BAN HUA UY FLORES, BAN HA UY CHUA, AND SOON KEE COMMERCIAL, INC., PETITIONERS, VS. JOHNNY K. H. UY, RESPONDENT.

G.R. No. 121492. October 26, 2001

Ponente: PARDO, J.

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PARDO, J.:

The above cases were consolidated and are decided jointly. Both cases are appeals via certiorari from a decision of the Court of Appeals.[1]

The Petitions

In G. R. No. 121492,[2] petitioners Ban Hua Uy Flores, et al.,[3] seek to modify the decision insofar as it failed to award damages against respondent Johnny K. H. Uy.[4]

In G. R. No. 124325,[5] respondent Johnny Uy (as petitioner) seeks to reverse and set aside the decision and in lieu thereof, to revive the trial court's decision awarding to respondent Johnny Uy the amount deposited (by consignation) with the Rizal Commercial Banking Corporation, and attorney's fees in favor of counsel.

The Facts

The facts, as found by the Court of Appeals, are as follows:

> "The Uy family owns appellant Soon Kee Commercial Corporation. Appellee Johnny Uy and appellants Ban Ha Chua and Ban Hua Flores are brothers and sisters and were among the stockholders of the corporation together with Magdalena Uy, Lilian Uy, Lily Uy, and Lillen Uy, Leonardo U. Flores, Gloria U. Chan, Stephanie Chua and Melody Chua.
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> "Sometime in 1986 and 1987, disputes racked the family which later caused Johnny Uy and his wife Magdalena to break away from the rest of the family. They later transferred their investments in Soon Kee to the other stockholders of the corporation.
>
> "This particular case takes its roots from a complaint for interpleader instituted by Hongfil Shipping Corporation and Edward Tan Chona to determine the rightful owner of a certain sum of money originally invested with the appellee-corporation. This complaint was filed with the Regional Trial Court in Cebu City and was docketed as Civil Case No. CEB-9928.
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> "In the amended complaint, appellee Edward Tan Chona ("Tan Chona") and Hongfil Shipping Corporation alleged that Tan Chona received a total of US$100,000.00 from the Soon Kee Commercial, Inc. ("Soon Kee") or Uy family as part capitalization and operation outlay in the Hongfil Shipping Corporation ("Hongfil"). This was given to him in two installments, i.e., US$70,000.00 from Johnny Uy ("Johnny") and later US$30,000.00 from Ban Ha Chua.
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> "Hongfil later on ceased to operate and sold the vessel used in its operations. Tan Chona thereafter offered to

return the invested amount or its equivalent in pesos to the defendants. He was unable to do so, however, because of conflicting claims among the Uy family members as to the rightful source of the investment.

"The plaintiffs have since received demands from the Uy family members. But being close and in good terms with all of them, Tan Chona decided to deposit the amount with the bank and instituted an interpleader action so as not to be misunderstood by the Uy family. The equivalent amount in pesos based on the prevailing exchange rate at that time was then deposited under Special Savings Account No. 7-445-00001-3 with the Rizal Commercial Banking Corporation branch in Cebu City.

"The plaintiffs then prayed that the court render judgment on the respective rights of the defendants on the amount currently deposited with the bank and the interest that will accrue thereon. It was also prayed that attorney's fees and expenses incurred by the plaintiffs be declared to constitute a first lien or charge on the disputed amount (Records, pp. 6-9).

"Named defendants in the complaint were Soon Kee, Johnny and Ban Hua Flores ("Ban Hua") or Ban Ha Chua ("Ban Ha"). They are divided into two camps. While Johnny claims the total amount as his personal investment, the others claim that the investment is owned by the Uy family members who are also stockholders of Soon Kee in proportion to their holdings in the latter.

"Johnny's version of the circumstances surrounding the investment is summarized in the following paragraphs.

"Sometime in 1984, Tan Chona invited Johnny to join him in forming a shipping company and that he invest US$100,000 in the venture. After several meetings, he accepted the proposal and agreed to invest the said amount. The understanding is that he would own 10% of the shipping venture and Tan Chona will invite other persons to join in the business enterprise. (TSN-Cruz, 4 December 1991, p. 6, 12; TSN-Ybanez, 18 January 1992, pp. 7-10).

"Johnny paid his investment to Tan Chona in two installments. The first was in the amount of US$30,000.00 given in one hundred dollar bills sometime in September or October 1984 at the Canada Restaurant, Manila. This was given personally by Johnny to Tan Chona (TSN-Cruz, 4 December 1991, p. 7, 18). He did not ask Tan Chona for any receipt as the latter is his friend and he trusted him (TSN-Ybanez, 18 January 1992, p. 12-13). On cross-examination, Johnny stated that later on, starting in 1986 when the incorporation papers of Hongfil were being processed, he asked Tan Chona several times to give him a receipt. Tan Chona allegedly told him that he will issue a receipt later (TSN-Ybanez, 18 January 1992, pp. 15-16).

"Sometime in November and December 1984, Tan Chona called Johnny by telephone and asked for the additional US$70,000.00. They met again at the Canada Restaurant where he gave Tan Chona a note for the latter to get the amount from his brother-in-law in Hongkong (TSN-Cruz, 4 December 1991, p. 8) which he did (TSN-Cruz, 4 December 1991, p. 10). Upon arrival from Hongkong, Tan Chona handed to Johnny a receipt dated 10 January 1985 acknowledging that he received, through Mr. Chong Chue Wei, Check No. 8871192832, the amount of US$70,000.00 drawn against an account with the Nanyang Commercial Bank (TSN-Cruz, 4 December 1991, p. 10, 12).

"Hongfil Shipping Corporation was formally established in 1986 (TSN-Cruz, 4 December 1991, p. 12). Together with Tan Chona and Johnny, the following made up the incorporators and subscribers of the capital stock of the corporation: Dy Un, James Wong, Oscar Sanchez and Nelson Arendain. Except for Nelson Arendain, the same persons composed the Board of Directors (TSN-Cruz, 4 December 1991, p. 13-14).

"The Articles of Incorporation of the corporation, however, listed Johnny's paid up capital contribution as P150,000.00 only (TSN-Cruz, 4 December 1991, p. 14). This prompted him to ask Tan Chona why a lesser amount than he actually invested was reflected in the articles. The latter allegedly told him that his capital contribution will be increased later as the other incorporators have not yet fully paid their subscriptions (TSN-Cruz, 4 December 1991, p. 16). Johnny discussed the needed correction with Tan Chona several times

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although he was unable to follow it up later on because of the disputes that racked their family in 1986 to 1987 (TSN-Cruz, 4 December 1991, p. 18).

"Afterwards, he orally demanded from Tan Chona for the return of his investment, less US$5,000.00 which is the equivalent amount of his paid up capital subscription as listed in the articles of incorporation. Tan Chona, however, did not heed his demand (TSN-Patalinghug, 27 January 1992, p. 3) although sometime in September 1990, he promised to pay when he comes back from the United States. They met again after Tan Chona's arrival and during the meeting, Johnny was given copies of several documents including a joint venture agreement and a memorandum of agreement (TSN-Patalinghug, 27 January 1992, p. 11).

"On the advise of friends, Johnny decided to send a written demand to Tan Chona. The letter was sent on 8 January 1991 through his counsel and his uncle (TSN-Patalinghug, 27 January 1992, p. 4-6).

"On Tan Chona's request, they met to discuss the matter at the Hai Pa Wang Restaurant located at Dasmariñas Street, Manila. The meeting was also attended by some of their friends. It was agreed at the meeting that the money should be given to him in order to avoid litigation and any future misunderstanding. This is because there were no documents to prove the other defendants' claim over the money as it was Johnny who dealt with Tan Chona and his claim is supported by documents (TSN-Patalinghug, 27 January 1992, pp. 6-8).

"Tan Chona, however, expressed regrets that he cannot make a decision at that meeting because he is apprehensive of the reaction of the other members of the Uy family, especially since the eldest Uy is his brother-in-law. Tan Chona then suggested another meeting to which everyone in the meeting agreed (TSN-Patalinghug, 27 January 1992, p. 8). The proposed meeting was not held, however, because before the date set for the meeting, Johnny received the summons for the interpleader case filed by Tan Chona (TSN-Patalinghug, 27 January 1992, p. 8).

"Ban Hua, who testified on behalf of herself and the other defendants, presented the following version of the circumstances relating to the Hongfil investment.

"In 1985, Tan Chona invited the Uy family, particularly Johnny, Ban Hua and Ban Ha to join him in putting up a shipping business and to invest US$100,000 or ten percent of the total or entire investment (TSN-Ybanez, 23 January 1992, p. 17-18, 22). This amount will be utilized partly as capital investment in the shipping corporation and partly in purchasing a vessel (TSN-Ybanez, 23 January 1992, p. 23).

"After some discussions, the Uy family accepted the proposal and set some terms and conditions regarding the (1) nature of the investment and those who shall participate therein; (2) source of investment and (3) manner of implementation (TSN-Ybanez, 23 January 192, pp. 23-24).

"As agreed, the $100,000.00 was to be a personal investment of the Uy family members who are listed as stockholders of Soon Kee. Their investment was to be in proportion to their shareholdings in Soon Kee, in the following amounts; Johnny and Magdalena Uy, 26%; Lilian Uy, Lily Uy, and Lillen Uy, 25%; Banha Chua, 11%; Ban Hua Flores, 10%; Leonardo U. Flores, 11%; Gloria U. Chan, 8%. The other stockholders are Stephanie Chua and Melody Chua (TSN-Ybanez, 23 January 1992, pp. 25-27, 41).

"Soon Kee was to advance the money but it will be deducted from bonuses and benefits derived from Soon Kee. Though advanced by the corporation, the investment was understood to be a personal investment of the shareholders and not a corporate matter (TSN-Ybanez, 23 January 1992, p. 29).

"The family also agreed to place the investment in Johnny's name but with the express condition that it will be held in trust for the Uy family. Ban Hua explained that it was a usual practice in the company to trust their brother and to put their investments in his name (TSN-Ybanez, 23 January 1992, p. 30).

"Johnny then gave US$70,000 to Tan Chona and the balance of US$30,000 was given later on by Ban Ha Chua (TSN-Ybanez, 23 January 1992, p. 33).

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"Thereafter, disputes racked the family which resulted in the breaking-away of Johnny and his wife from the family. Because of the break-up, the couple assigned their shares in Soon Kee to the rest of the Uy family (TSN-Ybanez, 23 January 1992, p. 36; Exhibits 3, 4, 5, 6, 7 and 8-Soon Kee).

"Johnny also filed several cases against the other family members, all involving money. He also allegedly stole all the important family documents, money and some stock certificates kept in the family vault. Johnny had also withdrawn one million pesos from the bank and transferred it to another account. He was allegedly able to do so because he was the president while his wife was the cashier and treasurer of the corporation (TSN-Ybanez, 23 January 1992, p. 37).

"Meanwhile, Tan Chona informed the family that their shipping business is losing and to prevent further losses, he will return the US$100,000 investment made by the Uy family. After the family was so informed, Ban Hua, on behalf of herself and the other family members, requested Tan Chona to return to them US$74,000.00 and the balance of US$26,000 to Johnny and his wife, plus interest. This demand was made sometime in 1990 (TSN-Ybanez, 23 January 1992, p. 48-49).

"Tan Chona promised to comply but he wanted to talk with Johnny first for clarifications as he was confused about the sharing. Apparently, he was not aware of the arrangements among the family regarding the Hongfil investment. Though Ban Hua explained the arrangement to Tan Chona, the latter still did not return the money (TSN-Ybanez, 23 January 1992, pp. 50-51, 53-54).

"They then referred the matter to their lawyer who also sent a demand letter to Tan Chona on 10 October 1990 and which was received on 12 October 1990 (TSN-Ybanez, 23 January 1992, p. 55; Exhibit 2-Soon Kee).

"In explaining the sharing of the investment, Ban Hua stated that since the Hongfil venture was made prior to the family break-up, Johnny and his wife are entitled to 26% of the investment.

"Johnny, allegedly, did not agree to the sharing because he claims that he owns 31.183% (TSN-Ybanez, 23 January 1992, p. 44). Johnny, in fact, sent an agreement signed by him regarding the partition of their properties and businesses, including the Hongfil investment, for the rest of the family members to sign. The other members did not sign, however, because they disagreed with the sharing proposed in the agreement which is inconsistent with the percentage of stock subscriptions of the family members reflected in the general information sheets of the corporation (Exhibit 9-Soon Kee; TSN-Ybañez, 23 January 1992, p. 47-48).

"Concluding that the "case, documentary wise, preponderates in favor of Johnny Uy" (Decision, p. 16, Records, p. 623), the trial court rendered judgment,[6] as follows:

"THE FOREGOING CONSIDERED, judgment is hereby rendered in favor of the defendant, JOHNNY UY. The total peso deposit now with the Rizal Commercial Banking Corporation under Savings Account No. 7-445-00001-3 should be remitted to the former and attorney's fee in favor of counsel Estrella in the amount of P10,000.00 to be billed against said deposit. Similarly, Atty. Ramon Ceniza's attorney's fee is hereby fixed in the amount of P15,000.00 to be billed against the deposit. (Decision; Records, p. 623)"

On April 14, 1993, petitioners appealed the decision to the Court of Appeals.[7]

On August 10, 1995, the Court of Appeals promulgated a decision reversing the lower court, the dispositive portion of which reads as follows:

"WHEREFORE, the judgment of the Regional Trial Court of Cebu City is REVERSED and a new judgment is hereby rendered:

"1. ordering the plaintiffs to remit to Johnny and Magdalena Uy 26% and to the defendants-appellants 74% of the amount currently deposited with Rizal Commercial Banking Corporation branch in Cebu City under Special Savings Account No. 7-445-00001-3; and

"2. ordering the defendants-appellants Soon Kee Commercial Inc., Ban Hua Flores and Ban Ha Chua and defendant-appellee Johnny Uy to pay plaintiffs P25,000.00 as attorneys fees.

"The costs of the suit shall constitute a first lien on the judgment.

"SO ORDERED."[8]

Hence, on August 31, 1995, petitioners Ban Hua Uy Flores, Ban Ha Uy Chua and Soon Kee Commercial, Inc. filed with the Supreme Court a petition for review on certiorari.[9]

In the meantime, respondent Johnny Uy filed with the Court of Appeals a motion for reconsideration of the decision.[10]

On March 6, 1996, the Court of Appeals denied respondent Johnny Uy's motion for reconsideration.[11]

Hence, on May 13, 1996, respondent Johnny Uy filed with the Supreme Court a separate petition.[12]

The Issues

- Whether respondent Johnny K. H. Uy was the sole owner of the US$100,000.00 investment of the Uy family in the Hongfil Shipping Corporation; and

- Whether damages may be assessed against respondent Johnny K. H. Uy and awarded in favor of petitioners.

The Court's Ruling

The first issue is factual. In an appeal via certiorari, we may not review the findings of fact of the Court of Appeals.[13] When supported by substantial evidence, the findings of fact of the Court of Appeals are conclusive and binding on the parties and are not reviewable by the Court,[14] unless the case falls under any of the exceptions to the rule.[15]

Petitioner has not shown that the case falls within the exceptions.[16] The Supreme Court is not a trier of facts.[17] It is not our function to review, examine and evaluate or weigh the probative value of the evidence presented.[18] A question of fact would arise in such event.[19] Questions of fact cannot be raised in an appeal via certiorari before the Supreme Court and are not proper for its consideration.[20]

On the second issue, we find it reasonable to conclude that petitioners Ban Hua Uy Flores, et al. need not have spent a great deal of money if respondent Johnny Uy did not make a false claim on the Uy family investment of US$100,000.00, in the Hongfil Shipping Corporation. Hence, the protracted trial of the case necessitated the expenditures incurred by petitioner Ban Hua Uy Flores, et al.

Actual damages may therefore be assessed against respondent Johnny Uy. The actual expenses incurred by petitioner Ban Hua Uy Flores consisted not merely of the attorney's fees and other litigation expenses but also other expenses related to the trial of this case in Cebu City. Two (2) lawyers always attended the trial of the case. The lawyers came from Manila. Petitioner Ban Hua Uy Flores had to come from Bacolod City. The lawyers and petitioner Ban Hua Uy Flores not only incurred expenses for plane fare but also for hotel accommodations and food, as well as other miscellaneous expenses.

We find that respondent Johnny Uy acted in gross and evident bad faith in making a false claim that he owned 100% of the Uy family investment in the Hongfil Shipping Corporation. Despite the fact he had made a written admission that the investment in the Hongfil Shipping venture in the amount of US$100,000.00 was for the Uy family, stockholders of Soon Kee Commercial, he persisted in claiming as his own one hundred (100%) percent of the investment. He managed to get a favorable judgment from the lower court. On appeal, the Court of Appeals

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reversed the judgment and declared that he was only entitled to 26% of the investment. For such acts, we rule that actual and moral damages may be assessed against him. Actual or compensatory damages may be awarded for wrongful acts or omissions.[21] Indeed, actual damages are primarily intended to simply make good or replace the loss caused by a wrong.[22] However, these must be duly proved and established with reasonable degree of certainty.[23] As stated in the testimony of Ban Hua Uy Flores, which is not disputed, she spent P215,506.00, as expenses of litigation, exclusive of attorney's fees.

On the other hand, "Moral damages are not punitive in nature but are designed to compensate and alleviate in some way the physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury unjustly caused to a person. Although incapable of pecuniary computation, moral damages, nevertheless, must somehow be proportional to and in approximation of the suffering inflicted. Such damages, to be recoverable, must be the proximate result of a wrongful act or omission the factual basis for which is satisfactorily established by the aggrieved party."[24] However, it must be emphasized that "moral damages are not intended to enrich a plaintiff at the expense of the defendant. Such damages are awarded only to enable the injured party to obtain means, diversion or amusement that will serve to obviate the moral suffering he has undergone, by reason of the defendant's culpable action."[25]

Similarly, reasonable attorney's fees may be awarded to the prevailing parties who had to endure a long drawn out litigation to establish their right.

IN VIEW WHEREOF, the Court hereby MODIFIES the decision of the Court of Appeals and renders judgment, as follows:

1) ordering the Hongfil Shipping Corporation and Edward Tan Chona to remit to Johnny and Magdalena Uy 26% and to Ban Hua Uy Flores, Ban Ha Uy Chua and Soon Kee Commercial, Inc., 74% of the amount of US$100,000.00, or the peso equivalent currently deposited with the Rizal Commercial Banking Corporation branch in Cebu City, under Special Savings Account No. 7-445-00001-3;

2) ordering respondent Johnny K. H. Uy to pay Ban Hua Uy Flores, Ban Ha Uy Chua, and Soon Kee Commercial, Inc., the following amounts:

(a) P215,506.00, representing actual damages;

(b) P50,000.00, representing moral damages; and,

(c) P25,000.00, as attorney's fees.

With costs of suit taxed against respondent Johnny K. H. Uy.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, and Kapunan, JJ., concur.
Ynares-Santiago, J., no part.

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[1] In CA-G. R. CV No. 42883, promulgated on August 10, 1995, Martinez, J., ponente, Ynares-Santiago (now Supreme Court Associate Justice) and Reyes, R. T., JJ., concurring, Petition, Annex "A", G. R. No. 121492, Rollo, pp. 23-37; Petition Annex "B", G. R. No. 124325, Rollo, pp. 71-84.

[2] Petition, Rollo, pp. 3-19.

[3] We shall refer to Ban Hua Uy Flores, et al. as petitioners throughout the decision even though they are

respondents in G. R. No. 124325.

[4] Hereafter referred to as respondent Johnny Uy throughout the decision even though he is petitioner in G. R. No. 121492.

[5] Petition, Rollo, pp. 15-53.

[6] On March 8, 1993.

[7] Docketed as CA-G. R. CV No. 42883. Notice of Appeal, Original Record, pp. 670-671.

[8] Supra, Note 1.

[9] Docketed as G.R. No. L-121492. On January 22, 1997, we gave due course to the petition. Rollo, p. 206.

[10] CA Rollo, pp. 118-148.

[11] CA Rollo, pp. 321-324.

[12] Docketed as G.R. No. 124325, Petition filed on May 13, 1996, Rollo, pp. 15-53. On June 26, 1996, the Court resolved to LET this case be CONSOLIDATED with G. R. No. 121492 (Rollo, p. 138).

[13] Cristobal v. Court of Appeals, 353 Phil. 320 [1998]; Sarmiento v. Court of Appeals, 353 Phil. 834 [1998]; Concepcion v. Court of Appeals, 324 SCRA 85 [2000], citing Congregation of the Virgin Mary v. Court of Appeals, 353 Phil. 591 [1998] and Sarmiento v. Court of Appeals, supra; Arriola v. Mahilum, 337 SCRA 464 [2000]; [2000]; Bolanos v. Court of Appeals, G. R. No. 122950, November 20, 2000.

[14] Atillo v. Court of Appeals, 334 Phil. 546 [1997].

[15] Cebu Shipyard and Engineering Works, Inc. v. William Lines, Inc., 366 Phil. 439, 452 [1999].

[16] Rivera v. Court of Appeals, 348 Phil. 734, 743 [1998].

[17] Trade Unions of the Philippines v. Laguesma, 236 SCRA 586 [1994].

[18] Trade Unions of the Philippines v. Laguesma, supra, Note 17.

[19] Cheesman v. Intermediate Appellate Court, 193 SCRA 93 [1991]; Ramos v. Pepsi Cola Bottling Co., 125 Phil. 701 [1967]; Pilar Dev. Corp. v. Intermediate Appellate Court, 146 SCRA 215 [1986]; Aroyo v. Beaterio del Santissimo Rosario de Molo, 132 Phil. 9 [1968]; Bernardo v. Court of Appeals, 216 SCRA 224 [1992].

[20] Hi-Precision Steel Center, Inc. v. Lim Kim Steel Builders, Inc. 228 SCRA 397 [1993]; Navarro v. Commission on Elections, 228 SCRA 596 [1993].

[21] Llorente, Jr., v. Sandiganbayan, 350 Phil. 820, 838 [1998].

[22] Ibid., citing Tolentino, The Civil Code, Vol. 5, 1992 ed., pp. 633-634.

[23] People v. Oliano, 350 Phil. 604, 628 [1998].

[24] Expertravel and Tours, Inc. v. Court of Appeals, 368 Phil. 444, 448 [1999].

[25] American Home Assurance Co. v. Chua, 368 Phil. 555, 568 [1999].

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