



Republic of the Philippines  
**Supreme Court**  
Manila

**SECOND DIVISION**

**CLARITA D. ACLADO,**  
Petitioner,

**G.R. No. 260428**

**Present:**

-versus-

LEONEN, *SAJ*, Chairperson,  
LAZARO-JAVIER,  
LOPEZ, M.,  
LOPEZ, J., and  
KHO, JR., *JJ*.

**GOVERNMENT SERVICE  
INSURANCE SYSTEM,**  
Respondent.

**Promulgated:**

MAR 01 2023

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**DECISION**

**LAZARO-JAVIER, J.:**

**The Case**

This Petition for Review on *Certiorari*<sup>1</sup> assails the following dispositions of the Court of Appeals in CA-G.R. SP No. 163904, entitled *Clarita D. Aclado v. Government Service Insurance System, viz.:*

1) Decision<sup>2</sup> dated June 3, 2021, upholding Resolution No. 100 dated

<sup>1</sup> *Rollo*, pp. 14–26.

<sup>2</sup> Penned by Associate Justice Marie Christine Azcarraga-Jacob and concurred in by Associate Justices Japar B. Dimaampao (now a Member of this Court) and Angelene Mary W. Quimpo-Sale, *id.* at 35–43.

July 9, 2019 and Resolution No. 169 dated November 12, 2019 of the Board of Trustees of the Government Service Insurance System (GSIS) in GSIS Case No. 007-19, which dismissed petitioner Clarita D. Aclado's appeal from the Decision dated January 15, 2019 of the GSIS Committee on Claims in COC Case No. 23-08-2018; and

- 2) Resolution<sup>3</sup> dated April 5, 2022, denying petitioner's motion for reconsideration.

### Antecedents

Petitioner was a public school teacher in Em's Signal Village Elementary School. She applied for and was granted several loans on various dates.<sup>4</sup> On August 19, 2015, the GSIS National Capital Region (NCR) Department II sent her a collection letter, informing her that she was among the active members verified with past due accounts.<sup>5</sup>

On August 5, 2016, she retired from the service, albeit her loan accounts remained unpaid. Consequently, the same were subjected to interest on arrears at the rate of 12% per annum compounded monthly and a penalty of 6% per annum compounded monthly.<sup>6</sup> She also did not avail of the Consolidated Loan Program prior retirement in order to waive penalties incurred despite advice from GSIS. When her retirement claim was consequently processed, her cash surrender value (CSV) resulted in zero proceeds.<sup>7</sup> Her retirement

<sup>3</sup> Penned by Associate Justice Marie Christine Azcarraga-Jacob and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Angelene Mary W. Quimpo-Sale, *id.* at 45–47.

<sup>4</sup> *Id.* at 91–92. Petitioner allegedly incurred the following loans:

LOAN TYPE	DATE GRANTED	GROSS LOAN AMOUNT	NET LOAN AMOUNT	MONTHLY PAYMENT	TERM END	CHECK NUMBER
ESL	12/22/2000	81,552.00	43,604.90	1,961.04	01/2005	1736388
EML	1/5/1996	7,500.00	1,141.82	324.54	01/1998	911826
SOS	3/26/2004	10,971.00	10,641.87	288.78	04/2008	2431309
ELA	10/30/2003	10,000.00	9,780.00	500.00	10/2005	2192082
MCA	12/16/2004	5,000.00	4,860.00	188.89	01/2008	e-credited UBP account
ECP	5/2/2007	10,000.00	4,643.14	338.68	07/2010	
EAL	5/31/2012	4,000.00	4,000.00	20.00	08/2017	

<sup>5</sup> *Id.* at 93. Petitioner's due accounts are as follows:

LOAN TYPE	OUTSTANDING BALANCE
EMERGENCY ASSISTANCE LOAN – DUE AND DEMANDABLE [DND]	22,115.77
SALARY LOAN – DND	173,359.66
EDUCATIONAL ASSISTANCE LOAN – DND	4,720.00
REGULAR POLICY LOAN	21,349.83
CASH ADVANCE-DND	12,664.33
EMERGENCY LOAN – DND	4,451.18
SUMMER ONE MONTH SALARY LOAN – DND	18,306.50
<b>Total</b>	<b>256,967.27</b>

<sup>6</sup> GSIS Board Resolution No. 97 dated June 18, 2008, amending Board Resolution No. 48 dated March 5, 2008.

<sup>7</sup> *Rollo*, p. 94. Breakdown of petitioner's CSV:

		PHP	30,459.95
Gross Benefit			
Add:	Regular Policy Loan	PIIP 24,986.55	
	Emergency Loan	14,499.34	
	Summer One Month Salary Loan	62,898.69	
	Enhanced Salary Loan	574,155.27	
	e-Card Cash Advance	34,121.37	
	Emergency Loan Assistance	39,727.97	

benefits under Option 1 pursuant to Republic Act No. 8291<sup>8</sup> nonetheless had net proceeds amounting to PHP 163,322.96.<sup>9</sup>

On December 5, 2016, she submitted a member's request form (MRF), denying that she ever availed of the Emergency Loan Assistance (ELA) and Summer One Month Salary Loan (SOS) for which she was being charged by GSIS. Too, she requested scanned copies of the loan applications and physical checks.<sup>10</sup> On December 13, 2016, she even filed a complaint *via* GSIS Hotline 8888 to reiterate that she never availed of the said loans.<sup>11</sup>

On December 12, 2016, she filed another MRF, this time, requesting for a refund of her loan overpayments. In several letters sent to her by GSIS NCR Department II, she was informed of the favorable action on her request for refund, including the action of GSIS crediting to her account the corresponding amount. As for her ELA and SOS accounts, she was furnished copies of the negotiated checks representing her receipt thereof.<sup>12</sup> On January 3, 2017, she also received letters from the GSIS informing her that her loan accounts were considered to have been fully paid after the unpaid loans and interests had been deducted from her retirement benefits and CSV claim.<sup>13</sup>

From January 2017 to April 2018, she exchanged correspondence with the GSIS NCR Department III reiterating her request to lower the interest on arrears and penalties. This, however, was denied on the following grounds: *first*, there were no recorded monthly payments remitted for her SOS, Enhanced Salary Loan (ESL), ELA, and Educational Assistance Loan (EAL) accounts; and *second*, Board Resolution No. 97 was already used to reduce the interest on arrears imposable on her loan accounts, resulting in the refund

	Educational Assistance Loan	4,960.00	755,349.19
<b>TOTAL DEFICIT CLAIM (as of 11/14/2016)</b>			<b>(PHP 724,889.24)</b>

Breakdown of Deficit Claim:

Emergency Loan		PHP 9,025.94
Summer One Month Salary Loan		62,898.69
Enhanced Salary Loan		574,155.27
e-Card Cash Advance		34,121.37
Emergency Loan Assistance		39,727.97
Educational Assistance Loan		4,960.00
<b>TOTAL (DEFICIT CLAIM)</b>		<b>(PHP 724,889.24)</b>

<sup>8</sup> RA 8291 or the Revised Government Service Insurance System Act of 1977.

<sup>9</sup> *Rollo*, pp. 36 and 94. Petitioner's Retirement Benefit Option 1 is broken down as follows:

Gross Benefit		PHP 888,232.20
<b>Add:</b>	Emergency Loan	PHP 9,025.94
	Summer One Month Salary Loan	62,898.69
	Enhanced Salary Loan	574,155.27
	e-Card Cash Advance	34,121.37
	Emergency Loan Assistance	39,727.97
	Educational Assistance Loan	4,980.00
<b>TOTAL NET PROCEEDS (as of 11/22/2016)</b>		<b>PHP 163,322.96</b>

<sup>10</sup> *Id.* at 94.

<sup>11</sup> *Id.* at 36.

<sup>12</sup> *Id.* at 95.

<sup>13</sup> *Id.* at 96-97.

of excess payment for her E-card Cash Advance (ECP) and ESL accounts amounting to PHP 139,075.28.<sup>14</sup>

On July 24, 2018, the GSIS NCR Department II Acting Vice President Leah Melisa De Leon reiterated the denial of petitioner's request.<sup>15</sup> Hence, petitioner appealed to the GSIS Committee on Claims (COC).<sup>16</sup>

### **Ruling of the GSIS COC**

By Decision<sup>17</sup> dated January 15, 2019, the GSIS COC denied petitioner's request, *viz.*:

**WHEREFORE**, premises considered, the request of Clarita D. Aclado (Claimant) to lower the interest on arrears and penalties imposed on her various loan accounts, i.e., Enhanced Salary Loan (ESL), Emergency Loan (EML), Summer One Month Salary Loan (SOS), Emergency Loan Assistance (ELA), ECARD Cash Advance (ECP) and Educational Assistance Loan (EAL) is hereby **DENIED**.<sup>18</sup> (Emphasis in the original)

The GSIS COC explained that there was no basis to further reduce the interest on arrears and penalties on petitioner's loan accounts considering the condonation made on the additional surcharges and portion of the interest thereon up to December 31, 2007 per Board Resolution No. 97. In any case, her excess loan payments in the total amount of PHP 139,075.28 had already been refunded to her account after due reconciliation.<sup>19</sup>

Petitioner thus further appealed to the Office of the Corporate Secretary (OCS) of the GSIS Board of Trustees.<sup>20</sup>

### **Ruling of the GSIS Board of Trustees**

Under Board Resolution No. 100<sup>21</sup> dated July 9, 2019, the GSIS Board of Trustees denied petitioner's appeal for having been filed out of time. Under Section 5, Rule 3 of Policy and Procedural Guidelines No. 300-15<sup>22</sup> and Section 26.2 of Rule V of the Revised Implementing Rules and Regulations of Republic Act No. 8291, she had 60 calendar days from receipt of the COC

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<sup>14</sup> *Id.* at 98.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 37.

<sup>17</sup> Signed by Chairperson Nora M. Malubay, Vice-Chairperson Jason C. Teng and Members Severina L. Resurreccion, Salvacion P. Mate, Carolina D. Garlit, and Eric G. Bundac, *id.* at 91–105.

<sup>18</sup> *Id.* at 105.

<sup>19</sup> *Id.* at 104.

<sup>20</sup> *Id.* at 37.

<sup>21</sup> Signed by the Clerk of the GSIS Atty. Luz Victoria F. Reyes-Morando and confirmed by Chairman Rolando L. Macasaet and members of the Board of Trustees Wilfredo C. Maldia, Jocelyn De Guzman Cabreza, Alan R. Luga, Nina Ricci A. Ynares-Chiongbian, Anthony B. Sasin, Kahar H. Macasayon, and Carlo Antonio B. Almirante, *id.* at 61–65.

<sup>22</sup> Also known as the Amended Guidelines on Appeals and Motions for Reconsideration.

Decision to file her appeal. Records showed that she received a copy thereof on January 17, 2019, giving her until March 18, 2019 to file her petition.<sup>23</sup> But she only filed the appeal more than one month after the deadline. In any event, the COC had already decided on the merits of her petition.<sup>24</sup>

Under Resolution No. 169<sup>25</sup> dated November 12, 2019, the GSIS Board of Trustees denied petitioner's motion for reconsideration.

### **Ruling of the Court of Appeals**

By its assailed Decision<sup>26</sup> dated June 3, 2021, the Court of Appeals denied petitioner's appeal and affirmed the assailed resolutions of the GSIS Board of Trustees.<sup>27</sup> It agreed that petitioner's appeal was filed only 38 days after the deadline. Thus, the COC Decision had already attained finality, hence, had become immutable.<sup>28</sup> By Resolution<sup>29</sup> dated April 5, 2022, the Court of Appeals denied petitioner's motion for reconsideration.

### **The Present Petition**

Petitioner now seeks affirmative relief from the Court and prays that the assailed dispositions of the Court of Appeals be set aside and a new one rendered, granting her request to reduce the interest and arrears imposed on her various loan accounts.<sup>30</sup>

**Petitioner posits** that a copy of the COC Decision was sent to her Taguig address though her actual residence is in Mariveles, Bataan. As a result, she only knew of the Decision on March 13, 2019 when she visited her home in Taguig and received the copy from her daughter. At the time, she was not yet assisted by counsel,<sup>31</sup> so she filed her petition within 60 days from her actual receipt of the COC Decision as she understood the notice in lay terms. She is entitled to a reduction of the interest on arrears and penalties imposed on her various loan applications since the interests imposed by GSIS are unreasonable and unconscionable.<sup>32</sup>

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<sup>23</sup> *Rollo*, p. 40.

<sup>24</sup> *Id.* at 62.

<sup>25</sup> Certified by the Corporate Secretary Atty. Luz Victoria F. Reyes-Morando and confirmed by Chairman and Acting President Rolando L. Macasaet and members of the Board of Trustees Carlo Antonio B. Almirante, Jocelyn De Guzman Cabreza, Nina Ricci Ynares-Chiongbian, Alan R. Luga, Kahar H. Macasayon, Anthony B. Sasin and Wilfredo C. Maldia, *id.* at 68–73.

<sup>26</sup> *Id.* at 35–43.

<sup>27</sup> *Id.* at 42.

<sup>28</sup> *Id.* at 41.

<sup>29</sup> Penned by Associate Justice Marie Christine Azcarraga-Jacob and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Angelene Mary W. Quimpo-Sale, *id.* at 45–47.

<sup>30</sup> *Id.* at 25.

<sup>31</sup> *Id.* at 23.

<sup>32</sup> *Id.* at 24.



The **GSIS riposted** that petitioner's case is not exceptionally meritorious so as to warrant exception to procedural rules. Without justifiable cause, she thus already lost her right to appeal and the COC Decision already attained finality on March 18, 2019.<sup>33</sup>

### Issues

- 1) Has the COC Decision dated January 15, 2019 attained finality?
- 2) Is petitioner entitled to the reduction of interest and penalties on her loan accounts with GSIS?

### Our Ruling

We grant the petition.

*Petitioner's case merits relaxation of the doctrine of immutability of judgment and rules of procedure*

The GSIS asserts that the COC Decision dated January 15, 2019 had become final in view of petitioner's failure to perfect her appeal within the 60-day reglementary period. Consequently, the doctrine of finality of judgment or immutability of judgment allegedly controls.

On this score, it is basic that judgments or orders become final and executory by operation of law and not by judicial declaration. Thus, finality of a judgment becomes a fact upon the lapse of the reglementary period of appeal if no appeal is perfected or a motion for reconsideration or new trial is filed.<sup>34</sup>

Under the doctrine of immutability of judgment, a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land. Any act which violates this principle must immediately be struck down.<sup>35</sup>

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<sup>33</sup> *Id.* at 171--177.

<sup>34</sup> See *Ng Ching Ting v. Philippine Business Bank, Inc.*, 835 Phil. 965, 981 (2018) [Per J. Reyes, Jr., Second Division], citing *Testate Estate of Maria Manuel v. Bisacan*, 401 Phil. 49 (2000) [Per J. Gonzaga-Reyes, Third Division].

<sup>35</sup> See *Villa v. GSIS*, 619 Phil. 740, 750 (2009) [Per J. Brion, Second Division].

But this rule is not absolute. For the Court has the power and prerogative to relax the same in order to **serve the demands of substantial justice** considering: (a) matters of life, liberty, honor, or property; (b) **the existence of special or compelling circumstances**; (c) the merits of the case; (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (e) the lack of any showing that the review sought is merely frivolous and dilatory; and (f) that the other party will not be unjustly prejudiced thereby.<sup>36</sup>

What is at stake here are petitioner's hard-earned retirement benefits painstakingly earned throughout her years of service as a public school teacher. We thus cannot allow the case to be disposed of on mere procedural grounds. A relaxation of the doctrine of immutability of judgment is therefore apropos to further the higher interest of substantial justice.

On this score, the **GSIS Board of Trustees should have reckoned with** the Revised Implementing Rules and Regulations of Republic Act No. 8291 under Section 33, Rule V, ordaining it to dispose of cases based on the merits in order to promote justice and equity rather than dismiss the same altogether based on procedural grounds, *viz.*:

Section 33. General Principles in Hearing and Determination of Cases. – The proceedings before the hearing officer shall be summary and non-litigious in nature and the technicalities of law and procedure and the rules obtaining in the courts shall not strictly apply.

**In the hearing, investigation and determination of any question or controversy, and in exercising any duty or power under the law and this Rule, the Board or Hearing Officer shall act on the merits of the case with the end in view of promoting justice and equity.** (*Emphasis and underscoring supplied.*)

Verily, the GSIS Board of Trustees gravely erred when it mainly based its decision against petitioner on mere procedural technicality, i.e., petitioner's belated appeal. Worse, it brushed aside its duty to render an independent ruling on the merits of petitioner's request by reasoning that the COC had anyway already passed upon the issue.

Admittedly, petitioner filed her appeal only 38 days after the reglementary period had already lapsed. Nonetheless, we have held that liberality in the application of procedural rules is warranted where the erring party: (a) shows reasonable cause justifying his/her non-compliance with the rules; (b) convinces the Court that the outright dismissal of the petition would defeat the administration of substantive justice; and (c) offer proof of at least a reasonable attempt at compliance therewith.<sup>37</sup>

<sup>36</sup> See *People v. De Atras*, G.R. No. 197252, June 23, 2021 [Per J. Perlas-Bernabe, Special First Division], citing *People v. Layug*, 797 Phil. 386, 389 (2016) [Per J. Perlas-Bernabe, First Division].

<sup>37</sup> See *Kabalikat Para sa Maunlad na Buhay, Inc. v. CIR*, (Resolution) G.R. Nos. 217530-31, February 10, 2020 [Per J. Inting, Second Division].

A relaxation of procedural rules must be allowed in this case.

**First.** Petitioner convincingly justified her failure to comply with the rules. She cannot be faulted for the delay since her sister-in-law and her daughter did not tell her that they received the COC Decision on January 17, 2019. Sans such notice, she could not have known that the Decision was already available since she resides in Mariveles, Bataan while a copy thereof was sent to Taguig.<sup>38</sup>

Too, she was unassisted by counsel. As a lay person, she would not have understood that the reglementary period to appeal is reckoned from the date of receipt of the decision and not the date of *actual knowledge* thereof. Notably, the assistance of legal counsel is not required in proceedings before the GSIS.<sup>39</sup> Accordingly, technicalities of law and procedure and the rules obtaining in courts do not strictly apply thereto.<sup>40</sup>

**Second.** To reiterate, the outright dismissal of the petition based merely on a procedural infirmity defeats the administration of substantial justice. For petitioner will be deprived of a substantial portion of her retirement benefits without even considering the merits of her request.

**Lastly.** Petitioner reasonably complied with the rules since she strived – and in fact, did – file her appeal within 60 days from receipt of the COC Decision, though her understanding thereof may have been incorrect.

In fine, the GSIS should have entertained her appeal and looked into the propriety of reducing the interest on arrears and penalties on petitioner's loan accounts notwithstanding her belated appeal.

***Petitioner is entitled to reduction  
of interest on arrears and penalties  
on her loan accounts***

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<sup>38</sup> *Rollo*, p. 23.

<sup>39</sup> Section 36, Rule V, RIRR of Republic Act No. 8291.

Section 36. Who May File Petition. – The GSIS, in appropriate cases, or any person whose rights are or may be prejudiced by the operations of the enforcement of Republic Act No. 8291, Commonwealth Act No. 186, as amended, including its implementing rules and regulations, policies and guidelines and other laws administered by the GSIS on matters herein above specified, may file a petition before the GSIS **either personally or through counsel.** (*Emphasis supplied.*)

<sup>40</sup> Section 33, Rule V, RIRR of Republic Act No. 8291.

Section 33. General Principles in Hearing and Determination of Cases. – The proceedings before the hearing officer shall be summary and non-litigious in nature **and the technicalities of law and procedure and the rules obtaining in the courts shall not strictly apply.**

In the hearing, investigation and determination of any question or controversy, and in exercising any duty or power under the law and this Rule, the Board or Hearing Officer shall act on the merits of the case with the end in view of promoting justice and equity. (*Emphasis supplied.*)

The power of courts to reduce iniquitous and unconscionable interests and penalties is well-settled. Articles 1229 and 2227 of the Civil Code are clear on this wise, *viz.*:

**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.**

**Article 2227.** Liquidated damages, whether intended as an indemnity or penalty, shall be **equitably reduced if they are iniquitous or unconscionable.** (Emphases supplied.)

The question of whether a penalty is reasonable or iniquitous is subject to the **sound discretion of the courts.** In arriving at such determination, the courts may consider factors such as, but not limited to: the type, extent and purpose of the penalty, the nature of the obligation, the mode of breach and its consequences, the supervening realities, the standing and relationship of the parties, and the like.<sup>41</sup>

Under the circumstances, the Court is constrained to declare the interest on arrears equivalent to **12% per annum compounded monthly** and penalty equivalent to **6% per annum compounded monthly** imposed by the GSIS on petitioner's loans as **unreasonable, iniquitous, and unconscionable.**

In *Lo v. Court of Appeals*,<sup>42</sup> the Court found the penalty of PHP 5,000.00 per day of delay or PHP 150,000.00 per month, i.e., five times the monthly rent, as exorbitant and unconscionable, especially considering that the delay in surrendering the leased premises was due to the lessee's **mistaken yet well-founded belief** that its right to pre-emption to purchase the subject property had been violated. More important, considering that the lessee is **an agricultural cooperative collectively owned by farmers with limited resources**, ordering it to pay a penalty of PHP 150,000.00 per month on top of the monthly rent **would deplete its income and drive it to bankruptcy.**

We draw analogy from the circumstances in *Lo* here.

**First.** There is an enormous disparity between the gross loan amount and the total amount due for each of petitioner's loan accounts due to the accumulated interests and penalties imposed and compounded thereto each month, *viz.*:<sup>43</sup>

Loan Account	Gross Loan Amount	Total Amount Due
Emergency Loan (EML)	PHP 7,500.00	PHP 23, 232.33

<sup>41</sup> See *Pryce Corporation v. PAGCOR*, 497 Phil. 490 (2005) [Per J. Panganiban, Third Division].

<sup>42</sup> 458 Phil. 414 (2003) [Per J. Corona, Third Division].

<sup>43</sup> *Rollo*, pp. 96–97.



	(granted on 01/05/1996) – with partial payment	
Summer One Month Salary Loan (SOS)	PHP 10,971.00 (granted on 03/26/2004) – no payments made	PHP 62,898.69
Enhanced Salary Loan (ESL)	PHP 81,552.00 (granted on 12/22/2000) – no payments made	PHP 443,432.04
Emergency Assistance Loan (ELA)	PHP 10,000.00 (granted on 10/30/2003) – no payments made	PHP 58,958.95
Educational Assistance Loan (EAL)	PHP 4,000.00 (granted on 05/31/2012) – no payments made	PHP 4,980.00
Regular Policy Loan (PRG)	PHP 23,655.83 (granted on 12/14/2015) – no payments made	PHP 24,986.55
E-Card Cash Advance Loan (ECP)	PHP 10,000.00 (granted on 05/02/2007) – with partial payment	PHP 19,684.03
<b>TOTAL</b>	<b>PHP 147,678.83</b>	<b>PHP 638,172.59</b>

To say however that the difference is enormous is an absolute understatement. For petitioner's total gross loan amount **ballooned from PHP 147,678.83** to the **shocking amount of PHP 638,172.59**. Framed differently, GSIS collected **432.135% more** than the amount petitioner **actually** received as loan – this, despite several partial payments on some of the accounts.

In *Mondragon International v. Union Bank*,<sup>44</sup> we declared as iniquitous and unconscionable the stipulated penalty charge of 2% per month or 24% per annum **in addition** to the regular interests. Too, in *Palmares v. Court of Appeals*,<sup>45</sup> we pronounced as iniquitous and unconscionable the 3% penalty charge on the PHP 30,000.00 loan **on top** of the 6% interest per annum **compounded monthly**. Finally, in *State Investment House, Inc. v. Court of Appeals*,<sup>46</sup> the Court disallowed the payment of the deficiency amount altogether because it found that the principal obligation **would not have ballooned** to the horrendous amount of PHP 4.8 million **if not for the iniquitous and unconscionable penalty charge of 3% per month or 36% per annum**.

Similarly, in this case, petitioner's principal loan obligations would not have ballooned to the staggering amount of PHP 638,172.59 if not for the **exponential effect** of the **compounded** interest on arrears added **each month on top** of the **compounded** penalty added **each month**. In other words, interest on interest on interest was added to petitioner's unpaid balance **per month**.

<sup>44</sup> G.R. No. 228530, January 21, 2019 (Notice).

<sup>45</sup> 351 Phil. 664 (1998) [Per J. Regalado, Second Division].

<sup>46</sup> 413 Phil. 518 (2001) [Per J. Kapunan, First Division].

Worse, GSIS did so **without** prior notice or demands to pay.

**Second.** Petitioner **mistakenly believed** that she already settled some of her accounts,<sup>47</sup> and, in fact, overpaid her loans<sup>48</sup> because **GSIS did not notify her** of her delinquencies and of the fact that it had begun imposing compounded interest on arrears, surcharges, and penalties on her unpaid balances.

On this score, GSIS claims that petitioners' loans were **due and demandable** at the time her CSV claim and retirement benefits were processed because the same remained unpaid **at the end of their respective loan terms.**<sup>49</sup> In fact, there were no recorded monthly payments remitted for her SOS, ESL, ELA, and EAL accounts.<sup>50</sup> Interest on arrears and penalties were thus allegedly correctly imposed.

As aptly raised by Justice Mario V. Lopez during the deliberation, petitioner's loans with GSIS are obligations with periods or "obligations for whose fulfillment a day certain has been fixed."<sup>51</sup> GSIS thus correctly surmised that petitioner's loans have become due and demandable at the end of their respective terms. This, however, **did not automatically** entitle GSIS to impose interest on arrears and penalties on the unpaid balances.

Article 2209 of the Civil Code<sup>52</sup> indeed allows creditors like GSIS to collect interest by way of damages, such as interest on arrears and penalties, whenever the debtor **defaults or incurs in delay** in the payment of his or her debt. However, before a debtor may be declared in default, it is necessary that **all** the following requisites must be present: (1) that the obligation be demandable and already liquidated; (2) that the debtor delays performance; and (3) the creditor requires the performance judicially or extrajudicially. **Default only begins from the moment the creditor demands the performance of the obligation.**<sup>53</sup>

<sup>47</sup> *Rollo*, p. 78.

<sup>48</sup> *Id.* at 95.

<sup>49</sup> *Id.* at 99.

<sup>50</sup> *Id.* at 98.

<sup>51</sup> See Civil Code, Article 1193. Obligations for whose fulfillment a day certain has been fixed, shall be demandable only when that day comes.

Obligations with a resolutive period take effect at once, but terminate upon arrival of the day certain.

A day certain is understood to be that which must necessarily come, although it may not be known when. If the uncertainty consists in whether the day will come or not, the obligation is conditional, and it shall be regulated by the rules of the preceding Section.

<sup>52</sup> Civil Code, Article 2209. If the obligation consists in the payment of 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 percent per annum.

<sup>53</sup> See *Social Security System v. Moonwalk Development & Housing Corporation*, 293 Phil. 129 (1993) [Per J. Campos, Jr., Second Division].

Thus, in *SSS v. Moonwalk Development*,<sup>54</sup> the Court declared that respondent was **never in default** because petitioner never compelled performance of its loan obligation but immediately yet wrongfully enforced payment by foreclosing respondent's real estate mortgage without prior notice and demand to pay. Consequently, petitioner therein was **not entitled to recover any penalty** without such prior demand.

Here, there is no showing that GSIS sent **prior demands to pay**, in whatever form, to petitioner **each time** any of her accounts remained unpaid at the **end of each loan term**. Petitioner was not even aware that no payments were remitted to some of her accounts. Therefore, she **cannot** be considered in default. Plain and simple, GSIS consequently **had no right to impose interest on arrears and penalties** on petitioner's unsettled balances notwithstanding the expiration of the respective loan terms thereof. While there are exceptions to the requirement of prior demand,<sup>55</sup> none was established to apply here.

Petitioner may only be considered in default upon her receipt of GSIS' collection letter dated August 19, 2015 notifying her of her past due accounts.<sup>56</sup> For it was only then that her attention was called on her delinquencies and was given a fair opportunity to contest or remedy the same.

**Third.** If the Court upholds the 12% interest on arrears per annum compounded monthly and 6% penalty per annum compounded monthly on top of the principal loan amount and stipulated monetary interest collected from petitioner, we will not only turn a blind eye to the patent unfairness, *nay*, injustice, by which GSIS treated her request but also rob her of decades-worth of benefits. This we cannot allow.

Petitioner was a public school teacher who had been in service for several decades. It is unfortunate that she was left with only the meager amount of PHP 163,322.96<sup>57</sup> in exchange for several decades of long and difficult service. Worse, when she finally contested the same, she was shunned by GSIS based on mere procedural grounds. As of this date, it has been more than six years since petitioner retired. It is high time that GSIS returns to her what is due.

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<sup>54</sup> *Id.*

<sup>55</sup> Civil Code, Article 1169. Those obliged to deliver or to do something incur in delay from the time the obligee judicially or extrajudicially demands from them the fulfillment of their obligation.

However, the demand by the creditor shall not be necessary in order that delay may exist:

- (1) When the obligation or the law expressly so declare; or
- (2) When from the nature and the circumstances of the obligation it appears that the designation of the time when the thing is to be delivered or the service is to be rendered was a controlling motive for the establishment of the contract; or
- (3) When demand would be useless, as when the obligor has rendered it beyond his power to perform.

In reciprocal obligations, neither party incurs in delay if the other party does not comply or is not ready to comply in a proper manner with what is incumbent upon him. From the moment one of the parties fulfills his obligation, delay by the other begins.

<sup>56</sup> *Rollo*, p. 93.

<sup>57</sup> *Id.* at 36 and 94.



All told, in furtherance of the higher interests of justice, fairness, and equity, GSIS shall **waive** the 12% interest on arrears per annum on the unpaid balances of petitioner's loans. It shall **impose** only the penalty of 6% interest per annum, which shall **not be compounded** and which shall be due only **from the date petitioner was considered in default**, i.e., date the collection letter dated August 19, 2015 was received until the outstanding balances were deducted from her CSV claims and retirement benefits.

After computation, GSIS shall immediately return to petitioner the excess amounts deducted from her benefits, subject to 6% interest per annum from the date of finality of this Decision until full payment, in accordance with prevailing jurisprudence.<sup>58</sup>

We find no reasons which may preclude GSIS from granting such waiver as it can, and has in fact, on previous occasions, waived penalties and surcharges on due accounts, e.g., in cited Resolution No. 48 per COC Decision dated January 15, 2019. Too, our pronouncement in *SSS v. Moonwalk Development*,<sup>59</sup> is apropos, viz.:

It is admitted that **when a government created corporation enters into a contract with a private party concerning a loan, it descends to the level of a private person. Hence, the rules on contract applicable to private parties are applicable to it.** The argument therefore that the Social Security Commission cannot waive or condone the penalties which was applied in the United Christian Missionary Society cannot apply in this case. First, because what was not paid were installments on a loan but premiums required by law to be paid by the parties covered by the Social Security Act. Secondly, **what is sought to be condoned or waived are penalties not imposed by law for failure to remit premiums required by law, but a penalty for non-payment provided for by the agreement of the parties in the contract between them . . .**" (Emphases supplied).

So must it be.

**ACCORDINGLY**, the Petition is **GRANTED**. The Decision dated June 3, 2021 and Resolution dated April 5, 2022 of the Court of Appeals in CA-G.R. SP No. 163904 are **REVERSED**.

Respondent Government Service Insurance System is **ORDERED** to:

1. **WAIVE** the interest on arrears equivalent to 12% per annum on petitioner's unpaid loan balance;

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<sup>58</sup> See *Nacar v. Gallery Frames*, 716 Phil. 267, 283 (2013) [Per J. Peralta, En Banc].

<sup>59</sup> *Supra* note 53.

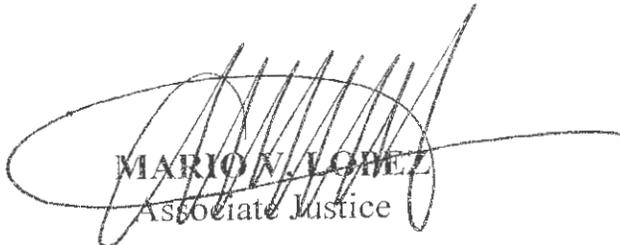
2. **CHARGE** on petitioner Clarita D. Aclado's unpaid loan balances the penalty equivalent to 6% per annum, which shall not be compounded, only from the date petitioner was considered in default, i.e., date of receipt of the collection letter dated August 19, 2015; and
3. **RETURN** to petitioner Clarita D. Aclado, upon computation, the excess payments on her loan accounts subject to 6% interest per annum from finality of this Decision until full payment.

**SO ORDERED.**

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

**WE CONCUR:**

  
**MARVIC MARIO VICTOR F. LEONEN**  
Senior Associate Justice  
Chairperson

  
**MARIO N. LOPEZ**  
Associate Justice

  
**JHOSEP Y. LOPEZ**  
Associate Justice

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

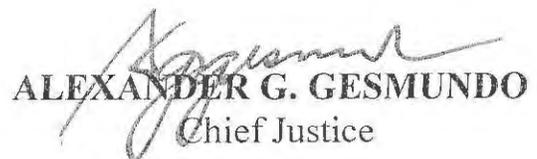
**ATTESTATION**

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

  
**MARVIC MARIO VICTOR F. LEONEN**  
Senior Associate Justice  
Chairperson, Second Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the above 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 Court's Division.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

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