HEIRS OF PERPETUO ESPULGAR, JR. REPRESENTED BY ETERNA D. ESPULGAR, PLAINTIFFS-APPELLEES, VS. SPS. ERNESTO AND NATIVIDAD BERLIN, DEFENDANTS-APPELLANTS.

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

This is an appeal on the Decision[1] of the Regional Trial Court, Branch 33, Iloilo City in Civil Case No. 07-29485 dated September 8, 2010 ordering defendants-appellants to pay actual, moral, and exemplary damages to plaintiffs-appellees; confirming the writ of replevin earlier issued in the case; and declaring null and void ab initio the real estate mortgages dated November 17, 2006 and January 4, 2007 over the properties covered by Transfer Certificates of Title Nos. T-7235 and T-7236, respectively.

The Antecedents

The late Spouses Perpetuo and Rosita Espulgar (Spouses Espulgar) were the registered owners of three parcels of land covered by Transfer Certificates of Title Nos. T-5558, T-7235 and T-7236. After their deaths, plaintiffs-appellees, being the heirs of Spouses Espulgar, adjudicated among themselves the lots covered by the aforementioned titles. After executing the appropriate documents[2] and having the same published in the newspaper, plaintiffs-appellees wanted to have the registration of the properties transferred into their names. Hence, they tasked Eterna Espulgar (Eterna) to pay the estate tax at the Bureau of Internal Revenue (BIR).

Accordingly, Eterna went to the BIR sometime in the last week of September 2006. She transacted with an employee thereat, Niva Libres (Libres), to whom she gave the amount of P35,000.00 and the original owner's copy of TCT Nos. T-7235 and T-7236.[3] Libres told Eterna that the processing of her documents would take about 2 to 4 months. After the period lapsed, Eterna made a follow-up on Libres but the latter told the former that the certificates of title which would already be in plaintiffs-appellees' names would be given on March 7, 2007.

However, on the date promised, no certificates of title were given to Eterna. She was instead shocked to receive a letter[4] from defendant-appellant Ernesto Berlin (Ernesto). The letter reminded Spouses Espulgar of their P600,000.00-loan which fell due on February 2007, and demanded them to settle the amount and the accrued interests within 10 days from receipt of the communication.

Puzzled, Eterna and some of the other plaintiffs-appellees immediately went to the clinic of defendant-appellant Dr. Natividad Berlin (Dr. Berlin), Ernesto's spouse, to inquire about the demand letter they received from her husband. They learned from Dr. Berlin that the properties covered by TCT Nos. T-7235 and T-7236 were mortgaged by Spouses Espulgar to Dr. Berlin.[5] Eterna informed Dr. Berlin that Spouses Espulgar had long been dead and that the titles covering the mortgaged properties were delivered to a BIR personnel for processing.

Dr. Berlin was surprised of the information since two elderly persons mortgaged the properties to her on two separate occasions. It was then that they realized that the two were impostors. Dr. Berlin told plaintiffs-appellees that the loan and mortgage transactions were brokered by Analyn Tesoro, Regma Blancaver and Josephine Bogo

(Bogo), who was also a BIR employee. In the course of their verification regarding the transaction, Libres and Bogo were later brought to Dr. Berlin's clinic for confrontation. Thereat, Libres revealed that she turned over the certificates of title to Bogo for processing. Bogo, however, said that she gave these to Regma Blancaver.

Plaintiffs-appellees asked Dr. Berlin to return the certificates of title to them but the latter said that she would still need it in suing the persons involved in the transactions. Subsequently, Dr. Berlin sought the help of the National Bureau of Investigation (NBI) in criminally charging those persons while Eterna also lodged a separate criminal case against them.[6]

On October 19, 2007, plaintiffs-appellees filed the instant case for replevin, nullity of mortgage and damages against defendants-appellants.[7] Plaintiffs-appellees claimed that defendants-appellants refused to return to them the certificates of title despite knowing that these had been stolen and even after the appropriate charges had been filed against those involved in the fraudulent transactions. They also averred that plaintiffs-appellees' counsel already sent a formal demand[8] to defendants-appellants, but the latter still refused to return the certificates of title.

Defendants-appellants filed their Answer.[9] They alleged that the certificates of title were in the possession of the NBI and they already inquired from the office if these were already available since plaintiffs-appellees needed the titles. However, the NBI advised that the titles would still be used in the investigation and as evidence in the criminal cases that were filed.

Pre-trial was conducted in the case.[10] Thereafter, the trial court resolved the propriety of immediately issuing a writ of replevin before the case is heard. In its Order dated April 18, 2008,[11] the trial court directed for the issuance of the writ conditioned upon the posting and approval of the bond.

Subsequently, the case went to trial. The parties presented their respective evidence, upon which the trial court rendered the decision in favor of plaintiffs-appellees. The trial court confirmed the writ of replevin earlier issued and adjudged defendants-appellants liable to plaintiffs-appellees for damages for not returning the certificates of title after discovery of the fraud. The dipositive portion of the decision reads, viz.:

> WHEREFORE, judgment is hereby rendered for the plaintiff and against defendant whereby the latter is ordered to pay plaintiffs the heirs of Perpetuo Espulgar, Jr., represented by Eterna D. Espulgar, the following sums:
> 1. TEN THOUSAND EIGHT HUNDRED EIGHTY (P10,880.00) PESOS as actual damages;
>
> 2. EIGHTY THOUSAND (P80,000.00) PESOS as moral damages;
>
> 3. FORTY THOUSAND (P40,000.00) PESOS as exemplary damages;
>
> 4. THIRTY THOUSAND (P30,000.00) PESOS as attorney's fees and litigation expenses.

The Writ of Replevin issued in this case is hereby confirmed.

The Court likewise declares the real estate mortgages dated November 17, 2006 and January 2, 2007 involving TCT Nos. T-7235 abd T-7236, respectively, NULL and VOID AB INITIO.

Defendants shall likewise pay the costs of the suit.[12]

Aggrieved, defendants-appellants appealed[13] to Us on a lone assignment of error that:

> I.
>
> THE TRIAL COURT ERRED IN ORDERING DEFENDANTS-APPELLANTS LIABLE FOR ACTUAL DAMAGES, MORAL DAMAGES, EXEMPLARY DAMAGES, ATTORNEY'S FEES AND LITIGATION

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EXPENSES DESPITE THE LACK OF FACTUAL AND LEGAL BASIS.

This Court’s Ruling

The appeal is meritorious.

We emphasize the rule that claims for damages must be supported by proof. During the trial, the claimant must satisfactorily prove the existence of the factual basis of the damages and its causal connection to defendant's acts.[14] In this case, Eterna's only testimony regarding their claim for damages was the following, thus:

Q:

Madam Witness[,] by reason of this case, did you incur any damage?

A:

Yes, sir, the expenses we spent and also with regards to the entries in the titles which I supposed to be cancelled and I also spent for that and all other expenses.[15]

The foregoing scant declaration is inappropriate basis for the trial court's awards of actual, moral and exemplary damages, as well as attorney's fees and litigation expenses.

In order for actual damages to be recoverable, there must be competent proof of the actual amount of loss. Eterna's unsubstantiated allegations did not constitute competent proof of the supposed expenses she incurred. Credence can be given only to claims which are duly supported by receipts.[16] To seek recovery of actual damages, it is necessary to prove the actual amount of loss with a reasonable degree of certainty, premised on competent proof and on the best evidence obtainable by the injured party.[17]

On the award for moral damages, nothing in the records justified its grant. Eterna never gave any testimony describing the supposed suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury as would entitle her and the other plaintiffs-appellees to moral damages. Since an award of moral damages is predicated on a categorical showing from the claimant that emotional and mental sufferings were actually experienced, the award must be disallowed absent any evidence thereon.[18]

As plaintiffs-appellees were not entitled to moral damages, with more reason that they do not deserve the award for exemplary damages. Under Article 2234 of the Civil Code, a claimant must show that he is entitled to moral damages before the court may consider the question of whether or not exemplary damages should be awarded. Exemplary damages, therefore, is allowed only in addition to moral damages, such that no exemplary damages can be awarded unless the claimant first establishes his clear right to moral damages.[19] As the award for moral damages has been scrapped, so must the grant of exemplary damages.

In justifying the awards for damages, the trial court declared that defendants-appellants failed to comply with their obligations under Articles 19,[20] 20[21] and 22[22] of the Civil Code. In other words, they failed to observe good faith in dealing with plaintiffs-appellees. This finding of the trial court, however, is contradicted by Eterna's own testimony recounting the efforts of Dr. Berlin in retrieving the certificates of title, thus:

Q:

Now, the criminal case that was filed by Dra. Berlin against the personnel of the Bureau of Internal Revenue (BIR) and the other persons you mentioned a while ago was coursed through the office of the National Bureau of Investigation (NBI), [a]m I correct?

A:

Yes, sir.

Q:

xxx You were inform[ed] that the certificates of title which xxx you originally placed with the Bureau of Internal Revenue (BIR) were already xxx in the possession of the National Bureau of Investigation? Is that correct?

A:

Yes, sir.

Q:

Now, upon knowing that the certificates of title were already in the office of the National Bureau of Investigation (NBI)[,] you together with Dra. Berlin took steps to find out or request from the National Bureau of Investigation whether the certificates of title could be returned to you, [a]m I correct?

A:

Yes, sir.

Q:

And in fact, Dra. Berlin has written a letter that was given to you asking the NBI to release the titles to you, [a]m I correct?

A:

Yes, sir.[23]

xxx xxx xxx

Q:

xxx you identified a while ago a certain handwriting [sic] letter, a letter handwritten [by] Dra. Berlin. xxx. According to you when asked by counsel for the defendant whether this Exhibit xxx was received by the NBI, you answered, “yes”?

A:

Yes, sir.

Q:

Why do you know that this was received by the NBI?

A:

I was the one who personally gave this to the NBI.

xxx xxx xxx

Q:

xxx Do you recall if there was any instance where Dra. Berlin personally accompanied you to the NBI and personally instructed the NBI to return the two titles which she left to the NBI to you?

A:

Yes, sir.

Q:

For how many times?

A:

I think twice.[24]

Aside from accompanying Eterna to the NBI, Dr. Berlin also went with her to the residence of then Department of Justice Secretary (DOJ) Secretary Raul Gonzales to seek help in getting back the certificates of title.[25] The testimony of the NBI personnel also corroborated Eterna's narration that Dr. Berlin went to the NBI to request for the release of the certificates of title to plaintiffs-appellees, thus:

Q:

xxx were there instances that Natividad Berlin went to your office regarding the custody of the titles?

A:

Yes, there [were] a lot of occasions.

Q:

And what was the purpose xxx of going to your office?

A:

xxx Natividad Berlin is going to see our office for follow up of the investigation for the submission of necessary documents that we need, and also, she went there together with the heirs of the registered owner of the title and asking [sic] us if we can return the title. My explanation with [sic] them in the presence of the heirs and even before Dr. Natividad Berlin, all of them the heirs, I explain[ed] to them that for the meantime, we cannot return the title[s] because we have to use [these] in the filing of the case against those violators, those people from the BIR, those private individuals who [were] in connivance with the BIR personnel. And I think that was my explanation which they all under[stood], I told them as an owner, we can return this as long as after we presented it as an evidence. We have to protect all of you, Dr. Natividad Berlin and the heirs of the registered owners, that is the purpose of our custody.[26]

Defendants-appellants did not, therefore, intend to cause any injury to plaintiffs-appellees. Their submission of the certificates of title to the NBI was a prudent and necessary recourse for the investigation and prosecution of the fraudulent transactions to which both parties became a victim of. It was not defendants-appellants' fault if the NBI opted not to release the certificates of title because the office needed these for investigation and evidentiary purposes. According to the NBI personnel, if not for the writ of replevin, they still would not release the certificates of title even if they were convinced that plaintiffs-appellees were its owners, thus:

Q:

xxx If not for the writ of replevin, will you return the title to the lawful owner who [are] the plaintiffs?

A:

We will not return that because that is our evidence.

Q:

Even if you have already filed the complaint as of July 3, 2007, you would not return the title?

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A:

We will not return that, sir, because we want to protect the integrity of our evidence.

Q:

Because that was the order to you by the defendants not to return until such time you make use of the title, am I correct?

A:

No, sir. We do not believe on the dictate of our complainant, we are in control of our job, we know what is our evidence, we know what is to be done with our evidence, and we do not listen to our complainants, sir.[27]

Without any proof of ill intent on the part of defendants-appellants, the trial court's recourse to the provisions of the Civil Code cannot support the awards for damages.

As for the grant of attorney's fees and litigation expenses, no factual or legal basis supported such awards. These cannot be recovered in the absence of stipulation. Also, the circumstances in Article 2208[28] of the Civil Code to properly warrant the awards do not obtain in this case.

WHEREFORE, the appeal is GRANTED. The Decision of the Regional Trial Court, Branch 33, Iloilo City in Civil Case No. 07-29485 dated September 8, 2010 is hereby MODIFIED by DELETING the order on defendants-appellants to pay actual, moral, and exemplary damages, attorney's fees and litigation costs to plaintiffs-appellees.

SO ORDERED.

Hernando, and Azcarraga-Jacob, JJ., concur.

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[1] Record, pp. 352-376.

[2] See Deed of Adjudication and Waiver of Rights, record, p. 9; and Waiver of Rights and Partition, record, p. 10.

[3] See Niva Libres' Acknowledgment Receipt for the amount, titles and other documents, record, p. 97.

[4] Record, p. 16.

[5] See Real Estate Mortgages, record, pp. 16A-19.

[6] See record, p. 115.

[7] See Complaint, record, pp. 1-5.

[8] Record, p. 20.

[9] Record, pp. 33-36.

[10] See Pre-trial Order, record, pp. 159-165.

[11] Record, pp. 164-165.

[12] Record, p. 376.

[13] See Notice of Appeal, record, p. 380.

[14] See People of the Philippines v. Adora, G.R. Nos. 116528-31. July 14, 1997.

[15] Transcript of Stenographic Notes (TSN) of the testimony of Eterna Espulgar taken on June 3, 2008, p. 17.

[16] See Viron Transportation Co., Inc. v. Delos Santos, G.R. No. 138296. November 22, 2000.

[17] See Manufacturers Building, Inc. v. Court of Appeals, G.R. No. 116847. March 16, 2001.

[18] See Metropolitan Bank and Trust Company v. Perez, G.R. No. 181842. February 5, 2010.

[19] See Villanueva v. Honorable Court of Appeals, G.R. No. 132955. October 27, 2006.

[20] Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

[21] Every person who, contrary to law, willfully or negligently causes damage to another shall indemnify the latter for the same.

[22] Every person who through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him.

[23] TSN of the testimony of Eterna Espulgar taken on June 3, 2008, pp. 22-23.

[24] TSN of the testimony of Eterna Espulgar taken on June 3, 2008, pp. 28-29.

[25] TSN of the testimony of Eterna Espulgar taken on June 3, 2008, p. 26.

[26] TSN of the testimony of NBI personnel Ernesto Lim taken on July 6, 2009, pp. 11-12.

[27] TSN of the testimony of NBI personnel Ernesto Lim taken on July 6, 2009, pp. 25-26.

[28] Article 2208 of the Civil Code provides: In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs cannot be recovered except:

(1) When exemplary damages are awarded;

(2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;

(3) In criminal cases of malicious prosecution against the plaintiff;

(4) In case of a clearly unfounded civil action or proceeding against the plaintiff;

(5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;

(6) In actions for legal support;

(7) In actions for recovery of wages of household helpers, laborers and skilled workers;

(8) In actions for indemnity under workmen's compensation and employer's liability laws;

(9) In a separate civil action to recover civil liability arising from a crime;

(10) When at least double judicial costs are awarded;

(11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable.

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