or introduced by way of illustration, or analogy or argument. Such are not binding as precedents.<sup>7</sup>

In any event, while it is true that the Majority Decision sought to be reconsidered itself prescribed guidelines or standards for imposition of legal interest on interest, the same should be considered to have been rendered nugatory considering the award thereof was already deleted in the present Resolution.

I, therefore, concur in the result but dissent from the substantive discussion on the application of Article 2212 on legal interest on interest, including the formulation of guidelines for its imposition, among others, for being a mere *obiter*.

  
**AMY C. LAZARO-JAVIER**

CERTIFIED TRUE COPY

  
MARIA LUISA M. SANTIYLLA  
Deputy Clerk of Court and  
Administrative Officer  
Office of the Clerk of Court

<sup>7</sup> Villanueva, Jr. v. Court of Appeals, 429 Phil. 194 (2002).

