ALFONSO T. YUCHENGCO, PETITIONER, VS. THE MANILA CHRONICLE PUBLISHING CORPORATION, NOEL CABRERA, GERRY ZARAGOZA, DONNA GATDULA, RODNEY P. DIOLA, RAUL VALINO, THELMA SAN JUAN AND...

G.R. No. 184315. November 28, 2011

Ponente: PERALTA, J.

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PERALTA, J.:

For resolution is the Motion for Reconsideration[1] dated January 15, 2010, filed by the respondents, and the Supplemental Motion for Reconsideration[2] of respondent Robert Coyiuto, Jr., dated March 17, 2010, from the Decision rendered in favor of petitioner Alfonso T. Yuchengco, dated November 25, 2009.

At the outset, a brief narration of the factual and procedural antecedents that transpired and led to the filing of the motions is in order.

The present controversy arose when in the last quarter of 1993, several allegedly defamatory articles against petitioner were published in The Manila Chronicle by Chronicle Publishing Corporation. Consequently, petitioner filed a complaint against respondents before the Regional Trial Court (RTC) of Makati City, Branch 136, docketed as Civil Case No. 94-1114, under three separate causes of action, namely: (1) for damages due to libelous publication against Neal H. Cruz, Ernesto Tolentino, Noel Cabrera, Thelma San Juan, Gerry Zaragoza, Donna Gatdula, Raul Valino, Rodney P. Diola, all members of the editorial staff and writers of The Manila Chronicle, and Chronicle Publishing; (2) for damages due to abuse of right against Robert Coyiuto, Jr. and Chronicle Publishing; and (3) for attorney’s fees and costs against all the respondents.

On November 8, 2002, the trial court rendered a Decision[3] in favor of petitioner.

Aggrieved, respondents sought recourse before the Court of Appeals (CA). On March 18, 2008, the CA rendered a Decision[4] affirming in toto the decision of the RTC.

Respondents then filed a Motion for Reconsideration[5] praying that the CA reconsider its earlier decision and reverse the decision of the trial court. On August 28, 2008, the CA rendered an Amended Decision[6] reversing the earlier Decision.

Subsequently, petitioner filed the present recourse before this Court which puts forth the following assignment of errors:

- THE HONORABLE COURT OF APPEALS COMMITTED GRAVE REVERSIBLE ERROR IN RULING THAT THE CASE OF ARTURO BORJAL, ET AL. V. COURT OF APPEALS, ET AL., CITED BY RESPONDENTS IN THEIR MOTION FOR RECONSIDERATION, WARRANTED THE REVERSAL OF THE CA DECISION DATED MARCH 18, 2008.

- THE HONORABLE COURT OF APPEALS COMMITTED GRAVE REVERSIBLE ERROR IN RULING

THAT THE SUBJECT ARTICLES IN THE COMPLAINT FALL WITHIN THE CONCEPT OF PRIVILEGED COMMUNICATION.

- THE HONORABLE COURT OF APPEALS COMMITTED GRAVE REVERSIBLE ERROR IN RULING THAT PETITIONER IS A PUBLIC OFFICIAL OR PUBLIC FIGURE.[7]

On November 25, 2009, this Court rendered a Decision partially granting the petition.

Respondents later filed a Motion for Reconsideration dated January 15, 2010, which the Court denied in the Resolution[8] dated March 3, 2010.

Meanwhile, respondent Coyiuto, Jr. also filed a Motion for Leave to File Supplemental Motion for Reconsideration with Attached Supplemental Motion, both dated March 17, 2010.

On April 21, 2010, this Court issued a Resolution[9] resolving to recall the Resolution dated March 3, 2010; grant Coyiuto, Jr.'s motion for leave to file supplemental motion for reconsideration; note the supplemental motion for reconsideration; and require petitioner to comment on the motion for reconsideration and supplemental motion for reconsideration.

On June 22, 2010, petitioner filed his Comment on the Motion for Reconsideration[10] dated January 15, 2010 and Comment on respondent Coyiuto, Jr.'s Supplemental Motion for Reconsideration[11] dated 17 March 2010.

In the Motion for Reconsideration, respondents moved for a reconsideration of the earlier decision on the following grounds:

- MALICE-IN-FACT HAS NOT BEEN PROVEN.

- PETITIONER IS A "PUBLIC FIGURE."

- THE SUBJECT OF THE PUBLICATIONS CONSTITUTES FAIR COMMENTS, ON PUBLIC ISSUES, ON MATTERS OF PUBLIC INTEREST AND NATIONAL CONCERN.

- RESPONDENTS DID NOT ACT IN A RECKLESS MANNER OR IN COMPLETE DISREGARD OF THE TRUTH OF THE MATTERS COVERED BY THE SUBJECT PUBLICATIONS.

- THE PROTECTIVE MANTLE OF QUALIFIED PRIVILEGED COMMUNICATIONS PROTECTS THE SUBJECT PUBLICATIONS.

- THERE IS NO LEGAL OR EVIDENTIARY BASIS TO HOLD DONNA GATDULA, JOINTLY AND SEVERALLY, LIABLE FOR THE SUBJECT PUBLICATIONS, TOGETHER WITH THE EDITORS AND STAFF OF THE NEWSPAPER.

- THERE IS NO EVIDENCE TO HOLD THELMA SAN JUAN RESPONSIBLE FOR THE SUBJECT PUBLICATIONS.

- THE "QUICK NOTES" COLUMN OF MR. RAUL VALINO ARE BASED ON FACTS; THUS, NOT LIBELOUS.

- ROBERT COYIUTO, JR. IS NOT IMPLEADED WITH THE EDITORS AND STAFF MEMBERS OF THE MANILA CHRONICLE, BUT IS SUED IN "HIS PERSONAL CAPACITY" FOR AN "ABUSE OF RIGHT" AND NO EVIDENCE LINKS HIM TO THE SUBJECT PUBLICATIONS.

- THE AWARDED DAMAGES ARE EXCESSIVE, EQUITABLE AND UNJUSTIFIED.[12]

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In his Supplemental Motion for Reconsideration, Coyiuto, Jr. raises the following arguments:

I.

WITH ALL DUE RESPECT, THIS HONORABLE COURT OBVIOUSLY OVERLOOKED THE FACT THAT IN PETITIONER'S AMENDED COMPLAINT (DATED OCTOBER 17, 1994), RESPONDENT ROBERT COYIUTO, JR. WAS NOT SUED FOR DAMAGES ALLEGEDLY DUE TO "LIBELOUS PUBLICATIONS" (FIRST CAUSE OF ACTION). HE WAS SUED, HOWEVER, IN HIS PERSONAL CAPACITY FOR "ABUSE OF RIGHT" (SECOND CAUSE OF ACTION) ALLEGEDLY, AS "CHAIRMAN" OF THE BOARD, "OFFICER," "PRINCIPAL OWNER," OF THE MANILA CHRONICLE PUBLISHING CORPORATION UNDER ARTICLES 19 AND 20 OF THE CIVIL CODE. AS SUCH, THE IMPOSITION OF MORAL (P25 MILLION PESOS) AND EXEMPLARY (P10 MILLION PESOS) DAMAGES AGAINST RESPONDENT COYIUTO, JR. HAS NO BASIS IN LAW AND CONTRARY TO THE SPECIFIC PROVISIONS OF ARTICLES 2219 AND 2229, IN RELATION TO ARTICLE 2233, RESPECTIVELY, OF THE CIVIL CODE AS WILL BE ELUCIDATED HEREUNDER.

II.

WITH ALL DUE RESPECT, APART FROM THE SELF-SERVING/UNILATERAL ALLEGATION IN PARAGRAPH 3.11 OF THE AMENDED COMPLAINT (ANNEX "C" OF PETITION FOR REVIEW), NO IOTA OF EVIDENCE WAS ADDUCED ON TRIAL IN SUPPORT OF THE ALLEGATION THAT RESPONDENT COYIUTO, JR. WAS "CHAIRMAN", "PRINCIPAL OWNER" AND "OFFICER" OF RESPONDENT MANILA CHRONICLE PUBLISHING CORPORATION. SEC DOCUMENTS SHOW THE CONTRARY, AS WILL BE DISCUSSED HEREUNDER. SO HOW COULD RESPONDENT COYIUTO, JR. BE IMPLEADED TO HAVE "ABUSED HIS RIGHT AS A NON-CHAIRMAN, NON-STOCKHOLDER, NON-OFFICER OF RESPONDENT MANILA CHRONICLE PUBLISHING CORPORATION? IT IS FUNDAMENTAL THAT THE BURDEN OF PROOF RESTS ON THE PARTY ASSERTING A FACT OR ESTABLISHING A CLAIM (RULE 131, REVISED RULES OF COURT).[13]

From the foregoing, it is apparent that the motion for reconsideration generally restates and reiterates the arguments, which were previously advanced by respondents and does not present any substantial reasons, which were not formerly invoked and passed upon by the Court.

However, from the supplemental motion for reconsideration, it is apparent that Coyiuto, Jr. raises a new matter which has not been raised in the proceedings below. This notwithstanding, basic equity dictates that Coyiuto, Jr. should be given all the opportunity to ventilate his arguments in the present action, but more importantly, in order to write finis to the present controversy. It should be noted that the Resolution denying the Motion for Reconsideration was later recalled by this Court in the Resolution dated March 3, 2010, and therein, petitioner was given the opportunity to refute Coyiuto, Jr.'s arguments by filing his comment on the motion for reconsideration and the supplemental motion for reconsideration, which petitioner complied with.

From these Comments and contrary to Coyiuto, Jr.'s contention, it was substantially established that he was the Chairman of Manila Chronicle Publishing Corporation when the subject articles were published. Coyiuto, Jr. even admitted this fact in his Reply and Comment on Request for Admission,[14] to wit:

4. Defendant Robert Coyiuto Jr. ADMITS that he was the Chairman of the Board but not President of the Manila Chronicle during the period Novemeber (sic) to December 1993.

5. Defendant Robert Coyiuto Jr. DENIES paragraph 11. He has already conveyed such denial to plaintiff in the

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course of the pre-trial. It was The Manila Chronicle, a newspaper of general circulation, of which he is, admittedly Chairman of the Board, that published the items marked as plaintiff's Exhibits A, B, C, D, E, F, and G.

x x x x x x x x x

12. This case, based on plaintiff's Amended Complaint, is limited to the publications in The Manila Chronicle marked plaintiff's Exhibits "A" to "G", consecutively, published by defendant Manila Chronicle. Thus, only the question of whether Mr. Robert Coyiuto, Jr. was Chairman and President of defendant Manila Chronicle, during these publications and whether he caused these publications, among all of plaintiffs' queries, are relevant and material to this case. And defendant Robert Coyiuto, Jr. has answered that: "Yes", he was Chairman of the Board. "No", he was never President of The Manila Chronicle. "No", he did not cause the publications in The Manila Chronicle: it was the Manila Chronicle that published the news items adverted to.[15]

Both the trial court and the CA affirmed this fact. We reiterate that factual findings of the trial court, when adopted and confirmed by the CA, are binding and conclusive on this Court and will generally not be reviewed on appeal. While this Court has recognized several exceptions[16] to this rule, none of these exceptions exists in the present case. Accordingly, this Court finds no reason to depart from the findings of fact of the trial court and the CA.

More importantly and contrary again to Coyiuto, Jr.'s contention, the cause of action of petitioner based on "abuse of rights," or Article 19, in relation to Article 20 of the Civil Code, warrants the award of damages.

The principle of abuse of rights as enshrined in Article 19 of the Civil Code provides:

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.

This provision of law sets standards which must be observed in the exercise of one's rights as well as in the performance of its duties, to wit: to act with justice; give everyone his due; and observe honesty and good faith.[17]

In Globe Mackay Cable and Radio Corporation v. Court of Appeals,[18] it was elucidated that while Article 19 "lays down a rule of conduct for the government of human relations and for the maintenance of social order, it does not provide a remedy for its violation. Generally, an action for damages under either Article 20 or Article 21 would be proper." The Court said:

One of the more notable innovations of the New Civil Code is the codification of "some basic principles that are to be observed for the rightful relationship between human beings and for the stability of the social order." [REPORT ON THE CODE COMMISSION ON THE PROPOSED CIVIL CODE OF THE PHILIPPINES, p. 39]. The framers of the Code, seeking to remedy the defect of the old Code which merely stated the effects of the law, but failed to draw out its spirit, incorporated certain fundamental precepts which were "designed to indicate certain norms that spring from the fountain of good conscience" and which were also meant to serve as "guides for human conduct [that] should run as golden threads through society, to the end that law may approach its supreme ideal, which is the sway and dominance of justice." (Id.) Foremost among these principles is that pronounced in Article 19 which provides:

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.

This article, known to contain what is commonly referred to as the principle of abuse of rights, sets 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: to act with justice; to give everyone his due; and to observe honesty and good faith. The law, therefore, recognizes a primordial limitation on all rights; that in their exercise, the norms of human conduct set forth in Article 19 must be observed. A right, though by itself legal because recognized or granted by law as such, may nevertheless become the source of some illegality. 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 held responsible. But while Article 19 lays down a rule of conduct for the government of human relations and for the maintenance of social order, it does not provide a remedy for its violation. Generally, an action for damages under either Article 20 or Article 21 would be proper.[19]

Corollarilly, Article 20 provides that "every person who, contrary to law, willfully or negligently causes damage to another shall indemnify the latter for the same." It speaks of the general sanctions of all other provisions of law which do not especially provide for its own sanction. When a right is exercised in a manner which does not conform to the standards set forth in the said provision and results in damage to another, a legal wrong is thereby committed for which the wrongdoer must be responsible.[20] Thus, if the provision does not provide a remedy for its violation, an action for damages under either Article 20 or Article 21 of the Civil Code would be proper.

The question of whether or not the principle of abuse of rights has been violated resulting in damages under Article 20 or other applicable provision of law, depends on the circumstances of each case. In the present case, it was found that Coyiuto, Jr. indeed abused his rights as Chairman of The Manila Chronicle, which led to the publication of the libelous articles in the said newspaper, thus, entitling petitioner to damages under Article 19, in relation to Article 20.

Consequently, the trial court and the CA correctly awarded moral damages to petitioner. Such damages may be awarded when the transgression is the cause of petitioner's anguish.[21] Further, converse to Coyiuto, Jr.'s argument, although petitioner is claiming damages for violation of Articles 19 and 20 of the Civil Code, still such violations directly resulted in the publication of the libelous articles in the newspaper, which, by analogy, is one of the ground for the recovery of moral damages under (7) of Article 2219.[22]

However, despite the foregoing, the damages awarded to petitioner appear to be too excessive and warrants a second hard look by the Court.

While there is no hard-and-fast rule in determining what would be a fair and reasonable amount of moral damages, the same should not be palpably and scandalously excessive. Moral damages are not intended to impose a penalty to the wrongdoer, neither to enrich the claimant at the expense of the defendant.[23]

Even petitioner, in his Comment[24] dated June 21, 2010, agree that moral damages "are not awarded in order to punish the respondents or to make the petitioner any richer than he already is, but to enable the latter to find some cure for the moral anguish and distress he has undergone by reason of the defamatory and damaging articles which the respondents wrote and published."[25] Further, petitioner cites as sufficient basis for the award of damages the plain reason that he had to "go through the ordeal of defending himself everytime someone approached him to ask whether or not the statements in the defamatory article are true."

In Philippine Journalists, Inc. (People's Journal) v. Thoenen,[26] citing Guevarra v. Almario,[27] We noted that the damages in a libel case must depend upon the facts of the particular case and the sound discretion of the court, although appellate courts were "more likely to reduce damages for libel than to increase them." So it must be in this case.

Moral damages are not a bonanza. They are given to ease the defendant's grief and suffering. Moral damages

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should be reasonably approximate to the extent of the hurt caused and the gravity of the wrong done.[28] The Court, therefore, finds the award of moral damages in the first and second cause of action in the amount of P2,000,000.00 and P25,000,000.00, respectively, to be too excessive and holds that an award of P1,000,000.00 and P10,000,000.00, respectively, as moral damages are more reasonable.

As for exemplary damages, Article 2229 provides that exemplary damages may be imposed by way of example or correction for the public good. Nonetheless, exemplary damages are imposed not to enrich one party or impoverish another, but to serve as a deterrent against or as a negative incentive to curb socially deleterious actions.[29] On this basis, the award of exemplary damages in the first and second cause of action in the amount of P500,000.00 and P10,000,000.00, respectively, is reduced to P200,000.00 and P1,000,000.00, respectively.

On the matter of attorney's fees and costs of suit, Article 2208 of the same Code provides, among others, that attorney's fees and expenses of litigation may be recovered in cases when exemplary damages are awarded and where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered. In any event, however, such award must be reasonable, just and equitable.[30] Thus, the award of attorney's fees and costs is reduced from P1,000,000.00 to P200,000.00.

One final note, the case against respondent was one for damages based on the publication of libelous articles against petitioner; hence, only civil in nature. The rule is that a party who has the burden of proof in a civil case must establish his cause of action by a preponderance of evidence. Thus, respondents' liability was proven only on the basis of preponderance of evidence, which is quite different from a criminal case for libel where proof beyond reasonable doubt must be established.

Corollarilly, under Article 360 of the Revised Penal Code, the person who "caused the publication" of a defamatory article shall be responsible for the same. Hence, Coyiuto, Jr. should have been held jointly and solidarily liable with the other respondents in the first cause of action under this article and not on the basis of violation of the principle of abuse of rights founded on Articles 19 and 20 of the Civil Code. Because of the exclusion of Coyiuto, Jr. in the first cause of action for libel, he cannot be held solidarily liable with the other respondents in the first cause of action. Nonetheless, since damage to petitioner was in fact established warranting the award of moral and exemplary damages, the same could only be awarded based on petitioner's second cause of action impleading Coyiuto, Jr. for violation of the principle of abuse of right.

It did not escape the attention of the Court that in filing two different causes of action based on the same published articles, petitioner intended the liability of Coyiuto, Jr. to be different from the other respondents. It can be inferred that if Coyiuto, Jr. was impleaded in the first cause of action for recovery of the civil liability in libel, petitioner could not have prayed for higher damages, considering that the other respondents, who are jointly and severally liable with one another, are not in the same financial standing as Coyiuto, Jr. Petitioner, in effect, had spared the other respondents from paying such steep amount of damages, while at the same time prayed that Coyiuto, Jr. pay millions of pesos by way of moral and exemplary damages in the second cause of action.

WHEREFORE, the Motion for Reconsideration and Supplemental Motion for Reconsideration are PARTIALLY GRANTED. The Decision of this Court, dated November 25, 2009, is MODIFIED to read as follows:

> WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:
>
> 1. On the First Cause of Action, ordering defendants Chronicle Publishing, Neil H. Cruz, Ernesto Tolentino, Noel Cabrera, Thelma San Juan, Gerry Zaragoza, Donna Gatdula, Raul Valino and Rodney Diola, to pay plaintiff Yuchengco, jointly and severally:
> a. the amount of One Million Pesos (P1,000,000.00) as moral damages; and

b. the amount of Two Hundred Thousand Pesos (P200,000.00) as exemplary damages;

2. On the Second Cause of Action, ordering defendants Robert Coyiuto, Jr. and Chronicle Publishing to pay plaintiff Yuchengco, jointly and severally:

a. the amount of Ten Million Pesos (P10,000,000.00) as moral damages; and

b. the amount of One Million Pesos (P1,000,000.00) as exemplary damages;

3. On the Third Cause of Action, ordering all defendants to pay plaintiff Yuchengco, jointly and severally, the amount of Two Hundred Thousand Pesos (P200,000.00) as attorney's fee and legal costs.

Costs against respondents.

SO ORDERED.

Corona, C.J. (Chairperson), Mendoza and Reyes, JJ., concur.

Velasco, Jr., J., see concurring and dissenting opinion.

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[1] Rollo, pp. 428-459.

[2] Id. at 470-481.

[3] Id. at 174-194.

[4] Id. at195-248.

[5] Id. at 249-256.

[6] Id. at 53-62.

[7] Id. at 348-349.

[8] Id. at 464-464

[9] Id. at 511-512.

[10] Id. at 625-659.

[11] Id. at 522-574.

[12] Id. at 428-429.

[13] Id. at 470-471.

[14] Records, Vol. II, pp. 731-734.

[15] Id. at 732-733.

[16] See Montecillo v. Pama, G.R. No. 158557, February 4, 2008, 543 SCRA 512.

[17] GF Equity, Inc. v. Valenzona, G.R. No. 156841, June 30, 2005, 462 SCRA 466, 478.

[18] 257 Phil. 783 (1989).

[19] Id. at 783-784.

[20] Manuel v. People, 512 Phil. 818, 847 (2005) .

[21] Civil Code, 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 for omission.

[22] Art. 2219. Moral damages may be recovered in the following and analogous cases.

x x x x x x x x x

(7) Libel, slander or any other form of defamation;

x x x x x x x x x

[23] Cebu Country Club, Inc. v. Elizagaque, G.R. No. 160273, January 18, 2008, 542 SCRA 65, 75.

[24] Rollo, pp. 625-659.

[25] Id. at 655-656.

[26] 513 Phil. 607, 625 (2005).

[27] 56 Phil. 477 (1932).

[28] Philippine Commercial International Bank v. Alejandro, G.R. No. 175587, September 21, 2007, 533 SCRA 738, 757-758.

[29] Country Bankers Insurance Corporation v. Lianga Bay and Community Multi-Purpose Cooperative, Inc., 425 Phil. 511, 524 (2002).

[30] Cebu Country Club, Inc. v. Elizagaque, supra note 23, at 76.

SEPARATE CONCURRING AND DISSENTING OPINION

VELASCO, JR., J.:

I concur with the well-written Resolution of Mr. Justice Diosdado M. Peralta finding respondents liable for damages, attorney's fees and legal costs. I beg to differ, however, with respect to the proposed reduction of the damages awarded in Our November 25, 2009 Decision.

Let us recall the antecedents:

The Makati City Regional Trial Court (RTC), Branch 136, rendered the November 8, 2002 Decision, the fallo of which reads:

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

1. On the First Cause of Action, ordering defendants Chronicle Publishing, Neil H. Cruz, Ernesto Tolentino, Noel Cabrera, Thelma San Juan, Gerry Zaragoza, Donna Gatdula, Raul Valino and Rodney Diola to pay plaintiff Yuchengco, jointly and severally:

    a. the amount of Ten Million Pesos (P10,000,000.00) as moral damages; and

    b. the amount of Ten Million Pesos (P10,000,000.00) as exemplary damages;

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2. On the Second Cause of Action, ordering defendants Roberto Coyiuto, Jr. and Chronicle Publishing to pay plaintiff Yuchengco, jointly and severally:

a. the amount of Fifty Million Pesos (P50,000,000.00) as moral damages; and

b the amount of Thirty Million Pesos (P30,000,000.00) as exemplary damages;

3. On the Third Cause of Action, ordering all defendants to pay plaintiff Yuchengco, jointly and severally, the amount of One Million Pesos (P1,000,000.00) as attorney's fee and legal costs.

On appeal, the Court of Appeals (CA) rendered a Decision dated March 18, 2008 affirming in toto the November 8, 2002 RTC decision.

Acting on respondents' plea for reconsideration, the CA issued on August 28, 2008 an Amended Decision reversing its March 18, 2008 Decision and dismissed the Amended Complaint of petitioner.

WHEREFORE, the appeal is GRANTED. The Decision of this Court dated March 18, 2008 is RECONSIDERED and SET ASIDE. The decision of the court a quo dated November 8, 2002 is REVERSED and SET ASIDE. The Amended Complaint for Damages against the defendants-appellants is DISMISSED. No pronouncement as to costs.

On a petition for review interposed by petitioner before this Court, a judgment was rendered on November 25, 2009, this time annulling the CA Amended Decision dated August 28, 2008 and reinstating the November 8, 2002 decision of the Makati City RTC with modification on the amount of damages and attorney's fees and legal costs. The fallo reads:

WHEREFORE, the Petition is PARTIALLY GRANTED. The Amended Decision of the Court of Appeals in CA-G.R. CV No. 76995 dated 28 August 2008, which reversed on Motion for Reconsideration the 18 March 2008 Decision of the same Court is hereby REVERSED and SET ASIDE. The Decision of the Regional Trial Court of Makati City in Civil Case No. 94-1114 dated 8 November 2002 finding herein respondents liable for damages, is hereby REINSTATED, but shall be MODIFIED to read as follows:

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

1. On the First Cause of Action, ordering defendants Chronicle Publishing, Neil H. Cruz, Ernesto Tolentino, Noel Cabrera, Thelma San Juan, Gerry Zaragoza, Donna Gatdula, Raul Valino and Rodney Diola to pay plaintiff Yuchengco, jointly and severally:

a. the amount of Two Million Pesos (P2,000,000.00) as moral damages; and

b. the amount of Five Hundred Thousand Pesos (P500,000.00) as exemplary damages;

2. On the Second Cause of Action, ordering defendants Roberto Coyuito, Jr. and Chronicle Publishing to pay plaintiff Yuchengco, jointly and severally:

a. the amount of Twenty-Five Million Pesos (P25,000,000.00) as moral damages; and

b. the amount of Ten Million Pesos (P10,000,000.00) as exemplary damages;

3. On the Third Cause of Action, ordering all defendants to pay plaintiff Yuchengco, jointly and severally, the amount of One Million Pesos (P1,000,000.00) as attorney's fee and legal costs.

Costs against respondents.

SO ORDERED.

Respondents filed a Motion for Reconsideration dated January 15, 2010 which this Court denied on March 3, 2010. Later, respondent Coyiuto, Jr. filed a Motion for Leave to File Supplemental Motion for Reconsideration with attached Supplemental Motion, both dated March 17, 20l0. The Court issued a Resolution on April 21, 2010, recalling the denial of respondents' motion for reconsideration and entertained the aforesaid Supplemental Motion. The incident is now ripe for resolution.

I agree with Justice Peralta that the prayer for the reversal of the November 25, 2009 Decision of this Court should be denied, the motion for reconsideration having raised substantially the same issues and arguments already discussed and scrutinized in the text of said decision.

The majority, however, finds that the damages awarded to petitioner in Our November 25, 2009 Decision "appear to be too excessive." Justice Peralta, for the majority, argues that moral damages are not intended to "impose a penalty to the wrongdoer, neither to enrich the claimant at the expense of the defendant." Thus, he recommends that under the first cause of action, the moral damages should be reduced from PhP 2 million to PhP 1 million. Under the second cause of action, he proposes to reduce the moral damages from PhP 25 million to PhP 10 million. With respect to exemplary damages, he explains that said damages are imposed not to enrich one party or impoverish another but to serve as deterrent against or as a negative incentive to curb socially deleterious actions," citing Country Bankers Insurance Corporation v. Lianga Bay and Community Multi-Purpose Cooperative, Inc.[1] He then proceeds to reduce the exemplary damages from PhP 500,000 to PhP 200,000 under the first cause of action for consistency of action and from PhP 10,000,000 to PhP 1,000,000 under the second cause of action. Anent the third cause of action, he suggests the reduction of attorney's fees and costs from PhP 1,000,000 to PhP 200,000.

I submit that the damages awarded in Our November 25, 2009 Decision be maintained.

The facts and circumstances of the case have not changed since November 25, 2009. There were no supervening events that occurred since then. To say that the damages awarded to petitioner were not excessive on November 25, 2009 and then say that they are excessive now defies logic. The amendment of the November 25, 2009 Decision would open the court to speculation and even intrigue, more so considering that the January 15, 2010 Motion for Reconsideration of respondent was first denied on March 3, 2010 and later the denial was recalled on April 21, 2010.

The moral and exemplary damages awarded to petitioner in Our November 25, 2009 Decision would be adequate recompense for the damage that Coyiuto has inflicted upon petitioner as well as the injury to the latter's reputation, as a direct result of the publication of the subject articles. Moreover, it will serve as an effective deterrent against the commission of similar acts in the future.

Indeed, there is no hard-and-fast rule in the determination of what would be a fair amount of damages since each case must be governed by its own peculiar facts.[2] Much weight is placed on the social standing of the aggrieved party in the calibration of the fair and reasonable amount of the award of moral damages.[3]

Jurisprudence, even in other jurisdictions, is clear that the character and social standing of the defendant, as well as of the plaintiff, may be considered in estimating the amount of damages.[4] Evidence may be adduced as to the social and financial status of the parties as basis for the grant of damages.[5]

Moreover, other factors like the degree of mental anguish, humiliation and mental suffering have to be considered in fixing the amount of damages, thus:

There is no exact measure of damages to be awarded in an action for defamation, but it is within the special province of the jury to determine and fix the award. The tortfeasor is responsible for all the actual consequences reasonably to be anticipated from the publication, even though they are not proved specifically, and in determining the compensation the law looks to the consequences that may logically be expected to result therefrom. In awarding damages, many factors are taken into consideration, including the nature of the imputation made; the circumstances surrounding the publication of the defamatory words, the extent of the publication, although, in an action against a newspaper, this is not the sole factor to be considered; the quantum of mental anguish traceable thereto; the plaintiff's reputation; and the general status and position of the parties. x x x

General damages for defamation include injury to the feelings, reputation, or business of the person defamed, mental suffering, humiliation, anguish, and other like injuries capable of money evaluation.

While the term `special damage' more frequently imports a pecuniary injury, it generally is held that recovery of such damages may be had for loss of a temporal or material advantage of any kind, such as injury to personal status x x x.[6]

After a review of the evidence extant on record, the Court concluded that the spiteful and patently untruthful nature of the contents of the subject articles, the timing and frequency of the attacks, the fact that said articles were published close to the stockholders' meeting of Oriental Petroleum, and the fact that respondent Coyiuto deliberately utilized his newspaper to wage war against his business rival (petitioner herein), taken together, undoubtedly justify the damages awarded petitioner.

Respondent Coyiuto clearly abused his right when he took undue advantage of his position as owner and Chairman of the Board of Chronicle Publishing and used The Manila Chronicle to launch a personal vendetta against the petitioner who was his rival in the insurance business. As this Court ruled in its November 25, 2009 Decision, Coyiuto did not only cause the publication of articles that would paint petitioner in a bad light, worse, Coyiuto was even portrayed as the underdog and petitioner the greedy capitalist:

As earlier explained, as correctly found by the trial court, even the timing of the publication of these subject articles is highly suspicious inasmuch as the subject libelous articles came out in the Manila Chronicle, a newspaper owned and under the control of [respondent] Coyiuto, around November to December of 1993, a couple of months prior to the January stockholders meeting of Oriental Corporation. From this, it is logical to conclude that the publication of the subject defamatory articles defaming the good name and reputation of [petitioner] is but a part of [a] grand scheme to create a negative image of [petitioner] so as to negatively affect [petitioner's] credibility to the public, more particularly, to the then stockholders of Oriental Corporation. Worth noting also is the fact that the subject articles did not only portray [petitioner] in a bad light. Curiously, in these articles, [respondent] Coyiuto, a known rival of [petitioner], was portrayed as the underdog, the "David" and [petitioner] as the "Goliath" in their battle for control over Oriental Corporation. This does not escape the Court's attention." (Decision dated November 25, 2009, pp. 24-25)

Coyiuto is, therefore, liable for the prejudice suffered by petitioner under the abuse-of-rights doctrine for having caused the publication of the subject articles in the newspaper which he owns and controls.

More relevant still is the evidence on record of the high prominence and stature of the aggrieved party (petitioner) as found by the RTC and as quoted in this Court's Decision dated November 25, 2009:

During the trial, the plaintiff himself, ALFONSO T. YUCHENGCO, testified that prior to his appointment as Ambassador to Japan, he was the chairman of various business organizations notably: Benguet Corporation ("Benguet"), Philippine Long Distance Telephone Company, Rizal Commercial Banking Corporation ("RCBC"),

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Bank of America Savings Bank, House of Investments, Inc., Dole Philippines and Philippines Fuji Xerox Corporation. He was also the President of the Philippine Ambassadors; chairman or vice president of Bantayog ng Bayan; and chairman of AY Foundation, Inc. He was appointed Philippine Ambassador to People's Republic of China after the EDSA Revolution. (Decision dated November 25, 2009, pp. 3-4)

This Court in its Decision dated November 25, 2009 also took notice of the prominence and stature of petitioner, i.e., that he was at that time appointed as Presidential Adviser on Foreign Affairs with Cabinet rank and, as found by the CA, has held other positions, such as Philippine Permanent Representative to the United Nations with the rank of Ambassador (November 2001-December 2002); Presidential Special Envoy to China, Japan and Korea (2001); Presidential Assistant on APEC Matters with Cabinet Rank (1998-2000); Ambassador Extraordinary and Plenipotentiary of the Republic of the Philippines to the People's Republic of China (PROC) (1986-1988); and Chairman, Council of Private Sector Advisors to the Philippine Government on the Spratly's Issue (Marine and Archipelagic Development Policy Group [1995-1998]).[7] Undeniably, the stature and prominence of the petitioner underscores his high financial standing in society.

Judicial notice is likewise taken of the fact that the parties involved are both high net worth individuals. Respondent Coyiuto owns and controls a publishing company (Chronicle Publishing), is a known steep rival of petitioner in the insurance industry and was, at the time in question, battling with the latter to gain control over Oriental Petroleum. In the latest Forbes magazine,[8] Coyiuto placed as the 19th richest in the Philippines with a net worth of US$400 million, while petitioner ranked 21st with a net worth of US$370 million. There can be no doubt that both petitioner Yuchengco and respondent Coyiuto are high net worth businessmen.

Even the parties' financial condition has been accepted to bear relevance in the determination of the damages to be awarded the aggrieved party in an action for libel or defamation, thus:

In some jurisdictions, matters to be considered in aggravation of damages include the defendant's social status, and his financial condition. The plaintiff is entitled to show his rank and condition in life, his occupancy of a public position, his marital status, and according to some authorities, his good reputation.[9]

Clearly, a lesser amount of damages, while acceptable to individuals of average means, would, at best, be a slap on the wrist for Coyiuto, and will have no deterring effect against a similar violation.[10] The financial worth of Coyiuto is, therefore, relevant in determining the amount of moral damages to be awarded to the plaintiff.

More importantly, the total amount of PhP 25 million as moral damages and PhP 10 million as exemplary damages previously awarded to petitioner by this Court in its November 25, 2009 Decision would certainly not even assuage the mental anguish, serious anxiety, besmirched reputation, wounded feelings, sleepness nights, and social humiliation and embarrassment suffered by petitioner, especially in the insurance industry where he was prominently and predominantly engaged at the time of the publication. Nevertheless, We have already ruled on the amount of damages in Our November 25, 2009 Decision. Adjudication must reach finality at some point in time. It is time to write finis to this case for damages.

I submit that We maintain Our November 25, 2009 Decision.

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[1] 425 Phil. 511, 524 (2002).

[2] Sandejas v. Sps. Ignacio, G.R. No. 155033, December 19, 2007, 541 SCRA 61.

[3] Id.

[4] 50 Am Jur 2d, Libel and Slander, § 356; citing Broughton v. McGrew, (CC) 39 F 672.

[5] Id., § 479.

[6] Id., § 356.

[7] Decision dated November 25, 2009, p. 28.

[8] “The Philippines’ 40 richest” list.

[9] 50 Am Jur 2d, Libel and Slander, § 371.

[10] It must also be shown that the defendant will be effectively deterred by the award, and for this reason evidence of defendant’s wealth is usually admitted in a libel action. [Punitive Damages in Libel, Fordham Law Review (Vol 45, p. 1386, (1977)] If the jury is not free to adjust the amount of the punitive damage awarded to the character of the defendant's wrong, the award loses its value as a warning that particularly outrageous conduct will be severely punished. [Punitive Damages in Libel, Fordham Law Review, Vol. 45, p. 1391, (1977)]

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