

**ALLAN C. GO, DOING BUSINESS UNDER THE NAME AND STYLE
"ACG EXPRESS LINER," PETITIONER, VS. MORTIMER F.
CORDERO, RESPONDENT.**

G.R. No. 164703. May 04, 2010

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

For review is the Decision[1] dated March 16, 2004 as modified by the Resolution[2] dated July 22, 2004 of the Court of Appeals (CA) in CA-G.R. CV No. 69113, which affirmed with modifications the Decision[3] dated May 31, 2000 of the Regional Trial Court (RTC) of Quezon City, Branch 85 in Civil Case No. 98-35332.

The factual antecedents:

Sometime in 1996, Mortimer F. Cordero, Vice-President of Pamana Marketing Corporation (Pamana), ventured into the business of marketing inter-island passenger vessels. After contacting various overseas fast ferry manufacturers from all over the world, he came to meet Tony Robinson, an Australian national based in Brisbane, Australia, who is the Managing Director of Aluminium Fast Ferries Australia (AFFA).

Between June and August 1997, Robinson signed documents appointing Cordero as the exclusive distributor of AFFA catamaran and other fast ferry vessels in the Philippines. As such exclusive distributor, Cordero offered for sale to prospective buyers the 25-meter Aluminium Passenger catamaran known as the SEACAT 25.[4]

After negotiations with Felipe Landicho and Vincent Tecson, lawyers of Allan C. Go who is the owner/operator of ACG Express Liner of Cebu City, a single proprietorship, Cordero was able to close a deal for the purchase of two (2) SEACAT 25 as evidenced by the Memorandum of Agreement dated August 7, 1997.[5] Accordingly, the parties executed Shipbuilding Contract No. 7825 for one (1) high-speed catamaran (SEACAT 25) for the price of US\$1,465,512.00.[6] Per agreement between Robinson and Cordero, the latter shall receive commissions totalling US\$328,742.00, or 22.43% of the purchase price, from the sale of each vessel.[7]

Cordero made two (2) trips to the AFFA Shipyard in Brisbane, Australia, and on one (1) occasion even accompanied Go and his family and Landicho, to monitor the progress of the building of the vessel. He shouldered all the expenses for airfare, food, hotel accommodations, transportation and entertainment during these trips. He also spent for long distance telephone calls to communicate regularly with Robinson, Go, Tecson and Landicho.

However, Cordero later discovered that Go was dealing directly with Robinson when he was informed by Dennis Padua of Wartsila Philippines that Go was canvassing for a second catamaran engine from their company which provided the ship engine for the first SEACAT 25. Padua told Cordero that Go instructed him to fax the requested quotation of the second engine to the Park Royal Hotel in Brisbane where Go was then staying. Cordero tried to contact Go and Landicho to confirm the matter but they were nowhere to be found, while Robinson refused to answer his calls. Cordero immediately flew to Brisbane to clarify matters with Robinson, only to find out that Go

and Landicho were already there in Brisbane negotiating for the sale of the second SEACAT 25. Despite repeated follow-up calls, no explanation was given by Robinson, Go, Landicho and Tecson who even made Cordero believe there would be no further sale between AFFA and ACG Express Liner.

In a handwritten letter dated June 24, 1998, Cordero informed Go that such act of dealing directly with Robinson violated his exclusive distributorship and demanded that they respect the same, without prejudice to legal action against him and Robinson should they fail to heed the same.[8] Cordero's lawyer, Atty. Ernesto A. Tabujara, Jr. of ACCRA law firm, also wrote ACG Express Liner assailing the fraudulent actuations and misrepresentations committed by Go in connivance with his lawyers (Landicho and Tecson) in breach of Cordero's exclusive distributorship appointment.[9]

Having been apprised of Cordero's demand letter, Thyne & Macartney, the lawyer of AFFA and Robinson, faxed a letter to ACCRA law firm asserting that the appointment of Cordero as AFFA's distributor was for the purpose of one (1) transaction only, that is, the purchase of a high-speed catamaran vessel by ACG Express Liner in August 1997. The letter further stated that Cordero was offered the exclusive distributorship, the terms of which were contained in a draft agreement which Cordero allegedly failed to return to AFFA within a reasonable time, and which offer is already being revoked by AFFA.[10]

As to the response of Go, Landicho and Tecson to his demand letter, Cordero testified before the trial court that on the same day, Landicho, acting on behalf of Go, talked to him over the telephone and offered to amicably settle their dispute. Tecson and Landicho offered to convince Go to honor his exclusive distributorship with AFFA and to purchase all vessels for ACG Express Liner through him for the next three (3) years. In an effort to amicably settle the matter, Landicho, acting in behalf of Go, set up a meeting with Cordero on June 29, 1998 between 9:30 p.m. to 10:30 p.m. at the Mactan Island Resort Hotel lobby. On said date, however, only Landicho and Tecson came and no reason was given for Go's absence. Tecson and Landicho proposed that they will convince Go to pay him US\$1,500,000.00 on the condition that they will get a cut of 20%. And so it was agreed between him, Landicho and Tecson that the latter would give him a weekly status report and that the matter will be settled in three (3) to four (4) weeks and neither party will file an action against each other until a final report on the proposed settlement. No such report was made by either Tecson or Landicho who, it turned out, had no intention to do so and were just buying time as the catamaran vessel was due to arrive from Australia. Cordero then filed a complaint with the Bureau of Customs (BOC) to prohibit the entry of SEACAT 25 from Australia based on misdeclaration and undervaluation. Consequently, an Alert Order was issued by Acting BOC Commissioner Nelson Tan for the vessel which in fact arrived on July 17, 1998. Cordero claimed that Go and Robinson had conspired to undervalue the vessel by around US\$500,000.00.[11]

On August 21, 1998, Cordero instituted Civil Case No. 98-35332 seeking to hold Robinson, Go, Tecson and Landicho liable jointly and solidarily for conniving and conspiring together in violating his exclusive distributorship in bad faith and wanton disregard of his rights, thus depriving him of his due commissions (balance of unpaid commission from the sale of the first vessel in the amount of US\$31,522.01 and unpaid commission for the sale of the second vessel in the amount of US\$328,742.00) and causing him actual, moral and exemplary damages, including P800,000.00 representing expenses for airplane travel to Australia, telecommunications bills and entertainment, on account of AFFA's untimely cancellation of the exclusive distributorship agreement. Cordero also prayed for the award of moral and exemplary damages, as well as attorney's fees and litigation expenses.[12]

Robinson filed a motion to dismiss grounded on lack of jurisdiction over his person and failure to state a cause of action, asserting that there was no act committed in violation of the distributorship agreement. Said motion was denied by the trial court on December 20, 1999. Robinson was likewise declared in default for failure to file his

answer within the period granted by the trial court.[13] As for Go and Tecson, their motion to dismiss based on failure to state a cause of action was likewise denied by the trial court on February 26, 1999.[14] Subsequently, they filed their Answer denying that they have anything to do with the termination by AFFA of Cordero's authority as exclusive distributor in the Philippines. On the contrary, they averred it was Cordero who stopped communicating with Go in connection with the purchase of the first vessel from AFFA and was not doing his part in making progress status reports and airing the client's grievances to his principal, AFFA, such that Go engaged the services of Landicho to fly to Australia and attend to the documents needed for shipment of the vessel to the Philippines. As to the inquiry for the Philippine price for a Wartsila ship engine for AFFA's other on-going vessel construction, this was merely requested by Robinson but which Cordero misinterpreted as indication that Go was buying a second vessel. Moreover, Landicho and Tecson had no transaction whatsoever with Cordero who had no document to show any such shipbuilding contract. As to the supposed meeting to settle their dispute, this was due to the malicious demand of Cordero to be given US\$3,000,000 as otherwise he will expose in the media the alleged undervaluation of the vessel with the BOC. In any case, Cordero no longer had cause of action for his commission for the sale of the second vessel under the memorandum of agreement dated August 7, 1997 considering the termination of his authority by AFFA's lawyers on June 26, 1998.[15]

Pre-trial was reset twice to afford the parties opportunity to reach a settlement. However, on motion filed by Cordero through counsel, the trial court reconsidered the resetting of the pre-trial to another date for the third time as requested by Go, Tecson and Landicho, in view of the latter's failure to appear at the pre-trial conference on January 7, 2000 despite due notice. The trial court further confirmed that said defendants misled the trial court in moving for continuance during the pre-trial conference held on December 10, 1999, purportedly to go abroad for the holiday season when in truth a Hold-Departure Order had been issued against them.[16] Accordingly, plaintiff Cordero was allowed to present his evidence ex parte.

Cordero's testimony regarding his transaction with defendants Go, Landicho and Tecson, and the latter's offer of settlement, was corroborated by his counsel who also took the witness stand. Further, documentary evidence including photographs taken of the June 29, 1998 meeting with Landicho, Tecson and Atty. Tabujara at Shangri-la's Mactan Island Resort, photographs taken in Brisbane showing Cordero, Go with his family, Robinson and Landicho, and also various documents, communications, vouchers and bank transmittals were presented to prove that: (1) Cordero was properly authorized and actually transacted in behalf of AFFA as exclusive distributor in the Philippines; (2) Cordero spent considerable sums of money in pursuance of the contract with Go and ACG Express Liner; and (3) AFFA through Robinson paid Cordero his commissions from each scheduled payment made by Go for the first SEACAT 25 purchased from AFFA pursuant to Shipbuilding Contract No. 7825.[17]

On May 31, 2000, the trial court rendered its decision, the dispositive portion of which reads as follows:

WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered in favor of Plaintiff and against defendants Allan C. Go, Tony Robinson, Felipe Landicho, and Vincent Tecson. As prayed for, defendants are hereby ordered to pay Plaintiff jointly and solidarily, the following:

- On the First Cause of Action, the sum total of SIXTEEN MILLION TWO HUNDRED NINETY ONE THOUSAND THREE HUNDRED FIFTY TWO AND FORTY THREE CENTAVOS (P16,291,352.43) as actual damages with legal interest from 25 June 1998 until fully paid;
- On the Second Cause of Action, the sum of ONE MILLION PESOS (P1,000,000.00) as moral damages;
- On the Third Cause of Action, the sum of ONE MILLION PESOS (P1,000,000.00) as exemplary damages; and
- On the Fourth Cause of Action, the sum of ONE MILLION PESOS (P1,000,000.00) as attorney's fees;

Costs against the defendants.

SO ORDERED.[18]

Go, Robinson, Landicho and Tecson filed a motion for new trial, claiming that they have been unduly prejudiced by the negligence of their counsel who was allegedly unaware that the pre-trial conference on January 28, 2000 did not push through for the reason that Cordero was then allowed to present his evidence ex-parte, as he had assumed that the said ex-parte hearing was being conducted only against Robinson who was earlier declared in default.[19] In its Order dated July 28, 2000, the trial court denied the motion for new trial.[20] In the same order, Cordero's motion for execution pending appeal was granted. Defendants moved to reconsider the said order insofar as it granted the motion for execution pending appeal.[21] On August 8, 2000, they filed a notice of appeal.[22]

On August 18, 2000, the trial court denied the motion for reconsideration and on August 21, 2000, the writ of execution pending appeal was issued.[23] Meanwhile, the notice of appeal was denied for failure to pay the appellate court docket fee within the prescribed period.[24] Defendants filed a motion for reconsideration and to transmit the case records to the CA.[25]

On September 29, 2000, the CA issued a temporary restraining order at the instance of defendants in the certiorari case they filed with said court docketed as CA-G.R. SP No. 60354 questioning the execution orders issued by the trial court. Consequently, as requested by the defendants, the trial court recalled and set aside its November 6, 2000 Order granting the ex-parte motion for release of garnished funds, cancelled the scheduled public auction sale of levied real properties, and denied the ex-parte Motion for Break-Open Order and Ex-Parte Motion for Encashment of Check filed by Cordero.[26] On November 29, 2000, the trial court reconsidered its Order dated August 21, 2000 denying due course to the notice of appeal and forthwith directed the transmittal of the records to the CA.[27]

On January 29, 2001, the CA rendered judgment granting the petition for certiorari in CA-G.R. SP No. 60354 and setting aside the trial court's orders of execution pending appeal. Cordero appealed the said judgment in a petition for review filed with this Court which was eventually denied under our Decision dated September 17, 2002.[28]

On March 16, 2004, the CA in CA-G.R. CV No. 69113 affirmed the trial court (1) in allowing Cordero to present his evidence ex-parte after the unjustified failure of appellants (Go, Tecson and Landicho) to appear at the pre-trial conference despite due notice; (2) in finding that it was Cordero and not Pamana who was appointed by AFFA as the exclusive distributor in the Philippines of its SEACAT 25 and other fast ferry vessels, which is not limited to the sale of one (1) such catamaran to Go on August 7, 1997; and (3) in finding that Cordero is entitled to a commission per vessel sold for AFFA through his efforts in the amount equivalent to 22.43% of the price of each vessel or US\$328,742.00, and with payments of US\$297,219.91 having been made to Cordero, there remained a balance of US\$31,522.09 still due to him. The CA sustained the trial court in ruling that Cordero is entitled to damages for the breach of his exclusive distributorship agreement with AFFA. However, it held that Cordero is entitled only to commission for the sale of the first catamaran obtained through his efforts with the remaining unpaid sum of US\$31,522.09 or P1,355,449.90 (on the basis of US\$1.00=P43.00 rate) with interest at 6% per annum from the time of the filing of the complaint until the same is fully paid. As to the P800,000.00 representing expenses incurred by Cordero for transportation, phone bills, entertainment, food and lodging, the CA declared there was no basis for such award, the same being the logical and necessary consequences of the exclusive distributorship agreement which are normal in the field of sales and distribution, and the expenditures having redounded to the benefit of the distributor (Cordero).

On the amounts awarded by the trial court as moral and exemplary damages, as well as attorney's fees, the CA

reduced the same to P500,000.00, P300,000.00 and P50,000.00, respectively. Appellants were held solidarily liable pursuant to the provisions of Article 1207 in relation to Articles 19, 20, 21 and 22 of the New Civil Code. The CA further ruled that no error was committed by the trial court in denying their motion for new trial, which said court found to be pro forma and did not raise any substantial matter as to warrant the conduct of another trial.

By Resolution dated July 22, 2004, the CA denied the motions for reconsideration respectively filed by the appellants and appellee, and affirmed the Decision dated March 16, 2004 with the sole modification that the legal interest of 6% per annum shall start to run from June 24, 1998 until the finality of the decision, and the rate of 12% interest per annum shall apply once the decision becomes final and executory until the judgment has been satisfied.

The case before us is a consolidation of the petitions for review under Rule 45 separately filed by Go (G.R. No. 164703) and Cordero (G.R. No. 164747) in which petitioners raised the following arguments:

G.R. No. 164703
(Petitioner Go)

- THE HONORABLE COURT OF APPEALS DISREGARDED THE RULES OF COURT AND PERTINENT JURISPRUDENCE AND ACTED WITH GRAVE ABUSE OF DISCRETION IN NOT RULING THAT THE RESPONDENT IS NOT THE REAL PARTY-IN-INTEREST AND IN NOT DISMISSING THE INSTANT CASE ON THE GROUND OF LACK OF CAUSE OF ACTION;
- THE HONORABLE COURT OF APPEALS IGNORED THE LAW AND JURISPRUDENCE AND ACTED WITH GRAVE ABUSE OF DISCRETION IN HOLDING HEREIN PETITIONER RESPONSIBLE FOR THE BREACH IN THE ALLEGED EXCLUSIVE DISTRIBUTORSHIP AGREEMENT WITH ALUMINIUM FAST FERRIES AUSTRALIA;
- THE HONORABLE APPELLATE COURT MISAPPLIED THE LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION IN FINDING PETITIONER LIABLE IN SOLIDUM WITH THE CO-DEFENDANTS WITH RESPECT TO THE CLAIMS OF RESPONDENT;
- THE HONORABLE COURT OF APPEALS MISAPPLIED LAW AND JURISPRUDENCE AND GRAVELY ABUSED ITS DISCRETION WHEN IT FOUND PETITIONER LIABLE FOR UNPAID COMMISSIONS, DAMAGES, ATTORNEY'S FEES, AND LITIGATION EXPENSES; and
- THE HONORABLE APPELLATE COURT ACTED CONTRARY TO LAW AND JURISPRUDENCE AND GRAVELY ABUSED ITS DISCRETION WHEN IT EFFECTIVELY DEPRIVED HEREIN PETITIONER OF HIS RIGHT TO DUE PROCESS BY AFFIRMING THE LOWER COURT'S DENIAL OF PETITIONER'S MOTION FOR NEW TRIAL.[29]

G.R. No. 164747
(Petitioner Cordero)

I.

THE COURT OF APPEALS ERRED IN NOT SUSTAINING THE JUDGMENT OF THE TRIAL COURT AWARDING PETITIONER ACTUAL DAMAGES FOR HIS COMMISSION FOR THE SALE OF THE SECOND VESSEL, SINCE THERE IS SUFFICIENT EVIDENCE ON RECORD WHICH PROVES THAT THERE WAS A SECOND SALE OF A VESSEL.

A. THE MEMORANDUM OF AGREEMENT DATED 7 AUGUST 1997 PROVIDES THAT RESPONDENT GO WAS CONTRACTUALLY BOUND TO BUY TWO (2) VESSELS FROM AFFA.

B. RESPONDENT GO'S POSITION PAPER AND COUNTER-AFFIDAVIT/POSITION PAPER THAT

WERE FILED BEFORE THE BUREAU OF CUSTOMS, ADMITS UNDER OATH THAT HE HAD INDEED PURCHASED A SECOND VESSEL FROM AFFA.

C. RESPONDENTS ADMITTED IN THEIR PRE-TRIAL BRIEF THAT THEY HAD PURCHASED A SECOND VESSEL.

II.

THE COURT OF APPEALS ERRED IN RULING THAT PETITIONER IS NOT ENTITLED TO HIS COMMISSIONS FOR THE PURCHASE OF A SECOND VESSEL, SINCE IT WAS PETITIONER'S EFFORTS WHICH ACTUALLY FACILITATED AND SET-UP THE TRANSACTION FOR RESPONDENTS.

III.

THE COURT OF APPEALS ERRED IN NOT IMPOSING THE PROPER LEGAL INTEREST RATE ON RESPONDENTS' UNPAID OBLIGATION WHICH SHOULD BE TWELVE PERCENT (12%) FROM THE TIME OF THE BREACH OF THE OBLIGATION.

IV.

THE COURT OF APPEALS ERRED IN NOT SUSTAINING THE ORIGINAL AMOUNT OF CONSEQUENTIAL DAMAGES AWARDED TO PETITIONER BY THE TRIAL COURT CONSIDERING THE BAD FAITH AND FRAUDULENT CONDUCT OF RESPONDENTS IN MISAPPROPRIATING THE MONEY OF PETITIONER.[30]

The controversy boils down to two (2) main issues: (1) whether petitioner Cordero has the legal personality to sue the respondents for breach of contract; and (2) whether the respondents may be held liable for damages to Cordero for his unpaid commissions and termination of his exclusive distributorship appointment by the principal, AFFA.

I. Real Party-in-Interest

First, on the issue of whether the case had been filed by the real party-in-interest as required by Section 2, Rule 3 of the Rules of Court, which defines such party as the one (1) to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. The purposes of this provision are: 1) to prevent the prosecution of actions by persons without any right, title or interest in the case; 2) to require that the actual party entitled to legal relief be the one to prosecute the action; 3) to avoid a multiplicity of suits; and 4) to discourage litigation and keep it within certain bounds, pursuant to sound public policy.[31] A case is dismissible for lack of personality to sue upon proof that the plaintiff is not the real party-in-interest, hence grounded on failure to state a cause of action.[32]

On this issue, we agree with the CA in ruling that it was Cordero and not Pamana who is the exclusive distributor of AFFA in the Philippines as shown by the Certification dated June 1, 1997 issued by Tony Robinson.[33] Petitioner Go mentions the following documents also signed by respondent Robinson which state that "Pamana Marketing Corporation represented by Mr. Mortimer F. Cordero" was actually the exclusive distributor: (1) letter dated 1 June 1997[34]; (2) certification dated 5 August 1997[35]; and (3) letter dated 5 August 1997 addressed to petitioner Cordero concerning "commissions to be paid to Pamana Marketing Corporation." [36] Such apparent inconsistency in naming AFFA's exclusive distributor in the Philippines is of no moment. For all intents and purposes, Robinson and AFFA dealt only with Cordero who alone made decisions in the performance of the exclusive distributorship, as with other clients to whom he had similarly offered AFFA's fast ferry vessels. Moreover, the stipulated commissions from each progress payments made by Go were directly paid by Robinson

to Cordero.[37] Respondents Landicho and Tecson were only too aware of Cordero's authority as the person who was appointed and acted as exclusive distributor of AFFA, which can be gleaned from their act of immediately furnishing him with copies of bank transmittals everytime Go remits payment to Robinson, who in turn transfers a portion of funds received to the bank account of Cordero in the Philippines as his commission. Out of these partial payments of his commission, Cordero would still give Landicho and Tecson their respective "commission," or "cuts" from his own commission. Respondents Landicho and Tecson failed to refute the evidence submitted by Cordero consisting of receipts signed by them. Said amounts were apart from the earlier expenses shouldered by Cordero for Landicho's airline tickets, transportation, food and hotel accommodations for the trip to Australia.[38]

Moreover, petitioner Go, Landicho and Tecson never raised petitioner Cordero's lack of personality to sue on behalf of Pamana,[39] and did so only before the CA when they contended that it is Pamana and not Cordero, who was appointed and acted as exclusive distributor for AFFA.[40] It was Robinson who argued in support of his motion to dismiss that as far as said defendant is concerned, the real party plaintiff appears to be Pamana, against the real party defendant which is AFFA.[41] As already mentioned, the trial court denied the motion to dismiss filed by Robinson.

We find no error committed by the trial court in overruling Robinson's objection over the improper resort to summons by publication upon a foreign national like him and in an action in personam, notwithstanding that he raised it in a special appearance specifically raising the issue of lack of jurisdiction over his person. Courts acquire jurisdiction over the plaintiffs upon the filing of the complaint, while jurisdiction over the defendants in a civil case is acquired either through the service of summons upon them in the manner required by law or through their voluntary appearance in court and their submission to its authority.[42] A party who makes a special appearance in court challenging the jurisdiction of said court based on the ground of invalid service of summons is not deemed to have submitted himself to the jurisdiction of the court.[43]

In this case, however, although the Motion to Dismiss filed by Robinson specifically stated as one (1) of the grounds the lack of "personal jurisdiction," it must be noted that he had earlier filed a Motion for Time to file an appropriate responsive pleading even beyond the time provided in the summons by publication.[44] Such motion did not state that it was a conditional appearance entered to question the regularity of the service of summons, but an appearance submitting to the jurisdiction of the court by acknowledging the summons by publication issued by the court and praying for additional time to file a responsive pleading. Consequently, Robinson having acknowledged the summons by publication and also having invoked the jurisdiction of the trial court to secure affirmative relief in his motion for additional time, he effectively submitted voluntarily to the trial court's jurisdiction. He is now estopped from asserting otherwise, even before this Court.[45]

II. Breach of Exclusive Distributorship, Contractual Interference and Respondents' Liability for Damages

In *Yu v. Court of Appeals*,[46] this Court ruled that the right to perform an exclusive distributorship agreement and to reap the profits resulting from such performance are proprietary rights which a party may protect. Thus, injunction is the appropriate remedy to prevent a wrongful interference with contracts by strangers to such contracts where the legal remedy is insufficient and the resulting injury is irreparable. In that case, the former dealer of the same goods purchased the merchandise from the manufacturer in England through a trading firm in West Germany and sold these in the Philippines. We held that the rights granted to the petitioner under the exclusive distributorship agreement may not be diminished nor rendered illusory by the expedient act of utilizing or interposing a person or firm to obtain goods for which the exclusive distributorship was conceptualized, at the expense of the sole authorized distributor.[47]

In the case at bar, it was established that petitioner Cordero was not paid the balance of his commission by respondent Robinson. From the time petitioner Go and respondent Landicho directly dealt with respondent Robinson in Brisbane, and ceased communicating through petitioner Cordero as the exclusive distributor of AFFA in the Philippines, Cordero was no longer informed of payments remitted to AFFA in Brisbane. In other words, Cordero had clearly been cut off from the transaction until the arrival of the first SEACAT 25 which was sold through his efforts. When Cordero complained to Go, Robinson, Landicho and Tecson about their acts prejudicial to his rights and demanded that they respect his exclusive distributorship, Go simply let his lawyers led by Landicho and Tecson handle the matter and tried to settle it by promising to pay a certain amount and to purchase high-speed catamarans through Cordero. However, Cordero was not paid anything and worse, AFFA through its lawyer in Australia even terminated his exclusive dealership insisting that his services were engaged for only one (1) transaction, that is, the purchase of the first SEACAT 25 in August 1997.

Petitioner Go argues that unlike in *Yu v. Court of Appeals*[48] there is no conclusive proof adduced by petitioner Cordero that they actually purchased a second SEACAT 25 directly from AFFA and hence there was no violation of the exclusive distributorship agreement. Further, he contends that the CA gravely abused its discretion in holding them solidarily liable to Cordero, relying on Articles 1207, 19 and 21 of the Civil Code despite absence of evidence, documentary or testimonial, showing that they conspired to defeat the very purpose of the exclusive distributorship agreement.[49]

We find that contrary to the claims of petitioner Cordero, there was indeed no sufficient evidence that respondents actually purchased a second SEACAT 25 directly from AFFA. But this circumstance will not absolve respondents from liability for invading Cordero's rights under the exclusive distributorship. Respondents clearly acted in bad faith in bypassing Cordero as they completed the remaining payments to AFFA without advising him and furnishing him with copies of the bank transmittals as they previously did, and directly dealt with AFFA through Robinson regarding arrangements for the arrival of the first SEACAT 25 in Manila and negotiations for the purchase of the second vessel pursuant to the Memorandum of Agreement which Cordero signed in behalf of AFFA. As a result of respondents' actuations, Cordero incurred losses as he was not paid the balance of his commission from the sale of the first vessel and his exclusive distributorship revoked by AFFA.

Petitioner Go contends that the trial and appellate courts erred in holding them solidarily liable for Cordero's unpaid commission, which is the sole obligation of the principal AFFA. It was Robinson on behalf of AFFA who, in the letter dated August 5, 1997 addressed to Cordero, undertook to pay commission payments to Pamana on a staggered progress payment plan in the form of percentage of the commission per payment. AFFA explicitly committed that it will, "upon receipt of progress payments, pay to Pamana their full commission by telegraphic transfer to an account nominated by Pamana within one to two days of [AFFA] receiving such payments." [50] Petitioner Go further maintains that he had not in any way violated or caused the termination of the exclusive distributorship agreement between Cordero and AFFA; he had also paid in full the first and only vessel he purchased from AFFA.[51]

While it is true that a third person cannot possibly be sued for breach of contract because only parties can breach contractual provisions, a contracting party may sue a third person not for breach but for inducing another to commit such breach.

Article 1314 of the Civil Code provides:

Art. 1314. Any third person who induces another to violate his contract shall be liable for damages to the other contracting party.

The elements of tort interference are: (1) existence of a valid contract; (2) knowledge on the part of the third

person of the existence of a contract; and (3) interference of the third person is without legal justification.[52]

The presence of the first and second elements is not disputed. Through the letters issued by Robinson attesting that Cordero is the exclusive distributor of AFFA in the Philippines, respondents were clearly aware of the contract between Cordero and AFFA represented by Robinson. In fact, evidence on record showed that respondents initially dealt with and recognized Cordero as such exclusive dealer of AFFA high-speed catamaran vessels in the Philippines. In that capacity as exclusive distributor, petitioner Go entered into the Memorandum of Agreement and Shipbuilding Contract No. 7825 with Cordero in behalf of AFFA.

As to the third element, our ruling in the case of *So Ping Bun v. Court of Appeals*[53] is instructive, to wit:

A duty which the law of torts is concerned with is respect for the property of others, and a cause of action *ex delicto* may be predicated upon an unlawful interference by one person of the enjoyment by the other of his private property. This may pertain to a situation where a third person induces a party to renege on or violate his undertaking under a contract. In the case before us, petitioner's Trendsetter Marketing asked DCCSI to execute lease contracts in its favor, and as a result petitioner deprived respondent corporation of the latter's property right. Clearly, and as correctly viewed by the appellate court, the three elements of tort interference above-mentioned are present in the instant case.

Authorities debate on whether interference may be justified where the defendant acts for the sole purpose of furthering his own financial or economic interest. One view is that, as a general rule, justification for interfering with the business relations of another exists where the actor's motive is to benefit himself. Such justification does not exist where his sole motive is to cause harm to the other. Added to this, some authorities believe that it is not necessary that the interferer's interest outweigh that of the party whose rights are invaded, and that an individual acts under an economic interest that is substantial, not merely *de minimis*, such that wrongful and malicious motives are negated, for he acts in self-protection. Moreover, justification for protecting one's financial position should not be made to depend on a comparison of his economic interest in the subject matter with that of others. It is sufficient if the impetus of his conduct lies in a proper business interest rather than in wrongful motives.

As early as *Gilchrist vs. Cuddy*, we held that where there was no malice in the interference of a contract, and the impulse behind one's conduct lies in a proper business interest rather than in wrongful motives, a party cannot be a malicious interferer. Where the alleged interferer is financially interested, and such interest motivates his conduct, it cannot be said that he is an officious or malicious intermeddler.

In the instant case, it is clear that petitioner *So Ping Bun* prevailed upon DCCSI to lease the warehouse to his enterprise at the expense of respondent corporation. Though petitioner took interest in the property of respondent corporation and benefited from it, nothing on record imputes deliberate wrongful motives or malice in him.

x x x

While we do not encourage tort interferers seeking their economic interest to intrude into existing contracts at the expense of others, however, we find that the conduct herein complained of did not transcend the limits forbidding an obligatory award for damages in the absence of any malice. The business desire is there to make some gain to the detriment of the contracting parties. Lack of malice, however, precludes damages. But it does not relieve petitioner of the legal liability for entering into contracts and causing breach of existing ones. The respondent appellate court correctly confirmed the permanent injunction and nullification of the lease contracts between DCCSI and Trendsetter Marketing, without awarding damages. The injunction saved the respondents from further damage or injury caused by petitioner's interference.[54] [emphasis supplied.]

Malice connotes ill will or spite, and speaks not in response to duty. It implies an intention to do ulterior and unjustifiable harm. Malice is bad faith or bad motive.[55] In the case of *Lagon v. Court of Appeals*,[56] we held

that to sustain a case for tortuous interference, the defendant must have acted with malice or must have been driven by purely impure reasons to injure the plaintiff; in other words, his act of interference cannot be justified. We further explained that the word "induce" refers to situations where a person causes another to choose one course of conduct by persuasion or intimidation. As to the allegation of private respondent in said case that petitioner induced the heirs of the late Bai Tonina Sepi to sell the property to petitioner despite an alleged renewal of the original lease contract with the deceased landowner, we ruled as follows:

Assuming *ex gratia argumenti* that petitioner knew of the contract, such knowledge alone was not sufficient to make him liable for tortuous interference. x x x

Furthermore, the records do not support the allegation of private respondent that petitioner induced the heirs of Bai Tonina Sepi to sell the property to him. The word "induce" refers to situations where a person causes another to choose one course of conduct by persuasion or intimidation. The records show that the decision of the heirs of the late Bai Tonina Sepi to sell the property was completely of their own volition and that petitioner did absolutely nothing to influence their judgment. Private respondent himself did not proffer any evidence to support his claim. In short, even assuming that private respondent was able to prove the renewal of his lease contract with Bai Tonina Sepi, the fact was that he was unable to prove malice or bad faith on the part of petitioner in purchasing the property. Therefore, the claim of tortuous interference was never established.[57]

In their Answer, respondents denied having anything to do with the unpaid balance of the commission due to Cordero and the eventual termination of his exclusive distributorship by AFFA. They gave a different version of the events that transpired following the signing of Shipbuilding Contract No. 7825. According to them, several builder-competitors still entered the picture after the said contract for the purchase of one (1) SEACAT 25 was sent to Brisbane in July 1997 for authentication, adding that the contract was to be effective on August 7, 1997, the time when their funds was to become available. Go admitted he called the attention of AFFA if it can compete with the prices of other builders, and upon mutual agreement, AFFA agreed to give them a discounted price under the following terms and conditions: (1) that the contract price be lowered; (2) that Go will obtain another vessel; (3) that to secure compliance of such conditions, Go must make an advance payment for the building of the second vessel; and (4) that the payment scheme formerly agreed upon as stipulated in the first contract shall still be the basis and used as the guiding factor in remitting money for the building of the first vessel. This led to the signing of another contract superseding the first one (1), still to be dated 07 August 1997. Attached to the answer were photocopies of the second contract stating a lower purchase price (US\$1,150,000.00) and facsimile transmission of AFFA to Go confirming the transaction.[58]

As to the cessation of communication with Cordero, Go averred it was Cordero who was nowhere to be contacted at the time the shipbuilding progress did not turn good as promised, and it was always Landicho and Tecson who, after several attempts, were able to locate him only to obtain unsatisfactory reports such that it was Go who would still call up Robinson regarding any progress status report, lacking documents for MARINA, etc., and go to Australia for ocular inspection. Hence, in May 1998 on the scheduled launching of the ship in Australia, Go engaged the services of Landicho who went to Australia to see to it that all documents needed for the shipment of the vessel to the Philippines would be in order. It was also during this time that Robinson's request for inquiry on the Philippine price of a Wartsila engine for AFFA's then on-going vessel construction, was misinterpreted by Cordero as indicating that Go was buying a second vessel.[59]

We find these allegations unconvincing and a mere afterthought as these were the very same averments contained in the Position Paper for the Importer dated October 9, 1998, which was submitted by Go on behalf of ACG Express Liner in connection with the complaint-affidavit filed by Cordero before the BOC-SGS Appeals Committee relative to the shipment valuation of the first SEACAT 25 purchased from AFFA.[60] It appears that

the purported second contract superseding the original Shipbuilding Contract No. 7825 and stating a lower price of US\$1,150,000.00 (not US\$1,465,512.00) was only presented before the BOC to show that the vessel imported into the Philippines was not undervalued by almost US\$500,000.00. Cordero vehemently denied there was such modification of the contract and accused respondents of resorting to falsified documents, including the facsimile transmission of AFFA supposedly confirming the said sale for only US\$1,150,000.00. Incidentally, another document filed in said BOC case, the Counter-Affidavit/Position Paper for the Importer dated November 16, 1998,[61] states in paragraph 8 under the Antecedent facts thereof, that —

8. As elsewhere stated, the total remittances made by herein Importer to AFFA does not alone represent the purchase price for Seacat 25. It includes advance payment for the acquisition of another vessel as part of the deal due to the discounted price.[62]

which even gives credence to the claim of Cordero that respondents negotiated for the sale of the second vessel and that the nonpayment of the remaining two (2) instalments of his commission for the sale of the first SEACAT 25 was a result of Go and Landicho's directly dealing with Robinson, obviously to obtain a lower price for the second vessel at the expense of Cordero.

The act of Go, Landicho and Tecson in inducing Robinson and AFFA to enter into another contract directly with ACG Express Liner to obtain a lower price for the second vessel resulted in AFFA's breach of its contractual obligation to pay in full the commission due to Cordero and unceremonious termination of Cordero's appointment as exclusive distributor. Following our pronouncement in *Gilchrist v. Cuddy* (supra), such act may not be deemed malicious if impelled by a proper business interest rather than in wrongful motives. The attendant circumstances, however, demonstrated that respondents transgressed the bounds of permissible financial interest to benefit themselves at the expense of Cordero. Respondents furtively went directly to Robinson after Cordero had worked hard to close the deal for them to purchase from AFFA two (2) SEACAT 25, closely monitored the progress of building the first vessel sold, attended to their concerns and spent no measly sum for the trip to Australia with Go, Landicho and Go's family members. But what is appalling is the fact that even as Go, Landicho and Tecson secretly negotiated with Robinson for the purchase of a second vessel, Landicho and Tecson continued to demand and receive from Cordero their "commission" or "cut" from Cordero's earned commission from the sale of the first SEACAT 25.

Cordero was practically excluded from the transaction when Go, Robinson, Tecson and Landicho suddenly ceased communicating with him, without giving him any explanation. While there was nothing objectionable in negotiating for a lower price in the second purchase of SEACAT 25, which is not prohibited by the Memorandum of Agreement, Go, Robinson, Tecson and Landicho clearly connived not only in ensuring that Cordero would have no participation in the contract for sale of the second SEACAT 25, but also that Cordero would not be paid the balance of his commission from the sale of the first SEACAT 25. This, despite their knowledge that it was commission already earned by and due to Cordero. Thus, the trial and appellate courts correctly ruled that the actuations of Go, Robinson, Tecson and Landicho were without legal justification and intended solely to prejudice Cordero.

The existence of malice, ill will or bad faith is a factual matter. As a rule, findings of fact of the trial court, when affirmed by the appellate court, are conclusive on this Court.[63] We see no compelling reason to reverse the findings of the RTC and the CA that respondents acted in bad faith and in utter disregard of the rights of Cordero under the exclusive distributorship agreement.

The failure of Robinson, Go, Tecson and Landicho to act with fairness, honesty and good faith in securing better terms for the purchase of high-speed catamarans from AFFA, to the prejudice of Cordero as the duly appointed exclusive distributor, is further proscribed by Article 19 of the Civil Code:

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

As we have expounded in another case:

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

Art. 21. Any person who willfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage.

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

A common theme runs through Articles 19 and 21, and that is, the act complained of must be intentional.[64]

Petitioner Go's argument that he, Landicho and Tecson cannot be held liable solidarily with Robinson for actual, moral and exemplary damages, as well as attorney's fees awarded to Cordero since no law or contract provided for solidary obligation in these cases, is equally bereft of merit. Conformably with Article 2194 of the Civil Code, the responsibility of two or more persons who are liable for the quasi-delict is solidary.[65] In *Lafarge Cement Philippines, Inc. v. Continental Cement Corporation*,[66] we held:

[O]bligations arising from tort are, by their nature, always solidary. We have assiduously maintained this legal principle as early as 1912 in *Worcester v. Ocampo*, in which we held:

x x x The difficulty in the contention of the appellants is that they fail to recognize that the basis of the present action is tort. They fail to recognize the universal doctrine that each joint tortfeasor is not only individually liable for the tort in which he participates, but is also jointly liable with his tortfeasors. x x x

It may be stated as a general rule that joint tortfeasors are all the persons who command, instigate, promote, encourage, advise, countenance, cooperate in, aid or abet the commission of a tort, or who approve of it after it is done, if done for their benefit. They are each liable as principals, to the same extent and in the same manner as if they had performed the wrongful act themselves. x x x

Joint tortfeasors are jointly and severally liable for the tort which they commit. The persons injured may sue all of them or any number less than all. Each is liable for the whole damages caused by all, and all together are jointly liable for the whole damage. It is no defense for one sued alone, that the others who participated in the wrongful act are not joined with him as defendants; nor is it any excuse for him that his participation in the tort was insignificant as compared to that of the others. x x x

Joint tortfeasors are not liable pro rata. The damages can not be apportioned among them, except among themselves. They cannot insist upon an apportionment, for the purpose of each paying an aliquot part. They are jointly and severally liable for the whole amount. x x x

A payment in full for the damage done, by one of the joint tortfeasors, of course satisfies any claim which might exist against the others. There can be but satisfaction. The release of one of the joint tortfeasors by

agreement generally operates to discharge all. x x x

Of course, the court during trial may find that some of the alleged tortfeasors are liable and that others are not liable. The courts may release some for lack of evidence while condemning others of the alleged tortfeasors. And this is true even though they are charged jointly and severally.[67] [emphasis supplied.]

The rule is that the defendant found guilty of interference with contractual relations cannot be held liable for more than the amount for which the party who was induced to break the contract can be held liable.[68] Respondents Go, Landicho and Tecson were therefore correctly held liable for the balance of petitioner Cordero's commission from the sale of the first SEACAT 25, in the amount of US\$31,522.09 or its peso equivalent, which AFFA/Robinson did not pay in violation of the exclusive distributorship agreement, with interest at the rate of 6% per annum from June 24, 1998 until the same is fully paid.

Respondents having acted in bad faith, moral damages may be recovered under Article 2219 of the Civil Code.[69] On the other hand, the requirements of an award of exemplary damages are: (1) they may be imposed by way of example in addition to compensatory damages, and only after the claimant's right to them has been established; (2) that they cannot be recovered as a matter of right, their determination depending upon the amount of compensatory damages that may be awarded to the claimant; and (3) the act must be accompanied by bad faith or done in a wanton, fraudulent, oppressive or malevolent manner.[70] The award of exemplary damages is thus in order. However, we find the sums awarded by the trial court as moral and exemplary damages as reduced by the CA, still excessive under the circumstances.

Moral damages are meant to compensate and alleviate the physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injuries unjustly caused. Although incapable of pecuniary estimation, the amount must somehow be proportional to and in approximation of the suffering inflicted. Moral damages are not punitive in nature and were never intended to enrich the claimant at the expense of the defendant. There is no hard-and-fast rule in determining what would be a fair and reasonable amount of moral damages, since each case must be governed by its own peculiar facts. Trial courts are given discretion in determining the amount, with the limitation that it "should not be palpably and scandalously excessive." Indeed, it must be commensurate to the loss or injury suffered.[71]

We believe that the amounts of P300,000.00 and P200,000.00 as moral and exemplary damages, respectively, would be sufficient and reasonable. Because exemplary damages are awarded, attorney's fees may also be awarded in consonance with Article 2208 (1).[72] We affirm the appellate court's award of attorney's fees in the amount of P50,000.00.

WHEREFORE, the petitions are DENIED. The Decision dated March 16, 2004 as modified by the Resolution dated July 22, 2004 of the Court of Appeals in CA-G.R. CV No. 69113 are hereby AFFIRMED with MODIFICATION in that the awards of moral and exemplary damages are hereby reduced to P300,000.00 and P200,000.00, respectively.

With costs against the petitioner in G.R. No. 164703.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio Morales, Leonardo-De Castro, and Bersamin, JJ., concur.

[1] Penned by Associate Justice Jose Catral Mendoza (now a Member of this Court) and concurred in by Associate Justices B.A. Adefuin-Dela Cruz and Eliezer R. Delos Santos.

- [2] Penned by Associate Justice Jose Catral Mendoza (now a Member of this Court) and concurred in by Associate Justices Delilah Vidallon-Magtolis and Eliezer R. Delos Santos.
- [3] Penned by Judge Pedro M. Areola.
- [4] Folder of plaintiff's exhibits, pp. 1-34.
- [5] Id., pp. 35-39.
- [6] Id., pp. 43-51.
- [7] Id., pp. 40-42.
- [8] Id., pp. 52-53.
- [9] Id., pp. 54-56.
- [10] Id., pp. 56-57.
- [11] TSN, April 5, 2000, pp. 27-35; folder of plaintiff's exhibits, p. 58.
- [12] Records, Vol. I, pp. 1-16.
- [13] Id., pp. 155-157, 167-171, 186-189, 249-251.
- [14] Id., pp. 70-77, 178.
- [15] Id., pp. 213-214.
- [16] Id., pp. 298-299.
- [17] TSN, April 14, 2000, pp. 2-44.
- [18] Records, Vol. I, pp. 445-446.
- [19] Id., pp. 460-465.
- [20] Id., pp. 477-480.
- [21] Id., pp. 481-485.
- [22] Id., p. 486.
- [23] Id., pp. 500-502.
- [24] Id., p. 503.
- [25] Id., pp. 512-514.
- [26] Records, Vol. II, pp. 550-620.
- [27] Id., pp. 621-622.
- [28] Cordero v. Go, G.R. No. 149754, 389 SCRA 288.
- [29] Rollo (G.R. No. 164703), pp. 23-24.
- [30] Rollo (G.R. No. 164747), pp. 21-22.
- [31] Oco v. Limbaring, G.R. No. 161298, January 31, 2006, 481 SCRA 348, 358.

- [32] Tamondong v. Court of Appeals, G.R. No. 158397, November 26, 2004, 444 SCRA 509.
- [33] Folder of exhibits, Exhibit "A-6", p. 7.
- [34] Id., Exhibit "A-9", p. 10
- [35] Id., Exhibit "A", p. 1.
- [36] Id., Exhibit "A-3", p. 4.
- [37] Id., Exhibits "J" to "J-2", "K" to "K-4", "M", "Y" to "Y-4", pp. 59-66, 69-71, 314-318.
- [38] Id., Exhibits "R-6", "P", "R-7", "V", "W", "X" to "X-7", "Y" to "Y-4" and "Z" to "Z-2", pp. 232, 236-238, 239, 301-321.
- [39] Records, Vol. I, pp. 70-73, 203-213, 265-267, 460-464.
- [40] CA rollo, pp. 78-84.
- [41] Records, Vol. I, pp. 241-242.
- [42] Perkin Elmer Singapore Pte Ltd. v. Dakila Trading Corporation, G.R. No. 172242, August 14, 2007, 530 SCRA 170, 186.
- [43] United Coconut Planters Bank v. Ongpin, G.R. No. 146593, October 26, 2001, 368 SCRA 464, 470.
- [44] Records, Vol. I, pp. 168-170.
- [45] See Dole Philippines, Inc.(Tropifresh Division) v. Quilala, G.R. No. 168723, July 9, 2008, 557 SCRA 433, 437-438.
- [46] G.R. No. 86683, January 21, 1993, 217 SCRA 328.
- [47] Id., pp. 331, 332.
- [48] Supra.
- [49] Rollo (G.R. No. 164703), pp. 33-34.
- [50] Id., pp 36-37; Exhibit "A-3", folder of exhibits, p. 4.
- [51] Rollo (G.R. No. 164703), p. 39.
- [52] So Ping Bun v. Court of Appeals, G.R. No. 120554, September 21, 1999, 314 SCRA 751, 758, citing 30 Am Jur, Section 19, pp. 71-72 and Sampaguita Pictures, Inc. v. Vasquez, et al. (Court of Appeals, 68 O.G. 7666).
- [53] Supra.
- [54] Id., pp. 758-760.
- [55] Borjal v. Court of Appeals, G.R. No. 126466, January 14, 1999, 301 SCRA 1, 28.
- [56] G.R. No. 119107, March 18, 2005, 453 SCRA 616, 626.
- [57] Id., p. 626.
- [58] Records, Vol. I, pp. 204-206.
- [59] Id., pp. 206-207.

[60] Folder of exhibits, Exhibit "BB", pp. 324-342.

[61] *Id.*, Exhibit "CC", pp. 343-361.

[62] *Id.*, p. 345.

[63] *Ramas v. Quiamco*, G.R. No. 146322, December 6, 2006, 510 SCRA 172, 178.

[64] *Nikko Hotel Manila Garden v. Reyes*, G.R. No. 154259, February 28, 2005, 452 SCRA 532, 546-547, citing *Albenson Enterprises Corp. v. Court of Appeals*, G.R. No. 88694, January 11, 1993, 217 SCRA 16, 25.

[65] *Ngo Sin Sing v. Li Seng Giap & Sons, Inc.*, G.R. No. 170596, November 28, 2008, 572 SCRA 625, 638, citing *Chan, Jr. v. Iglesia ni Cristo, Inc.*, G.R. No. 160283, October 14, 2005, 473 SCRA 177, 186.

[66] G.R. No. 155173, November 23, 2004, 443 SCRA 522.

[67] As cited in *Ngo Sin Sing v. Li Seng Giap & Sons, Inc.*, *supra*.

[68] *Daywalt v. Corporacion de PP. Agustinos Recoletos*, 39 Phil. 587 (1919).

[69] *Magat v. Court of Appeals*, G.R. No. 124221, August 4, 2000, 337 SCRA 298; *Far East Bank & Trust Company v. Court of Appeals*, 311 Phil. 783 (1995); and *Expertravel & Tours, Inc. v. Court of Appeals*, G.R. No. 130030, June 25, 1999, 309 SCRA 141, 145-146.

[70] *National Steel Corporation v. Regional Trial Court of Lanao del Norte, Br. 2, Iligan City*, G.R. No. 127004, March 11, 1999 304 SCRA 609.

[71] *Samson, Jr. v. Bank of the Philippine Islands*, G.R. No. 150487, July 10, 2003, 405 SCRA 607, 611-612, citing *Expertravel & Tours, Inc. v. Court of Appeals*, 368 Phil. 444 (1999); *De la Serna v. Court of Appeals*, G.R. No. 109161, June 21, 1994, 233 SCRA 325; *Visayan Sawmill Company, Inc. v. Court of Appeals*, G.R. No. 83851, March 3, 1993, 219 SCRA 378; *Flores v. Uy*, G.R. Nos. 121492 & 124325, October 26, 2001, 368 SCRA 347; *Pagsuyuin v. Intermediate Appellate Court*, G.R. No. 72121, February 6, 1991, 193 SCRA 547; *Northwest Airlines v. Laya*, G.R. No. 145956, May 29, 2002, 382 SCRA 730; *Cavite Development Bank v. Sps. Lim*, 381 Phil. 355 (2000); *Coca-Cola Bottlers, Phils., Inc. v. Roque*, 367 Phil. 493 (1999); *Morales v. Court of Appeals*, G.R. No. 117228, June 19, 1997, 274 SCRA 282; *Prudential Bank v. Court of Appeals*, 384 Phil. 942 (1999); *Singson v. Court of Appeals*, 346 Phil. 831 (1997); *Del Rosario v. Court of Appeals*, 334 Phil. 812 (1997); *Philippine National Bank v. Court of Appeals*, 326 Phil. 326 (1996); *Mayo v. People*, G.R. No. 91201, December 5, 1991, 204 SCRA 642; *Policarpio v. Court of Appeals*, G.R. No. 94563, March 5, 1991, 194 SCRA 729; *Radio Communications of the Phils., Inc. v. Rodriguez*, G.R. No. 83768, February 28, 1990, 182 SCRA 899; and *Prudenciado v. Alliance Transport System, Inc.*, No. L-33836, March 16, 1987, 148 SCRA 440.

[72] *B.F. Metal (Corporation) v. Lomotan*, G.R. No. 170813, April 16, 2008, 551 SCRA 618.

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