

**FORTUNATO DE LEON & JUANA F. GONZALEZ DE LEON,
PETITIONERS-APPELLANTS, VS. HONORABLE COURT OF APPEALS
(SIXTH DIVISION COMPOSED OF JUSTICES CONCEPCION, SERRANO
& SAN DIEGO) DR. C...**

G.R. No. L-31931. August 31, 1988

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal by certiorari from the decision[*] of the Court of Appeals (Sixth Division) in C.A., G.R. No. 40201-R promulgated on February 21, 1970 affirming the judgment[**] of the Court of First Instance of Bulacan, with modification of the amount of moral and exemplary damages from P100,000.00 to P60,000.00 and the amount of attorney's fees from P10,000.00 to P5,000.00 the dispositive portion of which appellate court's decision reads as follows:

"WHEREFORE, the decision appealed from is hereby modified as above indicated respecting the award of moral and exemplary damages as well as attorney's fees. The rest are hereby affirmed with costs against plaintiffs-appellants." (pp. 6—7, Decision of the Court of Appeals; pp. 61-62, Rollo)

The facts of the case as drawn by respondent court from the evidence on record are quoted as follows:

"The third—party defendants spouses Juan Briones and Magdalena Bernardo were the former registered owners of the fishpond situated at San Roque, Paombong, Bulacan, which was covered by Transfer Certificate of Title No. 28296 (Exhibit 2). This fishpond was the subject of a deed of mortgage executed by the spouses Briones on January 22, 1954, in favor of Hermogenes Tantoco involving the consideration of P20,000.00 (Exh. 2), which amount was later assigned by the mortgagee to his father—herein defendant and third-party plaintiff Dr. Cornelio S. Tantoco (Exh. 10). Apart from this first mortgage, the spouses Briones likewise executed a deed of second mortgage for P68,824.00 with 10% interest per annum in favor of Cornelio S. Tantoco dated May 26, 1959 (Exh. 1). Both mortgages were duly registered in the Office of the Register of Deeds of Bulacan and duly annotated at the back of Transfer Certificate of Title No. 28296 (Exh. 2) of the Briones. While these two mortgages were still subsisting the Briones spouses sold the fishpond, which is the subject matter of said two mortgages, to plaintiff spouses Fortunato de Leon and Juana F. Gonzales de Leon in the amount of P120,000.00 (Exh. 5). Of the amount of P120,000.00, the Briones' spouses actually received only the amount of P31,000.00 on June 2, 1959, as the amount of P89,000.00 was withheld by the plaintiff de Leon who assumed to answer the mortgage indebtedness of the Briones to the Tantocos (Exhs. 3, 3-a, 3-a-l to 3-b). After the sale plaintiffs de Leon satisfied the mortgage loan of P20,000.00 including 10% interest per annum to Hermogenes Tantoco who then accordingly executed a deed of discharge of mortgage (Exhs. Z & Z-1), but the mortgage in favor of Cornelio S. Tantoco in the amount of P68,824 was not satisfied. On February 5, 1962 plaintiffs made payment of P29,382.50 to the defendant Cornelio Tantoco." (Decision of the Court of Appeals, pp. 2-3).

In his letter to private respondent Cornelio Tantoco dated February 5, 1962, petitioner Fortunato de Leon made it clear that he was tendering the sum of P29,382.50 represented by PNB Cashier's Check No. 119874 in full

discharge of the legitimate obligation of his clients, the spouses Juan Briones and Magdalena Bernardo. He requested acknowledgment of the receipt of his letter and the execution of the necessary document (Exhibits, p. 103). Through counsel private respondent, trying to set the records straight for petitioners, made the clarification that the principal obligation of the Briones as of May 25, 1959 was P68,824.00 and on January 26, 1962 when a letter of demand was sent to them their total obligation including the agreed interest amounted to P88,888.98. Hence the above mentioned PNB check will be held in abeyance pending remittance of the total obligation after which the necessary document will be executed (Exhibits, p. 105).

On April 5, 1962 Juan Briones executed an affidavit denying ever having hired petitioner Fortunato de Leon as counsel nor having authorized petitioner to pay any obligation of his to private respondent for as a matter of fact all obligations he had with private respondent had been assumed by petitioner in a document executed by petitioner himself in his own handwriting (Exhibits p. 108).

On May 8, 1962 the spouses Fortunato de Leon and Juana F. de Leon petitioners herein filed a complaint with the Court of First Instance of Bulacan against defendant Cornelio S. Tantoco, respondent herein, Civil Case No. 2554, for discharge of mortgage (Record on Appeal, p. 4). On May 31, 1962 defendant filed his answer with counterclaim and third party complaint against the Briones spouses with petition for leave to file third party complaint (Record on Appeal, p. 7). He alleged by way of special and affirmative defenses, among others, that the true and real amount of obligation of the Briones spouses is the sum of P68,824.00, Philippine currency, with 10% interest secured by a second mortgage in favor of defendant, executed and signed by the Briones spouses on May 26, 1959, which deed of second mortgage was duly registered in the Office of the Register of Deeds of Malolos, Bulacan on May 27, 1959 and properly annotated at the back of Transfer Certificate of Title No. 28296 issued in the names of Juan Brionez and Magdalena Bernardo; that the amount of P29,382.50 sent by plaintiff as alleged counsel of the spouses Juan Briones and Magdalena Bernardo was accepted by the said defendant as part payment or partial extinguishment of the mortgage loan of P68,824.00 with 10% interest thereon per annum from May 22, 1959, and plaintiffs have been informed of the tenor of said acceptance and application thereof as partial payment of the mortgage obligation in question; and, that defendant did not accede to the demand of the plaintiff to have the mortgage lien on the property in question cancelled or discharged because the full amount of the mortgage debt of P68,824.00 plus the 10% interest thereon from May 22, 1959 has not yet been fully paid either by the plaintiffs or by the spouses Juan Briones and Magdalena Bernardo. Defendant prayed under the counter-claim that plaintiffs be ordered to pay defendant the following amounts:

"(1) P62,245.04 plus 10% interest thereon per annum from May 22, 1962 until 11 the full amount thereon has been paid in the event that the assumption of obligation (Annex "2") is found by the Court to be true, valid and binding between the parties thereto;

(2) P100,000.00 for moral damages with 6% interest thereon from the date of the filing of the counterclaim until full payment thereof;

(3) P10,000.00 for exemplary damages with 6% interest thereon from the date of the filing of the counterclaim until full payment thereof; and

(4) P5,000.00 for attorney's fee with 6% interest thereon from the date of the filing of the counterclaim until full payment thereof."

On June 8, 1962 plaintiffs filed an answer to defendants' counterclaim, by way of counterclaim to the counterclaim and praying for judgment (Record on Appeal, p. 24) as follows:

"A. — Dismissing defendants' counterclaim with costs against them;

B. — Sentencing defendants to pay unto the plaintiffs the sum of P200,000.00 by way of moral damages with legal interest there on from date hereof;

C. — Sentencing defendants to pay not less than P20,000.00 to plaintiffs by way of exemplary damages with legal interest from date hereof;

D. — Sentencing defendants to pay unto plaintiffs the sum of P30,000.00 by way of actual damages;

E. — Declaring the lien on Transfer Certificate of Title No. T—25079 of plaintiffs duly discharged;

F. — Ordering defendant Cornelio S. Tantoco to execute the covering Release and Discharge of Mortgage;

G. — Ordering defendant Cornelio S. Tantoco to return his mortgagee's copy of Transfer Certificate of Title No. T-25079 to the Register of Deeds of Bulacan;

H. — Sentencing defendant Cornelio S. Tantoco to pay unto the plaintiffs the sum of P5,000.00 by way of attorney's fees;

I. — Plaintiffs further pray for such additional relief just and proper in the premises."

On June 22, 1962, long before defendant's third party complaint was admitted, the Briones spouses filed an answer to the third party complaint (Record on Appeal, p. 32) which was stricken out by order of the trial court dated September 3, 1962 (Record on Appeal, p. 35) on petition of plaintiffs dated July 18, 1962 (Record on Appeal, p. 33). Third-party defendants filed their second answer to the third-party complaint on October 6, 1962, virtually confessing judgment in behalf of third-party plaintiff (Record on Appeal, p. 35). They alleged by way of special and affirmative defense that plaintiff Fortunato de Leon at the time of the sale knew of the obligations of herein third-party defendants to third-party plaintiff and as a matter of fact said plaintiff assumed said obligations.

On July 29, 1963 Magdalena Bernardo Vda. de Briones was substituted third-party defendant as administratrix of the estate of Juan Briones who died in the course of the proceedings, upon petition of defendant Tantoco (Record on Appeal, P. 64).

On September 16, 1963 plaintiffs filed a petition for leave to intervene in defendant's third-party complaint, with their answer in intervention, which was granted by the Court on October 14, 1963 (Record on Appeal, p. 64.)

On May 16, 1967 the trial court rendered its decision on the case (Record on Appeal, p. 74) the dispositive portion of which reads as follows:

"WHEREFORE, judgment is hereby rendered ordering: the dismissal of the complaint; payment by its plaintiffs to the defendant-Third-party plaintiff by way of counterclaim the sum of P64,921.60 with interest thereon at 10% per annum from February 5, 1962 until fully paid; payment by plaintiff to defendant the sum of

P100,000.00 as moral and exemplary damages, and the further sum of P10,000.00 as attorney's fees; payment of costs of plaintiff."

On appeal respondent Court affirmed the judgment of the trial court with modification respecting the award of moral and exemplary damages as well as attorney's fees. Petitioner spouses filed on March 7, 1970 their motion for reconsideration of the decision of respondent court which motion was denied on April 20, 1970. On April 23, 1979 petitioners filed their motion for leave to file a second motion for reconsideration.

On July 5, 1970, barely two days before the expiration date of the period of appeal with their motion still unacted upon, petitioners filed with this Court their motion for extension of time to file petition for certiorari by way of appeal (Rollo, p. 1) which motion was granted in the Resolution of May 8, 1970 (Rollo, p. 2). The motion to file a second motion for reconsideration was denied by respondent Court on May 15, 1970 (Rollo, p. 53).

The instant petition for certiorari by way of appeal with preliminary injunction was filed with this Court on May 20, 1970 (Rollo, p. 7).

In the resolution of June 8, 1970 the petition was given due course solely on the issue of the propriety of the award made by the respondent court to the respondent Cornelio S. Tantoco in the amount of P60,000 in the concept of moral and exemplary damages" (Rollo, p. 75).

On June 20, 1970 petitioners moved for reconsideration of the Resolution of the Court dated June 8, 1979 (Rollo, p. 82), to include other issues.

On the same date private respondent Cornelio Tantoco moved for the issuance of partial entry of final judgment with respect to the portion of the decision appealed from which is not the subject of the instant appeal by certiorari (Rollo, p. 102).

On June 25, 1970 the Court resolved to require respondents to comment on the aforementioned motion for reconsideration (Rollo, p. 101). Said comment was filed on July 8, 1970 (Rollo, p. 109).

On July 8, 1970 petitioners spouses filed a consolidated opposition to private respondent Tantoco's motion for partial entry of final judgment and reply to his manifestation—motion (Rollo, p. 121) and on July 9, 1970 filed a reply to respondent Tantoco's motion to dismiss appeal (Rollo, p. 128).

On July 20, 1970 the Court resolved among others to deny: (1) respondent Tantoco's motion to dismiss appeal; (2) petitioners' motion for reconsideration of the Court's resolution of June 8, 1970; and (3) respondent Tantoco's motion for partial entry of judgment insofar as the portion of the decision appealed from which is not the subject of the instant appeal by certiorari is concerned, without prejudice to respondent's presenting the same motion to respondent Court of Appeals for consideration and action at the proper time (Rollo, p. 133).

Respondent Cornelio S. Tantoco filed with this Court on July 21, 1970 reply to consolidated opposition and rejoinder to reply to respondent Tantoco's motion to dismiss appeal (Rollo, p. 134).

Brief for petitioners was filed on August 5, 1970 (Rollo, p. 159); brief for respondents was filed on October 28, 1970 (Rollo, p. 187).

On November 14, 1970 petitioners filed an "Urgent Petition ex-parte For Issuance of Restraining Order and To Declare Respondent Cornelio S. Tantoco Guilty of Contempt of Court" stating that respondent Tantoco filed with the Court of Appeals on August 14, 1970 the same motion for partial entry of judgment which was filed with this Court and denied in the resolution of July 20, 1970 but which was granted by the Court of Appeals in its resolution of October 31, 1970 over petitioners'appellants' objection (Rollo, p. 192). On November 18, 1970 respondents were required to comment thereon (Rollo, p. 197) and the required comment was filed by private

respondent on November 26, 1970 (Rollo, p. 200).

On December 2, 1970 a partial remanding of the records of this case to the Court of Appeals was made in compliance with Section 11 of Rule 51 of the Rules of Court (Rollo, p. 220).

The Reply brief of the petitioners was filed on December 3, 1970 (Rollo, p. 210). On the same date petitioners—appellants’ “Urgent Petition for Issuance of Restraining Order and To Declare Respondent Cornelio’s Tantoco Guilty of Contempt of Court” was denied. (Rollo, p. 212).

On February 12, 1971 petitioners spouses again filed a petition for issuance of restraining order (Rollo, p. 227) and private respondent was required to comment thereon (Rollo, p. 233). Said comment was filed on February 23, 1971 (Rollo, p. 236).

On February 24, 1971 petitioners spouses filed an urgent manifestation informing the Court of the urgency of the issuance of a restraining order or writ of preliminary injunction because the Court of First Instance of Bulacan had presumably granted respondent Cornelio S. Tantoco’s motion for partial execution of judgment in an order dated February 11, 1971 which petitioners had not yet received, notwithstanding petitioners’ urgent motion to postpone hearing of same scheduled for February 15, 1971 because of the pendency of petitioner’s motion before this Court for issuance of a restraining order or writ of preliminary injunctions filed on February 11, 1971 (Rollo, p. 241). In the resolution of February 26, 1971 private respondent Cornelio S. Tantoco was required to comment thereon (Rollo, p. 248) and said comment was filed by respondent on March 6, 1971 (Rollo, p. 251). In the resolution of March 10, 1971 petitioners’ petition for issuance of a restraining order was denied (Rollo, p. 265).

Petitioners assign the following errors (Brief for Petitioners, P. 1):

I.

The respondent Court erred in awarding in favor of respondent Cornelio S. Tantoco moral and exemplary damages in the amount of P60,000.00 in the absence of supporting evidence and reasons notwithstanding that no actual and compensatory damages have been allegedly proved and awarded in respondent’s favor.

II.

The respondent Court erred in awarding P5,000.00 attorney’s fees in favor of respondent Cornelio S. Tantoco and in sentencing petitioners de Leons to pay same; instead of awarding the latter (Petitioners) reasonable attorney’s fees as prayed for in their complaint.

III.

The respondent Court erred in sentencing herein petitioners de Leons to pay respondent Tantoco P60,000.00 moral and exemplary damages and P5,000.00 attorney’s fees when there exist no contractual or juridical relations whatsoever between them.

IV.

That the decision of respondent Court of Appeals of February 21, 1970 and its adverse Resolutions of April 20, 1970 and of May 15, 1970 are all nullities.

In accordance with the Resolution of the Court dated June 8, 1970 (Rollo, p. 75) the sole issue that has to be resolved by the Court is the question of whether or not the award of P60,000.00 in the concept of moral and exemplary damages is proper.

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 (*People v. Baylon*, 129 SCRA 625 [1984]; *Bagumbayan Corporation v. Intermediate Appellate Court*, 132 SCRA 441 [1984]; *Guita v. Court of Appeals*, 139 SCRA 576 [1985]); *Prudenciado v. Alliance Transport System, Inc.*, 148 SCRA 440 [1987]). On the other hand, jurisprudence sets certain conditions when exemplary damages may be awarded, to wit: (1) They may be imposed by way of example or correction only in addition, among others, to compensatory damages and cannot be recovered as a matter of right, their determination depending upon the amount of compensatory damages that may be awarded to the claimant; (2) the claimant must first establish his right to moral, temperate, liquidated or compensatory damages; and (3) the wrongful act must be accompanied by bad faith, and the award would be allowed only if the guilty party acted in a wanton, fraudulent, reckless, oppressive or malevolent manner (*Octot v. Ybañez*, 111 SCRA 79 [1982]); *Sweet Lines, Inc., v. Court of Appeals*, 121 SCRA 769 [1983]); *Dee Hua Liong Electrical Equipment Corporation v. Reyes*, 145 SCRA 713 [1985]); *Tan Kapoc v. Masa*, 134 SCRA 231 [1985]). It may be awarded for breach of contract or quasi-contract as when a telegraph company personnel transmitted the wrong telegram (*Radio Communication of the Philippines, Inc. v. Court of Appeals*, 103 SCRA 359 [1981] but it is not recoverable in the absence of gross negligence (*Bagumbayan Corp v. Intermediate Appellate Court*, 132 SCRA 441 [1984]).

Respondent Court found malice in petitioners' refusal to satisfy Tantoco's lawful claim and in their subsequent filing of the present case against respondent, and took into consideration the worries and mental anxiety of respondent as a result thereof. In the words of respondent court:

"The evidence shows that plaintiff—appellants' refusal to satisfy appellee's lawful claims clearly amounted to malice on their part when they filed the present case resulting as it were in worries and mental anxiety of the defendant Tantoco who was dragged to court to litigate this case for almost 10 years up to now. He was even branded as a money lender, and accused forgery and of entering into collusion with the end in view of extracting extra amount x x x from the herein plaintiff'. All these tried to picture defendant Cornelio Tantoco with alleged dishonesty who respecting the legitimate obligation of the Briones to defendant Cornelio Tantoco, thereby blemishing his honor, integrity and reputation s a prominent doctor and a businessman. With all these extant circumstances which served as a guidepost for us in determining the reasonable amount of damages sustained by the defendant—appellee, this Court hereby fixes the amount of P60,000.00 representing moral and exemplary damages and the further sum of P5,000.00 as attorney's fees, which plaintiffs—appellants should pay the defendant—appellee." (Rollo, p. 61)

As a lawyer in the practice of law since his admission to the Bar in 1929, who has held several important positions in the government (TSN, April 22, 1965, p. 127) petitioner Fortunato de Leon could not have missed the import of the annotation at the back of TCT No. 28296 regarding the second mortgage for the sum of sixty eight thousand eight hundred twenty—four pesos (P68,824.00) of the property he was buying, in favor of respondent Cornelio Tantoco, entry No. 54835 in the registry of deeds of Bulacan (Exhibits, p. 93). The same annotation was transferred to TCT No. T—25079 in the name of petitioner after the sale of the property was effected and entered in the registry of deeds of Bulacan on June 3, 1959 (Exhibits, p. 102). Furthermore, petitioners cannot deny having assumed the mortgage debts of the Briones spouses amounting to P89,000.00 in favor of the Tantocos. The "Patunay" (exhibits 3—a) executed by the Briones spouses on June 3, 1959 gives the information that their property, and fishpond, was sold by them to the spouses Fortunato de Leon and Juana F. Gonzales for the amount of one hundred twenty thousand pesos (P120,000.00), payment made to them, as follows:

"Pinanagutan na aming

pagkakautang kay G.

Hermogenes Tantoco

hanging Mayo 1959

P 89,000.00

Cash na tinanggap

naming PBC Check No. 57040

11,000.00

Pagare No. 1 Junio 1, 1959

10,000.00

Pagare No. 2 Junio 1, 1959

10,000.00

_____ Kabuuan

120,000.00

.....
At the bottom of the “Patunay” in the handwriting of petitioner Fortunato de Leon is a statement signed by him (Exh. 3—b) signifying that he was assuming the spouses’ debt of P89,000.00 to respondent Tantoco, in the following words:

“Ang pagkautang na P89,000.00 sa mga Tantoco ay aking inaasumihan.” (Exhibits, p. 97).

Petitioner retained P89,000.00 out of the P120,000.00, representing the mortgage loan of the Briones spouses to the Tantocos, including interest. Immediately after the sale of the fishpond was affected and registered with the registry of deeds of Bulacan petitioner paid the P20,000.00 loan of the Briones spouses to Hermogenes Tantoco including 10% interest on the loan, covered by a first mortgage on the property. Accordingly, Hermogenes Tantoco executed a deed of discharge from the mortgage. Out of the P68,000.00 mortgage loan of the Briones spouses from respondent Cornelio Tantoco, petitioner, however made only a payment of P29,382.50 but would want respondent to execute the necessary discharge document. The documents speak for themselves. They are mute but plain and visible evidence of the deliberate intent of petitioner to defraud respondent of the amount withheld from the Briones spouses to cover the amount of the mortgage loan in favor of respondent.

The Filing of the case against respondent being unfounded and maliciously prosecuted satisfactorily proves the existence of the factual basis for moral damages and the causal relation to petitioners’ act (Hawpia v. Court of

Appeals, 20 SCRA 535 [1967]; Ventura v. Bernabe, 38 SCRA 587 [1971]; Enervida v. de la Torre, 55 SCRA 340 [1974]; Tan Kapoe v. Masa, 134 SCRA 231 [1985]). Private respondent has a good name to protect. He is a surgeon by profession, had been Chief of the Bulacan Provincial Hospital since 1946 until he put up a hospital of his own, the Rosary General Hospital. He is a member of the Knights of Columbus, a Cursillista, a member of the Lions, a fellow of the Philippines College of Surgeons in good standing from 1946 up to the present, a member of the Philippine Medical Association and of the Bulacan Medical Association. He has been humiliated, embarrassed, maligned and has been charged in bad faith as a money lender in petitioner's complaint accusing him of defrauding the Briones spouses (TSN, pp. 227—250).

The entitlement to moral damages having been established the award of exemplary damages is proper (Bert Osmena & Associates v. Court of Appeals, 120 SCRA 395 [1983]; Tan Kapoe v. Masa, 134 SCRA 231 [1985]).

While the award of moral and exemplary damages in an aggregate amount may not be the usual way of awarding said damages there is no question of respondent's entitlement to moral and exemplary damage (Tan Kapoe v. Masa, *supra*). The amount should be reduced, however, for being excessive compared to the actual losses sustained by the aggrieved party (Prudenciado v. Alliance Transport System, Inc., 148 SCRA 440 [1987]). Moral damages though incapable of pecuniary estimations, 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 (San Andres v. Court of Appeals, 116 SCRA 85 [1982] cited in Prudenciado v. Alliance Transport System, Inc. *supra*).

Time and again the Court has ruled that "moral damages are emphatically not intended to enrich a complainant at the expense of a defendant. They are awarded only to enable the injured party to obtain means, diversion or amusements that will serve to alleviate the moral suffering he has undergone, by reason of the defendants' culpable action" (Grand Union Supermarket, Inc. v. Espino, Jr., 94 SCRA 966 [1979]); R & B Surety & Insurance Co., Inc. v. Intermediate Appellate Court, 129 SCRA 736 [1984]; Prudenciado v. Alliance Transport System, Inc., *supra*).

In the case of Miranda Ribaya v. Bautista (95 SCRA 672 [1980]), this Court considered 25% of the principal amount as reasonable. In the case at bar, the Court of Appeals found on February 21, 1970 that the outstanding balance of the disputed loan was P64,921.69. Twenty five percent thereof is P16,230.00 but considering the depreciation of the Philippine peso today, it is believed that the award of moral and exemplary damages in the amount of P25,000.00 is reasonable.

PREMISES CONSIDERED, the assailed decision of the Court of Appeals is AFFIRMED but the aggregate award of moral and exemplary damages is reduced to P25,000.

SO ORDERED.

Melencio-Herrera, (Chairperson), Padilla, Sarmiento, and Regalado, JJ., concur.

[*] Penned by then Associate Justice Hermogenes Concepcion, Jr., and concurred in by Justices Eulogio S. Serrano and Lourdes P. San Diego.

[**] Penned by Judore Emmanuel M. Munoz.

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