

EQUITABLE PCI BANK (THE BANKING ENTITY INTO WHICH PHILIPPINE COMMERCIAL INTERNATIONAL BANK WAS MERGED), PETITIONER, VS. ROWENA ONG, RESPONDENT.*G.R. NO. 156207. September 15, 2006*

Ponente: CHICO-NAZARIO, J.

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On 29 November 1991, Warliza Sarande deposited in her account at Philippine Commercial International (PCI) Bank Magsaysay Avenue, Santa Ana District, Davao City Branch, under Account No. 8502-00347-6, a PCI Bank General Santos City Branch, TCBT[1] Check No. 0249188 in the amount of P225,000.00. Upon inquiry by Sarande at PCI Bank on 5 December 1991 on whether TCBT Check No. 0249188 had been cleared, she received an affirmative answer. Relying on this assurance, she issued two checks drawn against the proceeds of TCBT Check No. 0249188. One of these was PCI Bank Check No. 073661 dated 5 December 1991 for P132,000.00 which Sarande issued to respondent Rowena Ong Owing to a business transaction. On the same day, Ong presented to PCI Bank Magsaysay Avenue Branch said Check No. 073661, and instead of encashing it, requested PCI Bank to convert the proceeds thereof into a manager's check, which the PCI Bank obliged. Whereupon, Ong was issued PCI Bank Manager's Check No. 10983 dated 5 December 1991 for the sum of P132,000.00, the value of Check No. 073661.

The next day, 6 December 1991, Ong deposited PCI Bank Manager's Check No. 10983 in her account with Equitable Banking Corporation Davao City Branch. On 9 December 1991, she received a check return-slip informing her that PCI Bank had stopped the payment of the said check on the ground of irregular issuance. Despite several demands made by her to PCI Bank for the payment of the amount in PCI Bank Manager's Check No. 10983, the same was met with refusal; thus, Ong was constrained to file a Complaint for sum of money, damages and attorney's fees against PCI Bank.[2]

From PCI Bank's version, TCBT-General Santos City Check No. 0249188 was returned on 5 December 1991 at 5:00 pm on the ground that the account against which it was drawn was already closed. According to PCI Bank, it immediately gave notice to Sarande and Ong about the return of Check No. 0249188 and requested Ong to return PCI Bank Manager's Check No. 10983 inasmuch as the return of Check No. 0249188 on the ground that the account from which it was drawn had already been closed resulted in a failure or want of consideration for the issuance of PCI Bank Manager's Check No. 10983.[3]

After the pre-trial conference, Ong filed a motion for summary judgment.[4] Though they were duly furnished with a copy of the motion for summary judgment, PCI Bank and its counsel failed to appear at the scheduled hearing.[5] Neither did they file any written comment or opposition thereto. The trial court thereafter ordered Ong to formally offer her exhibits in writing, furnishing copies of the same to PCI Bank which was directed to file its comment or objection.[6]

Ong complied with the Order of the trial court, but PCI Bank failed to file any comment or objection within the

period given to it despite receipt of the same order.[7] The trial court then granted the motion for summary judgment and in its Order dated 2 March 1995, it held:

IN THE LIGHT OF THE FOREGOING, the motion for summary judgment is GRANTED, ordering defendant Philippine Commercial International Bank to pay the plaintiff the amount of ONE HUNDRED THIRTY-TWO THOUSAND PESOS (P132,000.00) equivalent to the amount of PCIB Manager's Check No. 10983.

Set the reception of the plaintiff's evidence with respect to the damages claimed in the complaint.[8]

PCI Bank filed a Motion for Reconsideration which the trial court denied in its Order dated 11 April 1996.[9] After the reception of Ong's evidence in support of her claim for damages, the trial court rendered its Decision[10] dated 3 May 1999 wherein it ruled:

IN LIGHT OF THE FOREGOING CONSIDERATION, and as plaintiff has preponderantly established by competent evidence her claims in the Complaint, judgment is hereby rendered for the plaintiff against the defendant-bank ordering the latter:

- To pay the plaintiff the sum of FIFTY THOUSAND PESOS (P50,000.00) in the concept of moral damages;
- To pay the plaintiff the sum of TWENTY THOUSAND PESOS (P20,000.00) as exemplary damages;
- To pay the plaintiff the sum of THREE THOUSAND FIVE HUNDRED PESOS (P3,500.00) representing actual expenses;
- To pay the plaintiff the sum of TWENTY THOUSAND PESOS (P20,000.00) as and for attorney's fee's; and
- To pay the costs.[11]

From this decision, PCI Bank sought recourse before the Court of Appeals. In a Decision[12] dated 29 October 2002, the appellate court denied the appeal of PCI Bank and affirmed the orders and decision of the trial court.

Unperturbed, PCI Bank then filed the present petition for review before this Court and raised the following issues:

- WHETHER OR NOT THE COURT OF APPEALS COMMITTED A GRAVE AND REVERSIBLE ERROR WHEN IT SUSTAINED THE LOWER COURT'S ORDER DATED 2 MARCH 1999 GRANTING RESPONDENT'S MOTION FOR SUMMARY JUDGMENT NOTWITHSTANDING THE GLARING FACT THAT THERE ARE GENUINE, MATERIAL AND FACTUAL ISSUES WHICH REQUIRE THE PRESENTATION OF EVIDENCE.
- WHETHER OR NOT THE COURT OF APPEALS WAS IN ERROR WHEN IT SUSTAINED THE LOWER COURT'S DECISION DATED 3 MAY 1999 GRANTING THE RELIEFS PRAYED FOR IN RESPONDENT ONG'S COMPLAINT INSPITE OF THE FACT THAT RESPONDENT ONG WOULD BE "UNJUSTLY ENRICHED" AT THE EXPENSE OF PETITIONER BANK, IF PETITIONER BANK WOULD BE REQUIRED TO PAY AN UNFUNDED CHECK.
- WHETHER OR NOT THE COURT OF APPEALS COMMITTED REVERSIBLE ERRORS WHEN IT AFFIRMED THE COURT A QUO'S DECISION DATED 3 MAY 1999 AWARDING DAMAGES TO RESPONDENT ONG AND HOLDING THAT RESPONDENT ONG HAD PREPONDERANTLY ESTABLISHED BY COMPETENT EVIDENCE HER CLAIMS IN THE COMPLAINT INSPITE OF THE FACT THAT THE EVIDENCE ON RECORD DOES NOT JUSTIFY THE AWARD OF DAMAGES.
- WHETHER OR NOT THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN IT AFFIRMED THE LOWER COURT'S FACTUAL FINDING IN ITS DECISION DATED 3 MAY 1999 HOLDING RESPONDENT ONG A "HOLDER IN DUE COURSE" INSPITE OF THE FACT THAT THE REQUISITE OF "GOOD FAITH" AND FOR VALUE IS LACKING AND DESPITE THE ABSENCE OF A

PROPER TRIAL TO DETERMINE SUCH FACTUAL ISSUE.

- WHETHER OR NOT THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN IT UPHELD THE LOWER COURT'S DECISION DATED 3 MAY 1999 DENYING PETITIONER EPCI BANK'S COUNTERCLAIM INSPITE OF THE FACT THAT IT WAS SHOWN THAT RESPONDENT ONG'S COMPLAINT LACKS MERIT.[13]

We affirm the Decision of the trial court and the Court of Appeals.

The provision on summary judgment is found in Section 1, Rule 35 of the 1997 Rules of Court:

SECTION 1. Summary judgment for claimant. - A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory relief may, at any time after the pleading in answer thereto has been served, move with supporting affidavits, depositions or admissions for a summary judgment in his favor upon all or any part thereof.

Thus, it has been held that a summary judgment is proper where, upon a motion filed after the issues had been joined and on the basis of the pleadings and papers filed, the court finds that there is no genuine issue as to any material fact to except as to the amount of damages. A genuine issue has been defined as an issue of fact which calls for the presentation of evidence, as distinguished from an issue which is sham, fictitious, contrived and patently unsubstantial so as not to constitute a genuine issue for trial.[14]

A court may grant summary judgment to settle expeditiously a case if, on motion of either party, there appears from the pleadings, depositions, admissions, and affidavits that no important issues of fact are involved, except the amount of damages.[15] Rule 35, Section 3, of the Rules of Court provides two requisites for summary judgment to be proper: (1) there must be no genuine issue as to any material fact, except for the amount of damages; and (2) the party presenting the motion for summary judgment must be entitled to a judgment as a matter of law.[16]

Certainly, when the facts as pleaded appear uncontested or undisputed, then there's no real or genuine issue or question as to the facts, and summary judgment is called for.[17]

By admitting it committed an error, clearing the check of Sarande and issuing in favor of Ong not just any check but a manager's check for that matter, PCI Bank's liability is fixed. Under the circumstances, we find that summary judgment was proper and a hearing would serve no purpose. That summary judgment is appropriate was incisively expounded by the trial court when it made the following observation:

[D]efendant-bank had certified plaintiff's PCIB Check No. 073661 and since certification is equivalent to acceptance, defendant-bank as drawee bank is bound on the instrument upon certification and it is immaterial to such liability in favor of the plaintiff who is a holder in due course whether the drawer (Warliza Sarande) had funds or not with the defendant-bank (Security vs. State Bank, 154 N.W. 282) or the drawer was indebted to the bank for more than the amount of the check (Nat. Bank vs. Schmelz, Nat. Bank, 116 S.E. 880) as the certifying bank as all the liabilities under Sec. 62 of the Negotiable Instruments Law which refers to liability of acceptor (Title Guarantee vs. Emadee Realty Corp., 240 N.Y. 36).

It may be true that plaintiff's PCIB Check No. 073661 for P132,000.00 which was paid to her by Warliza Sarande was actually not funded but since plaintiff became a holder in due course, defendant-bank cannot interpose a defense of want or lack of consideration because that defense is equitable or personal and cannot prosper against a holder in due course pursuant to Section 28 of the Negotiable Instruments Law. Therefore, when the aforementioned check was endorsed and presented by the plaintiff and certified to and accepted by defendant-bank in the purchase of PCIB Manager's Check No. 1983 in the amount of P132,000.00, there was a valid consideration.[18]

The property of summary judgment was further explained by this Court when it pronounced that:

The theory of summary judgment is that although an answer may on its face appear to tender issues - requiring trial - yet if it is demonstrated by affidavits, depositions, or admissions that those issues are not genuine, but sham or fictitious, the Court is unjustified in dispensing with the trial and rendering summary judgment for plaintiff. The court is expected to act chiefly on the basis of the affidavits, depositions, admissions submitted by the movant, and those of the other party in opposition thereto. The hearing contemplated (with 10-day notice) is for the purpose of determining whether the issues are genuine or not, not to receive evidence on the issues set up in the pleadings. A hearing is not thus *de riguer*. The matter may be resolved, and usually is, on the basis of affidavits, depositions, admissions. This is not to say that a hearing may be regarded as a superfluity. It is not, and the Court has plenary discretion to determine the necessity therefore.[19]

The second and fourth issues are inter-related and so they shall be resolved together. The second issue has reference to PCI Bank's claim of unjust enrichment on the part of Ong if it would be compelled to make good the manager's check it had issued. As asserted by PCI Bank under the fourth issue, Ong is not a holder in due course because the manager's check was drawn against a closed account; therefore, the same was issued without consideration.

On the matter of unjust enrichment, the fundamental doctrine of unjust enrichment is the transfer of value without just cause or consideration. The elements of this doctrine are: enrichment on the part of the defendant; impoverishment on the part of the plaintiff; and lack of cause. The main objective is to prevent one to enrich himself at the expense of another.[20] It is based on the equitable postulate that it is unjust for a person to retain benefit without paying for it.[21] It is well to stress that the check of Sarande had been cleared by the PCI Bank for which reason the former issued the check to Ong. A check which has been cleared and credited to the account of the creditor shall be equivalent to a delivery to the creditor of cash in an amount equal to the amount credited to his account.[22]

Having cleared the check earlier, PCI Bank, therefore, became liable to Ong and it cannot allege want or failure of consideration between it and Sarande. Under settled jurisprudence, Ong is a stranger as regards the transaction between PCI Bank and Sarande.[23]

PCI Bank next insists that since there was no consideration for the issuance of the manager's check, ergo, Ong is not a holder in due course. This claim is equally without basis. Pertinent provisions of the Negotiable Instruments Law are hereunder quoted:

SECTION 52. What constitutes a holder in due course. - A holder in due course is a holder who has taken the instrument under the following conditions:

- (a) That it is complete and regular upon its face;
- (b) That he became the holder of it before it was overdue, and without notice it had been previously dishonored, if such was the fact;
- (c) That he took it in good faith and for value;
- (d) That at the time it was negotiated to him, he had no notice of any infirmity in the instrument or defect in the title of the person negotiating it.

The same law provides further:

Sec. 24. Presumption of consideration. - Every negotiable instrument is deemed *prima facie* to have been issued for a valuable consideration; and every person whose signature appears thereon to have become a party thereto for value.

Sec. 26. What constitutes holder for value. - Where value has at any time been given for the instrument, the holder is deemed a holder for value in respect to all parties who become such prior to that time.

Sec. 28. Effect of want of consideration. - Absence or failure of consideration is a matter of defense as against any person not a holder in due course; and partial failure of consideration is a defense pro tanto, whether the failure is an ascertained and liquidated amount or otherwise.

Easily discernible is that what Ong obtained from PCI Bank was not just any ordinary check but a manager's check. A manager's check is an order of the bank to pay, drawn upon itself, committing in effect its total resources, integrity and honor behind its issuance. By its peculiar character and general use in commerce, a manager's check is regarded substantially to be as good as the money it represents.[24]

A manager's check stands on the same footing as a certified check.[25] The effect of certification is found in Section 187, Negotiable Instruments Law.

Sec. 187. Certification of check; effect of. - Where a check is certified by the bank on which it is drawn, the certification is equivalent to an acceptance.[26]

The effect of issuing a manager's check was incontrovertibly elucidated when we declared that:

A manager's check is one drawn by the bank's manager upon the bank itself. It is similar to a cashier's check both as to effect and use. A cashier's check is a check of the bank's cashier on his own or another check. In effect, it is a bill of exchange drawn by the cashier of a bank upon the bank itself, and accepted in advance by the act of its issuance. It is really the bank's own check and may be treated as a promissory note with the bank as a maker. The check becomes the primary obligation of the bank which issues it and constitutes its written promise to pay upon demand. The mere issuance of it is considered an acceptance thereof. x x x.[27]

In the case of *New Pacific Timber & Supply Co., Inc. v. Seneris*[28]:

[S]ince the said check had been certified by the drawee bank, by the certification, the funds represented by the check are transferred from the credit of the maker to that of the payee or holder, and for all intents and purposes, the latter becomes the depositor of the drawee bank, with rights and duties of one in such situation. Where a check is certified by the bank on which it is drawn, the certification is equivalent to acceptance. Said certification "implies that the check is drawn upon sufficient funds in the hands of the drawee, that they have been set apart for its satisfaction, and that they shall be so applied whenever the check is presented for payment. It is an understanding that the check is good then, and shall continue good, and this agreement is as binding on the bank as its notes circulation, a certificate of deposit payable to the order of depositor, or any other obligation it can assume. The object of certifying a check, as regards both parties, is to enable the holder to use it as money." When the holder procures the check to be certified, "the check operates as an assignment of a part of the funds to the creditors." Hence, the exception to the rule enunciated under Section 63 of the Central Bank Act to the effect "that a check which has been cleared and credited to the account of the creditor shall be equivalent to a delivery to the creditor in cash in an amount equal to the amount credited to his account" shall apply in this case x x x.

By accepting PCI Bank Check No. 073661 issued by Sarande to Ong and issuing in turn a manager's check in exchange thereof, PCI Bank assumed the liabilities of an acceptor under Section 62 of the Negotiable Instruments Law which states:

Sec. 62. Liability of acceptor. - The acceptor by accepting the instruments engages that he will pay it according to the tenor of his acceptance; and admits --

(a) The existence of the drawer, the genuineness of his signature, and his capacity and authority to draw the instrument; and

(b) The existence of the payee and his then capacity to indorse.

With the above jurisprudential basis, the issues on Ong being not a holder in due course and failure or want of consideration for PCI Bank's issuance of the manager's check is out of sync.

Section 2, of Republic Act No. 8791, The General Banking Law of 2000 decrees:

SEC. 2. Declaration of Policy. - The State recognizes the vital role of banks in providing an environment conducive to the sustained development of the national economy and the fiduciary nature of banking that requires high standards of integrity and performance. In furtherance thereof, the State shall promote and maintain a stable and efficient banking and financial system that is globally competitive, dynamic and responsive to the demands of a developing economy.

In *Associated Bank v. Tan*,^[29] it was reiterated:

"x x x the degree of diligence required of banks is more than that of a good father of a family where the fiduciary nature of their relationship with their depositors is concerned." Indeed, the banking business is vested with the trust and confidence of the public; hence the "appropriate standard of diligence must be very high, if not the highest degree of diligence."

Measured against these standards, the next question that needs to be addressed is: Did PCI Bank exercise the requisite degree of diligence required of it? From all indications, it did not. PCI Bank distinctly made the following uncontested admission:

- On 29 November 1991, one Warliza Sarande deposited to her savings account with PCI Bank's Magsaysay Avenue Branch, TCBT-General Santos Branch Check No. 0249188 for P225,000.00. Said check, however, was inadvertently sent by PCI Bank through local clearing when it should have been sent through inter-regional clearing since the check was drawn at TCBT-General Santos City.
- On 5 December 1991, Warliza Sarande inquired whether TCBT Check No. 0249188 had been cleared. Not having received any advice from the drawee bank within the regular clearing period for the return of locally cleared checks, and unaware then of the error of not having sent the check through inter-regional clearing, PCI Bank advised her that Check No. 024188 is treated as cleared. x x x.^[30] (Emphasis supplied.)

From the foregoing, it is palpable and readily apparent that PCI Bank failed to exercise the highest degree of care^[31] required of it under the law.

In the case of *Philippine National Bank v. Court of Appeals*,^[32] we declared:

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. Whether as mere passive entities for the safe-keeping and saving of money or as active instruments of business and commerce, banks have attained an ubiquitous presence among the people, who have come to regard them with respect and even gratitude and, most of all, confidence.

Having settled the other issues, we now resolve the question on the award of moral and exemplary damages by the trial court to the respondent.

Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission.^[33] The requisites for an award of moral damages are well-defined, thus, firstly, evidence of besmirched reputation or physical, mental or psychological suffering sustained by the claimant; secondly, a culpable act or omission factually established; thirdly, proof that the wrongful act or omission of the defendant is the proximate cause of the damages sustained by the claimant; and fourthly, that the case is predicated on any of

the instances expressed or envisioned by Article 2219[34] and Article 2220[35] of the Civil Code. All these elements are present in the instant case.[36]

In the first place, by refusing to make good the manager's check it has issued, Ong suffered embarrassment and humiliation arising from the dishonor of the said check.[37] Secondly, the culpable act of PCI Bank in having cleared the check of Sarande and issuing the manager's check to Ong is undeniable. Thirdly, the proximate cause of the loss is attributable to PCI Bank. Proximate cause is defined as that cause which, in natural and continuous sequence, unbroken by any efficient intervening cause, produces the injury, and without which the result would not have occurred.[38] In this case, the proximate cause of the loss is the act of PCI Bank in having cleared the check of Sarande and its failure to exercise that degree of diligence required of it under the law which resulted in the loss to Ong.

On exemplary damages, Article 2229 of the Civil Code states:

Art. 2229. Exemplary or corrective damages are imposed, by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages.

The law allows the grant of exemplary damages to set an example for the public good. 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. Whether as mere passive entities for the safe-keeping and saving of money or as active instruments of business and commerce, banks have attained an ubiquitous presence among the people, who have come to regard them with respect and even gratitude and most of all, confidence. For this reason, banks should guard against injury attributable to negligence or bad faith on its part.[39] Without a doubt, it has been repeatedly emphasized that since the banking business is impressed with public interest, of paramount importance thereto is the trust and confidence of the public in general. Consequently, the highest degree of diligence is expected, and high standards of integrity and performance are even required of it.[40] Having failed in this respect, the award of exemplary damages is warranted.

Article 2216 of the Civil Code provides:

ART. 2216. No proof of pecuniary loss is necessary in order that moral, nominal, temperate, liquidated or exemplary damages may be adjudicated. The assessment of such damages, except liquidated ones, is left to the discretion of the court, according to the circumstances of each case.

Based on the above provision, the determination of the amount to be awarded (except liquidated damages) is left to the sound discretion of the court according to the circumstances of each case.[41] In the case before us, we find that the award of moral damages in the amount of P50,000.00 and exemplary damages in the amount of P20,000.00 is reasonable and justified.

With the above disquisition, there is no necessity of further discussing the last issue on the PCI Bank's counterclaim based on the supposed lack of merit of Ong's complaint.

WHEREFORE, premises considered, the Petition is DENIED and the Decision of the Court of Appeals dated 29 October 2002 in CA-G.R. CV No. 65000 affirming the Decision dated 3 May 1999, of the Regional Trial Court of Davao City, Branch 14, in Civil Case No. 21458-92, are AFFIRMED.

SO ORDERED.

Panganiban, C. J., (Chairperson), Ynares-Santiago, Austria-Martinez, and Callejo, Sr., JJ. concur

- [1] The Consolidated Bank and Trust Corporation.
- [2] Docketed as Civil Case No. 21458-92 filed before the Regional Trial Court of Davao City Branch 14.
- [3] Records, p. 25.
- [4] Id. at 54.
- [5] Id. at 60.
- [6] Id.
- [7] Id. at 72.
- [8] Rollo, p. 268.
- [9] Records, p. 106.
- [10] Penned by Judge William M. Layague.
- [11] Records, pp. 192-198.
- [12] Penned by Associate Justice Elvi John S. Asuncion with Associate Justice Conrado M. Vasquez, Jr. and Sergio L. Pestano, concurring; rollo, pp. 255-262.
- [13] Id. at 471-472.
- [14] Ley Construction and Development Corporation v. Union Bank of the Philippines, 389 Phil. 788, 798 (2000).
- [15] Cotabato Timberland Co. Inc. v. C. Alcantara and Sons, Inc., G.R. No. 145469, 28 May 2004, 430 SCRA 227, 223.
- [16] Monetary Foods Corporation v. Eserjose, G.R. No. 153126, 11 September 2003, 410 SCRA 627, 633, citing Solidbank Corporation v. Court of Appeals, 439 Phil. 23, 34 (2002).
- [17] Evadel Realty and Development Corporation v. Soriano, G.R. No. 144291, 20 April 2001, 357 SCRA 395, 401.
- [18] Records, p. 77.
- [19] Carcon Development Corporation v. Court of Appeals, G.R. No. 88218, 19 December 1989, 180 SCRA 348, 352.
- [20] P.C. Javier and Sons, Inc. v. Court of Appeals, G.R. No. 129552, 29 June 2005, 462 SCRA 36, 47, citing De Leon v. Santioago Syjuco, Inc., 90 Phil. 311 (1951).
- [21] Soler v. Court of Appeals, G.R. No. 123892, 21 May 2001, 358 SCRA 57, 64.
- [22] Section 32 of Presidential Decree No. 72 (Amending Republic Act Numbered Two Hundred and Sixty-Five, entitled, "The Central Bank Act"), states:

SEC. 32 . Section sixty-three of the same Act is hereby amended to read as follows:

"SEC. 63. Legal character . - Checks representing deposit money do not have legal tender power and their acceptance in the payment of debts, both public and private, is at the option of the creditor: Provided, however, that a check which has been cleared and credited to the account of the creditor shall be equivalent to a delivery to the creditor of cash in an amount equal to the amount credited to his account. (O.G. No. 50, Vol. 68, p. 46; emphasis supplied.)

- [23] Hector M. De Leon, Jr., THE PHILIPPINE NEGOTIABLE INSTRUMENTS LAW (and Allied Laws) Annotated (2004 ed.), p. 223, citing *National Bank v. Picornell*, 46 Phil. 716 (1922).
- [24] *Tan v. Court of Appeals*, G.R. No. 108555, 20 December 1994, 239 SCRA 310, 322, cited in *BPI v. Court of Appeals*, G.R. No. 112392, 29 February 2000, 326 SCRA 41.
- [25] *Supra* note 21 at 411.
- [26] *Id.*
- [27] *International Corporate Bank v. Gueco*, G.R. no. 141968, 12 February 2001, 351 SCRA 516, 528.
- [28] G.R. No. L-41764, 19 December 1980, 101 SCRA 686, 693.
- [29] G.R. No. 156940, 14 December 2004, 446 SCRA 282, 291, citing *Philippine Bank of Commerce v. Court of Appeals*, 336 Phil. 667, 681 (1997).
- [30] *Records*, p. 24.
- [31] *Philippine Bank of Commerce v. Court of Appeals*, *supra* not 27.
- [32] 326 Phil. 326, 347 (1996), citing *Bautista v. Mangaldan Rural Bank, Inc.*, G.R. No. 100755, 10 February 1994, 230 SCRA 16, 21 and *Simex International (Manila), Inc. v. Court of Appeals*, G.R. No. 88013, 19 March 1990, 183 SCRA 360, 366-367.
- [33] Article 2217, Civil Code.
- [34] Art. 2219. Moral damages may be recovered in the following and analogues cases:
- (1) A criminal offense resulting in physical injuries;
 - (2) Quasi-delicts causing physical injuries;
 - (3) Seduction, abduction, rape, or other lascivious acts;
 - (4) Adultery or concubinage;
 - (5) Illegal or arbitrary detention or arrest;
 - (6) Illegal search;
 - (7) Libel, slander or any other form of defamation;
 - (8) Malicious prosecution;
 - (9) Acts mentioned in article 309;
 - (10) Acts and actions referred to in articles 21, 26, 27, 28, 29, 30, 32, 34, and 35.
- [35] 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.
- [36] *Cagungun v. Planters Development Bank*, G.R. No. 158674, 17 October 2005, 473 SCRA 259, 272-273.
- [37] TSN, 28 August 1997, p. 11; *records*, p. 171.
- [38] *Phil. Bank of Commerce v. Court of Appeals*, *supra* note 27, cited in *Bank of the Philippine Islands v. Casa Montessori Internationale*, G.R. No. 149454, 28 May 2004, 430 SCRA 261, 287.
- [39] *Cagungun v. Planters Development Bank*, *supra* not 34 at 273-274.
- [40] *Bank of the Philippine Islands v. Casa Montessori Internationale*, *supra* note 36.

[41] Simex International (Manila), Inc. v. Court of Appeals, supra note 30.

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