

PHILIPPINE NATIONAL BANK, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, NAPOLEON C. NAVARRO, PATRICIA CRUZ, VICENTE E. MEDINA AND LETICIA LOPEZ, RESPONDENTS.*G.R. No. L-45770. March 30, 1988*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/29d44ac8dc0e/>**FERNAN, J.:**

This is a petition for review on certiorari of the decision rendered by respondent Court of Appeals dated December 27, 1976 in CA-G.R. No. 48720-R dismissing the complaint of petitioner Philippine National Bank in Civil Case No. 4507 and on the counterclaim modifying the decision of the trial court by reducing the award of moral and exemplary damages from P100,000.00 to P10,000.00 with legal interest from the date of filing of the counterclaim and ordering petitioner bank to pay the amount of P5,000.00 as attorney's fees, without pronouncement as to costs; as well as from the Resolution denying petitioner's motion for reconsideration.

Private respondent Napoleon Navarro was an employee of petitioner Philippine National Bank stationed at Cabanatuan City as Branch Accountant. On various dates from 1962 to 1965, said private respondent Napoleon Navarro prepared fifty-one [51] manager's checks and their corresponding debit tickets purportedly representing refund of deposits of petitioner's clients, although he knew that there were no deposits necessitating such refund. He later caused to be falsified and identified the signatures of the alleged clients as payees and indorsers, encashed the checks, and appropriated unto himself the proceeds in the aggregate amount of P28,683.77. After the discovery of this anomaly, respondent Navarro was dismissed from the service of Philippine National Bank.

On February 25, 1965, petitioner bank filed before the then Court of First Instance of Nueva Ecija Civil Case No. 4506 against Napoleon Navarro to recover the sum defalcated in the amount of P13,906.81 with a prayer for a writ of preliminary attachment against the properties of Napoleon Navarro. While the writ of preliminary attachment was in the process of issuance, a Deed of Sale of Real Property and Dwelling House dated February 22, 1965 executed by respondents Napoleon Navarro and Patricia Cruz in favor of the other respondents spouses Vicente Medina and Leticia Lopez over the former's properties situated in Cabanatuan City was registered in the Office of the Register of Deeds of Cabanatuan City at 11:50 o'clock in the morning of February 25, 1965. Subsequently, a new transfer certificate of title bearing No. T-9424 was issued by the Register of Deeds of Cabanatuan City in the names of spouses Vicente Medina and Leticia Lopez.

On February 26, 1965, petitioner Philippine National Bank filed Civil Case No. 4507 against respondents Napoleon C. Navarro and his wife Patricia Cruz and the spouses Vicente Medina and Leticia Lopez for the annulment of the aforesaid Deed of Sale and the cancellation of the Transfer Certificate of Title No. T-9424 issued as a consequence of said sale. Subsequently, an amended complaint was filed, the only difference with the original complaint being the amount defalcated by defendant Napoleon Navarro which was finally placed at P28,683.77 after further reconstruction and verification of the records of plaintiff's Cabanatuan Branch.

An answer with counterclaim was filed by the defendants Vicente Medina and Leticia Lopez alleging good faith in the acquisition of the property in question and seeking payment of damages, claiming that the filing of the

complaint was without legal and factual basis and that it besmirched their reputation causing them damages of P50,000.00 and lawyer's fees in the amount of P1,000.00.

On motion of petitioner, the trial court ordered the consolidation of Civil Cases Nos. 4506 and 4507.

On June 22, 1970, private respondents and defendants Vicente Medina and Leticia Lopez filed a Motion to Admit Answer with Amended Counterclaim in Civil Case No. 4507 whereby the amount claimed for damages was increased to P100,000.00 and lawyer's fees increased to P5,000.00. This motion was allowed by the lower court in an Order dated June 24, 1970. Prior thereto, petitioner filed an opposition to the motion to admit answer with amended counterclaim contending that petitioner was not given an opportunity to be heard and to oppose the admission of the aforementioned pleading, and that the supposed evidence presented to show that said defendants suffered moral damages in the amount of P100,000.00 and the increase of their lawyer's fees from P1,000.00 to P5,000.00 was insufficient in fact and in law, hence it should be disregarded.[1]

On August 26, 1970, the lower court rendered judgment the dispositive portion reading as follows:

"WHEREFORE, judgment is rendered finding Napoleon Navarro, defendant in Civil Case No. 4506 liable to the plaintiff in the amount of P13,906.81.

The complaint of the plaintiff in Civil Case No. 4507 against the defendants is dismissed for lack of evidence, with costs against the plaintiff.

On the counterclaim by defendants Vicente Medina and Leticia Lopez, this Court finds the plaintiff Philippine National Bank liable to said defendants for moral and exemplary damages of P100,000.00 which the plaintiffs must pay to the said defendants with interest at the legal rate from the filing of the counterclaim, and for lawyer's fees of P5,000.00 and the costs of this suit."[2]

From this decision of the lower court, petitioner Philippine National Bank appealed to respondent Court of Appeals where the case was docketed as CA-G.R. No. 48719-20-R, assailing the lower court's finding [a] on defendant Navarro's liability to the plaintiff in the amount of P13,906.81 and not P28,683.77 as borne out by the evidence; [b] on the plaintiff-appellant's liability to the defendant-appellees Vicente Medina and Leticia Lopez for moral and exemplary damages in the amount of P100,000.00 on the counterclaim; [c] in ordering plaintiff-appellant to pay defendants-appellees Vicente Medina and Leticia Lopez the sum of P5,000.00 as attorney's fees; [d] in admitting the motion to admit Answer with amended counterclaim dated June 19, 1970 together with the answer with amended counterclaim filed by defendants-appellees Vicente Medina and Leticia Lopez for the reason that said motion does not conform with Section 3, Rule 10 in conjunction with Sections 4, 5, and 6 of Rule 15 of the Revised Rules of Court; and [e] in not declaring the Deed of Sale of Real Property and Dwelling House dated February 22, 1965 executed between defendants-appellees as rescissible and in not cancelling TCT No. 9424 under the names of spouses Vicente Medina and Leticia Lopez issued by virtue thereof.

On December 27, 1976, respondent appellate court promulgated its assailed decision based on these findings:

"The plaintiff has presented indubitable evidence consisting of manager's checks as well as the corresponding debit tickets, Exhibits 'F,' 'F-1,' to 'DDD-1,' inclusive showing that the total amount defalcated by defendant Napoleon C. Navarro was in the amount of P28,683.77 evidenced by fifty-one [51] manager's checks all fraudulently encashed by the said defendant. In view of the foregoing, the lower court erred when it held that defendant Napoleon Navarro was liable to the plaintiff only in the amount of P13,906.81.

"There is no complete evidence to show that the sale of the real property and dwelling house dated February 22, 1965 executed by defendants Napoleon Navarro and Patricia Cruz in favor of the defendants Vicente E. Medina, and Leticia Lopez was undertaken in fraud of creditors. There is evidence that the plaintiff was aware of the negotiations between defendant Napoleon C. Navarro and defendants Vicente E. Medina and Leticia

Lopez. It seems that the purpose of the sale was to enable defendant Napoleon C. Navarro to pay the plaintiff the amount that said Navarro defalcated.

"There is no showing that the plaintiff acted maliciously and in a wanton manner in filing Civil Case No. 4507 against the spouses Vicente B. Medina and Leticia Lopez. There is no doubt that the said spouses suffered mental anguish for having been made defendants in Civil Case No. 4507. However, under the established facts and circumstances the amount of P100,000.00 awarded to said spouses as moral damages is excessive. The moral and exemplary damages awarded to spouses Vicente Medina and Leticia Lopez should be reduced to P10,000.00.

"The defendants Vicente B. Medina and Leticia Lopez had to engage counsel to resist the action instituted against them by the Philippine National Bank. Hence, the trial court did not err in awarding to said spouses the amount of P5,000.00 as attorney's fees.

"WHEREFORE, the decision appealed from is hereby modified in that in Civil Case No. 4506, the defendant Napoleon C. Navarro is ordered to pay the plaintiff the amount of P28,683.77 with legal interest from February 25, 1965, the date of the filing of the complaint and in Civil Case No. 4507, the complaint is dismissed and the plaintiff Philippine National Bank is ordered to pay defendants Vicente Medina and Leticia Lopez the amount of P10,000.00 as moral and exemplary damages with legal interest from the date of the filing of the counterclaim and the amount of P5,000.00 as attorney's fees, without pronouncement as to costs.

"SO ORDERED."[3]

Both petitioner and private respondents Vicente E. Medina and Leticia Lopez moved for a reconsideration of said decision. While both motions were denied, only petitioner PNB came to this Court through the instant petition for review and only in so far as the decision of the Appellate Court in Civil Case No. 4507 is concerned. Petitioner contends that:

I

PNB's COMPLAINT IN CIVIL CASE NO. 4507 WAS NOT FILED MALICIOUSLY AND IN BAD FAITH, HENCE NO BASIS FOR THE AWARD OF MORAL AND EXEMPLARY DAMAGES.

II

THE CONCLUSION OF THE RESPONDENT COURT THAT THE FILING OF CIVIL CASE NO. 4507 WAS NOT MADE MALICIOUSLY AND IN A WANTON MANNER IS INCONSISTENT WITH ITS AWARD OF MORAL AND EXEMPLARY DAMAGES IN THE REDUCED AMOUNT OF P10,000.00.

III

THE AWARD OF P5,000.00 AS ATTORNEY'S FEES HAS NO BASIS IN FACT AND IN LAW.

IV

RESPONDENTS SPOUSES MEDINA AND LOPEZ' MOTION TO ADMIT ANSWER WITH AMENDED COUNTERCLAIM CONTRAVENES SECTION 3, RULE 10 IN CONJUNCTION WITH SECTIONS 4, 5, & 6, RULE 15 OF THE REVISED RULES OF COURT.

V

THE DISMISSAL OF CIVIL CASE NO. 4507 IS WITHOUT BASIS IN LAW AND IN FACT.

Civil Case No. 4507 was the action brought by petitioner against private respondents seeking the annulment of the Deed of Sale of Real Property and Dwelling House executed by private respondent spouses Napoleon C. Navarro

and Patricia Cruz in favor of private respondents spouses Vicente E. Medina and Leticia Lopez and covered by Transfer Certificate of Title No. T-9424. According to petitioner, the sale was fraudulently entered into between aforesaid parties to defeat petitioner's recovery of the amount defalcated by private respondent Napoleon C. Navarro during the time that the latter was employed by the former as accountant in its Cabanatuan Branch, and which amount was the subject of Civil Case No. 4506.

The controversy revolves on the issue of consistency. Is respondent appellate court's finding on the non-existence of malice and bad faith on petitioner's part when it filed Civil Case No. 4507 consistent with the lower court's order awarding moral and exemplary damages originally in the amount of P100,000.00 but reduced to P10,000.00 by respondent appellate court and attorney's fees in the amount of P5,000.00 both in favor of private respondents spouses Medina and Lopez?

As mentioned earlier, respondent appellate court ruled that there is no showing that the plaintiff acted maliciously and in a wanton manner in filing Civil Case No. 4507. It was however further ruled that there is no doubt that said spouses suffered mental anguish for having been made defendants in Civil Case No. 4507. This Court is tasked to resolve this inconsistency.

Article 2217 of the Civil Code recognizes that moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission.

As to exemplary damages, Article 2229 of the Civil Code provides that such damages may be imposed by way of example or correction for the public good. While exemplary damages cannot be recovered as a matter of right,[4] they need not be proved, although plaintiff must show that he is entitled to moral, temperate or compensatory damages before the Court may consider the question of whether or not exemplary damages should be awarded.[5]

While no proof of pecuniary loss is necessary in order that moral damages may be awarded, the amount of indemnity being left to the discretion of the court,[6] it is nevertheless essential that the claimant satisfactorily proves the existence of the factual basis of the damages and its causal relation to defendant's acts. This is so because moral damages though incapable of pecuniary estimation, are in the category of an award designed to compensate the claimant for actual injury suffered and not to impose a penalty on the wrongdoer. Moral damages, in other words, are not corrective or exemplary damages.[7]

For moral damages to be awarded, the law requires a wrongful act or omission attributable to petitioner as the proximate cause of the mental anguish suffered by private respondents spouses Vicente E. Medina and Leticia Lopez. Respondent appellate court categorically ruled in the negative yet awarded moral and exemplary damages in the reduced amount of P10,000.00 in favor of aforesaid respondent spouses. This brings to light our ruling in *Boysaw v. Interphil Promotions, Inc.*[8] which enunciates that:

"In order that a person may be made liable to the payment of moral damages, the law requires that his act be wrongful. The adverse result of an action does not per se make the act wrongful and subject the actor to the payment of moral damages. The law could not have meant to impose a penalty on the right to litigate such right is so precious that moral damages may not be charged on those who may exercise it erroneously. For these the law taxes costs."[9]

Conformably with settled jurisprudence and in agreement with petitioner's contention, We find the conclusion of respondent appellate court that the filing of Civil Case No. 4507 was not made maliciously and in a wanton manner inconsistent with its award of moral and exemplary damages in the reduced amount of P10,000.00.

In the absence of malice and bad faith, the mental anguish suffered by respondents spouses Medina and Lopez for having been made defendants in Civil Case No. 4507 is not that kind of anxiety which would warrant the award of moral damages. The worries and anxieties suffered by respondents spouses Medina and Lopez were only such as are usually, caused to a party haled into court as a defendant in a litigation.[10] Therefore, there is no sufficient justification for the award of moral damages, more so, exemplary damages.

In the same manner that We find no basis for the award of moral damages to respondents spouses Medina and Lopez, We find petitioner neither liable for attorney's fees.

It is not sound public policy to place a penalty on the right to litigate. To compel the defeated party to pay the fees of counsel for his successful opponent would throw wide open the door of temptation to the opposing party and his counsel to swell the fees to undue proportions. To sentence litigant to pay his adversary's lawyer's fees would be imposing a penalty on his right to litigate. Even under the New Civil Code [11] a litigant would not be entitled to recover the fees paid to his attorney as damages where no bad faith on the part of his adversary was shown.[12] Needless to say, award of attorney's fees is the exception rather than the general rule.

In the fourth assignment of error, petitioner assigns a procedural flaw to the Motion to Admit Answer with Amended Counterclaim filed on June 22, 1970 by private respondents spouses Medina and Lopez, the assailed portion pertaining to the Notice addressed to the Clerk of Court which reads:

"THE CLERK OF COURT

May you please include the foregoing motion in the Court's calendar for hearing on June 24, 1970 at 9:00 o'clock in the morning or as soon thereafter as counsel may be heard, at which date and hour the undersigned will submit the same for the consideration of the Honorable Court." [13]

Petitioner asserts that the foregoing notice contravenes Section 3, Rule 10 in conjunction with Sections 4, 5 and 6 of Rule 15 of the Revised Rules of Court.

The motion was filed on June 22, 1970. The hearing was requested to be set on June 24, 1970. This is one day short of the three [3] day notice rule provided under Section 4, Rule 15 of the Revised Rules of Court which provides that notice of a motion shall be served by the applicant to all parties concerned, at least three [3] days before the hearing thereof, together with a copy of the motion, and of any affidavits and other papers accompanying it. The court, however, for good cause may hear a motion on shorter notice, specially on matters which the court may dispose of on its own motion.

Records show that petitioner received a copy of the motion on June 26, 1970 while the motion was set for hearing and heard on June 24, 1970. To this motion, petitioner filed an opposition on July 7, 1970 and a motion for reconsideration upon its denial.

In resolving this error, We consider the judicial policy on rules of procedure.

Amendments to pleadings are generally favored and should be liberally allowed in furtherance of justice in order that every case may so far as possible be determined on its real facts and in order to speed the trial of causes or prevent the circuitry of action and unnecessary expense, unless there are circumstances such as inexcusable delay or the taking of the adverse party by surprise or the like, which might justify a refusal of permission to amend.[14] These circumstances do not obtain in the case at bar.

As aforementioned, petitioner filed an opposition to the assailed motion stating petitioner's legal grounds therefor and subsequently a motion for reconsideration of the denial of aforesaid opposition. This eliminates the element of surprise and denial of due process sought to be avoided in instances where amendments to pleadings are

allowed.

In *E.L. Mercantile, Inc. et al. v. Intermediate Appellate Court*, [15] We ruled:

"Procedural due process is not based solely on a mechanistic and literal application of a rule such that any deviation is inexorably fatal. Rules of procedure, and this includes the three-day notice requirement, are liberally construed to promote their object and to assist the parties in obtaining just, speedy and inexpensive determination of every action and proceeding [Section 2, Rule 1, Rules of Court] x x x Lapses in the literal observance of a rule of procedure may be overlooked when they have not prejudiced the adverse party and have not deprived the court of its authority." [16]

Thus, in line with the liberal judicial policy on rules of procedure, We find no reversible error committed by the trial court in admitting private respondents spouses Medina and Lopez' Motion to Admit Answer with Amended Counterclaim.

Finally, petitioner questions the dismissal of Civil Case No. 4507 by the lower court as affirmed by the respondent appellate court contending that the same was done without basis in law and in fact.

Respondent appellate court ruled there is no complete evidence to show that the sale of real property and dwelling house was executed to defraud petitioner bank but there is evidence that the latter knew of the impending sale between private respondents themselves. It was shown that the purpose of the sale was to enable private respondent Napoleon C. Navarro to pay the petitioner the amount that private respondent Navarro defalcated.

These pronouncements in the assailed decision of respondent appellate court for the dismissal of Civil Case No. 4507 hinges on a determination of pertinent facts the resultant findings of which when supported by substantial evidence are beyond Our power of review. Absent the recognized exceptions, finding of facts of the Court of Appeals are conclusive on the parties and the Supreme Court [17] on the tenet that this Court decides appeals which only involve questions of law and that it is not the function of the Supreme Court to analyze and to weigh such evidence all over again, its jurisdiction being limited to reviewing errors of law that might have been committed by the lower court. [18]

WHEREFORE, except for the deletion of the award of moral and exemplary damages as well as attorney's fees to private respondents spouses Vicente E. Medina and Leticia Lopez, the decision of the Court of Appeals in CA-G.R. No. 48720 is hereby affirmed in all other respects.

No costs.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin and Cortes, JJ., concur.

[1] Record on Appeal, p. 98; Rollo, p. 89.

[2] Record on Appeal, p. 120; Rollo, p. 89.

[3] Annex "A" Petition; Rollo, p. 50-52.

[4] Article 2233, Civil Code.

[5] Article 2234, Id.

[6] Article 2216, Id.

[7] Dee Hua Liong Electrical Equipment Corporation v. Romeo Reyes, et al., 145 SCRA 713 [1986] citing Algara v. Sandejas, 27 Phil. 284.

[8] 148 SCRA 635 [1987].

[9] Ibid at 648-649.

[10] Solis and Yarisantos v. Salvador, 14 SCRA 887 [1965].

[11] Article 2208, paragraph 5.

[12] George Koster, Inc. v. Zulueta, 99 Phil. 945.

[13] Record on Appeal, p. 91; Rollo, p. 89.

[14] Cese v. GSIS, 109 Phil. 309 [1960]; Section 1, Rule 10, Revised Rules of Court.

[15] 142 SCRA 385.

[16] Ibid at 392.

[17] Republic v. Court of Appeals, 132 SCRA 514 [1984].

[18] Conde v. Intermediate Appellate Court, 144 SCRA 145, 159 [1986] citing Baniqued v. Court of Appeals, 129 SCRA 592, 601.

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