

**THE HIGH COURT
CIRCUIT APPEAL**

[2014/88CA]

BETWEEN

BANK OF IRELAND MORTGAGE BANK

PLAINTIFF

AND

LAURA FINNEGAN & CHRISTOPHER WARD

DEFENDANTS

JUDGMENT of Ms. Justice Murphy delivered the 20th day of May, 2015

1. This judgment concerns the jurisdiction of the Circuit Court to hear the plaintiff's claim for possession of the defendants' domestic dwelling.

The Proceedings

2. On the 10th October, 2012 the plaintiff issued a civil bill for possession of the defendant's residence at 59 Ard Dun, Kells Road, Kingscourt, Co. Cavan. The proceedings were issued on the Northern Circuit in the County of Cavan. The special endorsement of claim on the civil bill is as follows:-

(1) The plaintiff, Bank of Ireland Mortgage Bank as mortgagee claims possession of the hereditaments and premises known as all that and those the property comprised of a deed of conveyance dated 22nd June, 2006 and made between Thomas Cunningham and Patrick Cunningham of the one part and Christopher Ward and Laura Finnegan the other part and therein described as all that and those that plot of ground part of the lands of Lisanisky parish of Enniskeen situate in the barony of Clankee and the County of Cavan now known as site 59, Ard Dun, Kells Road, Kingscourt, in the County of Cavan more particularly described and delineated on the plan and thereon marked "59" (hereinafter called "the mortgage property") and the possession of which the defendants wrongfully withholds (sic).

(2) The above mortgaged property is located in the County of Cavan and within the jurisdiction of this honourable court.

(3) The plaintiff sues as mortgagee

Reliefs Sought

(4) The plaintiff claim (sic) an order for possession of the mortgaged premises

(5) The plaintiff claims any further and other relief as may arise within these proceedings.

(6) The plaintiff claims the costs of these proceedings.

Confirmation:

(7) The rateable valuation of the premises does not exceed €253.94 (£200). The plaintiff will rely at the hearing of this civil bill on the following affidavits.

1. Affidavit of Godfrey Hogan, solicitor acting on behalf of the plaintiff sworn on the 8th October, 2012.

2. Affidavit of Adrienne Browne, manager in the arrears support unit of the plaintiff sworn on 4th October, 2012.

3. The affidavit of Godfrey Hogan referred to in the endorsement of claim was to the effect that there are no other persons in occupation other than those served or intended to be served with the proceedings. The affidavit of Adrienne Browne sets out the history of the mortgage between the plaintiff and the defendants and the default alleged against the defendants in respect of monthly repayments. In brief, the deed of mortgage is dated 23rd June, 2006. This followed a letter of loan offer dated 5th April, 2006 whereby the plaintiff agreed to make available to the defendants a loan facility in the sum of €210,000. The defendants, in accordance with the terms of their mortgage, made monthly repayments on foot thereon from June 2006 until the beginning of August 2011. At the time of the swearing of the grounding affidavit the defendants' mortgage was in arrears of the sum of €14,315.96.

4. The plaintiff relies on rateable valuation of the premises to establish the jurisdiction of the Circuit Court pursuant to s. 22 of the Courts (Supplemental Provisions) Act 1961 as amended. At paragraph 15 of the grounding affidavit of Adrienne Browne it is averred as follows:-

"The rateable valuation of the premises does not exceed €253.94 (£200) and I beg to refer to certificate of rateable valuation upon which marked with the letter "f", I have signed my name prior to the swearing hereof. I say that the premises in the said certificate of rateable valuation are one and the same premises as those set forth and described in

the schedule to the mortgage.

The "certificate of valuation" referred to in the affidavit is in fact a stamped letter from the Valuation Office, dated 1st August, 2012. The letter was addressed to the plaintiff's solicitors and received by them on 3rd August, 2012. The letter is headed "Provisional Assessment re: 59 Ard Dun, Kingscourt, Co. Cavan" and its contents are as follows:

"Dear Sir/Madam;

I refer to your application for a certificate showing the rateable valuation for the above property.

*I regret that I am unable to issue such certificate as the property is not as yet valued for rating purposes, however, if a building is erected/reconstructed in accordance with the dimensions shown on the deed plans submitted **I certify that the rateable valuation of the said buildings will not exceed €252.95 (Two hundred and fifty two euro)***

Yours sincerely

Mary Regan

Public Office"

5. Having obtained an order for substituted service by reason of their inability to serve the defendants in the normal way, the plaintiffs were given leave to serve the civil bill for possession by ordinary pre paid post with a return date for 27th May, 2013. There were a number of adjournments to facilitate interaction between the parties. Three affidavits, described as affidavits of truth, were filed by the defendants; the first on the 21st May, 2013, the second on 21st January, 2014 and the third on 26th February, 2014. In the last affidavit, dated 26th February, 2014, the defendants set out their defence to the plaintiffs claim. As well as raising a number of legal issues the defence raises the issue of jurisdiction. At paragraph 7 of the affidavit of 26th February, 2014 the defendants state:-

"The defendants in this matter do say that this case should not be held within the Circuit Court system, the monetary jurisdiction of the Circuit Court here today is based on the rateable value of the property. The defendants do state that this case is against the family home of the defendants and that the family home is not a commercial property and neither is the mortgage a commercial mortgage. The defendants do say that there is no rateable value on this property, as domestic rates on the family home were abolished in Ireland by Fianna Fail in 1977. The defendants would ask this court to strike out this case."

The defendants then set out the basis upon which they maintain that the Court did not have jurisdiction in paragraphs listed a-h of paragraph 7 of their affidavit in which they plead *inter alia*, that having searched "via the Oifig Luachála's own website: www.valoff.ie/search, no rateable value is attached to their property, deed of conveyance number 26177162."; that the "certificate of valuation" produced by the plaintiff is not a certificate of valuation but merely a letter of "provisional assessment" which states that the property is not yet rated; that they have not been requested to give, nor have they given their consent to the claim being heard in the Circuit Court so as to confer jurisdiction on that Court pursuant to section 22(1)(b) of the Courts (Supplemental Provisions) Act 1961, as amended.

6. The plaintiff's claim came on for hearing before the learned Circuit Judge on 18th March, 2014 at Cavan Circuit Court and an order for possession was made in favour of the plaintiff together with the costs of the proceedings to be taxed in default of agreement.

7. The defendants appealed the order of the Circuit Court and the appeal came on for hearing before this Court on 26th January, 2015. On that date the Court sought clarification from the parties as to the issues arising on the appeal. Six issues were identified, among them the issue of the jurisdiction of the Circuit Court to hear the claim.

8. Having identified the issues, the Court requested written submissions from the parties on each issue. The Court further ruled that it would be appropriate to dispose of the issue of jurisdiction first.

The Defendants' Claim on Jurisdiction

9. The defendants' position remained, as it has been from the outset, that the Circuit Court jurisdiction depends on the relevant property having a rateable valuation which is less than €253.95. The first requirement is that the property be rateably valued and the second requirement is that that valuation not exceed €253.95. The defendants point to the letter relied on by the plaintiffs which the defendants claim in effect proves the absence of the basic requirement that the property be rateably valued. They point to the fact that Mary Regan, of the Valuation Office, in her letter of provisional assessment stated "I refer to your application for a certificate showing the rateable valuation for the above property. I regret that I am unable to issue such certificate as the property is not yet valued for rating purposes."

Response of the Plaintiff

10. The plaintiff argued that the defendants' objections were met by s. 67 and s. 60 of the Valuation Act 2001. The plaintiff maintained that to accommodate for such instances where certificates of rateable valuation are not available by reason of the property not having been rated or rateable, s. 67(2) of the 2001 Act provides that:

"The Commissioner may, in relation to property concerned that falls within schedule 4... on application being made to him or her in that behalf by a person who appears to the Commissioner to have a sufficient interest in the matter cause the value of the property to be determined as if the property were relevant property rateable under the Act."

11. According to the plaintiff, it should be noted that Schedule 4 of the 2001 Act lists a number of properties to which s. 67(2) above applies and that ss. (6) provides that s. 67(2) will apply to : "any domestic premises". Section 67(3) further provides that:

"The value of the property so determined shall be deemed to be the rateable valuation of the property within the meaning and for the purpose of the provision referred to in subsection (9)."

12. Section 67(9) provides:

"the provision mentioned in the preceding subsections of this section is any provision of a statute passed before the commencement of this Act, or of an instrument made under such a statute, which imposes as a condition or as one of

the conditions for the enjoyment of, or the entitlement to, any right under the statute or instrument a condition expressed to relate to the rateable valuation of a property."

13. The plaintiff contends that the letter of "provisional assessment" provided in respect of the subject property was proffered pursuant to the provisions of the 2001 Act as laid out above. The plaintiff further maintains that it had satisfied any requirement which it may be under to have an "entitlement to" the certified letter pursuant to the banks right of possession under the mortgage deed agreed, witnessed and signed by the defendants and attending solicitor Mr. Darragh Murtagh of Murtagh & Co. solicitors, Main Street, Co. Cavan.

14. The plaintiff further submits that over and above s. 67, the 2001 Act further provides, at s. 60, for documents that can be proffered as evidence of such a valuation. Section 60(2) states:-

"The production to the Tribunal or a court of a document purporting to be a copy of a valuation list or part of such a list and to be certified as such a copy by an officer of the Commissioner shall, without proof of the signature of that officer or that he or she was an officer of the Commissioner duly authorised by the Commissioner to so certify the document, be sufficient evidence until the contrary is proved of the matter stated in the document."

15. It is the plaintiff's case that pursuant to the above cited provision, the "document" which has been offered to the Court by an officer of the Valuation Office, namely Ms. Mary Regan, "shall be sufficient evidence" of the valuation until the contrary is proved. It was the plaintiff's submission that the Act leaves no discretion to the Court to disregard the certificate of rateable valuation (CRV) provisional letter from the Valuation Office as being insufficient evidence, unless the defendants can proffer evidence to the Court that the rateable valuation of property is actually above €253.95.

16. In their reply the defendants countered that s. 67 of the Valuation Act did not apply in this case because it was clear that no application had been made by the plaintiff to the Commissioner of Valuation for a rateable valuation of the relevant property. Furthermore, the defendants maintained that since the value of the property had not been determined by a Commissioner of Valuation, s. 67(3) which provides: "that the value of the property so determined shall be deemed to be the rateable valuation of the property within the meaning and for the purpose of the provision referred to in subsection (9)", had no application to the case and that there was no rateable valuation of the property.

17. In response to the plaintiff's reliance on the provisions of s. 60(2) of the 2001 Act, the defendants state that the letter of provisional assessment is not "a copy of a valuation list or part of such a list" as provided for by the section, but is rather a letter which clearly states that the property is not yet valued. Furthermore, the defendants argue that s. 60 clearly states that the valuation, to be admissible, is "to be certified as such a copy by an officer of the Commissioner". The signatory Mary Regan does not purport to be a Commissioner of Valuation.

18. At this juncture in the proceedings both parties had been in contact with the Valuation Office and there was some disagreement between them as to the nature of information emanating from that office on the status of the letter issued under the name of Mary Regan. In order to clarify matters, the Court requested that Mr. Declan Lavelle of that office attend Court for the purpose of assisting the Court and the parties.

Evidence of Declan Lavelle

19. Mr. Lavelle is the head of Valuation Services in the Valuations Office and is responsible for valuations issued by that office. He stated the Valuation Act 2001 deals with rateable valuation of all corporeal and incorporeal property which is rateable under the Act. He told the Court that certain categories of property are excluded from rating by the provisions of the Act. The categories of property excluded from rating are listed in Schedule 4 of the Act. There are nineteen categories of property listed in Schedule 4. Item 6 on the list is "any domestic premises". This is subject to an exception which is not relevant to this case. It follows that since the Valuation Act 2001 came into effect in 2002, any new domestic premises was not rateable. Mr Lavelle explained that prior to the coming into effect of the Act domestic premises were rateable even though rates had not been levied on them since the passing of the Local Government Act 1978. Thus, domestic properties built in the 1980s and 1990s have a rateable valuation and appear on the valuation lists. Domestic properties built after the Valuation Act came into effect are not rated and do not appear on the valuation lists.

Purpose and Operation of s. 67

20. Mr. Lavelle explained that the purpose of s. 67 is to provide a mechanism for an interested person who needs a certificate of rateable valuation, in order to exercise a statutory entitlement pre-dating the Act, to obtain such a certificate. He told the Court that there has been a very small number of applications since the Act came into force. His estimate was that the number of applications pursuant to s. 67 was in low double digits. The applications thus far received related in the main to rights under landlord and tenant legislation where rateable valuation is necessary to resolve the issue of whether an occupier is holding under an occupational lease or a ground rent. The limited number of s. 67 applications have related to properties already on the valuation list. There have been no applications pursuant to s. 67 from any financial institutions and the entitlement of such an institution to maintain such an application has not been legally tested. In any event, he stated that the Valuation Office would not be legally empowered to issue a valuation in respect of a 2006 domestic property because the 2001 Act provides that such properties are not rateable.

21. The relevant provisions of section 67 of the Act are as follows:

"67.—(1) In this section "property concerned" means property referred to in subsection (9).

(2) Notwithstanding the preceding sections of this Act, the Commissioner may, in relation to property concerned that falls within Schedule 4 and for the purpose of the provision referred to in subsection (9), on application being made to him or her in that behalf by a person who appears to the Commissioner to have a sufficient interest in the matter, cause the value of the property to be determined as if the property were relevant property rateable under this Act.

(3) The value of the property so determined shall be deemed to be the rateable valuation of the property within the meaning, and for the purpose, of the provision referred to in subsection (9).

(4) The Commissioner shall issue to the person referred to in subsection (2) a certificate stating the value of the property referred to in that subsection as determined thereunder.

(5) The Commissioner shall, before deciding whether to accede to an application under subsection (1) in relation to property that appears on an existing valuation list which is for the time being in force, require the applicant to show

cause why the valuation of the property appearing on that list will not suffice for the purpose of the provision referred to in subsection (9)

....

(9) The provision mentioned in the preceding subsections of this section is any provision of a statute passed before the commencement of this Act, or of an instrument made under such a statute, which imposes as a condition or as one of the conditions for the enjoyment of, or the entitlement to, any right under the statute or instrument a condition expressed to relate to the rateable valuation of a property.

(10) In subsection (9) "statute" has the same meaning as it has in the Interpretation Act, 1937."

22. Mr. Lavelle was shown the letter to the Valuation Officer from the plaintiff's solicitor which sought:-

(a) A certificate of rateable valuation for the property or,

(b) If the property is not yet rated a letter confirming, that if the property was rated its rateable valuation would not exceed €254

He confirmed that such letter was not an application for a valuation within the meaning of s. 67 of the Act. He further confirmed that the fee of €12.70 enclosed with the letter was not the fee appropriate to an application under s. 67 where the appropriate fee is €250; that the person who issued the letter is not a Commissioner of Valuation within the meaning of the Act; that the letter issued is not part of a valuation list or extract from a valuation list within the meaning of s. 60 of the Act which provides for the manner of proving rateable valuation.

23. When asked by the Court how the practice of sending out provisional assessments arose, Mr. Lavelle responded that it is not unusual that there are requirements for what one might call estimates of rateable valuation in advance of the actual valuation being determined. An example he gave was the case of a new licensed premises or off licence where the assessment of rateable valuation might take some time since the valuation process involves an application which comes in from a local authority after a development is completed. The valuer appointed by the Commissioner then has to go through a process before the certificate of valuation is issued which includes taking representation from the occupier. In those circumstances the Valuation Office might issue a provisional assessment.

24. In examination by counsel for the plaintiff Mr. Lavelle confirmed that the Valuation Office has been asked to give assessments, such as the one at issue in this case, where financial institutions are applying for Circuit Court Orders for possession and seeking to satisfy the court that it has jurisdiction in the matter. He confirmed that the approach taken in the current case was the normal way in which such applications are dealt with, that usually someone writes in a letter similar to that of the letter of the plaintiff and that in most cases the property in question would not appear on a valuation list or have a certificate of valuation issued. He further confirmed that the employee issuing the letter, who is an E.O in the Public Office, was, in the Valuation Office's view, the appropriate person to issue the response and that the response was in respect of a hypothetical valuation of the property in accordance with the dimensions and details provided to the Valuation Office. He confirmed once again however, that there is no rateable valuation in respect of the property at issue in this case. The Court notes that there is no statutory basis in the Valuation Act 2001, or otherwise, for the issuance of provisional assessments such as was issued in this case.

The Law

25. Since before the foundation of the State the jurisdiction of statutory courts to deal with questions of title to land has been rooted in the valuation of that land. From the County Officers and Courts (Ireland) Act 1877 through the Courts of Justice Act 1924 to the Courts (Supplemental Provisions) Act 1961 land valuation has been determinative of jurisdiction. In these proceedings the plaintiff purported to rely on and establish the jurisdiction of the Circuit Court by reference to the rateable valuation of the defendants' premises. While precedence suggests that it is not necessary to formally prove rateable valuation in order to establish jurisdiction, the absence of rateable valuation does deprive the court of jurisdiction. The case of *Harrington & Keohane v. Murphy* [1989] I.R. 207, a decision of O'Hanlon J., concerned an application for *certiorari* by the applicants against a Circuit Court judge on grounds that the plaintiffs in the action before him had not formally proved the rateable valuation of the lands in question so as to show jurisdiction. O'Hanlon J. stated:

"The applicants claim that formal proof of the rateable valuation of the lands was necessary in order to give the respondent jurisdiction to entertain the claim, but I do not construe the provisions of the Courts Supplemental Provisions Act, 1961 section 22 and the third schedule to the Act (as amended) in this manner. It appears to me that proof should be given in every case to show that the matter is within the jurisdiction of the court, but that if it is not given and the case is allowed to proceed a situation arises in which the court may or may not have jurisdiction to deal with the dispute which has been litigated before it. If it proceeds to judgment and it transpires that the matter was not within the proper jurisdiction of the Circuit Court, then the court has made an order without having jurisdiction to do so and that order should, in the normal course of events, be set aside ex debito justitiae, on the application of a party who is affected by the making of the order."

26. The Court is satisfied, for the reasons set out hereunder, that both at the time of initiation of these proceedings and at the time of hearing in the Circuit Court, the defendants' premises were not rated or rateable and accordingly that the Circuit Court lacked the necessary jurisdiction to hear the claim.

Valuation Act 2001

27. Before the commencement of the Valuation Act 2001 on the 2nd May, 2002, (S.I no 131/2002), domestic dwellings were rateable even though rates had not been levied on them since the passing of the Local Government Act 1978. The Valuation Act 2001 changed that by providing that certain categories of "relevant property" shall not be rateable. "Relevant property" for the purpose of the Act is set out in Schedule 3 and includes at 1(a) of the Schedule "buildings", and accordingly buildings of every description are relevant property under the Act.

28. Section 15 of the Act provides :

(1) Subject to the following subsections and sections 16 and 59, relevant property shall be rateable.

(2) Subject to sections 16 and 59, relevant property referred to in Schedule 4 shall not be rateable (Emphasis added).

29. Schedule 4 of the Act itemises nineteen categories of "relevant property" which are not rateable. Item 6 is "any domestic premises". This is subject to section 59(4) which provides that apartments are rateable in certain limited circumstances. That limited exception is of no relevance to this case, which concerns a domestic dwelling. Domestic premises is defined in s. 3 of the 2001 Act as "any property which consists wholly or partly of premises used as a dwelling and which is neither a mixed premises nor an apart-hotel". The property of which the plaintiff seeks possession in these proceedings is the defendants' home and is neither a mixed premises nor an apart-hotel. Accordingly, the consequence of the enactment of these provisions is that the defendants' dwelling, the construction of which post-dates the Act, is neither rated nor rateable. On the facts of this case the Court does not need to consider the effect (if any) of these provisions on the rateable valuation of domestic premises which predate the Valuation Act 2001.

30. A consequence of the legislation is that it divested the Circuit Court of jurisdiction to hear claims for possession of "domestic premises" constructed after the commencement of the Valuation Act 2001, because as we have seen, the foundation of Circuit Court jurisdiction in actions on title is rateable valuation. The full original jurisdiction of the High Court was of course unaffected by these changes.

31. It appears to the Court that the State adverted to the lacuna in Circuit Court jurisdiction created by the enactment of the Valuation Act 2001, because in the Civil Liability and Courts Act 2004, the Oireachtas enacted the following at s. 45:

(1) Section 2 of the Courts (Supplemental provisions) Act 1961 is amended by the insertion, in subsection(1), of the following definition:

'market value' means in relation to land, the price that would have been obtained in respect of the unencumbered fee simple were the land to have been sold on the open market, in the year immediately preceding the bringing of the proceedings concerned, in such manner and subject to such conditions as might reasonably be calculated to have resulted in the vendor obtaining the best price for the land".

(2) The Third Schedule to the Courts (Supplemental Provisions) Act 1961 is amended in Column (3), by the substitution of-

(a) "market value" for "rateable valuation" in each place that it occurs, and

(b) "€3,000,000" for "£200" (inserted by section 2(1)(d) of the Act of 1981) in each place that it occurs.

The clear intention of this legislation was to base Circuit Court jurisdiction on "market value" instead of rateable valuation. By virtue of s. 1(2) of the 2004 Act, an order of the Minister was required to bring this provision into operation. Section 45 has not been commenced and so the position remained that the Circuit Court did not have jurisdiction to hear claims for possession of "domestic premises" which were not rated or rateable. This remained the position until the enactment of the Land and Conveyancing Law Reform Act 2009. Part 10 of this Act conferred a new jurisdiction on the Circuit Court in mortgage suits. The new jurisdiction is not dependent on rateable valuation. Section 101(5) provides:

"Where an application under section 97(2) or section 100(3) concerns property which is subject to a housing loan mortgage the Circuit Court shall have exclusive jurisdiction to deal with the application and the application shall not be made to the High Court."

32. This provision came into effect on the 1st December, 2009 but only confers jurisdiction on the Circuit Court in respect of mortgages for housing loans created after that date. Thus jurisdiction in respect of the defendant's mortgage, which was created in 2006, was unaffected. In 2013 the Oireachtas enacted s. 3 of the Land and Conveyancing Law Reform Act 2013 which extended the jurisdiction of the Circuit Court to mortgages created before 1st December, 2009. However these proceedings, which commenced in October 2012, are unaffected by that provision, which did not come into effect until 31st July 2013.

33. On the foregoing analysis of the applicable law, the Court is satisfied that at the time of the initiation and hearing of this claim, by reason of the operation of the Valuation Act 2001, the defendants' dwelling was neither rated nor rateable and accordingly the Circuit Court did not have jurisdiction to hear the plaintiff's claim.

Purported Reliance on s. 67 and s. 60 of the Valuation Act 2001

34. In written submissions to this Court, the plaintiff maintained that it had invoked and was entitled to invoke the provisions of s. 67 of the Valuation Act 2001 and that the letter which issued from the Valuation Office was sufficient to prove rateable valuation within the meaning of s. 60 of the Act. Both of these assertions are manifestly unfounded on the evidence. The evidence of Mr. Lavelle, which the Court accepts fully and for which the Court is grateful, is that no application was made by the plaintiff pursuant to s. 67 of the Act and that if such an application had been made it is doubtful that it would have been entertained in circumstances where the property at issue is not rateable. Furthermore, Mr. Lavelle confirmed that the letter which issued from the Valuation Office is not a certificate of valuation within the meaning of s. 60 of the Act.

35. It appears to the Court on the evidence, that the plaintiff and others have devised and used an ad hoc non-statutory process which is devoid of legal effect, for the purpose of persuading the Circuit Court that it has a jurisdiction which it does not in fact enjoy. This is a matter of serious concern to the Court. The standard letter issued by the Valuation Office in this and other cases may be derived from the type of letter issued by them in respect of rateable properties such as off licences which are in the process of being valued, but the fact is that the content of these letters, however unintentional, is misleading when applied to domestic premises. The letter states "I refer to your application for a certificate showing the rateable valuation for the above property. I regret that I am unable to issue such a certificate as the property is not as yet valued for rating purposes". The clear import of the terminology used is that the property is rateable but not yet rated, when as the Valuation Office well knows, the property is by virtue of the Act not rateable at all. In so far as this practice may be ongoing it should cease forthwith.

Case Stated

36. Counsel for the plaintiff requested the Court to state a case to the Supreme Court on the issue of jurisdiction. The Court is conscious that this is a Circuit Appeal and that therefore its decision is final. Were the Court in any doubt as to the applicable law, the Court would readily accede to such an application, however, the Court is satisfied that the law is as set out herein and therefore declines the plaintiff's application for a case stated.

37. For the foregoing reasons the Court will allow the defendants' appeal on jurisdiction. In doing so, the Court observes that the defendants' success on this aspect of the case is a pyrrhic victory. In circumstances where there is no dispute that the defendants

borrowed the money and no dispute that they ceased making the agreed repayments in August 2011, this judgment merely postpones the day of reckoning while their debt keeps mounting. So be it.