

ADELAIDA AMADO AND THE HEIRS AND/OR ESTATE OF THE LATE JUDGE NOE AMADO, PETITIONERS, VS. RENATO SALVADOR, RESPONDENT.

G.R. No. 171401. December 13, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, assailing the Decision dated 25 August 2005 rendered by the Court of Appeals in CA-G.R. CV No. 71816.[1] In reversing the Decision,[2] dated 28 November 2000, of the Regional Trial Court (RTC), Branch 76, of San Mateo, Rizal, the Court of Appeals declared that the late Judge Noe Amado (Judge Amado), the petitioners' predecessor-in-interest, already sold the subject property to respondent, Renato Salvador (Salvador).

Petitioners are the heirs of the late Judge Amado, who was the owner of a parcel of land situated at Barangay Burgos, Rodriguez, Rizal, with an area of 5,928 square meters.[3] The property subject of the present controversy is a portion thereof, consisting of 1,106 square meters and registered under Original Certificate of Title (OCT) No. N-191954-A with the Registry of Deeds of Rizal[4] in the name of Judge Amado.

Salvador alleges that in or around September 1979, Judge Amado agreed to sell to him the subject property for P60.00 per square meter, or in the total sum of P66,360.00, payable in cash or construction materials which would be delivered to Judge Amado, or to whomsoever the latter wished during his lifetime.[5] Salvador though failed to state the terms of payment, such as the period within which the payment was supposed to be completed, or how much of the payment should be made in cash. In view of the sale in his favor, Salvador undertook the transfer and relocation of about five squatter families residing on the subject property. Thereafter, Judge Amado allowed Salvador to take possession of the subject property and to build thereon a residential structure, office, warehouse, perimeter fence and a deep well pump.[6] Salvador claims that by October 1980, he had already given Judge Amado total cash advances of P30,310.93 and delivered construction materials amounting to P36,904.45, the total of which exceeded the agreed price for the subject property.[7]

According to the petitioners, on the other hand, Judge Amado let Salvador use the subject property, upon the request of the latter's father and grandfather, who were Judge Amado's friends. Salvador used the subject property for his business of manufacturing hollow blocks.[8]

The petitioners maintain that the cash advances and the various construction materials were received by Judge Amado from Salvador in connection with a loan agreement, and not as payment for the sale of the subject property. Petitioners offered in evidence a loan agreement executed on 15 August 1980 wherein Salvador and Judge Amado and their respective spouses appeared as co-borrowers with Capitol City Development Bank as lender. The property belonging to Judge Amado was used as collateral, while Salvador undertook the obligation to construct a perimeter fence over Judge Amado's land covered by OCT No. N-191954-A and to deliver hollow blocks to Judge Amado's son, Valeriano Amado. Petitioners aver that Salvador and Judge Amado agreed to divide

the proceeds of the loan among themselves. Since the bank delivered the proceeds of the loan to Salvador, Judge Amado's share in the proceeds were paid to him in several installments, some of which Salvador alleged were payments for the sale of the subject property.[9]

Petitioners assert that when Salvador's business folded up, he failed to pay his share of the monthly amortization of the loan with the bank. Judge Amado paid the loan to prevent the foreclosure of his mortgaged property. Salvador also allowed his brother Lamberto Salvador to occupy the premises without the consent of Judge Amado.[10]

On 4 November 1983, Judge Amado sent a demand letter to Salvador directing the latter to vacate the subject property,[11] which Salvador merely ignored.[12]

Judge Amado filed an ejectment suit against Salvador before the Municipal Trial Court (MTC) of Rodriguez, Rizal, docketed as Civil Case No. 700. During the hearing before the MTC, Salvador and his brother, Lamberto Salvador, defendants therein, stated in their Answer with Counterclaim that a balance of P4,040.62 from the purchase price of the subject property was left unpaid due to the failure of Judge Amado to execute and deliver a deed of sale.[13] In a Decision dated 16 July 1990, the MTC dismissed the ejectment suit on the ground of lack of jurisdiction because of Salvador's claim of ownership over the subject property.[14] The case was appealed to the RTC and docketed as Civil Case No. 704. The RTC affirmed the dismissal of Judge Amado's ejectment suit by the MTC based on lack of jurisdiction.[15]

On 22 August 1996, Salvador filed before the RTC Civil Case No. 1252, an action for specific performance with damages against the petitioners.[16] As evidence that the sale of the subject property was perfected between Judge Amado and himself, Salvador presented a note written by Judge Amado, which reads[17]:

San Mateo

October 1, 1980

Dear Reny,

Meron naniningil sa akin ng P500.00 kaya't ako ay bigyan ng ganoong halaga ngayon.

Hindi ko nilagdaan iyong papel na dala ni Kapitan Maeng at ito ay nasa akin pa.

Saka ko na ibabalik iyon pa gang aking plano ay napaayos ko na. Ang lupa ay gagawin kong dalawang lote.

Ako,

Noe Amado

Salvador also offered in evidence the testimony of Ismael Angeles to prove that Judge Amado agreed to sell the subject property to him.

To prove that he paid the purchase price, Salvador submitted the following documents showing he paid cash and delivered construction materials to Judge Amado: (1) a statement of account of cash advances made from 1 September 1979 to 23 September 1980 in the total amount of P30,310.93[18]; (2) statements of account of construction materials delivered from 23 August 1979 to 20 October 1979 with a total cost of P17,656.85, from 26 December 1979 to 25 August 1980 with a total cost of P1,711.20, and from 26 August 1980 to 24 September 1980 with a total cost of P10,447.40[19]; (3) Invoice No. 50 dated 8 December 1980 for construction materials worth P924.00[20]; and (4) delivery receipts of construction materials from 21 November 1979 to 6 January 1981 with a total cost of P1,665.00.[21]

The RTC dismissed Salvador's complaint in Civil Case No. 1252. The trial court observed that it was not

indicated in the documentary evidence presented by Salvador that the money and construction materials were intended as payment for the subject property. It gave little probative value to tax declarations in the name of Salvador since they referred to the improvements on the land and not the land itself. The testimonial evidence given by Ismael Angeles was considered insufficient to prove the fact of sale because the witness failed to categorically state that a sale transaction had taken place between Salvador and Judge Amado. Moreover, the RTC held that Salvador was disqualified under the Dead Man's Statute[22] from testifying on any matter of fact involving a transaction between him and Judge Amado which occurred before the death of the latter.[23]

Salvador appealed the Decision of the RTC in Civil Case No. 1252 before the Court of Appeals.

In reversing the decision of the RTC of San Mateo, the Court of Appeals found that Salvador paid for the subject land with cash advances and construction materials, since petitioners failed to present any evidence showing that the construction materials Salvador delivered to Judge Amado had been paid for. It construed as adequate proof of the sale the handwritten note of Judge Amado wherein the latter promised to sign an unidentified deed after the subdivision of an unnamed property, in light of Ismael Angeles' testimony that Judge Amado had promised to sign a deed of sale over the subject property in favor of Salvador. According to the appellate court, the testimony of Salvador was not barred by Section 23, Rule 130 of the Rules of Court, also known as the Dead Man's Statute, and was, therefore, admissible because the petitioners filed a counterclaim against Salvador. It also gave great weight to the tax declarations presented by Salvador and his efforts to relocate the five squatter families which previously resided on the subject property as proof of ownership. Lastly, the Court of Appeals awarded Salvador P100,000.00 as moral damages and P100,000.00 as exemplary damages. The dispositive part of the said Decision reads:

- Ordering [herein petitioners] to execute a Deed of Sale in favor of [herein respondent Salvador] covering the parcel of land with an area of 1,106 square meters located at 18 Amado-Liamzon Street, Brgy. Burgos, Rodriguez, Rizal which is a portion of the 5,928 square meter parcel of land in the name of Judge Noe Amado, married to Adelaida A. Amado in the Registration Book as Original Certificate of Title No. ON-191954-A of the Register of Deeds of Rizal, Marikina Branch;
- Ordering the [petitioners] to deliver to [Salvador] the Original Certificate of Title No. ON-191954-A of the Register of Deeds of Rizal, Marikina Branch, bearing page number 54-A, Book A-6, and execute receipts and other documents which may be necessary for the registration and titling of the parcel of land in [Salvador]'s name; and
- Ordering the [petitioners] to pay [Salvador] P100,000.00 as moral damages, P100,000.00 as exemplary damages, and costs of suits.[24]

Hence, the present petition. Petitioners rely on the following grounds:[25]

I

THE COURT A QUO ERRED ON A QUESTION OF LAW IN REVERSING THE TRIAL COURT'S DECISION AND HOLDING THAT RESPONDENT HAS SUCCESSFULLY DISCHARGED THE BURDEN OF EVIDENCE THAT THERE WAS A SALE OF LOT, THE CONSIDERATION OF WHICH WAS TO BE PAID IN CASH AND CONSTRUCTION MATERIALS

II

THE COURT A QUO ERRED ON A QUESTION OF LAW IN HOLDING THAT RESPONDENT WAS NOT DISQUALIFIED TO TESTIFY UNDER THE DEAD MAN'S STATUTE AS PROVIDED IN SECTION 23, RULE 130 OF THE RULES OF COURT

III

THE COURT A QUO ERRED ON A QUESTION OF LAW IN RULING THAT PETITIONERS ARE LIABLE FOR MORAL OR EXEMPLARY DAMAGES IN THE TOTAL AMOUNT OF P200,000.00[26]

The petition at bar is meritorious.

The main controversy in the petition is whether or not there was a perfected contract of sale of the subject property. In resolving this issue, this Court would necessarily re-examine the factual findings of the Court of Appeals, as well as the contrary findings of the trial court. It is a recognized principle that while this Court is not a trier of facts and does not normally embark on the evaluation of evidence adduced during trial, this rule allows exceptions,[27] such as when the findings of the trial court and the Court of Appeals are conflicting or contradictory.[28]

A contract of sale is perfected by mere consent, upon a meeting of the minds in the offer and the acceptance thereof based on subject matter, price and terms of payment.[29] Until the contract of sale is perfected, it cannot, as an independent source of obligation, serve as a binding juridical relation between the parties.[30]

Consent is essential for the existence of a contract, and where it is absent, the contract is non-existent. Consent in contracts presupposes the following requisites: (1) it should be intelligent or with an exact notion of the matter to which it refers; (2) it should be free; and (3) it should be spontaneous.[31] Moreover, a definite agreement on the manner of payment of the price is an essential element in the formation of a binding and enforceable contract of sale.[32] This is so because the agreement as to the manner of payment goes into the price such that a disagreement on the manner of payment is tantamount to a failure to agree on the price or consideration.[33]

In the present case, Salvador fails to allege the manner of payment of the purchase price on which the parties should have agreed. No period was set within which the payment must be made. Of the purchase price of P66,360.00, which the parties purportedly agreed upon, the amount which should be paid in cash and the amount for construction materials was not determined. This means that the parties had no exact notion of the consideration for the contract to which they supposedly gave their consent. Thus, such failure is fatal to Salvador's claim that a sale had been agreed upon by the parties.

Furthermore, after carefully examining the records, serious doubts became apparent as to whether cash advances and deliveries of construction materials evidenced by numerous statements of accounts and delivery receipts were actually intended as payment for the land.

First of all, the statements of accounts and the delivery receipts do not indicate that the construction materials or the cash advances were made in connection with the sale of the subject property. Any doubt as to the real meaning of the contract must be resolved against the person who drafted the instrument and is responsible for the ambiguity thereof.[34] Since Salvador prepared these statements of accounts and therefore caused the ambiguity, he cannot benefit from the resulting ambiguity. Salvador is hardly an ignorant and illiterate person; rather, he is a businessman engaged in manufacturing and distributing construction materials and operates no less than two branches. It should have been noted in the statement of accounts, or even in another document, that the cash advances and deliveries of construction materials were made in connection with a transaction as important as a sale of land. As they are, the statements of accounts and especially the straightforward delivery receipts are insufficient proof that Judge Amado sold his property to Salvador.

Secondly, one of the delivery receipts presented by Salvador as Annex "I" of his Complaint in RTC Civil Case No. 1252 was partially paid.[35] If Judge Amado had already agreed that the construction materials delivered to him and his family constituted the payment for the subject property, the act of partially paying for construction

materials would be incongruous to such intention.

Thirdly, Salvador himself gave conflicting statements on whether he has completed payment. Among the findings of fact made by the MTC in its Decision dated 16 July 1990 in Civil Case No. 700, based on the very statements made by the Salvador brothers in their Answer with Counterclaim, was that Salvador paid Judge Amado P62,319.38 in cash and construction materials for the subject property, and a balance of P4,040.62 was left unpaid due to the failure of Judge Amado to execute and deliver the deed of sale.[36] However, in the proceedings before the RTC in Civil Case No. 1252, Salvador claimed that he paid Judge Amado P67,215.38 in cash and construction materials, which was more than the purchase price of P66,360.00 upon which they agreed.[37]

Lastly, Salvador again contradicts himself as to the date he supposedly completed the payments for the subject property. In his Complaint in Civil Case No. 1252, he alleges that by October 1980, he had already fully paid Judge Amado P67,215.38 in cash and construction materials.[38] Yet in the same pleading, he included 11 separate deliveries of construction materials made from 8 December 1980 to 6 January 1981 as evidence of payment.[39]

This Court cannot presume the existence of a sale of land, absent any direct proof of it. The construction of the terms of a contract, which would amount to impairment or loss of rights, is not favored. Conservation and preservation, not waiver or abandonment or forfeiture of a right, is the rule.[40] While it is apparent that Salvador paid cash advances and delivered construction materials to Judge Amado, this fact alone does not attest to the existence of a sale of land. In truth, the inconsistent statements made by Salvador regarding the amount paid to Judge Amado, the date when he was supposed to have completed the payment, and the dissimilarity between the price allegedly agreed upon and the amount supposedly paid show the absence of a uniform intention to apply these cash advances and construction materials as payment for the purchase of the subject property. Absent any tangible connection with the sale of land, these transactions stand by themselves as loans and purchases of construction materials.

Other than the statements of accounts and delivery receipts scrutinized above, the other pieces of evidence that Salvador offered are similarly inadequate to establish his allegation of a perfected sale.

Salvador presented as evidence of a perfected sale a handwritten note dated 1 October 1980 as Annex "GG" of the Complaint dated 16 August 1996, written by Judge Amado, wherein the latter asked Salvador for P500.00. In the same note, Judge Amado informed Salvador that he had not yet signed an unidentified document, which he promised to sign after his plan to divide a certain parcel of land was completed.[41] This note is not conclusive proof of the existence of a perfected sale. What this note proves is that Judge Amado was hesitant to sign the unidentified document and was still waiting for the completion of his plan to divide the land referred to in the note. To say that the document is the deed of sale and the land is the subject property claimed by Salvador would be based on pure surmise and conjecture without a more specific reference to them in the note. Moreover, the P500.00 which Judge Amado was demanding from Salvador could not have been payment pursuant to the purported sale of the subject property. The list of cash advances, which were supposedly part of the payment for the subject property, made by Salvador to Judge Amado from 1 September 1979 to 23 September 1980 and attached as Annex "D" of his Complaint in Civil Case No. 1252, did not include the P500.00 which Judge Amado demanded from Salvador on 1 October 1980.

The testimony of Ismael Angeles is likewise insufficient to support the allegation that Judge Amado agreed to sell the subject property to Salvador. The factual findings of the trial court, especially as regards the credibility of witnesses, are conclusive upon this court.[42] The findings of fact and assessment of credibility of witnesses is a matter best left to the trial court because of its unique position of having observed that elusive and

incommunicable evidence of the witnesses' deportment on the stand while testifying, which opportunity is denied to the appellate courts. Only the trial judge can observe the furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh or the scant or full realization of an oath--all of which are useful for an accurate determination of a witness' honesty and sincerity.[43] Thus, the assessment by the RTC of Angeles' testimony, which it deemed insufficient, is entitled to great respect:

Moreover, [herein respondent Salvador]'s corroborative testimonial evidence, that is, the testimony of one Ismael Angeles, is likewise deemed insufficient as even that witness failed to categorically state any sale transaction of the lot between [respondent] Salvador and the late Judge Amado, as in fact, Mr. Angeles manifested uncertainty when he said "siguro nagkaroon sila ng bilihan."

The findings of the trial court are well supported by the records of this case. At the time that Judge Amado and Salvador allegedly entered into the sale agreement, Ismael Angeles testified that "I was inside the house, but I did not hear their conversation because I was far from them." [44]

Even if Ismael Angeles' testimony was given full credence, it would still be insufficient to establish that a sale agreement was perfected between Salvador and Judge Amado. His testimony that Judge Amado ordered the preparation of the deed of sale only proves that Judge Amado and Salvador were in the process of negotiating the sale of the subject property, not that they had already set and agreed to the terms and conditions of the sale.[45] In fact, Ismael Angeles' testimony that Judge Amado refused to sign the contract reinforces the fact that the latter had not consented to the sale of the subject property.[46]

In addition, Salvador's act of relocating the squatter families formerly residing on the subject property[47] is not substantial proof of ownership. Such act is only consistent with the petitioners' allegations that Salvador was allowed to use the subject property for his business, and it would redound to his benefit to relocate the squatters previously occupying it.

From the evidence presented, an agreement of sale of the subject property between him and Judge Amado had not yet reached the stage of perfection. The stages of a contract are, thus, explained:

A contract undergoes various stages that include its negotiation or preparation, its perfection and, finally, its consummation. Negotiation covers the period from the time the prospective contracting parties indicate interest in the contract to the time the contract is concluded (perfected). The perfection of the contract takes place upon the concurrence of the essential elements thereof. A contract which is consensual as to perfection is so established upon a mere meeting of the minds, i.e. the concurrence of offer and acceptance, on the object and on the cause thereof. x x x. The stage of consummation begins when the parties perform their respective undertakings under the contract culminating in the extinguishment thereof.

Until the contract is perfected, it cannot, as an independent source of obligation, serve as a binding juridical relation. In sales, particularly, to which the topic for discussion about the case at bench belongs, the contract is perfected when a person, called the seller, obligates himself, for a price certain, to deliver and to transfer ownership of a thing or right to another, called the buyer, over which the latter agrees.[48]

In the present case, the terms of payment have not even been alleged. No positive proof was adduced that Judge Amado had fully accepted Salvador's sketchy proposal. Even if the handwritten note actually referred to the subject property, it merely points to the fact that the parties were, at best, negotiating a contract of sale. At the time it was written, on 1 October 1980, Judge Amado had not expressed his unconditional acceptance of Salvador's offer. He merely expressed that he was considering the sale of the subject property, but it was nevertheless clear that he still was unprepared to sign the contract. Salvador himself admitted before the MTC in Civil Case No. 700 that the sale agreement did not push through as he testified that "I considered that dead investment because our sale did not materialize because he always made promises." [49]

Absent the valid sale agreement between Salvador and Judge Amado, the former's possession of the subject property hinges on the permission and goodwill of Judge Amado and the petitioners, as his successors-in-interest. In the demand letter dated 4 November 1983, Judge Amado had already directed Salvador to vacate the subject property. Thus, there is no more basis for Salvador and his brother, Lamberto Salvador, to retain possession over it, and such possession must now be fully surrendered to the petitioners.

The Court of Appeals imposed moral damages and exemplary damages in view of the petitioners' refusal to execute a Deed of Sale and the social humiliation suffered by Salvador due to his ouster from the property.[50] Since petitioners had no demandable obligation to deliver the subject property, the award of moral and exemplary damages, as well as cost of suit, in favor of Salvador is without legal basis.

Moral damages may be recovered if they were the proximate result of defendants' wrongful acts or omissions.[51] Two elements are required. First, the act or omission must be the proximate result of the physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation and similar injury. Second, the act must be wrongful.[52] In this case, petitioners were not under any obligation to execute a Deed of Sale or guarantee Salvador's possession of the property. Absent any wrongful act which may be attributed to petitioners, an award of moral damages is inappropriate.

The award of exemplary damages is also improper. Exemplary damages are awarded only when a wrongful act is accompanied by bad faith or when the guilty party acted in a wanton, fraudulent, reckless or malevolent manner.[53] Moreover, where a party is not entitled to actual or moral damages, an award of exemplary damages is likewise baseless.[54] As this Court has found, petitioners' refusal to turn over the subject property to Salvador is justified and cannot be the basis for the award of exemplary damages.

IN VIEW OF THE FOREGOING, the instant Petition is GRANTED and the assailed Decision of the Court of Appeals in CA-G.R. No. 71816, promulgated on 25 August 2005, is REVERSED AND SET ASIDE. The Order dated 28 November 2000 of the Rizal RTC is REINSTATED. Renato Salvador and Lamberto Salvador are ordered to vacate the subject property.

SO ORDERED.

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

[1] Penned by Associate Justice Magdangal M. de Leon with Associate Justices Salvador J. Valdez, Jr. and Mariano C. del Castillo, concurring. Rollo, pp. 34-48.

[2] Id. at 136-149.

[3] Id. at 35.

[4] Id. at 81.

[5] Id. at 302.

[6] Id.

[7] Id. at 60-64.

[8] Id. at 8.

[9] Id. at 9.

[10] Id.

[11] Records, p. 86.

[12] Rollo, p. 9.

[13] Records, pp. 84-85.

[14] Rollo, p. 121.

[15] Id. at 121-124.

[16] Id. at 136.

[17] Id. at 119.

[18] Id. at 84.

[19] Id. at 85-87.

[20] Id. at 88.

[21] Id. at 89-98.

[22] Rules of Court, Rule 130, Sec. 23 provides that:

SEC. 23. Disqualification by reason of death or insanity of adverse party. – Parties or assignors of parties to a case, or persons in whose behalf a case is prosecuted, against an executor or administrator or other representative of a deceased person, or against a person of unsound mind, upon a claim or demand against the estate of such deceased person or against such person of unsound mind, cannot testify as to any matter of fact occurring before the death of such deceased person or before such person became of unsound mind.

[23] Rollo, pp. 147-149.

[24] Id. at 47-48.

[25] Id. at 12.

[26] Id. at 12.

[27] The following have been recognized as exceptions to the rule that the findings of fact of the Court of Appeals are conclusive and binding: (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 facts 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 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; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion. *Pilipinas Shell Petroleum Corporation v. Gobonseng, Jr.*, G.R. No. 163562, 21 July 2006, 496 SCRA 305, 316.

[28] *Litonjua v. Fernandez*, G.R. No. 148116, 14 April 2004, 427 SCRA 478, 489.

[29] *Alcantara-Daus v. Sps. De Leon*, 452 Phil. 92, 99 (2003).

- [30] Jovan Land, Inc. v. Court of Appeals, G.R. No. 125531, 12 February 1997, 268 SCRA 160, 164.
- [31] Lim, Jr. v. San, G.R. No. 159723, 9 September 2004, 438 SCRA 102, 106-107.
- [32] Marnelego v. Banco Filipino Savings and Mortgage Bank, G.R. No. 161524, 27 January 2006, 480 SCRA 399, 408; Co v. Court of Appeals, G.R. No. 123908, 9 February 1998, 286 SCRA 76, 85; Velasco v. Court of Appeals, 151-A Phil. 868, 887 (1973).
- [33] Toyota Shaw, Inc. v. Court of Appeals, G.R. No. 116650, 23 May 1995, 244 SCRA 320, 328; R.F. Navarro and Co. v. Sugar Producers Cooperative Marketing Association, 111 Phil. 820, 828 (1961).
- [34] Agas v. Sabico, G.R. No. 156447, 26 April 2005, 457 SCRA 263, 276; Tuazon v. Court of Appeals, 396 Phil. 32, 44 (2000).
- [35] Rollo, p. 89.
- [36] Records, pp. 84-85.
- [37] Rollo, pp. 64-65.
- [38] Id.
- [39] Id. at 61, 88-98.
- [40] Ridjo Tape & Chemical Corp. v. Court of Appeals, G.R. No. 126074, 24 February 1998, 286 SCRA 544, 552; Agas v. Sabico, G.R. No. 156447, 26 April 2005, 457 SCRA 263, 276.
- [41] Rollo, p. 119.
- [42] Jovan Land, Inc. v. Court of Appeals, supra note 30 at 165; People v. Peralta, G.R. No. 114905, 12 December 1997, 283 SCRA 81, 93.
- [43] Lim, Jr. v. San, supra note 31 at 109; People v. Cueto, 443 Phil. 425, 434 (2003).
- [44] Rollo, p. 148.
- [45] Id. at 17.
- [46] Id. at 20-21.
- [47] Id. at 10-11.
- [48] Limketkai Sons Milling, Inc. v. Court of Appeals, G.R. No. 118509, 1 December 1995, 250 SCRA 523, 535-536, citing Ang Yu Asuncion v. Court of Appeals, G.R. No. 109125, 2 December 1994, 238 SCRA 602, 611.
- [49] Rollo, p. 244.
- [50] Id. at 47.
- [51] Civil Code, Art. 2217 provides that:
- Art. 2217. Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission.
- [52] Orosa v. Court of Appeals, 386 Phil. 94, 104 (2000).

[53] *Francisco v. Ferrer, Jr.*, 405 Phil. 741, 750 (2001); *American Home Assurance Company v. Chua*, G.R. No. 130421, 28 June 1999, 309 SCRA 250, 263;

[54] *Orosa v. Court of Appeals*, *supra* note 52 at 105; *Morris v. Court of Appeals*, 405 Phil. 43, 54-55 (2001).

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