

HEIRS OF BASILISA JUSTIVA, NAMELY, LEON GREGORIOS, DOLORES GREGORIOS, TRINIDAD GREGORIOS, LOLITA GREGORIOS, FOR HERSELF AND AS GUARDIAN AD LITEM OF THE HEIRS OF THE DECEASED LUC...

G. R. No. 16396. January 31, 1963

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

This is a petition for review of that part of the decision of the Court of Appeals awarding to the spouses Jesus Gustilo and Purificacion Gustilo, attorney's fees plus moral and actual damages.

It appears that in December 1952, petitioners filed against said spouses a complaint for the annulment of two deeds of sale executed in their favor by Isidra Justiva, of whom plaintiffs claimed to be the legal heirs. They alleged that Isidra Justiva had signed said deeds because of insidious words and machinations of the Gustilo spouses. Later, the complaint was amended in September 1994, to assert as basis therefor that the same defendants "had fraudulently transferred in their names said two parcels of land belonging to Isidra Justiva without her knowledge and consent, taking advantage of her credulity, ignorance and illiteracy, and abusing the absolute confidence and trust she reposed on them". Again on June 1955, petitioners amended their complaint to add another ground of action, namely, that the signatures of Isidra Justiva were forgeries.

Denying the charges, the defendant spouses prayed in their counterclaim for moral damages in the amount of P10,000.00, attorney's fees in the amount of P2,000.00, and exemplary damages in the amount of P5,000.00.

Dismissing the complaint, the court sentenced the plaintiffs (above petitioners) to pay defendants (herein respondents) P2,000.00 for moral damages, P1,000.00 for actual damages and P2,000.00 for attorney's fees.

On appeal, the Court of Appeals affirmed the court's decision in toto.

Petitioners here assail the propriety and legality of the damages and attorney's fees assessed against them. They no longer question the dismissal of their complaint.

Briefly stated, their argument rests on the alleged absence of any finding in the decision of the lower court and of the Court of Appeals, that their complaint was malicious or that they had acted in gross and evident bad faith in filing the same.

Generally, attorney's fees are not a proper element of damages, for it is not sound policy to set a premium on the right to litigate.[1] Thus, no right to such fees can accrue merely because of an adverse decision.[2] This is precisely the rationale for taxing costs, in certain cases, against the losing party. The payment therefore, from the viewpoint of sanction, is deemed sufficient. Nonetheless, various exceptions are provided for by law.[3] Some of these are: "In case of a clearly unfounded civil action or proceeding" or where the Court deems it just and equitable that attorney's fees be recovered.[4]

Petitioners' actuations in this case were expressly found to be insincere and baseless, by both the Court of First Instance and the Court of Appeals. There was, therefore, no error in the award of attorney's fees.[5]

For the same reason, this Court must sustain the imposition of moral damages.[6] Patent indeed is the insincerity of the petitioners' various amended complaints.

His Honor, the trial judge, F. Imperial Reyes, commented:

"Antes de la demanda de fecha 13 de diciembye de 1952, hubo otra de fecha 23 de octubre de 1952 (Exh. 2), la cual fus sobreseida. En aquella primera demanda se alego que la consideraeion del otorgamiento de las dos escrituras era inadecuada e insuficiente. Sin embargo, en la demanda de fecha 13 de diciembre de 1952, y en las dos demandas enmendadas, una de fecha 8 de septiembre de 1952, y otro de fecha 7 de junio de 1955 solo se alega que las firmas de Isidra Justiva en las dos escrituras han sido falsificadas y si son genuinas, las mismas han sido obtenidas mediante fraude y sin ninguna consideracion. Como se vera, la teoria en la primera demanda, que fue sobreseida ha sido abandonada. Esto no habla bien de la sinceridad de la pretension de los demandantes."

And the allegation of forgery of the documents is all but a defamation, which in the light of Art. 2219(7) of the Civil Code, could by analogy be ground for payment of moral damages, considering the wounded feelings and besmirched reputation of the defendants.

Is the award of actual damages proper? While the prayer by the respondents in their "Answer" mentions only exemplary damages, moral damages and attorney's fees, therein also is a plea for "such further relief * * * as this Honorable Court may deem just and equitable." This prayer may include "actual damages", if and when they are proved. It is to be observed that in the course of the trial, defendants introduced evidence of actual damages; yet petitioners failed to object to such presentation. Consequently, the unalleged but proved matter of actual damages may be considered by the court. The trial judge mentioned such damages. And the Court of Appeals, without going into specifics, approved the award, and declared explicitly that the evidence sustained it. In this Court appellees quoted without contradiction portions of the oral evidence in support of the Judge's findings. So, the matter being factual, we must, in the circumstances, affirm the appellate court's assessment of actual damages.

Wherefore, as this petition turns out to be without judicial foundation, the decision under review is affirmed, with costs. So ordered.

Padilla, Bautista Angelo, Labrador , Concepcion , Reyes, J. B. L., Barrera, Paredes, Dizon and Regala, JJ., concur. Makalintal, J., took no part.

[1] See *Tan Ti vs. Alvear*, 26 Phil. 566.

[2] *Ibid*.

[3] Art. 2208, Civil Code of the Philippines.

[4] Art. 2208, Civil Code of the Philippines.

[5] See *Jimenez vs. Bucoy*, 103 Phil. 40.

[6] Art. 2217 and 2219, Civil Code of the Philippines .

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