

OCEANEERING CONTRACTORS (PHILS), INC., PETITIONER, VS. NESTOR N. BARRETTO, DOING BUSINESS AS N.N.B. LIGHTERAGE, RESPONDENTS.

G.R. No. 184215. February 09, 2011

Ponente: PEREZ, J.

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PEREZ, J.:

The requirements for an award of actual damages are central to this petition for review filed under Rule 45 of the 1997 Rules of Civil Procedure, primarily assailing the Decision dated 12 December 2007 rendered by the then Special Third Division of the Court of Appeals (CA) in CA-G.R. CV No. 87168,[1] the dispositive portion of which states:

WHEREFORE, premises considered, the instant appeal is PARTIALLY GRANTED. The decision dated 27 December 2005 and order dated 28 April 2006 of the Regional Trial Court of Las Piñas, City, Branch 255, to the extent that it dismissed the counterclaims of defendant-appellant, are hereby reversed and set aside. Plaintiff-appellee is ordered to pay defendant-appellant the amount of P306,000.00 as actual damages and P30,000.00 as attorney's fees.

SO ORDERED. [2]

The Facts

Doing business under the name and style of N.N. B. Lighterage, respondent Nestor N. Barretto (Barretto) is the owner of the Barge "Antonieta"[3] which was last licensed and permitted to engage in coastwise trading for a period of one year expiring on 21 August 1998.[4] On 27 November 1997, Barretto and petitioner Oceaneering Contractors (Phils.), Inc. (Oceaneering) entered into a Time Charter Agreement whereby, for the contract price of P306,000.00,[5] the latter hired the aforesaid barge for a renewable period of thirty calendar days, for the purpose of transporting construction materials from Manila to Ayungon, Negros Oriental.[6] Brokered by freelance ship broker Manuel Velasco,[7] the agreement included Oceaneering's acknowledgment of the seaworthiness of the barge as well as the following stipulations, to wit:

"a)

[Barretto] shall be responsible for the salaries, subsistence, SSS premium, medical, workmen's compensation contribution and other legal expenses of the crew;

b)

[Oceaneering] shall be responsible for all port charges, insurance of all equipments, cargo loaded to the above mentioned deck barge against all risks (Total or Partial), or theft, security and stevedoring during loading and unloading operations and all other expenses pertinent to the assessment, fines and forfeiture for any violation that may be imposed in relation to the operation of the barge;

x x x x

(f)

Delivery and re-delivery be made in Pasig River, Metro Manila;

(g)

Damage to deck barge caused by carelessness or negligence of stevedores hired by [Oceaneering] will be [Oceaneering's] liability. Upon clear findings by owners or barge patron of any damages to the barge that will endanger its seaworth(i)ness and stability, such damage/s shall be repaired first before loading and leaving port. Under such conditions, the Barge Patron has the right to refuse loading and/or leaving port;

x x x x

(i)

[Barreto] reserves the right to stop, abort and deviate any voyage in case of imminent danger to the crew and/or vessel that may be occasioned by any storm, typhoon, tidal wave or any similar events."[8]

In accordance with the agreement, Oceaneering's hired stevedores who loaded the barge with pipe piles, steel bollards, concrete mixers, gravel, sand, cement and other construction materials in the presence of and under the direct supervision of the broker Manuel Velasco and Barretto's Bargemen.[9] In addition to the polythene ropes with which they were lashed, the cargoes were secured by steel stanchions which Oceaneering caused to be welded on the port and starboard sides of the barge.[10] On 3 December 1997, the barge eventually left Manila for Negros Oriental, towed by the tug-boat "Ayalit" which, for said purpose, was likewise chartered by Oceaneering from Lea Mer Industries, Inc.[11] On 5 December 1997, however, Barretto's Bargeman, Eddie La Chica, executed a Marine Protest,[12] reporting the following circumstances under which the barge reportedly capsized in the vicinity of Cape Santiago, Batangas, viz.:

That on or about 1635 December 3, 1997, Barge `Antonieta' departed Pico de Loro, Pasig River and towed by Tug-Boat `Ayalit' bound for Ayungon, Negros Oriental with cargo onboard steel pipes and various construction materials. While underway on or about 0245 December 4, 1997 encountered rough sea at the vicinity of Cape Santiago, Batangas and ma(d)e the barge x x x roll and pitch which caused the steel pipes and various construction materials to shift on the starboardside causing the breakdown of the steel stanch(i)ons welded on the deck of the barge leaving holes on the deck that cause(d) water to enter the hold.

That on or about 1529 December 5, 199[7], with the continuous entrance of sea water on the hold, the barge totally capsized touch(ed) bottom.

On 9 December 1997, Barretto apprised Oceaneering of the supposed fact that the mishap was caused by the incompetence and negligence of the latter's personnel in loading the cargo and that it was going to proceed with the salvage, refloating and repair of the barge.[13] In turn contending that the barge tilted because of the water which seeped through a hole in its hull, Oceaneering caused its counsel to serve Barretto a letter dated 12 March 1998, demanding the return of the unused portion of the charter payment amounting to P224,400.00 as well as the expenses in the sum of P125,000.00 it purportedly incurred in salvaging its construction materials.[14] In a letter dated 25 March 1998, however, Barretto's counsel informed Oceaneering that its unused charter payment was withheld by his client who was likewise seeking reimbursement for the P836,425.00 he expended in salvaging, refloating and repairing the barge.[15] In response to Barretto's 29 June 1998 formal demand for the payment of the same expenses,[16] Oceaneering reiterated its demand for the return of the unused charter payment and the reimbursement of its salvaging expenses as aforesaid.[17]

On 6 October 1998, Barretto commenced the instant suit with the filing of his complaint for damages against Oceaneering, which was docketed as Civil Case No. LP-98-0244 before Branch 255 of the Regional Trial Court

(RTC) of Las Piñas City. Contending that the accident was attributable to the incompetence and negligence which attended the loading of the cargo by Oceaneering's hired employees, Barretto sought indemnities for expenses incurred and lost income in the aggregate sum of P2,750,792.50 and attorney's fees equivalent to 25% of said sum.[18] Specifically denying the material allegations of the foregoing complaint in its 26 January 1999 answer, Oceaneering, on the other hand, averred that the accident was caused by the negligence of Barretto's employees and the dilapidated hull of the barge which rendered it unseaworthy. As a consequence, Oceaneering prayed for the grant of its counterclaims for the value of its cargo in the sum of P4,055,700.00, salvaging expenses in the sum of P125,000.00, exemplary damages, attorney's fees and litigation expenses.[19]

The issues thus joined and the mandatory pre-trial conference subsequently terminated upon the agreement of the parties,[20] the RTC proceeded to try the case on the merits. In support of his complaint, Barretto took the witness stand to prove the seaworthiness of the barge as well as the alleged negligent loading of the cargo by Oceaneering's employees.[21] Barretto also presented the following witnesses: (a) Toribio Barretto II, Vice President for Operations of N.B.B. Lighterage, who primarily testified on the effort exerted to salvage the barge;[22] and, (b) Manuel Velasco, who testified on his participation in the execution of the Time Charter Agreement as well as the circumstances before and after the sinking of the barge.[23] By way of defense evidence, Oceaneering in turn presented the testimonies of the following witnesses: (a) Engr. Wenifredo Oracion, its Operation's Manager, to prove, among other matters, the value of the cargo and the salvage operation it conducted in the premises;[24] and, (b) Maria Flores Escaño, Accounting Staff at Castillo Laman Tan Pantaleon and San Jose Law Offices, to prove its claim for attorney's fees and litigation expenses.[25]

To disprove the rough sea supposedly encountered by the barge as well as the negligence imputed against its employees, Oceaneering further adduced the testimonies of the following witnesses: (a) Rosa Barba, a Senior Weather Specialist at the Philippine Atmospheric, Geophysical and Astronomical Services Administration (PAGASA);[26] (b) Cmdr. Herbert Catapang, Officer-in-Charge of the Hydrographic Division at the National Mapping Resource Information Authority (NAMRIA);[27] and, (c) Engr. Carlos Gigante, a freelance marine surveyor and licensed naval architect.[28] Recalled as a rebuttal witness, Toribio Barretto II, in turn, asserted that the hull of the barge was not damaged and that the sinking of said vessel was attributable to the improper loading of Oceaneering's construction materials.[29] Upon the formal offer respectively made by the parties, the pieces of documentary evidence identified and marked in the course of the testimonies of the above named witnesses[30] were, accordingly, admitted by the RTC.[31]

On 27 December 2005, the RTC rendered a decision, dismissing both Barretto's complaint and Oceaneering's counterclaims for lack of merit. While finding that Barretto failed to adduce sufficient and convincing evidence to prove that the accident was due to the negligence of Oceaneering's employees, the RTC nevertheless brushed aside the latter's claim that the barge was not seaworthy as acknowledged in the Time Charter Agreement. Alongside its claim for reimbursement of the sums expended for the salvage operation it conducted which was denied for lack of evidence to prove the same, Oceaneering's claim for the value of its cargo was likewise denied on the ground, among other matters, that the same was not included in the demand letters it served Barretto; and, that it has no one but itself to blame for failing to insure its cargo against all risks, as provided in the parties' agreement. With its claims for exemplary damages and attorney's fees further denied for lack of showing of bad faith on the part of Barretto,[32] Oceaneering filed the motion for partial reconsideration of the foregoing decision[33] which was denied for lack of merit in the RTC's 28 April 2006 order.[34]

Dissatisfied, Oceaneering perfected its appeal from the aforesaid 27 December 2005 decision on the ground that the RTC reversibly erred in not finding that the accident was caused by the unseaworthy condition of the barge and in denying its counterclaims for actual and exemplary damages as well as attorney's fees and litigation

expenses. Docketed before the CA as CA-G.R. CV No. 87168,[35] the appeal was partially granted in the herein assailed 12 December 2007 decision upon the finding, among others, that the agreement executed by the parties, by its express terms, was a time charter where the possession and control of the barge was retained by Barretto; that the latter is, therefore, a common carrier legally charged with extraordinary diligence in the vigilance over the goods transported by him; and, that the sinking of the vessel created a presumption of negligence and/or unseaworthiness which Barretto failed to overcome and gave rise to his liability for Oceaneering's lost cargo despite the latter's failure to insure the same. Applying the rule, however, that actual damages should be proved with a reasonable degree of certainty, the CA denied Oceaneering's claim for the value of its lost cargo and merely ordered the refund of the P306,000.00 it paid for the time charter, with indemnity for attorney's fees in the sum of P30,000.[36]

Alongside that interposed by Barretto, the motion for reconsideration of the foregoing decision filed by Oceaneering's[37] was denied for lack of merit in the CA's resolution dated 11 August 2008,[38] hence, this petition.

The Issues

Oceaneering urges the reversal of the assailed 12 December 2007 decision and 11 August 2008 resolution on the ground that the CA erred in the following wise:

I. IN HOLDING THAT THERE WERE NO VALID DOCUMENTS SHOWING THE REAL VALUE OF THE MATERIALS LOST AND THOSE ACTUALLY RECOVERED.

II. IN DENYING OCEANEERING'S COUNTERCLAIMS FOR ACTUAL DAMAGES AMOUNTING TO (A) P3,704,700.00 REPRESENTING THE VALUE OF THE MATERIALS IT LOST DUE TO THE SINKING OF [BARRETO'S] BARGE; AND (b) P125,000.00 REPRESENTING THE EXPENSES IT INCURRED FOR SALVAGING ITS CARGO.

III. IN AWARDING OCEANEERING'S COUNTERCLAIM FOR ATTORNEY'S FEES IN THE REDUCED AMOUNT OF P30,000.00 ONLY.[39]

The Court's Ruling

We find the modification of the assailed decision in order.

Oceaneering argues that, having determined Barretto's liability for presumed negligence as a common carrier, the CA erred in disallowing its counterclaims for the value of the construction materials which were lost as a consequence of the sinking of the barge. Alongside the testimony elicited from its Operation's Manager, Engr. Winifredo Oracion, Oceaneering calls attention to the same witness' inventory which pegged the value of said construction materials at P4,055,700.00, as well as the various sales receipts, order slips, cash vouchers and invoices which were formally offered before and admitted in evidence by the RTC. Considering that it was able to salvage only nine steel pipes amounting to P351,000.00, Oceaneering insists that it should be indemnified the sum of P3,703,700.00 for the value of the lost cargo, with legal interest at 12% per annum, from the date of demand until fully paid. In addition, Oceaneering maintains that Barretto should be held liable to refund the P306,000.00 it paid as consideration for the Time Charter Agreement and to pay the P125,000.00 it incurred by way of salvaging expenses as well as its claim for attorney's fees in the sum of P750,000.00.

In finding Oceaneering's petition impressed with partial merit, uppermost in our mind is the fact that actual or compensatory damages are those damages which the injured party is entitled to recover for the wrong done and injuries received when none were intended.[40] Pertaining as they do to such injuries or losses that are actually

sustained and susceptible of measurement,[41] they are intended to put the injured party in the position in which he was before he was injured.[42] Insofar as actual or compensatory damages are concerned, Article 2199 of the Civil Code of the Philippines provides as follows:

"Art. 2199. Except as provided by law or by stipulation, one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved. Such compensation is referred to as actual or compensatory damages."

Conformably with the foregoing provision, the rule is long and well settled that there must be pleading and proof of actual damages suffered for the same to be recovered.[43] In addition to the fact that the amount of loss must be capable of proof, it must also be actually proven with a reasonable degree of certainty, premised upon competent proof or the best evidence obtainable.[44] The burden of proof of the damage suffered is, consequently, imposed on the party claiming the same[45] who should adduce the best evidence available in support thereof, like sales and delivery receipts, cash and check vouchers and other pieces of documentary evidence of the same nature. In the absence of corroborative evidence, it has been held that self-serving statements of account are not sufficient basis for an award of actual damages.[46] Corollary to the principle that a claim for actual damages cannot be predicated on flimsy, remote, speculative, and insubstantial proof,[47] courts are, likewise, required to state the factual bases of the award.[48]

Applying the just discussed principles to the case at bench, we find that Oceaneering correctly fault the CA for not granting its claim for actual damages or, more specifically, the portions thereof which were duly pleaded and adequately proved before the RTC. While concededly not included in the demand letters dated 12 March 1998[49] and 13 July 1998[50] Oceaneering served Barretto, the former's counterclaims for the value of its lost cargo in the sum of P4,055,700.00 and salvaging expenses in the sum of P125,000.00 were distinctly pleaded and prayed for in the 26 January 1999 answer it filed a quo.[51] Rather than the entire P4,055,700.00 worth of construction materials reflected in the inventory[52] which Engr. Oracion claims to have prepared on 29 November 1997, based on the delivery and official receipts from Oceaneering's suppliers,[53] we are, however, inclined to grant only the following items which were duly proved by the vouchers and receipts on record, viz.: (a) P1,720,850.00 worth of spiral welded pipes with coal tar epoxy procured on 22 November 1997;[54] (b) P629,640.00 worth of spiral welded steel pipes procured on 28 October 1997;[55] (c) P155,500.00 worth of various stainless steel materials procured on 27 November 1997;[56] (d) P66,750.00 worth of gaskets and shackles procured on 20 November 1997;[57] and, (e) P4,880.00 worth of anchor bolt procured on 27 November 1997.[58]

The foregoing sums all add up to of P2,577,620.00 from which should be deducted the sum of P351,000.00 representing the value of the nine steel pipes salvaged by Oceaneering, or a total of P2,226,620.00 in actual damages representing the value of the latter's lost cargo. Excluded from the computation are the following items which, on account of the dates of their procurement, could not have possibly been included in the 29 November 1997 inventory prepared by Engr. Oracion, to wit: (a) P1,129,640.00 worth of WO#1995 and PO#OCPI-060-97 procured on 9 December 1997;[59] and, (b) P128,000.00 worth of bollard procured on 16 December 1997.[60] Likewise excluded are the anchor bolt with nut Oceaneering claims to have procured for an unspecified amount on 3 November 1997[61] and the P109,018.50 worth of Petron oil it procured on 28 November 1997[62] which does not fit into the categories of lost cargo and/or salvaging expenses for which it interposed counterclaims a quo. Although included in its demand letters as aforesaid and pleaded in its answer, Oceaneering's claim for salvaging expenses in the sum of P125,000.00 cannot, likewise, be granted for lack of credible evidence to support the same.

Tested alongside the twin requirements of pleading and proof for the grant of actual damages, on the other hand,

we find that the CA also erred in awarding the full amount of P306,000.00 in favor of Oceaneering, as and by way of refund of the consideration it paid Barretto for the Time Charter Agreement. Aside from not being clearly pleaded in the answer it filed a quo, said refund was claimed in Oceaneering's demand letters only to the extent of the unused charter payment in the reduced sum of P224,400.00^[63] which, to our mind, should be the correct measure of the award. Having breached an obligation which did not constitute a loan or forbearance of money, moreover, Barretto can only be held liable for interest at the rate of 6% per annum on said amount as well as the P2,226,620.00 value of the lost cargo instead of the 12% urged by Oceaneering. Although the lost cargo was not included in the demand letters the latter served the former, said interest rate of 6% per annum shall be imposed from the time of the filing of the complaint which is equivalent to a judicial demand.^[64] Upon the finality of this decision, said sums shall earn a further interest of 12% per annum until full payment in accordance with the following pronouncements handed down in *Eastern Shipping Lines, Inc. vs. Court of Appeals*,^[65] to wit:

"2. When an obligation, not constituting a loan or forbearance of money, is breached, an interest on the amount of damages awarded may be imposed at the discretion of the court at the rate of 6% per annum. No interest, however, shall be adjudged on unliquidated claims or damages except when or until the demand can be established with reasonable certainty. Accordingly, where the demand is established with reasonable certainty, the interest shall begin to run from the time the claim is made judicially or extrajudicially (Art. 1169, Civil Code) but when such certainty cannot be so reasonably established at the time the demand is made, the interest shall begin to run only from the date of the judgment of the court is made (at which time the quantification of damages may be deemed to have been reasonably ascertained). The actual base for the computation of legal interest shall, in any case, be on the amount of finally adjudged.

3. When the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest, whether the case falls under paragraph 1 or paragraph 2, above, shall be 12% per annum from such finality until its satisfaction, this interim period being deemed to be by then an equivalent to a forbearance of credit."

For lack of sufficient showing of bad faith on the part of Barretto, we find that the CA, finally, erred in granting Oceaneering's claim for attorney's fees, albeit in the much reduced sum of P30,000.00. In the absence of stipulation, after all, the rule is settled that there can be no recovery of attorney's fees and expenses of litigation other than judicial costs except in the instances enumerated under Article 2208 of the Civil Code.^[66] Being the exception rather than the rule,^[67] attorney's fees are not awarded every time a party prevails in a suit,^[68] in view of the policy that no premium should be placed on the right to litigate.^[69] Even when a claimant is compelled to litigate with third persons or to incur expenses to protect his rights, still attorney's fees may not be awarded where, as here, no sufficient showing of bad faith can be reflected in the party's persistence in a case other than an erroneous conviction of the righteousness of his cause.^[70]

WHEREFORE, premises considered, the petition is **PARTIALLY GRANTED** and the assailed 12 December 2007 Decision is, accordingly, **MODIFIED**: (a) to **GRANT** Oceaneering's claim for the value of its lost cargo in the sum of P2,226,620.00 with 6% interest per annum computed from the filing of the complaint and to earn further interest at the rate of 12% per annum from finality of the decision until full payment; (b) to **REDUCE** the refund of the consideration for the Time Charter Agreement from P306,000.00 to P224,400.00, with 6% interest per annum computed from 12 March 1998, likewise to earn further interest at the rate of 12% per annum from finality of this decision; and, (c) to **DELETE** the CA's award of salvaging expenses and attorney's fees, for lack of factual and legal basis. The rest is **AFFIRMED** in toto.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Leonardo-De Castro, and Del Castillo, JJ., concur.

- [1] CA rollo, CV No. 87168, pp. 165-183.
- [2] Id. at 183.
- [3] Exhibit "A," Records, Civil Case No. 87168, p. 199.
- [4] Exhibit "C", id. at 201.
- [5] Exhibit "2", id. at 448.
- [6] Exhibits "E" to "E-2", id. at 203-205.
- [7] TSN, 20 April 2001, pp. 5-6.
- [8] Records, pp. 204-205.
- [9] TSN, 27 March 2003, pp. 18-24.
- [10] Id. at 19-20.
- [11] Exhibit "3," Records, Civil Case No. 87168, p. 449.
- [12] Exhibit "F", id. at 206.
- [13] Exhibit "21", id. at 465.
- [14] Exhibit "23", id. at 468-469.
- [15] Exhibit "22", id. at 466-467.
- [16] Exhibit "M", id. at 215.
- [17] Exhibit "25", id. at 471.
- [18] Id. at 1-26.
- [19] Id. at 51-59.
- [20] Id. at 104.
- [21] TSN, 10 December 1999; 12 January, 2001; 4 April 2000; 1 September 2000.
- [22] TSN, 8 December 2000.
- [23] TSN, 20 April 2001.
- [24] TSN, 24 October 2002; 27 March 2003; 8 May 2003.
- [25] TSN, 15 May 2003.
- [26] TSN, 3 July 2003.
- [27] TSN, 14 August 2003.
- [28] TSN, 28 August 2003.

- [29] TSN, 4 December 2003.
- [30] Records, Civil Case No. 87168, pp. 195-217; 434-506; 539-543.
- [31] Id. at 229; 512; 553; 560-561.
- [32] Id. at 635-663.
- [33] Id. at 668-679.
- [34] Id. at 686-689.
- [35] CA rollo, CV No. 87168, pp. 40-82.
- [36] Id. at 165-183.
- [37] Id. at 185-203.
- [38] Id. at 227-230.
- [39] Rollo, p. 18.
- [40] Empire East Land Holdings, Inc. vs. Capitol Industrial Construction Groups, Inc., 566 SCRA 473, 485.
- [41] Spouses Ong vs. Court of Appeals, 361 Phil. 338, 353 (1999).
- [42] Filipinas (Pre-Fab Bldg.) Systems, Inc. vs. MRT Development Corporation, G.R. No. 167829-30, 13 November 2007, 537 SCRA 609, 640, citing Development Bank of the Philippines v. Court of Appeals, G.R. No. 11053, 16 October 1996, 249 SCRA 331.
- [43] Canada vs. All Commodities Marketing Corporation, G.R. No. 146141, 17 October 2008, 569 SCRA 321, 329.
- [44] Manila Electric Corporation vs. T.E.A.M. Electronics Corporation, G.R. No. 131723, 13 December 2007, 540 SCRA 62, 79.
- [45] Luxuria Homes, Inc. vs. Court of Appeals, 361 Phil. 989, 1001-1002, (1999).
- [46] MCC Industrial Sales Corporation vs. Ssangayong Corporation, G.R. No. 153051, 18 October 2007, 536 SCRA 408, 467-468.
- [47] Hanjin Heavy Industries and Construction Co., Ltd. v. Dynamic Planners and Construction Corp., G.R. Nos. 169408 & 170144, 30 April 2008, 553 SCRA 541, 567 .
- [48] Santiago vs. Court of Appeals, G.R. No. 127440, 26 January 2007, 513 SCRA 69, 86.
- [49] Exhibit "23", Records, Civil Case No. 87168, pp. 468-469.
- [50] Exhibit "25", id. at 471.
- [51] Id. at 56-57.
- [52] Exhibit "5", id. at 451.
- [53] TSN, 27 March 2003, pp. 7-8.
- [54] Exhibits "5" and "6", Records, Civil Case No. 87168, pp. 451-452.
- [55] Exhibit "10", id. at 454.

[56] Exhibits "11" and "12", id. at 455-456.

[57] Exhibit "15", id. at 458.

[58] Exhibits "16" and "17", id. at 459.

[59] Exhibits "8" and "9", id. at 453.

[60] Exhibits "13" and "14", id. at 457, Exhibit "27"; id. at 472.

[61] Exhibit "28", id. at 473.

[62] Exhibit "29" and submarkings, id. at 474-475.

[63] Exhibit "25", id. at 471.

[64] Philippine Airlines vs. Court of Appeals, G.R. No. L-46558, 31 July 1981, 106 SCRA, 391, 412.

[65] G.R. No. 97412, 12 July 1994, 234 SCRA 78, 96-97.

[66] Scott Consultants & Resource Development Corporation, Inc. vs. CA, 312 Phil. 466, 480 (1995).

[67] Philippine National Bank vs. Court of Appeals, 326 Phil. 504, 518-519 (1996).

[68] Philippine Phosphate Fertilizer Corporation vs. Kamalig Resources, Inc., G.R. No. 165608, 13 December 2007, 540 SCRA 139, 159.

[69] Frias vs. San Diego-Sison, G.R. No. 155223, 3 April 2007, 520 SCRA 244, 259-260.

[70] Felsan Realty & Development Corporation vs. Commonwealth of Australia, G.R. No. 169656, 11 October 2007, 535 SCRA 618, 632.

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