

UNLAD RESOURCES DEVELOPMENT CORPORATION, UNLAD RURAL BANK OF NOVELETA, INC., UNLAD COMMODITIES, INC., HELENA Z. BENITEZ, AND CONRADO L. BENITEZ II, PETITIONERS, VS. RENATO P. DRA...

G.R. No. 149338. July 28, 2008

Ponente: NACHURA, J.

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NACHURA, J.:

Before this Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Civil Procedure seeking the reversal of the November 29, 2000 Decision[1] and August 2, 2001 Resolution[2] of the Court of Appeals (CA) in CA-G.R. CV No. 54226.

The facts, as found by the CA, are as follows:

On December 29, 1981, the Plaintiffs (herein respondents) and defendant (herein petitioner) Unlad Resources, through its Chairman[,] Helena Z. Benitez[,], entered into a Memorandum of Agreement wherein it is provided that [respondents], as controlling stockholders of the Rural Bank [of Noveleta] shall allow Unlad Resources to invest four million eight hundred thousand pesos (P4,800,000.00) in the Rural Bank in the form of additional equity. On the other hand, [petitioner] Unlad Resources bound itself to invest the said amount of 4.8 million pesos in the Rural Bank; upon signing, it was, likewise, agreed that [petitioner] Unlad Resources shall subscribe to a minimum of four hundred eighty thousand pesos (P480,000.00) (sic) common or preferred non-voting shares of stock with a total par value of four million eight hundred thousand pesos (P4,800,000.00) and pay up immediately one million two hundred thousand pesos (P1,200,000.00) for said subscription; that the [respondents], upon the signing of the said agreement shall transfer control and management over the Rural Bank to Unlad Resources. According to the [respondents], immediately after the signing of the agreement, they complied with their obligation and transferred control of the Rural Bank to Unlad Resources and its nominees and the Bank was renamed the Unlad Rural Bank of Noveleta, Inc. However, [respondents] claim that despite repeated demands, Unlad Resources has failed and refused to comply with their obligation under the said Memorandum of Agreement when it did not invest four million eight hundred thousand pesos (P4,800,000.00) in the Rural Bank in the form of additional equity and, likewise, it failed to immediately infuse one million two hundred thousand pesos (P1,200,000.00) as paid in capital upon signing of the Memorandum of Agreement.

On August 10, 1984, the Board of Directors of [petitioner] Unlad Resources passed Resolution No. 84-041 authorizing the President and the General Manager to lease a mango plantation situated in Naic, Cavite. Pursuant to this Resolution, the Bank as [lessee] entered into a Contract of Lease with the [petitioner] Helena Z. Benitez as [lessor]. The management of the mango plantation was undertaken by Unlad Commodities, Inc., a subsidiary of Unlad Resources[,], under a Management Contract Agreement. The Management Contract provides that Unlad Commodities, Inc. would receive eighty percent (80%) of the net profits generated by the operation of the mango plantation while the Bank's share is twenty percent (20%). It was further agreed that at the end of the lease period, the Rural Bank shall turn over to the lessor all permanent improvements introduced by it on the plantation.

x x x x

On May 20, 1987, [petitioner] Unlad Rural Bank wrote [respondents] regarding [the] Central Bank's approval to retire its [Development Bank of the Philippines] preferred shares in the amount of P219,000.00 and giving notice for subscription to proportionate shares. The [respondents] objected on the grounds that there is already a sinking fund for the retirement of the said DBP-held preferred shares provided for annually and that it could deprive the Rural Bank of a cheap source of fund. (sic)

[Respondents] alleged compliance with all of their obligations under the Memorandum of Agreement in that they have transferred control and management over the Rural bank to the [petitioners] and are ready, willing and able to allow [petitioners] to subscribe to a minimum of four hundred eighty thousand (P480,000.00) (sic) common or preferred non-voting shares of stocks with a total par value of four million eight hundred thousand pesos (P4,800,000.00) in the Rural Bank. However, [petitioners] have failed and refused to subscribe to the said shares of stock and to pay the initial amount of one million two hundred thousand pesos (P1,200,000.00) for said subscription.[3]

On July 3, 1987, herein respondents filed before the Regional Trial Court (RTC) of Makati City, Branch 61 a Complaint[4] for rescission of the agreement and the return of control and management of the Rural Bank from petitioners to respondents, plus damages. After trial, the RTC rendered a Decision,[5] the dispositive portion of which provides:

WHEREFORE, Premises Considered, judgment is hereby rendered, as follows:

- The Memorandum of Agreement dated 29 December 1991 (sic) is hereby declared rescinded and:
 - (a) Defendant Unlad Resources Development Corporation is hereby ordered to immediately return control and management over the Rural Bank of Noveleta, Inc. to Plaintiffs; and
 - (b) Unlad Rural Bank of Noveleta, Inc. is hereby ordered to return to Defendants the sum of One Million Three Thousand Seventy Pesos (P1,003,070.00)
- The Director for Rural Banks of the Bangko Sentral ng Pilipinas is hereby appointed as Receiver of the Rural Bank;
- Unlad Rural Bank of Noveleta, Inc. is hereby enjoined from placing the retired DBP-held preferred shares available for subscription and the same is hereby ordered to be placed under a sinking fund;
- Defendant Unlad Resources Development Corporation is hereby ordered to pay plaintiffs the following:
 - (a) actual compensatory damages amounting to Four Million Six Hundred One Thousand Seven Hundred Sixty- Five and 38/100 Pesos (P4,601,765.38);
 - (b) moral damages in the amount of Five Hundred Thousand Pesos (P500,000.00);
 - (c) exemplary and corrective damages in the amount of One Hundred Thousand Pesos (P100,000.00); and
 - (d) attorney's fees in the sum of (P100,000.00), plus cost of suit.

SO ORDERED.[6]

Herein petitioners appealed the ruling to the CA. Respondents filed a Motion to Dismiss and, subsequently, a Supplemental Motion to Dismiss, which were both denied. Later, however, the CA, in a Decision dated November 29, 2000, dismissed the appeal for lack of merit and affirmed the RTC Decision in all respects. Petitioners' motion for reconsideration was denied in CA Resolution dated August 2, 2001.

Petitioners are now before this Court alleging that the CA committed a grave and serious reversible error in

issuing the assailed Decision. Petitioners question the jurisdiction of the trial court, something they have done from the beginning of the controversy, contending that the issues that respondents raised before the trial court are intra-corporate in nature and are, therefore, beyond the jurisdiction of the trial court. They point out that respondents' complaint charged them with mismanagement and alleged dissipation of the assets of the Rural Bank. Since the complaint challenges corporate actions and decisions of the Board of Directors and prays for the recovery of the control and management of the Rural Bank, these matters fall outside the jurisdiction of the trial court. Thus, they posit that the judgment of the trial court, as affirmed by the CA, is null and void and may be impugned at any time.

Petitioners further argue that the action instituted by respondents had already prescribed, because Article 1389 of the Civil Code provides that an action for rescission must be commenced within four years. They claim that the trial court and the CA mistakenly applied Article 1144 of the Civil Code which treats of prescription of actions in general. They submit that Article 1389, which deals specifically with actions for rescission, is the applicable law.

Moreover, petitioners assert that they have fully complied with their undertaking under the subject Memorandum of Agreement, but that the undertaking has become a "legal and factual impossibility" because the authorized capital stock of the Rural Bank was increased from P1.7 million to only P5 million, and could not accommodate the subscription by petitioners of P4.8 million worth of shares. Such deficiency, petitioners contend, is with the knowledge and approval of respondent Renato P. Dragon and his nominees to the Board of Directors.

Petitioners, without conceding the propriety of the judgment of rescission, also argue that the subject Memorandum of Agreement could not just be ordered rescinded without the corresponding order for the restitution of the parties' total contributions and/or investments in the Rural Bank. Finally, they assail the award for moral and exemplary damages, as well as the award for attorney's fees, as bereft of factual and legal bases given that, in the body of the Decision, it was merely stated that respondents suffered moral damages without any discussion or explanation of, nor any justification for such award. Likewise, the matter of attorney's fees was not at all discussed in the body of the Decision. Petitioners claim that pursuant to the prevailing rule, attorney's fees cannot be recovered in the absence of stipulation.

On the other hand, respondents declare that immediately after the signing of the Memorandum of Agreement, they complied with their obligation and transferred control of the Rural Bank to petitioner Unlad Resources and its nominees, but that, despite repeated demands, petitioners have failed and refused to comply with their concomitant obligations under the Agreement.

Respondents narrate that shortly after taking over the Rural Bank, petitioners Conrado L. Benitez II and Jorge C. Cerbo, as President and General Manager, respectively, entered into a Contract of Lease over the Naic, Cavite mango plantation, and that, as a consequence of this venture, the bank incurred expenses amounting to P475,371.57, equivalent to 25.76% of its capital and surplus. The respondents further assert that the Central Bank found this undertaking not inherently connected with bona fide rural banking operations, nor does it fall within the allied undertakings permitted under Section 26 of Central Bank Circular No. 741 and Section 3379 of the Manual of Regulations of the Central Bank. Thus, respondents contend that this circumstance, coupled with the fact that petitioners Helena Z. Benitez and Conrado L. Benitez II were also stockholders and members of the Board of Directors of Unlad Resources, Unlad Rural Bank, and Unlad Commodities at that time, is adequate proof that the Rural Bank's management had every intention of diverting, dissipating, and/or wasting the bank's assets for petitioners' own gain.

They likewise allege that because of the failure of petitioners to comply with their obligations under the Memorandum of Agreement, respondents, with the exception of Tarcisius Rodriguez, lodged a complaint with the

Securities and Exchange Commission (SEC), seeking rescission of the Agreement, damages, and the appointment of a management committee, but the SEC dismissed the complaint for lack of jurisdiction.

Furthermore, when the Rural Bank informed respondents of the Central Bank's approval of its plan to retire its DBP-held preferred shares, giving notices for subscription to proportionate shares, respondents objected on the ground that there was already a sinking fund for the retirement of said shares provided for annually, and that the retirement would deprive the petitioner Rural Bank of a cheap source of fund. It was at that point, respondents claim, that they instituted the aforementioned Complaint against petitioners before the RTC of Makati.

The respondents also seek the outright dismissal of this Petition for lack of verification as to petitioners Helena Z. Benitez and Conrado L. Benitez II; lack of proper verification as to petitioners Unlad Resources Development Corporation, Unlad Rural Bank of Noveleta, Inc., and Unlad Commodities, Inc.; lack of proper verified statement of material dates; and lack of proper sworn certification of non-forum shopping.

They support the proposition that *Tijam v. Sibonghanoy*[7] applies, and that petitioners are indeed estopped from questioning the jurisdiction of the trial court. They also share the lower court's view that it is Article 1144 of the Civil Code, and not Article 1389, that is applicable to this case. Finally, respondents allege that the failure of petitioner Unlad Resources to comply with its undertaking under the Agreement, as uniformly found by the trial court and the CA, may no longer be assailed in the instant Petition, and that the award of moral and exemplary damages and attorney's fees is justified.

The Petition is bereft of merit. We uphold the Decision of the CA affirming that of the RTC.

First, the subject of jurisdiction. The main issue in this case is the rescission of the Memorandum of Agreement. This is to be distinguished from respondents' allegation of the alleged mismanagement and dissipation of corporate assets by the petitioners which is based on the prayer for receivership over the bank. The two issues, albeit related, are obviously separate, as they pertain to different acts of the parties involved. The issue of receivership does not arise from the parties' obligations under the Memorandum of Agreement, but rather from specific acts attributed to petitioners as members of the Board of Directors of the Bank. Clearly, the rescission of the Memorandum of Agreement is a cause of action within the jurisdiction of the trial courts, notwithstanding the fact that the parties involved are all directors of the same corporation.

Still, the petitioners insist that the trial court had no jurisdiction over the complaint because the issues involved are intra-corporate in nature.

This argument miserably fails to persuade. The law in force at the time of the filing of the case was Presidential Decree (P.D.) 902-A, Section 5(b) of which vested the Securities and Exchange Commission with original and exclusive jurisdiction to hear and decide cases involving controversies arising out of intra-corporate relations.[8] Interpreting this statutorily conferred jurisdiction on the SEC, this Court had occasion to state:

Nowhere in said decree do we find even so much as an [intimation] that absolute jurisdiction and control is vested in the Securities and Exchange Commission in all matters affecting corporations. To uphold the respondent's arguments would remove without legal imprimatur from the regular courts all conflicts over matters involving or affecting corporations, regardless of the nature of the transactions which give rise to such disputes. The courts would then be divested of jurisdiction not by reason of the nature of the dispute submitted to them for adjudication, but solely for the reason that the dispute involves a corporation. This cannot be done.[9]

It is well to remember that the respondents had actually filed with the SEC a case against the petitioners which, however, was dismissed for lack of jurisdiction due to the pendency of the case before the RTC.[10] The SEC's Order dismissing the respondents' complaint is instructive:

From the foregoing allegations, it is apparent that the present action involves two separate causes of action which are interrelated, and the resolution of which hinges on the very document sought to be rescinded. The assertion that the defendants failed to comply with their contractual undertaking and the claim for rescission of the contract by the plaintiffs has, in effect, put in issue the very status of the herein defendants as stockholders of the Rural Bank. The issue as to whether or not the defendants are stockholders of the Rural Bank is a pivotal issue to be determined on the basis of the Memorandum of Agreement. It is a prejudicial question and a logical antecedent to confer jurisdiction to this Commission.

It is to be noted, however, that determination of the contractual undertaking of the parties under a contract lies with the Regional Trial Courts and not with this Commission. x x x[11]

Be that as it may, this point has been rendered moot by Republic Act (R.A.) No. 8799, also known as the Securities Regulation Code. This law, which took effect in 2000, has transferred jurisdiction over such disputes to the RTC. Specifically, R.A. 8799 provides:

Sec. 5. Powers and Functions of the Commission

x x x x

5.2. The Commission's jurisdiction over all cases enumerated under Section 5 of Presidential Decree No. 902-A is hereby transferred to the Courts of general jurisdiction or the appropriate Regional Trial Court: Provided, That the Supreme Court in the exercise of its authority may designate the Regional Trial Court branches that shall exercise jurisdiction over these cases. The Commission shall retain jurisdiction over pending cases involving intra-corporate disputes submitted for final resolution which should be resolved within one (1) year from the enactment of this Code. The Commission shall retain jurisdiction over pending suspension of payments/rehabilitation cases filed as of 30 June 2000 until finally disposed.

Section 5 of P.D. No. 902-A reads, thus:

Sec. 5. In addition to the regulatory and adjudicative functions of the Securities and Exchange Commission over corporations, partnerships and other forms of associations registered with it as expressly granted under existing laws and decrees, it shall have original and exclusive jurisdiction to hear and decide cases involving:

- a) Devices and schemes employed by or any acts of the board of directors, business associates, its officers or partnership, amounting to fraud and misrepresentation which may be detrimental to the interest of the public and/or of the stockholder, partners, members of associations or organizations registered with the Commission;
- b) Controversies arising out of intra-corporate or partnership relations, between and among stockholders, members, or associates; between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the state insofar as it concerns their individual franchise or right to exist as such entity;
- c) Controversies in the election or appointment of directors, trustees, officers or managers of such corporations, partnerships or associations.

Consequently, whether the cause of action stems from a contractual dispute or one that involves intra-corporate matters, the RTC already has jurisdiction over this case. In this light, the question of whether the doctrine of estoppel by laches applies, as enunciated by this Court in *Tijam v. Sibonghanoy*, no longer finds relevance.

Second, the issue of prescription. Petitioners further contend that the action for rescission has prescribed under Article 1398 of the Civil Code, which provides:

Article 1389. The action to claim rescission must be commenced within four years x x x.

This is an erroneous proposition. Article 1389 specifically refers to rescissible contracts as, clearly, this provision

is under the chapter entitled "Rescissible Contracts."

In a previous case,[12] this Court has held that Article 1389:

applies to rescissible contracts, as enumerated and defined in Articles 1380 and 1381. We must stress however, that the "rescission" in Article 1381 is not akin to the term "rescission" in Article 1191 and Article 1592. In Articles 1191 and 1592, the rescission is a principal action which seeks the resolution or cancellation of the contract while in Article 1381, the action is a subsidiary one limited to cases of rescission for lesion as enumerated in said article.

The prescriptive period applicable to rescission under Articles 1191 and 1592, is found in Article 1144, which provides that the action upon a written contract should be brought within ten years from the time the right of action accrues.

Article 1381 sets out what are rescissible contracts, to wit:

Article 1381. The following contracts are rescissible:

- (1) Those which are entered into by guardians whenever the wards whom they represent suffer lesion by more than one-fourth of the value of the things which are the object thereof;
- (2) Those agreed upon in representation of absentees, if the latter suffer the lesion stated in the preceding number;
- (3) Those undertaken in fraud of creditors when the latter cannot in any other manner collect the claims due them;
- (4) Those which refer to things under litigation if they have been entered into by the defendant without the knowledge and approval of the litigants or of competent judicial authority;
- (5) All other contracts specially declared by law to be subject to rescission.

The Memorandum of Agreement subject of this controversy does not fall under the above enumeration. Accordingly, the prescriptive period that should apply to this case is that provided for in Article 1144, to wit:

Article 1144. The following actions must be brought within ten years from the time the right of action accrues:

- (1) Upon a written contract;

x x x x

Based on the records of this case, the action was commenced on July 3, 1987, while the Memorandum of Agreement was entered into on December 29, 1981. Article 1144 specifically provides that the 10-year period is counted from "the time the right of action accrues." The right of action accrues from the moment the breach of right or duty occurs.[13] Thus, the original Complaint was filed well within the prescriptive period.

We now proceed to determine if the trial court, as affirmed by the CA, correctly ruled for the rescission of the subject Agreement.

Petitioners contend that they have fully complied with their obligation under the Memorandum of Agreement. They allege that due to respondents' failure to increase the capital stock of the corporation to an amount that will accommodate their undertaking, it had become impossible for them to perform their end of the Agreement.

Again, petitioners' contention is untenable. There is no question that petitioners herein failed to fulfill their obligation under the Memorandum of Agreement. Even they admit the same, albeit laying the blame on respondents.

It is true that respondents increased the Rural Bank's authorized capital stock to only P5 million, which was not enough to accommodate the P4.8 million worth of stocks that petitioners were to subscribe to and pay for. However, respondents' failure to fulfill their undertaking in the agreement would have given rise to the scenario contemplated by Article 1191 of the Civil Code, which reads:

Article 1191. The power to rescind reciprocal obligations is implied in reciprocal ones, in case one of the obligors should not comply with what is incumbent upon him.

The injured party may choose between the fulfillment and the rescission of the obligation, with the payment of damages in either case. He may also seek rescission, even after he has chosen fulfillment, if the latter should become impossible.

The court shall decree the rescission claimed, unless there be just cause authorizing the fixing of a period.

This is understood to be without prejudice to the rights of third persons who have acquired the thing, in accordance with Articles 1385 and 1388 and the Mortgage Law.

Thus, petitioners should have exacted fulfillment from the respondents or asked for the rescission of the contract instead of simply not performing their part of the Agreement. But in the course of things, it was the respondents who availed of the remedy under Article 1191, opting for the rescission of the Agreement in order to regain control of the Rural Bank.

Having determined that the rescission of the subject Memorandum of Agreement was in order, the trial court ordered petitioner Unlad Resources to return to respondents the management and control of the Rural Bank and for the latter to return the sum of P1,003,070.00 to petitioners.

Mutual restitution is required in cases involving rescission under Article 1191. This means bringing the parties back to their original status prior to the inception of the contract.[14] Article 1385 of the Civil Code provides, thus:

ART. 1385. Rescission creates the obligation to return the things which were the object of the contract, together with their fruits, and the price with its interest; consequently, it can be carried out only when he who demands rescission can return whatever he may be obligated to restore.

Neither shall rescission take place when the things which are the object of the contract are legally in the possession of third persons who did not act in bad faith.

In this case, indemnity for damages may be demanded from the person causing the loss.

This Court has consistently ruled that this provision applies to rescission under Article 1191:

[S]ince Article 1385 of the Civil Code expressly and clearly states that "rescission creates the obligation to return the things which were the object of the contract, together with their fruits, and the price with its interest," the Court finds no justification to sustain petitioners' position that said Article 1385 does not apply to rescission under Article 1191.[15]

Rescission has the effect of "unmaking a contract, or its undoing from the beginning, and not merely its termination." [16] Hence, rescission creates the obligation to return the object of the contract. It can be carried out only when the one who demands rescission can return whatever he may be obliged to restore. To rescind is to declare a contract void at its inception and to put an end to it as though it never was. It is not merely to terminate it and release the parties from further obligations to each other, but to abrogate it from the beginning and restore the parties to their relative positions as if no contract has been made.[17]

Accordingly, when a decree for rescission is handed down, it is the duty of the court to require both parties to

surrender that which they have respectively received and to place each other as far as practicable in his original situation. The rescission has the effect of abrogating the contract in all parts.[18]

Clearly, the petitioners failed to fulfill their end of the agreement, and thus, there was just cause for rescission. With the contract thus rescinded, the parties must be restored to the status quo ante, that is, before they entered into the Memorandum of Agreement.

Finally, we must resolve the question of the propriety of the award for damages and attorney's fees.

The trial court's Decision mentioned that the "evidence is clear and convincing that Plaintiffs (herein respondents) suffered actual compensatory damages amounting to Four Million Six Hundred One Thousand Seven Hundred Sixty-Five and 38/100 Pesos (P4,601,765.38) moral damages and attorney's fees."

Though not discussed in the body of the Decision, the records show that the amount of P4,601,765.38 pertains to actual losses incurred by respondents as a result of petitioners' non-compliance with their undertaking under the Memorandum of Agreement. On this point, respondent Dragon presented testimonial and documentary evidence to prove the actual amount of damages, thus:

Atty. Cruz

Q:

Was there any consequence to you Mr. Dragon due to any breach of the agreement marked as Exhibit A?

A:

Yes sir I could have earned thru the shares of stock that I have, or we have or we had by this time amounting to several millions pesos (sic). They have only put in the whole amount that we have agreed upon (sic).

A:

Yes sir I could have earned thru the shares of stock that I have, or we have or we had by this time amounting to several millions pesos (sic). They have only put in the whole amount that we have agreed upon (sic).

Q:

In this connection did you cause computation of these losses that you incurred (sic)?

A:

Yes sir.

x x x

Q:

Will you please kindly go through this computation and explain the same to the Honorable Court?

A:

Number 1 is an Organ (sic) income from the sale of 60% (sic) at only Three Hundred Ninety Nine Thousand Two hundred for Nineteen Thousand Nine Hundred Sixty shares which should have been sold if it were sold to others for P50.00 each for a total of Nine Hundred Ninety Eight Thousand but sold to them for Three Hundred Ninety nine (sic) Thousand two (sic) Hundred only and of which only Three Hundred Twenty Four Thousand Six Hundred was paid to me. Therefore, there was a difference of Six Hundred Seven Three (sic) Thousand Four Hundred (P673,400.00). On the basis of the commulative (sic) lost income every year from March 1982 from the amount of Seven Six Hundred (sic) Seventy Three Thousand four (sic) Hundred (P673,400.) (sic)

there would be a discommulative (sic) lost (sic) of One Million Ninety Three Thousand Nine Hundred Fifty Two Pesos and forty two (sic) centavos (P1,093,952.42). Please note that the interest imputed is only at 12% per annum but it should had (sic) been much higher. In 1984 to 1986 (sic) alone rates went as higher (sic) as 40% per annum from the so called (sic) Jobo Bills and yet we only computed the imputed income or lost income at 12% per annum and then there is a 40% participation on the unrealized earnings due to their failure to put in an stabilized (sic) earnings. You will note that if they put in 4.8 million Pesos and it would be earning money, 40% of that will go to us because 40% of the bank would be ours and 60% would be there (sic). But because they did put in the 4.8 million our 40% did not earn up to that extent and computed again on the basis of 12% the amount (sic) on the commulative (sic) basis up to September 1990 is 2 million three hundred fifty two thousand sixty five pesos and four centavos (sic). (P2,352,065.04). You will note again that the average return of investment of any Cavite based (sic) Rural Bank has been no less than 20% or about 30% per annum. And we computed only the earnings at 12%.

x x x x

There were loans granted fraudulently to members of the board and some borrowers which were not all charged interest for several years and on this basis we computed a 40% shares (sic) on the foregone income interest income (sic) on all these fraudulently granted loans, without interest being collected and none a project (sic) among a plantation project (sic), which was funded by the bank but nothing was given back to the bank for several hundred thousand of pesos (sic). And we arrived an (sic) estimate of the foregone interest income a total of One Million Two Hundred Five Thousand Eight Hundred Sixty Nine Pesos and eighty one (sic) centavos and 40 percent share of this (sic) would be Four Hundred Eighty Two Thousand Three Hundred Forty Seven Pesos and Ninety Two Centavos. All in all our estimate of the damages we have suffered is Four Million Six Hundred one (sic) Thousand Seven Hundred Sixty Five Pesos and thirty eight (sic) centavos (P4,601,765.38).[19]

More importantly, petitioners never raised in issue before the CA this award of actual compensatory damages. They did not raise the matter of damages in their Appellants' Brief, while in their Motion for Reconsideration, they questioned only the award of moral and exemplary damages, not the award of actual damages. Even in the present Petition for Review, what petitioners raised was the propriety of the award of moral and exemplary damages and attorney's fees.

On the grant of moral and exemplary damages and attorney's fees, we note that the trial court's Decision did not discuss the basis for the award. No mention of these damages awarded - or their factual basis - is made in the body of the Decision, only in the dispositive portion. Be that as it may, we have examined the records of the case and found that the award must be sustained.

It should be remembered that there are two separate causes of action in this case: one for rescission of the Memorandum of Agreement and the other for receivership based on alleged mismanagement of the company by the plaintiffs. While the award of actual compensatory damages was based on the breach of duty under the Memorandum of Agreement, the award of moral damages appears to be based on petitioners' mismanagement of the company when they became members of the Board of Directors of the Rural Bank.

Thus, the trial court said:

Under the Rural Bank's management, a systematic diversion of the bank's assets was conceived whereby: (a) The Rural Bank's funds would be funneled in the development and improvements of the Benitez Mango Plantation in the guise of an investment in said plantation; (b) Of the net profits earned from the plantation's operations, the Rural Bank's share therein, although it shoulders all of the financial risks, would be a measly twenty percent (20%) thereof while UCI, without investing a single centavo, would earn eighty percent (80%) of the said profits. Thus, the bulk of the profits of the mango plantation was also sought to be diverted to an

entity wherein Helena Z. Benitez and Conrado L. Benitez II are not only principal stockholders but also the Chairman of the Board of Directors and President, respectively. Moreover, Defendant Helena Z. Benitez would be entitled to receive, under the lease contract, rentals in the total amount of Three Hundred Thousand Pesos (P300,000.00) or ten percent (10%) of gross profits, whichever is higher. (c) Finally, at the end of the lease period, the Rural Bank was obliged to turn over to the lessor (Helena Z. Benitez) all permanent improvements introduced by it on the plantation at no cost to Ms. Benitez.

Further, in its report dated March 13, 1985, the [Central Bank] after conducting its general examination upon the Rural Bank ordered the latter to "explain satisfactorily why the bank engage (sic) in an undertaking not inherently connected with [bona fide] rural banking operations nor within the allowed allied undertakings," contrary to the provisions of Section 3379 of the CB Manual of Regulations and Section 26 of CB Circular No. 741, otherwise known as the "Circular on Rural Banks[.]"

The aforesaid CB report states that "total exposure to this project now amounts to P475,371.57 or 25.76% of its capital and surplus[.]" Notwithstanding a finding by the CB of the undertaking's illegality, the defendants nevertheless persisted in pursuing the Mango Plantation Project and never acceded to the call of [the] CB for it to desist from further implementing the said project. It was only after another letter from the CB was received when defendant finally shelved the mango plantation project.

The result of the aforesaid report, as well as the actions of the Defendants in not yielding to the order of the CB, adequately establishes not only a violation of CB Rules (specifically Section 26, Circular 741 and Section 3379 of the CB Manual of Regulations, but also, that it has caused undue damage both to the Rural bank as well as its stockholders.

The initial CB report should have sufficiently apprised Defendants of the illegality of the undertaking. Defendants, therefore have the duty to terminate the Mango Plantation Project. They, however, [chose] to continue it, apparently to further their [own] interest in the scheme for their own personal benefit and gain, an act which is clearly contrary to the fiduciary nature of their relationship with the corporation in which they are officers. Such persistence proves evident bad faith, or a breach of a known duty through some motive or ill-will, which resulted in the further dissipation and wastage of the Rural Bank's assets, unjustly depriving Plaintiffs of their fair share in the assets of the bank.

All the foregoing satisfactorily affirms the allegations of Plaintiffs to the effect that these contracts were but part of a device employed by Defendants to siphon [off] the Rural bank for their personal gain.[20]

Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of precise pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission.[21] Article 2220 of the Civil Code further provides that moral damages may be recovered in case of a breach of contract where the defendant acted in bad faith.[22]

To award moral damages, a court must be satisfied with proof of the following requisites: (1) an injury - whether physical, mental, or psychological - clearly sustained by the claimant; (2) a culpable act or omission factually established; (3) a wrongful act or omission of the defendant as the proximate cause of the injury sustained by the claimant; and (4) the award of damages predicated on any of the cases stated in Article 2219.[23]

Accordingly, based upon the findings of the trial court, it is clear that respondents are entitled to moral damages. The acts attributed to the petitioners as directors of the Rural Bank manifestly prejudiced the respondents causing detriment to their standing as directors and stockholders of the Rural Bank.

Exemplary damages cannot be recovered as a matter of right.[24] While these need not be proved, respondents must show that they are entitled to moral, temperate or compensatory damages before the court may consider the

question of awarding exemplary damages.[25] We find that respondents are indeed entitled to moral damages; thus, the award for exemplary damages is in order.

Anent the award for attorney's fees, Article 2208 of the Civil Code states:

In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

(1) When exemplary damages are awarded.

Hence, the award of exemplary damages is in itself sufficient justification for the award of attorney's fees.[26]

WHEREFORE, the foregoing premises considered, the petition is hereby DENIED. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 54226 are AFFIRMED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Reyes, JJ., conur.

[1] Penned by Associate Justice Eugenio S. Labitoria, with Associate Justices Eloy R. Bello, Jr. and Eliezer R. De los Santos, concurring; rollo, pp. 52-63.

[2] Id. at 65.

[3] Id. at 52-54.

[4] Records, pp. 1-19.

[5] Penned by Judge Roberto C. Diokno, id. at 959-960.

[6] Rollo, pp. 79-80.

[7] 131 Phil. 556 (1968).

[8] P.D. 902-A, Sec. 5 (b).

[9] DMRC Enterprises v. Este del Sol Mountain Reserve, Inc., 217 Phil. 280, 287.

[10] Records, pp. 426-429.

[11] Order of the SEC dated March 2, 1987, records, pp. 428-429.

[12] Iringan v. Court of Appeals, 418 Phil. 286, 296-297 (2001) (Citations omitted).

[13] De Castro v. Court of Appeals, 434 Phil. 53, 68 (2000), citing Tolentino, Commentaries and Jurisprudence on the Civil Code of the Philippines, 1992 ed., p. 44.

[14] See Laperal v. Solid Homes, Inc., G.R. No. 130913, June 21, 2005, 460 SCRA 375, 385, citing Velarde v. Court of Appeals, 361 SCRA 56, 69-70 (2001). See also Reyes v. Lim, 456 Phil. 1, 12 (2003); Asuncion v. Evangelista, 375 Phil. 328, 356 (1999).

[15] Laperal v. Solid Homes, Inc., supra, at 386-387.

[16] Pryce Corporation v. Philippine Amusement and Gaming Corporation, G.R. No. 157480, May 6, 2005, 458 SCRA 164, 178, citing Black's Law Dictionary, 6[th] ed., p. 1306.

[17] Spouses Velarde v. Court of Appeals, 413 Phil. 360, 375 (2001).

[18] Carrascoso v. Court of Appeals, G.R. No. 123672 and Philippine Long Distance Telephone Company v. Leviste, G.R. No. 164489, December 14, 2005, 477 SCRA 666, 703, citing IV A. Tolentino, COMMENTARIES AND JURISPRUDENCE on the Civil Code of the Philippines (1997 ed.), pp. 180-181

[19] TSN, September 20, 1990, pp. 998-1006.

[20] Rollo, pp. 76-77. (Citations omitted).

[21] Civil Code, Art. 2217.

[22] Art. 2220. Willful injury to property may be a legal ground for awarding moral damages if the court should find that, under the circumstances, such damages are justly due. The same rule applies to breaches of contract where the defendant acted fraudulently or in bad faith.

[23] Quezon City Government v. Dacara, G.R. No. 150304, June 15, 2005, 460 SCRA 243, 254, citing Expertravel & Tours, Inc. v. Court of Appeals, 368 Phil. 444 (1999).

[24] Civil Code, Art. 2233.

[25] Construction Development Corporation of the Philippines v. Estrella, G.R. No. 147791, September 8, 2006, 501 SCRA 228, 243, citing Del Rosario v. Court of Appeals, 267 SCRA 158, 173 (1997).

[26] National Power Corporation, et al. v. Court of Appeals and Growth Link, Inc. v. Court of Appeals, 339 Phil. 605, 631 (1997).

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