JOSE B. TIONGCO, PETITIONER, VS. ATTY. MARCIANA Q. DEGUMA, IMDC MAJOR CARMELO M. TIONGCO, JR., ATTY. NAPOLEON G. PAGTANAC, ESTRELLA TIONGCO YARED, AND COURT OF APPEALS, RESPONDE...

G.R. No. 133619. October 26, 1999

Ponente: DAVIDE, JR., C.J.

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DAVIDE, JR., C.J.:

In this petition for review on certiorari, petitioner Atty. Jose B. Tiongco (hereafter TIONGCO) seeks the reversal of the 24 July 1997 decision[1] of the Court of Appeals and its resolution[2] of 27 March 1998 in CA-G.R. CV No. 44616. The former affirmed with modification the decision[3] of the Regional Trial Court (RTC) of Iloilo City, Branch 37 in Civil Case No. 19907, while the latter denied TIONGCO's motion for reconsideration and petition for new trial.

The antecedent facts, as briefly summarized by the Court of Appeals, are as follows:

> As culled from the records and the pleadings below, it appears that on July 29, 1991, plaintiff-appellant filed with the Regional Trial Court of Iloilo City, Branch 37, a Complaint for "damages arising from fraudulent conspiracy, public scandal, with preliminary injunction" against Atty. Marciana Q. Deguma, Atty. Napoleon G. Pagtanac, IMDC Major Carmelo M. Tiongco, Jr., and Estrella Tiongco Yared, docketed as Civil Case No. 19907. Plaintiff-appellant also prays for a preliminary writ of mandatory injunction to order defendants IMDC Major Carmelo M. Tiongco, Jr. and Atty. Marciana Q. Deguma to vacate the house on Lot 1404. Plaintiff-appellant further prays for damages.
>
> After summons were served, defendant Napoleon G. Pagtanac filed his answer with counterclaim denying the material allegations therein and set up a counterclaim of P100,000.00 as moral damages and exemplary damages of P50,000.00.
>
> Defendant Estrella Tiongco Yared filed her answer with counterclaim denying all the allegation of plaintiff and in support thereof even filed an Affidavit of Denial dated March 8, 1991 And by way of counterclaim prays for moral damages of P50,000.00 and exemplary damages of P10,000.00.
>
> Defendant Marciana Q. Deguma filed on August 15, 1991 a Motion for Bill of Particulars which was denied in the Order of the Trial Court dated August 23, 1991. Thus, she filed her answer with counterclaim praying for P1,000,000.00, as moral damages, exemplary damages of P100,000.00, actual damages of P5,000.00 and costs of suit.
>
> Defendant Carmelo M. Tiongco, Jr. filed his Answer with counterclaim praying for moral damages of P100,000.00, P5,000.00 as litigation expenses and P20,000.00 as attorney's fees.[4]

After trial on the merits, the trial court promulgated its 17 November 1993 decision dismissing TIONGCO's complaint but granting private respondents' counterclaim for actual, moral and exemplary damages and attorney's fees. The dispositive portion of said decision reads as follows:

> WHEREFORE, CONSIDERING THE FOREGOING, judgment is hereby rendered in favor of the defendants and against the plaintiff.
>
> 1. Dismissing the complaint.
>
> 2. Ordering plaintiff:
>
> a. On defendant Atty. Deguma's counterclaim:

1. To pay her the sum of P300,000.00 as moral damages;

2. P5,000.00 in actual damages; and

3. P100,000.00 as exemplary damages.

> b. On defendant Carmelo Tiongco, Jr.'s counterclaim:

1. To pay him the sum of P50,000.00 as moral damages;

2. P1,000.00 in actual damages and P5,000.00 as attorney's fees; and

3. P10,000.00 as exemplary damages.

> c. On the counterclaim of defendant Estrella Tiongco Yared:

1. To pay her the sum of P50,000.00 as moral damages;

2. P10,000.00 as exemplary damages; and

3. P1,000.00 as actual damages.

> d. On the counterclaim of defendant Atty. Pagtanac:

1. To pay him the amount of P100,000.00 as moral damages; and

2. Exemplary damages in the sum of P50,000.00.[5]

TIONGCO forthwith appealed the trial court's judgment to the Court of Appeals where he raised the following assignment of errors:

> THE TRIAL COURT ERRED IN AWARDING DAMAGES IN FAVOR OF DEFENDANTS FOR PLAINTIFF'S ACT OF SUING THEM.
>
> THE TRIAL COURT ERRED IN RENDERING JUDGMENT WHICH IS CONTRARY TO THE EVIDENCE AND REPUGNANT TO LAW.[6]

One of the private respondents, Atty. Deguma, also appealed. In her appeal, she questioned the inadequacy of the amount of P300,000 awarded to her as moral damages by the trial court.

The Court of Appeals dismissed both appeals on the basis of the following observations and findings:

> Plaintiff-appellant claims that the trial court rendered judgment that is contrary to evidence and repugnant to law, and consequently, the trial court erred in awarding moral damages in favor of defendants.
>
> We do not agree.
>
> A perusal of plaintiff-appellant's brief shows that it is not questioning the dismissal of his complaint. Plaintiff-appellant is aware that his complaint would not hold any water. For his first cause of action, he claims that defendant-appellee Carmelo M. Tiongco, Jr. (Tiongco, Jr. for brevity) and defendant-appellant Deguma

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unlawfully confederated, conspired and schemed to induce defendant-appellee Estrella Tiongco Yared (Yared for brevity) to execute and sign the following deeds of transfer and documents:

1. Deed of Sale of the house of wooden materials standing upon Lot 1404 Iloilo Cadastre.

2. Deed of Assignment - of all claims, rights, interests as well as rights of action of defendant-appellee Estrella Tiongco Yared has in the estate of the late Jose Tiongco de Lois, in favor of defendant-appellee Carmelo M. Tiongco, Jr.

3. Notarial Act of Recognition - where defendant-appellee Estrella Tiongco Yared recognized defendant-appellee Carmelo M. Tiongco, Jr. as an illegitimate offspring of her older brother Carmelo S. Tiongco (deceased).

4. Last will and Testament wherein defendant-appellee Estrella Tiongco Yared bequeaths her entire earthly possessions in favor of defendant-appellee Carmelo M. Tiongco, Jr. and defendant-appellee/appellant Atty. Marciana Q. Deguma to the exclusion of plaintiff-appellant.

And as to his second cause of action, plaintiff-appellant claims that defendant-appellee Tiongco, Jr. and defendant-appellant Deguma have been fornicating inside the 2-storey house thereby transforming the said property into a house of sin and creating public scandal.

Defendant-appellee Atty. Napoleon G. Pagtanac (Pagtanac for brevity) of PAO Region VII Iloilo City was impleaded as party defendant for having tolerated and condoned the alleged immorality of defendant-appellant Deguma and defendant-appellee Tiongco, Jr.

It is axiomatic in law that each party must prove its own affirmative allegation. The entire records of this case is bereft of evidence to support plaintiff-appellant’s allegations as to the existence of the above mentioned deeds of transfer and documents, much less their execution.

Even at the outset, it was expressly admitted by plaintiff-appellant that aside from mere suspicions, he has no evidence to prove the existence of the above documents nor the execution thereof, thus:

“Atty. Jose Tiongco:

xxx: I suspected at first that Carmelo Tiongco, Jr. would not be spending for the repair of the house, for installing water system, if he was not in one way or another told that he could do that because the house belongs to him. It is for that reason, Your Honor, that I have to dig into the root of it by filing a complaint alleging that a secret and surriptitious (sic) Deed of Sale through the intercession and through the connivance of Atty. Marciana Deguma had been executed by defendant Estrella Tiongco in favor of Carmelo Tiongco. I also suspected that Atty. Marciana Deguma will not merely stop at the Deed of Sale of the house in favor of Carmelo Tiongco, she will now proceed further to give Carmelo Tiongco this person who is not recorded in the baptismal registry the status of heir of Estrella Tiongco, that is the second, and the third, is that because Carmelo Tiongco must have secretly purchased the house of Estrella Tiongco, Carmelo Tiongco expects that all the worthy (sic) possessions of Estrella Tiongco will be quieted to him speculating that Estrella Tiongco being of mature age might die ahead of him. Your Honor, that is the reason why I have to file this case and speculate the existence of documents but of those documents it turned out that such speculations were not just pure speculations from the time Atty. Marciana Deguma challenged me to show her copy of these documents, then I was fully convinced that these documents in fact did exist and that she was afraid that I must have located it in some notary here and there and that she was worried that I will be able to produce it because I have no way or manner of travelling from notary to another in order to secure documents which are confidential and which I cannot compel the notary public to show to me, thus my testimony will hinge upon these facts, Your Honor.”

Similarly, plaintiff-appellant has no evidence to support the second cause of action in his complaint.

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> Notwithstanding his proffer of evidence that defendant-appellant Deguma was seen sleeping and staying and taking a bath in the house occupied by defendant-appellee Carmelo Tiongco, Jr., he however, failed to prove the same when he testified:
>
> "Testimony of Atty. Jose B. Tiongco:
>
> Atty. Deguma:
>
> Q: During the pre-trial conference in December 6, 1991 as shown on page 5 line 16 to 18, you said something which I quote, "I have no direct evidence to prove that defendant Marciana Deguma has had illicit sexual relation with Carmelo Tiongco, Jr. is that correct?
>
> A: If that appears there, then it is correct.
>
> Q: And in addition you also stated, that "I have no physical evidence", do you remember that?
>
> A: If you are reading that from an authentic copy, then that is correct.
>
> Atty. Tiongco:
>
> Regarding the second cause of action, Your Honor, is about the perfection and the celebration of the scandalous conduct inside the two storey wooden house. First, I have never seen Atty. Marciana Q. Deguma slept with IMDC Carmelo Tiongco, Jr. There is no direct evidence to the illicit relationship. xxx." [7]

Thus, the Court of Appeals affirmed the trial court's award of moral and exemplary damages in favor of all the private respondents. It deleted, however, the award of actual damages for lack of evidentiary support and disallowed the grant of attorney's fees for want of ratiocination in the body of the trial court's decision.[8]

TIONGCO moved for the reconsideration[9] of the abovementioned judgment contending that it was unjust and contrary to law and jurisprudence. TIONGCO also subsequently filed a petition for a new trial[10] on the ground of newly discovered evidence. The Court of Appeals, however, denied the motion for reconsideration for lack of merit and the petition for a new trial for having been filed out of time.

In this petition for review on certiorari, TIONGCO imputes to the Court of Appeals as error its affirmance of the trial court's exorbitant award of moral and exemplary damages. TIONGCO claims that such award (1) in effect penalizes him for exercising his right to litigate, (2) renders him liable for the "absolutely privileged statements" set forth in his pleadings, and that (3) the award cannot be granted in the absence of a similar grant for actual damages. TIONGCO likewise assails the denial of his petition for a new trial, arguing that it was seasonably filed.

In their Joint Comment, private respondents contend that the award of moral and exemplary damages in their favor is not a penalty imposed on TIONGCO for exercising his alleged right to litigate, "but a well-deserved compensation xxx [to them since they] suffered besmirched reputation, wounded feelings, serious anxiety, sleepless nights, embarrassment and humiliation caused by petitioner's malicious and defamatory pleadings, and unmerciful and unsupported tirades on their integrity and moral character." Private respondents further point out that TIONGCO's arguments raise questions of fact which are precluded as proper issues in a petition for review under Section 1, Rule 45 of the 1997 Rules of Civil Procedure.

The instant petition is without merit.

Our laws indeed grant a person the remedial right to prosecute or institute a civil action against another for the enforcement or protection of a right, or the prevention or redress of a wrong.[11] Specifically, an action for damages is a claim for pecuniary redress, recompense or compensation for the injury, loss, hurt or harm suffered as a result of the illegal invasion of a right or breach of some duty or a wrongful act or omission.[12]

TIONGCO's right to litigate, seek redress and remedy stemmed from the aggrieved wrong he allegedly suffered from Atty. Deguma and Major Carmelo's act of (1) inducing his aunt Estrella Yared, through ruse and artifice, in the execution and signing of documents that transferred in their favor the latter's rights, interests, claims etc. over certain parcels of property to his (TIONGCO's) prejudice and exclusion, and of (2) engaging in an illicit sexual liaison perpetrated in his house, which created public scandal and caused him shame and embarrassment. TIONGCO included Atty. Pagtanac, Atty. Deguma's superior officer at the Public Prosecutor's Office of Iloilo City as private respondent, for allegedly condoning and abetting the latter's participation in the fraud of his aunt and engagement in scandalous sexual relations.

On the other hand, private respondents' counterclaim for damages against what they believe a baseless complaint designed only to traduce and objurgate them was based on the theory of malicious prosecution.[13]

Generally, denuncia falsa or malicious prosecution refers to unfounded criminal actions. The term had already been expanded to include unfounded civil suits instituted to vex and humiliate defendants despite the absence of a cause of action or probable cause.[14]

Thus, malicious prosecution has been defined as an action for damages brought by one against whom a criminal prosecution, civil suit, or other legal proceeding has been instituted maliciously and without probable cause, after the termination of such prosecution, suit, or other proceeding in favor of the defendant therein.[15] It has been enumerated as one of the instances in Article 2219 of the Civil Code whereby moral damages can be recovered.[16] To merit an award for moral damages predicated on malicious prosecution, claimants must prove that they had been denounced or charged falsely, that complainant knew that the charge was false, that the latter acted with malice and of course, the damages they suffered.[17]

As found by both the trial court and the Court of Appeals, the wrongs and damages TIONGCO deemed to have borne were the product of mere speculations and suspicions which were definitely unsubstantiated by fact, law and equity. TIONGCO improvidently filed the complaint to harass, vituperate, and vilify the honor and dignity of private respondents. His baseless accusations extremely prejudiced private respondents to the extent that they sustained "physical suffering, mental anguish, fright, serious anxiety, moral shock, social humiliation and similar injury".[18] TIONGCO smeared, smirched and slurred private respondents' good name and reputation. Thus, TIONGCO's unfounded injury and ungrounded accusations produced a compensable injury in favor of private respondents. In other words, private respondents proved that (1) they were denounced and falsely charged of immoral liaisons and other illicit conduct, (2) TIONGCO not only acknowledged a dearth of evidence to buttress these accusatory gibbets but he also knew the untruthfulness thereof, (3) TIONGCO was indubitably motivated by malice and evident bad faith, and finally, (4) they suffered moral injury as a result of the malicious prosecution.

While we definitely agree with the Court of Appeals' finding of malicious prosecution as basis for the award of moral damages, we also refer to Article 21 of the Civil Code as an additional legal justification therefor. Said provision states that "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." Its underlying rationale is the need to compensate the injured party for the moral injury caused to another.[19] Denouncing persons for allegedly engaging in illicit sexual affairs and illegitimate activities which undermined their good name and honor is contrary to morals and good customs.

A fortiori, TIONGCO's hypothesis that moral damages (ditto for exemplary damages) cannot be granted in the absence of an award for actual damages loses persuasive potency. Though incapable of pecuniary estimation, moral damages may be recovered if they are the result of a wrongful act or commission.[20] As previously resolved in Patricio v. Leviste:[21]

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> The fact that no actual or compensatory damage was proven before the trial court, does not adversely affect petitioner's right to recover moral damages. Moral damages may be awarded in appropriate cases referred to in the chapter on human relations of the Civil Code (Articles 19 to 36), without need of proof that the wrongful act complaint of had caused any physical injury upon the complainant.

On the other hand, we acknowledge that although exemplary damages cannot be recovered as a matter of right, they also need not be proved. But a complainant must still show that he is entitled to moral, temperate or compensatory damages before the court may consider the question of whether or not exemplary damages should be awarded.[22] Private respondents proved that they were entitled to moral damages, hence, the adjudication in their favor of exemplary damages was in order.

Having thus established the justification for the grant of moral and exemplary damages, TIONGCO's belief that said award penalizes him for exercising his right to litigate need not be heeded or attended to in the same vein that his own action for damages definitely warrants a dismissal anchored as it was on surmises and imaginations. Damages cannot be presumed or premised on conjecture or even logic.[23]

Parenthetically, we discern no circumstance of weight and significance that will compel us to supplant with our own, these factual ascertainments, inasmuch as the jurisdiction of the Supreme Court in cases brought before it from the Court of Appeals is limited to the review or revision of errors of law. Also, of doctrinal persuasion is the principle that factual determinations of the Court of Appeals and the trial court are conclusive and binding upon the Supreme Court. Hence, this Court will not as a rule disturb such factual findings unless compelling and cogent reasons were advanced e.g. material disparities in the factual ascertainments of the lower courts, necessitating a reexamination if not disturbance of the same.[24] The congruence of the factual determinations of the lower courts in the instant case reinforces the aforementioned jurisprudential postulate.

While we commiserate with the mental and emotional tribulations suffered by private respondents Atty. Deguma and Atty. Pagtanac as a result of TIONGCO's unfounded accusations, we find that the amount of moral and exemplary damages granted them, though not enriching, still excessive. Moral damages must be understood to be in concepts of grants which are not punitive or corrective in nature calculated to compensate the claimant for injury suffered.[25] Exemplary damages, for their part, serve as deterrent against or as a negative incentive to curb socially deleterious actions.[26] Both are in the category of an award designed to compensate claimants for actual injury and are not meant to enrich complainant at the expense of defendants.[27] Further, in instances where no actual damages are adjudicated, the Supreme Court may reduce moral and exemplary damages.[28]

Using these case law as guideline, the amount of P300,000 moral damages and P100,000 exemplary damages granted to Atty. Deguma should be reduced to P100,000 and P50,000, respectively. The award of P100, 000 moral damages and P50,000 exemplary damages granted to Atty. Pagtanac should likewise be reduced to P50, 000 and P10,000, respectively. We observe however, as equitable under the circumstances, the amounts of moral and exemplary damages granted to private respondents Major Carmelo and Yared.

We will now discuss the adjective issues raised.

TIONGCO argues that he should not be held liable for the "absolutely privileged" statements he made in his pleadings since these were relevant to the issues raised.

We find TIONGCO's reliance on the rule on privileged communication misplaced. This defense is applicable only to actions for libel. Under the law on libel, allegations and averments in pleadings are absolutely privileged as long as they are relevant or pertinent to the issues raised. Thus, TIONGCO's absolutely privileged pleadings will not defeat or bar a damage suit for malicious prosecution. As already stated, a damage suit for malicious prosecution is not grounded on defamatory imputations but predicated on the legal malice of the person instituting

a criminal prosecution or civil suit and the lack of probable cause of such suits.[29] TIONGCO focuses on the assumption that the award of moral damages in favor of private respondents is solely grounded on his use of intemperate language in his pleadings. He conveniently ignores the fact that the counterclaim by private respondents is anchored on the total flimsiness, feebleness and utter lack of probable cause of his complaint against the latter.

Lastly, TIONGCO insists that he had seasonably filed his petition for a new trial since his earlier motion for reconsideration stopped the running of the period for taking an appeal. Such interpretation of the 1997 Rules of Civil Procedure covering the proceedings in the Court of Appeals is erroneous.

Under Section 2, Rule 45 of the 1997 Rules of Civil Procedure, an appeal by certiorari from the Court of Appeals to the Supreme Court should be filed within fifteen (15) days from notice of the judgment or final order or resolution appealed from, or the denial of the petitioner's motion for a new trial or reconsideration filed in due time after notice of the judgment.

Under Section 1, Rule 52 of the same Rules, a motion for reconsideration may be filed within fifteen (15) days from notice of the judgment or final resolution of the Court of Appeals. Section 1 of Rule 53, also of the aforementioned Rules provides that at any time after the appeal from the lower court has been perfected and before the Court of Appeals loses jurisdiction over the case, a motion for a new trial may be filed on the ground of newly discovered evidence. In Bernardo v. Court of Appeals,[30] the Court held that a motion for a new trial may be filed after judgment but within the period for perfecting appeal.

Now, a motion for reconsideration, seasonably filed in the Court of Appeals will not necessarily preclude a motion for a new trial as long as it was also filed on time. Further, a denial of a motion for reconsideration entitles the party who filed said motion another fifteen (15) days to appeal by certiorari -- the same period within which a motion for a new trial may be filed.[31]

In the instant case, TIONGCO received a copy of the 24 July 1997 decision of the Court of Appeals on 5 August 1997. He seasonably filed his motion for reconsideration on 14 August 1997. TIONGCO filed a petition for a new trial on the ground of a newly discovered evidence on 9 September 1997. Considering the provisions pertinent to the subject matter already mentioned above, and since TIONGCO did not wait for the resolution of his motion for reconsideration, the period within which he should have filed his motion for a new trial should be fifteen (15) days from 5 August 1997. Thus, TIONGCO's motion for a new trial filed on 9 September 1997 or thirty-five (35) days from receipt of a copy of the 24 July 1997 decision was filed twenty (20) days late.

We sustain therefore, the dismissal by the Court of Appeals of TIONGCO's motion for reconsideration and petition for a new trial.

IN VIEW OF ALL THE FOREGOING, the impugned 24 July 1997 decision and 27 March 1998 resolution of the Court of Appeals in CA-G.R. CV No. 441616 dismissing the complaint of Jose B. Tiongco and adjudicating moral and exemplary damages in favor of private respondents are hereby AFFIRMED with the modification that:

> 1. the amounts of P300,000 moral damages and P100,000 exemplary damages awarded to Atty. Deguma are reduced to P100,000 and P50,000, respectively; and
>
> 2. the amounts of P100,000 moral damages and P50,000 exemplary damages granted to Atty. Pagtanac are also reduced to P50,000 and P10,000, respectively.

SO ORDERED.

Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

Puno, J., on official leave.

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[1] Rollo, 114-123A. Per Adefuin-De La Cruz, B., J., with Paras, G. and Aquino, H., JJ., concurring.

[2] Id., 177-179.

[3] Id., 88-113. Per Judge Jose D. Azarraga.

[4] Rollo, 115-116.

[5] Rollo, 112-113.

[6] Id.

[7] Rollo, 115-116.

[8] Id., 123-123A.

[9] Id., 124-139.

[10] Rollo, 145-149.

[11] See Section 3 (a), Rule l of the 1997 Rules of Court.

[12] See 2 CESAR S. SANGCO, TORTS AND DAMAGES 940-941 (4th ed 1994).

[13] See Equitable Banking Corporation v. Intermediate Appellate Court, 133 SCRA 135, 139[1984]; See also Rehabilitation Finance Corporation v. Koh, 114 Phil 456, 461[1962].

[14] Id., 138 citing Madera v. Lopez 102 SCRA 700, 705[1981]and Buchanan v. Vda. de Esteban, 32 Phil 363, 365[1915].

[15] Drilon v. Court of Appeals, 270 SCRA 211, 220[1997].

[16] Although moral damages are incapable of exact estimation and do not necessitate proof of pecuniary loss for them to be awarded, it is essential to prove that (1) injury must have been suffered by claimant and (2) such injury must have sprung from any of the cases listed in Articles 2219 and 2220 of the Civil Code. Bernardo v. Court of Appeals (Special Sixth Division), 275 SCRA 413, 431[1997].

[17] See Ventura v. Bernabe, 38 SCRA 587, 596.[1971]; Pro Line Sports Center, Inc. v. Court of Appeals, 281 SCRA 162, 170[1997].

[18] See Article 2217 of the Civil Code.

[19] See Patricio v. Leviste, 172 SCRA 774, 781[1989].

[20] Article 2217, New Civil Code.

[21] Supra note 19.

[22] Makabili v. Court of Appeals, 157 SCRA, 253, 259[1988]; See Filinvest Credit Corp. v. Court of Appeals, 248 SCRA 549, 565[1997].

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[23] Oarde v. Court of Appeals, 280 SCRA 235, 250[1997].

[24] See Cruz v. Court of Appeals, 201 SCRA 495,503[1991]; Gobonseng, Jr. v. Court of Appeals, 246 SCRA 472, 474-475[1995]; Vda. de Alcantara v. Court of Appeals, 252 SCRA 457, 468[1996].

[25] See Morales v. Court of Appeals, 274 SCRA 282, 308[1997].

[26] See Del Rosario v. Court of Appeals, 267 SCRA 158, 173[1997]; Kierulf v. Court of Appeals, 269 SCRA 433, 447[1997].

[27] See Philtranco Service Enterprises, Inc. v. Court of Appeals, 273 SCRA 562, 574[1997].

[28] Del Rosario v. Court of Appeals, supra note 26, at 174-175.

[29] Lao v. Court of Appeals, 271 SCRA 477, 487-488[1997].

[30] 216 SCRA 224, 234[1992].

[31] Id., See also Section 2 of Rule 45 of the Rules of Court; See 1 FLORENZ D. REGALADO, REMEDIAL LAW COMPENDIUM, 589 (6th ed 1997).

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