

**ALICE A.I. SANDEJAS, ROSITA A.I. CUSI, PATRICIA A.I. SANDEJAS
AND BENJAMIN A.I. ESPIRITU, PETITIONERS, VS. SPS. ARTURO
IGNACIO, JR. AND EVELYN IGNACIO, RESPONDENTS.**

G.R. No. 155033. December 19, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court assailing the Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 62404 promulgated on August 27, 2002, which affirmed with modification the Decision of the Regional Trial Court (RTC) of Pasig City, Branch 158, in Civil Case No. 65146 dated December 18, 1998.

The facts of the case, as summarized by the RTC, are as follows:

It appears from the plaintiffs' [petitioners] evidence that Arturo [respondent] is the elder brother of Alice [petitioner] and Rosita [petitioner], Benjamin [petitioner] and Patricia [petitioner] are Arturo's nephew and niece. Arturo and his wife Evelyn [respondent] are residents of the United States. In October 1993, Arturo leased from Dr. Borja a condominium unit identified as Unit 28-C Gilmore Townhomes located at Granada St., Quezon City. The lease was for the benefit of Benjamin who is the occupant of the unit. The rentals were paid by Ignacio. The term of the lease is for one (1) year and will expire on October 15, 1994. It appears that Arturo was intending to renew the lease contract. As he had to leave for the U.S., Arturo drew up a check, UCPB Check No. GRH-560239 and wrote on it the name of the payee, Dr. Manuel Borja, but left blank the date and amount. He signed the check. The check was intended as payment for the renewal of the lease. The date and the amount were left blank because Arturo does not know when it will be renewed and the new rate of the lease. The check was left with Arturo's sister-in-law, who was instructed to deliver or give it to Benjamin.

The check later came to the possession of Alice who felt that Arturo cheated their sister in the amount of three million pesos (P3,000,000.00). She believed that Arturo and Rosita had a joint "and/or" money market placement in the amount of P3 million with the UCPB branch at Ortigas Ave., San Juan and that Ignacio preterminated the placement and ran away with it, which rightfully belonged to Rosita. Alice then inquired from UCPB Greenhills branch if Arturo still has an account with them. On getting a confirmation, she together with Rosita drew up a scheme to recover the P3 million from Arturo. Alice filled up the date of the check with "March 17, 1995" and the amount with "three million only." Alice got her driver, Kudera, to stand as the payee of the check, Dr. Borja. Alice and Rosita came to SBC[2] Greenhills Branch together with a man (Kudera) who[m] they introduced as Dr. Borja to the then Assistant Cashier Luis. After introducing the said man as Dr. Borja, Rosita, Alice and the man who was later identified as Kudera opened a Joint Savings Account No. 271-410554-7. As initial deposit for the Joint Savings Account, Alice, Rosita and Kudera deposited the check. No ID card was required of Mr. Kudera because it is an internal policy of the bank that when a valued client opens an account, an identification card is no longer required (TSN, April 21, 1997, pp. 15-16). SBC also allowed the check to be deposited without the endorsement of the impostor Kudera. SBC officials stamped on the dorsal portion of the check "endorsement/lack of endorsement guaranteed" and sent the check for clearing to the Philippine Clearing House Corporation.

On 21 March 1995, after the check had already been cleared by the drawer bank UCPB, Rosita withdrew P1 million from Joint Savings Account and deposited said amount to the current account of Alice with SBC Greenhills Branch. On the same date, Alice caused the transfer of P2 million from the Joint Savings Account to two (2) Investment Savings Account[s] in the names of Alice, Rosita and/or Patricia. ...

On April 4, 1995, a day after Evelyn and Atty. Sanz inquired about the identity of the persons and the circumstances surrounding the deposit and withdrawal of the check, the three million pesos in the two investment savings account[s] and in the current account just opened with SBC were withdrawn by Alice and Rosita.[3]

On June 18, 1995, Arturo Ignacio, Jr. and Evelyn Ignacio (respondents) filed a verified complaint for recovery of a sum of money and damages against Security Bank and Trust Company (SBTC) and its officers, namely: Rene Colin D. Gray, Manager; and Sonia Ortiz-Luis, Cashier. The complaint also impleaded herein petitioner Benjamin A.I. Espiritu (Benjamin), a "John Doe," representing himself as Manuel N. Borja; and a "Jane Doe."

On November 7, 1995, the complaint was amended by additionally impleading herein petitioners Alice A.I. Sandejas (Alice), Rosita A.I. Cusi (Rosita) and Patricia A.I. Sandejas (Patricia) as defendants who filed their respective answers and counterclaims.

After trial, the RTC rendered judgment dated December 18, 1998 with the following dispositive portion:

WHEREFORE, in view of the foregoing, judgment is rendered in favor of plaintiffs as against defendants Security Bank and Trust Co., Rene Colin Gray, Sonia Ortiz Luis, Alice A.I. Sandejas and Rosita A.I. Cusi, ordering them to pay jointly and severally the plaintiffs the following amounts:

(1)

P3,000,000.00 plus legal interest on it from March 17, 1995 until the entire amount is fully paid;

(2)

P500,000.00 as moral damages;

(3)

P200,000.00 as exemplary damages;

(4)

P300,000.00 as attorney's fees; plus

(5)

the cost of suit.

In turn, plaintiffs are directed to pay Benjamin A.I. Espiritu the amount of P100,000.00 as moral damages, P50,000.00 as exemplary damages and another P50,000.00 as attorney's fees.

The counterclaims of Patricia A.I. Sandejas are dismissed.

SO ORDERED.[4]

Both parties appealed the RTC Decision to the CA.

On August 14, 1999, during the pendency of the appeal with the CA, herein respondent Arturo Ignacio, Jr. (Arturo) died.[5]

On August 27, 2002, the CA promulgated the presently assailed Decision, disposing as follows:

WHEREFORE, in view of the foregoing, the assailed decision of the trial court is hereby AFFIRMED with the MODIFICATION that the judgment shall read as follows:

The defendants-appellants Security Bank and Trust Company, Rene Colin D. Gray, Sonia Ortiz-Luis, Alice A.I. Sandejas, and Rosita A.I. Cusi, are hereby ordered to jointly and severally pay the plaintiffs the following amounts:

- P3,000,000.00 plus legal interest computed from March 17, 1995 until the entire amount is fully paid;
- P200,000.00 as moral damages;
- P100,000.00 as exemplary damages;
- P50,000.00 as attorney's fees; plus
- the costs of suit.

The award of moral damages, exemplary damages, and attorney's fees in favor of Benjamin Espiritu is DELETED.

SO ORDERED.[6]

Petitioners and SBTC, together with Gray and Ortiz-Luis, filed their respective petitions for review before this Court.

However, the petition filed by SBTC, Gray and Ortiz-Luis, docketed as G.R. No. 155038, was denied in a Resolution[7] issued by this Court on November 20, 2002, for their failure to properly verify the petition, submit a valid certification of non-forum shopping, and attach to the petition the duplicate original or certified true copy of the assailed CA Decision. Said

Resolution became final and executory on April 9, 2003.[8]

On the other hand, the instant petition was given due course. Petitioners enumerated the following grounds in support of their petition:

- THE COURT OF APPEALS HAD DECIDED A QUESTION OF SUBSTANCE NOT HERETOFORE DECIDED BY THIS COURT AND/OR HAD DECIDED IT IN A WAY PROBABLY NOT IN ACCORD WITH EQUITY, THE LAW AND THE APPLICABLE DECISIONS OF THIS COURT, SUCH AS:

(a) IN NOT HOLDING THAT AS BETWEEN SIBLINGS, THE AGGRIEVED SIBLING HAS THE RIGHT TO TAKE MEASURES OR STEPS TO PROTECT HIS OWN INTEREST OR PROPERTY RIGHTS FROM AN ACT OF THE GUILTY SIBLING;

(b) IN NOT HOLDING THAT THE ACT OF ROSITA AND ALICE IN FILLING OUT THE BLANK PORTIONS OF THE CHECK TO RECOVER WHAT ARTURO, JR. TOOK FROM AND DUE ROSITA, DID NOT GIVE RISE TO AN ACTIONABLE TORT;

(c) IN NOT HOLDING THAT THE CRIMINAL ACT OF ARTURO, JR. IN SUBMITTING AN AFFIDAVIT OF LOSS OF THE CERTIFICATE OF TIME DEPOSIT FOR P3,000,000 THAT RIGHTFULLY BELONGED TO ROSITA JUST TO BE ABLE TO PRE-TERMINATE THE TIME DEPOSIT AND GET ITS FACE VALUE, WHEN HE KNEW IT WAS NOT LOST BUT IN FACT INTACT AND IN THE POSSESSION OF ROSITA, IS A DISHONEST AND REPREHENSIBLE ACT THAT JUSTIFIED ROSITA AND ALICE IN TAKING MEANS TO REGAIN THE MONEY AND TO DENY ARTURO, JR. ANY RIGHT TO RECOVER THE SAID AMOUNT AS WELL AS TO AN AWARD OF

DAMAGES;

(d) IN NOT HOLDING THAT THE CRIMINAL ACT OF ARTURO, JR. IN SUBMITTING AN AFFIDAVIT OF LOSS OF THE OWNER'S COPY OF THE TITLE IN MORAYTA AND IN TESTIFYING IN COURT AS TO SUCH, WHEN THAT IS NOT THE TRUTH AS HE KNEW THAT THE ORIGINAL OWNER'S COPY OF THE TITLE WAS WITH ROSITA, IS ANOTHER DISHONEST AND REPREHENSIBLE ACT THAT SHOULD NOT HAVE ENTITLED HIM TO ANY AWARD OF DAMAGES; AND

(e) IN NOT APPLYING THE RULE ON PARI DELICTO UNDER ART. 1412 OF THE CIVIL CODE.

- THE COURT OF APPEALS HAD DEPARTED FROM THE USUAL COURSE OF JUDICIAL PROCEEDINGS WHEN IT FAILED TO RESOLVE IN THE APPEAL THE COUNTERCLAIM OF ROSITA AGAINST ARTURO, JR. FOR THE RECOVERY OF THE AMOUNTS LEGALLY HERS THAT SHOULD JUSTIFY ALICE'S BEING ABSOLVED FROM ANY LIABILITY FOR USING THE CHECK IN RECOVERING THE AMOUNT RIGHTFULLY BELONGING TO ROSITA;

- THE COURT OF APPEALS HAD DEPARTED FROM THE USUAL COURSE OF JUDICIAL PROCEEDINGS WHEN IT REVERSED THE TRIAL COURT'S FINDING THAT RESPONDENT WAS GUILTY OF BAD FAITH AND MALICE THAT ENTITLED PETITIONER BENJAMIN A.I. ESPIRITU TO THE AWARD OF DAMAGES NOTWITHSTANDING THAT THERE WAS AMPLE EVIDENCE SHOWN THAT SUCH BAD FAITH AND MALICE WAS MADE AS A LEVERAGE TO COMPEL ARTURO'S SIBLINGS TO RETURN TO HIM THE P3,000,000 WHICH WAS NOT HIS; and,

- THE COURT OF APPEALS HAD DECIDED THE CASE NOT IN ACCORD WITH LAW WHEN IT DELETED THE AWARD OF DAMAGES TO PETITIONER ESPIRITU AND IN NOT HAVING RULED THAT HE WAS ENTITLED TO A HIGHER AWARD OF DAMAGES CONSIDERING THE CIRCUMSTANCES OF THE CASE AS WELL AS IN NOT HAVING RULED THAT PATRICIA WAS ENTITLED TO AN AWARD OF DAMAGES.[9]

Petitioners argue that the CA overlooked and ignored vital pieces of evidence showing that the encashment of the subject check was not fraudulent and, on the contrary, was justified under the circumstances; and that such encashment did not amount to an actionable tort and that it merely called for the application of the civil law rule on *pari delicto*.

In support of these arguments, petitioners contend that the principal adversaries in the present case are full blooded siblings; that the law recognizes the solidarity of family which is why it is made a condition that earnest efforts towards a compromise be exerted before one family member can institute a suit against the other; that even if Arturo previously defrauded Rosita and deprived her of her lawful share in the sale of her property, petitioners Rosita and Alice did not precipitately file suit against him and instead took extra-legal measures to protect Rosita's property rights and at the same time preserve the solidarity of their family and save it from public embarrassment. Petitioners also aver that Rosita's and Alice's act of encashing the subject check is not fraudulent because they did not have any unlawful intent and that they merely took from Arturo what rightfully belonged to Rosita. Petitioners contend that even granting that the act of Rosita and Alice amounted to an actionable tort, they could not be adjudged liable to return the amount to respondents or to pay damages in their favor, because the civil law rule on *pari delicto* dictates that, when both parties are at fault, neither of them could expect positive relief from courts of justice and, instead, are left in the state where they were at the time of the filing of the case.

Petitioners also contend that the CA erred in failing to award damages to Patricia even if the appellate court sustained the trial court's finding that she was not a party to the fraudulent acts committed by Rosita and Alice. Petitioners argue that even if Patricia did not bother to know the details of the cases against her and left everything

to her mother, she did not even know the nature of the case against her, or her superiors in the bank where she worked did not know whether she was the plaintiff or defendant, these were not reasons to deny her award of damages. The fact remains that she had been maliciously dragged into the case, and that the suit had adversely affected her work and caused her mental worries and anguish, besmirched reputation, embarrassment and humiliation.

As to Benjamin, petitioners aver that the CA also erred in deleting the award of damages and attorney's fees in his favor. Petitioners assert that the trial court found that Benjamin suffered mental anguish, wounded feelings and moral shock as a result of the filing of the present case. Citing the credentials and social standing of Benjamin, petitioners claim that the award of damages and attorney's fees in his favor should be increased.

Lastly, petitioners contend that the award of damages and attorney's fees to respondents should be deleted for their failure to establish malice or bad faith on the part of petitioners Alice and Rosita in recovering the P3,000,000.00 which Arturo took from Rosita; and that it is Rosita who is entitled to damages and attorney's fees for Arturo's failure and refusal to give her share in the sale of her property in Morayta.

In their Memorandum, respondents simply contend that the issues raised by petitioners are factual in nature and that the settled rule is that questions of fact are not subject to review by the Supreme Court in a petition for review on certiorari under Rule 45 of the Rules of Court. While there are exceptions to this rule, respondents assert that petitioners failed to show that the instant case falls under any of these exceptions.

The Court's Ruling

The Court finds the petition bereft of merit. There is no compelling reason for the Court to disturb the findings of facts of the lower courts.

The trial court's findings are as follows: (1) Rosita failed to establish that there is an agreement between her and Arturo that the latter will give her one-third of the proceeds of the sale of the Morayta property; (2) petitioners were not able to establish by clear and sufficient evidence that the P3,000,000.00 which they took from Arturo when they encashed the subject check was part of the proceeds of the sale of the Morayta property; (3) Rosita's counterclaim is permissive and she failed to pay the full docket and filing fees for her counterclaim.[10]

Petitioners challenge the findings of the RTC and insist that they should not be held liable for encashing the subject check because Arturo defrauded Rosita and that he committed deceitful acts which deprived her of her rightful share in the sale of her building in Morayta; that the amount of P3,000,000.00 represented by the check which they encashed formed part of the proceeds of the said sale; that Alice and Rosita were merely moved by their desire to recover from Arturo, Rosita's supposed share in the sale of her property.

However, the Court agrees with respondents that only questions of law are entertained in petitions for review on certiorari under Rule 45 of the Rules of Court.[11] The trial court's findings of fact, which the Court of Appeals affirmed, are generally binding and conclusive upon this court.[12] There are recognized exceptions to this rule, among which are: (1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of facts are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the finding of absence of facts is contradicted by the presence of evidence on record; (8) the findings of the CA are contrary to the findings of the trial court; (9) the CA manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the CA are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.[13] In the instant case, petitioners failed to demonstrate that their petition falls under

any one of the above exceptions.

Petitioners' assignments of errors boil down to the basic issue of whether or not Alice and Rosita are justified in encashing the subject check given the factual circumstances established in the present case.

Petitioners' posture is not sanctioned by law. If they truly believe that Arturo took advantage of and violated the rights of Rosita, petitioners should have sought redress from the courts and should not have simply taken the law into their own hands. Our laws are replete with specific remedies designed to provide relief for the violation of one's rights. In the instant case, Rosita could have immediately filed an action for the nullification of the sale of the building she owns in light of petitioners' claim that the document bearing her conformity to the sale of the said building was taken by Arturo from her without her knowledge and consent. Or, in the alternative, as the CA correctly held, she could have brought a suit for the collection of a sum of money to recover her share in the sale of her property in Morayta. In a civilized society such as ours, the rule of law should always prevail. To allow otherwise would be productive of nothing but mischief, chaos and anarchy. As a lawyer, who has sworn to uphold the rule of law, Rosita should know better. She must go to court for relief.

It is true that Article 151 of the Family Code requires that earnest efforts towards a compromise be made before family members can institute suits against each other. However, nothing in the law sanctions or allows the commission of or resort to any extra-legal or illegal measure or remedy in order for family members to avoid the filing of suits against another family member for the enforcement or protection of their respective rights.

Petitioners invoke the rule of *pari delicto* to support their contention that respondents do not deserve any relief from the courts.

The principle of *pari delicto* provides that when two parties are equally at fault, the law leaves them as they are and denies recovery by either one of them.^[14] Indeed, one who seeks equity and justice must come to court with clean hands.^[15] However, in the present case, petitioners were not able to establish that respondents are also at fault. Thus, the principle of *pari delicto* cannot apply.

In any case, the application of the *pari delicto* principle is not absolute, as there are exceptions to its application.^[16] One of these exceptions is where the application of the *pari delicto* rule would violate well-established public policy.^[17] The prevention of lawlessness and the maintenance of peace and order are established public policies. In the instant case, to deny respondents relief on the ground of *pari delicto* would put a premium on the illegal act of petitioners in taking from respondents what the former claim to be rightfully theirs.

Petitioners also question the trial court's ruling that their counterclaim is permissive. This Court has laid down the following tests to determine whether a counterclaim is compulsory or not, to wit: (1) Are the issues of fact or law raised by the claim and the counterclaim largely the same? (2) Would *res judicata* bar a subsequent suit on defendant's claims, absent the compulsory counterclaim rule? (3) Will substantially the same evidence support or refute plaintiff's claim as well as the defendant's counterclaim? and (4) Is there any logical relation between the claim and the counterclaim, such that the conduct of separate trials of the respective claims of the parties would entail a substantial duplication of effort and time by the parties and the court?^[18]

Tested against the above-mentioned criteria, this Court agrees with the view of the RTC that Rosita's counterclaim for the recovery of her alleged share in the sale of the Morayta property is permissive in nature. The evidence needed to prove respondents' claim to recover the amount of P3,000,000.00 from petitioners is different from that required to establish Rosita's demands for the recovery of her alleged share in the sale of the subject Morayta property. The recovery of respondents' claim is not contingent or dependent upon the establishment of Rosita's counterclaim such that conducting separate trials will not result in the substantial duplication of the time and

effort of the court and the parties.

In *Sun Insurance Office, Ltd., (SIOL) v. Asuncion*,^[19] this Court laid down the rules on the payment of filing fees, to wit:

- It is not simply the filing of the complaint or appropriate initiatory pleading, but the payment of the prescribed docket fee, that vests a trial court with jurisdiction over the subject-matter or nature of the action. Where the filing of the initiatory pleading is not accompanied by payment of the docket fee, the court may allow payment of the fee within a reasonable time but in no case beyond the applicable prescriptive or reglementary period.
- The same rule applies to permissive counterclaims, third-party claims and similar pleadings, which shall not be considered filed until and unless the filing fee prescribed therefor is paid. The court may allow payment of said fee within a reasonable time but also in no case beyond its applicable prescriptive or reglementary period.
- Where the trial court acquires jurisdiction over a claim by the filing of the appropriate pleading and payment of the prescribed filing fee but, subsequently, the judgment awards a claim not specified in the pleading, or if specified the same has been left for determination by the court, the additional filing fee therefor shall constitute a lien on the judgment. It shall be the responsibility of the Clerk of Court or his duly authorized deputy to enforce said lien and assess and collect the additional fee.^[20]

In order for the trial court to acquire jurisdiction over her permissive counterclaim, Rosita is bound to pay the prescribed docket fees.^[21] Since it is not disputed that Rosita never paid the docket and filing fees, the RTC did not acquire jurisdiction over her permissive counterclaim. Nonetheless, the trial court ruled on the merits of Rosita's permissive counterclaim by dismissing the same on the ground that she failed to establish that there is a sharing agreement between her and Arturo with respect to the proceeds of the sale of the subject Morayta property and that the amount of P3,000,000.00 represented by the check which Rosita and Alice encashed formed part of the proceeds of the said sale.

It is settled that any decision rendered without jurisdiction is a total nullity and may be struck down at any time, even on appeal before this Court.^[22]

In the present case, considering that the trial court did not acquire jurisdiction over the permissive counterclaim of Rosita, any proceeding taken up by the trial court and any ruling or judgment rendered in relation to such counterclaim is considered null and void. In effect, Rosita may file a separate action against Arturo for recovery of a sum of money.

However, Rosita's claims for damages and attorney's fees are compulsory as they necessarily arise as a result of the filing by respondents of their complaint. Being compulsory in nature, payment of docket fees is not required.^[23] Nonetheless, since petitioners are found to be liable to return to respondents the amount of P3,000,000.00 as well as to pay moral and exemplary damages and attorney's fees, it necessarily follows that Rosita's counterclaim for damages and attorney's fees should be dismissed as correctly done by the RTC and affirmed by the CA.

As to Patricia's entitlement to damages, this Court has held that while no proof of pecuniary loss is necessary in order that moral damages may be awarded, the amount of indemnity being left to the discretion of the court, it is nevertheless essential that the claimant should satisfactorily show the existence of the factual basis of damages and its causal connection to defendant's acts.^[24] This is so because moral damages, though incapable of pecuniary estimation, are in the category of an award designed to compensate the claimant for actual injury suffered and not to impose a penalty on the wrongdoer.^[25] Moreover, additional facts must be pleaded and proven to warrant the grant of moral damages under the Civil Code, these being, social humiliation, wounded

feelings, grave anxiety, etc. that resulted from the act being complained of.[26] In the present case, both the RTC and the CA were not convinced that Patricia is entitled to damages. Quoting the RTC, the CA held thus:

With respect to Patricia, she did not even bother to know the details of the case against her, she left everything to the hands of her mother Alice. Her attitude towards the case appears weird, she being a banker who seems so concerned of her reputation.

Aside from the parties to this case, her immediate superiors in the BPI knew that she is involved in a case. They did not however know whether she is the plaintiff or the defendant in the case. Further, they did not know the nature of the case that she is involved in. It appears that Patricia has not suffered any of the injuries enumerated in Article 2217 of the Civil Code, thus, she is not entitled to moral damages and attorney's fees.[27]

This Court finds no cogent reason to depart from the above-quoted findings as Patricia failed to satisfactorily show the existence of the factual basis for granting her moral damages and the causal connection of such fact to the act of respondents in filing a complaint against her.

In addition, and with respect to Benjamin, the Court agrees with the CA that in the absence of a wrongful act or omission, or of fraud or bad faith, moral damages cannot be awarded.[28] The adverse result of an action does not per se make the action wrongful, or the party liable for it.[29] One may err, but error alone is not a ground for granting such damages.[30] In the absence of malice and bad faith, the mental anguish suffered by a person for having been made a party in a civil case is not the kind of anxiety which would warrant the award of moral damages.[31]

A resort to judicial processes is not, per se, evidence of ill will upon which a claim for damages may be based.[32]

In *China Banking Corporation v. Court of Appeals*,[33] this Court held:

Settled in our jurisprudence is the rule that moral damages cannot be recovered from a person who has filed a complaint against another in good faith, or without malice or bad faith (*Philippine National Bank v. Court of Appeals*, 159 SCRA 433 [1988]; *R & B Surety and Insurance v. Intermediate Appellate Court*, 129 SCRA 736 [1984]). If damage results from the filing of the complaint, it is *damnum absque injuria* (*Ilocos Norte Electrical Company v. Court of Appeals*, 179 SCRA 5 [1989]).[34]

In the present case, the Court agrees with the RTC and the CA that petitioners failed to establish that respondents were moved by bad faith or malice in impleading Patricia and Benjamin. Hence, Patricia and Benjamin are not entitled to damages.

The Court sustains the award of moral and exemplary damages as well as attorney's fees in favor of respondents.

As to moral damages, Article 20 of the Civil Code provides that every person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same. In addition, Article 2219 (10) of the Civil Code provides that moral damages may be recovered in acts or actions referred to in Articles 21, 26, 27, 28, 29, 30, 32, 34 and 35 of the same Code. More particularly, Article 21 of the said Code provides that 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. In the present case, the act of Alice and Rosita in fraudulently encashing the subject check to the prejudice of respondents is certainly a violation of law as well as of the public policy that no one should put the law into his own hands. As to SBTC and its officers, their negligence is so gross as to amount to a willful injury to respondents. The banking system has become an indispensable institution in the modern world and plays a vital role in the economic life of every civilized society.[35] Whether as mere passive entities for the safe-keeping and saving of money or as active instruments of business and commerce,

banks have attained a ubiquitous presence among the people, who have come to regard them with respect and even gratitude and most of all, confidence.[36] For this reason, banks should guard against injury attributable to negligence or bad faith on its part.[37]

There is no hard-and-fast rule in the determination of what would be a fair amount of moral damages since each case must be governed by its own peculiar facts.[38] The yardstick should be that it is not palpably and scandalously excessive.[39] Moreover, the social standing of the aggrieved party is essential to the determination of the proper amount of the award.[40] Otherwise, the goal of enabling him to obtain means, diversions, or amusements to restore him to the status quo ante would not be achieved.[41] In the present case, the Court finds no cogent reason to modify the amount of moral damages granted by the CA.

Likewise, the Court finds no compelling reason to disturb the modifications made by the CA on the award of exemplary damages and attorney's fees.

Under Article 2229 of the Civil Code, exemplary or corrective damages are imposed by way of example or correction for the public good, in addition to moral, temperate, liquidated, or compensatory damages. In the instant case, the award of exemplary damages in favor of respondents is in order for the purpose of deterring those who intend to enforce their rights by taking measures or remedies which are not in accord with law and public policy. On the part of respondent bank, the public relies on a bank's sworn profession of diligence and meticulousness in giving irreproachable service.[42] Hence, the level of meticulousness must be maintained at all times by the banking sector.[43] In the present case the award of exemplary damages is justified by the brazen acts of petitioners Rosita and Alice in violating the law coupled with the gross negligence committed by respondent bank and its officers in allowing the subject check to be deposited which later paved the way for its encashment.

As to attorney's fees, Article 2208 of the same Code provides, among others, that attorney's fees may be recovered when exemplary damages are awarded or when the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest.

WHEREFORE, the instant petition is DENIED. The Decision of the Court of Appeals dated August 27, 2002 in CA-G.R. CV No. 62404 is AFFIRMED.

Costs against the petitioners.

SO ORDERED.

Ynares-Santiago, (Chairperson), Carpio Morales,[*] Chico-Nazario, and Nachura, JJ., concur.

[*] Per raffle dated December 3, 2007.

[1] Penned by Justice Amelita G. Tolentino with the concurrence of Justices Ruben T. Reyes (now a member of this Court) and Renato C. Dacudao; rollo, pp. 121-137.

[2] Security Bank and Trust Company.

[3] RTC Decision, rollo, pp. 110-111.

[4] Rollo, pp. 118-119.

[5] CA rollo, pp. 100-102.

[6] Id. at 520.

- [7] Id. at 539.
- [8] CA rollo, p. 542.
- [9] Petition, rollo, pp. 17-18.
- [10] RTC Decision, rollo, pp. 117-118.
- [11] Iron Bulk Shipping Phil. Co., Ltd. v. Remington Industrial Sales Corp., 462 Phil. 694, 703 (2003).
- [12] Id. at 703-704.
- [13] Id. at 704.
- [14] Yu Bun Guan v. Ong, 419 Phil. 845, 856 (2001).
- [15] Tala Realty Services Corporation v. Banco Filipino Savings and Mortgage Bank, 441 Phil. 1, 45 (2002).
- [16] Pajuyo v. Court of Appeals, G.R. No. 146364, June 3, 2004, 430 SCRA 492, 515, citing Silagan v. Intermediate Appellate Court, 274 Phil. 182, 193 (1991).
- [17] Id.
- [18] Tan v. Kaakbay Finance Corporation, 452 Phil. 637, 647 (2003), citing Intestate Estate of Dalisay v. Hon. Marasigan, 327 Phil. 298, 301 (1996) and Quintanilla v. Court of Appeals, 344 Phil. 811, 819 (1997).
- [19] G.R. Nos. 79937-38, February 13, 1989, 170 SCRA 274.
- [20] Id. at 285.
- [21] Suson v. Court of Appeals, 343 Phil. 816, 825 (1997).
- [22] Lopez v. David, Jr., G.R. No. 152145, March 30, 2004, 426 SCRA 535, 543.
- [23] Tan v. Kaakbay, supra note 18, at 648.
- [24] Mahinay v. Velasquez, Jr., 464 Phil. 146, 149 (2004), citing Kierulf v. Court of Appeals, 336 Phil. 414, 431-432 (1997).
- [25] Mahinay v. Velasquez, Jr., id. at 149-150; Kierulf v. Court of Appeals, id. at 432.
- [26] Mahinay v. Velasquez, Jr., id. at 150; Kierulf v. Court of Appeals, id.
- [27] CA rollo, p. 518.
- [28] Bank of the Philippine Islands v. Casa Montessori Internationale, G.R. No. 149454, May 28, 2004, 430 SCRA 261, 293-294.
- [29] Id at 294.
- [30] Id.
- [31] Padillo v. Court of Appeals, 422 Phil. 334, 356 (2001).
- [32] Ceballos v. Intestate Estate of the Late Emigdio Mercado, G.R. No. 155856, May 28, 2004, 430 SCRA 323, 336.
- [33] G.R. No. 94182, March 28, 1994, 231 SCRA 472.

[34] Id. at 478.

[35] Cagungan v. Planters Development Bank, G.R. No. 158674, October 17, 2005, 473 SCRA 259, 273-274.

[36] Id. at 274

[37] Id.

[38] Id. at 273.

[39] Id.

[40] Samson, Jr. v. Bank of the Philippine Islands, 453 Phil. 577, 585 (2003).

[41] Id. at 585.

[42] Prudential Bank v. Court of Appeals, 384 Phil. 817, 826 (2000).

[43] Id.

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