

NIKKO HOTEL MANILA GARDEN AND RUBY LIM, PETITIONERS, VS. ROBERTO REYES, A.K.A. “AMAY BISAYA,” RESPONDENT.*G.R. NO. 154259. February 28, 2005*

Ponente: CHICO-NAZARIO, J.

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In this petition for review on certiorari, petitioners Nikko Hotel Manila Garden (Hotel Nikko)[1] and Ruby Lim assail the Decision[2] of the Court of Appeals dated 26 November 2001 reversing the Decision[3] of the Regional Trial Court (RTC) of Quezon City, Branch 104, as well as the Resolution[4] of the Court of Appeals dated 09 July 2002 which denied petitioners' motion for reconsideration.

The cause of action before the trial court was one for damages brought under the human relations provisions of the New Civil Code. Plaintiff thereat (respondent herein) Roberto Reyes, more popularly known by the screen name “Amay Bisaya,” alleged that at around 6:00 o'clock in the evening of 13 October 1994, while he was having coffee at the lobby of Hotel Nikko,[5] he was spotted by his friend of several years, Dr. Violeta Filart, who then approached him.[6] Mrs. Filart invited him to join her in a party at the hotel's penthouse in celebration of the natal day of the hotel's manager, Mr. Masakazu Tsuruoka.[7] Mr. Reyes asked if she could vouch for him for which she replied: “of course.”[8] Mr. Reyes then went up with the party of Dr. Filart carrying the basket of fruits which was the latter's present for the celebrant.[9] At the penthouse, they first had their picture taken with the celebrant after which Mr. Reyes sat with the party of Dr. Filart.[10] After a couple of hours, when the buffet dinner was ready, Mr. Reyes lined-up at the buffet table but, to his great shock, shame and embarrassment, he was stopped by petitioner herein, Ruby Lim, who claimed to speak for Hotel Nikko as Executive Secretary thereof.[11] In a loud voice and within the presence and hearing of the other guests who were making a queue at the buffet table, Ruby Lim told him to leave the party (“huwag ka nang kumain, hindi ka imbitado, bumaba ka na lang”).[12] Mr. Reyes tried to explain that he was invited by Dr. Filart.[13] Dr. Filart, who was within hearing distance, however, completely ignored him thus adding to his shame and humiliation.[14] Not long after, while he was still recovering from the traumatic experience, a Makati policeman approached and asked him to step out of the hotel.[15] Like a common criminal, he was escorted out of the party by the policeman.[16] Claiming damages, Mr. Reyes asked for One Million Pesos actual damages, One Million Pesos moral and/or exemplary damages and Two Hundred Thousand Pesos attorney's fees.[17]

Ruby Lim, for her part, admitted having asked Mr. Reyes to leave the party but not under the ignominious circumstance painted by the latter. Ms. Lim narrated that she was the Hotel's Executive Secretary for the past twenty (20) years.[18] One of her functions included organizing the birthday party of the hotel's former General Manager, Mr. Tsuruoka.[19] The year 1994 was no different. For Mr. Tsuruoka's party, Ms. Lim generated an exclusive guest list and extended invitations accordingly.[20] The guest list was limited to approximately sixty (60) of Mr. Tsuruoka's closest friends and some hotel employees and that Mr. Reyes was not one of those invited.[21] At the party, Ms. Lim first noticed Mr. Reyes at the bar counter ordering a drink.[22] Mindful of Mr. Tsuruoka's wishes to keep the party intimate, Ms. Lim approached Mr. Boy Miller, the “captain waiter,” to

inquire as to the presence of Mr. Reyes who was not invited.[23] Mr. Miller replied that he saw Mr. Reyes with the group of Dr. Filart.[24] As Dr. Filart was engaged in conversation with another guest and as Ms. Lim did not want to interrupt, she inquired instead from the sister of Dr. Filart, Ms. Zenaida Fruto, who told her that Dr. Filart did not invite Mr. Reyes.[25] Ms. Lim then requested Ms. Fruto to tell Mr. Reyes to leave the party as he was not invited.[26] Mr. Reyes, however, lingered prompting Ms. Lim to inquire from Ms. Fruto who said that Mr. Reyes did not want to leave.[27] When Ms. Lim turned around, she saw Mr. Reyes conversing with a Captain Batung whom she later approached.[28] Believing that Captain Batung and Mr. Reyes knew each other, Ms. Lim requested from him the same favor from Ms. Fruto, i.e., for Captain Batung to tell Mr. Reyes to leave the party as he was not invited.[29] Still, Mr. Reyes lingered. When Ms. Lim spotted Mr. Reyes by the buffet table, she decided to speak to him herself as there were no other guests in the immediate vicinity.[30] However, as Mr. Reyes was already helping himself to the food, she decided to wait.[31] When Mr. Reyes went to a corner and started to eat, Ms. Lim approached him and said: “alam ninyo, hindo ho kayo dapat nandito. Pero total nakakuha na ho kayo ng pagkain, ubusin na lang ninyo at pagkatapos kung pwede lang po umalis na kayo.”[32] She then turned around trusting that Mr. Reyes would show enough decency to leave, but to her surprise, he began screaming and making a big scene, and even threatened to dump food on her.[33]

Dr. Violeta Filart, the third defendant in the complaint before the lower court, also gave her version of the story to the effect that she never invited Mr. Reyes to the party.[34] According to her, it was Mr. Reyes who volunteered to carry the basket of fruits intended for the celebrant as he was likewise going to take the elevator, not to the penthouse but to Altitude 49.[35] When they reached the penthouse, she reminded Mr. Reyes to go down as he was not properly dressed and was not invited.[36] All the while, she thought that Mr. Reyes already left the place, but she later saw him at the bar talking to Col. Batung.[37] Then there was a commotion and she saw Mr. Reyes shouting.[38] She ignored Mr. Reyes.[39] She was embarrassed and did not want the celebrant to think that she invited him.[40]

After trial on the merits, the court a quo dismissed the complaint,[41] giving more credence to the testimony of Ms. Lim that she was discreet in asking Mr. Reyes to leave the party. The trial court likewise ratiocinated that Mr. Reyes assumed the risk of being thrown out of the party as he was uninvited:

Plaintiff had no business being at the party because he was not a guest of Mr. Tsuruoka, the birthday celebrant. He assumed the risk of being asked to leave for attending a party to which he was not invited by the host. Damages are pecuniary consequences which the law imposes for the breach of some duty or the violation of some right. Thus, no recovery can be had against defendants Nikko Hotel and Ruby Lim because he himself was at fault (*Garciano v. Court of Appeals*, 212 SCRA 436). He knew that it was not the party of defendant Violeta Filart even if she allowed him to join her and took responsibility for his attendance at the party. His action against defendants Nikko Hotel and Ruby Lim must therefore fail.[42]

On appeal, the Court of Appeals reversed the ruling of the trial court as it found more commanding of belief the testimony of Mr. Reyes that Ms. Lim ordered him to leave in a loud voice within hearing distance of several guests:

In putting appellant in a very embarrassing situation, telling him that he should not finish his food and to leave the place within the hearing distance of other guests is an act which is contrary to morals, good customs . . . , for which appellees should compensate the appellant for the damage suffered by the latter as a consequence therefore (Art. 21, New Civil Code). The liability arises from the acts which are in themselves legal or not prohibited, but contrary to morals or good customs. Conversely, even in the exercise of a formal right, [one] cannot with impunity intentionally cause damage to another in a manner contrary to morals or good customs.[43]

The Court of Appeals likewise ruled that the actuation of Ms. Lim in approaching several people to inquire into

the presence of Mr. Reyes exposed the latter to ridicule and was uncalled for as she should have approached Dr. Filart first and both of them should have talked to Mr. Reyes in private:

Said acts of appellee Lim are uncalled for. What should have been done by appellee Lim was to approach appellee Mrs. Filart and together they should have told appellant Reyes in private that the latter should leave the party as the celebrant only wanted close friends around. It is necessary that Mrs. Filart be the one to approach appellant because it was she who invited appellant in that occasion. Were it not for Mrs. Filart's invitation, appellant could not have suffered such humiliation. For that, appellee Filart is equally liable.

...

The acts of [appellee] Lim are causes of action which are predicated upon mere rudeness or lack of consideration of one person, which calls not only protection of human dignity but respect of such dignity. Under Article 20 of the Civil Code, every person who violates this duty becomes liable for damages, especially if said acts were attended by malice or bad faith. Bad faith does not simply connote bad judgment or simple negligence. It imports a dishonest purpose or some moral obliquity and conscious doing of a wrong, a breach of a known duty to some motive or interest or ill-will that partakes of the nature of fraud (Cojuangco, Jr. v. CA, et al., 309 SCRA 603).[44]

Consequently, the Court of Appeals imposed upon Hotel Nikko, Ruby Lim and Dr. Violeta Filart the solidary obligation to pay Mr. Reyes (1) exemplary damages in the amount of Two Hundred Thousand Pesos (P200,000); (2) moral damages in the amount of Two Hundred Thousand Pesos (P200,000); and (3) attorney's fees in the amount of Ten Thousand Pesos (P10,000).[45] On motion for reconsideration, the Court of Appeals affirmed its earlier decision as the argument raised in the motion had "been amply discussed and passed upon in the decision sought to be reconsidered." [46]

Thus, the instant petition for review. Hotel Nikko and Ruby Lim contend that the Court of Appeals seriously erred in –

I.

... NOT APPLYING THE DOCTRINE OF VOLENTI NON FIT INJURIA CONSIDERING THAT BY ITS OWN FINDINGS, AMAY BISAYA WAS A GATE-CRASHER

II.

... HOLDING HOTEL NIKKO AND RUBY LIM JOINTLY AND SEVERALLY LIABLE WITH DR. FILART FOR DAMAGES SINCE BY ITS OWN RULING, AMAY BISAYA "COULD NOT HAVE SUFFERED SUCH HUMILIATION," "WERE IT NOT FOR DR. FILART'S INVITATION"

III.

... DEPARTING FROM THE FINDINGS OF FACT OF THE TRIAL COURT AS REGARDS THE CIRCUMSTANCES THAT ALLEGEDLY CAUSED THE HUMILIATION OF AMAY BISAYA

IV.

... IN CONCLUDING THAT AMAY BISAYA WAS TREATED UNJUSTLY BECAUSE OF HIS POVERTY, CONSIDERING THAT THIS WAS NEVER AN ISSUE AND NO EVIDENCE WAS PRESENTED IN THIS REGARD

V.

... IN FAILING TO PASS UPON THE ISSUE ON THE DEFECTS OF THE APPELLANT'S BRIEF, THEREBY DEPARTING FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS

Petitioners Lim and Hotel Nikko contend that pursuant to the doctrine of volenti non fit injuria, they cannot be

made liable for damages as respondent Reyes assumed the risk of being asked to leave (and being embarrassed and humiliated in the process) as he was a “gate-crasher.”

The doctrine of *volenti non fit injuria* (“to which a person assents is not esteemed in law as injury”[47]) refers to self-inflicted injury[48] or to the consent to injury[49] which precludes the recovery of damages by one who has knowingly and voluntarily exposed himself to danger, even if he is not negligent in doing so.[50] As formulated by petitioners, however, this doctrine does not find application to the case at bar because even if respondent Reyes assumed the risk of being asked to leave the party, petitioners, under Articles 19 and 21 of the New Civil Code, were still under obligation to treat him fairly in order not to expose him to unnecessary ridicule and shame.

Thus, the threshold issue is whether or not Ruby Lim acted abusively in asking Roberto Reyes, a.k.a. “Amay Bisaya,” to leave the party where he was not invited by the celebrant thereof thereby becoming liable under Articles 19 and 21 of the Civil Code. Parenthetically, and if Ruby Lim were so liable, whether or not Hotel Nikko, as her employer, is solidarily liable with her.

As the trial court and the appellate court reached divergent and irreconcilable conclusions concerning the same facts and evidence of the case, this Court is left without choice but to use its latent power to review such findings of facts. Indeed, the general rule is that we are not a trier of facts as our jurisdiction is limited to reviewing and revising errors of law.[51] One of the exceptions to this general rule, however, obtains herein as the findings of the Court of Appeals are contrary to those of the trial court.[52] The lower court ruled that Ms. Lim did not abuse her right to ask Mr. Reyes to leave the party as she talked to him politely and discreetly. The appellate court, on the other hand, held that Ms. Lim is liable for damages as she needlessly embarrassed Mr. Reyes by telling him not to finish his food and to leave the place within hearing distance of the other guests. Both courts, however, were in agreement that it was Dr. Filart’s invitation that brought Mr. Reyes to the party.

The consequential question then is: Which version is credible?

From an in depth review of the evidence, we find more credible the lower court’s findings of fact.

First, let us put things in the proper perspective.

We are dealing with a formal party in a posh, five-star hotel,[53] for-invitation-only, thrown for the hotel’s former Manager, a Japanese national. Then came a person who was clearly uninvited (by the celebrant)[54] and who could not just disappear into the crowd as his face is known by many, being an actor. While he was already spotted by the organizer of the party, Ms. Lim, the very person who generated the guest list, it did not yet appear that the celebrant was aware of his presence. Ms. Lim, mindful of the celebrant’s instruction to keep the party intimate, would naturally want to get rid of the “gate-crasher” in the most hush-hush manner in order not to call attention to a glitch in an otherwise seamless affair and, in the process, risk the displeasure of the celebrant, her former boss. To unnecessarily call attention to the presence of Mr. Reyes would certainly reflect badly on Ms. Lim’s ability to follow the instructions of the celebrant to invite only his close friends and some of the hotel’s personnel. Mr. Reyes, upon whom the burden rests to prove that indeed Ms. Lim loudly and rudely ordered him to leave, could not offer any satisfactory explanation why Ms. Lim would do that and risk ruining a formal and intimate affair. On the contrary, Mr. Reyes, on cross-examination, had unwittingly sealed his fate by admitting that when Ms. Lim talked to him, she was very close. Close enough for him to kiss:

Q: And, Mr. Reyes, you testified that Miss Lim approached you while you were at the buffet table? How close was she when she approached you?

A: Very close because we nearly kissed each other.

Q: And yet, she shouted for you to go down? She was that close and she shouted?

A: Yes. She said, “wag kang kumain, hindi ka imbitado dito, bumaba ka na lang.”

Q: So, you are testifying that she did this in a loud voice?

...

A: Yes. If it is not loud, it will not be heard by many.[55]

In the absence of any proof of motive on the part of Ms. Lim to humiliate Mr. Reyes and expose him to ridicule and shame, it is highly unlikely that she would shout at him from a very close distance. Ms. Lim having been in the hotel business for twenty years wherein being polite and discreet are virtues to be emulated, the testimony of Mr. Reyes that she acted to the contrary does not inspire belief and is indeed incredible. Thus, the lower court was correct in observing that –

Considering the closeness of defendant Lim to plaintiff when the request for the latter to leave the party was made such that they nearly kissed each other, the request was meant to be heard by him only and there could have been no intention on her part to cause embarrassment to him. It was plaintiff’s reaction to the request that must have made the other guests aware of what transpired between them. . .

Had plaintiff simply left the party as requested, there was no need for the police to take him out.[56]

Moreover, another problem with Mr. Reyes’s version of the story is that it is unsupported. It is a basic rule in civil cases that he who alleges proves. Mr. Reyes, however, had not presented any witness to back his story up. All his witnesses – Danny Rodinas, Pepito Guerrero and Alexander Silva - proved only that it was Dr. Filart who invited him to the party.[57]

Ms. Lim, not having abused her right to ask Mr. Reyes to leave the party to which he was not invited, cannot be made liable to pay for damages under Articles 19 and 21 of the Civil Code. Necessarily, neither can her employer, Hotel Nikko, be held liable as its liability springs from that of its employee.[58]

Article 19, known to contain what is commonly referred to as the principle of abuse of rights,[59] is not a panacea for all human hurts and social grievances. Article 19 states:

Art. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

Elsewhere, we explained that when “a right is exercised in a manner which does not conform with the norms enshrined in Article 19 and results in damage to another, a legal wrong is thereby committed for which the wrongdoer must be responsible.”[60] The object of this article, therefore, is to set certain standards which must be observed not only in the exercise of one’s rights but also in the performance of one’s duties.[61] These standards are the following: act with justice, give everyone his due and observe honesty and good faith.[62] Its antithesis, necessarily, is any act evincing bad faith or intent to injure. Its elements are the following: (1) There is a legal right or duty; (2) which is exercised in bad faith; (3) for the sole intent of prejudicing or injuring another.[63] When Article 19 is violated, an action for damages is proper under Articles 20 or 21 of the Civil Code. Article 20 pertains to damages arising from a violation of law[64] which does not obtain herein as Ms. Lim was perfectly within her right to ask Mr. Reyes to leave. Article 21, on the other hand, states:

Art. 21. Any person who willfully 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.

Article 21[65] refers to acts contra bonus mores and has the following elements: (1) There is an act which is legal; (2) but which is contrary to morals, good custom, public order, or public policy; and (3) it is done with intent to injure.[66]

A common theme runs through Articles 19 and 21,[67] and that is, the act complained of must be intentional.[68]

As applied to herein case and as earlier discussed, Mr. Reyes has not shown that Ms. Lim was driven by animosity against him. These two people did not know each other personally before the evening of 13 October 1994, thus, Mr. Reyes had nothing to offer for an explanation for Ms. Lim's alleged abusive conduct except the statement that Ms. Lim, being "single at 44 years old," had a "very strong bias and prejudice against (Mr. Reyes) possibly influenced by her associates in her work at the hotel with foreign businessmen." [69] The lameness of this argument need not be belabored. Suffice it to say that a complaint based on Articles 19 and 21 of the Civil Code must necessarily fail if it has nothing to recommend it but innuendos and conjectures.

Parenthetically, the manner by which Ms. Lim asked Mr. Reyes to leave was likewise acceptable and humane under the circumstances. In this regard, we cannot put our imprimatur on the appellate court's declaration that Ms. Lim's act of personally approaching Mr. Reyes (without first verifying from Mrs. Filart if indeed she invited Mr. Reyes) gave rise to a cause of action "predicated upon mere rudeness or lack of consideration of one person, which calls not only protection of human dignity but respect of such dignity." [70] Without proof of any ill-motive on her part, Ms. Lim's act of by-passing Mrs. Filart cannot amount to abusive conduct especially because she did inquire from Mrs. Filart's companion who told her that Mrs. Filart did not invite Mr. Reyes. [71] If at all, Ms. Lim is guilty only of bad judgment which, if done with good intentions, cannot amount to bad faith.

Not being liable for both actual and moral damages, neither can petitioners Lim and Hotel Nikko be made answerable for exemplary damages [72] especially for the reason stated by the Court of Appeals. The Court of Appeals held –

Not a few of the rich people treat the poor with contempt because of the latter's lowly station in life. This has to be limited somewhere. In a democracy, such a limit must be established. Social equality is not sought by the legal provisions under consideration, but due regard for decency and propriety (Code Commission, pp. 33-34). And by way of example or correction for public good and to avert further commission of such acts, exemplary damages should be imposed upon appellees. [73]

The fundamental fallacy in the above-quoted findings is that it runs counter with the very facts of the case and the evidence on hand. It is not disputed that at the time of the incident in question, Mr. Reyes was "an actor of long standing; a co-host of a radio program over DZRH; a Board Member of the Music Singer Composer (MUSICO) chaired by popular singer Imelda Papin; a showbiz Coordinator of Citizen Crime Watch; and 1992 official candidate of the KBL Party for Governor of Bohol; and an awardee of a number of humanitarian organizations of the Philippines." [74] During his direct examination on rebuttal, Mr. Reyes stressed that he had income [75] and nowhere did he say otherwise. On the other hand, the records are bereft of any information as to the social and economic standing of petitioner Ruby Lim. Consequently, the conclusion reached by the appellate court cannot withstand scrutiny as it is without basis.

All told, and as far as Ms. Lim and Hotel Nikko are concerned, any damage which Mr. Reyes might have suffered through Ms. Lim's exercise of a legitimate right done within the bounds of propriety and good faith, must be his to bear alone.

WHEREFORE, premises considered, the petition filed by Ruby Lim and Nikko Hotel Manila Garden is GRANTED. The Decision of the Court of Appeals dated 26 November 2001 and its Resolution dated 09 July 2002 are hereby REVERSED and SET ASIDE. The Decision of the Regional Trial Court of Quezon City, Branch 104, dated 26 April 1999 is hereby AFFIRMED. No costs.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Tinga, JJ., concur.

[1] Now Dusit Hotel Nikko.

[2] Penned by Associate Justice Eugenio S. Labitoria with Justices Teodoro P. Regino and Rebecca de Guia-Salvador concurring (Rollo, pp. 48-57).

[3] Penned by Judge Thelma A. Ponferrada.

[4] Penned by Associate Justice Eugenio S. Labitoria with Justices Teodoro P. Regino and Rebecca de Guia-Salvador concurring (Rollo, pp. 59-60).

[5] TSN, 08 March 1995, p. 8.

[6] Id. at 10.

[7] Ibid.

[8] Id. 11.

[9] Id. at 13.

[10] Id. at 13 & 16.

[11] COMPLAINT, RTC Record, p. 2.

[12] Supra, note 5 at 17.

[13] Supra, note 11.

[14] Ibid.

[15] Id. at 2-3.

[16] Id. at 3.

[17] Ibid.

[18] TSN, 27 July 1996, p. 9.

[19] Id. at 10.

[20] Id. at 12-13, 15.

[21] Id. at 15-17, 25.

[22] Id. at 25.

[23] Id. at 27.

[24] Ibid.

[25] Id. at 31-32.

[26] Id. at 33.

[27] Id. at 37.

[28] Id. at 38-39.

[29] Ibid.

[30] Petition, Rollo, p. 18.

[31] Supra, note 29 at 41-42.

[32] Id. at 42-43.

[33] Answer, pp. 32-33, RTC Records; RTC Decision, Rollo p. 62; TSN, 27 July 1995, pp. 43-46.

[34] TSN, 05 November 1997, p. 15.

[35] Violeta Filart's "ANSWER WITH COMPULSORY COUNTERCLAIM," RTC Records, p. 21.

[36] Supra, note 34 at 17.

[37] Or "Captain Batung" from the testimony of Ruby Lim; Id. at 18.

[38] Id. at 19.

[39] Ibid.

[40] Ibid.

[41] Dismissed as well were the counterclaims filed by then defendants Nikko Hotel Manila Garden, Ruby Lim and Violeta Filart, RTC Records, p. 347.

[42] RTC Records, p. 342.

[43] CA Rollo, p. 205.

[44] Id. at 208-209.

[45] Id. at 238.

[46] CA Rollo, pp. 239-240.

[47] E.L. Pineda, Torts and Damages Annotated, p. 52 (2004 ed).

[48] *Garciano v. Court of Appeals*, G.R. No. 96126, 10 August 1992, 212 SCRA 436, 440.

[49] cf. *Servicewide Specialists, Inc. v. Intermediate Appellate Court*, G.R. No. 74553, 08 June 1989, 174 SCRA 80, 88.

[50] Sangco, Torts and Damages Vol.1 , pp. 83-84.

[51] *Floro v. Llenado*, G.R. No. 75723, 02 June 1995, 244 SCRA 713, 720.

[52] Ibid.

[53] TSN, 22 May 1999, p. 11.

[54] Admitted by Mr. Reyes, see TSN, 15 March 1995, p. 10.

[55] TSN, 15 March 1995, p. 20.

[56] RTC Records, pp. 340-341.

[57] Danny Rodinas and Pepito Guerrero (TSN, 18 May 1995), Alexander Silva (TSN, 21 June 1995).

[58] Article 2180, Civil Code.

[59] *Globe-Mackay Cable and Radio Corp. v. Court of Appeals*, G.R. No. 81262, 25 August 1989, 176 SCRA 779, 783.

[60] *Albenson Enterprises Corp. v. Court of Appeals*, G.R. No. 88694, 11 January 1993, 217 SCRA 16, 25.

[61] *Supra*, note 61 at 783-784.

[62] *Ibid*.

[63] *Supra*, note 62.

[64] Art. 20. Every person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same. See *Globe Mackay*, *supra*, note 61 at 784.

[65] Civil Code.

[66] *Supra*, note 62 at 25.

[67] Civil Code.

[68] *Ibid*.

[69] "COMMENT," Rollo, p. 302; "MEMORANDUM," Rollo, p. 417.

[70] CA Rollo, p. 209.

[71] In fact, Mrs. Filart herself, in her testimony and in her pleadings, consistently disclaimed having invited Mr. Reyes to the party such that when Mr. Reyes was being escorted out of the penthouse, she lifted nary a finger to his rescue.

[72] Art. 2234, Civil Code.

[73] CA Rollo, pp. 209-210.

[74] Appellant's Brief, CA Rollo, p. 27; see also TSN, 08 March 1995, pp. 7-8.

[75] TSN, 29 October 1998, p. 11.

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