Republic of the Philippines
Supreme Court
Manila

**SECOND DIVISION**

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| **4E STEEL BUILDERS CORPORATION and SPOUSES FILOMENO G. ECRAELA & VIRGINIA ECRAELA,** Petitioners, | **G.R. No. 230013** |
| – versus – | |
| **MAYBANK PHILIPPINES, INC., and THE SHERIFF OF THE CITY OF CALOOCAN,** Respondents. | |
| x----------x | |
| **MAYBANK PHILIPPINES, INC.** Petitioner, | **G.R. No. 230100** |
| | **Present:** |
| – versus – | LEONEN, *J.*, *Chairperson*, LAZARO-JAVIER, LOPEZ, M. LOPEZ, J., and KHO, JR., *JJ.* |
| **4E STEEL BUILDERS CORPORATION and SPOUSES FILOMENO G. ECRAELA & VIRGINIA ECRAELA,** Respondents. | **Promulgated:** MAR 13 2023 |

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# D E C I S I O N

**LOPEZ, J., *J.*:**

This Court resolves the consolidated Petitions for Review on *Certiorari*[1] under Rule 45 of the Rules of Court filed by 4E Steel Builders Corporation (*4E Steel*) and Spouses Filomeno and Virginia Ecraela (*Spouses Ecraela*) and Maybank Philippines, Inc.[2] (*Maybank*), assailing the following issuances of the Court of Appeals (*CA*) in CA-G.R. CV No. 101587: a) Decision[3] which annulled the foreclosure sale and cancelled the registration of the parcels of land covered by Transfer Certificate of Title (*TCT*) Nos. 340528, C-316200, 215757, 309070, and C-322693 in favor of Maybank and ordered Spouses Ecraela to pay Maybank their total loan obligation to be determined by an independent accountant; and b) Resolution[4] which denied the parties' Motion for Reconsideration.

## The Antecedents

Maybank is a foreign banking corporation operating in the Philippines.[5] Meanwhile, 4E Steel is a domestic company with Filomeno Ecraela as its President and Virginia Ecraela as its Corporate Secretary.[6]

On December 14, 1999, Maybank executed a Credit Agreement[7] in favor of 4E Steel, represented by Spouses Ecraela, that gave the company a credit line with the bank in an amount not exceeding PHP 4,800,000.00. This credit line was set to expire on November 12, 2000.[8]

To secure the payment of drawdowns on the credit line, Spouses Ecraela mortgaged five parcels of land covered by TCT Nos. 340528, C-316200, 215757, 309070, and C-322693.[9] Of these mortgaged properties, they owned the land covered by TCT No. 340528.[10] Meanwhile, the parcels of land covered by TCT Nos. 309070 and C-322693 were owned by 4E Steel.[11] The lands covered by TCT No. C-316200 and TCT No. 215757 belonged to accommodation mortgagors Spouses Henry and Sally Sia and Bethaida de los

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1 *Rollo* (G.R. 230013), pp. 13–62.
2 *Rollo* (G.R. 230100), pp. 11–37.
3 *Rollo* (G.R. 230013), pp. 117–139 and *Rollo* (G.R. 230100), pp. 38–60. The Decision dated June 21, 2016 in CA-G.R. CV No. 101587 was penned by Associate Justice Carmelita Salandanan Manahan and concurred in by Associate Justice Japar B. Dimaampao (now a member of this Court) and Associate Justice Franchito N. Diamante of the Former Eighth Division of the Court of Appeals, Manila.
4 *Rollo* (G.R. 230013), pp. 167–170, and *Rollo* (G.R. 230100), pp. 61–64. The Resolution dated February 17, 2017 in CA-G.R. CV No. 101587 was penned by Associate Justice Carmelita Salandanan Manahan with the concurrence of Associate Justice Japar B. Dimaampao (now a member of this Court) and Associate Justice Franchito N. Diamante of the Former Eighth Division of the Court of Appeals, Manila.
5 *Rollo* (G.R. No. 230100), p. 14.
6 *Rollo* (G.R. No. 230013), p. 14.
7 *Id.* at 162–165.
8 *Id.* at 118.
9 *Id.*
10 *Id.*
11 *Id.*

Reyes, respectively.[12]

4E Steel received the following promissory notes from the credit line:[13]

| | PN No. | Date | Amount | Interest | Interest Period | Maturity Date |
|---|---|---|---|---|---|---|
| 1 | 99-038 | 12/17/1999 | Php 2,500,000.00 | 14.50% | 180 days | 1 year after date |
| 2 | 2000-035 | 02/22/2000 | 100,000.00 | 14.50% | 30 days | 30 days after date |
| 3 | 2000-48 | 03/17/2000 | 150,000.00 | 14.50% | 32 days | 30 days after date |
| 4 | 2000-051 | 03/20/2000 | 50,000.00 | 14.50% | 30 days | 30 days after date |
| 5 | 2000-066 | 04/18/2000 | 2,000,000.00 | 15.00% | 30 days | 30 days after date |

Notably, each promissory note contained an acceleration clause that would allow the bank to consider the loan obligations due and demandable, without need for notice or demand, in case of failure to pay the loan or any amortization.[14] The pertinent portions of the acceleration clause read:

> Without need for notice or demand, failure to pay this note or any amortization thereon, when due, shall constitute default and in such cases or in case of garnishment, receivership or bankruptcy or suit of any kind filed against me/us by the Bank the outstanding amount of this note, at the option of the Bank and without prior notice or demand, shall immediately become due and payable and shall be subject to a penalty charge of twenty four percent (24%) per annum based on the defaulted amount.[15]

For Promissory Note Nos. 2000-035[16] and 2000-48,[17] there was an automatic conversion clause which specifically provided that the loan covered by the said promissory notes which remained unpaid after 365 days shall be converted into a medium or long-term loan, as the case maybe, and shall be subject to the interest rate charged by the bank on such obligations, thus:

> In case the term of the Loan/Availment/Advance is 365 days or less, any portion of the Loan/Availment/Advance which shall remain unpaid after 365 days from date of original release or original relevant Availment or Advance shall be automatically converted into a medium or long term loan, as the case may be, and shall be subject to interest rate charged by the Bank on such obligations to be applied from date of such original release or original relevant Availment or Advance.[18]

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12 *Id.*
13 *Id.* at 118.
14 *Id.* at 190, 192, 194, 196, and 198.
15 *Id.*
16 *Id.* at 192.
17 *Id.* at 194.
18 *Id.* at 192 & 194.

On December 14, 2001, Maybank approved the renewal of the credit line.[19] Consequently, the parties consolidated the five promissory notes under a single promissory note denominated as Promissory Note No. 04-004-00-0117-5 dated December 26, 2001. Under Promissory Note No. 04-004-00-0117-5, 4E Steel, represented by Spouses Ecraela, promised to pay Maybank the amount of PHP 4,800,000.00 upon its maturity on June 10, 2002.[20] The pertinent provisions of Promissory Note No. 04-004-00-0117-5 reads:

> 180 days after date, for value received, I/ We jointly and severally prom[i]se to pay to the order of Maybank, Philippines, Inc. (the "Bank") at its office in Cartimar the sum of PHILIPPINE PESOS Four Million Eight Hundred Thousand (Php 4,800,000.00) together with interest thereon for the current interest Period at a rate of Prevailing Prime Rate percent + 2.5%[21]

When the drawdowns on the credit line became due and demandable, Maybank sent a letter[22] dated February 19, 2003 to 4E Steel and Spouses Ecraela, reminding them to settle their outstanding obligation.[23] In a letter[24] dated April 8, 2003, 4E Steel, through its legal counsel Atty. Rafael N. Cristobal, acknowledged the company's outstanding loan. However, 4E Steel asseverated that it only received the amount of PHP 2,800,000.00.[25] The loan under Promissory Note No. 2000-066 in the amount of PHP 2,000,000.00 was merely an accommodation in favor of Mega Builders.[26] Thus, 4E Steel requested for a reconciliation of its account records and restructuring of its loan for immediate settlement and payment.[27]

In response, Maybank issued a statement of account,[28] which indicated that as of May 20, 2003, 4E Steel's total outstanding obligation under Promissory Note No. 4-004-00-0117-5 amounted to PHP 6,638,488.34, broken down as follows:

4E STEEL BUILDERS CORPORATION
STATEMENT OF ACCOUNT
As of May 20, 2003

| | |
|---|---|
| ORIGINAL AMOUNT: | 4,800,000.00 |
| PN Nos.: | 4-004-00-0117-5 |

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19 *Id.* at 119.
20 *Id.*
21 *Rollo*, (G.R. No. 230100), p. 35.
22 *Rollo*, (G.R. No. 230013), pp. 271–272.
23 *Id.*
24 *Id.* at 202.
25 *Id.*
26 *Id.* at 119.
27 *Id.* at 202.
28 *Id.* at 205.

| | |
|---|---|
| DATE GRANTED: | 12-Dec-01 |
| PN MATURITY: | 10-Jun-02 |
| Principal | PHP 4,800,000.00 |
| Interest | 592,149.47 |
| Penalty on Interest | 71,318.05 |
| Penalty on Principal | 1,100,800.00 |
| Accounts Receivable | 70,126.78 |
| Interest on Accounts Receivable | 4,094.04 |
| **Total** | **Php 6,638,488.34**[29] |

Dissatisfied, 4E Steel filed a Complaint for Accounting and Re-application of Payments before Branch 125, Regional Trial Court (*RTC*) of Caloocan City, which the RTC docketed as Civil Case No. C-20539.[30]

Subsequently, Maybank filed a Petition for Extrajudicial Foreclosure of the Mortgaged Properties.[31] Accordingly, the notary public, Attorney Antonio D. Seludo, issued a Notice of Extrajudicial Foreclosure Sale of Mortgaged Property by a Notary Public under Act No. 3135, as amended, which announced the sale of the subject properties at public auction.[32]

In this regard, 4E Steel amended its Complaint to include Spouses Ecraela as plaintiffs and sought for the following additional reliefs, among others: a) Declaration of Nullity of the Petition for Extrajudicial Foreclosure and b) Issuance of Preliminary Injunction and Temporary Restraining Order.[33] Meanwhile, Maybank filed an Answer with Counterclaim which prayed for the dismissal of the Amended Complaint for lack of merit.[34]

On November 17, 2003, the RTC issued an Order which denied 4E Steel and Spouses Ecraela's Application for the Issuance of a Writ of Preliminary Injunction to enjoin the extrajudicial foreclosure of the mortgaged properties. Thus, the notary public proceeded with the foreclosure sale of the mortgaged properties on November 21, 2003, where Maybank emerged as the highest bidder.[35] Thereafter, a certificate of sale was issued in its name.[36]

Unfazed, 4E Steel and Spouses Ecraela filed a Supplemental Complaint where they contended that Maybank, being a corporation owned and controlled by foreign nationals, is disqualified by law from acquiring lands in

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29 *Id.* at 205.
30 *Id.* at 350.
31 *Id.* at 120.
32 *Id.*
33 *Id.* at 219.
34 *Id.* at 122.
35 *Id.* at 301.
36 *Id.*

the Philippines.[37] Along this line, they included an Additional Prayer for the Declaration of Nullity of Sale of the Foreclosed Properties and Cancellation of the Annotation of Mortgage on the titles of said properties.[38]

In its Supplemental Answer, Maybank countered that its participation in the foreclosure sale did not violate the law based on the following grounds: 1) Maybank, while owned or controlled by foreign nationals, remained to be a domestic corporation duly organized and existing under Philippine laws; 2) Section 5 of Act No. 3135 allows the participation of a creditor bank during the extrajudicial foreclosure sale; and 3) the issuance of a certificate of sale in its favor as the highest bidder does not *ipso facto* vest absolute ownership of the foreclosed properties since 4E Steel and Spouses Ecraela have a right of redemption over the same.[39]

On August 13, 2012, the RTC rendered a Decision[40] which dismissed the Amended Complaint filed by 4E Steel and Spouses Ecraela. The RTC opined that the foreclosure sale of the mortgaged properties was in accordance with law.[41] On April 8, 2013, the RTC also issued an Order[42] which denied their Motion for Reconsideration.

Undaunted, 4E Steel and Spouses Ecraela appealed to the CA.

On June 21, 2016, the CA rendered its assailed Decision which partially granted the Appeal.[43] The CA ruled that the amount of PHP 2,000,000.00 which 4E Steel and Spouses Ecraela assumed under Promissory Note No. 2000-066 as accommodation makers shall be included in their principal obligation to Maybank.[44] Moreover, the loan obligation under each promissory note is already due and demandable without need of notice pursuant to its respective acceleration clause.[45] In addition, the automatic conversion clause did not alter the maturity dates of the loan covered by Promissory Note Nos. 2000-035 and 2000-48, but only the applicable interest rates.[46] Hence, the total amount of the principal obligation is PHP 4,800,000.00.[47]

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37 *Id.* at 122.
38 *Id.*
39 *Id.*
40 *Id.* at 350–353. The Decision dated August 13, 2012 in Civil Case No. C-20539 was penned by Presiding Judge Dionisio C. Sison.
41 *Id.* at 122.
42 *Id.* at 355. The Order dated April 8, 2013 in Civil Case No. C-20539 was penned by Presiding Judge Dionisio C. Sison.
43 *Id.* at 137–139.
44 *Id.* at 126.
45 *Id.* at 127–128.
46 *Id.* at 127.
47 *Id.* at 125.

On the foreclosure of the mortgaged properties, the CA applied Republic Act (*R.A.*) No. 133, as amended by R.A. No. 4882, or the law in force when the extrajudicial foreclosure sale of the mortgaged properties took place.[48] For a corporation to be eligible to participate in the foreclosure sale of real property, the same law requires that the following conditions should be met: (1) the percentage of Filipino ownership in the capital stock of said corporation is at least 60%; and (2) the corporation is a domestic corporation, or a corporation organized and existing under Philippine laws.[49] The CA observed that the articles of incorporation as well as the 2003 General Information Sheet of Maybank that would show the percentage of Filipino ownership of its capital stock at the time of the extrajudicial foreclosure sale, were not offered in evidence.[50] Nevertheless, Maybank admitted in its Supplemental Answer that majority of its capital stock is owned and controlled by foreign nationals.[51] Therefore, it is disqualified from bidding or taking part in the extrajudicial foreclosure sale of the properties held on November 21, 2003.[52]

Be that as it may, the CA did not order for the reconveyance of the foreclosed properties since the certificate of sale, or any record that the title of the said foreclosed properties was transferred to Maybank, was not presented in court.[53]

As regards the interest rate on the loan, the CA upheld the interest rate prevailing at either 14.5% or 15% per annum, but only with respect to the interest periods as stipulated in the promissory notes.[54] For the succeeding periods, the CA modified the same to 12% per annum applicable until June 30, 2013. Thereafter, the interest shall be reduced to 6% per annum, in conformity with Bangko Sentral ng Pilipinas Circular No. 799.[55]

In addition, the CA reduced the penalty charge from 24% to 6 % per annum considering that Maybank already received over PHP 1,000,000.00 as payment for interest and penalties.[56]

Consequently, the CA saw the need to appoint an independent accountant agreed upon by both parties to compute accurately 4E Steel and Spouses Ecraela's total loan obligations to Maybank. The dispositive portion of the assailed Decision of the CA states:

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48 *Id.* at 130.
49 *Id.* at 129.
50 *Id.* at 130.
51 *Id.*
52 *Id.*
53 *Id.* at 130–131.
54 *Id.* at 133.
55 *Id.* at 134.
56 *Id.* at 135–136.

**WHEREFORE**, premises considered, the appeal is PARTLY GRANTED. The Decision dated 13 August 2012 of the Regional Trial Court, Branch 125 of Caloocan City in Civil Case No. C-20539 is hereby MODIFIED as follows:

1. The foreclosure sale of mortgaged parcels of land covered by TCT Nos. 340528, C-316200, 215757, 309070 and C-322693 in favor of defendant-appellee Maybank Philippines, Inc. conducted by defendant-appellee notary public Atty. Antonio D. Seludo on 21 November 2003 is hereby ANNULLED. The Certificate of Sale issued in favor of defendant-appellee Maybank Philippines, Inc. pursuant to the extrajudicial foreclosure sale and the registration of the same with the respective Registers of Deeds are CANCELLED.

2. Plaintiffs-appellants and defendant-appellee Maybank Philippines, Inc. are ORDERED to jointly appoint an independent accountant who will render a full, complete and accurate accounting of the outstanding loan obligations of plaintiffs-appellants in accordance with the following:

a. For PN No. 99-038, interest rate of: (i) 14.50% per annum for the period of 17 December 1999 to 14 June 2000; (ii) 12% per annum starting from 15 June 2000 until 30 June 2013; and (iii) 6% per annum from 1 July 2013 until fully paid;

b. For PN No. 2000-035, interest rate of: (i) 14.50% per annum from 22 February 2000 to 23 March 2000; (ii) 12% per annum beginning 24 March 2000 to 30 June 2013; and(iii) 6% per annum from 1 July 2013 until fully paid;

c. For PN No. 2000-48, interest rate of: (i) 14.50% per annum from 17 March 2000 to 18 April 2000, (ii) 12% per annum commencing on 19 April 2000 until 30 June 2013; and (iii) 6% per annum from 1 July 2013 until fully paid;

d. For PN No. 2000-051, interest rate of: (i) 14.50% per annum from 20 March 2000 to 19 April 2000; (ii) 12% per annum beginning 20 April 2000 to 30 June 2013; and (iii) 6% per annum from 1 July 2013 until fully paid;

e. For PN 2000-066, interest rate of: (i) 15% per annum from 18 April 2000 to 18 May 2000; (ii) 12% per annum starting on 19 May 2000 to 30 June 2013; and (iii) 6% per annum from 1 July 2013 until fully paid; and

f. Penalty charge of 6% per annum computed from date of default, and to pay defendant-appellee Maybank Philippines, Inc. attorney's fees of 10% of the total amount due.

3. Plaintiffs-appellants are ORDERED to pay defendant-appellee Maybank Philippines, Inc. the total loan obligations as accurately computed by the independent accountant and agreed upon by both parties less the amount paid by plaintiffs-appellants.

**SO ORDERED.**[57]

Dissatisfied, both parties filed their respective Motions for Reconsideration. However, the CA issued a Resolution[58] on February 17, 2017, which denied both motions for lack of merit.

Undaunted, both parties filed their respective Petitions for Review before this Court.

In G.R. No. 230013, 4E Steel and Spouses Ecraela argued in the main that: 1) Maybank should reconvey or transfer the title of the foreclosed properties in their name; 2) their loan obligation is only PHP 2,500,000.00 and not PHP 4,800,000.00, as borne by the following considerations: a) the difference of PHP 2,000,000.00 was actually credited to Mega Builders; and b) the loans under Promissory Note Nos. 2000-35 and 2000-48 have not yet matured; 3) the interest rates stipulated are void and conflicting; and 4) the imposition of the penalty charge is unconscionable.[59]

Maybank filed a Comment[60] and refuted the foregoing contentions in this manner: 1) the assailed Decision of the CA which ordered the reconveyance or transfer of titles of the foreclosed mortgage properties has not yet attained finality;[61] 2) the five promissory notes, Promissory Note Nos. 99-038, 2000-035, 2000-48, 2000-051, and 2000-066, had been superseded by Promissory Note No. 04-004-00-0117-5, by virtue of the restructuring of the loans;[62] 3) it is apparent on the face of the subject promissory note that the parties expressly agreed in writing that the loan will bear an interest;[63] and 4) the penalty charge at the rate of 24% have been agreed upon by the parties.[64]

4E Steel and Spouses Ecraela filed a Reply[65] where they countered that: 1) the five promissory notes were not cancelled by Promissory Note No. 04-004-00-0117-5,[66] and 2) the amount of PHP 2,000,000.00 covered by Promissory Note No. 2000-066 should be excluded from the principal obligation.[67]

In G.R. No. 230100, Maybank contends that: 1) R.A. No. 10641 which took effect on July 30, 2014, which allowed the participation of foreign banks

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57 *Id.* at 137–138.
58 *Id.* at 167–170.
59 *Id.* at 74–75
60 *Id.* at 375–390.
61 *Id.* at 375.
62 *Id.* at 376.
63 *Id.* at 385.
64 *Id.* at 386.
65 *Id.* at 398–408.
66 *Id.* at 399–403.
67 *Id.* at 403–405.

in foreclosure sales of real property, should be given retroactive application;[68] 2) there is no need to appoint an independent accountant to determine the outstanding obligation considering that the five promissory notes, Promissory Note Nos. 99-038, 2000-035, 2000-48, 2000-051 and 2000-066, have been cancelled and superseded by Promissory Note No. 04-004-00-0117-5, where 4E Steel and Spouses Ecraela already agreed to pay their loan of PHP 4,800,000.00, plus the interest stipulated;[69] and 3) the 24% penalty charge agreed upon should prevail.[70]

4E Steel and Spouses Ecraela filed a Comment[71] where they argued that: 1) Maybank is disqualified from participating in the extrajudicial foreclosure sale of the mortgaged properties under R.A. No. 133 as amended by R.A. No. 4882;[72] 2) Maybank should be ordered to reconvey the titles of the subject properties since its foreclosure and certificate of sale are null and void;[73] and 3) the appointment of an independent accountant is necessary.[74]

In sum, these consolidated Petitions raise the following issues:

I.

Whether the principal loan obligation of 4E Steel Builders Corporation and Spouses Filomeno G. Ecraela & Virginia Ecraela amounts to PHP 4,800,000.00

II.

Whether Maybank Philippines, Inc.'s foreclosure and acquisition of the subject properties are authorized by law

III.

Whether the interest rates and penalty charges stipulated are valid

IV.

Whether the appointment of an independent accountant is necessary to determine the total loan obligation to be paid by 4E Steel and Spouses Ecraela to Maybank

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68 *Rollo* (G.R. No. 230100), pp. 29–32.
69 *Id.* at 34–35.
70 *Id.* at 35.
71 *Id.* at 112–129.
72 *Id.* at 113–116.
73 *Id.* at 119–121.
74 *Id.* at 121–126.

## This Court's Ruling

After a circumspect scrutiny of the records of this case, this Court denies both Petitions for lack of merit.

*The principal loan obligation of 4E Steel is PHP 4,800,000.00*

Foremost, the issue with respect to the amount of 4E Steel and Spouses Ecraela's principal loan is factual and evidentiary in nature which is beyond the scope of review in Rule 45 petitions.[75] To resolve this issue will necessitate a review of the evidence on record. "Indeed, this Court is not a trier of facts, our jurisdiction being limited to reviewing errors of law."[76]

Be that as it may, this Court shall resolve the issue to allay any misgivings which the parties may have on the matter.

At this juncture, this Court underscores 4E Steel and Spouses Ecraela's admission that they have yet to pay in full their drawdowns on the credit line. What remains in contention is only the total amount due based on the principal amount of the loan and the applicable interest rates and penalty charges.

In computing the principal amount due, 4E Steel and Spouses Ecraela asseverate that only Promissory Note Nos. 99-038 and 2000-051 were due and demandable. The amount of PHP 2,000,000.00 under Promissory Note No. 2000-066 should be excluded because it was an accommodation in favor of Mega Builders.[77] Likewise, Promissory Note Nos. 2000-035 and 2000-048 were converted to medium-term or long-term loans by operation of the automatic conversion clause.[78]

It is well to note that the five promissory notes were executed under the first credit agreement[79] on December 14, 1999. This credit line was set to expire on November 12, 2000.[80] On December 14, 2001, the parties renewed the credit agreement which stipulated that the amount of the loan was PHP 4,800,000.00, subject to the prevailing prime rate plus 2.5% per annum.[81] Spouses Ecraela signed the renewal of the credit agreement on behalf of 4E Steel.[82] Accordingly, the five promissory notes, Promissory Note Nos. 99-038,

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75 *Spouses Salendab v. Dela Peña*, G.R. No. 217569 (Resolution), May 5, 2021 [Per J.J. Lopez, Third Division].
76 *Bendecio v. Bautista*, G.R. No. 242087, December 7, 2021 [Per J.J. Lopez, First Division].
77 *Rollo*, (G.R. No. 230013), pp. 24–26.
78 *Id.* at 126–128.
79 *Id.* at 142–165.
80 *Id.* at 118.
81 *Id.* at 269–271.
82 *Id.*

2000-035, 2000-48, 2000-051, and 2000-066, were consolidated under a single promissory note, Promissory Note No. 04-004-00-0117-5.[83] Pertinently, Promissory Note No. 04-004-00-0117-5 provides:

> 180 days after date, for value received, I/ We jointly and severally **prom[i]se to pay** to the order of Maybank, Philippines, Inc. (the "Bank") at its office in Cartimar the sum of PHILIPPINE PESOS Four Million Eight Hundred Thousand (**Php 4,800,000.00**) together with interest thereon for the current interest Period at a rate of Prevailing Prime Rate percent + 2.5%[84] (Emphasis supplied)

A promissory note is a contract of loan between the parties.[85] Verily, obligations arising from contracts have the force of law between the contracting parties and should be complied with in good faith.[86]

Evidently, in Promissory Note No. 04-004-00-0117-5, 4E Steel, represented by Spouses Ecraela, already acknowledged that their loan obligation to Maybank is PHP 4,800,000.00.[87] Moreover, the statement of account[88] which Maybank sent to them in response to their request for a reconciliation of account and restructuring of loan indicates that their principal loan is already covered by Promissory Note No. 04-004-00-0117-5:

4E STEEL BUILDERS CORPORATION
STATEMENT OF ACCOUNT
As of May 20, 2003

| | |
|---|---|
| ORIGINAL AMOUNT | 4,800,000.00 |
| PN NOS.: | 4-004-00-0117-5 |
| DATE GRANTED: | 12-Dec-01 |
| PN MATURITY: | 10-June-02 |
| | |
| Principal | 4,800,000.00 |
| Interest | 592,149.47 |
| Penalty on Interest | 71,318.05 |
| Penalty on Principal | 1,100,800.00 |
| Accounts Receivable | 70, 126.78 |
| Interest on Accounts Receivable | 4,094.04 |
| Total | PHP 6,638,488.34[89] |

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83 *Id.* at 119.
84 *Rollo* (G.R. No. 230100), p. 35.
85 *Ridao v. Handmade Credit and Loans, Inc.*, G.R. No. 236920, February 3, 2021 [Per J. Delos Santos, Third Division].
86 CIVIL CODE, art. 1159.
87 *Rollo* (G.R. No. 230100), p. 35.
88 *Rollo* (G.R. No. 230013), p. 205.
89 *Id.*

It is also significant to note that 4E Steel and Spouses Ecraela did not question the consolidation of the five promissory notes under Promissory Note No. 04-004-00-0117-5 before the CA.[90] It appears that they only assailed its issuance on their Appeal before this Court.

Well-settled is the rule that issues which are not raised in the proceedings below cannot be raised for the first time on appeal.[91] The reason for this rule is that "to allow fresh issues on appeal is violative of the rudiments of fair play, justice and due process."[92] Consequently, issues which were not raised timely in the proceedings in the lower court are **barred by estoppel**.[93] Therefore, this Court is barred from taking cognizance of the issue regarding the amount of principal loan since it was raised for the first time on appeal before this Court.

In any event, Promissory Note No. 2000-066 amounting to PHP 2,000,000.00 should be included in the computation of 4E Steel and Spouses Ecraela's principal loan obligation.

As aptly pointed out by the RTC, Promissory Note No. 2000-066 was signed by Spouses Ecraela on behalf of 4E Steel.[94] In other words, Mega Builders was not a party to the said promissory note.[95] By signing Promissory Note No. 2000-066, 4E Steel and Spouses Ecraela extended the credit line to Mega Builders,[96] which made them accommodation parties. As accommodation parties, they bound themselves to be directly and primarily liable[97] to Maybank. The relation between an accommodation party and the accommodated party was elucidated in the case of *Mangayan v. Robielos*,[98] in this wise:

> As petitioner acknowledged it to be, the relation between an accommodation party and the accommodated party is one of principal and surety — the accommodation party being the surety. As such, he [or she] is deemed an original promisor and debtor from the beginning; he [or she] is considered in law as the same party as the debtor in relation to whatever is adjudged touching the obligation of the latter since their liabilities are interwoven as to be inseparable. Although a contract of suretyship is in essence accessory or collateral to a valid principal obligation, the surety's liability to the creditor is immediate, primary and absolute; he [or she] is directly and equally bound with the principal. As an equivalent of a regular party to the undertaking, a surety becomes liable to the debt and duty

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90 *Id.* at 123–124.
91 *Tan v. Commission on Elections*, 537 Phil. 510, 532–533 (2006) [Per J. Velasco, Jr., *En Banc*].
92 *Id.*
93 *Sondayon v. P.J. Lhuillier, Inc.*, 570 Phil. 343, 350 (2008) [Per J. Azcuna, First Division].
94 *Rollo*, (G.R. No. 230013), pp. 352–353.
95 *Id.* at 353.
96 *Id.* at 76–77.
97 *Mangayan v. Robielos*, A.C. No. 11520 (Formerly CBD Case No. 17-5472), April 5, 2022 [Per J. Gaerlan, *En Banc*].
98 *Id.*

> of the principal obligor even without possessing a direct or personal interest in the obligations nor does he [or she] receive any benefit therefrom.[99] (Citations omitted)

Simply put, even on the assumption that 4E Steel and Spouses Ecraela merely acted as accommodation parties in executing Promissory Note No. 2000-066, they are principally and directly liable to pay the amount of PHP 2,000,000.00 under said promissory note. Hence, the same shall be included in their principal obligation with Maybank.

On the maturity of Promissory Note Nos. 2000-35 and 2000-48, 4E Steel and Spouses Ecraela argued that the same were not yet due and demandable since both were automatically converted to medium-term or long-term loans in view of the "automatic conversion" clause stipulated therein.[100]

This Court finds such contention untenable.

It bears to stress that all promissory notes contain an acceleration clause which stipulates:

> Without need for notice or demand, **failure to pay this note or any amortization** thereon, when due, shall constitute default and in such cases or in case of garnishment, receivership or bankruptcy or suit of any kind filed against me/us by the Bank the outstanding amount of this note, at the option of the Bank and without prior notice or demand, **shall immediately become due and payable** and shall be subject to a penalty charge of twenty four percent (24%) per annum based on the defaulted amount.[101] (Emphasis supplied)

An acceleration clause is a provision in a contract which states that the entire obligation shall become due and demandable in case default by the debtor.[102]

On the other hand, the automatic conversion clause found in Promissory Notes No. 2000-35 and 2000-48 state:

> In case the term of the Loan/Availment/Advance is 365 days or less, any portion of the Loan/Availment/Advance which shall remain unpaid after 365 days from date of original release or original relevant Availment or Advance **shall be automatically converted into a medium or long term loan**, as the case may be, **and shall be subject to interest rate charged by**

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99 *Id.*

100 *Rollo* (G.R. No. 230013), pp. 84–87.

101 *Id.* at 192–194.

102 *Gotesco Properties, Inc. v. International Exchange Bank*, G.R. No. 212262, August 26, 2020 [Per J. Leonen, Third Division].

> **the Bank on such obligations** to be applied from date of such original release or original relevant Availment or Advance.[103] (Emphasis supplied)

Article 1374 of the Civil Code provides that 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.

Jurisprudence underscores that Article 1374 of the Civil Code should be interpreted to mean that "contracts cannot be construed by parts, but clauses must be interpreted in relation to one another to give effect to the whole. The legal effect of a contract is not determined alone by any particular provision disconnected from all others, but from the whole read together."[104] In other words, "in construing an instrument with several provisions, a construction must be adopted as will give effect to all."[105]

Guided by this principle, this Court agrees with the interpretation of the CA that the automatic conversion clause did not extend the maturity dates in Promissory Note Nos. 2000-35 and 2000-48 set on March 23, 2000 and April 17, 2000, respectively. The automatic conversion clause only determined the applicable interest rate which shall follow the rates used for medium or long-term loans, as the case maybe, should the obligations remain unpaid after 365 days. [106] This interpretation should be adopted as it renders both the acceleration clause and automatic conversion clause effectual. Otherwise, the acceleration clause found in each promissory note shall be put to naught.

With this in mind, Promissory Note Nos. 2000-35 and 2000-48 were properly included in the computation of the principal loan obligation as the same were already due and demandable.[107]

Notably, whether the principal loan obligation of 4E Steel, represented by Spouses Ecraela, is based on Promissory Note No. 04-004-00-0117-5, or the five Promissory Note Nos. 99-038, 2000-035, 2000-48, 2000-051, and 2000-066 issued before the renewal of the Credit Agreement, the aggregate amount is still PHP 4,800,000.00.

*Maybank, as a foreign bank, cannot acquire lands in the Philippines. "It may possess the mortgaged propert[ies] after default and*

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103 *Rollo* (G.R. No. 230013), pp. 192 & 194.

104 *Makati Water, Inc. v. Agua Vida Systems, Inc.* G.R. No. 205604, June 26, 2019, [Per J. Caguioa, Second Division].

105 *Id.*

106 *Rollo*, (G.R. No. 230013) pp. 127.

107 *Id.*

*solely for foreclosure, but it cannot take part in any foreclosure sale*"[108]

At the outset, Maybank admitted that it is a foreign bank.[109] "As a foreign bank, Maybank is authorized to operate in the Philippine banking system, with the same rights and privileges as Philippine banks."[110] Under R.A. No. 8791 or the General Banking Law, banks are allowed to foreclose real estate mortgages and to acquire real properties mortgaged to it in good faith.[111] Section 52 of the same law provides:

> SECTION 52. Acquisition of Real Estate by Way of Satisfaction of Claims.
>
> — Notwithstanding the limitations of the preceding Section, a bank may acquire, hold or convey real property under the following circumstances:
>
> 52.1. Such as shall be mortgaged to it in good faith by way of security for debts;
>
> . . . .
>
> Any real property acquired or held under the circumstances enumerated in the above paragraph shall be disposed of by the bank within a period of five (5) years or as may be prescribed by the Monetary Board: Provided, however, That the bank may, after said period, continue to hold the property for its own use, subject to the limitations of the preceding Section.

Be that as it may, the participation of a corporation in the foreclosure sale of real property was specifically governed by special laws.

In 1947, the participation of a corporation in the foreclosure sale of real property was governed by R.A. No. 133.[112] Section 1 of R.A. No. 133 provides that a private real property may be mortgaged to a corporation for a period not exceeding five years, renewable for another five. However, if the mortgagee is disqualified to acquire or hold lands in the Philippines, it shall not bid or take part in any sale of such real property as a consequence of such mortgage, thus:

> SECTION 1. Any provision of law to the contrary notwithstanding, private real property may be mortgaged for a period not exceeding five years, renewable for another five, in favor of any individual, corporation, or association, but the mortgagee or his successor in interest, if disqualified to acquire or hold lands of the public domain in the Philippines, shall not bid

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108 *Parcon-Song v. Parcon*, G.R. No. 199582, July 7, 2020 [Per J. Leonen, *En Banc*].

109 *Rollo*, (G.R. No. 230013), p. 239.

110 *Parcon-Song v. Parcon*, *supra* note 108

111 *Id.*

112 An Act to Authorize the Mortgage of Private Real Property in Favor of Any Individual, Corporation, or Association Subject to Certain Conditions

> or take part in any sale of such real property as a consequence of such mortgage.

In 1967, R.A. No. 4882[113] amended R.A. No. 133. In R.A. No. 4882, the law underscores that "a mortgagee who is prohibited from acquiring public lands may possess the property for five years after default and for the purpose of foreclosure. However, it may not bid or take part in any foreclosure sale of the real property."[114] Section 1 of R.A. No. 4882 states:

> SECTION 1. Any provision of law to the contrary notwithstanding, private real property may be mortgaged in favor of any individual, corporation, or association, but the mortgagee or his successor in interest, if disqualified to acquire or hold lands of the public domain in the Philippines, shall not take possession of the mortgaged property during the existence of the mortgage and shall not take possession of mortgaged property except after default and for the sole purpose of foreclosure, receivership, enforcement or other proceedings and in no case for a period of more than five years from actual possession **and shall not bid or take part in any sale of such real property in case of foreclosure:** *Provided*, That said mortgagee or successor in interest may take possession of said property after default in accordance with the prescribed judicial procedures for foreclosure and receivership and in no case exceeding five years from actual possession.

Indeed, "[i]t is a rule in statutory construction that a special law prevails over a general law—regardless of their dates of passage—and the special law is to be considered as an exception to the general law."[115] The general law does not nullify the specific or special law.[116] Simply put, "where two statutes are of equal theoretical application to a particular case, the one designed therefor should prevail."[117]

At this juncture, the constitutional principle remains that "the right to acquire lands of the public domain is reserved only to Filipino citizens or corporations at least 60% of the capital of which is owned by Filipinos."[118] A domestic corporation is considered a Philippine national if 60% of the capital stock outstanding and entitled to vote is owned by Philippine citizens.[119] Significantly, corporations which are disqualified from acquiring lands of public domain are also disqualified from acquiring private lands.[120]

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113 Amendment to R.A. No. 133 Re: Mortgage of Private Real Property

114 *Parcon-Song v. Parcon*, *supra* note 108.

115 *Global Medical Center of Laguna, Inc. v. Ross Systems International, Inc.*, G.R. Nos. 230112 & 230119, May 11, 2021 [Per J. Caguioa, *En Banc*].

116 *Id.*

117 *Id.*

118 *Encarnacion v. Johnson*, 836 Phil. 76, 94 (2018) [Per J. Carpio, *En Banc*].

119 *Heirs of Wilson P. Gamboa v. Sec. Teves*, 696 Phil. 276, 327 (2012) [Per J. Carpio, *En Banc*].

120 *Encarnacion v. Johnson*, *supra*.

In 1994, the Foreign Bank Liberalization Act (*R.A. No. 7721*) was enacted "to develop a more stable, competitive, efficient and dynamic banking financial system by encouraging greater foreign participation."[121]

Under R.A. No. 7721, foreign banks can operate in the Philippine banking system through any of the following modes of entry:

> (i) by acquiring, purchasing or owning up to sixty percent (60%) of the voting stock of an existing bank;
>
> (ii) by investing in up to sixty percent (60%) of the voting stock of a new banking subsidiary incorporated under the laws of the Philippines; or
>
> (iii) by establishing branches with full banking authority[.][122]

As can be gleaned therefrom, R.A. No. 7721 was silent on whether foreign banks can foreclose mortgages and acquire mortgaged properties.[123]

In 2014, R.A. No. 10641[124] was enacted to amend R.A. No. 7721. "The amendment allowed the full entry of foreign banks in the Philippines, though it maintained the State policy to keep the financial system effectively controlled by Filipinos."[125] One significant change was the addition of a provision on the participation of foreign banks in foreclosure proceedings:

> SECTION 9. *Participation in Foreclosure Proceedings.* — Foreign banks which are authorized to do banking business in the Philippines through any of the modes of entry under Section 2 hereof shall be allowed to bid and take part in foreclosure sales of real property mortgaged to them, as well as to avail of enforcement and other proceedings, and accordingly take possession of the mortgaged property, for a period not exceeding five (5) years from actual possession: *Provided*, That in no event shall title to the property be transferred to such foreign bank. In case said bank is the winning bidder, it shall, during the said five (5)-year period, transfer its rights to a qualified Philippine national, without prejudice to a borrower's rights under applicable laws. Should the bank fail to transfer such property within the five (5)-year period, it shall be penalized one half (1/2) of one percent (1%) per annum of the price at which the property was foreclosed until it is able to transfer the property to a qualified Philippine national.

Evidently, foreign banks may now foreclose and acquire mortgaged properties under R.A. No. 10641, subject to the following limitations: a) the possession is limited to five years; b) the title of the property shall not be

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121 *Parcon-Song v. Parcon, supra* note 108.
122 *Id*
123 *Id.*
124 An Act Allowing the Full Entry of Foreign Banks in the Philippines Amending for the Purpose Republic Act No. 7721.
125 *Parcon-Song v. Parcon, supra* note 108.

transferred to the foreign bank; and c) the foreign bank must transfer its right to a qualified Philippine national within the five-year period.[126] Failing to comply with the last condition shall make the foreign bank liable to pay half of 1% per annum of the foreclosure price until it transfers the property to a qualified Philippine national.[127]

Notably, R.A. No. 10641 does not contain a retroactivity clause. For this reason, "it is construed as having only a prospective application, unless the purpose and intention of the legislature to give [it] a retrospective effect [is] expressly declared or [is] necessarily implied from the language used."[128]

It should be borne in mind that the parties entered into a Credit Agreement in 1999 and 2001. The default on the said loans which led to the foreclosure sale of the mortgaged properties took place in 2003.[129] Clearly, Maybank cannot find solace in R.A. No. 10641 because the applicable law during the foreclosure proceedings was R.A. No. 4882. To recall, R.A. No. 4882 provides that "a mortgagee who is prohibited from acquiring public lands may possess the property for five years after default and for the purpose of foreclosure. However, it may not bid or take part in any foreclosure sale of the real property."[130]

During the material period, Maybank as a foreign bank, was a mortgagee disqualified to acquire lands in the Philippines. Therefore, "[i]t may possess the mortgaged property after default and solely for foreclosure, but it cannot bid or take part in any foreclosure sale."[131] Therefore, the sale to Maybank was void.

In the recent case of *Parcon-Song v. Parcon*, [132] this Court had the occasion to rule on the issue of whether Maybank, a foreign bank, can participate in the foreclosure sale of the mortgaged properties upon default of the debtor.

In *Parcon-Song*, Spouses Parcon obtained two loans from Maybank secured by a real estate mortgage over a parcel of land covered by TCT No. 107064.[133]

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126 *Id.*
127 *Id.*
128 *PERT/CPM Manpower Exponent Co., Inc. v. Vinuya*, 694 Phil. 426, 448 (2012) [Per J. Brion, Second Division].
129 *Rollo* (G.R. No. 230013), p. 130.
130 *Parcon-Song v. Parcon*, *supra* note 108.
131 *Id.*
132 *Id.*
133 *Id.*

In 2001, Maybank foreclosed the mortgage when the spouses defaulted on their loans. During the foreclosure proceedings, Maybank emerged as the highest bidder and awarded a certificate of sale. The certificate of sale was registered with the Register of Deeds.[134]

Julie Parcon filed a Complaint to declare the foreclosure proceedings void, among others. In the course of trial, the RTC took judicial notice of Maybank's Articles of Incorporation and General Information Sheet which showed that Maybank was a Malaysian-owned foreign corporation. Nevertheless, the RTC ruled that the foreclosure sale was valid. On appeal, the CA affirmed the decision of the RTC.[135]

When the case was elevated to this Court, this Court reversed the CA ruling and held that the foreclosure sale in favor of Maybank was void. Despite the enactment of R.A. No. 10641, this Court applied R.A. No. 4882 because it was the law enforced when the foreclosure sale took place in 2001. This Court thus reasoned:

> Clearly, under Republic Act No. 10641, foreign banks may now foreclose and acquire mortgaged properties.
>
> However, Republic Act No. 10641, which was enacted in 2014, does not apply in this case. Here, the loans were obtained and the real estate mortgage was executed and annotated on the title in 1995. The default on the loans, the foreclosure of the mortgage, and the property acquisition took place in 2001.
>
> The law then in place was Republic Act No. 4882. Consequently, respondent Maybank was still a mortgagee disqualified to acquire lands in the Philippines. It may possess the mortgaged property after default and solely for foreclosure, but it cannot bid or take part in any foreclosure sale. Thus, the sale to respondent Maybank is invalid.

Evidently, the facts of the present case are substantially similar with those of the *Parcon-Song* case.

Verily, "the doctrine of *stare decisis et non quieta movere* which means to adhere to precedents, and not to unsettle things which are established,"[136] applies. To ensure the certainty and stability of judicial decisions, it is imperative that "[o]nce a case has been decided one way, any other case involving exactly the same point at issue, as in the present case, should be decided in the same manner."[137] In *Torres v. Republic*,[138] this Court explained the importance of the doctrine in this wise:

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134 *Id.*
135 *Id.*
136 *Torres v. Republic*, G.R. No. 247490, March 2, 2022 [Per J. Leonen, First Division].
137 *Id.*
138 *Id.*

The doctrine of *stare decisis is one of policy grounded on the necessity for securing certainty and stability of judicial decisions, thus:*

> Time and again, the court has held that it is a very desirable and necessary judicial practice that when a court has laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases in which the facts are substantially the same. *Stare decisis et non quieta movere.* Stand by the decisions and disturb not what is settled. *Stare decisis* simply means that for the sake of certainty, a conclusion reached in one case should be applied to those that follow if the facts are substantially the same, even though the parties may be different. It proceeds from the first principle of justice that, absent any powerful countervailing considerations, like cases ought to be decided alike. Thus, where the same questions relating to the same event have been put forward by the parties similarly situated as in a previous case litigated and decided by a competent court, the rule of *stare decisis* is a bar to any attempt to relitigate the same issue.[139] (Citations omitted, emphasis in the original)

Accordingly, the case of *Parcon-Song* is binding and should be applied in this case.

Maybank also argues that it would be more in accord with equity and social justice if R.A. No. 10641 be given retroactive application.[140]

This Court remains unmoved.

It is a well-entrenched rule that doctrines of equity apply only in the absence of a statutory law.[141] "Equity, which has been aptly described as 'justice outside legality,' should be applied only in the absence of, and never against, statutory law."[142] In this regard, Article 4 of the Civil Code expressly states that laws shall have no retroactive effect, unless the contrary is provided. Notably, R.A. No. 10641 does not contain a retroactivity clause. Hence, it can only be applied prospectively.

All told, Maybank is a foreign bank which is disqualified under R.A. No. 4882 to acquire lands in the Philippines. Consequently, it may possess the mortgaged properties after default and solely for foreclosure, but it cannot

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139 *Id.*
140 *Rollo* (G.R. No. 230100), p. 29.
141 *Cotoner-Zacarias v. Spouses Revilla*, 746 Phil. 692, 705 (2014).
142 *Id.*

take part in any foreclosure sale. Hence, the sale to Maybank of the foreclosed properties was void.

*The stipulation on the payment of interest rate at the "prevailing prime rate plus 2.5% per annum" indicated in the Credit Agreement dated December 14, 2001 and Promissory Note No. 04-004-00-0117-5, violates the principle of mutuality of contracts*

The principle of mutuality of contracts is embodied in Article 1308 of the Civil Code which states that the contract must bind both contracting parties; its validity or compliance cannot be left to the will of one of them. There must be a true parity between the parties for the contract to have obligatory force.[143] Consequently, "[i]f a condition in the contract depends solely on the will of one of the contracting parties, it is void."[144]

The same principle also applies to interest rates. The parties are free to stipulate on the rates that will apply to their loans.[145] When applied to monetary interest, "there is no mutuality of contracts when the determination or imposition of interest rates is at the sole discretion of a party to the contract."[146]

To recall, the credit agreement between the parties was renewed on December 14, 2001, which led to the consolidation of the five Promissory Note Nos. 99-038, 2000-035, 2000-48, 2000-051, and 2000-066 in Promissory Note No. 04-004-00-0117-5.[147] The Credit Agreement dated December 14, 2001, which spouses Ecraela signed on behalf of 4E Steel, stipulates that the interest rate shall be the "*prevailing prime rate plus 2.5%" per annum.*"[148] Promissory Note No. 04-004-00-0117-5 also contains the same stipulation.[149]

In *Polotan Sr. v. CA*,[150] this Court upheld as valid a provision where a cardholder agrees to pay his issuing company "interest *per annum* at 3% plus the prime rate... provided that if there occurs any change in the prevailing market rates the new interest rate shall be the guiding rate of computing the

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143 *Philippine National bank v. AIC Construction Corp.*, G.R. No. 228904, October 13, 2021 [Per J. Leonen, Third Division].
144 *Id.*
145 *Id.*
146 *Vasquez v. Philippine National Bank*, G.R. Nos. 228355 & 228397, August 28, 2019 [Per J. Caguioa, Second Division].
147 *Rollo* (G.R. No.230013), p. 119.
148 *Id.* at 269–270-A.
149 *Rollo* (G.R. No. 230100), p. 35.
150 357 Phil. 250, 254–255 (1998).

interest due on the outstanding obligation ..." In *Polotan Sr.*, this Court construed the interest stipulated to mean that it should be based on the prevailing market rate. In the said case, this Court declared that the determination of the interest rate is not dependent solely on the will of the issuing company because the fluctuation in the market rates is beyond the control of the parties.[151]

In *United Coconut Planters Bank v. Ang*,[152] this Court delved on the import of a market-based approach interest rate, thus:

> [When] the parties undertook to subject themselves to prevailing market rates[,] [t]he borrowers agreed to the arrangement that the interest will be based on any of the independent and recognized financial rates prevailing as the amortizations fall due and the upward or downward adjustments in market rates [which] are beyond the control of the bank.[153]

Notably, in *Sps. Juico v. China Banking Corp.*,[154] this Court recognized that "since the deregulation of bank rates in 1983, the Central Bank has shifted to a market-oriented interest rate policy.[155]"

Be that as it may, this Court in the recent case of *Goldwell Properties Tagaytay, Inc. v. Metropolitan Bank and Trust Co.*,[156] underscored the need for the parties to indicate which among the market-based references they will use in the computation of the monetary interest. In other words, "even if the interest rates would be market-based, the reference rate should still be stated in writing and must be agreed upon by the parties."[157] In *Goldwell*, this Court held that a stipulation to pay interest at "the prevailing market rate without specifying the market-based reference" violated the principle of mutuality of contracts.[158] Consequently, this Court declared the monetary interest therein as void and applied the legal interest.[159]

Guided by these pronouncements, this Court finds that the interest rate at the "*prevailing prime rate plus 2.5% per annum*" violated the principle of mutuality of contracts because it did not state which market reference will be used to determine the monetary interest. In essence, the stipulation gave Maybank the unilateral authority to determine the rate to be applied which made it potestative, and thus void.

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151 *Id.* at 260.
152 G.R. No. 222448, November 24, 2021 [Per J. Carandang, Third Division].
153 *Id.*
154 708 Phil. 495, 514 (2013) [Per J. Villarama, First Division].
155 *Id.* at 514.
156 G.R. No. 209837, May 12, 2021 [Per J. Hernando, Third Division].
157 *Id.*
158 *Id.*
159 *Id.*

On the penalty charge, the parties stipulated in the Credit Agreement dated December 14, 2001, that the rate shall be 24% per annum.[160] A penalty interest is sanctioned under Article 2229 of the Civil Code which states:

> If the obligation consists in the payment of a sum of money, and the debtor incurs in delay, the indemnity for damages, there being no stipulation to the contrary, shall be the payment of the interest agreed upon, and in the absence of stipulation, the legal interest, which is six per cent per annum.

A penal/compensatory interest serves a two-fold purpose: "1) to provide for liquidated damages and 2) to strengthen the coercive force of the obligation by the threat of greater responsibility in the event of breach of obligation."[161]

Article 1229 of the Civil Code stresses that in some circumstances, courts are allowed to temper unconscionable penalty charges:

> Article 1229. The Judge shall equitably reduce the penalty when the principal obligation has been partly or irregularly complied with by the debtor. Even if there has been no performance, the penalty may also be reduced by the courts if it is iniquitous or unconscionable

In *Goldwell*, this Court found that a penalty interest rate of 18% per annum was unconscionable and reduced the same to 6% in line with recent jurisprudence. [162]

Here, the penalty charge is 24% per annum, which is even higher than the penalty interest imposed in *Goldwell*. Moreover, Maybank did not dispute that it already received over PHP 1,000,000.00 in interest and penalties from 4E Steel.[163] Considering that the rate of 24% per annum is deemed unconscionable and 4E Steel has partially complied with its payment, this Court finds it just to affirm the reduction of the penalty charge from 24% to 6% per annum to conform with laws and prevailing jurisprudence.

In sum, 4E Steel represented by Spouses Ecraela is indebted to Maybank in the principal amount of PHP 4,800,000.00. The principal amount shall earn legal interest at the rate of 12% per annum from December 26, 2001 to June 30, 2013. From July 1, 2013 until full payment, the outstanding obligation under Promissory Note No. 04-004-00-0117-5 shall earn interest at the rate of 6% per annum, until fully paid. [164]

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160 *Rollo* (G.R. No. 230013), p. 270.
161 *Supra* note 156.
162 *Id.*
163 *Rollo* (G.R. No. 230013), pp. 135–136.
164 CIVIL CODE OF THE PHILIPPINES, Article 2212 states:

Indeed, the obligation to pay a sum of money is one with a period.[165] Unfortunately, the records are silent on certain matters which are necessary to determine the total amount due under Promissory Note No. 04-004-00-0117-5: a) the interest period covered by Promissory Note No. 04-004-00-0117-5; b) the partial payments made by 4E Steel and c) the reimbursable amounts, if any, due to the modification of the interest rate and penalty charges cannot be ascertained on record.

Notably, Article 1197 of the Civil Code[166] allows the courts to fix a period when, from the nature and the circumstances, it can be inferred that a period for the obligation's fulfillment was intended by the parties. Once the courts have fixed the duration for its compliance, the fulfillment of the obligation itself cannot be demanded until such period has arrived.[167]

In this regard, Maybank is ordered to furnish 4E Steel and Spouses Ecraela, within 30 days from finality of this judgment, a written detailed accounting of their outstanding loan obligation under Promissory Note No. 04-004-00-0117-5. Thereafter, 4E Steel and Spouses Ecraela shall have 30 days upon receipt of the written notice within which to settle their outstanding balance.

In case of default, 4E Steel and Spouses Ecraela should pay compensatory interest at the rate of 6% per annum on the total amount due until fully paid.[168] In addition, 4E Steel and Spouses Ecraela shall be liable to pay 6% per annum legal interest on the unpaid interest from judicial demand until full satisfaction, in accordance with Article 2212 of the Civil Code.[169]

For this reason, this Court deems it not only wise but also compelling for the parties to appoint an independent accountant who will render a full, complete, and accurate accounting of the outstanding loan obligations in accordance with this Decision.

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ARTICLE 2212. Interest due shall earn legal interest from the time it is judicially demanded, although the obligation may be silent upon this point.

165 *Philippine Veterans Bank v. Commissioner of Internal Revenue*, G.R. No. 205261, April 26, 2021 [Per J.J. Lopez, Third Division].

166 CIVIL CODE OF THE PHILIPPINES, Art. 1197 states:

Article 1197. If the obligation does not fix a period, but from its nature and the circumstances it can be inferred that a period was intended, the courts may fix the duration thereof.

The courts shall also fix the duration of the period when it depends upon the will of the debtor.

In every case, the courts shall determine such period as may under the circumstances have been probably contemplated by the parties. Once fixed by the courts, the period cannot be changed by them.

167 *Camp John Hay Development Corp. v. Charter Chemical and Coating Corp.*, G.R. No. 198849, August 7, 2019 [Per J. Leonen, Third Division].

168 *Goldwell Properties Tagaytay, Inc v. Metropolitan Bank and Trust Co., supra* note 156.

169 CIVIL CODE OF THE PHILIPPINES, Article 2212 states:

Article 2212. Interest due shall earn legal interest from the time it is judicially demanded, although the obligation may be silent upon this point.

**ACCORDINGLY**, the Petition filed by 4E Steel Builders Corporation and Spouses Filomeno G. Ecraela and Virginia Ecraela in G.R. No. 230013 and the Petition filed by Maybank Philippines, Inc. in G.R. No. 230100 are **DENIED** for lack of merit. The Decision of the Court of Appeals dated June 21, 2016 and the Resolution dated February 17, 2017, in CA-G.R. CV No. 101587 are **AFFIRMED** with **MODIFICATION** as follows:

1. The foreclosure sale of mortgaged parcels of land covered by Transfer of Certificate of Title Nos. 340528, C-316200, 215757, 309070 and C-322693 in favor of Maybank Philippines, Inc. conducted by notary public Atty. Antonio D. Seludo on November 21, 2003 is hereby **ANNULLED**. The Certificate of Sale issued in favor of Maybank Philippines, Inc. pursuant to the extrajudicial foreclosure sale and the registration of the same with the respective Registers of Deeds are **CANCELLED;**

2. Maybank Philippines, Inc., 4E Steel Builders Corporation and Spouses Filomeno and Virginia Ecraela are **ORDERED** to jointly appoint an independent accountant who will render a full, complete, and accurate accounting of the latter's outstanding loan obligations under Promissory Note No. 04-004-00-0117-5; and

3. 4E Steel Builders Corporation and Spouses Filomeno and Virginia Ecraela are **ORDERED** to pay Maybank Philippines, Inc. the total loan obligations as accurately computed by the independent accountant less the amount already paid by them.

4. The amount computed in number 3 shall earn legal interest at the rate of 12% per annum from December 26, 2001 to June 30, 2013. From July 1, 2013 until full payment, the outstanding loan obligations under Promissory Note No. 04-004-00-0117-5 shall earn interest at the rate of six percent (6%) per annum.

5. In case of default upon finality of this Decision, 4E Steel and Spouses Ecraela shall pay compensatory interest at the rate of 6% per annum on the total amount due until fully paid. In addition, they shall pay 6% per annum legal interest on the unpaid interest from judicial demand until full satisfaction.

**SO ORDERED.**

**JHOSEP Y. LOPEZ**
Associate Justice

**WE CONCUR:**

**MARVIC M.V.F. LEONEN**
Senior Associate Justice
Chairperson

**AMY C. LAZARO-JAVIER**
Associate Justice

**MARIO V. LOPEZ**
Associate Justice

**ANTONIO T. KHO, JR.**
Associate Justice

## ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.

**MARVIC M.V.F. LEONEN**
Senior 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.

**ALEXANDER G. GESMUNDO**
Chief Justice