

SILVANO B. GAJE, EMILIO C. MELLONIDA, AND DESIDERIO DALISAY, JR., PETITIONERS, VS. PATRICIA S. VDA. DE DALISAY, FOR HERSELF AND IN HER CAPACITY AS THE SPECIAL ADMINISTRATRIX OF ...*G.R. NO. 158762. April 03, 2007*

Ponente: CHICO-NAZARIO, J.

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Assailed in the instant Petition for Review on Certiorari[1] are the Decision[2] dated 13 March 2003 and Resolution[3] dated 6 June 2003 of the Court of Appeals in CA-G.R. CV No. 66343. The Court of Appeals affirmed in toto with costs against petitioners, the Decision[4] dated 10 January 2000 of the Regional Trial Court (RTC) Branch 31, Tagum City, in Civil Case No. 2877. The RTC resolved, inter alia, to declare null and void the two Deeds of Sale executed between petitioners Desiderio Dalisay, Jr. and Emilio C. Mellonida over a parcel of land known as Lot No. 729-F; and between Desiderio Dalisay, Jr. and Silvano Gaje involving a parcel of land known as Lot No. 729-A, both located in San Miguel, Tagum City, Davao.

The Facts

As culled from the evidence on record, the antecedent facts are as follows:

On 15 June 1973, Desiderio Dalisay, Sr. (Dalisay, Sr.) bought from Juan Abrea and Ricarte Agudong two parcels of land located in San Miguel, Tagum, Davao, otherwise known as Lots No. 729-A[5] and 729-F with an area of 27,169 square meters, and 20,000 square meters, respectively. The Deeds of Sale indicated the name of Desiderio Dalisay, Jr. (Dalisay, Jr.) as vendee per instructions of Dalisay, Sr. for expediency and convenience. Dalisay, Sr. maintained possession of the two parcels of land from the date of sale in 1973 until his death in 1989. They became part of the landholdings of Desidal Fruits, Inc. which is owned by Dalisay, Sr. In 1981, the parcels of land were leased by Dalisay, Sr. to Davao Premier Fruits Corporation.

Following the death of Dalisay, Sr. in 1989, his widow, Patricia S. vda. de Dalisay (Patricia) was named special administratrix of his testate estate by virtue of Letters of Administration issued by the RTC, Branch 1, Tagum, in Sp. Proc. Case No. 397.[6] Patricia exercised her powers as Special Administratrix by taking actual possession of the aforementioned two parcels of land. She planted banana trees, corn, and lemonsitos[7] thereon. On 7 January 1991, she donated 100 square meters thereof to the Barangay San Miguel Water System Association, Inc. to be used as a site for the installation of the water pump and reservoir of the said water system.[8]

On 21 October 1994, petitioner Dalisay, Jr. sold Lot No. 729-A to petitioner Silvano B. Gaje (Gaje) in consideration of the amount of P450,000.00.[9] Likewise, on even date, the former sold Lot No. 729-F to Emilio C. Mellonida (Mellonida) for P350,000.00.

Hence, on 27 February 1995, Patricia, for herself and in her capacity as special administratrix of the testate estate of Dalisay, Sr., initiated with the RTC, Branch 31, Tagum City, a Complaint[10] for Annulment of Deeds of Sale

and Reconveyance with prayer for Preliminary Injunction and Temporary Restraining Order, docketed as Civil Case No. 2877, naming Gaje, Mellonida, and Dalisay, Jr. as defendants therein. The Complaint averred that the two parcels of land were owned by Dalisay, Sr. and thus formed part of his testate estate. Dalisay, Sr. had taken possession of the lots from the time of purchase on 15 June 1973 until his demise on 18 September 1989. The same parcels of land were leased by Dalisay, Sr. to Davao Premier Fruits Corporation in 1981. The Complaint further alleged that on 20 August 1994, all of the heirs of Dalisay, Sr. conducted a meeting whereby a Memorandum of Agreement was drawn indicating their consensus to have the estate of Dalisay, Sr. divided among all seven (7) of them, including Dalisay, Jr. The aforesaid Agreement similarly indicated the two parcels of land as part of the estate. In fine, the Complaint prayed for the declaration of nullity of the Deeds of Sale executed by Dalisay, Jr. in favor of Gaje and Mellonida.

In their joint Answer, petitioners contended that the contested parcels of land never formed part of the estate of Dalisay, Sr., as the rights of these lots were sold to Dalisay, Jr. who bought them with his personal money. Petitioners alleged that Dalisay, Sr. utilized the land for a limited period of time for the commercial production of bananas out of the liberality and generosity of Dalisay, Jr. who allowed his father to make use of the lots.

Petitioners likewise challenged the jurisdiction of the RTC, Branch 31, by filing a Motion to Dismiss[11] dated 26 April 1996. They argued that the jurisdiction of the Complaint is lodged with the RTC, Branch I, Tagum City, which issued the letters of administration to Patricia. Petitioners likewise raised the additional ground of lack of sufficient cause of action contending that respondent's assertion that it was Dalisay, Sr. who bought the parcels of land is a "wild and useless allegation" which cannot be established by evidence, the best evidence to prove ownership being the two Deeds of Sale executed on 15 June 1973, naming Dalisay, Jr., as vendee.

On 10 June 1996, the RTC issued an Order[12] denying the Motion to Dismiss for utter lack of merit, which denial was assailed by petitioners before the Court of Appeals via a Petition for Certiorari in CA-G.R. SP No. 41202. The appellate court rendered a Resolution[13] dated 18 July 1996 denying the Petition. Petitioners' Motion for Reconsideration thereon was similarly denied in a subsequent Resolution[14] dated 4 October 1996. Petitioners sought the reversal of the aforesaid Resolutions before the Supreme Court in G.R. No. 126974 by way of Petition for Certiorari. On 18 December 1996, this Court dismissed said Petition.[15] Petitioners sought reconsideration of the dismissal. Finally, on 3 September 1997, this Court issued a Resolution denying the Motion after finding no compelling reason to warrant the reconsideration sought.[16] Hence, trial ensued.

Ruling of the RTC

The trial court ruled in favor of respondent and against the petitioners. It held that the subject parcels of land are owned by Dalisay, Sr. It explained that, Dalisay, Jr. never exercised attributes of ownership over the two parcels of land since the time of the execution of the Deeds of Sale in 1973, in glaring contrast to Dalisay, Sr., who owned and possessed the parcels of land without intention of transferring the same to Dalisay, Jr. to the exclusion of other heirs. From the time of the sale, the ownership of Dalisay, Sr. over the properties was undisturbed. Even after his death, his widow, Patricia, continued to introduce improvements thereon. As the administratrix of the estate, Patricia donated a parcel of land to Barangay San Miguel which was not objected to or questioned by Dalisay, Jr. despite his claim of ownership of the land. It was only after a period of twenty-one (21) years or in 1994 when Dalisay, Jr. attempted to exercise his supposed ownership over the property through the execution of the Deeds of Sale in favor of Gaje and Mellonida over Lot No. 729-A and Lot No. 729-F, respectively.

The RTC pronounced further that even prior to the sales, Dalisay, Jr. failed to show that he exercised attributes of ownership over the parcels of land. The RTC did not give weight to Dalisay, Jr.'s act of paying realty taxes on the subject properties before the Deeds of Sale were drawn, stating that the same is a scheme to claim ownership over

the lots. In its findings of fact, the RTC held:

To claim ownership over the property under litigation at this late stage despite absence in its exercise for a period of twenty[-]one (21) years is certainly untenable. In fine, defendant Desiderio Dalisay, Jr. has never exercised attributes of ownership since then. The following are the traditional attributes of ownership:

Jus utendi or the right to use[;]

Jus fruinde (sic) or the right to enjoy the fruits;

Jus abutendi or the right to consume the thing by its use (Jurado's Civil Law, page 252)

Other facts which militate against the claim of Desiderio Dalisay, Jr. is his absence of possession over the property in litigation. The two parcels of land were in the possession of the late Desiderio Dalisay, Sr. until his death in 1989, and such possession was transferred to the plaintiff, the wife of the late Desiderio Dalisay, Sr. or the second marriage.

By possession, we mean the holding of a thing or the enjoyment of a right, either by material occupation of by fact of subjecting the thing or right to the action over will.[17]

The dispositive portion of the Decision reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered:

- Declaring null and void the two Deeds of Sale between Desiderio Dalisay, Jr., Vendor and Emilio C. Mellonida, Vendee for a parcel of land situated at San Miguel, Tagum City otherwise known as Lot No. 729-F-7070, Cad-10025, containing an area of twenty thousand (20,000) square meters under the notarial book of Atty. Alberto Maala, Doc. No. 57; Page No. 12; Book No. VII, Series of 1994; between Desiderio Dalisay, Jr., Vendor and Silvano Gaje, Vendee for a parcel of land situated at San Miguel, Tagum City otherwise known as Lot No. 729-A-Cad-10628-0 containing an area of twenty seven thousand one hundred sixty nine (27,169) square meters under the notarial book of Atty. Maala, Doc. No. 58; Page No. 12; Book No. VII; Series of 1994;

- Declaring the above-mentioned parcels of land a part of the testate estate of the late Desiderio Dalisay, Sr.;

- Directing defendants to pay attorney's fee jointly and severally the amount of P50,000.00 and to pay the cost. (sic)[18]

The Ruling of the Court of Appeals

On appeal, the Court of Appeals rendered a Decision dated 13 March 2003 affirming in toto the Decision of the court a quo. The appellate court echoed the finding of the RTC that Dalisay, Sr. was the owner of the two parcels of land. It declared that Dalisay, Jr. could not have exercised the attributes of ownership because he is not the owner of the lots. It added that it was not impressed at the claim of Dalisay, Jr. that his ownership of the properties has been proven by his payment of real estate taxes on the properties. The appellate court emphasized that the taxes as claimed were paid by petitioners Gaje and Mellonida. Even then, no proof of actual possession was shown by Dalisay, Jr.

In affirming the findings of fact of the court a quo, the appellate court held:

All in all, the uncontroverted evidence as found by the lower court and established during the trial indubitably show[s] that: indeed, Desiderio, Sr. bought the subject properties from Agudong and Abrea in 1973, but the same were acquired in the name of Desiderio, Jr., only for convenience; he took possession of the subject properties, cultivated the same, and introduced improvements on them through his corporation, Desidal Fruits, Inc.; he leased the subject properties to Davao Fruits, Inc.; Desiderio Dalisay, Jr. and Anunciacion Dalisay never received any payment/rentals for their use by either Desidal Fruits, Inc. or Davao Fruits, Inc.; even

though Anunciacion Dalisay was a member of the Board of Desidal Fruits, Inc., she did not insist nor demand the payment of the rentals; the two (2) official receipts corresponding to the payment of real estate taxes over the subject properties reveal that from 1973 up to 1994, or for a total period of 21 years, not a single centavo of the real estate taxes [were] paid; the receipts further show that said taxes were paid by defendants-appellants Silvano Gaje and Emilio Mellonida; when Anunciacion Dalisay was asked to show the location of the properties in a sketch, she pointed to a location a great distance from the actual location of the properties; and finally, Anunciacion Dalisay admitted the existence of the Memorandum of Agreement (MOA) of August 20, 1994 drafted by Atty. Veronica D. Tirol wherein the subject properties were included.[19]

The decretal portion of the Decision states:

Wherefore, premises considered, the assailed decision dated January 10, 2000 of the Regional Trial Court, Branch 31, Tagum City in Civil Case No. 2877 is hereby AFFIRMED in toto, with costs against defendants-appellants.[20]

Petitioners filed a Motion for Reconsideration thereon which the Court of Appeals denied in its Resolution dated 6 June 2003.

The Issues

Unsatisfied with the ruling of the Court of Appeals, petitioners come to this Court by way of the instant Petition for Review on Certiorari alleging grave and serious reversible error on the part of the appellate court. Petitioners aver that the Court of Appeals erred in the following instances, to wit:

I

IN AFFIRMING THE TRIAL COURT'S JUDGMENT DECLARING THE RESPECTIVE DEEDS OF SALE IN FAVOR OF THE HEREIN PETITIONERS WHO ARE PRESUMED BUYERS IN GOOD FAITH AS NULL AND VOID; and

II

IN NOT SETTING ASIDE THE AWARD OF ATTORNEY'S FEES IN FAVOR OF RESPONDENT PATRICIA VDA. DE DALISAY IN THE AMOUNT OF FIFTY THOUSAND (P50,000.00) PESOS AS WELL AS THE COST OF SUIT IN SPITE OF THE TOTAL ABSENCE OF ANY EXPLANATION AND/OR JUSTIFICATION THEREFOR IN THE BODY OF THE DECISION.

The Court's Ruling

I

Petitioners question the findings of fact made by the trial court and the Court of Appeals, especially on the matter of the ownership over the disputed subject properties. Petitioners assert that the Deeds of Sale, which state the name of Dalisay, Jr. as vendee of the two parcels of land, are notarized documents and regarded as evidence of a high character which should be entitled to full faith and credit on their faces.

The first assignment of error entails a resolution of the factual question of whether Dalisay, Jr. or Dalisay, Sr. is the owner of the subject properties. In submitting the issue, petitioners would require this Court to review and evaluate the evidence as they were introduced and presented before the trial court. Petitioners want this Court to make a declaration that the subject parcels of land were sold to Dalisay, Jr., instead of to his father, respondent Dalisay, Sr. In the alternative, they want this Court to make a determination as to whether petitioners Mellonida and Gaje were not aware of the flaw in the title or mode of acquisition of Dalisay, Jr. that invalidates the same.

The issues beg a review of the evidence presented by the parties, despite the finding of the Court of Appeals that

no error was committed by the trial court in appreciating the evidence established during the trial; hence, it is clearly a question of fact. "Such questions as whether certain items of evidence should be accorded probative value or weight, or rejected as feeble or spurious, or whether or not the proofs on one side or the other are clear and convincing and adequate to establish a proposition in issue, are without doubt questions of fact." [21] The resolution of factual issues is the function of lower courts, whose findings on these matters are received with respect and are in fact generally binding on this Court. [22] A question of law which the court may pass upon must not involve an examination of the probative value of the evidence presented by the litigants. [23]

The jurisdiction of the Supreme Court in cases brought before it from the Court of Appeals via Rule 45 of the Rules of Court is limited to reviewing errors of law. [24] What Section 1, [25] Rule 45 of the Rules of Court proscribes is this Court supplanting by its own judgment that of the RTC and the Court of Appeals by conducting its own evaluation of the evidence. Precisely, under the Rules, it is peremptory that in a verified petition for review on certiorari filed under Rule 45, the petition shall raise only questions of law which must be distinctly set forth therein. Otherwise stated, it is not the function of this Court to review evidence all over again. [26]

It is settled doctrine that in a civil case, final and conclusive are the factual findings of the court, [27] if supported by clear and convincing evidence on record. [28] Usually, the Supreme Court does not review those findings—especially when affirmed by the Court of Appeals, as in this case. [29] Both the trial court and the appellate court ruled in favor of respondent's witnesses to support the ownership by Dalisay, Sr. In *Pilipinas Bank v. Glee Chemical Laboratories, Inc.*; [30] this Court reiterated the unbending jurisprudence that findings of the trial court on the matter of credibility of witnesses are entitled to the highest degree of respect and will not be disturbed on appeal. [31]

Indeed, in the case at bar, the appellate court affirmed in toto the factual findings of the court a quo. There is a congruence between the findings of facts of the trial court and the Court of Appeals that the subject parcels of land are owned by Dalisay, Sr. The findings of both courts are in full accord with each other.

To reiterate, Section 1, Rule 45 of the Rules of Court forecloses this Court from the task of going over once more the evidence presented by both parties, and analyze, assess and weigh them to ascertain if the trial court and the appellate court were correct in according superior credit to this or that piece of evidence of one party or the other. [32]

SECTION 1. Filing of petition with Supreme Court. — x x x. The petition shall raise only questions of law which must be distinctly set forth.

A considered study of the records reveals that the decisions of the court a quo and the Court of Appeals are amply supported by the evidence on record.

Petitioners' reliance on the presumption of regularity of notarized documents cannot overcome the evidence on record which supports the ownership of Dalisay, Sr. over the parcels of land. Foremost, the presumption of truthfulness engendered by notarized documents is rebuttable, yielding as it does to clear and convincing evidence to the contrary. [33] Even as the Deeds of Sale indicate the name of Dalisay, Jr. as vendee of the parcels of land, it was established by strong evidence that Dalisay, Sr. remained the owner thereof, and had no intention of transferring the ownership of the parcels of land exclusively to Dalisay, Jr. to the exclusion of all his other heirs. It is telling why Dalisay, Jr., during the length of time from the execution of the Deeds of Sale on 15 June 1973 and until such time when he sold the subject parcels of land to his co-petitioners, Gaje and Mellonida, neither possessed nor exercised attributes of ownership over the lands. Dalisay, Sr. remained in possession over the properties from the time they were bought from Abrea and Agudong. As found by the trial court and the Court of Appeals, during the lifetime of Dalisay, Sr., he utilized the parcels of land in the concept of an owner. He used the

parcels of land as a banana plantation of his corporation, the Desidal Fruits. Corn and calamansi trees were likewise planted on the subject premises, which fact was even admitted by petitioner Mellonida. Moreover, as held by the trial court, respondent Gaje similarly found improvements on the subject properties, including plantings of banana and fruit trees, among others, and 200 lemonsito trees. Subsequently, in 1990, the property was leased by Dalisay, Sr. to Davao Fruits. No participation by Dalisay, Jr. either in the utilization of the land or in the lease thereof was shown. No objection was similarly heard from Dalisay, Jr. when Patricia donated a portion of the subject properties to the San Miguel Water System Multi-purpose Cooperative. His silence conflicts with human nature—an owner of the property being expected to oppose the commission by other parties of acts of ownership which would diminish or wrest away his interest in the property.

Second, petitioners' contention that the Deeds of Sale indicating the name of Dalisay, Jr. as vendee is the best evidence to prove his ownership of the parcels of land does not hold water. In the case at bar, Patricia, is not party to the Deeds of Sale. The rule excluding extrinsic evidence in the construction of writings is inapplicable in a case where one of the parties to the case is a stranger to the contract.[34] Patricia, the widow of Dalisay, Sr., is a stranger to the said Deeds of Sale; thus, the trial court properly admitted extrinsic evidence adduced by respondent against its efficacy, and can be deemed competent to defeat the deed.[35]

II

Petitioners bewail the award of attorney's fees in favor of respondent in the amount of P50,000.00 on the ground that there was an absence of any explanation or justification therefor in the body of the challenged Decision.

We agree.

Article 2208[36](2) of the Civil Code provides that in the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered except when the defendant's acts or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest. In *People v. Colonia*,[37] this Court underscored that the award of attorney's fees is the exception rather than the rule, as they are not awarded every time a party prevails in a suit because of the policy that no premium should be placed on the right to litigate. Therein, we deleted the award of litigation expenses and attorney's fees because the body of the decision of the trial court was wanting of justification. The trial court awarded attorney's fees only in the dispositive portion of its decision. Thus:

The award of attorney's fees is the exception rather than the rule. As such, it is necessary for the court to make findings of fact and law that would bring the case within the exception and justify the grant of such award. Aside from the dispositive portion, nothing was ever said by the trial court in the body of the decision to justify the award of attorney's fees and litigation expenses. Hence, we disallow them.[38]

In the case at bar, even a cursory reading of the Decision of the trial court shows that the court a quo failed to justify its award of attorney's fees. There was no explanation set forth. Neither do we see any basis propounded by the trial court in its grant of attorney's fees. We find the same puncture in the ruling of the Court of Appeals. In its affirmance in toto of the 10 January 2000 Decision of the RTC, which necessarily includes its concurrence in the award by the court a quo of attorney's fees to the respondent, the appellate court was mute as to its justification. No explanation was similarly threshed out to support its award. Therefore, we delete the award of attorney's fees in favor of respondent.

WHEREFORE, the Petition is PARTLY GRANTED. The Decision and Resolution of the Court of Appeals, dated 13 March 2003 and 6 June 2003, respectively, in CA-G.R. CV No. 66343 are AFFIRMED WITH MODIFICATION that the award of attorney's fees in favor of respondent, is DELETED. As to all other matters,

the assailed Decision and Resolution are AFFIRMED. Costs against petitioners.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Callejo, Sr., and Nachura, JJ., concur.

[*] Initially, Desiderio Dalisay, Jr. was named as a co-petitioner in Petitioners Motion for Extension of Time to File Petition for Review, dated 8 July 2003; as well as in their Motion for Time to File Reply, dated 11 March 2004. Later, however, he was inconsistently and unexplainably named as a respondent in Petitioners' Memorandum, dated 4 March 2005. Respondent, however, never recognized Desiderio Dalisay, Jr. as a co-respondent in any of its pleadings.

[1] Under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Remedios A. Salazar-Fernando with Associate Justice (now Presiding Justice) Ruben T. Reyes and Associate Justice Edgardo F. Sundiam; Rollo, pp. 31-44.

[3] Id. at 46-47.

[4] Penned by Judge Erasto D. Salcedo; id. at 48-67.

[5] Id. at 10, 12-14.

[6] Id. at 9.

[7] Also known as calamansi.

[8] Records, pp. 36-37; 968-969.

[9] Id. at 44.

[10] Id. at 1-8.

[11] Id. at 561-582.

[12] Id. at 595-596; 744-745.

[13] Penned by Associate Justice Artemon D. Luna with Associate Justices Ramon A. Barcelona and Portia Alino-Hormachuelos, concurring; id. at 786-787.

[14] Id. at 802-804.

[15] Id. at 894-895, 902.

[16] Id. at 936.

[17] Id. at 1215-1216.

[18] Id. at 1221.

[19] CA rollo, pp. 84-85.

[20] Id. at 85.

[21] Microsoft Corporation v. Maxicorp, Inc., G.R. No. 140946, 13 September 2004, 438 SCRA 224, 231, citing Paterno v. Paterno, G.R. No. 63680, 23 March 1990, 183 SCRA 630. The Court therein further held:

xxx Whether or not the body of proofs presented by a party, weighed and analyzed in relation to contrary evidence submitted by adverse party, may be said to be strong, clear and convincing; whether or not certain documents presented by one side should be accorded full faith and credit in the face of protests as to their spurious character by the other side; whether or not inconsistencies in the body of proofs of a party are of such gravity as to justify refusing to give said proofs weight—all these are issues of fact.

[22] Naguiat v. Court of Appeals, 459 Phil. 237, 242 (2003).

[23] *Id.* at 242.

[24] Kay Products, Inc. v. Court of Appeals, G.R. No. 162472, 28 July 2005, 464 SCRA 544, 553.

[25] SECTION 1. Filing of petition with the Supreme Court. — A party desiring to appeal by certiorari from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition shall raise only questions of law which must be distinctly set forth.

[26] Rubiato v. Heirs of Jovito Rubiato, G.R. No. 137451, 28 July 2005, 464 SCRA 296, 301.

[27] Among the exceptions to the rule are the following cases, which exceptions apply only in the presence of extremely meritorious circumstances, to wit: (1) when the findings are grounded entirely on speculation, surmises, or conjectures; (2) when the inference made is manifestly mistaken, absurd, or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; and (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record. See *Maglucot-Aw v. Maglucot*, 385 Phil. 720, 729-730 (2000); *Sacay v. Sandiganbayan*, 226 Phil. 496, 511-512 (1986).

[28] *Ocampo v. Ocampo*, G.R. No. 150707, 14 April 2004, 427 SCRA 545, 563.

[29] *Id.*, citing *Philippine National Bank v. Court of Appeals*, 381 Phil. 720 (2000); *Atillo III v. Court of Appeals*, 334 Phil. 546 (1997); *Catapusan v. Court of Appeals*, 332 Phil. 586 (1996).

[30] G.R. No. 148320, 15 June 2006, 490 SCRA 663, 669, citing *People v. Mendoza*, 421 Phil. 149 (2001).

[31] *Pilipinas Bank v. Glee Chemical Laboratories, Inc.*, *id.* at 670:

[S]ince the trial court has the best opportunity to observe the demeanor of witnesses while on the stand, it can discern whether or not they are telling the truth. The unbending jurisprudence is that its findings on the matter of credibility of witnesses are entitled to the highest degree of respect and will not be disturbed on appeal.

[32] *Philippine National Bank v. Pike*, G.R. No. 157845, 20 September 2005, 470 SCRA 328, 340. See also *Elayda v. Court of Appeals*, G.R. No. 49327, 18 July 1991, 199 SCRA 349, 353.

[33] See *Naguiat v. Court of Appeals*, *supra* note 22 at 597.

[34] *Lechugas v. Court of Appeals*, 227 Phil. 310, 319 (1986), citing *Horn v. Hansen*, 57 N.W. 315.

[35] *Id.* citing *Francisco on Evidence*, Vol. II, part I of the Rules of Court, p. 155, citing 32 C.J.S. 79., held:

As explained by a leading commentator on our Rules of Court, the parol evidence rule does not apply, and may

not properly be invoked by either party to the litigation against the other, where at least one of the parties to the suit is not a party or a privy of a party to the written instrument in question and does not base a claim on the instrument or assert a right originating in the instrument or the relation established thereby.

[36] In full, Article 2208 of the Civil Code, provides:

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;
- (2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;
- (3) In criminal cases of malicious prosecution against the plaintiff;
- (4) In case of a clearly unfounded civil action or proceeding against the plaintiff;
- (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;
- (6) In actions for legal support;
- (7) In actions for the recovery of wages of household helpers, laborers and skilled workers;
- (8) In actions for indemnity under workmen's compensation and employer's liability laws;
- (9) In a separate civil action to recover civil liability arising from a crime;
- (10) When at least double judicial costs are awarded;
- 11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable.

[37] 451 Phil. 856 (2003).

[38] Id. at 721-722.

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