



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PHILIPPINE NATIONAL
BANK,

G.R. No. 195889

Petitioner,

Present:

- versus -

CARPIO, J., Chairperson,
BRION,
DEL CASTILLO,
MENDOZA, and
LEONEN, JJ.

SPOUSES EDUARDO AND
MA. ROSARIO TAJONERA
and EDUAROSA REALTY
DEVELOPMENT, INC.,

Promulgated:

Respondents.

SEP 24 2014

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DECISION

MENDOZA, J.:

This is a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure seeking to reverse and set aside the November 30, 2010 Decision¹ of the Court of Appeals (CA), and its March 2, 2011 Resolution,² in CA-G.R. CV No. 85458, entitled “*Spouses Eduardo & Ma. Rosario Tajonera and Eduarosa Realty & Development, Inc. v. Philippine National Bank*,” which affirmed with modification the December 8, 2003 Decision³ of the Regional Trial Court, Branch 71, Pasig City (RTC), in a case for annulment of sale, cancellation of title, cancellation of mortgage and damages.

¹ *Rollo*, pp. 65-82. Penned by Associate Justice Jane Aurora C. Lantion with Associate Justices Andres B. Reyes, Jr. and Japar B. Dimaampao, concurring.

² *Id.* at 83-84.

³ *Id.* at 134-156.

The Facts

Respondent Eduarosa Realty Development, Inc. (*ERDI*) was engaged in realty construction and sale of condominium buildings. Respondent Ma. Rosario Tajonera (*Rosario*), as the Vice President of ERDI, also performed the duties of president and marketing director dealing with banks, suppliers and contractors. ERDI, through Rosario, obtained loans from petitioner Philippine National Bank (*PNB*) and entered into several credit agreements to finance the completion of the construction of their 20-storey Eduarosa Tower Condominium located in Roxas Boulevard, Paranaque City.

Pursuant to the Credit Agreement,⁴ dated March 5, 1991, the principal amount of loan extended by PNB to ERDI was Sixty Million Pesos (₱60,000,000.00). As security for the initial loan, ERDI executed the Real Estate Mortgage (REM) consisting of three (3) parcels of land covered by Transfer Certificate of Title (TCT) Nos. 38845, 38846 and 38847 with an aggregate area of 1,352 square meters situated in Roxas Boulevard, Tambo, Paranaque, Metro Manila, registered in the name of ERDI (*Paranaque properties*). In addition, the loan was secured by the assignment of proceeds of contract receivables arising from the sale of condominium units to be constructed on the mortgaged Paranaque properties.

On January 31, 1992, ERDI executed an amendment to the Credit Agreement⁵ (*First Amendment*) and obtained an additional loan of Forty Million Pesos (₱40,000,000.00). As additional security to the increased amounts of loan, the respondent spouses' 958-square meter lot and the improvements thereon, situated in Greenhills, San Juan, Metro Manila (*Greenhills property*) and covered by TCT No. 29733, was mortgaged in favor of PNB as evidenced by the Supplement to REM.⁶ On October 28, 1992, a Second Amendment to Credit Agreement⁷ (*Second Amendment*) was executed by the parties to extend the repayment dates of the loan and the additional loan subject to the terms set forth in the said agreement.

The following year, or on November 3, 1993, a Third Amendment to the Credit Agreement⁸ (*Third Agreement*) was entered into by the parties wherein PNB granted an additional loan of Fifty Five Million Pesos (₱55,000,000.00) to ERDI, subject to several conditions stated in the said agreement.

⁴ Id. at 85-91.

⁵ Id. at 102-107.

⁶ Id. at 108-111.

⁷ Id. at 112-116.

⁸ Id. at 117-122.

As of September 30, 1994, ERDI's outstanding loan obligation with PNB amounted to ₱211,935,067.40.⁹

ERDI failed to settle its obligation. As a consequence, PNB filed an application for foreclosure of the Greenhills property. As the highest bidder, PNB was issued the Certificate of Sale,¹⁰ dated October 9, 1997. Upon ERDI's failure to redeem the property, PNB consolidated its title and caused the cancellation of TCT No. 29733.¹¹ A new title, TCT No. 9424-R, was issued in the name of PNB.¹²

The Complaint

This prompted the respondents to file a complaint against PNB for annulment of sale, cancellation of title, cancellation of mortgage, and damages before the RTC. In the complaint, the respondents alleged that: the title to the mortgaged property that was transferred to PNB as a consequence of the foreclosure proceedings was null and void as their mortgage obligation had been novated and no new loans were released to them, in violation of the provisions of the Supplement to REM; the foreclosure proceedings were defective due to PNB's failure to send personal notice to the respondent spouses; PNB's delay in the release of loan proceeds under the credit agreements caused the non-completion of the condominium project; and the properties mortgaged under the original mortgage contract covering the respondents' condominium titles should now be discharged, as the property of the respondent spouses had already been foreclosed.¹³

PNB's Answer

In its Answer with Counterclaim, PNB denied the respondents' allegations and raised the following defenses: 1) the mortgage contract was supported by valuable consideration as the loan proceeds under the credit agreements were fully released to them; 2) there was no novation of the contract; 3) demand letters were given to and duly received by the respondents; and 4) the sufficiency of the mortgage over the condominium titles cannot be determined because the court has no jurisdiction over such issue.¹⁴

⁹ Id. at 123-124.

¹⁰ Id. at 128.

¹¹ Id. at 129.

¹² Id. at 130.

¹³ Id. at 66.

¹⁴ Id. at 67.

The RTC Decision

On December 8, 2003, the RTC rendered its judgment in favor of the respondents and disposed as follows:

WHEREFORE, judgment is hereby rendered in favor of plaintiffs and against the defendant:

1. NULLIFYING and CANCELLING the Supplement to Real Estate Mortgage dated January 28, 1992 and the Certificate of Sale dated October 9, 1997.

2. NULLIFYING and CANCELLING the Transfer Certificate of Title No. 9424-R, Registry of Deeds for San Juan, Metro Manila, and REINSTATING Transfer Certificate of Title No. 29733, Registry of Deeds for San Juan, Metro Manila.

3. ORDERING the defendant to pay the plaintiffs the amount of ₱500,000.00 as moral damages.

4. ORDERING the defendant to pay the plaintiffs the amount of ₱200,000.00 as exemplary damages.

5. ORDERING the defendant to pay the plaintiffs the amount of ₱100,000.00 as and by way of attorney's fees.

6. Costs of suit.

Counterclaims are hereby DISMISSED for lack of merit.

SO ORDERED.¹⁵

The RTC annulled the mortgage contract constituted over the Greenhills property on the ground of breach of contract on the part of PNB by violating the credit agreements.

The CA Decision

Aggrieved, PNB elevated the matter to the CA. In its Decision, dated November 30, 2010, the CA affirmed the decision of the RTC, but deleted the award of moral and exemplary damages. In the dispositive portion of its assailed decision, the CA declared:

WHEREFORE, the challenged Decision dated 08 December 2003 is **AFFIRMED** with **Modification** in that the awards for moral and exemplary damages are deleted.

SO ORDERED.¹⁶

¹⁵ Id. at 155-156.

¹⁶ Id. at 82.

The CA agreed with the RTC ruling that inasmuch as PNB did not release the remaining balance of the approved loan amounting to ₱39,503,088.84 under the Third Amendment, there was no sufficient valuable consideration in the execution of the Supplement to REM that secured the said credit agreement. There was, according to the CA, breach of contract on the part of PNB that warranted the annulment and cancellation of the Supplement to REM covering the Greenhills property. Further, the CA rejected PNB's claim that its refusal to release the balance of the last loan was due to the respondents' failure to comply with the undertaking of bringing new investors with additional collaterals to secure the additional loan as such requirement was not categorically stated in the terms of the credit agreement. Also, such claim was belied by PNB's own witness who testified that the reason for its refusal to release was simply the respondents' failure to settle their amortization.

PNB filed a motion for reconsideration of the said decision, but the same was denied by the CA in its assailed Resolution, dated March 2, 2011.

Hence, this petition.

The Issues:

In its Memorandum,¹⁷ PNB submits the following issues for consideration:

Whether or not the CA decided in accordance with the applicable laws and jurisprudence when:

- (1) it ruled that the *Supplement to Real Estate Mortgage*, dated 28 January 1992, lacked sufficient valuable consideration even when the loan proceeds secured by it under the *Third Amendment*, dated 03 November 1993, had been substantially released by PNB, and the *Credit Agreement*, dated 05 March 1991, as well as the *First and Second Amendments* thereto, dated 31 January 1992 and 28 October 1992, respectively, upon which the same *Supplement to Real Estate Mortgage* was similarly constituted as additional security, had all been duly executed and consummated;
- (2) it ruled that PNB breached its contractual obligation when it supposedly failed to release the remaining balance of the approved loan in the amount of ₱39,503,088.84 to the respondents even when the latter had not had a single history

¹⁷ Dated October 19, 2012, id. at 313-380.

of payment and did not need the entire amount for the purpose-specific loan grant under the *Credit Agreement* and its *Amendments*;

- (3) upon a finding of breach of contractual obligation on the part of PNB due to its supposed unjustified release of a portion of the loan proceeds, it ruled for the annulment and cancellation of supplement to real mortgage (the accessory contract) yet ratiocinated that the Third Amendment (the principal contract) became unenforceable only to the extent of unreleased portion of the loan proceeds.¹⁸

The Court's Ruling

PNB's assignment of errors boils down to the sole issue of whether the CA erred in annulling the mortgage contract constituted over the Greenhills property of the respondents.

PNB contends that the Supplement to REM was supported by sufficient and valuable consideration because the loan proceeds secured by it under the Third Amendment had been substantially released to the respondents. It avers that had it not been for the additional collateral over the Greenhills property, PNB would not have made the respondents' loan account current under the First Amendment. This consideration, according to it, must be deemed valuable and sufficient enough to uphold the validity of the Supplement to the REM.

PNB insists that there was no breach, substantial or otherwise, of its contractual obligation when it did not release the remaining balance of the approved loan to the respondents considering that the latter had no history of any payment either on interest or principal of the loan. PNB, thus, asserts that the CA erred when it affirmed the RTC in ordering the annulment and cancellation of the supplement REM covering the Greenhills property.

PNB's arguments fail to persuade.

Record shows that ERDI obtained loans from, and entered into, several credit agreements with PNB to finance the completion of the construction of its 20-storey condominium project, the Eduarosa Towers. Pertinent details of the said credit agreements are summarized as follows:

¹⁸ Id. at 330-331.

	Amount of Loan (□)	Grant	Date of Execution
Credit Agreement	60,000,000.00 5,000,000.00	Loan Domestic Bills Purchased (DBP)	March 5, 1991
Amendment to Credit Agreement	40,000,000.00	Additional Loan	January 31, 1992
2 nd Amendment to Credit Agreement	None	Extension of repayment dates of the loan and additional loan	October 28, 1992
3 rd Amendment to Credit Agreement	55,000,000.00	Additional Loan	November 3, 1993

As recited earlier, on March 5, 1991, ERDI obtained from PNB a loan in the amount of □60,000,000.00 plus □5,000,000.00 Domestic Bills. To secure this initial loan, ERDI mortgaged in favor of PNB its Paranaque properties together with the 20-storey condominium building to be erected thereon.

Thereafter or on January 31, 1992, ERDI and PNB entered into The First Amendment wherein the former obtained an additional loan of □40,000,000.00. As security for the additional loan, the respondents' Greenhills property was mortgaged as evidenced by the Supplement to REM executed by the parties on January 28, 1992. The Second Amendment was likewise entered into by the parties for the purpose of extending the repayment dates of the loan and the additional loan.

On November 3, 1993, the Third Amendment was entered into by the parties wherein the respondents were granted a second additional loan of □55,000,000.00.

The agreement between PNB and the respondents was one of a loan. Under the law, a loan requires the delivery of money or any other consumable object by one party to another who acquires ownership thereof, on the condition that the same amount or quality shall be paid. Loan is a reciprocal obligation, as it arises from the same cause where one party is the creditor, and the other the debtor. The obligation of one party in a reciprocal obligation is dependent upon the obligation of the other, and the performance should ideally be simultaneous. This means that in a loan, the

creditor should release the full loan amount and the debtor repays it when it becomes due and demandable.¹⁹

PNB, not having released the balance of the last loan proceeds in accordance with the Third Amendment had no right to demand from the respondents compliance with their own obligation under the loan. Indeed, if a party in a reciprocal contract like a loan does not perform its obligation, the other party cannot be obliged to perform what is expected of them while the other's obligation remains unfulfilled.²⁰

When PNB and the respondents entered into the First, Second and Third Amendments on January 31, 1992, October 28, 1992 and November 3, 1993, respectively, they undertook reciprocal obligations. In reciprocal obligations, the obligation or promise of each party is the consideration for that of the other; and when one party has performed or is ready and willing to perform his part of the contract, the other party who has not performed or is not ready and willing to perform incurs in delay.²¹ The promise of the respondents to pay was the consideration for the obligation of PNB to furnish the ₱40,000,000.00 additional loan under the First Amendment as well as the ₱55,000,000.00 the second additional loan under the Third Amendment. When the respondents executed the Supplement to REM covering their Greenhills property, they signified their willingness to pay the additional loans. It should be noted, as correctly found by the CA, that the Supplement to REM was constituted not only as security for the execution of the First Amendment but also in consideration of the Second and Third Amendments. The provisions of the Third Amendment read in part:

SECTION 2. THE AMENDMENTS

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2.05 The full payment of the Loans and any and all sums payable by the Borrower hereunder and under the Notes and the other documents contemplated hereby and the faithful compliance by the Borrower with the terms and conditions hereof and thereof and the Notes shall be secured by the following collaterals:

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b) Existing real estate mortgage on a parcel of land with an area of 958 sq. m., more or less, together with the improvements thereon, situated in San Juan, Metro Manila, covered by TCT No. 29733 of the land records for Metro Manila (D-11) and registered in the name of Rosario M. Mendoza married to Eduardo Tajonera (the

¹⁹ *Development Bank of the Philippines v. Guarina Agricultural and Realty Development Corporation*, G.R. No. 160758, January 15, 2014.

²⁰ *Id.*, citing *Cortes v. Court of Appeals*, 527 Phil. 153, 160 (2006).

²¹ *Central Bank of the Philippines v. Court of Appeals*, 223 Phil. 266, 273 (1985).

“Accommodation Mortgagors”), as evidenced by that Supplement to Real Estate Mortgage dated January 28, 1992 and acknowledged before Notary Public for the City of Manila, Rowena Fe N. Suarez as Doc. No. 300, Page No. 61, Book No. II Series of 1992;²²

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The obligation of PNB was to furnish the ₱55,000,000.00 additional loan accrued on November 3, 1993, the date the parties entered into the Third Amendment. Thus, PNB’s delay in furnishing the entire additional loan started from the said date.

Considering that PNB refused to release the total amount of the additional loan granted to ERDI under the Third Amendment amounting to ₱39,503,088.84, the CA was correct in affirming the RTC’s conclusion that there was no sufficient valuable consideration in the execution of the Supplement to REM. In the assailed decision, the CA wrote:

Indeed, the execution of the subject Supplement to Real Estate Mortgage dated January 28, 1992 lacks sufficient valuable consideration since PNB did not release the balance of the Php160,000,000.00 approved loan in the amount of Php39,503,038.54, pursuant to the Third Amendment to Credit Agreement of the parties. As the records would show, the subject Supplement to Real Estate Mortgage, *supra*, was constituted by Appellees as additional security for the execution of the 1st, 2nd as well as the 3rd Amendment to Credit Agreements.

To elucidate, the Greenhills property was first mortgaged by Appellees in favor of PNB as collateral security to the additional loan of Php40,000,000.00, evidenced by the provisions of the 1st Amendment to Credit Agreement, reading as follows:

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We agree with the court *a quo* when it correctly ruled that the subject supplement mortgage over Appellees’ Greenhills property was likewise constituted in consideration of the Third Amendment to Credit Agreement, *supra*, as evidenced by 2.05 (b), Section 2 thereof which provides, to *wit*:

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²² *Rollo*, pp. 119-120.

In view of the foregoing, We hold that the court *a quo* aptly ruled that the refusal of PNB to release portion of the additional loan granted under the Third Amendment to Credit Transaction is not justified. In this jurisdiction, breach of contract is defined as follows:

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[It] is the “failure without legal reason to comply with the terms of a contract.” It is also defined as the “[f]ailure, without legal excuse, to perform any promise which forms the whole or part of the contract.”

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Undoubtedly, PNB breached its contractual obligation when it failed to release to Appellees the remaining balance of the approved loan amounting to Php39,503,088.84.²³

The RTC found that PNB was guilty of breach of contract as the credit agreements had been violated. For its failure to release the balance of the approved loan, the construction of the Eduarosa Towers Condominium project was not finished, transgressing the very purpose of the credit agreements, that is, to finance the completion of the construction of Eduarosa Towers. This factual finding was affirmed by the CA. Thus, the Court is bound to uphold such finding. “The settled rule is that conclusions and findings of fact of the trial court are entitled to great weight on appeal and should not be disturbed unless for strong and cogent reasons because the trial court is in a better position to examine real evidence, as well as observe the demeanor of the witnesses while testifying in the case. The fact that the CA adopted the findings of fact of the trial court makes the same binding upon this Court.”²⁴

At any rate, the Court finds no merit in PNB’s claim that its refusal to release the balance of the approved additional loan was justified on the ground of the respondents’ failure to settle their amortization. PNB’s own witness, Mr. Mallari, testified, thus:

²³ Id. at 76-78.

²⁴ *Dato v. Bank of the Philippine Islands*, G.R. No. 181873, November 27, 2013, 710 SCRA 716, 729, citing *Magdiwang Realty Corporation v. The Manila Banking Corporation*, G.R. No. 195592, September 5, 2012, 680 SCRA 251, 263-264, citing *Bernales v. Heirs of Julian Sambaan*, G.R. No. 163271, January 15, 2010, 610 SCRA 90, 104-105.

Cross Examination

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ATTY. LLAUDER:

Q. Now, what happened to the balance of the loan that was yet to be released to plaintiff corporation?

A: The bank did not allow further availments because of the failure of the borrower to pay the maturing obligation.

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Redirect Examination

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ATTY. BALDONO:

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Q: What was the reason, Mr. Witness, why the PNB withheld the release of the additional loan?

A: Because the borrower failed to settle the quarterly amortization June 30, 1994. Even the June 30, the amortization were never settled by the borrower.

COURT:

What year?

A: June 30, 1994, your Honor.²⁵

Evidently and as aptly observed by the CA, PNB cannot justify its failure to release the balance of the last loan executed with the respondents under the Third Amendment on November 3, 1993 considering that the latter's liability to pay their first amortization arose only on June 30, 1994. As expressly provided in the terms of the second additional loan embodied in the Third Amendment, to wit:

SECTION 1. TERMS OF THE SECOND ADDITIONAL LOAN

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1.05 Repayment Dates. The Borrower agrees to repay the Second Additional Loan in full in eleven (11) equal (or as nearly equal as possible) consecutive quarterly installments ("Repayment Dates"), the first installment to commence on June 30, 1994 and every quarter thereafter up to December 31, 1996.

²⁵ *Rollo*, pp. 79-80.

SECTION 2. THE AMENDMENTS

2.01 The Interest Payment Dates and Repayment Dates of the Loan, the Additional Loan and the Second Additional Loan (Collectively the “Loans”) shall be the same. Accordingly, the Credit Documents are hereby amended to change the Interest Payment Dates and Repayment Dates in the following manner:

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First principal payment on the Loans shall commence on June 30, 1994 and every quarter thereafter until maturity of all the loans on December 31, 1996.²⁶ [Underscoring Supplied]

Equally without merit is PNB’s reliance on the case of *Sps. Omengan v. Philippine National Bank*.²⁷ The said case finds no application inasmuch as the circumstances in that case are not in all fours with the present case. In *Omengan* case, there was no actual meeting of the minds with respect to the conditionally approved additional loan as the condition attached to the increase in borrowers’ credit line was not acknowledged and accepted by them. Hence, there being no perfected contract over the increase in credit line, it was held that no breach of contract could be attributed to PNB in not releasing the additional loan. In the present case, there was a perfected contract in so far as the Third Amendment was concerned. Thus, PNB’s action in not releasing the entire amount of the additional loan was not justified.

Still in the said case, at the time the original loan was approved, the title to the property offered as collateral appeared to pertain exclusively to Spouses Omengan. By the time the application for increase was considered, PNB had acquired information that the said property, although in the name of spouses petitioners was owned in co-ownership. The Court justified PNB’s act of withholding the release of the additional loan because it already had reason to suspect the spouses’ claim of exclusive ownership over the mortgaged collateral. In this case, the respondents were unquestionably the exclusive owners of the mortgaged property (Greenhills property) at the time the initial and the additional loans were approved.

For said reasons, the Court holds that PNB was indeed guilty of breach of contract of its reciprocal obligation under the credit agreements.

²⁶ Id. at 117-119.

²⁷ 541 Phil. 293 (2007).

Considering that there was no sufficient valuable consideration in the execution of the Supplement to REM on the Third Amendment as the balance of the last approved additional loan in the amount of ₱39,503,088.54 remained unreleased, the cancellation of the Supplement to REM constituted over the respondents' Greenhills property was in order.

It is true that loans are often secured by a mortgage constituted on real or personal property to protect the creditor's interest in case of the default of the debtor. By its nature, however, a mortgage remains an accessory contract dependent on the principal obligation, such that enforcement of the mortgage contract depends on whether or not there has been a violation of the principal obligation. While a creditor and a debtor could regulate the order in which they should comply with their reciprocal obligations, it is presupposed that in a loan the lender should perform its obligation – the release of the full loan amount.²⁸

In this case, to repeat, PNB did not fulfill its principal obligation under the Third Amendment by failing to release the amount of the last additional loan in full. Consequently, the Supplement to REM covering the Greenhills property became unenforceable, as the said property could not be entirely foreclosed to satisfy the respondents' total debts to PNB. Moreover, the Supplement to REM was no longer necessary because PNB's interest was amply protected as the loans had been sufficiently secured by the Paranaque properties. As aptly found by the RTC, the Paranaque properties together with the 20-storey condominium building to be erected thereon would have been sufficient security in the execution of the REM even without the Greenhills property as additional collateral. Thus, under the circumstances, PNB's actuation in foreclosing the Greenhills property was legally unfounded.

Being a banking institution, PNB owes it to the respondents to observe the high standards of integrity and performance in all its transactions because its business is imbued with public interest. The high standards are also necessary to ensure public confidence in the banking system, for, according to *Philippine National Bank v. Pike*,²⁹ "[t]he stability of banks largely depends on the confidence of the people in the honesty and efficiency of banks."³⁰ Thus, PNB was duty bound to comply with the terms and stipulations under its credit agreements with the respondents, specifically the release of the amount of the additional loan in its entirety, lest it erodes public confidence. Yet, PNB failed in this regard.

²⁸ *Development Bank of the Philippines v. Guarina Agricultural and Realty Development Corporation*, supra note 19.

²⁹ 507 Phil. 322, 340 (2005).

³⁰ *Development Bank of the Philippines v. Guarina Agricultural and Realty Development Corporation*, supra note 19.

Regarding the award of damages, the CA ruled that the RTC erred in awarding moral and exemplary damages for failure of the respondents to prove with convincing evidence malice or bad faith on the part of PNB. The Court finds no reason to overturn this finding.

Moral damages are explicitly authorized in breaches of contract when the defendant has acted fraudulently or in bad faith.³¹ Exemplary damages, on the other hand, are intended to serve as an example or a correction for the public good. Courts may award them if the defendant is found to have acted in a wanton, fraudulent, reckless, oppressive, or malevolent manner.³²

Concededly, PNB was remiss in its obligation to release the balance of the additional loan it extended to the respondents. Nothing in the records or findings of the RTC and the CA, however, would show that PNB acted with a deliberate intent to maliciously cause damage or harm to the respondents. And, inasmuch as the respondents were also found to have been remiss in their obligation to pay their loan amortization, the CA was correct in deleting the award for moral and exemplary damages in favor of the respondents.

Finally, the Court sustains the award for attorney's fees because the same is just and equitable under the circumstances.³³ Considering PNB's failure to release the remaining balance of the approved loan, the Court agrees that the respondents were compelled to litigate for the purpose of recovering their property and to protect their interest, making the award of attorney's fees proper.

WHEREFORE, the petition is **DENIED**. The November 30, 2010 Decision and the March 2, 2011 Resolution of the Court of Appeals in CA-G.R. CV No. 85458 are **AFFIRMED**.

SO ORDERED.

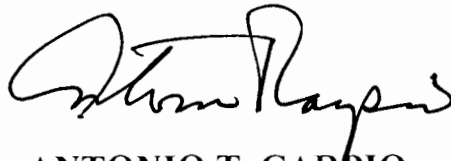

JOSE CATRAL MENDOZA
Associate Justice

³¹ *Philippine National Bank v. RBL Enterprises, Inc.*, G.R. No. 149569, May 28, 2004, 430 SCRA 299, citing *Spouses Mirasol v. Court of Appeals*, 403 Phil. 760, 779 (2001).

³² *Id.*, citing Article 2232 of the Civil Code.

³³ Article 2208 (11) of the Civil Code.

WE CONCUR:



ANTONIO T. CARPIO

Associate Justice

Chairperson



ARTURO D. BRION

Associate Justice



MARIANO C. DEL CASTILLO

Associate Justice



MARVIC M.V.F. LEONEN

Associate Justice

ATTESTATION

I attest 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.



ANTONIO T. CARPIO

Associate Justice

Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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