Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

LAND BANK OF THE PHILIPPINES, *Petitioner,*	**G.R. No. 244414**
- versus -	Present: GESMUNDO, *C.J.*, *Chairperson*, HERNANDO, LAZARO-JAVIER,* ROSARIO, and MARQUEZ, *JJ.*
SPRINT BUSINESS NETWORK AND CARGO SERVICES, INC. REPRESENTED BY ITS VICE-PRESIDENT IRENE VELASCO, AND SPOUSES ALBERT VELASCO AND IRENE VELASCO, *Respondents.*	Promulgated: JAN 16 2023

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

DECISION

HERNANDO, *J.*:

This Petition for Review on *Certiorari*[1] (Petition) seeks the reversal of the May 2, 2018 Decision[2] and the January 29, 2019 Resolution[3] of the Court of Appeals (CA) in CA-G.R. CV No. 106416, which reversed and set aside the December 1, 2015 Decision[4] of the Regional Trial Court (RTC) of Makati City,

---

* Designated additional Member vice Associate Justice Rodil V. Zalameda per Raffle dated February 23, 2022 due to prior action in the Court of Appeals.

1 *Rollo*, pp. 27-53.

2 Id. at 55-66. Penned by Associate Justice Pablito A. Perez and concurred in by Associate Justices Rodil V. Zalameda (now a Member of this Court) and Ramon A. Cruz.

3 Id. at 69-70. Penned by Associate Justice Pablito A. Perez and concurred in by Associate Justices Rodil V. Zalameda (now a Member of this Court) and Ramon A. Cruz.

4 Id. at 259-270. Penned by Presiding Judge Maximo M. De Leon.

Branch 143, in Civil Case No. 09-001. The RTC dismissed the Complaint[5] filed by Sprint Business Network and Cargo Services, Inc., (Sprint), represented by its Vice President, Irene Velasco, against Land Bank of the Philippines (LBP), Clerk of Court and *Ex-Officio* Sheriff of the RTC Makati City, and the Register of Deeds of Makati City.

The Antecedents

As culled from the records, Sprint obtained a loan from petitioner bank in the total amount of PHP 22,000,000.00, secured by a real estate mortgage over a property located in Makati City covered by Transfer Certificate of Title (TCT) No. 213623, and registered in the name of Sprint's Vice President, Irene Velasco. The loan was granted in two tranches, to wit:

Amount	Promissory Note No.	Date of Issue	Maturity Date	Interest Rate (for the First Quarter)
PhP11,511,607.76	4808TL02-2862-010	September 19, 2002	September 19, 2010	10%[6]
PhP10,488,392.24	4808TL02-2862-020	October 1, 2002	September 19, 2010	10.25%[7]

Due to economic crises, Sprint encountered difficulties in the payments of its loan and defaulted in its obligations.[8] The loan thus became past due by April of 2005.[9] Sprint negotiated with petitioner bank for the restructuring of its loan obligation.[10] However, the same failed which prompted LBP to send several letters to Sprint demanding payment.[11]

Due to Sprint's failure to settle its obligations, petitioner bank instituted extrajudicial foreclosure proceedings of the mortgaged property. On May 7, 2007, the Office of the Clerk of Court and *Ex Officio* Sheriff of RTC Makati City issued a Notice of Sheriff's Sale.[12] Sprint requested for the deferment of the foreclosure proceedings, but it was denied by petitioner bank.[13] Thus, on June 6, 2007, the mortgaged property was sold at a public auction with LBP as the highest bidder.[14]

---

5 Id. at 85-96. Complaint for Nullification of the Foreclosure of Mortgage, Certificate of Sale, and the Declaration of the Deed of Mortgage and Promissory Note as Null and Void and for Damages, with Alternative Cause of Action for Redemption by means of Judicial Action, with prayer to fix Redemption Amount.

6 Id. at 180.

7 Id. at 181.

8 Id. at 86.

9 Id. at 29.

10 Id.

11 Id. at 56.

12 Id.

13 Id.

14 Id. at 56-57.

Petitioner bank then gave Sprint notice that the redemption period of one year will expire on June 27, 2008.[15] While Sprint offered to redeem the property, it failed to do so.[16] Thus, with the redemption period having expired and without Sprint exercising its right to redeem the foreclosed property, the title to the property was consolidated in the name of LBP under TCT No. 006-2011000594.[17]

Sometime thereafter, or on January 5, 2009, Sprint filed a Complaint for Nullification of the Foreclosure of Mortgage, Certificate of Sale, and the Declaration of the Deed of Mortgage and Promissory Note as Null and Void and for Damages, with Alternative Cause of Action for Redemption by means of Judicial Action, with prayer to fix Redemption Amount[18] (Complaint) against petitioner bank, with the necessary parties, Clerk of Court and *Ex-Officio* Sheriff of the RTC Makati City, and the Register of Deeds of Makati City.

Sprint alleged that it requested for a longer term and restructuring of its loan obligation, and petitioner bank agreed to take up its request in a committee. It averred that it was made to believe by petitioner bank that no foreclosure proceedings will be initiated until such time that the restructuring of the obligation will be decided upon. It claimed that LBP agreed that as long as the interests are paid, the account will not be foreclosed. However, LBP allegedly increased the interest rate, bloated the attorney's fees, penalties, and charges resulting in an erroneous computation of the total amount to be paid by Sprint. Thus, Sprint argued that the interest rates were excessive and exorbitant that it decided to suspend payments of the loan obligation until such time that the rate of interest is judicially fixed. Finally, Sprint pointed out that the foreclosure proceedings and public auction of the subject property failed to comply with the requirements of Act No. 3135,[19] as amended, and that by reason of the wrongful foreclosure, the redemption period has not expired.[20]

On its part, while there was a request for restructuring of Sprint's past due account, petitioner bank argued that it never assured Sprint that the loan account will be restructured; Sprint also failed to submit their repayment/proposal plan in order that the restructuring may be processed and submitted for approval. There was also no agreement to suspend foreclosure as long as the interests are paid; and that even granting that there is such agreement, Sprint has an accumulated interest arrearages in the amount of PHP 701,759.01 per Statement of Account dated June 6, 2007.[21]

---

15 Id. at 57.
16 Id.
17 Id.
18 Id. at 85-96.
19 Entitled "AN ACT TO REGULATE THE SALE OF PROPERTY UNDER SPECIAL POWERS INSERTED IN OR ANNEXED TO REAL ESTATE MORTGAGES." Approved: March 6, 1924.
20 Id.
21 Id. at 261.

Moreover, petitioner bank argued that they have mutually agreed on the interest rates including attorney's fees as indicated in the promissory notes freely executed by Sprint. During all the meetings and its letters to petitioner bank, Sprint never protested or complained about the interest rates that the bank imposed. Thus, Sprint should be estopped from questioning the correctness of the computation and the interest rates and the attorney's fees that petitioner bank had charged.[22]

LBP also maintained that despite several notices, Sprint failed to settle its obligations which resulted in the foreclosure of the mortgage; that the foreclosure sale was made upon prior demand and in accordance with the provisions of Act No. 3135, as amended, and applicable guidelines by the Court; and that the redemption period expired on June 27, 2008 with no acceptable redemption offer ever received from the mortgagor.[23]

Ruling of the Regional Trial Court

In its December 1, 2015 Decision,[24] the lower court dismissed Sprint's Complaint for lack of merit, *viz.*:

> **WHEREFORE**, in view of all the foregoing, the instant complaint is hereby ordered **DISMISSED** for lack of merit.
>
> No pronouncement as to cost.[25] (Emphasis in the original)

The lower court held that Sprint failed to show any document evidencing the agreement to restructure its loan, or that petitioner bank assured it that no foreclosure proceedings will be initiated until such time the restructuring is resolved. Even assuming that there was indeed a verbal agreement to restructure the loan as shown by the willingness of the petitioner bank in its letters dated April 6, 2006 and August 18, 2005, the same did not materialize as Sprint failed to submit a proposal plan for the possible restructuring of its loan. Accordingly, petitioner bank has the right to initiate the foreclosure proceedings as there was actually no agreement to restructure the loan.[26]

The lower court also held that the alleged exorbitant interest rates as increased unilaterally by petitioner bank was never questioned by Sprint before the foreclosure proceedings. In its letter dated May 7, 2007, wherein Sprint asked for the deferment of the foreclosure, it did not question the interest rate

---

[22] Id. at 58.
[23] Id. at 261.
[24] Id. at 259-270.
[25] Id. at 270.
[26] Id. at 267.

imposed and the amount asked by petitioner bank. Thus, as of that date, the loan obligation was clear to both parties and there was no dispute as to the total amount due.[27] LBP was also able to adduce evidence to prove that it complied with the requirements for a valid foreclosure under Act No. 3135, as amended.[28] Aggrieved, Sprint elevated the case to the CA.

Ruling of the Court of Appeals

The CA granted the appeal and reversed the lower court's findings in its May 2, 2018 Decision,[29] to wit:

> **WHEREFORE**, the Appeal is GRANTED. The Decision dated 1 December 2015 of the Regional Trial Court, National Capital Judicial Region, Makati City, Branch 143 is hereby REVERSED and SET ASIDE. Judgment is hereby rendered as follows:
>
> 1. The interest rates imposed by LBP are declared null and void. The principal amount of the loan shall instead be subject to the interest rate of twelve percent (12%) per [*annum*] up to June 30, 2013, and starting July 1, 2013, six percent (6%) per [*annum*] until full satisfaction;
>
> 2. In view of the nullity of the interest rate[s] imposed on the loan which affected the arrearages upon which the foreclosure was based, the foreclosure of mortgage, certificate of sale, affidavit of consolidation are declared VOID and TCT No. 006-2011000594 is hereby ordered CANCELLED.
>
> **SO ORDERED.**[30] (Emphasis in the original)

In ruling in favor of Sprint, the CA held that petitioner bank violated the principle of mutuality of contracts when it unilaterally increased the interest rates.[31] There is no showing that Sprint assented to the interest rates imposed by petitioner bank for each quarter; thus, the adjusted rates should not bind them.[32] Even assuming that Sprint voluntarily agreed to the increase in interest rates, the same are still null and void for being exorbitant and excessive.[33] The CA observed that based on Sprint's Statement of Account as of June 6, 2007, the average monthly interest imposed by petitioner bank is 3.41% or in excess of 40% per annum; and this does not include the 24% per annum penalty.[34] Since the contractual interest rate is void, the guidelines on interest rate in

---

27 Id. at 269.
28 Id. at 270.
29 Id. at. 55-66.
30 Id. at 66.
31 Id. at 60.
32 Id. at 63.
33 Id.
34 Id. at 64.

accordance with *Nacar v. Gallery Frames*[35] should be applied.[36] Finally, the appellate court held that Sprint should not be made to pay the exorbitant outstanding obligation based on an iniquitous interest; thus, the foreclosure proceedings should be nullified.[37]

The appellate court denied LBP's Motion for Reconsideration[38] in its Resolution dated January 29, 2019.[39]

Hence, this instant Petition where petitioner bank argues that the CA erred in reversing the lower court's findings. According to petitioner bank, Sprint raised the issue on the validity of the interest and other financial charges only after the expiration of their right of redemption over the foreclosed property and petitioner bank has already consolidated its ownership thereof.[40] There were several meetings and negotiations with Sprint and thus it was fully apprised of its obligations and the consequences of default.[41] Petitioner bank likewise argues that the escalation clause on the promissory notes affords Sprint the remedy to object to the adjusted rate by formally informing petitioner bank of its disagreement, which it never did.[42] Instead of objecting to the adjusted interest rate or the amount due, Sprint sought restructuring of its loan; thus the doctrine of estoppel should be applied against them.[43] Moreover, LBP argues that the interest due in the amount of PHP 9,055,433.50 is accumulated for four years and five months or 53 months. Thus, the average monthly interest rate imposed by petitioner bank covering those periods is only 0.777% or an average annual interest rate of only 9.319%, which is lower than the stipulated interest rates.[44]

Issue

The sole issue to be resolved is whether the appellate court erred in reversing the lower court's findings.

Our Ruling

The petition has merit.

---

35 716 Phil. 267, 281-283 (2013)
36 *Rollo*, p. 65.
37 Id.
38 Id. at 71-84.
39 Id. at 69-70.
40 Id. at 37.
41 Id. at 37-38.
42 Id. at 38.
43 Id. at 39.
44 Id. at 43.

As a general rule, this Court is limited only to questions of law and it is not its province to review the factual findings below in resolving the appeal. However, We are constrained to carefully review the factual records to resolve the conflicting decisions of the lower court and the appellate court.

The principle of mutuality of contracts as expressed in Article 1308 of the Civil Code provides that a contract must bind both contracting parties; its validity or compliance cannot be left to the will of one of them. Art. 1956 of the Civil Code likewise ordains that "no interest shall be due unless it has been expressly stipulated in writing."

The binding effect of any agreement between parties to a contract is premised on two settled principles: (1) that any obligation arising from contract has the force of law between the parties; and (2) that there must be mutuality between the parties based on their essential equality. Any contract which appears to be heavily weighed in favor of one of the parties so as to lead to an unconscionable result is void. Any stipulation regarding the validity or compliance of the contract which is left solely to the will of one of the parties, is likewise, invalid.[45]

Based on the promissory notes, the loan obtained by Sprint is not subject to a fixed annual interest rate, but to an initial interest rate of 10% and 10.25% for the first quarter,[46] and further at the prevailing rate, subject to quarterly repricing.[47] In adjusting the said rates, petitioner bank used as basis the escalation clause contained in the promissory notes, as follows:

> The Borrower hereby agrees that the rate of interest fixed herein may be increased or decreased if during the term of the Loan/Line or in any renewal or extension thereof, there are changes in the interest rate prescribed by law or the Monetary Board of the Bangko Sentral ng Pilipinas or there are changes in the Bank's overall cost of funding/maintaining the Loan/Line or intermediation on account or as a result of any special reserve requirements, credit risk, collateral business, exchange rate fluctuations and changes in the financial market. The Borrower shall be notified of the increase or decrease which shall take effect on the immediately succeeding installment or amortization payment following such notice. Should there be a disagreement with the interest adjustment, the Borrower shall so inform the Bank in writing and within 30 days from receipt of the Bank's notice of interest adjustment, prepay the Loan/Line in full together with accrued interest and all other charges which may be due thereon except for prepayment penalty. If the Borrower fails to prepay the Loan/Line as

---

45 *Sps. Almeda v. Court of Appeals*, 326 Phil. 309, 316 (1996).
46 *Rollo*, pp. 180-181.
47 Id. at 184.

herein provided, the Bank may, at its option, consider the Loan/Line as due and demandable unless advised by the Borrower that he/[she] is agreeable to the adjusted interest rate.[48]

Meanwhile, the Statement of Accounts[49] of Sprint as of June 6, 2007 reveals that the total interests due which Sprint owes petitioner bank is PHP 9,055,433.50, excluding the 24% penalty thereon. This was arrived at by LBP by imposing varied interest rates for the different quarter periods from October 20, 2003 to June 6, 2007 as follows:

LOAN PRINCIPAL						22,000,000.00
LOAN INTEREST	Balance as of	20 Oct 03			701,759.01	
	Interest rate	From	To	No. of Days		
	10.000	20 Oct 03	19 Dec 03	60	x x x	
	12.500	18 Dec 03	19 Mar 04	91	x x x	
	13.000	19 Mar 04	21 Jun 04	94	x x x	
	13.250	21 Jun 04	20 Sep 04	91	x x x	
	12.000	20 Sep 04	21 Mar 05	182	x x x	
	11.000	21 Mar 05	20 Jun 05	91	x x x	
	9.784	20 Jun 05	20 Sep 05	92	x x x	
	9.773	20 Sep 05	28 Feb 06	161	x x x	
	9.250	28 Feb 06	20 Mar 06	20	x x x	
	9.017	20 Mar 06	19 Jun 06	91	x x x	
	9.000	19 Jun 06	19 Sep 06	92	x x x	
	9.439	19 Sep 06	19 Dec 06	91	x x x	
	8.837	19 Dec 06	19 Mar 07	90	x x x	
	6.935	19 Mar 07	06 Jun 07	79	x x x	9,055,433.50[50]

This led to a total of PHP 30,914,763.44 demand as stated in the Notice of Sheriff's Sale.[51]

Petitioner bank posits that since the interest due in the amount of PHP 9,055,433.50 is accumulated for the period covering October 20, 2003 to March 19, 2007, or equivalent to four years and five months or 53 months, the average monthly interest rate imposed by petitioner bank covering those periods is only 0.777%, or an average annual interest rate of only 9.319%.[52] In any case, petitioner bank argues that Sprint should be estopped from questioning the adjusted interest rates since it agreed to the terms and conditions in the loan documents, and it never objected to the total amount due at any time before, or even after, the foreclosure proceedings.

---

48 Id. at 180-181.
49 Id. at 63-64.
50 Id.
51 Id. at 65.
52 Id. at 43.

> Indeed, the terms "prime rate", "prevailing market rate", "2% penalty charge", "service fee", and "guiding rate" are technical terms which are beyond the ken of an ordinary layman. To be sure, petitioner hardly falls into the category of an "ordinary layman." As aptly observed by the Court of Appeals:
>
> > x x x [A]ppellant by his own admission is a "lawyer by profession, a reputable businessman and a noted leader of a number of socio-civic organizations." With such impressive credentials, this Court is hard-put to fathom someone of his calibre entering into a contract with eyes "blindfolded."
>
> Nevertheless, these types of contracts have been declared as binding ordinary contracts, the reason being that the party who adheres to the contract is free to reject it entirely.[56]

The Court also upheld the escalation clause in *Solidbank Corporation (now Metropolitan Bank and Trust Company) v. Permanent Homes, Inc.*,[57] *(Solidbank)* and explained in this wise:

> The Usury Law had been rendered legally ineffective by Resolution No. 224 dated December [3,] 1982 of the Monetary Board of the Central Bank, and later by Central Bank Circular No. 905 which took effect on January [1,] 1983. These circulars removed the ceiling on interest rates for secured and unsecured loans regardless of maturity. The effect of these circulars is to allow the parties to agree on any interest that may be charged on a loan. The virtual repeal of the Usury Law is within the range of judicial notice which courts are bound to take into account. Although interest rates are no longer subject to a ceiling, the lender still does not have an unbridled license to impose increased interest rates. The lender and the borrower should agree on the imposed rate, and such imposed rate should be in writing.
>
> The three promissory notes between Solidbank and Permanent all contain the following provisions:
>
> > **5. We/I irrevocably authorize Solidbank to increase or decrease at any time the interest rate agreed in this Note or Loan on the basis of, among others, prevailing rates in the local or international capital markets. For this purpose, We/I authorize Solidbank to debit any deposit or placement account with Solidbank belonging to any one of us. The adjustment of the interest rate shall be effective from the date indicated in the written notice sent to us by the bank, or if no date is indicated, from the time the notice was sent.**
> >
> > **6. Should We/I disagree to the interest rate adjustment, We/I shall prepay all amounts due under this Note or Loan within thirty (30) days from the receipt by anyone of us of the written notice. Otherwise, We/I shall be deemed to have given our consent to the interest rate adjustment.**

---

[56] Id. at 257-258.

[57] 639 Phil. 289 (2010).

We rule in favor of petitioner bank.

Here, the promissory notes and other loan documents were voluntarily signed by Sprint. By signing the contract, Sprint agreed upon the interest rate, as well as, the stipulations on the adjustments thereon, if any. There was no evidence adduced by Sprint to show that it was forced or compelled to sign the loan documents. While the loan documents are in the nature of a contract of adhesion, as the terms thereof are solely prepared by petitioner bank, the same should not be automatically struck down as null and void since Sprint was free to negotiate, re-negotiate, or reject them entirely. It cannot also be said that the parties were on unequal footing in dealing with each other especially since Sprint is a corporation engaged in business, and thus, can reasonably be presumed to have encountered commercial and financial documents in its daily operations.

Meanwhile, this Court has declared that escalation clauses are not basically wrong or legally objectionable as long as they are not solely potestative but based on reasonable and valid grounds.[53] In *Polotan, Sr. v. Court of Appeals*,[54] the Court declared that there is nothing inherently wrong with escalation clauses, and are valid stipulations in commercial contracts to maintain fiscal stability and to retain the value of money in long term contracts.[55] In the said case, the Court upheld the adjustments in the interests based on the fluctuation in the market rates since the same is beyond the control of the private respondent credit card company. On the other hand, it rejected petitioner's contention that the escalation clause was a contract of adhesion which should be resolved in its favor, thus:

> A contract of adhesion is one in which one of the contracting parties imposes a ready-made form of contract which the other party may accept or reject, but cannot modify. One party prepares the stipulation in the contract, while the other party merely affixes his [or her] signature or his [or her] "adhesion" thereto, giving no room for negotiation and depriving the latter of the opportunity to bargain on equal footing.
>
> Admittedly, the contract containing standard stipulations imposed upon those who seek to avail of its credit services was prepared by Diners Club. There is no way a prospective credit card holder can object to any onerous provision as it is offered on a take-it-or-leave-it basis. Being a contract of adhesion, any ambiguity in its provisions must be construed against private respondent.

---

[53] *Sps. Almeda v. Court of Appeals*, supra note 45, citing Vitug's Compendium of Civil Law and Jurisprudence, Revised Edition, 1993, p. 533.

[54] 357 Phil. 250 (1998).

[55] Id. at 259.

> **The stipulations on interest rate repricing are valid because (1) the parties mutually agreed on said stipulations; (2) repricing takes effect only upon Solidbank's written notice to Permanent of the new interest rate; and (3) Permanent has the option to prepay its loan if Permanent and Solidbank do not agree on the new interest rate.** The phrases "irrevocably authorize," "at any time" and "adjustment of the interest rate shall be effective from the date indicated in the written notice sent to us by the bank, or if no date is indicated, from the time the notice was sent," emphasize that Permanent should receive a written notice from Solidbank as a condition for the adjustment of the interest rates.
>
> In order that obligations arising from contracts may have the force of law between the parties, there must be a mutuality between the parties based on their essential equality. A contract containing a condition which makes its fulfillment dependent exclusively upon the uncontrolled will of one of the contracting parties is void. There was no showing that either Solidbank or Permanent coerced each other to enter into the loan agreements. The terms of the Omnibus Line Agreement and the promissory notes were mutually and freely agreed upon by the parties.[58] (Emphasis supplied)

Contrary to the CA's findings, there was no unilateral modification of the interest rates as to amount to a violation of the principle of mutuality of contracts. The appellate court relied on *Spouses Juico v. China Banking Corporation*[59] *(Spouses Juico)* in declaring that the adjustment in the interest rates were hinged solely on petitioner bank's discretion.[60] The factual antecedents in *Spouses Juico* however, are not in all fours with the present case. The Court invalidated the escalation clause contained in the promissory notes signed by petitioner Spouses Juico since it clearly authorized respondent China Bank to unilaterally increase the interest rates without any advance notice to petitioners, to wit:

> The two promissory notes signed by petitioners provide:
>
> > I/We hereby authorize the CHINA BANKING CORPORATION to increase or decrease as the case may be, the interest rate/service charge presently stipulated in this note **without any advance notice to me/us** in the event a law or Central Bank regulation is passed or promulgated by the Central Bank of the Philippines or appropriate government entities, increasing or decreasing such interest rate or service charge.
>
> Such escalation clause is similar to that involved in the case of *Floirendo, Jr. v. Metropolitan Bank and Trust Company* where this Court ruled:

---

58 Id. at 298-300.
59 708 Phil. 495 (2013).
60 *Rollo*, pp. 62-63.

> The provision in the promissory note authorizing respondent bank to increase, decrease or otherwise change from time to time the rate of interest and/or bank charges "without advance notice" to petitioner, "in the event of change in the interest rate prescribed by law or the Monetary Board of the Central Bank of the Philippines," does not give respondent bank unrestrained freedom to charge any rate other than that which was agreed upon. Here, the monthly upward/downward adjustment of interest rate is left to the will of respondent bank alone. It violates the essence of mutuality of the contract.[61] (Emphasis supplied)

Spouses Juico[62] in fact, recognized the Court's ruling in *Solidbank*[63] where the escalation clause therein was declared valid. Similar to *Solidbank*, We also hold that the present escalation clause contained in the promissory notes signed by Sprint is valid as it provides that: a) Sprint shall be notified of any adjustment in the interest rates; b) said adjustment shall take effect on the immediately succeeding installment or amortization payment following such notice; and c) Sprint has the option to submit a written notice to the bank and prepay the loan in case of disagreement on the adjusted interest rates. Sprint failed to allege, much less, prove that it did not receive any notice on the said adjustment or that it submitted any objection to the adjusted interest rates.

Moreover, the escalation clause is clear that the adjustment in the interest rates is dependent on "changes in the interest rate prescribed by law or the Monetary Board of the Bangko Sentral ng Pilipinas or x x x changes in the Bank's overall cost of funding/maintaining the Loan/Line or intermediation on account or as a result of any special reserve requirements, credit risk, collateral business, exchange rate fluctuations and changes in the financial market."[64] Petitioner bank's adjustments in the interest rates are not, therefore, hinged solely on its discretion, but by several factors outside of its control. As the claimant, Sprint has the burden of proving that the adjusted interest rates were unilaterally and arbitrarily imposed by petitioner bank, and without basis, such that it had no other choice but to suspend its payments. However, it failed to do so at any time during the proceedings below.

Further, LBP points out that while it imposed a higher interest rate of 13.25% from the period of June 21, 2004 to September 20, 2004, it also imposed an interest rate as low as 6.935% from the period of March 19, 2007 to June 6, 2007. The rates varied for different periods which shows to us that petitioner bank not only increased the rates, but also decreased it in other times, which can be due to the fluctuating market rates and other factors, beyond its control. Nor can it be said that the adjusted interest rates are iniquitous or

---

61 *Sps. Juico v. China Banking Corporation*, supra at 511.
62 Id.
63 Supra note 57.
64 *Rollo*, pp. 180-181.

unconscionable since, as correctly pointed out by petitioner bank, the total interests due in the amount of PHP 9,055,433.50 should be considered as already accumulated for the period covering October 20, 2003 to March 19, 2007, or equivalent to four years and five months, or 53 months.

We subscribe to petitioner bank's argument that if Sprint had any disagreement with the adjusted interest rates, it should have formally objected to it in accordance with their loan agreements. Instead of doing that however, it negotiated for the restructuring of its loan. Nonetheless, as found by the lower court, Sprint failed to submit its proposal for the restructuring of its loan, or to prove that petitioner bank agreed to suspend the foreclosure pending restructuring of the loan, or as long as the interests are paid. It must be reiterated that he who asserts a fact must prove such fact through evidence. In this case, Sprint merely presented its bare and self-serving allegations, which were actually belied by the totality of evidence on record. It did not present anything that would evince that there was an agreement with petitioner bank regarding the restructuring of its loan, or the deferment of the foreclosure of the mortgaged property.

From the time Sprint defaulted in its obligations in April of 2005, and despite several opportunities to do so, Sprint did not send any letter or correspondence (or present in court such letters, if any) questioning the total amount due or the adjusted interest rates. Petitioner bank's letters dated April 26, 2005,[65] April 6, 2006,[66] August 18, 2006,[67] and April 16, 2007,[68] were all ignored by Sprint. As correctly held by the lower court, by the time Sprint sent its letter dated May 7, 2007, asking for the deferment of the foreclosure due to the pending negotiation for the restructuring of the loan, the loan obligation was already clear to both parties and there was no dispute as to the total amount due.[69] Likewise, from the foreclosure proceedings until the redemption period expired on June 27, 2008, reasonable time and opportunity have been given to Sprint to contest the adjusted interest rates or the total amount due. Sprint, however, offered no evidence to prove that it was deprived of such opportunity by petitioner bank either through fraud, bad faith, or force or intimidation. In any case, even Sprint's timely objection to the total amount due or the adjusted interest rates would not change Our finding that the escalation clause is valid as discussed above, and the adjusted interest rates are neither iniquitous nor arbitrary and excessive.

---

[65] Id. at 203.
[66] Id. at 206.
[67] Id. at 207.
[68] Id. at 209.
[69] Id. at 269.

As to whether or not petitioner bank complied with the requirements of Act No. 3135, as amended, in the conduct of the foreclosure proceedings, the same had been carefully passed upon and decided in the affirmative by the lower court, thus:

> [Petitioner] bank was able to adduce evidence to prove that it complied with the notice requirement under Section 3, Act No. 3135. [Petitioner] bank, thru the *ex-officio* sheriff, posted notices of the foreclosure sale in three public places and also caused the publication of the said notice once a week for three consecutive weeks in a newspaper of general circulation. Having complied with all the requirements for a valid foreclosure proceeding, the public auction sale held on June 6, 2007 cannot be nullified. Moreover, Act No. 3135 does not provide that the mortgagor should be furnished a copy of the certificate of sale, hence, there is no need for [petitioner] bank to provide [Sprint] a copy of the certificate of sale. Be that as it may, Defendant Clerk of Court/[*Ex-Officio*] Sheriff had nevertheless presented evidence that he mailed a copy of the certificate of sale to the mortgagors on July 9, 2007.
>
> In view of all the foregoing, the validity of the foreclosure of [the] mortgage should be upheld for it was done in accordance with the law as well as the certificate of sale issued in connection thereof. x x x Consequently, the alternative cause of action praying that [Sprint] be allowed to redeem the foreclosed property should be denied. Clearly, the one-year (1-year) redemption period has already expired on June 27, 2008 and [Sprint] failed to exercise [its] right to redeem the property within such period x x x.[70]

We have no reason to disturb these findings.

WHEREFORE, We **GRANT** the petition. We **SET ASIDE** the Decision of the Court of Appeals promulgated on May 2, 2018 as well as the Resolution promulgated on January 29, 2019 in CA-G.R. CV No. 106416 and **REINSTATE** the Decision of the Regional Trial Court of Makati City, Branch 143 dated December 1, 2015 Decision in Civil Case No. 09-001.

---

[70] Id. at 270.

SO ORDERED.

RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:

ALEXANDER G. GESMUNDO
Chief Justice
Chairperson

AMY C. LAZARO-JAVIER
Associate Justice

RICARDO R. ROSARIO
Associate Justice

JOSE MIDAS P. MARQUEZ
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