Republic of the Philippines
Supreme Court
Baguio City

FIRST DIVISION

SPOUSES IGNACIO F. JUICO and ALICE P. JUICO,
Petitioners,

- versus -

CHINA BANKING CORPORATION,
Respondent.

G.R. No. 187678

Present:

SERENO, *C.J.*,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, *JJ.*

Promulgated:

APR 10 2013

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DECISION

VILLARAMA, JR., *J.*:

Before us is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the February 20, 2009 Decision[1] and April 27, 2009 Resolution[2] of the Court of Appeals (CA) in CA G.R. CV No. 80338. The CA affirmed the April 14, 2003 Decision[3] of the Regional Trial Court (RTC) of Makati City, Branch 147.

The factual antecedents:

Spouses Ignacio F. Juico and Alice P. Juico (petitioners) obtained a loan from China Banking Corporation (respondent) as evidenced by two Promissory Notes both dated October 6, 1998 and numbered 507-001051-3[4] and 507-001052-0,[5] for the sums of ₱6,216,000 and ₱4,139,000, respectively. The loan was secured by a Real Estate Mortgage (REM) over

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[1] *Rollo*, pp. 23-38. Penned by Associate Justice Teresita Dy-Liacco Flores with Associate Justices Rosmari D. Carandang and Romeo F. Barza concurring.

[2] Id. at 47.

[3] Id. at 48-51. Penned by Judge Maria Cristina J. Cornejo.

[4] Records, p. 36.

[5] Id. at 35.

petitioners' property located at 49 Greensville St., White Plains, Quezon City covered by Transfer Certificate of Title (TCT) No. RT-103568 (167394) PR-41208[6] of the Register of Deeds of Quezon City.

When petitioners failed to pay the monthly amortizations due, respondent demanded the full payment of the outstanding balance with accrued monthly interests. On September 5, 2000, petitioners received respondent's last demand letter[7] dated August 29, 2000.

As of February 23, 2001, the amount due on the two promissory notes totaled ₱19,201,776.63 representing the principal, interests, penalties and attorney's fees. On the same day, the mortgaged property was sold at public auction, with respondent as highest bidder for the amount of ₱10,300,000.

On May 8, 2001, petitioners received[8] a demand letter[9] dated May 2, 2001 from respondent for the payment of ₱8,901,776.63, the amount of deficiency after applying the proceeds of the foreclosure sale to the mortgage debt. As its demand remained unheeded, respondent filed a collection suit in the trial court. In its Complaint,[10] respondent prayed that judgment be rendered ordering the petitioners to pay jointly and severally: (1) ₱8,901,776.63 representing the amount of deficiency, plus interests at the legal rate, from February 23, 2001 until fully paid; (2) an additional amount equivalent to 1/10 of 1% per day of the total amount, until fully paid, as penalty; (3) an amount equivalent to 10% of the foregoing amounts as attorney's fees; and (4) expenses of litigation and costs of suit.

In their Answer,[11] petitioners admitted the existence of the debt but interposed, by way of special and affirmative defense, that the complaint states no cause of action considering that the principal of the loan was already paid when the mortgaged property was extrajudicially foreclosed and sold for ₱10,300,000. Petitioners contended that should they be held liable for any deficiency, it should be only for ₱55,000 representing the difference between the total outstanding obligation of ₱10,355,000 and the bid price of ₱10,300,000. Petitioners also argued that even assuming there is a cause of action, such deficiency cannot be enforced by respondent because it consists only of the penalty and/or compounded interest on the accrued interest which is generally not favored under the Civil Code. By way of counterclaim, petitioners prayed that respondent be ordered to pay ₱100,000 in attorney's fees and costs of suit.

At the trial, respondent presented Ms. Annabelle Cokai Yu, its Senior Loans Assistant, as witness. She testified that she handled the account of petitioners and assisted them in processing their loan application. She called

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6 Id. at 60-62.
7 Id. at 55-56.
8 Id. at 66.
9 Id. at 63-64.
10 Id. at 1-5.
11 Id. at 17-19.

them monthly to inform them of the prevailing rates to be used in computing interest due on their loan. As of the date of the public auction, petitioners' outstanding balance was ₱19,201,776.63[12] based on the following statement of account which she prepared:

STATEMENT OF ACCOUNT
As of FEBRUARY 23, 2001
IGNACIO F. JUICO

PN# 507-0010520 due on 04-07-2004	
Principal balance of PN# 5070010520.	4,139,000.00
Interest on P4,139,000.00 fr. 04-Nov-99 04-Nov-2000 366 days @ 15.00%.	622,550.96
Interest on P4,139,000.00 fr. 04-Nov-2000 04-Dec-2000 30 days @ 24.50%.	83,346.99
Interest on P4,139,000.00 fr. 04-Dec-2000 04-Jan-2001 31 days @ 21.50%.	75,579.27
Interest on P4,139,000.00 fr. 04-Jan-2001 04-Feb-2001 31 days @ 19.50%.	68,548.64
Interest on P4,139,000.00 fr. 04-Feb-2001 23-Feb-2001 19 days @ 18.00%.	38,781.86
Penalty charge @ 1/10 of 1% of the total amount due (P4,139,000.00 from 11-04-99 to 02-23-2001 @ 1/10 of 1% per day).	1,974,303.00
Sub-total.	7,002,110.73
PN# 507-0010513 due on 04-07-2004	
Principal balance of PN# 5070010513.	6,216,000.00
Interest on P6,216,000.00 fr. 06-Oct-99 04-Nov-2000 395 days @ 15.00%.	1,009,035.62
Interest on P6,216,000.00 fr. 04-Nov-2000 04-Dec-2000 30 days @ 24.50%.	125,171.51
Interest on P6,216,000.00 fr. 04-Dec-2000 04-Jan-2001 31 days @ 21.50%.	113,505.86
Interest on P6,216,000.00 fr. 04-Jan-2001 04-Feb-2001 31 days @ 19.50%.	102,947.18
Interest on P6,216,000.00 fr. 04-Feb-2001 23-Feb-2001 19 days @ 18.00%.	58,243.07
Penalty charge @ 1/10 of 1% of the total amount due (P6,216,000.00 from 10-06-99 to 02-23-2001 @ 1/10 of 1% per day).	3,145,296.00

[12] TSN, April 1, 2002, pp. 6-18, 30-33.

Subtotal.	10,770,199.23
Total.	17,772,309.96
Less: A/P applied to balance of principal	(55,000.00)
Less: Accounts payable L & D	(261,149.39)
	17,456,160.57
Add: 10% Attorney's Fee	1,745,616.06
Total amount due	19,201,776.63
Less: Bid Price	10,300,000.00
TOTAL DEFICIENCY AMOUNT AS OF FEB. 23, 2001	8,901,776.63[13]

Petitioners thereafter received a demand letter[14] dated May 2, 2001 from respondent's counsel for the deficiency amount of ₱8,901,776.63. Ms. Yu further testified that based on the Statement of Account[15] dated March 15, 2002 which she prepared, the outstanding balance of petitioners was ₱15,190,961.48.[16]

On cross-examination, Ms. Yu reiterated that the interest rate changes every month based on the prevailing market rate and she notified petitioners of the prevailing rate by calling them monthly *before* their account becomes past due. When asked if there was any written authority from petitioners for respondent to increase the interest rate unilaterally, she answered that petitioners signed a promissory note indicating that they agreed to pay interest at the prevailing rate.[17]

Petitioner Ignacio F. Juico testified that prior to the release of the loan, he was required to sign a blank promissory note and was informed that the interest rate on the loan will be based on prevailing market rates. Every month, respondent informs him by telephone of the prevailing interest rate. At first, he was able to pay his monthly amortizations but when he started to incur delay in his payments due to the financial crisis, respondent pressured him to pay in full, including charges and interests for the delay. His property was eventually foreclosed and was sold at public auction.[18]

On cross-examination, petitioner testified that he is a Doctor of Medicine and also engaged in the business of distributing medical supplies. He admitted having read the promissory notes and that he is aware of his obligation under them before he signed the same.[19]

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13 Records, pp. 8-9.
14 Id. at 63-64.
15 Id. at 67-68.
16 TSN, April 1, 2002, pp. 20-23.
17 Id. at 27-35.
18 TSN, April 4, 2003, pp. 8-17.
19 Id. at 18-23.

In its decision, the RTC ruled in favor of respondent. The *fallo* of the RTC decision reads:

> WHEREFORE, premises considered, the Complaint is hereby sustained, and Judgment is rendered ordering herein defendants to pay jointly and severally to plaintiff, the following:
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> 1. P8,901,776.63 representing the amount of the deficiency owing to the plaintiff, plus interest thereon at the legal rate after February 23, 2001;
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> 2. An amount equivalent to 10% of the total amount due as and for attorney's fees, there being stipulation therefor in the promissory notes;
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> 3. Costs of suit.
>
> SO ORDERED.[20]

The trial court agreed with respondent that when the mortgaged property was sold at public auction on February 23, 2001 for ₱10,300,000 there remained a balance of ₱8,901,776.63 since before foreclosure, the total amount due on the two promissory notes aggregated to ₱19,201,776.63 inclusive of principal, interests, penalties and attorney's fees. It ruled that the amount realized at the auction sale was applied to the interest, conformably with Article 1253 of the Civil Code which provides that if the debt produces interest, payment of the principal shall not be deemed to have been made until the interests have been covered. This being the case, petitioners' principal obligation subsists but at a reduced amount of ₱8,901,776.63.

The trial court further held that Ignacio's claim that he signed the promissory notes in blank cannot negate or mitigate his liability since he admitted reading the promissory notes before signing them. It also ruled that considering the substantial amount involved, it is unbelievable that petitioners threw all caution to the wind and simply signed the documents without reading and understanding the contents thereof. It noted that the promissory notes, including the terms and conditions, are *pro forma* and what appears to have been left in blank were the promissory note number, date of the instrument, due date, amount of loan, and condition that interest will be at the prevailing rates. All of these details, the trial court added, were within the knowledge of the petitioners.

When the case was elevated to the CA, the latter affirmed the trial court's decision. The CA recognized respondent's right to claim the deficiency from the debtor where the proceeds of the sale in an extrajudicial foreclosure of mortgage are insufficient to cover the amount of the debt. Also, it found as valid the stipulation in the promissory notes that interest will be based on the prevailing rate. It noted that the parties agreed on the interest rate which was not unilaterally imposed by the bank but was the rate

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[20] *Rollo*, p. 51.

offered daily by all commercial banks as approved by the Monetary Board. Having signed the promissory notes, the CA ruled that petitioners are bound by the stipulations contained therein.

Petitioners are now before this Court raising the sole issue of whether the interest rates imposed upon them by respondent are valid.

Petitioners contend that the interest rates imposed by respondent are not valid as they were not by virtue of any law or Bangko Sentral ng Pilipinas (BSP) regulation or any regulation that was passed by an appropriate government entity. They insist that the interest rates were unilaterally imposed by the bank and thus violate the principle of mutuality of contracts. They argue that the escalation clause in the promissory notes does not give respondent the unbridled authority to increase the interest rate unilaterally. Any change must be mutually agreed upon.

Respondent, for its part, points out that petitioners failed to show that their case falls under any of the exceptions wherein findings of fact of the CA may be reviewed by this Court. It contends that an inquiry as to whether the interest rates imposed on the loans of petitioners were supported by appropriate regulations from a government agency or the Central Bank requires a reevaluation of the evidence on records. Thus, the Court would in effect, be confronted with a factual and not a legal issue.

The appeal is partly meritorious.

The principle of mutuality of contracts is expressed in Article 1308 of the Civil Code, which provides:

> Article 1308. The contract must bind both contracting parties; its validity or compliance cannot be left to the will of one of them.

Article 1956 of the Civil Code likewise ordains that "[n]o 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.[21]

Escalation clauses refer to stipulations allowing an increase in the interest rate agreed upon by the contracting parties. This Court has long recognized that there is nothing inherently wrong with escalation clauses

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[21] *Sps. Almeda v. Court of Appeals*, 326 Phil. 309, 316 (1996).

which are valid stipulations in commercial contracts to maintain fiscal stability and to retain the value of money in long term contracts.[22] Hence, such stipulations are not void *per se*.[23]

Nevertheless, an escalation clause "which grants the creditor an unbridled right to adjust the interest independently and upwardly, completely depriving the debtor of the right to assent to an important modification in the agreement" is void. A stipulation of such nature violates the principle of mutuality of contracts.[24] Thus, this Court has previously nullified the unilateral determination and imposition by creditor banks of increases in the rate of interest provided in loan contracts.[25]

In *Banco Filipino Savings & Mortgage Bank v. Navarro*,[26] the escalation clause stated: "I/We hereby authorize Banco Filipino to correspondingly increase the interest rate stipulated in this contract without advance notice to me/us in the event *a law* should be enacted increasing the lawful rates of interest that may be charged on this particular kind of loan." While escalation clauses in general are considered valid, we ruled that Banco Filipino may not increase the interest on respondent borrower's loan, pursuant to Circular No. 494 issued by the Monetary Board on January 2, 1976, because said circular is not a law although it has the force and effect of law and the escalation clause has no provision for reduction of the stipulated interest "in the event that the applicable maximum rate of interest is reduced by law or by the Monetary Board" (de-escalation clause).

Subsequently, in *Insular Bank of Asia and America v. Spouses Salazar*[27] we reiterated that escalation clauses are valid stipulations but their enforceability are subject to certain conditions. The increase of interest rate from 19% to 21% per annum made by petitioner bank was disallowed because it did not comply with the guidelines adopted by the Monetary Board to govern interest rate adjustments by banks and non-banks performing quasi-banking functions.

In the 1991 case of *Philippine National Bank v. Court of Appeals*,[28] the promissory notes authorized PNB to increase the stipulated interest per annum "within the limits allowed by law at any time depending on whatever policy [PNB] may adopt in the future; Provided, that, the interest rate on this note shall be correspondingly decreased in the event that the applicable maximum interest rate is reduced by law or by the Monetary Board." This

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22 *Sps. Florendo v. Court of Appeals*, 333 Phil. 535, 543 (1996), citing *Banco Filipino Savings & Mortgage Bank v. Navarro*, No. L-46591, July 28, 1987, 152 SCRA 346, 353 and *Insular Bank of Asia and America v. Spouses Salazar*, No. L-82082, March 25, 1988, 159 SCRA 133, 137.

23 *Equitable PCI Bank v. Ng Sheung Ngor*, G.R. No. 171545, December 19, 2007, 541 SCRA 223, 240.

24 Id.

25 See *Philippine Savings Bank v. Castillo*, G.R. No. 193178, May 30, 2011, 649 SCRA 527; *Philippine National Bank v. Court of Appeals*, G.R. No. 107569, November 8, 1994, 238 SCRA 20; *Philippine National Bank v. Court of Appeals*, 273 Phil. 789 (1991).

26 Supra note 22, at 348, 354-355 & 358.

27 Supra note 22, at 137-138.

28 Supra note 25, at 797, 798.

Court declared the increases (from 18% to 32%, then to 41% and then to 48%) unilaterally imposed by PNB to be in violation of the principle of mutuality essential in contracts.[29]

A similar ruling was made in a 1994 case[30] also involving PNB where the credit agreement provided that "[PNB] reserves the right to increase the interest rate within the limits allowed by law at any time depending on whatever policy it may adopt in the future: Provided, that the interest rate on this accommodation shall be correspondingly decreased in the event that the applicable maximum interest is reduced by law or by the Monetary Board x x x".

Again, in 1996, the Court invalidated escalation clauses authorizing PNB to raise the stipulated interest rate at any time without notice, within the limits allowed by law. The Court observed that there was no attempt made by PNB to secure the conformity of respondent borrower to the successive increases in the interest rate. The borrower's assent to the increases cannot be implied from their lack of response to the letters sent by PNB, informing them of the increases.[31]

In the more recent case of *Philippine Savings Bank v. Castillo*,[32] we sustained the CA in declaring as unreasonable the following escalation clause: "The rate of interest and/or bank charges herein stipulated, during the terms of this promissory note, its extensions, renewals or other modifications, may be increased, decreased or otherwise changed from time to time within the rate of interest and charges allowed under present or future law(s) and/or government regulation(s) as the [PSBank] may prescribe for its debtors." Clearly, the increase or decrease of interest rates under such clause hinges solely on the discretion of petitioner as it does not require the conformity of the maker before a new interest rate could be enforced. We also said that respondents' assent to the modifications in the interest rates cannot be implied from their lack of response to the memos sent by petitioner, informing them of the amendments, nor from the letters requesting for reduction of the rates. Thus:

> … the validity of the escalation clause did not give petitioner the unbridled right to unilaterally adjust interest rates. The adjustment should have still been subjected to the mutual agreement of the contracting parties. In light of the absence of consent on the part of respondents to the modifications in the interest rates, the adjusted rates cannot bind them notwithstanding the inclusion of a de-escalation clause in the loan agreement.[33]

It is now settled that an escalation clause is void where the creditor unilaterally determines and imposes an increase in the stipulated rate of

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29 As cited in *Philippine National Bank v. Court of Appeals*, 328 Phil. 54, 61-62 (1996).
30 *Philippine National Bank v. Court of Appeals*, supra note 25, at 22.
31 Supra note 29, at 63.
32 Supra note 25, at 529, 533-535.
33 Id. at 537.

interest without the express conformity of the debtor. Such unbridled right given to creditors to adjust the interest independently and upwardly would completely take away from the debtors the right to assent to an important modification in their agreement and would also negate the element of mutuality in their contracts.[34] While a ceiling on interest rates under the Usury Law was already lifted under Central Bank Circular No. 905, nothing therein "grants lenders *carte blanche* authority to raise interest rates to levels which will either enslave their borrowers or lead to a hemorrhaging of their assets."[35]

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.[36]

Such escalation clause is similar to that involved in the case of *Floirendo, Jr. v. Metropolitan Bank and Trust Company*[37] where this Court ruled:

> 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 petitione**r, "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.[38]

More recently in *Solidbank Corporation v. Permanent Homes, Incorporated*,[39] we upheld as valid an escalation clause which required a written notice to and conformity by the borrower to the increased interest rate. Thus:

> The Usury Law had been rendered legally ineffective by Resolution No. 224 dated 3 December 1982 of the Monetary Board of the Central Bank, and later by Central Bank Circular No. 905 which took effect on 1 January 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

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34 *New Sampaguita Builders Construction, Inc. (NSBCI) v. Philippine National Bank*, 479 Phil. 483, 497-498 (2004).

35 Id. at 498, citing *Imperial v. Jaucian*, 471 Phil. 484, 494 (2004), further citing *Spouses Solangon v. Salazar*, 412 Phil. 816, 822 (2001), and *Sps. Almeda v. Court of Appeals*, supra note 21, at 319.

36 Records, pp. 35-36.

37 G.R. No. 148325, September 3, 2007, 532 SCRA 43.

38 Id. at 50-51.

39 G.R. No. 171925, July 23, 2010, 625 SCRA 275, 284-285.

> 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.
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> The three promissory notes between Solidbank and Permanent all contain the following provisions:
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> > "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."
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> 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. (Emphasis supplied.)

In this case, the trial and appellate courts, in upholding the validity of the escalation clause, underscored the fact that there was actually no fixed rate of interest stipulated in the promissory notes as this was made dependent on prevailing rates in the market. The subject promissory notes contained the following condition written after the first paragraph:

> With one year grace period on principal and thereafter payable in 54 equal monthly instalments to start on the second year. Interest at the prevailing rates payable quarterly in arrears.[40]

In *Polotan, Sr. v. CA (Eleventh Div.),*[41] petitioner cardholder assailed the trial and appellate courts in ruling for the validity of the escalation clause in the Cardholder's Agreement. On petitioner's contention that the interest rate was unilaterally imposed and based on the standards and rate formulated solely by respondent credit card company, we held:

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[40] Supra note 36.
[41] 357 Phil. 250 (1998).

> The contractual provision in question states that "if there occurs any change in the prevailing market rates, the new interest rate shall be the guiding rate in computing the interest due on the outstanding obligation without need of serving notice to the Cardholder other than the required posting on the monthly statement served to the Cardholder." This could not be considered an escalation clause for the reason that it neither states an increase nor a decrease in interest rate. Said clause simply states that the interest rate should be based on the prevailing market rate.
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> Interpreting it differently, while said clause does not expressly stipulate a reduction in interest rate, it nevertheless provides a leeway for the interest rate to be reduced in case the prevailing market rates dictate its reduction.
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> Admittedly, the second paragraph of the questioned proviso which provides that "the Cardholder hereby authorizes Security Diners to correspondingly increase the rate of such **interest in the event of changes in prevailing market rate**s x x x" is an escalation clause. However, **it cannot be said to be dependent solely on the will of private respondent as it is also dependent on the prevailing market rates.**
>
> Escalation clauses are not basically wrong or legally objectionable as long as they are **not solely potestative but based on reasonable and valid grounds.** Obviously**, the fluctuation in the market rates is beyond the control of private respondent**.[42] (Emphasis supplied.)

In interpreting a contract, its provisions should not be read in isolation but in relation to each other and in their entirety so as to render them effective, having in mind the intention of the parties and the purpose to be achieved. The various stipulations of a contract shall be interpreted together, attributing to the doubtful ones that sense which may result from all of them taken jointly.[43]

Here, the escalation clause in the promissory notes authorizing the respondent to adjust the rate of interest on the basis of a law or regulation issued by the Central Bank of the Philippines, should be read together with the statement after the first paragraph where no rate of interest was fixed as it would be based on prevailing market rates. While the latter is not strictly an escalation clause, its clear import was that interest rates would vary as determined by prevailing market rates. Evidently, the parties intended the interest on petitioners' loan, including any upward or downward adjustment, to be determined by the prevailing market rates and not dictated by respondent's policy. It may also be mentioned that since the deregulation of bank rates in 1983, the Central Bank has shifted to a market-oriented interest rate policy.[44]

There is no indication that petitioners were coerced into agreeing with the foregoing provisions of the promissory notes. In fact, petitioner Ignacio, a physician engaged in the medical supply business, admitted having

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42 Id. at 260.

43 *Bangko Sentral ng Pilipinas v. Santamaria*, 443 Phil. 108, 119 (2003), citing Art. 1374, Civil Code.

44 <www.bsp.gov.ph/downloads/publications/faqs/intrates.pdf> (visited April 3, 2013).

understood his obligations before signing them. At no time did petitioners protest the new rates imposed on their loan even when their property was foreclosed by respondent.

This notwithstanding, we hold that the escalation clause is still void because it grants respondent the power to impose an increased rate of interest without a written notice to petitioners and their written consent. Respondent's monthly telephone calls to petitioners advising them of the prevailing interest rates would not suffice. A detailed billing statement based on the new imposed interest with corresponding computation of the total debt should have been provided by the respondent to enable petitioners to make an informed decision. An appropriate form must also be signed by the petitioners to indicate their conformity to the new rates. Compliance with these requisites is essential to preserve the mutuality of contracts. For indeed, one-sided impositions do not have the force of law between the parties, because such impositions are not based on the parties' essential equality.[45]

Modifications in the rate of interest for loans pursuant to an escalation clause must be the result of an agreement between the parties. Unless such important change in the contract terms is mutually agreed upon, it has no binding effect.[46] In the absence of consent on the part of the petitioners to the modifications in the interest rates, the adjusted rates cannot bind them. Hence, we consider as invalid the interest rates in excess of 15%, the rate charged for the first year.

Based on the August 29, 2000 demand letter of China Bank, petitioners' total principal obligation under the two promissory notes which they failed to settle is ₱10,355,000. However, due to China Bank's unilateral increases in the interest rates from 15% to as high as 24.50% and penalty charge of 1/10 of 1% per day or 36.5% per annum for the period November 4, 1999 to February 23, 2001, petitioners' balance ballooned to ₱19,201,776.63. Note that the original amount of principal loan almost doubled in only 16 months. The Court also finds the penalty charges imposed excessive and arbitrary, hence the same is hereby reduced to 1% per month or 12% per annum.

Petitioners' Statement of Account, as of February 23, 2001, the date of the foreclosure proceedings, should thus be modified as follows:

Principal	₱10,355,000.00
Interest at 15% per annum P10,355,000 x .15 x 477 days/365 days	2,029,863.70

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45 *New Sampaguita Builders Construction, Inc. v. Philippine National Bank*, supra note 34, at 497.

46 See *Philippine National Bank v. Rocamora*, G.R. No. 164549, September 18, 2009, 600 SCRA 395, 407, citing *Banco Filipino Savings & Mortgage Bank v. Navarro*, supra note 22.

Penalty at 12% per annum P10,355,000 x .12 x 477days/365 days	1,623,890.96
Sub-Total	14,008,754.66
Less: A/P applied to balance of principal	(55,000.00)
Less: Accounts payable L & D	(261,149.39)
	13,692,605.27
Add: Attorney's Fees	1,369,260.53
Total Amount Due	15,061,865.79
Less: Bid Price	10,300,000.00
TOTAL DEFICIENCY AMOUNT	4,761,865.79

WHEREFORE, the petition for review on certiorari is **PARTLY GRANTED.** The February 20, 2009 Decision and April 27, 2009 Resolution of the Court of Appeals in CA G.R. CV No. 80338 are hereby **MODIFIED.** Petitioners Spouses Ignacio F. Juico and Alice P. Juico are hereby **ORDERED** to pay jointly and severally respondent China Banking Corporation ₱4,761,865.79 representing the amount of deficiency inclusive of interest, penalty charge and attorney's fees. Said amount shall bear interest at 12% *per annum*, reckoned from the time of the filing of the complaint until its full satisfaction.

No pronouncement as to costs.

SO ORDERED.

MARTIN S. VILLARAMA, JR.
Associate Justice

WE CONCUR:

See Concurring Opinion.

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the 1987 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.

MARIA LOURDES P. A. SERENO
Chief Justice