HANIL DEVELOPMENT CO., LTD., PETITIONER, VS. COURT OF APPEALS AND M.R. ESCOBAR EXPLOSIVE ENGINEERS, INC., RESPONDENTS.

G.R. No. 113176. July 30, 2001

Ponente: PUNO, J.

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PUNO, J.:

Before us are Petitions for Review on Certiorari under Rule 45 of the Decision rendered on August 23, 1993 and the Resolution promulgated on January 5, 1994, both by the Court of Appeals.[1]

In the early seventies, the Ministry of Public Works and Highways (MPWH for brevity) awarded petitioner Hanil Development Co., Ltd. (Hanil for brevity) the contract to construct the 200-kilometer Iligan-Cagayan de Oro-Butuan Highway Project. On November 14, 1976, Hanil sub-let the rock-blasting work portion of the contract to private respondent M.R. Escobar Explosive Engineers, Inc. (Escobar for brevity). By express stipulation of the parties, Escobar will be compensated thus:

> "x x x x x x x x x
>
> 9. For the services performed by Sub-Contractor (Escobar) in accordance with the terms and conditions herein described, Hanil will pay twenty pesos (P20.00) per cubic meter on the following basis:
>
> - If the rocks are solid in nature, quantity will be assessed as shown on the cross-section.
>
> - If the nature of the rock is soft and can be removed by using ripper, quantity may be assessed on the actual blasted amount surveyed by both Company and Sub-Contractor's engineers."[2]

On January 3, 1977, Escobar commenced its blasting works. It continued its services until terminated by Hanil on December 15, 1978. For the duration of the contract, it worked on the segments of the construction undertaking designated in the agreement as A-2, B-2, B-3, B-4, and C-1. It was fully paid for the areas A-2 and B-4. It claimed, however, that Hanil still partially owes it one million three hundred forty one thousand seven hundred twenty-seven and 40/100 (P1,341,727.40) pesos for blastings done in the B-2, B-3 and C-1 areas. The claim was predicated on the theory that the rocks it caused to explode in the contested areas were solid in nature, and therefore the volume should be computed using the cross-section approach pursuant to the above-quoted paragraph 9(a). It appears that all the payments it received were fixed based on the joint survey method under paragraph 9(b). Escobar stressed that Hanil was always paid by the MPWH using the cross-section system. This was pursuant to the awarded 200-km. highway project contract between the MPWH and Hanil, where the volumes of rocks to be blasted in specific areas were already pre-estimated based on the cross-section approach. In fine, Escobar's line of reasoning is that Hanil should pay it the same amount of money Hanil received from the MPWH for the blastings it did in the contested areas (B-2, B-3 and C-1). The figure P1,341,727.40 represents the difference between the two.

Consequently, Escobar instituted Civil Case No. 35966 for recovery of a sum of money with damages against

Hanil before the then Court of First Instance of Rizal (CFI for brevity). Hanil filed its answer with counterclaim for damages. Trial thereafter ensued. On April 16, 1982, the CFI handed down a Decision ordering Hanil to pay P1,341,727.40 for the value of rocks blasted by Escobar; 10% of the amount due for attorney's fees; and the costs of suit.

On May 24, 1982, upon Escobar's motion, the CFI garnished the bank accounts of Hanil and levied its equipments. On June 29, 1982, it also granted Escobar's Ex-parte Motion to Deposit Cash praying that the Finance Manager of the National Power Corporation (NAPOCOR) be directed to withdraw Hanil's funds from the NAPOCOR and deposit the same with the Clerk of Court. Hanil challenged the issuance of the May 24 and June 29 Orders before the Court of Appeals in a Petition for Certiorari with prayer for Injunction and Preliminary Restraining Order, docketed as CA-G.R. No. SP-14512. The appellate court, in a decision rendered on February 3, 1983, voided the challenged Orders.

While the above-mentioned petition was pending before the Court of Appeals and despite the writ of injunction issued by it, other developments continued to unfold in the CFI. In an Order dated August 23, 1982, it disapproved Hanil's Amended Record on Appeal and dismissed its appeal. On October 19, 1982, it denied Hanil's Motion for Reconsideration of the August 23 Order and at the same time granted Escobar's Motion for Execution of Judgment. These two Orders were again contested by Hanil before the appellate court in a Petition for Certiorari and Mandamus with prayer for Prohibition. The said Orders were again annulled and set aside. Hanil's appeal was reinstated and the CFI was ordered to elevate the entire records of the case to the Court of Appeals.

After transmittal of the records, the Court of Appeals notified Hanil on February 11, 1985 to file Appellant's Brief within forty-five days. On March 13, 1985, and within the reglementary period to submit its brief, Hanil filed an Application for Judgment against Attachment Bond and Motion to Defer Filing of Appellant's Brief, praying for a hearing before the Court of Appeals so it could prove the damages it sustained as a result of the illegal writ of attachment issued by the CFI. It wanted a judgment against the attachment bond posted by Escobar and its insurer Sanpiro Insurance Corporation (Sanpiro for brevity) to be included in the appealed decision in the main case, Civil Case No. 35966, then pending before the Court of Appeals. Escobar filed its Comment with a Motion to Dismiss Appeal allegedly for Hanil's failure to file its brief.

On April 30, 1985, the appellate court issued a Resolution denying Hanil's Application for Judgment Against the Attachment Bond together with its Motion to Defer Filing of Appellant's Brief. It also dismissed Hanil's appeal. Hanil's Motion for Reconsideration was denied on June 20, 1985. Hanil promptly sought relief from said April 30 and June 20 Resolutions by filing with this Court a Petition for Certiorari, Mandamus and Prohibition with Mandatory Injunction. In a decision rendered on September 30, 1986, we reversed and set aside the assailed Resolutions. We also directed the Court of Appeals to conduct hearings on the application for damages against the bond filed by Hanil and to reinstate the appeal.

Upon reinstatement of the appeal, the appellate court conducted hearings on the application for judgment against the attachment bond. On August 23, 1993, it promulgated the herein contested Decision,[3] the decretal portion of which reads as follows:

> "WHEREFORE, in view of the foregoing, judgment is hereby rendered:
>
> - REVERSING and SETTING ASIDE the appealed decision in Civil Case No. 35966;
>
> - DISMISSING the complaint in Civil Case No. 35966;
>
> - ORDERING the plaintiff-appellee (Escobar) to pay defendant-appellant under the counterclaim in Civil Case No. 35966 the following sums of money:

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- FIFTY THOUSAND (P50,000.00) PESOS, for and as attorney's fees;

- TWENTY THOUSAND (P20,000.00) PESOS in the concept of nominal damages;

- ORDERING plaintiff-appellee and bondsman Sanpiro to jointly and severally pay defendant-appellant under the attachment bond the total sum of FIFTY-SEVEN THOUSAND FIVE HUNDRED SEVEN AND 90/100 (P57,507.90) PESOS as and for attorney's fees and litigation expenses; and

- ORDERING plaintiff-appellee to pay bondsman Sanpiro by way of reimbursement under their Indemnity Agreement the sum of FIFTY-SEVEN THOUSAND FIVE HUNDRED SEVEN AND 90/100 (P57,507.90) PESOS.

Costs against plaintiff-appellee."[4]

Hanil and Escobar filed their own respective Motions for Reconsideration, which were both denied in a Resolution[5] dated January 5, 1994.

On February 15, 1994, Hanil filed before this court a Petition for Review on Certiorari under Rule 45 assailing the amount of damages awarded to it. This was docketed as G.R. No. 113176, entitled Hanil Development Co., Ltd., Petitioner, vs. Court of Appeals and M.R. Escobar Explosive Engineers, Respondents. On February 24, 1994, Escobar likewise filed its own Petition for Review on Certiorari under Rule 45, docketed as G.R. No. 113342, entitled M.R. Escobar Explosive Engineers, Inc., Petitioner, vs. Court of Appeals and Hanil Development Co., Ltd., Respondents.

In G.R. No. 113176, petitioner Hanil raises the following grounds:

"I. THE U.S.$3,000.00 INCURRED AND SPENT BY PETITIONER IN TAKING THE DEPOSITION OF ONE OF ITS WITNESSES SHOULD HAVE BEEN ADJUDGED TO BE PAID BY THE PRIVATE RESPONDENT.

II. THE PETITIONER SHOULD HAVE BEEN AWARDED WITH TEMPERATE DAMAGES OF P5,000,000.00 IN LIEU OF ACTUAL DAMAGES, INSTEAD OF THE SMALLER SUM OF P20,000.00 IN NOMINAL DAMAGES.

III. THE PETITIONER SHOULD HAVE BEEN AWARDED MORAL DAMAGES IN THE AMOUNT OF P1,000,000.00.

IV. THE PRIVATE RESPONDENT SHOULD BE MADE TO PAY THE PETITIONER EXEMPLARY DAMAGES IN THE AMOUNT OF P5,000,000.00 IN ORDER TO BE AN EFFECTIVE DETERRENT TO MALEVOLENT, FRAUDULENT AND MALICIOUS SUIT AND APPLICATION FOR ATTACHMENT AND OTHER SIMILAR ACTS;

V. THE AWARDED ATTORNEY'S FEES FOR THE PRINCIPAL ACTION SHOULD HAVE BEEN INCREASED FROM P50,000.00 TO P500,000.00."[6]

In G. R. No. 113342, petitioner Escobar makes the following assignment of errors:

"I.

THE COURT OF APPEALS ERRED GRAVELY IN NOT AFFIRMING THE TRIAL COURT'S 16 APRIL 1982 DECISION IN PETITIONER'S FAVOR.

II.

THE COURT OF APPEALS FURTHER ERRED GRAVELY IN AWARDING DAMAGES AND ATTORNEY'S FEES TO PRIVATE RESPONDENT, AS WELL AS IN AWARDING ADDITIONAL

> ATTORNEY'S FEES AND INJUNCTION BOND PREMIUM ON PRIVATE RESPONDENT'S APPLICATION FOR DAMAGES ON ATTACHMENT.
>
> III.
>
> THEREFORE THE COURT OF APPEALS ERRED IN NOT DISMISSING THE PETITION IN CA-G.R. NO. 05055 OUTRIGHT FOR BEING UTTERLY DEVOID OF MERIT."[7]

We will jointly discuss the related issues forwarded by the parties, first, in respect of the appeal from the Decision of the CFI in Civil Case No. 35966, before ruling on the issues advanced anent the application for judgment on the attachment bond.

Re: Appeal from the Decision of the CFI
in Civil Case No. 35966

In its petition in G.R. No. 113342, Escobar claims that the Court of Appeals erroneously relied on sub-paragraph (b) of paragraph 9 of the Sub-Contract Agreement. It maintains that all the blasting works it performed in areas B-2, B-3 and C-1 were for and on solid rock areas. It emphasizes that since Hanil was paid by the MPWH based on the cross-section system in these areas, it should likewise be paid in the same manner.

The contention fails to impress. Just because the MPWH paid Hanil using the cross-section approach for the blastings in the contested areas does not necessarily mean that Hanil should in turn compensate Escobar based on the same technique of computation. Apropos is the observation made by Mr. N.A. Vaitialingam, the Project Manager of the engineering consultants Sauti, Certeza & F.F. Cruz for the 200-kilometer Iligan-Butuan highway construction project. In a letter[8] dated December 10, 1979 addressed to the Honorable Minister of the MPWH, he declared the following:

> "These payments are made subject to the specification under Clause 105-3-2 `Rock Material' of the General Specifications, copy attached. Therefore it is not possible to ascertain the exact volume of rock or boulders blasted by the sub-contractor from the volume paid to the contractor because the rock blasted may be, for example, 60% or 65 % of the volume paid in the cross-section. Also very often boulders are pushed by the bull-dozers without blasting.
>
> Thus it is desired that the main contractor (Hanil) and the sub-contractor should come to a mutual agreement on the subject." (emphasis supplied.)

The import of this observation was correctly interpreted by the Court of Appeals, thus:

> "What Mr. N.A. Vaitialingam simply means is that the cross-section computation for payment by the MPWH to appellant (Hanil), as contractor, could not be in turn used as an accurate basis for payment by appellant to appellee (Escobar), as sub-contractor, not only because the rock blasted in each cross-section might have been (sic) consisted only of 60% or 65% solid rock but also because very often blasting was no longer necessary since boulders were just removed by bulldozers. The truth of Mr. Vaitialingam's statement is confirmed by appellee's own documentary evidence which show that "rock blasting and boulders" comprised a major portion of the work done in segment "B-2" (Exh. "B-3") and segment "B-3" (Exh. "B-2") and that the work in segment "C-1" (Exh. "B-1") consisted entirely of "blasting and dozing." Moreover, appellee's Exhibits "B-1", "B-2" and "B-3" clearly evince that "In all cases there were overburden of earth of varying depths on top of rock and boulders." In other words, payment to appellee "as shown by cross-section" under Sub-paragraph (a) of Paragraph 9 of the questioned document was obviously inapplicable for not being based on an actual and accurate method of measurement."[9]

This letter (Exhibit "H") is part of the evidence of Escobar. It cannot impugn its own evidence.[10]

To be sure, what governs the contractual relation between Escobar and Hanil are the stipulations contained in their Sub-contract Agreement. A contract is the law between the parties and where there is nothing in it which is contrary to law, morals, good customs, public policy or public good, its validity must be sustained.

The express terms of the agreement are clear as day to necessitate any interpretation. For the cross-section approach under paragraph 9(a) to apply, it is imperative to establish that the rocks blasted were solid in nature. Otherwise, the joint survey procedure will be followed. Escobar failed to prove the nature of the rocks it blasted in the disputed areas. It did not introduce in evidence object samples of the rocks in the area. Neither did it present "photographs, both wide and close-up angles of representative portions of the said areas that it worked on, let alone photographs of typical clusters of the rock it blasted."[11]

That the cross-section system was not at all followed by the parties is further shown by Escobar's act in the first seven months of the two-year agreement when it received monthly payments computed on the basis of the joint survey method. During the period from January to July 1977, its monthly billings were fixed after a joint survey of the estimated quantity of rocks before blasting and another joint assessment of the actual volume of rocks blasted by its own engineers and those of Hanil, which is in accordance with Paragraph 9(b), not 9(a), of their Sub-contract Agreement. Its belated assertion that these monthly collections were understood to be mere partial compensation, subject to adjustment after applying the cross-section approach, appears to be an afterthought. If the claim is true, it could have easily indicated or annotated the condition in the billings that it sent Hanil and the receipts for the payment. Since Escobar accepted payment for a considerable period of time under the joint survey method [par. 9(b)], it cannot later be allowed to assume an inconsistent position by invoking the cross-section approach [par. 9(a)].

We now discuss the merit of Hanil's petition. For its part, it seeks an increase in the grant of nominal damages and attorney's fees. It also prays for additional awards of moral and exemplary damages.

Hanil's plea for additional amount in the form of temperate damages in lieu of the nominal damages awarded to it must be denied. We agree with the appellate court's ruling that the amount of twenty thousand pesos (P20,000.00) is just. Hanil failed to prove the actual value of pecuniary injury which it sustained as a consequence of Escobar's institution of an unfounded civil suit. The testimony of one of its witnesses presented in the CFI, to the effect that "the filing of the complaint affected Hanil's reputation and that it affected the management and engineers working in the site,"[12] is not enough proof. The institution of the suit, unfounded though it may be, does not always lead to pecuniary loss as to warrant an award of actual or temperate damages. The link between the cause (the suit) and the effect (the loss) must be established by the required proof.

So, too, must its demand for payment of moral damages fail. The rule is that moral damages can not be granted in favor of a corporation. Being an artificial person and having existence only in legal contemplation, a corporation has no feelings, no emotions, no senses. It cannot, therefore, experience physical suffering, mental anguish, fright, serious anxiety, wounded feelings or moral shock or social humiliation, which can be suffered only by one having a nervous system.[13]

Hanil's prayer for exemplary damages must likewise be denied. It must be remembered that this kind of damages cannot be recovered as a matter of right. Its allowance rests in the sound discretion of the court, and only upon a showing of its legal foundation. Under the Civil Code, the claimant must first establish that he is entitled to moral, temperate, compensatory or liquidated damages before it may be imposed in his favor.[14] Hanil failed to do so, hence, it cannot claim exemplary damages.

We hold, however, that an increase in the grant of attorney's fees from fifty thousand pesos (P50,000.00) to one hundred fifty thousand pesos (P150,000.00) is in order. Although the original complaint lodged with the CFI was

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merely for collection of a sum of money with damages, involving as it did modest legal issues, that complaint had in reality generated several incidents during the close to twenty years that this case was under litigation. Twice, Hanil filed Petitions for Certiorari with the Court of Appeals. Once, it elevated the case to this Court questioning the dismissal of the appeal by the appellate court. Then, after reinstatement of the appeal, it had to present and defend its case not only for the appeal but also for its application on the attachment bond. And now, Hanil has to contend with Escobar's Petition in G.R. No. 113342, even as it concerns itself with its own Petition in G.R. No. 113176. In fine, taking into account the over-all factual environment upon which this case proceeded, we find the award of P50,000.00 insufficient and hereby augment it to P150,000.00.

Re: Application for Judgment on the Attachment Bond

Apropos the Application for Judgment on the Attachment Bond, Escobar claims in its petition that the award of attorney's fees and injunction bond premium in favor of Hanil is to law and jurisprudence. It contends that no malice or bad faith may be imputed to it in procuring the writ.

Escobar's protestation is now too late in the day. The question of the illegality of the attachment and Escobar's bad faith in obtaining it has long been settled in one of the earlier incidents of this case. The Court of Appeals, in its decision rendered on February 3, 1983 in C.A.-G.R. No. SP-14512, voided the challenged writ, having been issued with grave abuse of discretion. Escobar's bad faith in procuring the writ cannot be doubted. Its Petition for the Issuance of Preliminary Attachment made such damning allegations that: Hanil was already able to secure a complete release of its final collection from the MPWH; it has moved out some of its heavy equipments for unknown destination, and it may leave the country anytime. Worse, its Ex Parte Motion to Resolve Petition alleged that "after personal verification by (Escobar) of (Hanil's) equipment in Cagayan de Oro City, it appears that the equipments were no longer existing from their compound." All these allegations of Escobar were found to be totally baseless and untrue. So manifest was their baselessness that Escobar did not even submit a reply to refute the assertions Hanil made in its Opposition to the Petition for the Issuance of Preliminary Attachment. Nor did it attempt to negate the same assertions of Hanil in its Motion for Reconsideration. Instead, it advanced the evasive claim that the Motion has become moot and academic on the ground that the writ of attachment has already been executed.

We therefore hold that on the basis of the evidence presented, Hanil is entitled to temperate damages in the amount of five hundred thousand pesos (P500,000.00). As a consequence of the illegal writ, Hanil suffered the following damages: (1) some of the checks it issued were dishonored after its bank accounts were garnished; (2) its operation stopped temporarily for five days because it was prevented from using its equipments and machineries; and (3) its goodwill, reputation and commercial standing as one of the top multi-national construction firms in Asia was tarnished.

In light of Escobar's bad faith in procuring the attachment and garnishment orders, we grant the additional award of exemplary damages in the amount of one million pesos (P1,000,000.00) by way of example or correction for public good. This should deter parties in litigations from resorting to baseless and preposterous allegations to obtain writs of attachments from gullible judges. The misuse of our legal processes cannot be tolerated especially if they victimize persons and institutions of foreign nationality doing legitimate business in our jurisdiction. While as a general rule, the liability on the attachment bond is limited to actual (or in some cases, temperate or nominal) damages, exemplary damages may be recovered where the attachment was established to be maliciously sued out.[15]

We, however, delete the award of attorney's fees for the litigation of the application for damages against the bond since we have already included the same in our grant of attorney's fees in the main action concerning the appeal.

In other aspects, we sustain the assailed Decision and Resolution of the Court of Appeals. The claim of Hanil that as part of the cost of suit, Escobar should be made to pay three thousand U.S. dollars (U.S.$3,000.00) for the money it spent in taking the deposition upon written interrogatories of one of its witnesses, Engr. Chan Woo Park, in South Korea on November 18, 1988 is bereft of merit. The case law on this issue is now settled, viz.:

> "(T)he expenses of taking depositions are allowable as costs only if it appears to the court: (1) that they were reasonably necessary; (2) the burden of so demonstrating is upon the party claiming such expenses as costs; (3) whether that burden is met is within the sound discretion of the trial court; and (4) its ruling thereon is presumed to be correct and will not be disturbed unless it is so unreasonable as to manifest a clear abuse of discretion."[16] (emphasis supplied)

Whether the taking of a deposition was reasonably necessary to the protection of the party's interests as to entitle it to reimbursement of expenses is a question primarily for the lower court to decide based on all the facts and circumstances of the case. On this score, the Court of Appeals (which heard the Application for Damages) disallowed Hanil's claim since the deposition "was merely corroborative in nature and, therefore, superfluous."[17] We agree. A cursory reading of the transcript of deposition of Engr. Chan will readily reveal that his testimony only corroborated that of Hanil's earlier witness, Mr. Chang Yong Ahn, its Operations Manager, who took the stand on February 26, 1988. The two testimonies dealt with the same topic: the illegal writ of attachment on Hanil's equipments and garnishment of its funds, and the pecuniary loss it suffered as a consequence thereof. In fact, despite the Court of Appeals's own conclusion about the superfluity of the deposition, it still decided in favor of Hanil based on the other undisputed evidence on record.

In the same vein, we sustain the grant of seven thousand five hundred seven pesos and ninety centavos (P7,507.90) as injunction bond premium for being reasonable under the premises.

Finally, we find and so hold that, as between Escobar and its bondsman Sanpiro, the former is liable to the latter by virtue of their Indemnity Agreement[18] for the damages the subject attachment bond is herein made to answer. However, since the extent of its liability will be determined only by the terms and conditions of the contract of suretyship,[19] it can only be held answerable up to the amount of one million three hundred forty-one thousand, seven hundred twenty-seven pesos and forty centavos (P1,341,727.40).

IN VIEW WHEREOF, the assailed Decision and Resolution of the Court of Appeals are hereby modified as follows:

1. ORDERING Escobar to pay Hanil under the counterclaim in Civil Case No. 35966 the following sums of money:

- TWENTY THOUSAND PESOS (P20,000.00) as nominal damages;

- ONE HUNDRED FIFTY THOUSAND PESOS (P150,000.00) for and as attorney's fees.

2. ORDERING Escobar, and bondsman Sanpiro to jointly and severally pay with it up to the extent of one million three hundred forty-one thousand seven hundred twenty-seven pesos and forty centavos (P1,341,727.40), to pay Hanil under the attachment bond the following sums of money:

- FIVE HUNDRED THOUSAND PESOS (P500,000.00) as temperate damages;

- ONE MILLION PESOS (P1,000,000.00) as exemplary damages;

- SEVEN THOUSAND FIVE HUNDRED SEVEN PESOS AND NINETY CENTAVOS (P7,507.90) for the Injunction Bond Premium.

3. ORDERING Escobar to pay Hanil the remainder of the amount of temperate, exemplary and bond premium

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damages - which cannot be fully covered by the attachment bond - in the sum of ONE HUNDRED SIXTY-FIVE THOUSAND SEVEN HUNDRED EIGHTY PESOS AND FIFTY CENTAVOS (P165,780.50).

4. ORDERING Escobar to pay bondsman Sanpiro by way of reimbursement under their Indemnity Agreement the sum of ONE MILLION THREE HUNDRED FORTY-ONE THOUSAND SEVEN HUNDRED TWENTY-SEVEN PESOS AND FORTY CENTAVOS (P1,341,727.40).

Costs against Escobar.

SO ORDERED.

Kapunan, Pardo, and Ynares-Santiago, JJ., concur.
Davide, Jr., C.J. (Chairman), on official leave.

[**] Pursuant to the Resolution in A.M. No. 00-9-03-SC - Re: Creation of Special Committee on Case Backlog dated February 27, 2001, G.R. No. 113176 and G.R. No. 113342 were transferred to the ponente on March 13, 2001 and June 13, 2001, respectively.

[1] At the outset, it may be necessary to invite attention to the common error of joining the court (be it a Regional Trial Court, the Court of Appeals, or the Sandiganbayan) as a party respondent in an appeal by certiorari to this Court under Rule 45 of the Rules of Court. We observe that in the two petitions, both petitioners impleaded the Court of Appeals as respondent. The only parties in an appeal by certiorari are the appellant as petitioner and the appellee as respondent. The court which rendered the judgment appealed from is not a party in said appeal. It is in the special civil action of certiorari under Rule 65 where the court or judge is required to be joined as party defendant or respondent. The joinder of the Court of Appeals as party respondent in an appeal by certiorari is necessary in cases where the petitioner-appellant claims that said court acted without or in excess of its jurisdiction or with grave abuse of discretion. Metropolitan Waterworks and Sewerage System v. Court of Appeals, 143 SCRA 623 (1986), p. 625.

[2] Sub-Contract Agreement, p. 3, Exhibit A; Exhibit 1; Folder of Exhibits.

[3] Decision, Annex B, Petition for Review on Certiorari, G.R. No. 113176; Rollo, p. 37.

[4] Decision, pp. 13 - 14; Rollo, pp. 49 - 50.

[5] Resolution, Annex A, Petition; Rollo, p. 30.

[6] Petition, G.R. No. 113176, p. 7; Rollo, p.16.

[7] Petition, G.R. No. 113342, p. 12; Rollo, p. 19.

[8] Exhibit "H"; Exhibit "4"; Folder of Exhibits.

[9] Decision, p. 8; Rollo, p. 44.

[10] Folder of Exhibits.

[11] Decision, p. 7; Rollo, p. 43.

[12] TSN, July 8, 1981, pp. 17 - 18.

[13] Acme Shoe, Rubber and Plastic Corp. v. Court of Appeals, 260 SCRA 714, 722 (1996).

[14] Article 2234, Civil Code of the Philippines.

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[15] Calderon v. Intermediate Appellate Court, 155 SCRA 531, 541 (1987).

[16] John Price Associates, Inc. v. Davis, 588 P.2d 713, citing First Security Bank of Utah, N.A. v. Wright, Utah, 521 P.2d 563.

[17] Decision, p. 13; Rollo, p. 49.

[18] Annex A, Application for Judgment Against Attachment Bond; C.A. Rollo, p. 26.

[19] Umali v. Court of Appeals, 189 SCRA 529 (1990).

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