

NOEL BUENAVENTURA, PETITIONER, VS. COURT OF APPEALS AND ISABEL LUCIA SINGH BUENAVENTURA, RESPONDENTS.

G.R. NO. 127358. March 31, 2005

Ponente: AZCUNA, J.

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AZCUNA, J.:

These cases involve a petition for the declaration of nullity of marriage, which was filed by petitioner Noel Buenaventura on July 12, 1992, on the ground of the alleged psychological incapacity of his wife, Isabel Singh Buenaventura, herein respondent. After respondent filed her answer, petitioner, with leave of court, amended his petition by stating that both he and his wife were psychologically incapacitated to comply with the essential obligations of marriage. In response, respondent filed an amended answer denying the allegation that she was psychologically incapacitated.[1]

On July 31, 1995, the Regional Trial Court promulgated a Decision, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered as follows:

- 1) Declaring and decreeing the marriage entered into between plaintiff Noel A. Buenaventura and defendant Isabel Lucia Singh Buenaventura on July 4, 1979, null and void ab initio;
- 2) Ordering the plaintiff to pay defendant moral damages in the amount of 2.5 million pesos and exemplary damages of 1 million pesos with 6% interest from the date of this decision plus attorney's fees of P100,000.00;
- 3) Ordering the plaintiff to pay the defendant expenses of litigation of P50,000.00, plus costs;
- 4) Ordering the liquidation of the assets of the conjugal partnership property[,] particularly the plaintiff's separation/retirement benefits received from the Far East Bank [and] Trust Company[,] by ceding, giving and paying to her fifty percent (50%) of the net amount of P3,675,335.79 or P1,837,667.89 together with 12% interest per annum from the date of this decision and one-half (1/2) of his outstanding shares of stock with Manila Memorial Park and Provident Group of Companies;
- 5) Ordering him to give a regular support in favor of his son Javy Singh Buenaventura in the amount of P15,000.00 monthly, subject to modification as the necessity arises;
- 6) Awarding the care and custody of the minor Javy Singh Buenaventura to his mother, the herein defendant; and
- 7) Hereby authorizing the defendant to revert back to the use of her maiden family name Singh.

Let copies of this decision be furnished the appropriate civil registry and registries of properties.

SO ORDERED.[2]

Petitioner appealed the above decision to the Court of Appeals. While the case was pending in the appellate court, respondent filed a motion to increase the P15,000 monthly support pendente lite of their son Javy Singh

Buenaventura. Petitioner filed an opposition thereto, praying that it be denied or that such incident be set for oral argument.[3]

On September 2, 1996, the Court of Appeals issued a Resolution increasing the support pendente lite to P20,000.[4] Petitioner filed a motion for reconsideration questioning the said Resolution.[5]

On October 8, 1996, the appellate court promulgated a Decision dismissing petitioner's appeal for lack of merit and affirming in toto the trial court's decision.[6] Petitioner filed a motion for reconsideration which was denied. From the abovementioned Decision, petitioner filed the instant Petition for Review on Certiorari.

On November 13, 1996, through another Resolution, the Court of Appeals denied petitioner's motion for reconsideration of the September 2, 1996 Resolution, which increased the monthly support for the son.[7] Petitioner filed a Petition for Certiorari to question these two Resolutions.

On July 9, 1997, the Petition for Review on Certiorari[8] and the Petition for Certiorari[9] were ordered consolidated by this Court.[10]

In the Petition for Review on Certiorari petitioner claims that the Court of Appeals decided the case not in accord with law and jurisprudence, thus:

- WHEN IT AWARDED DEFENDANT-APPELLEE MORAL DAMAGES IN THE AMOUNT OF P2.5 MILLION AND EXEMPLARY DAMAGES OF P1 MILLION, WITH 6% INTEREST FROM THE DATE OF ITS DECISION, WITHOUT ANY LEGAL AND MORAL BASIS;
- WHEN IT AWARDED P100,000.00 ATTORNEY'S FEES AND P50,000.00 EXPENSES OF LITIGATION, PLUS COSTS, TO DEFENDANT-APPELLEE, WITHOUT FACTUAL AND LEGAL BASIS;
- WHEN IT ORDERED PLAINTIFF-APPELLANT NOEL TO PAY DEFENDANT-APPELLEE ONE-HALF OR P1,837,667.89 OUT OF HIS RETIREMENT BENEFITS RECEIVED FROM THE FAR EAST BANK AND TRUST CO., WITH 12% INTEREST THEREON FROM THE DATE OF ITS DECISION, NOTWITHSTANDING THAT SAID RETIREMENT BENEFITS ARE GRATUITOUS AND EXCLUSIVE PROPERTY OF NOEL, AND ALSO TO DELIVER TO DEFENDANT-APPELLEE ONE-HALF OF HIS SHARES OF STOCK WITH THE MANILA MEMORIAL PARK AND THE PROVIDENT GROUP OF COMPANIES, ALTHOUGH SAID SHARES OF STOCK WERE ACQUIRED BY NOEL BEFORE HIS MARRIAGE TO RESPONDENT ISABEL AND ARE, THEREFORE, AGAIN HIS EXCLUSIVE PROPERTIES; AND
- WHEN IT AWARDED EXCLUSIVE CARE AND CUSTODY OVER THE PARTIES' MINOR CHILD TO DEFENDANT-APPELLEE WITHOUT ASKING THE CHILD (WHO WAS ALREADY 13 YEARS OLD AT THAT TIME) HIS CHOICE AS TO WHOM, BETWEEN HIS TWO PARENTS, HE WOULD LIKE TO HAVE CUSTODY OVER HIS PERSON.[11]

In the Petition for Certiorari, petitioner advances the following contentions:

THE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION WHEN IT REFUSED TO SET RESPONDENT'S MOTION FOR INCREASED SUPPORT FOR THE PARTIES' SON FOR HEARING.[12]

THERE WAS NO NEED FOR THE COURT OF APPEALS TO INCREASE JAVY'S MONTHLY SUPPORT OF P15,000.00 BEING GIVEN BY PETITIONER EVEN AT PRESENT PRICES.[13]

IN RESOLVING RESPONDENT'S MOTION FOR THE INCREASE OF JAVY'S SUPPORT, THE COURT OF APPEALS SHOULD HAVE EXAMINED THE LIST OF EXPENSES SUBMITTED BY

RESPONDENT IN THE LIGHT OF PETITIONER'S OBJECTIONS THERETO, INSTEAD OF MERELY ASSUMING THAT JAVY IS ENTITLED TO A P5,000 INCREASE IN SUPPORT AS SAID AMOUNT IS "TOO MINIMAL." [14]

LIKEWISE, THE COURT OF APPEALS SHOULD HAVE GIVEN PETITIONER AN OPPORTUNITY TO PROVE HIS PRESENT INCOME TO SHOW THAT HE CANNOT AFFORD TO INCREASE JAVY'S SUPPORT. [15]

With regard to the first issue in the main case, the Court of Appeals articulated:

On Assignment of Error C, the trial court, after findings of fact ascertained from the testimonies not only of the parties particularly the defendant-appellee but likewise, those of the two psychologists, awarded damages on the basis of Articles 21, 2217 and 2229 of the Civil Code of the Philippines.

Thus, the lower court found that plaintiff-appellant deceived the defendant-appellee into marrying him by professing true love instead of revealing to her that he was under heavy parental pressure to marry and that because of pride he married defendant-appellee; that he was not ready to enter into marriage as in fact his career was and always would be his first priority; that he was unable to relate not only to defendant-appellee as a husband but also to his son, Javy, as a father; that he had no inclination to make the marriage work such that in times of trouble, he chose the easiest way out, that of leaving defendant-appellee and their son; that he had no desire to keep defendant-appellee and their son as proved by his reluctance and later, refusal to reconcile after their separation; that the aforementioned caused defendant-appellee to suffer mental anguish, anxiety, besmirched reputation, sleepless nights not only in those years the parties were together but also after and throughout their separation.

Plaintiff-appellant assails the trial court's decision on the ground that unlike those arising from a breach in ordinary contracts, damages arising as a consequence of marriage may not be awarded. While it is correct that there is, as yet, no decided case by the Supreme Court where damages by reason of the performance or non-performance of marital obligations were awarded, it does not follow that no such award for damages may be made.

Defendant-appellee, in her amended answer, specifically prayed for moral and exemplary damages in the total amount of 7 million pesos. The lower court, in the exercise of its discretion, found full justification of awarding at least half of what was originally prayed for. We find no reason to disturb the ruling of the trial court. [16]

The award by the trial court of moral damages is based on Articles 2217 and 21 of the Civil Code, which read as follows:

ART. 2217. 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.

ART. 21. Any person who wilfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage.

The trial court referred to Article 21 because Article 2219 [17] of the Civil Code enumerates the cases in which moral damages may be recovered and it mentions Article 21 as one of the instances. It must be noted that Article 21 states that the individual must wilfully cause loss or injury to another. There is a need that the act is willful and hence done in complete freedom. In granting moral damages, therefore, the trial court and the Court of Appeals could not but have assumed that the acts on which the moral damages were based were done willfully and freely, otherwise the grant of moral damages would have no leg to stand on.

On the other hand, the trial court declared the marriage of the parties null and void based on Article 36 of the Family Code, due to psychological incapacity of the petitioner, Noel Buenaventura. Article 36 of the Family Code states:

A marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated to comply with the essential marital obligations of marriage, shall likewise be void even if such incapacity becomes manifest only after its solemnization.

Psychological incapacity has been defined, thus:

. . . no less than a mental (not physical) incapacity that causes a party to be truly incognitive of the basic marital covenants that concomitantly must be assumed and discharged by the parties to the marriage which, as so expressed by Article 68 of the Family Code, include their mutual obligations to live together, observe love, respect and fidelity and render help and support. There is hardly any doubt that the intendment of the law has been to confine the meaning of "psychological incapacity" to the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage. . .
.[18]

The Court of Appeals and the trial court considered the acts of the petitioner after the marriage as proof of his psychological incapacity, and therefore a product of his incapacity or inability to comply with the essential obligations of marriage. Nevertheless, said courts considered these acts as willful and hence as grounds for granting moral damages. It is contradictory to characterize acts as a product of psychological incapacity, and hence beyond the control of the party because of an innate inability, while at the same time considering the same set of acts as willful. By declaring the petitioner as psychologically incapacitated, the possibility of awarding moral damages on the same set of facts was negated. The award of moral damages should be predicated, not on the mere act of entering into the marriage, but on specific evidence that it was done deliberately and with malice by a party who had knowledge of his or her disability and yet willfully concealed the same. No such evidence appears to have been adduced in this case.

For the same reason, since psychological incapacity means that one is truly incognitive of the basic marital covenants that one must assume and discharge as a consequence of marriage, it removes the basis for the contention that the petitioner purposely deceived the private respondent. If the private respondent was deceived, it was not due to a willful act on the part of the petitioner. Therefore, the award of moral damages was without basis in law and in fact.

Since the grant of moral damages was not proper, it follows that the grant of exemplary damages cannot stand since the Civil Code provides that exemplary damages are imposed in addition to moral, temperate, liquidated or compensatory damages.[19]

With respect to the grant of attorney's fees and expenses of litigation the trial court explained, thus:

Regarding Attorney's fees, Art. 2208 of the Civil Code authorizes an award of attorney's fees and expenses of litigation, other than judicial costs, when as in this case the plaintiff's act or omission has compelled the defendant to litigate and to incur expenses of litigation to protect her interest (par. 2), and where the Court deems it just and equitable that attorney's fees and expenses of litigation should be recovered. (par. 11)[20]

The Court of Appeals reasoned as follows:

On Assignment of Error D, as the award of moral and exemplary damages is fully justified, the award of attorney's fees and costs of litigation by the trial court is likewise fully justified.[21]

The acts or omissions of petitioner which led the lower court to deduce his psychological incapacity, and his act in

filing the complaint for the annulment of his marriage cannot be considered as unduly compelling the private respondent to litigate, since both are grounded on petitioner's psychological incapacity, which as explained above is a mental incapacity causing an utter inability to comply with the obligations of marriage. Hence, neither can be a ground for attorney's fees and litigation expenses. Furthermore, since the award of moral and exemplary damages is no longer justified, the award of attorney's fees and expenses of litigation is left without basis.

Anent the retirement benefits received from the Far East Bank and Trust Co. and the shares of stock in the Manila Memorial Park and the Provident Group of Companies, the trial court said:

The third issue that must be resolved by the Court is what to do with the assets of the conjugal partnership in the event of declaration of annulment of the marriage. The Honorable Supreme Court has held that the declaration of nullity of marriage carries ipso facto a judgment for the liquidation of property (*Domingo v. Court of Appeals, et al.*, G.R. No. 104818, Sept. 17, 1993, 226 SCRA, pp. 572 – 573, 586). Thus, speaking through Justice Florida Ruth P. Romero, it was ruled in this case:

When a marriage is declared void ab initio, the law states that the final judgment therein shall provide for the liquidation, partition and distribution of the properties of the spouses, the custody and support of the common children and the delivery of their presumptive legitimes, unless such matters had been adjudicated in the previous proceedings.

The parties here were legally married on July 4, 1979, and therefore, all property acquired during the marriage, whether the acquisition appears to have been made, contracted or registered in the name of one or both spouses, is presumed to be conjugal unless the contrary is proved (Art. 116, New Family Code; Art. 160, Civil Code). Art. 117 of the Family Code enumerates what are conjugal partnership properties. Among others they are the following:

- 1) Those acquired by onerous title during the marriage at the expense of the common fund, whether the acquisition be for the partnership, or for only one of the spouses;
- 2) Those obtained from the labor, industry, work or profession of either or both of the spouses;
- 3) The fruits, natural, industrial, or civil, due or received during the marriage from the common property, as well as the net fruits from the exclusive property of each spouse. . . .

Applying the foregoing legal provisions, and without prejudice to requiring an inventory of what are the parties' conjugal properties and what are the exclusive properties of each spouse, it was disclosed during the proceedings in this case that the plaintiff who worked first as Branch Manager and later as Vice-President of Far East Bank & Trust Co. received separation/retirement package from the said bank in the amount of P3,701,500.00 which after certain deductions amounting to P26,164.21 gave him a net amount of P3,675,335.79 and actually paid to him on January 9, 1995 (Exhs. 6, 7, 8, 9, 10, 11). Not having shown debts or obligations other than those deducted from the said retirement/separation pay, under Art. 129 of the Family Code "The net remainder of the conjugal partnership properties shall constitute the profits, which shall be divided equally between husband and wife, unless a different proportion or division was agreed upon in the marriage settlement or unless there has been a voluntary waiver or forfeiture of such share as provided in this Code." In this particular case, however, there had been no marriage settlement between the parties, nor had there been any voluntary waiver or valid forfeiture of the defendant wife's share in the conjugal partnership properties. The previous cession and transfer by the plaintiff of his one-half (1/2) share in their residential house and lot covered by T.C.T. No. S-35680 of the Registry of Deeds of Parañaque, Metro Manila, in favor of the defendant as stipulated in their Compromise Agreement dated July 12, 1993, and approved by the Court in its Partial Decision dated August 6, 1993, was actually intended to be in full settlement of any and all demands for past support. In reality, the defendant wife had allowed some concession in favor of the plaintiff husband, for were the law strictly to be followed, in the process of liquidation of the conjugal assets, the conjugal

dwelling and the lot on which it is situated shall, unless otherwise agreed upon by the parties, be adjudicated to the spouse with whom their only child has chosen to remain (Art. 129, par. 9). Here, what was done was one-half (1/2) portion of the house was ceded to defendant so that she will not claim anymore for past unpaid support, while the other half was transferred to their only child as his presumptive legitime.

Consequently, nothing yet has been given to the defendant wife by way of her share in the conjugal properties, and it is but just, lawful and fair, that she be given one-half (1/2) share of the separation/retirement benefits received by the plaintiff the same being part of their conjugal partnership properties having been obtained or derived from the labor, industry, work or profession of said defendant husband in accordance with Art. 117, par. 2 of the Family Code. For the same reason, she is entitled to one-half (1/2) of the outstanding shares of stock of the plaintiff husband with the Manila Memorial Park and the Provident Group of Companies.[22]

The Court of Appeals articulated on this matter as follows:

On Assignment of Error E, plaintiff-appellant assails the order of the trial court for him to give one-half of his separation/retirement benefits from Far East Bank & Trust Company and half of his outstanding shares in Manila Memorial Park and Provident Group of Companies to the defendant-appellee as the latter's share in the conjugal partnership.

On August 6, 1993, the trial court rendered a Partial Decision approving the Compromise Agreement entered into by the parties. In the same Compromise Agreement, the parties had agreed that henceforth, their conjugal partnership is dissolved. Thereafter, no steps were taken for the liquidation of the conjugal partnership.

Finding that defendant-appellee is entitled to at least half of the separation/retirement benefits which plaintiff-appellant received from Far East Bank & Trust Company upon his retirement as Vice-President of said company for the reason that the benefits accrued from plaintiff-appellant's service for the bank for a number of years, most of which while he was married to defendant-appellee, the trial court adjudicated the same. The same is true with the outstanding shares of plaintiff-appellant in Manila Memorial Park and Provident Group of Companies. As these were acquired by the plaintiff-appellant at the time he was married to defendant-appellee, the latter is entitled to one-half thereof as her share in the conjugal partnership. We find no reason to disturb the ruling of the trial court.[23]

Since the present case does not involve the annulment of a bigamous marriage, the provisions of Article 50 in relation to Articles 41, 42 and 43 of the Family Code, providing for the dissolution of the absolute community or conjugal partnership of gains, as the case may be, do not apply. Rather, the general rule applies, which is that in case a marriage is declared void ab initio, the property regime applicable and to be liquidated, partitioned and distributed is that of equal co-ownership.

In *Valdes v. Regional Trial Court, Branch 102, Quezon City*,[24] this Court expounded on the consequences of a void marriage on the property relations of the spouses and specified the applicable provisions of law:

The trial court correctly applied the law. In a void marriage, regardless of the cause thereof, the property relations of the parties during the period of cohabitation is governed by the provisions of Article 147 or Article 148, such as the case may be, of the Family Code. Article 147 is a remake of Article 144 of the Civil Code as interpreted and so applied in previous cases; it provides:

ART. 147. When a man and a woman who are capacitated to marry each other, live exclusively with each other as husband and wife without the benefit of marriage or under a void marriage, their wages and salaries shall be owned by them in equal shares and the property acquired by both of them through their work or industry shall be governed by the rules on co-ownership.

In the absence of proof to the contrary, properties acquired while they lived together shall be presumed to have been obtained by their joint efforts, work or industry, and shall be owned by them in equal shares. For purposes

of this Article, a party who did not participate in the acquisition by the other party of any property shall be deemed to have contributed jointly in the acquisition thereof if the former's efforts consisted in the care and maintenance of the family and of the household.

Neither party can encumber or dispose by acts inter vivos of his or her share in the property acquired during cohabitation and owned in common, without the consent of the other, until after the termination of their cohabitation.

When only one of the parties to a void marriage is in good faith, the share of the party in bad faith in the co-ownership shall be forfeited in favor of their common children. In case of default of or waiver by any or all of the common children or their descendants, each vacant share shall belong to the respective surviving descendants. In the absence of descendants, such share shall belong to the innocent party. In all cases, the forfeiture shall take place upon termination of the cohabitation.

This peculiar kind of co-ownership applies when a man and a woman, suffering no legal impediment to marry each other, so exclusively live together as husband and wife under a void marriage or without the benefit of marriage. The term "capacitated" in the provision (in the first paragraph of the law) refers to the legal capacity of a party to contract marriage, i.e., any "male or female of the age of eighteen years or upwards not under any of the impediments mentioned in Articles 37 and 38" of the Code.

Under this property regime, property acquired by both spouses through their work and industry shall be governed by the rules on equal co-ownership. Any property acquired during the union is prima facie presumed to have been obtained through their joint efforts. A party who did not participate in the acquisition of the property shall still be considered as having contributed thereto jointly if said party's "efforts consisted in the care and maintenance of the family household." Unlike the conjugal partnership of gains, the fruits of the couple's separate property are not included in the co-ownership.

Article 147 of the Family Code, in substance and to the above extent, has clarified Article 144 of the Civil Code; in addition, the law now expressly provides that —

(a) Neither party can dispose or encumber by act[s] inter vivos [of] his or her share in co-ownership property, without the consent of the other, during the period of cohabitation; and

(b) In the case of a void marriage, any party in bad faith shall forfeit his or her share in the co-ownership in favor of their common children; in default thereof or waiver by any or all of the common children, each vacant share shall belong to the respective surviving descendants, or still in default thereof, to the innocent party. The forfeiture shall take place upon the termination of the cohabitation or declaration of nullity of the marriage.

...

In deciding to take further cognizance of the issue on the settlement of the parties' common property, the trial court acted neither imprudently nor precipitately; a court which had jurisdiction to declare the marriage a nullity must be deemed likewise clothed with authority to resolve incidental and consequential matters. Nor did it commit a reversible error in ruling that petitioner and private respondent own the "family home" and all their common property in equal shares, as well as in concluding that, in the liquidation and partition of the property owned in common by them, the provisions on co-ownership under the Civil Code, not Articles 50, 51 and 52, in relation to Articles 102 and 129, of the Family Code, should aptly prevail. The rules set up to govern the liquidation of either the absolute community or the conjugal partnership of gains, the property regimes recognized for valid and voidable marriages (in the latter case until the contract is annulled), are irrelevant to the liquidation of the co-ownership that exists between common-law spouses. The first paragraph of Article 50 of the Family Code, applying paragraphs (2), (3), (4) and (5) of Article 43, relates only, by its explicit terms, to voidable marriages and, exceptionally, to void marriages under Article 40 of the Code, i.e., the declaration of nullity of a subsequent marriage contracted by a spouse of a prior void marriage before the latter is judicially

declared void. The latter is a special rule that somehow recognizes the philosophy and an old doctrine that void marriages are inexistent from the very beginning and no judicial decree is necessary to establish their nullity. In now requiring for purposes of remarriage, the declaration of nullity by final judgment of the previously contracted void marriage, the present law aims to do away with any continuing uncertainty on the status of the second marriage. It is not then illogical for the provisions of Article 43, in relation to Articles 41 and 42, of the Family Code, on the effects of the termination of a subsequent marriage contracted during the subsistence of a previous marriage to be made applicable *pro hac vice*. In all other cases, it is not to be assumed that the law has also meant to have coincident property relations, on the one hand, between spouses in valid and voidable marriages (before annulment) and, on the other, between common-law spouses or spouses of void marriages, leaving to ordain, in the latter case, the ordinary rules on co-ownership subject to the provision of Article 147 and Article 148 of the Family Code. It must be stressed, nevertheless, even as it may merely state the obvious, that the provisions of the Family Code on the "family home," i.e., the provisions found in Title V, Chapter 2, of the Family Code, remain in force and effect regardless of the property regime of the spouses.[25]

Since the properties ordered to be distributed by the court *a quo* were found, both by the trial court and the Court of Appeals, to have been acquired during the union of the parties, the same would be covered by the co-ownership. No fruits of a separate property of one of the parties appear to have been included or involved in said distribution. The liquidation, partition and distribution of the properties owned in common by the parties herein as ordered by the court *a quo* should, therefore, be sustained, but on the basis of co-ownership and not of the regime of conjugal partnership of gains.

As to the issue on custody of the parties over their only child, Javy Singh Buenaventura, it is now moot since he is about to turn twenty-five years of age on May 27, 2005[26] and has, therefore, attained the age of majority.

With regard to the issues on support raised in the Petition for Certiorari, these would also now be moot, owing to the fact that the son, Javy Singh Buenaventura, as previously stated, has attained the age of majority.

WHEREFORE, the Decision of the Court of Appeals dated October 8, 1996 and its Resolution dated December 10, 1996 which are contested in the Petition for Review (G.R. No. 127449), are hereby MODIFIED, in that the award of moral and exemplary damages, attorney's fees, expenses of litigation and costs are deleted. The order giving respondent one-half of the retirement benefits of petitioner from Far East Bank and Trust Co. and one-half of petitioner's shares of stock in Manila Memorial Park and in the Provident Group of Companies is sustained but on the basis of the liquidation, partition and distribution of the co-ownership and not of the regime of conjugal partnership of gains. The rest of said Decision and Resolution are AFFIRMED.

The Petition for Review on Certiorari (G.R. No. 127358) contesting the Court of Appeals' Resolutions of September 2, 1996 and November 13, 1996 which increased the support *pendente lite* in favor of the parties' son, Javy Singh Buenaventura, is now MOOT and ACADEMIC and is, accordingly, DISMISSED.

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Ynares-Santiago, and Carpio, JJ., concur.

[1] Rollo (G.R. No.127449), p. 54.

[2] Rollo (G.R. No. 127449), p. 76.

[3] Rollo (G.R. No. 127358), pp. 7-8.

[4] *Id.* at 136.

[5] Id. at 138.

[6] Id. at 144.

[7] Id. at 153.

[8] G.R. No. 127449.

[9] G.R. No. 127358.

[10] Rollo (G.R. No. 127449), p. 100.

[11] Id. at 32.

[12] Rollo (G. R. No.127358) p. 11.

[13] Id. at 15.

[14] Id. at 17.

[15] Id. at 20.

[16] Rollo (G.R. No. 127449), pp. 81-82.

[17] ART. 2219. Moral damages may be recovered in the following and analogous cases:

- (1) A criminal offense resulting in physical injuries;
- (2) Quasi-delicts causing physical injuries;
- (3) Seduction, abduction, rape, or other lascivious acts;
- (4) Adultery or concubinage;
- (5) Illegal or arbitrary detention or arrest;
- (6) Illegal search;
- (7) Libel, slander or any other form of defamation;
- (8) Malicious prosecution;
- (9) Acts mentioned in article 309;
- (10) Acts and actions referred to in articles 21, 26, 27, 28, 29, 30, 32, 34, and 35.

...

[18] Santos v. Court of Appeals, G.R. No. 112019, 4 January 1995, 240 SCRA 20, 34. Emphasis supplied.

[19] Article 2229. Exemplary or corrective damages are imposed by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages.

[20] Rollo (G.R. No. 127449), p. 67.

[21] Id. at 82.

[22] Rollo (G.R. No. 127449), pp. 69 -71.

[23] Id. at 82-83.

[24] G.R. No. 122749, 31 July 1996, 260 SCRA 221.

[25] Id. at 226-234. (Emphasis in the original.)

[26] Javy Singh Buenaventura was born on May 27, 1980; Rollo (G.R. No. 127449), p. 56.

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