

**TANAY RECREATION CENTER AND DEVELOPMENT CORP.,  
PETITIONER, VS. CATALINA MATIENZO FAUSTO+ AND  
ANUNCIACION FAUSTO PACUNAYEN, RESPONDENTS.**

*G.R. NO. 140182. April 12, 2005*

Ponente: AUSTRIA-MARTINEZ, J.

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**AUSTRIA-MARTINEZ, J.:**

Petitioner Tanay Recreation Center and Development Corp. (TRCDC) is the lessee of a 3,090-square meter property located in Sitio Gayas, Tanay, Rizal, owned by Catalina Matienzo Fausto,[1] under a Contract of Lease executed on August 1, 1971. On this property stands the Tanay Coliseum Cockpit operated by petitioner. The lease contract provided for a 20-year term, subject to renewal within sixty days prior to its expiration. The contract also provided that should Fausto decide to sell the property, petitioner shall have the "priority right" to purchase the same.[2]

On June 17, 1991, petitioner wrote Fausto informing her of its intention to renew the lease.[3] However, it was Fausto's daughter, respondent Anunciacion F. Pacunayen, who replied, asking that petitioner remove the improvements built thereon, as she is now the absolute owner of the property.[4] It appears that Fausto had earlier sold the property to Pacunayen on August 8, 1990, for the sum of P10,000.00 under a "Kasulatan ng Bilihan Patuluyan ng Lupa,"[5] and title has already been transferred in her name under Transfer Certificate of Title (TCT) No. M-35468.[6]

Despite efforts, the matter was not resolved. Hence, on September 4, 1991, petitioner filed an Amended Complaint for Annulment of Deed of Sale, Specific Performance with Damages, and Injunction, docketed as Civil Case No. 372-M.[7]

In her Answer, respondent claimed that petitioner is estopped from assailing the validity of the deed of sale as the latter acknowledged her ownership when it merely asked for a renewal of the lease. According to respondent, when they met to discuss the matter, petitioner did not demand for the exercise of its option to purchase the property, and it even asked for grace period to vacate the premises.[8]

After trial on the merits, the Regional Trial Court of Morong, Rizal (Branch 78), rendered judgment extending the period of the lease for another seven years from August 1, 1991 at a monthly rental of P10,000.00, and dismissed petitioner's claim for damages.[9]

On appeal, docketed as CA-G.R. CV No. 43770, the Court of Appeals (CA) affirmed with modifications the trial court's judgment per its Decision dated June 14, 1999.[10] The dispositive portion of the decision reads:

WHEREFORE, the appealed decision is AFFIRMED AND ACCORDINGLY MODIFIED AS DISCUSSED.

Furthermore, we resolved:

1.0. That TRCDC VACATE the leased premises immediately;

2.0. To GRANT the motion of Pacunayen to allow her to withdraw the amount of P320,000.00, deposited according to records, with this court.

3.0. To order TRCDC to MAKE THE NECESSARY ACCOUNTING regarding the amounts it had already deposited (for unpaid rentals for the extended period of seven [7] years of the contract of lease). In case it had not yet completed its deposit, to immediately pay the remaining balance to Pacunayen.

4.0. To order TRCDC to PAY the amount of P10,000.00 as monthly rental, with regard to its continued stay in the leased premises even after the expiration of the extended period of seven (7) years, computed from August 1, 1998, until it finally vacates therefrom.

SO ORDERED.[11]

In arriving at the assailed decision, the CA acknowledged the priority right of TRCDC to purchase the property in question. However, the CA interpreted such right to mean that it shall be applicable only in case the property is sold to strangers and not to Fausto's relative. The CA stated that "(T)o interpret it otherwise as to comprehend all sales including those made to relatives and to the compulsory heirs of the seller at that would be an absurdity," and "her (Fausto's) only motive for such transfer was precisely one of preserving the property within her bloodline and that someone administer the property." [12] The CA also ruled that petitioner already acknowledged the transfer of ownership and is deemed to have waived its right to purchase the property. [13] The CA even further went on to rule that even if the sale is annulled, petitioner could not achieve anything because the property will be eventually transferred to Pacunayen after Fausto's death. [14]

Petitioner filed a motion for reconsideration but it was denied per Resolution dated September 14, 1999. [15]

Dissatisfied, petitioner elevated the case to this Court on petition for review on certiorari, raising the following grounds:

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS REVERSIBLE ERROR IN HOLDING THAT THE CONTRACTUAL STIPULATION GIVING PETITIONER THE PRIORITY RIGHT TO PURCHASE THE LEASED PREMISES SHALL ONLY APPLY IF THE LESSOR DECIDES TO SELL THE SAME TO STRANGERS;

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS REVERSIBLE ERROR IN HOLDING THAT PETITIONER'S PRIORITY RIGHT TO PURCHASE THE LEASED PREMISES IS INCONSEQUENTIAL. [16]

The principal bone of contention in this case refers to petitioner's priority right to purchase, also referred to as the right of first refusal.

Petitioner's right of first refusal in this case is expressly provided for in the notarized "Contract of Lease" dated August 1, 1971, between Fausto and petitioner, to wit:

- That should the LESSOR decide to sell the leased premises, the LESSEE shall have the priority right to purchase the same; [17]

When a lease contract contains a right of first refusal, the lessor is under a legal duty to the lessee not to sell to anybody at any price until after he has made an offer to sell to the latter at a certain price and the lessee has failed to accept it. The lessee has a right that the lessor's first offer shall be in his favor. [18] Petitioner's right of first refusal is an integral and indivisible part of the contract of lease and is inseparable from the whole contract. The consideration for the lease includes the consideration for the right of first refusal [19] and is built into the reciprocal obligations of the parties.

It was erroneous for the CA to rule that the right of first refusal does not apply when the property is sold to Fausto's relative.[20] When the terms of an agreement have been reduced to writing, it is considered as containing all the terms agreed upon. As such, there can be, between the parties and their successors in interest, no evidence of such terms other than the contents of the written agreement, except when it fails to express the true intent and agreement of the parties.[21] In this case, the wording of the stipulation giving petitioner the right of first refusal is plain and unambiguous, and leaves no room for interpretation. It simply means that should Fausto decide to sell the leased property during the term of the lease, such sale should first be offered to petitioner. The stipulation does not provide for the qualification that such right may be exercised only when the sale is made to strangers or persons other than Fausto's kin. Thus, under the terms of petitioner's right of first refusal, Fausto has the legal duty to petitioner not to sell the property to anybody, even her relatives, at any price until after she has made an offer to sell to petitioner at a certain price and said offer was rejected by petitioner. Pursuant to their contract, it was essential that Fausto should have first offered the property to petitioner before she sold it to respondent. It was only after petitioner failed to exercise its right of first priority could Fausto then lawfully sell the property to respondent.

The rule is that a sale made in violation of a right of first refusal is valid. However, it may be rescinded, or, as in this case, may be the subject of an action for specific performance.[22] In *Riviera Filipina, Inc. vs. Court of Appeals*,[23] the Court discussed the concept and interpretation of the right of first refusal and the consequences of a breach thereof, to wit:

. . . It all started in 1992 with *Guzman, Bocaling & Co. v. Bonnevie* where the Court held that a lease with a proviso granting the lessee the right of first priority "all things and conditions being equal" meant that there should be identity of the terms and conditions to be offered to the lessee and all other prospective buyers, with the lessee to enjoy the right of first priority. A deed of sale executed in favor of a third party who cannot be deemed a purchaser in good faith, and which is in violation of a right of first refusal granted to the lessee is not voidable under the Statute of Frauds but rescissible under Articles 1380 to 1381 (3) of the New Civil Code.

Subsequently in 1994, in the case of *Ang Yu Asuncion v. Court of Appeals*, the Court en banc departed from the doctrine laid down in *Guzman, Bocaling & Co. v. Bonnevie* and refused to rescind a contract of sale which violated the right of first refusal. The Court held that the so-called "right of first refusal" cannot be deemed a perfected contract of sale under Article 1458 of the New Civil Code and, as such, a breach thereof decreed under a final judgment does not entitle the aggrieved party to a writ of execution of the judgment but to an action for damages in a proper forum for the purpose.

In the 1996 case of *Equatorial Realty Development, Inc. v. Mayfair Theater, Inc.*, the Court en banc reverted back to the doctrine in *Guzman Bocaling & Co. v. Bonnevie* stating that rescission is a relief allowed for the protection of one of the contracting parties and even third persons from all injury and damage the contract may cause or to protect some incompatible and preferred right by the contract.

Thereafter in 1997, in *Parañaque Kings Enterprises, Inc. v. Court of Appeals*, the Court affirmed the nature of and the concomitant rights and obligations of parties under a right of first refusal. The Court, summarizing the rulings in *Guzman, Bocaling & Co. v. Bonnevie* and *Equatorial Realty Development, Inc. v. Mayfair Theater, Inc.*, held that in order to have full compliance with the contractual right granting petitioner the first option to purchase, the sale of the properties for the price for which they were finally sold to a third person should have likewise been first offered to the former. Further, there should be identity of terms and conditions to be offered to the buyer holding a right of first refusal if such right is not to be rendered illusory. Lastly, the basis of the right of first refusal must be the current offer to sell of the seller or offer to purchase of any prospective buyer.

The prevailing doctrine therefore, is that a right of first refusal means identity of terms and conditions to be offered to the lessee and all other prospective buyers and a contract of sale entered into in violation of a right of

first refusal of another person, while valid, is rescissible.[24]

It was also incorrect for the CA to rule that it would be useless to annul the sale between Fausto and respondent because the property would still remain with respondent after the death of her mother by virtue of succession, as in fact, Fausto died in March 1996, and the property now belongs to respondent, being Fausto's heir.[25]

For one, Fausto was bound by the terms and conditions of the lease contract. Under the right of first refusal clause, she was obligated to offer the property first to petitioner before selling it to anybody else. When she sold the property to respondent without offering it to petitioner, the sale while valid is rescissible so that petitioner may exercise its option under the contract.

With the death of Fausto, whatever rights and obligations she had over the property, including her obligation under the lease contract, were transmitted to her heirs by way of succession, a mode of acquiring the property, rights and obligation of the decedent to the extent of the value of the inheritance of the heirs. Article 1311 of the Civil Code provides:

ART. 1311. Contracts take effect only between the parties, their assigns and heirs, except in case where the rights and obligations arising from the contract are not transmissible by their nature, or by stipulation or by provision of law. The heir is not liable beyond the value of the property he received from the decedent.

A lease contract is not essentially personal in character.[26] Thus, the rights and obligations therein are transmissible to the heirs. The general rule is that heirs are bound by contracts entered into by their predecessors-in-interest except when the rights and obligations arising therefrom are not transmissible by (1) their nature, (2) stipulation or (3) provision of law.[27]

In this case, the nature of the rights and obligations are, by their nature, transmissible. There is also neither contractual stipulation nor provision of law that makes the rights and obligations under the lease contract intransmissible. The lease contract between petitioner and Fausto is a property right, which is a right that passed on to respondent and the other heirs, if any, upon the death of Fausto.

In *DKC Holdings Corporation vs. Court of Appeals*,[28] the Court held that the Contract of Lease with Option to Buy entered into by the late Encarnacion Bartolome with DKC Holdings Corporation was binding upon her sole heir, Victor, even after her demise and it subsists even after her death. The Court ruled that:

. . . Indeed, being an heir of Encarnacion, there is privity of interest between him and his deceased mother. He only succeeds to what rights his mother had and what is valid and binding against her is also valid and binding as against him. This is clear from *Parañaque Kings Enterprises vs. Court of Appeals*, where this Court rejected a similar defense-

With respect to the contention of respondent Raymundo that he is not privy to the lease contract, not being the lessor nor the lessee referred to therein, he could thus not have violated its provisions, but he is nevertheless a proper party. Clearly, he stepped into the shoes of the owner-lessor of the land as, by virtue of his purchase, he assumed all the obligations of the lessor under the lease contract. Moreover, he received benefits in the form of rental payments. Furthermore, the complaint, as well as the petition, prayed for the annulment of the sale of the properties to him. Both pleadings also alleged collusion between him and respondent Santos which defeated the exercise by petitioner of its right of first refusal.

In order then to accord complete relief to petitioner, respondent Raymundo was a necessary, if not indispensable, party to the case. A favorable judgment for the petitioner will necessarily affect the rights of respondent Raymundo as the buyer of the property over which petitioner would like to assert its right of first option to buy.[29] (Emphasis supplied)

Likewise in this case, the contract of lease, with all its concomitant provisions, continues even after Fausto's death and her heirs merely stepped into her shoes.[30] Respondent, as an heir of Fausto, is therefore bound to fulfill all its terms and conditions.

There is no personal act required from Fausto such that respondent cannot perform it. Fausto's obligation to deliver possession of the property to petitioner upon the exercise by the latter of its right of first refusal may be performed by respondent and the other heirs, if any. Similarly, nonperformance is not excused by the death of the party when the other party has a property interest in the subject matter of the contract.[31]

The CA likewise found that petitioner acknowledged the legitimacy of the sale to respondent and it is now barred from exercising its right of first refusal. According to the appellate court:

Second, when TRCDC, in a letter to Fausto, signified its intention to renew the lease contract, it was Pacunayen who answered the letter on June 19, 1991. In that letter Pacunayen demanded that TRCDC vacate the leased premises within sixty (60) days and informed it of her ownership of the leased premises. The pertinent portion of the letter reads:

Furtherly, please be advised that the land is no longer under the absolute ownership of my mother and the undersigned is now the real and absolute owner of the land.

Instead of raising a howl over the contents of the letter, as would be its expected and natural reaction under the circumstances, TRCDC surprisingly kept silent about the whole thing. As we mentioned in the factual antecedents of this case, it even invited Pacunayen to its special board meeting particularly to discuss with her the renewal of the lease contract. Again, during that meeting, TRCDC did not mention anything that could be construed as challenging Pacunayen's ownership of the leased premises. Neither did TRCDC assert its priority right to purchase the same against Pacunayen.[32]

The essential elements of estoppel are: (1) conduct of a party amounting to false representation or concealment of material facts or at least calculated to convey the impression that the facts are otherwise than, and inconsistent with, those which the party subsequently attempts to assert; (2) intent, or at least expectation, that this conduct shall be acted upon by, or at least influence, the other party; and (3) knowledge, actual or constructive, of the real facts.[33]

The records are bereft of any proposition that petitioner waived its right of first refusal under the contract such that it is now estopped from exercising the same. In a letter dated June 17, 1991, petitioner wrote to Fausto asking for a renewal of the term of lease.[34] Petitioner cannot be faulted for merely seeking a renewal of the lease contract because obviously, it was working on the assumption that title to the property is still in Fausto's name and the latter has the sole authority to decide on the fate of the property. Instead, it was respondent who replied, advising petitioner to remove all the improvements on the property, as the lease is to expire on the 1st of August 1991. Respondent also informed petitioner that her mother has already sold the property to her.[35] In order to resolve the matter, a meeting was called among petitioner's stockholders, including respondent, on July 27, 1991, where petitioner, again, proposed that the lease be renewed. Respondent, however, declined. While petitioner may have sought the renewal of the lease, it cannot be construed as a relinquishment of its right of first refusal. Estoppel must be intentional and unequivocal.[36]

Also, in the excerpts from the minutes of the special meeting, it was further stated that the possibility of a sale was likewise considered.[37] But respondent also refused to sell the land, while the improvements, "if for sale shall be subject for appraisal." [38] After respondent refused to sell the land, it was then that petitioner filed the complaint for annulment of sale, specific performance and damages.[39] Petitioner's acts of seeking all possible avenues for the amenable resolution of the conflict do not amount to an intentional and unequivocal abandonment of its right

of first refusal.

Respondent was well aware of petitioner's right to priority of sale, and that the sale made to her by her mother was merely for her to be able to take charge of the latter's affairs. As admitted by respondent in her Appellee's Brief filed before the CA, viz.:

After June 19, 1991, TRCDC invited Pacunayen to meeting with the officers of the corporation. . . . In the same meeting, Pacunayen's attention was called to the provision of the Contract of Lease had by her mother with TRCDC, particularly paragraph 7 thereof, which states:

- That should the lessor decide to sell the leased premises, the LESSEE shall have the priority right to purchase the same.

Of course, in the meeting she had with the officers of TRCDC, Pacunayen explained that the sale made in her favor by her mother was just a formality so that she may have the proper representation with TRCDC in the absence of her parents, more so that her father had already passed away, and there was no malice in her mind (sic) and that of her mother, or any intention on their part to deceive TRCDC. All these notwithstanding, and for her to show their good faith in dealing with TRCDC, Pacunayen started the ground work to reconvey ownership over the whole land, now covered by Transfer Certificate (sic) of Title No. M-259, to and in the name of her mother (Fausto), but the latter was becoming sickly, old and weak, and they found no time to do it as early as they wanted to.[40] (Emphasis supplied)

Given the foregoing, the "Kasulatan ng Bilihan Patuluyan ng Lupa" dated August 8, 1990 between Fausto and respondent must be rescinded. Considering, however, that Fausto already died on March 16, 1996, during the pendency of this case with the CA, her heirs should have been substituted as respondents in this case. Considering further that the Court cannot declare respondent Pacunayen as the sole heir, as it is not the proper forum for that purpose, the right of petitioner may only be enforced against the heirs of the deceased Catalina Matienzo Fausto, represented by respondent Pacunayen.

In *Parañaque Kings Enterprises, Inc. vs. Court of Appeals*,<sup>[41]</sup> it was ruled that the basis of the right of the first refusal must be the current offer to sell of the seller or offer to purchase of any prospective buyer. It is only after the grantee fails to exercise its right of first priority under the same terms and within the period contemplated, could the owner validly offer to sell the property to a third person, again, under the same terms as offered to the grantee. The circumstances of this case, however, dictate the application of a different ruling. An offer of the property to petitioner under identical terms and conditions of the offer previously given to respondent Pacunayen would be inequitable. The subject property was sold in 1990 to respondent Pacunayen for a measly sum of P10,000.00. Obviously, the value is in a small amount because the sale was between a mother and daughter. As admitted by said respondent, "the sale made in her favor by her mother was just a formality so that she may have the proper representation with TRCDC in the absence of her parents..."<sup>[42]</sup> Consequently, the offer to be made to petitioner in this case should be under reasonable terms and conditions, taking into account the fair market value of the property at the time it was sold to respondent.

In its complaint, petitioner prayed for the cancellation of TCT No. M-35468 in the name of respondent Pacunayen,<sup>[43]</sup> which was issued by the Register of Deeds of Morong on February 7, 1991.<sup>[44]</sup> Under ordinary circumstances, this would be the logical effect of the rescission of the "Kasulatan ng Bilihan Patuluyan ng Lupa" between the deceased Fausto and respondent Pacunayen. However, the circumstances in this case are not ordinary. The buyer of the subject property is the seller's own daughter. If and when the title (TCT No. M-35468) in respondent Pacunayen's name is cancelled and reinstated in Fausto's name, and thereafter negotiations between petitioner and respondent Pacunayen for the purchase of the subject property break down, then the subject

property will again revert to respondent Pacunayen as she appears to be one of Fausto's heirs. This would certainly be a winding route to traverse. Sound reason therefore dictates that title should remain in the name of respondent Pacunayen, for and in behalf of the other heirs, if any, to be cancelled only when petitioner successfully exercises its right of first refusal and purchases the subject property.

Petitioner further seeks the award of the following damages in its favor: (1) P100,000.00 as actual damages; (2) P1,100,000.00 as compensation for lost goodwill or reputation; (3) P100,000.00 as moral damages; (4) P100,000.00 as exemplary damages; (5) P50,000.00 as attorney's fees; (6) P1,000.00 appearance fee per hearing; and (7) the costs of suit.[45]

According to petitioner, respondent's act in fencing the property led to the closure of the Tanay Coliseum Cockpit and petitioner was unable to conduct cockfights and generate income of not less than P100,000.00 until the end of September 1991, aside from the expected rentals from the cockpit space lessees in the amount of P11,000.00.[46]

Under Article 2199 of the Civil Code, it is provided that:

Except as provided by law or by stipulation, one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved. Such compensation is referred to as actual or compensatory damages. (Emphasis supplied)

The rule is that actual or compensatory damages cannot be presumed, but must be proved with reasonable degree of certainty. A court cannot rely on speculations, conjectures, or guesswork as to the fact and amount of damages, but must depend upon competent proof that they have been suffered by the injured party and on the best obtainable evidence of the actual amount thereof. It must point out specific facts, which could afford a basis for measuring whatever compensatory or actual damages are borne.[47]

In the present case, there is no question that the Tanay Coliseum Cockpit was closed for two months and TRCDC did not gain any income during said period. But there is nothing on record to substantiate petitioner's claim that it was bound to lose some P111,000.00 from such closure. TRCDC's president, Ambrosio Sacramento, testified that they suffered income losses with the closure of the cockpit from August 2, 1991 until it re-opened on October 20, 1991.[48] Mr. Sacramento, however, cannot state with certainty the amount of such unrealized income.[49] Meanwhile, TRCDC's accountant, Merle Cruz, stated that based on the corporation's financial statement for the years 1990 and 1991,[50] they derived the amount of P120,000.00 as annual income from rent.[51] From said financial statement, it is safe to presume that TRCDC generated a monthly income of P10,000.00 a month (P120,000.00 annual income divided by 12 months). At best therefore, whatever actual damages that petitioner suffered from the cockpit's closure for a period of two months can be reasonably summed up only to P20,000.00.

Such award of damages shall earn interest at the legal rate of six percent (6%) per annum, which shall be computed from the time of the filing of the Complaint on August 22, 1991, until the finality of this decision. After the present decision becomes final and executory, the rate of interest shall increase to twelve percent (12%) per annum from such finality until its satisfaction, this interim period being deemed to be equivalent to a forbearance of credit.[52] This is in accord with the guidelines laid down by the Court in *Eastern Shipping Lines, Inc. vs. Court of Appeals*,[53] regarding the manner of computing legal interest, viz.:

II. With regard particularly to an award of interest in the concept of actual and compensatory damages, the rate of interest, as well as the accrual thereof, is imposed, as follows:

- When the obligation is breached, and it consists in the payment of a sum of money, i.e., a loan or forbearance of money, the interest due should be that which may have been stipulated in writing. Furthermore, the interest due shall itself earn legal interest from the time it is judicially demanded. In the absence of stipulation, the rate of interest shall be 12% per annum to be computed from default, i.e., from judicial or extrajudicial demand

under and subject to the provisions of Article 1169 of the Civil Code.

- When an obligation, not constituting a loan or forbearance of money, is breached, an interest on the amount of damages awarded may be imposed at the discretion of the court at the rate of 6% per annum. No interest, however, shall be adjudged on unliquidated claims or damages except when or until the demand can be established with reasonable certainty. Accordingly, where the demand is established with reasonable certainty, the interest shall begin to run from the time the claim is made judicially or extrajudicially (Art. 1169, Civil Code) but when such certainty cannot be so reasonably established at the time the demand is made, the interest shall begin to run only from the date the judgment of the court is made (at which time quantification of damages may be deemed to have been reasonably ascertained). The actual base for the computation of legal interest shall, in any case, be on the amount finally adjudged.

- When the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest, whether the case falls under paragraph 1 or paragraph 2, above, shall be 12% per annum from such finality until its satisfaction, this interim period being deemed to be by then an equivalent to a forbearance of credit.[54]

Petitioner also claims the amount of P1,100,000.00 as compensation for lost goodwill or reputation. It alleged that "with the unjust and wrongful conduct of the defendants as above-described, plaintiff stands to lose its goodwill and reputation established for the past 20 years." [55]

An award of damages for loss of goodwill or reputation falls under actual or compensatory damages as provided in Article 2205 of the Civil Code, to wit:

Art. 2205. Damages may be recovered:

- (1) For loss or impairment of earning capacity in cases of temporary or permanent personal injury;
- (2) For injury to the plaintiff's business standing or commercial credit.

Even if it is not recoverable as compensatory damages, it may still be awarded in the concept of temperate or moderate damages.[56] In arriving at a reasonable level of temperate damages to be awarded, trial courts are guided by the ruling that:

. . . There are cases where from the nature of the case, definite proof of pecuniary loss cannot be offered, although the court is convinced that there has been such loss. For instance, injury to one's commercial credit or to the goodwill of a business firm is often hard to show certainty in terms of money. Should damages be denied for that reason? The judge should be empowered to calculate moderate damages in such cases, rather than that the plaintiff should suffer, without redress from the defendant's wrongful act. (*Araneta v. Bank of America*, 40 SCRA 144, 145)[57]

In this case, aside from the nebulous allegation of petitioner in its amended complaint, there is no evidence on record, whether testimonial or documentary, to adequately support such claim. Hence, it must be denied.

Petitioner's claim for moral damages must likewise be denied. The award of moral damages cannot be granted in favor of a corporation because, being an artificial person and having existence only in legal contemplation, it has no feelings, no emotions, no senses. It cannot, therefore, experience physical suffering and mental anguish, which can be experienced only by one having a nervous system.[58] Petitioner being a corporation,[59] the claim for moral damages must be denied.

With regard to the claim for exemplary damages, it is a requisite in the grant thereof that the act of the offender must be accompanied by bad faith or done in wanton, fraudulent or malevolent manner.[60] Moreover, where a party is not entitled to actual or moral damages, an award of exemplary damages is likewise baseless.[61] In this

case, petitioner failed to show that respondent acted in bad faith, or in wanton, fraudulent or malevolent manner.

Petitioner likewise claims the amount of P50,000.00 as attorney's fees, the sum of P1,000.00 for every appearance of its counsel, plus costs of suit. It is well settled that no premium should be placed on the right to litigate and not every winning party is entitled to an automatic grant of attorney's fees. The party must show that he falls under one of the instances enumerated in Article 2208 of the Civil Code. In this case, since petitioner was compelled to engage the services of a lawyer and incurred expenses to protect its interest and right over the subject property, the award of attorney's fees is proper. However there are certain standards in fixing attorney's fees, to wit: (1) the amount and the character of the services rendered; (2) labor, time and trouble involved; (3) the nature and importance of the litigation and business in which the services were rendered; (4) the responsibility imposed; (5) the amount of money and the value of the property affected by the controversy or involved in the employment; (6) the skill and the experience called for in the performance of the services; (7) the professional character and the social standing of the attorney; and (8) the results secured, it being a recognized rule that an attorney may properly charge a much larger fee when it is contingent than when it is not.[62] Considering the foregoing, the award of P10,000.00 as attorney's fees, including the costs of suit, is reasonable under the circumstances.

WHEREFORE, the instant Petition for Review is **PARTIALLY GRANTED**. The Court of Appeals' Decision dated June 14, 1999 in CA-G.R. CV No. 43770 is **MODIFIED** as follows:

- (1) the "Kasulatan ng Bilihan Patuluyan ng Lupa" dated August 8, 1990 between Catalina Matienzo Fausto and respondent Anunciacion Fausto Pacunayen is hereby deemed rescinded;
- (2) The Heirs of the deceased Catalina Matienzo Fausto who are hereby deemed substituted as respondents, represented by respondent Anunciacion Fausto Pacunayen, are **ORDERED** to recognize the obligation of Catalina Matienzo Fausto under the Contract of Lease with respect to the priority right of petitioner Tanay Recreation Center and Development Corp. to purchase the subject property under reasonable terms and conditions;
- (3) Transfer Certificate of Title No. M-35468 shall remain in the name of respondent Anunciacion Fausto Pacunayen, which shall be cancelled in the event petitioner successfully purchases the subject property;
- (4) Respondent is **ORDERED** to pay petitioner Tanay Recreation Center and Development Corporation the amount of Twenty Thousand Pesos (P20,000.00) as actual damages, plus interest thereon at the legal rate of six percent (6%) per annum from the filing of the Complaint until the finality of this Decision. After this Decision becomes final and executory, the applicable rate shall be twelve percent (12%) per annum until its satisfaction; and,
- (5) Respondent is **ORDERED** to pay petitioner the amount of Ten Thousand Pesos (P10,000.00) as attorney's fees, and to pay the costs of suit.
- (6) Let the case be remanded to the Regional Trial Court, Morong, Rizal (Branch 78) for further proceedings on the determination of the "reasonable terms and conditions" of the offer to sell by respondents to petitioner, without prejudice to possible mediation between the parties.

The rest of the unaffected dispositive portion of the Court of Appeals' Decision is **AFFIRMED**.

**SO ORDERED.**

Puno, (Chairman), Callejo, Sr., Tinga, and Chico-Nazario, JJ., concur.

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[1] Catalina Matienzo Fausto died on March 16, 1996 while the case was pending with the Court of Appeals.

[2]Records, pp. 7-8.

[3] Id., p. 10.

[4] Id., p. 11.

[5] Id., pp. 12-13.

[6]Id., p. 14.

[7] Petitioner filed the original Complaint on August 22, 1991.

[8] Id., pp. 51-53.

[9] Id., p. 226.

[10]Penned by Associate Justice Romeo A. Brawner (now Presiding Justice of the Court of Appeals), with Associate Justices Angelina Sandoval-Gutierrez (now a Member of this Court) and Martin S. Villarama, Jr., concurring.

[11] CA Rollo, pp. 208-209.

[12]CA Rollo, p. 205.

[13]Id., pp. 205-206.

[14] Id., p. 206.

[15] Id., p. 236.

[16] Rollo, p. 27.

[17] Records, p. 8.

[18]Polytechnic University of the Philippines vs. Court of Appeals, G.R. No. 143513, November 14, 2001, 368 SCRA 691, 708.

[19] Equatorial Realty Development, Inc. vs. Mayfair Theater, Inc., G.R. No. 106063, November 21, 1996, 264 SCRA 483, 505.

[20] CA Rollo, p. 5.

[21] Huibonhua vs. Court of Appeals, G.R. No. 95897, December 14, 1999, 320 SCRA 625.

[22] Parañaque Kings Enterprises, Inc. vs. Court of Appeals, G.R. No. 111538, February 26, 1997, 268 SCRA 727.

[23] G.R. No. 117355, April 5, 2002, 380 SCRA 245, 259-260.

[24] Ibid.

[25] CA Rollo, pp. 206-207.

[26] Sui Man Hui Chan vs. Court of Appeals, G.R. No. 147999, February 27, 2004, 424 SCRA 127, 134.

[27] DKC Holdings, Corp. vs. Court of Appeals, G.R. No. 118248, April 5, 2000, 329 SCRA 666, 672.

[28] Supra, DKC Holdings case, note no. 27.

[29] Id.

[30] Gil vs. Court of Appeals, G.R. No. 127206, September 12, 2003, 411 SCRA 18, 33.

[31] Ibid.

[32] CA Rollo, pp. 205-206.

[33] Manila Memorial Park vs. Linsangan, G.R. No.151319, November 22, 2004.

[34] Records, p. 100, Exhibit "B."

[35] Id., p. 95, Exhibit "C."

[36] Manila Memorial Park Cemetery, Inc. vs. Court of Appeals, G.R. No. 137122, November 15, 2000, 344 SCRA 769, 778.

[37] Id., p. 96, Exhibit "C" for petitioner, Exhibit "3" for respondent.

[38] Ibid.

[39] Id., p. 1.

[40] CA Rollo, pp. 178-179.

[41] G.R. No. 111538, February 26, 1997, *supra*, note no. 22.

[42] CA Rollo, pp. 178-179.

[43] Records, p. 20.

[44] Id., p. 14.

[45] Id., pp. 20-21.

[46] Id., p. 18.

[47] DBP vs. Court of Appeals, G.R. No. 118342, January 5, 1998, 284 SCRA 14, 29-30.

[48] TSN, April 30, 1992, pp. 23-26.

[49] Id., pp. 33-36.

[50] Records, Exhibit "I", p. 105.

[51] TSN, July 2, 1992, p. 60.

[52] Tropical Homes, Inc. vs. Court of Appeals, G.R. No. 111858, May 14, 1997, 272 SCRA 428, 442.

[53] G.R. No. 97412, July 12, 1994, 234 SCRA 78.

[54] As cited in the Tropical Homes, Inc. case, *supra*, note 52.

[55] Records, p. 19.

[56] Radio Communications of the Philippines, Inc. vs. Court of Appeals, G.R. No. L-55194, February 26, 1981, 103 SCRA 359, 362.

[57] Pleno vs. Court of Appeals, G.R. No. L-56505, May 9, 1988, 161 SCRA 208, 223.

[58] ABS-CBN Broadcasting Corporation vs. Court of Appeals, G.R. No. 128690, January 21, 1999, 301 SCRA 572, 602-603.

[59] Records, p. 16.

[60] Cathay Pacific Airways, Ltd. vs. Vasquez, G.R. No. 150843, March 14, 2003, 399 SCRA 207, 223.

[61] Orosa vs. Court of Appeals, G.R. No. 111080, April 5, 2000, 329 SCRA 652, 663.

[62] Prudential Bank vs. Court of Appeals, G.R. No. 125536, March 16, 2000, 328 SCRA 264, 272.

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