ESTATE OF SPOUSES MARIANO L. MARTINEZ AND MARIA G. BALBAGO, REPRESENTED BY JACOBO B. MARTINEZ, PLAINTIFFS-APPELLEES, VS. NATALIO JAVIER, CONSTANTE ASUNCION, AND COMMUNITY ENVIRO...

Ponente: PAREDES, J.

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PAREDES, J.:

THE CASE

THIS IS ON THE APPEAL filed by defendant-appellant Natalio Javier (defendant-appellant) assailing the Decision[1] dated September 29, 2010 of the Regional Trial Court (RTC), Branch 11, Balayan, Batangas, in Civil Case No. 3372 for annulment of title, accion reinvindicatoria and damages filed by plaintiff-appellee Estate of Spouses Mariano L. Martinez and Maria G. Balbago, represented by Jacobo B. Martinez (plaintiff-appellee).

THE ANTECEDENTS

On July 24, 1997, plaintiff-appellee filed a complaint[2] for annulment of title, accion reinvindicatoria and damages against defendant-appellant, Constante Asuncion (Asuncion) and the Community Environment and Natural Resources Office (CENRO) of the Department of Environment and Natural Resources (DENR).

Only defendant-appellant filed his answer with counterclaim[3] since defendant Asuncion could not be located at his given address; thus, summons, together with the complaint and its annexes, was unserved sofar as he was concerned[4].

After Atty. Geminiano Aquino, counsel for plaintiff-appellee, manifested in open court that he was filing an amended complaint, the RTC gave[5] plaintiff-appellee ten days within which to file the same. On April 5, 1999, in view of the discovery of other documents pertinent to the cause of action such as other Torrens titles covering the entire land of defendant-appellant and the records of the Unlawful Detainer case filed by the deceased Mariano L. Martinez (Mariano) against defendant-appellant, plaintiff-appellee filed a Motion[6] for leave to admit Amended Complaint.

In the Amended Complaint[7], plaintiff-appellee averred that: it is the absolute owner of three parcels of land with areas covering one thousand ten (1,010), one hundred twenty-nine (129), and two hundred eighty-seven (287) square meters, more or less, located along Dam Ballelos Street, Balayan, Batangas, evidenced by Transfer Certificate of Title (TCT) Nos. T-12892,[8] T-14552,[9] and T-24586[10], respectively; TCT No. T-12892 was acquired from and registered in the name of deceased Mariano, married to Maria G. Balbago, on June 29, 1966, while TCT Nos. T-14562 and T-24586 are both registered in the name of deceased Mariano L. Martinez, married to Maria G. Balbago, on December 20, 1966; sometime in 1968 or thereabout, defendant-appellant occupied a portion of plaintiff-appellee's land and constructed a residential house where he and his family lives; during the lifetime of Mariano, he demanded that defendant-appellant vacate the land and remove his house, but the latter

refused; sometime in 1968, Mariano filed an Unlawful Detainer case against defendant-appellant and other occupants; judgment[11] was rendered against defendant-appellant; after the death of Mariano, his estate, through judicial administrator Jacobo B. Martinez (Jacobo), plaintiff-appellee continued, from time to time, demanded from defendant-appellant to vacate the land and remove his house; however, defendant-appellant continued to refuse; later, defendant-appellant claimed to be the owner of the property by virtue of a Free Patent Decree issued in his favor by the Bureau of Lands and that he had been paying realty tax thereon; plaintiff-appellee verified defendant-appellant's claim and discovered that sometime in 1987, a portion of the estate's property, covering an area of three hundred twenty five (325) square meters, had been titled in the name of defendant-appellant under an Original Certificate of Title (OCT) No. OP-1751; defendant-appellant had also declared that portion of plaintiff-appellee's land for taxation purposes under Tax Declaration No. 004-00478; CENRO was impleaded as defendant, being a necessary party for a complete determination of the case; at the time of the issuance of OCT No. OP-1751, Asuncion was the District Land Officer who caused the issuance of the Free Patent Decree in favor of defendant-appellant; defendant-appellant is a possessor in bad faith, having knowledge that the land he claims belongs to plaintiff-appellant and titled in its name since 1968; plaintiff-appellee has been deprived of the possession and use of the property for nineteen (19) years for which defendant-appellant should be held liable for actual and/or compensatory damages in the amount of P200,000.00; since the residential house and all other constructions made on the land were constructed in bad faith; on account of defendant-appellant's unjustified refusal to vacate the property, and his bad faith in applying for, and acquiring, a Free Patent Decree, he should be liable for moral damages in the amount of P50,000.00; defendant-appellant should also be liable for attorney's fees in the amount of P40,000.00 since plaintiff-appellee was compelled to file the action and litigate to enforce its rights.

Defendant-appellant filed his Amended Answer with Counterclaim[12], later on, further amended after the RTC granted[13] defendant-appellant's Motion[14] to admit Amended Answer to conform to evidence.

In the Amended Answer with Counterclaim (To Conform to Evidence)[15], defendant-appellant alleged that: plaintiff-appellee has no cause of action and if it had any, the same is barred by prescription and/or laches; in the early 1950s, defendant-appellant cleaned a portion of the swamp land with an area of about three hundred (300) to five hundred (500) square meters, the area reached by high tide of Balayan Bay, and covered by second growth forest of kalapinay, mangrove, arome and other shrubs; thereafter, he filled the area with soil and other filling materials and planted coconut trees; in 1957, he constructed a nipa hut where he and his family lived; eventually when his children had grown-up, he constructed the house presently erected thereon; his clearing and improvement of the area were known to spouses Mariano and Maria since their house was only 50 to 100 meters away and the spouses pass by the area, this, while defendant-appellant was clearing the land, introducing the improvement and constructing the small nipa hut and, thereafter, the house; spouses Mariano and Maria had not molested, disturbed or prevented him from the peaceful possession and occupation of the premises, over which he eventually obtained a Free Patent title; plaintiff-appellee has not clearly defined and identified the parcel of land covered by its certificate of title allegedly occupied by defendant-appellant which had been in his possession peacefully, continuously, under an adverse claim of ownership against the whole world, for a period of more than 30 years; and the value of the clearing of the land and improvements introduced is more than Php1,000,000.00.

By way of counterclaim, defendant-appellant alleged that: by reason of the filing of the case without sufficient legal basis, he was compelled to hire the services of counsel entitling him to payment of attorney's fees in the amount of P80,000.00, plus P2,500.00 for every court appearance; P20,000.00 as expenses incident to litigation; and lastly, because he sustained sleepless nights and anxiety as a result of the unfounded suit, he is entitled to moral damages in the amount of P250,000.00.

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Pre-trial was conducted and a Pre-trial Order[16] was issued stating the following admitted facts and issues, viz.:

ADMITTED FACTS

- The existence of OCT No. OP-1751 in the name of defendant (appellant) over a parcel of land with an area of 325 square meters;

- The land claimed by defendant-appellant is covered by Tax Declaration No. 004-00478 in the name of the defendant-appellant;

- Defendant-appellant has been in possession of the disputed property since 1968 up to the present;

- There is a residential house constructed on the disputed land by the defendant-appellant made of strong materials.

ISSUES

- Whether or not the disputed land is within and/or covered by the Torrens Title of the plaintiff (appellee);

- If it is within the Torrens Titles of the plaintiff-appellee, whether or not the Patent Decree and title of defendant-appellant, OCT OP-1751, is valid against the Torrens titles of the plaintiff-appellee;

- If the title of the defendant-appellant is invalid against the title of the plaintiff-appellee, is he liable for damages to the plaintiff-appellee?

On January 28, 2002, the RTC issued an Order[17] directing CENRO Geodetic Engineer Leonito D. Calubayan to conduct a relocation survey, after which, the latter was able to verify and ascertain, in his Commissioner's Report (the Report)[18], that the property/area occupied by defendant-appellant is definitely within the properties of plaintiff-appellee, particularly those covered by TCT Nos. T-12892, T-14552 and T-14586.

On April 21, 2003, the RTC issued an Order[19] directing counsel of plaintiff-appellee to file the necessary motion to exclude defendants CENRO and Asuncion since they have not been duly notified of hearings in previous proceedings. However, plaintiff-appellee failed to comply, thus, the RTC dismissed the case in the Order[20] dated June 2, 2003. Subsequently, in an Order[21] dated November 20, 2003, the RTC reconsidered and set aside the dismissal of the complaint and set further hearings thereon.

Plaintiff-appellee presented its lone witness, Jacobo, who testified[22] on the allegations in the Amended Complaint and that: he is the court-appointed[23] judicial administrator of the estate of his parents, Mariano and Maria, who died in 1983 and 1994, respectively; he talked to defendant-appellant and the other occupants of the estate to vacate the property; however, unlike the other occupants who vacated, defendant-appellant told him that he would never vacate the property because he owned the land and showed him OCT No. OP-1751 Free Patent No. (IV-3A)-2036; because he had doubts on defendant-appellant's title, Jacobo went to CENRO where he was informed that defendant-appellant had no public land application and no plan was submitted; to prove their claim

of ownership, Jacobo identified Decree No. 125032[24] and Decree No. 125111[25] of the Court of First Instance, Province of Batangas, issued in 1922, from which titles to the three lots came from; he also heard from his parents that defendant-appellant asked permission from his father before constructing a house on their property.

For the defense, Atty. Edwin Lagac testified[26] that: he is the Register of Deeds of Nasugbu, Batangas since October 2005; the only record of OCT No. OP. 1751 in the name of defendant-appellant is the original certificate of title itself, which was prepared by the DENR; there is a possibility that the accompanying documents, specifically the application for free patent, survey plan of the property, and the technical description, were destroyed or lost.

Defendant-appellant also testified[27] to confirm his judicial affidavit[28] executed on September 27, 2006 wherein he stated that: he first came upon the lot in question in 1957 when he was scouting around in order to live separately from his parents; he then found the land which was a big swampy place; he started clearing a portion of approximately 200-300 square meters, more or less, and had it filled up with soil, gravel, stones, sand and other filling materials; he was not prevented from clearing the area; in fact, Mariano even stopped along the place in going to the shoreline of Balayan Bay and watched him and his workers cut the trees and second growth forest; he erected a small hut and when his children were growing up, he built his house thereon; he knew of the complaint for ejectment and the decision against those who signed the compromise agreement; however, he refused to vacate because he steadfastly claimed that he is the owner of the lot; sometime in 1990 or 1994, Jacobo requested him to vacate but he refused and told Jacobo that he has title over the property; he then showed his title to Jacobo; moreover, he declared the property for taxation purposes and paid for the same.

The parties submitted their respective formal offer of exhibits, as follows:

Plaintiff’s exhibits[29]

Exhibit

Description

“A”

Certified photocopy of Court's Order appointing Jacobo Martinez as Special Administrator of the estate of Mariano Martinez

“B”, “B-1”, “B-2”

TCT No. 12892

“C”, “C-1”, “C-2”

TCT No. 14552

“D”, “D-1”, “D-2”

TCT No. 14586

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“E”, “E-1”, “E-2”

Certified Copy of the verified Complaint in the Ejectment suit (Civil Case No. 223).

“F”, “F-1”

Duplicate Original copy of the Decision in Civil Case No. 223

“G”

OCT No. OP-1751

“H”

Certification issued by Bernardo Dacanay, CENRO, that Natalio Javier has no existing public land application in Balayan, Batangas

“I”

Certification issued on April 2, 2002 by Robert Pangyarihan, DENR Registry Office IV, that it appears that no plan has been processed in 1987 bearing Plan No. F (IV-3A)3991-D

“J”

Decree No. 125032 issued on August 22, 1922 by the CFI of the Province of Batangas declaring that the estate of Pedro Martinez as the owner in fee simple of Lot No. 261 with an area of 10,281 square meters, more or less

“K”, “K-1”

Decree No. 125111 issued on August 29, 1922 by the CFI of the Province of Batangas declaring that the estate of Pedro Martinez as the owner in fee simple of Lot No. 330 with an area of 1,021 square meters, more or less

“L”, “L-1”, “L-2”, “L-3”, “L-4”

Commissioner's Report with annexes

Defendant's exhibits[30]

Exhibit

Description

“1”

Complaint filed on July 21, 1997

“2”[*]

Tax Declaration No. ARP-004-00234 in the name of Mariano Martinez

“3”[*]

Tax Declaration No. ARP-004-00236 in the name of Mariano Martinez

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“4”

TCT No. T-12892

“5”

TCT No. T-14552

“6”

TCT No. T-14586

“7”[*]

Certification of Barangay Captain dated November 9, 1998

“8”

OCT No. OP-1751

“9”

Tax Declaration No. 03-004-00478 in the name of Natalio Javier

“10”

Official receipt no. 541-9833 for payment of real estate tax for the year 1993

“11” to “23”

Official receipts of payment for real estate taxes due from 1994 until 2005

“23-A”

Photocopy of the Complaint in Civil Case No. 1891

“24”

Order in Civil Case No. 1891

“25” to “30”

Pictures of the defendant-appellant's house

“31”

Judicial Affidavit of defendant-appellant

[*]In the Order[31] dated July 21, 2009, the RTC denied admission of Exhibits “2”, “3” and “7” for failure of defendant-appellant to present the same considering that these are public records which can be obtained from the government agencies concerned.

On September 29, 2010, the RTC rendered the assailed Decision[32], the dispositive portion of which reads:

> WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff (appellee) Estate of Spouses Mariano L. Martinez and Maria G. Balbago represented by Jacobo B. Martinez and against defendant (appellant) Natalio Javier as follows:

- Declaring Free Patent No. (IV-3A)-2036, OCT No. OP-1751 in the name of defendant-appellant Natalio Javier as null and void and ordering the Registry of Deeds of Nasugbu, Batangas to cancel the same;

- Ordering defendant-appellant Natalio Javier and all persons claiming rights under him to vacate the land he is occupying and to remove his house and other structures on said land located along or at Damballelos Street, Balayan, Batangas covered by OCT No. OP-1751 and TCT Nos. 12892, 14552 and 14586 and as shown by the Composite Plan prepared by Geodetic Engineer Leonito Calubayan marked as Exhibit “L-3” of the plaintiff-appellee and to surrender possession thereof to the plaintiff-appellee; and

- Ordering defendant-appellant Natalio Javier to pay P200,000.00 compensatory damages and P40,000.00 attorney's fees to the plaintiff-appellee.

SO ORDERED.

Defendant-appellant filed a Motion[33] for reconsideration and an addendum[34] thereto, which were denied in the Order[35] dated January 6, 2011; hence, this appeal.

THE ISSUES

Defendant-appellant comes before this Court with the following assigned errors[36]:

I.

THE TRIAL COURT ERRED IN FINDING AND CONCLUDING THAT THE PARCELS OF LAND OCCUPIED AND POSSESSED BY DEFENDANT COVERED BY OCT NO. OP-1751 IS WITHIN THE THREE (3) PARCELS OF LAND OF PLAINTIFF-APPELLEE DESCRIBED IN TCT NOS. T-12892, T-14552 AND T-14586 ON THE BASIS OF HEARSAY AND INCOMPETENT EVIDENCE.

II.

THE TRIAL COURT ERRED IN FINDING AND CONCLUDING THAT THE CAUSE OF ACTION OF PLAINTIFF-APPELLEE TO RECOVER THE OWNERSHIP AND POSSESSION OF THE PARCEL OF LAND COVERED BY OCT NO. OP-1751 OF DEFENDANT-APPELLANT IS NOT BARRED BY LACHES.

III.

THE TRIAL COURT ERRED IN DECLARING THAT OCT NO. OP-1751 OF DEFENDANT-APPELLANT (WAS) PROCURED THROUGH FRAUD AND MACHINATIONS UNSUPPORTED BY COMPETENT EVIDENCE.

IV.

THE TRIAL COURT ERRED IN NOT CONCLUDING AND FINDING THAT DEFENDANT-APPELLANT OCCUPIED, POSSESSED AND INTRODUCED IMPROVEMENTS ON THE LAND IN DISPUTE IN GOOD FAITH AND, THEREFORE, ENTITLED TO REIMBURSEMENT OF THE VALUE OF SAID IMPROVEMENT. AND,

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V.

THE TRIAL COURT ERRED IN AWARDING COMPENSATORY DAMAGES AND ATTORNEY'S FEES WITHOUT ANY FACTUAL AND LEGAL BASIS.

In fine, the only issue in this case is whether or not the RTC erred in declaring defendant-appellant's title null and void.

THE COURT'S RULING

The appeal is without merit.

Defendant-appellant insists that the Commissioner's Report is hearsay evidence and without probative value because CENRO Geodetic Engineer Leonito Calubayan was never called to the witness stand to identify and testify on the veracity of his Report.[37] We are not persuaded.

The Report was made and submitted to the RTC in compliance to the court's Orders dated August 6, 2001[38] and January 28, 2002[39] which directed the geodetic engineer to conduct a relocation survey on TCT Nos. T-12892, T-14552 and T-14586 and to verify if defendant-appellant's property is within the properties of plaintiff-appellee. There is no showing that defendant-appellant opposed the said Orders of the RTC or objected to the Report when it was submitted. In fact, defendant-appellant was present during the conduct of the relocation survey and permitted the geodetic engineer to locate and shoot the walled perimeter boundaries of the property occupied by him.[40]

Defendant-appellant argues that the ejectment case is not reliable evidence to prove that the parcel of land in dispute is within the confines of the three parcels of land of plaintiff-appellee since the ejectment case involved TCT Nos. T-12892, T-12891 and T-12893 while the instant case involves TCT Nos. T-12892, T-14552 and T-14586. Furthermore, defendant-appellant claims that there was no proof that he was a signatory to the Compromise Agreement, which was the basis of the decision in the ejectment case[41]. We do not agree.

It bears stressing that it is only before this Court that defendant-appellant raised the difference in the plaintiff-appellee's TCT numbers. Nevertheless, after a careful scrutiny of the titles presented, it appears that TCT Nos. T-14552[42] and T-14586[43] were both derived from TCT No. T-12893, which was the subject of the ejectment case. Defendant-appellant's posturing in this regard cannot be given merit for lack of basis.

Furthermore, even if the Compromise Agreement was not presented in evidence, a reading of the ejectment case Decision[44] dated September 10, 1969, shows that defendant-appellant was indeed part of the said Compromise Agreement. A portion of the agreement cited in the said Decision states:

- That plaintiff will once more allow and tolerate herein defendants to temporarily occupy another portion of the aforementioned property which was designated by the plaintiff is as follows, to wit:

NAME

PORTION TO BE OCCUPIED

Mariano Agoncillo

TCT No.

120 sq. m.

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Teodoro Agoncillo

TCT No.

120 sq. m.

Pampilo Alaer

TCT No.

120 sq. m.

Natalio Javier

TCT No.

120 sq. m.

Pampilo Mendoza

TCT No.

120 sq. m.

Benito Ramos

TCT No.

120 sq. m.

(Emphasis supplied)

It is clear from the above-mentioned ejectment case Decision that defendant-appellant was a party and signatory to the Compromise Agreement where Mariano allowed and tolerated defendant-appellant to temporarily occupy a portion of the property. Therefore, since he was a defendant in the ejectment case, and a signatory to the Compromise Agreement, defendant-appellant cannot feign ignorance of the title and claim of ownership of plaintiff-appellee.

With respect to defendant-appellant's claim of laches, We agree with the RTC that it is not an issue in the instant case since it was never discussed or agreed upon as an issue during the pre-trial conference and as such, the RTC found no need to rule on the same.[45] In Villanueva vs. Court of Appeals[46], it was explained that:

> Pre-trial is primarily intended to insure that the parties properly raise all issues necessary to dispose of a case. The parties must disclose during pre-trial all issues they intend to raise during the trial, except those involving privileged or impeaching matters. Although a pre-trial order is not meant to catalogue each issue that the parties may take up during the trial, issues not included in the pre-trial order may be considered only if they are impliedly included in the issues raised or inferable from the issues raised by necessary implication. The basis of the rule is simple. Petitioners are bound by the delimitation of the issues during the pre-trial because they themselves agreed to the same.

Moreover, even if We consider laches as an issue, under the Property Registration Decree, no title to registered land in derogation to that of the registered owner shall be acquired by prescription or adverse possession. It is well-settled that prescription and laches can not apply to registered land covered by the Torrens system[47]. Laches may not prevail against a specific provision of law, since equity, which has been defined as 'justice outside

legality' is applied in the absence of and not against statutory law or rules of procedure[48]. In Bishop v. Court of Appeals[49], cited in Spouses Ragudo vs. Fabella Estate Tenants Association, Inc.[50], the Supreme Court held that if the claimant's possession of the land is merely tolerated by its lawful owner, the latter's right to recover possession is never barred by laches, thus:

> As registered owners of the lots in question, the private respondents have a right to eject any person illegally occupying their property. This right is imprescriptible. Even if it be supposed that they were aware of the petitioner's occupation of the property, and regardless of the length of that possession, the lawful owners have a right to demand the return of their property at any time as long as the possession was unauthorized or merely tolerated, if at all. This right is never barred by laches.

Anent the claim that defendant-appellant acquired his title through fraud and machinations, such claim is a non-issue because at the time defendant-appellant acquired a free patent, titles were already issued covering the subject property in favor of spouses Martinez. In Soquillo vs. Jorge P. Tortola,[51] the Supreme Court, citing Banguilan v. Court of Appeals[52], explained that rather than fraud and unlawful machination, the cause of action is that the land covered by the free patent is beyond the jurisdiction of the Bureau of Lands to grant, hence:

> ...a cause of action for declaration of nullity of free patent and certificate of title would require allegations of the plaintiff’s ownership of the contested lot prior to the issuance of such free patent and certificate of title as well as the defendant’s fraud or mistake, as the case may be, in successfully obtaining these documents of title over the parcel of land claimed by plaintiff. In such a case, the nullity arises strictly not from the fraud or deceit but from the fact that the land is beyond the jurisdiction of the Bureau of Lands to bestow and whatever patent or certificate of title obtained therefor is consequently void ab initio. The real party in interest is not the State but the plaintiff who alleges a pre-existing right of ownership over the parcel of land in question even before the grant of title to the defendant. xxx[.] (Emphasis in the original)

In Heirs of Simplicio Santiago vs. Heirs of Mariano E. Santiago[53], it was held that:

> The settled rule is that a free patent issued over a private land is null and void, and produces no legal effects whatsoever. Private ownership of land — as when there is a prima facie proof of ownership like a duly registered possessory information or a clear showing of open, continuous, exclusive, and notorious possession, by present or previous occupants — is not affected by the issuance of a free patent over the same land, because the Public Land law applies only to lands of the public domain. The Director of Lands has no authority to grant free patent to lands that have ceased to be public in character and have passed to private ownership. Consequently, a certificate of title issued pursuant to a homestead patent partakes of the nature of a certificate issued in a judicial proceeding only if the land covered by it is really a part of the disposable land of the public domain.

A free patent which purports to convey land to which the government no longer has title at the time of its issuance does not vest title with the patentee as against the lawful owner. Private property cannot be the subject of a free patent. Such lands are beyond the jurisdiction of the Bureau of Lands. Such patents are null and void and have no legal effects whatsoever.[54] A land covered by a title which is outstanding cannot be the subject of an application for registration unless the existing title which has become indefeasible is first nullified by a proper court proceeding.[55] In this case, defendant-appellant admitted having occupied the property in the 1950s and acquiring the free patent in 1987; however, before defendant-appellant entered the property, plaintiff-appellee already had titles over this property, and which titles had remained valid, subsisting and indefeasible.

It has been shown that defendant-appellant had knowledge that the property he was claiming was owned by plaintiff-appellee; and that defendant-appellant's occupation of the property was merely by permission and tolerance of the registered owner, defendant-appellant cannot claim good faith. Neither can defendant-appellant claim that his free patent title is valid, since the property covered thereby is already titled in the name of

plaintiff-appellee and no longer part of the public domain, hence defendant-appellant's free patent title is null and void ab initio.

Lastly, We find it necessary to modify the damages awarded by the RTC in the absence of any competent proof to support the same. To be recoverable, actual and compensatory damages must be duly proved with reasonable degree of certainty. A court cannot rely on speculation, conjecture or guesswork as to the fact and amount of damages. The party alleging a fact has the burden of proving it and mere allegation is not evidence[56]. On the other hand, an award of attorney's fees must have a factual, legal or equitable justification and cannot be left to speculation and conjecture. In awarding attorney's fees, it is necessary for the court to make findings of fact and law that would justify the award.[57]

In the instant case, the RTC merely provided for the award of compensatory damages and attorney's fees in the dispositive portion of its decision without any explanation stated in the body. In the absence of any basis for the award, this Court cannot affirm the same. In the instant case, plaintiff-appellee failed to present any competent evidence to justify the prayer of P200,000.00 as compensatory damages. However, considering that plaintiff-appellee, indeed, had suffered some pecuniary loss but its amount cannot be proved with certainty, plaintiff-appellee is hereby awarded P100,000.00 as temperate damages, which are more than nominal but less than compensatory.[58] With respect to attorney's fees, except for his bare allegations, plaintiff-appellee failed to prove that an existing contract with its counsel exists to prove the claimed amount. Nevertheless, since it is apparent from the records that plaintiff-appellee was compelled to litigate and that the services of counsel was procured, We find it proper to award attorney's fees but the same shall be reduced to P20,000.00.

WHEREFORE, premises considered, the Decision dated September 29, 2010 of the Regional Trial Court, Branch 11, Balayan, Batangas, in Civil Case No. 3372 is AFFIRMED with MODIFICATION, that:

- The award for compensatory damages is DELETED;

- Defendant-appellant Natalio Javier shall be liable to pay plaintiff-appellee Estate of spouses Mariano L. Martinez and Maria G. Balbago the following:

- P100,000.00 as temperate damages; and

- P20,000.00 as attorney's fees.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Dicdican, I.P., Chairperson, and Elbinas, M.P., JJ., concur.

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[1] Records, pp. 911-933.

[2] Id. at pp. 1-8.

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[3] Id. at pp. 19-24.

[4] Sheriff's Return, Id., p. 26.

[5] Order dated March 15, 1999, Id., p. 80.

[6] Id., pp. 86-88.

[7] Id., pp. 89-97.

[8] Exh. “B”, Id., p. 358.

[9] Exh. “C”, Id., p. 359.

[10] Exh. “D”, Id., p. 360.

[11] Exh. “F”, Id., pp. 366-8.

[12] Id., pp. 116-23.

[13] Resolution dated January 4, 2010, Id., pp. 891-4.

[14] Id., pp. 830-2.

[15] Id., pp. 833-6.

[16] Id., pp. 170-3.

[17] Id., p. 196.

[18] Id., pp. 214-5.

[19] Id., p. 236.

[20] Id., p. 239.

[21] Id., pp. 275-8.

[22] TSNs, July 26, 2004, February 24, 2005, April 18, 2005, July 21, 2005, September 12, 2005.

[23] Order dated January 17, 1984, Exh. “A”, records, p. 358.

[24] Exh. “J”, Id., pp. 374-7.

[25] Exh. “K”, Id., pp. 378-81.

[26] TSN, July 27, 2006.

[27] TSNs, November 20, 2006, March 17, 2009.

[28] Exh. “31”, records, pp. 773-80.

[29] Id., pp. 354-6.

[30] Id., pp. 758-61.

[31] Id., p. 845.

[32] Id., pp. 911-33.

[33] Id., pp. 939-48.

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[34] Id., pp. 955-69.

[35] Id., pp. 1002-7.

[36] Rollo, pp. 30-1.

[37] Id., p. 43.

[38] Records, p.184.

[39] Id., p. 196.

[40] See Commissioner's Report, Id., p. 215.

[41] Rollo, pp. 43-4.

[42] Records, p. 359.

[43] Id., p. 360.

[44] Exh. “F”, Id., pp. 366-8.

[45] Id., p. 931.

[46] GR No. 143286, April 14, 2004.

[47] Velez, Sr. vs. Demetrio, GR No. 128576, August 13, 2002.

[48] Mateo vs. Diaz, GR No. 137305, January 17, 2002.

[49] 208 SCRA 636 [1992].

[50] GR No. 146823, August 9, 2005.

[51] GR No. 192450, July 23, 2012.

[52] GR No. 165815, April 27, 2007.

[53] GR No. 151440, June 16, 2003.

[54] Angeles vs. Republic of the Philippines, GR No. 166281, October 27, 2006.

[55] Orchard Realty and Development Corporation vs. Republic of the Philippines, GR No. 136280, August 30, 2001.

[56] Public Estates Authority vs. Chu, GR No. 145291, September 21, 2005.

[57] Mateo vs. Diaz, supra.

[58] See Public Estates Authority vs. Chu, supra.

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