

IPO LIMESTONE CO., INC. AND DONATO LEGASPI VDA. DE VILLARAMA, PETITIONERS, VS. MACHINERY & ENGINEERING SUPPLIES CO., INC., RESPONDENT.

G.R. No. L-22960. July 25, 1984

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Appeal from the decision of the then Court of Appeals in CA-G.R. No. 30504 which modified the decision of the then Court of First Instance of Manila in Civil Case No. 19067 (entitled "Machinery & Engineering Supplies Co., Inc. vs. Ipo Limestone Co., Inc. and Dr. Antonio Villarama" for "Recovery of Goods or its Money Value"), the dispositive portion of which reading - "WHEREFORE, the lower court's judgment will be, and is hereby modified as to deduct from the amount therein adjudged in favor of the plaintiff the sum equivalent to 6% per annum of P7,884.00 which is more or less the value of the machineries and/or equipments in question from March 19, 1953 to June 30, 1954, and with such modification, the lower court's judgment is hereby affirmed. No costs on appeal."

Petitioners contend that the Court of Appeals erred - (1) in not awarding damages for the loss of machineries and/or equipment; (2) in awarding to petitioners damages for unrealized profits only, on the basis of legal interest in the sum of P7,884.00; (3) in not awarding damages to the heirs of Dr. Antonio Villarama; and (4) in awarding attorney's fees to respondent but denying those of petitioners.

The question of damages having been earlier raised and already passed upon not only by the Court of Appeals in CA-G.R. No. L-11248-R, but also by this Court in G.R. No. 7057, wherein it has been held that by reason of the wrongful seizure of the machineries and the consequent failure of the respondent to install them, petitioners are entitled to damages; and it appearing that in the assessment of the said recoverable damages, the Honorable Court of Appeals correctly adhered to the rule and procedure laid down by the case of Kairuz vs. Pacio and Pacio, L-1450, July 26, 1960; and considering further that the unrealized profit alleged and computed by the appellants are rather speculative, the same being mainly based on the estimates of petitioner company's Office Manager which is obviously unreliable; and that under the circumstances that whatever damages incurred by appellants resulting from the wrongful seizure and failure to re-install the machineries in question could have been minimized by the petitioner, We find no legal or any factual basis for altering the amount of damages, awarded by the Court of Appeals.

With respect to petitioner's contention that he should have been awarded moral damages for allegedly being maliciously included as party defendant and it appearing that the case brought against him does not come within the ambit of a maliciously prosecuted suit (*Inhelder Corp. vs. Court of Appeals*, 122 SCRA 576), the decision appealed from is hereby **AFFIRMED** with costs against petitioners.

Concepcion Jr., J., took no part.

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