

**DIVISION ADELAIDA C. NAVARRO-BANARIA, PETITIONER, VS.
ERNESTO A. BANARIA, PANFILO A. BANARIA, GRACIA SEVERA
BANARIA-ESPIRITU, REINA CLARA BANARIA- MAGTOTO,
MARCELINO S. BANARIA,...**

G.R. No. 217806. July 28, 2020

Ponente: REYES, J. JR., J.

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REYES, J. JR., J.:

This resolves the petition for review on certiorari[1] filed under Rule 45 of the Rules of Civil Procedure seeking to review the Decision[2] dated October 15, 2014 of the Honorable Court of Appeals (Special First Division) in CA-G.R. No. 97264, denying the appeal of herein petitioner by affirming with modification the Judgment[3] dated May 23, 2011 rendered by the Regional Trial Court (RTC), Branch 216 (Quezon City) in Civil Case No. Q-0452212, and its Resolution[4] dated April 14, 2015, denying petitioner's motion for reconsideration.

The Antecedents

The instant petition arose from the Complaint filed by respondents for Damages with the RTC of Quezon City against petitioner.

As borne by the records of the case, respondents are brother (Marcelino S. Banaria), sister (Paulina Banaria-Gelido), sons (Ernesto A. Banaria and Panfilo A. Banaria), daughters (Gracia Severa Banaria-Espiritu and Reina Clara Banaria-Magtoto), granddaughters (Gracia Isabelita Banaria-Espiritu, Anne Marie Espiritu-Pappania, Maria Lourdes Divine Banaria-Duran), and grandsons (Geoffrey Banaria-Espiritu and Justin Banaria-Espiritu) of the late Pascasio S. Banaria, Sr. (Pascasio), while petitioner Adelaida C. Navarro-Banaria (Adelaida) is the legal wife of Pascasio and stepmother of the Banaria siblings.[5]

Pascasio, the family patriarch, at the time of the filing of the complaint, was already frail and suffering from physical and mental infirmity incapacitating him to fully functioning on his own without any assistance.[6]

The action for damages of respondents stemmed from the alleged bad faith, malice, and deliberate failure of Adelaida to keep her word and honor her promise to bring Pascasio to his 90th birthday celebration held on February 22, 2004. Such special event was prepared by the respondents and the non-appearance of Pascasio during the event allegedly caused loss and injury to the respondents.[7]

Respondents alleged that the planning of the event started as early as February 2003 or a year before the planned 90th birthday celebration to be held on February 22, 2004. Between November 2003 and January 2004, respondents were in continuous contact with Adelaida to remind her of the upcoming event. Adelaida, for her part, confirmed Pascasio's attendance during the event although it coincides with the death anniversary of Adelaida's mother. The plan was to bring Pascasio to the venue in the early morning of February 22, 2004 before proceeding to her hometown in Tarlac. Adelaida promised respondents that she will try her best to attend the birthday celebration in the evening after going to Tarlac.[8]

On February 13, 2004, Reina and Gracia Severa, who are both residing in the United States, arrived in the country to attend the birthday celebration of their father. They were able to visit their father and Adelaida in their home on February 14 and 15, 2004. Adelaida promised them during their visit that Pascasio would be present in his scheduled 90th birthday celebration.[9]

However, much to the dismay of the Banaria siblings as well as their guests, Pascasio was nowhere to be found in his 90th birthday celebration. Respondents continuously called Adelaida but they were not able to contact her. Almost 200 guests were at the venue waiting for Pascasio to come. The siblings deemed it proper to continue the celebration even without the birthday celebrant himself. Worried that there might be something untoward that happened to their father, respondents went to the nearest police station to report Pascasio as a missing person. However, they were advised by the police officers that before a person can be considered missing, there should be a 24-hour waiting period. Thus, respondents just entered their concern in the police blotter. The next day, the missing person report was officially made after Pascasio and Adelaida have not been seen or heard for more than 24 hours.[10]

Respondents called and went to the Securities and Exchange Commission (SEC), where Adelaida works but they failed to see her there. Afterwards, respondent Paulina was able to talk to one of Adelaida's maids named Kit. Kit told Paulina that she went to Tarlac with Pascasio and Adelaida in the morning of February 21, 2004 but went their separate ways upon reaching said province. However, when asked about the whereabouts of Pascasio and Adelaida, she said that she did not know where they were.[11]

In the evening of February 23, 2004, Marcelino, Pascasio's brother, told the other respondents that Pascasio and Adelaida were at their residence then at 7-B Sigma Drive, Alpha village, Quezon City. Respondents went to the said place to ask Adelaida her reason why Pascasio was not able to attend the birthday celebration. Adelaida reasoned that Pascasio did not want to go to the party. When asked why Adelaida broke her commitment to bring Pascasio to the party, Adelaida uttered the words, "I am the wife." [12]

Thus, the Complaint for Damages filed by respondents against Adelaida.

In response, Adelaida rebutted the allegations of the respondents by saying that she was not privy to the respondents' planned birthday celebration for Pascasio. She also said that she deemed it wise to spare Pascasio of the embarrassment and humiliation of defecating and urinating without regard to the people around him brought about by his advanced age.[13]

Eventually, the RTC rendered its May 23, 2011 Decision, which ordered petitioner to pay the respondents' travel expenses, actual damages, moral damages, exemplary damages, and attorney's fees. The fallo [14] of the decision reads:

WHEREFORE, in view of the foregoing considerations, judgment is hereby rendered in favor of plaintiffs and against the defendant Adelaida C. Navarro-Banaria ordering said defendant to pay unto the plaintiffs the following:

1. the total amount of \$3,619.00 (US Dollars) which may be paid in Philippine Currency computed at the exchange rate at the time of payment, representing the total sum for their (plaintiffs) travel expenses;
2. the amount of P61,200.00, Philippine currency, for the food and refreshments spent during the birthday of Pascasio S. Banana, Sr., which the latter was not able to attend; the amount of P3,000.00 for the birthday cake; and the amount of P3,275.00 for the balloon arrangements;
3. the amount of P60,000.00, Philippine Currency, for each and every plaintiff, as and by way of moral damages;

4. the amount of P50,000.00, Philippine Currency, for the herein plaintiffs, as and by way of exemplary damages;

5. the amount of P60,000.00, Philippine Currency, as and by way of attorney's fees; and

the costs of suit.

SO ORDERED.

Aggrieved, petitioner elevated the case to the Court of Appeals, which, through the assailed October 15, 2014 Decision, affirmed with modification the Decision of the RTC. The fallo[15] of the decision of the appellate court reads:

WHEREFORE, premises considered, the appeal is hereby DENIED. The Judgment dated 23 May 2011 of the Regional Trial Court-Branch 216 (Quezon City) is AFFIRMED with the following MODIFICATIONS: a) the amount of \$3,619.00 (US Dollars) awarded as actual damages in favor of the plaintiffs-appellees is DELETED for lack of factual and legal basis; b) the amount of moral damages awarded for ALL the plaintiffs-appellees is REDUCED to a fixed amount of Php300,000.00; c) the amount of exemplary damages awarded in favor of the plaintiffs-appellees is REDUCED to Php30,000.00; and d) the amount of attorney's fees awarded to plaintiffs-appellees is likewise REDUCED to php50,000.00.

The rest of the challenged Judgment stands.

SO ORDERED.

Despite petitioner's motion for reconsideration, the CA affirmed its October 15, 2014 Decision via the April 14, 2015 Resolution.

Hence, this petition.

The Issues

The petitioner anchors her prayer for the reversal of the October 15, 2014 Decision and the April 14, 2015 Resolution based on the following issues:

A. Whether the Hon. Court of Appeals erred in ruling that petitioner violated Articles 19 and 21 of the Civil Code regarding Human Relations; and

B. Whether the Hon. Court of Appeals erred in granting damages to the respondents.

The Court's Ruling

After a careful perusal of the arguments presented and the evidence submitted, the Court finds no merit in the petition.

Petitioner contends that she did not commit any violation under Article 19 of the Civil Code by alleging that the testimonies of the respondents were pure surmises and conjectures. Aside from that, petitioner avers that respondents failed to prove bad faith, malice and ill motive on her part. Because of this, petitioner posits that there can be no award of actual, moral and exemplary damages under the principle of *damnum absque injuria* or damage without injury since her legal right was not exercised in bad faith and with no intention to injure another.

Article 19 of the Civil Code provides that every person in the exercise of his rights and in the performance of his duties must act with justice, give everyone his due, and observe honesty and good faith. The principle embodied in this provision is more commonly known as the "abuse of right principle." The legal consequence should anyone violate this fundamental provision is found in Articles 20 and 21 of the Civil Code. The correlation between the two provisions are showed in the case of *GF EQUITY, Inc. v. Valenzona*, to wit:

[Article 19], 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.[16] (Emphasis supplied)

While Article 19 of the New Civil Code may have been intended as a mere declaration of principle, the "cardinal law on human conduct" expressed in said article has given rise to certain rules, e.g., that where a person exercises his rights but does so arbitrarily or unjustly or performs his duties in a manner that is not in keeping with honesty and good faith, he opens himself to liability. The elements of an abuse of rights under Article 19 are: (1) there is a legal right or duty; (2) which is exercised in bad faith; (3) for the sole intent of prejudicing or injuring another.[17]

Consequently, when Article 19 is violated, an action for damages is proper under Article 20 and 21 of the New Civil Code. Article 20 pertains to damages arising from a violation of law.[18]

For starters, there is no question that as legal wife and guardian of Pascasio, who is physically and mentally infirm, Adelaida has the principal and overriding decision when it comes to the affairs of her husband including the celebration of the latter's 90th birthday.

However, it must be noted Adelaida's right, as with any rights, cannot be exercised without limitation. The exercise of this right must conform to the exacting standards of conduct enunciated in Article 19. Adelaida was clearly remiss in this aspect.

Glaring is the fact that long before the scheduled date of Pascasio's 90th birthday celebration, Adelaida was already informed about the event. As early as February 2003 or a year before the scheduled event, Adelaida was already reminded of the event by the respondents to which she confirmed Pascasio's attendance. Even though Adelaida alleges that she was not privy to any birthday celebration for Pascasio, the fact remains that she was continuously informed and reminded about the scheduled event. She even contributed P5,000.00 for the costs.

Following Adelaida's testimony that Pascasio had already decided not to attend his birthday celebration a day before such event, she should have contacted the respondents immediately for the respondents to be able to take appropriate action. Adelaida knew fully well that the respondents already spent a considerable amount of money and earnest efforts were already made to ensure the success of the event. The least that Adelaida could have done was to inform the respondents immediately of any unforeseen circumstance that would hinder its success and to avert any further damage or injury to the respondents. Moreover, considering that numerous guests were invited and have confirmed their attendance, she placed the respondents in a very embarrassing situation.

Instead of making good on her prior commitment, Adelaida allegedly followed Pascasio's wish of going to Tarlac and arrived thereat in the afternoon of February 21, 2004. At that time, Adelaida still had the opportunity to contact the respondents and inform them that they will not be able to come, but she did not. Her excuse, that Pascasio grabbed her cellular phone and caused damage to it, is feeble and unrealistic. We find incredulous that Pascasio, who was allegedly infirm, would be able to grab the cellphone from Adelaida and throw it away, when he cannot even move on his own without any assistance. And even if true, there are certainly other means of

communication aside from her cellphone if she really wanted to call the respondents.

Adelaida also neglected to contact the respondents immediately after their return to Manila on February 23, 2004. If she was sincere in bringing Pascasio to his birthday celebration, then she would have immediately called the respondents upon returning to Manila to inform them of their whereabouts and to state the reason for Pascasio non-attendance.

We find it dubious that Pascasio would refuse to attend his birthday celebration. Respondents have sufficiently established that it was an annual tradition for the family to celebrate the birthday of their father Pascasio. Besides, the allegation that Pascasio refused to attend his birthday celebration because of an alleged misunderstanding with his two sons was not duly proven. Common sense dictates that he should have conveyed about the matter to Reina and Gracia Severa when they visited him on February 14 and 15, 2004, but he did not.

All in all, the foregoing shows that Adelaida intentionally failed to bring Pascasio to the birthday celebration prepared by the respondents thus violating Article 19 of the Civil Code on the principle of abuse of right. Her failure to observe good faith in the exercise of her right as the wife of Pascasio caused loss and injury on the part of the respondents, for which they must be compensated by way of damages pursuant to Article 21 of the Civil Code.

Actual damages are compensation for an injury that will put the injured party in the position where he/she was before the injury. They pertain to such injuries or losses that are actually sustained and susceptible of measurement. Except as provided by law or stipulation, a party is entitled to adequate compensation only for such pecuniary loss as is duly proven. Basic is the rule that to recover actual damages, not only must the amount of loss 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.[19]

We find proper the modification made by the CA to delete the award of \$3,619.00 (US Dollars) as actual damages for lack of factual and legal bases. We also agree that actual damages in the amount of P61,200.00 for the food and refreshments spent during the birthday of Pascasio, the amount of P3,000.00 for the birthday cake and the amount of P3,275.00 for the balloon arrangements should be paid as these expenses were incurred by respondents for Pascasio's grand birthday celebration.

As for moral damages, the CA is correct in granting a lump sum of P300,000.00. Moral damages are not punitive in nature but are designed to compensate and alleviate in some way the physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury unjustly caused to a person.[20] In the instant case, the respondents clearly suffered serious anxiety, humiliation and embarrassment in front of all guests who expected that Pascasio would be present in the event.

The award of exemplary damages of P30,000.00 is likewise affirmed. Exemplary damages, which are awarded by way of example or correction for the public good, may be recovered if a person acted in a wanton, fraudulent, reckless, oppressive, or malevolent manner towards another party, as in this case.[21] The aim of awarding exemplary damages is to deter serious wrongdoings.[22]

By the same token, the CA correctly awarded attorney's fees in the amount of P50,000.00 in favor of the respondents considering that they were constrained to file a case because of petitioner's acts characterized by bad faith, malice and wanton attitude which were intentional to inflict damage upon the former.

WHEREFORE, the Petition is DENIED. The October 15, 2014 of the Court of Appeals is AFFIRMED.

SO ORDERED.

Peralta, C.J. (Chairperson), Caguioa, Gesmundo[*] and Lopez, JJ., concur.

[*]Designated additional member in lieu of Associate Justice Amy Lazaro-Javier per Raffle dated April 22, 2019.

[1]Rollo, p. 17-33.

[2]Penned by Associate Justice Samuel H. Gaerlan (now a Member of the Court), with Associate Justices Apolinario D. Bruselas, Jr., and Amy C. Lazaro-Javier (also now a Member of the Court); id. at 34-49.

[3]RTC Decision was not attached.

[4]Penned by Associate Justice Samuel II. Gaerlan (now a member of the Court), with Associate Justices Apolinario D. Bruselas, Jr., and Amy C. Lazaro-Javier (now a member of the Court); rollo, pp. 50-53.

[5]Rollo, p. 35.

[6]Id.

[7]Id.

[8]Id.

[9]Id. at 36.

[10]Id.

[11]Id. at 37.

[12]Id.

[13]Id.

[14]Id. at 38.

[15]Id. at 48-49.

[16]501 Phil 153, 166(2005).

[17]Metroheights Subdivision Homeowners Association, Inc. v. CMS Construction and Development Corp., G.R. No. 209359, October 17, 2018.

[18]Nikko Hotel Manila Garden v. Reyes, 492 Phil 615, 627 (2005).

[19]International Container Terminal Services v. Chua, 730 Phil. 475, 489 (2014).

[20]Lee v. People, G.R. No. 205746 (Notice), April 3, 2013.

[21]Japan Airlines v. Simangan, 575 Phil. 359, 377 (2008).

[22]Air France v. Gillego, 653 Phil. 138, 153 (2010).

CONCURRING OPINION

CAGUIOA, J.:

I concur with the ponencia in its findings of abuse of right on the part of petitioner, in clear breach of the most rudimentary principles of human relations as embodied in Article 19 in relation to Article 21 of the Civil Code.[1] I take this opportunity to recall and to emphasize the underlying propositions governing the principle of abuse of right, and echo the breadth of application that these encompassing provisions historically contemplated, both of which support a decisive finding of abuse of right in the present case.

The invocation of the abuse of right principle under Article 19 in relation to either Article 20 or 21 is admittedly not subject to a hard and fast evaluation of mathematical precision, owing perhaps to its design as an all-inclusive provision that seeks to redress other wrongs or injurious acts not covered by legislative foresight. Article 19 is based on the maxim *sum jus summa injuria* (the abuse of a right is the greatest possible wrong),[2] and is described as the guide to relational behavior that rise from the dictates of good conscience and govern any human society, to wit:

Therein are formulated some basic principles that are to be observed for the rightful relationship between human being and for the stability of the social order. The present Civil Code merely states the effects of the law, but fails to draw out the spirit of the law. This chapter is designed to indicate certain norms that spring from the fountain of good conscience. These guides for human conduct 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.[3]

This provision on the basic tenets of decent human behavior, however, may not be invoked independently of Articles 20 and 21, which provide for the legal consequences of such an abuse. Article 20 is said to underpin the entire legal system, and ensures that no person who suffers damage, because of the act of another, may find himself without redress.[4] It is further said to extend our understanding of what tortious acts may consist of, with its language indicative of the incorporation into our traditional contemplation of tort or *culpa aquiliana*-the Anglo-American concept of tort which includes malice.[5] Article 21, for its part, stretched the "sphere of wrongs" provided for by positive law, and filled in the gaps to ensure remedy for people who have sustained material injuries from moral wrongs, in the absence of any other express provision.[6]

The scope of this principle is expansive, and is said to have "greatly broadened the scope of the law on civil wrongs." [7] It provides that although an act is not illegal, damages may be properly awarded should the injury be borne of an abuse of a right, as when the right is exercised without prudence or in bad faith. This abuse may, however, be properly entreated only upon establishment of the following elements: (1) there is a legal right or duty; (2) which is exercised in bad faith; and (3) for the sole intent of prejudicing or injuring another.[8]

The idea that rights are capable of abuse is a far shift from the prior theory embodied in the Roman Law maxim "*qui iure suo utitur neminem laedit*" or, he who exercises his own right injures no one. This idea of abuse of right instead acknowledges the primordial boundary on one's rights, that is, the rights of others. In his Commentary on the Civil Code, noted Civilist Eduardo P. Caguioa elaborated on the inherent logic of limitations of rights, the overstepping of which constitutes the abuse:

x x x In Roman Law the maxim was "*qui iure suo utitur neminem laedit* [i.e.], he who exercises his own right injures no one. Taken absolutely and literally the maxim is false and leads to absurd consequences. The exercise of rights must be done within certain limits. These limitations can be classified into two categories: 1. The intrinsic limitations which emanate from the right itself, [i.e.] from its nature and purpose, 2. The extrinsic limitations which emanate from the rights of others. The Intrinsic limitations are the following: (a) those derived from the nature of the right, [e.g.], the depositary cannot use the things deposited without authorization

otherwise the character of the contract is destroyed; (b) Limitations arising from good faith; and (c) Limitations imposed by the economic and social ends of the right which require the holder of the right to exercise the right in accordance with the end for which it was granted or created. Hence the principle of ABUSE OF RIGHT. The extrinsic limitations are: (a) Those in favor of third persons who act in good faith; and (b) Those arising from the concurrence or conflict with the rights of others.

x x x x

x x x x "The abusive act" says Josserand, "is simply that which, performed in accordance with a subjective right whose limits has been respected, is nevertheless contrary to right considered in general and as the sum total of all obligatory laws. It is perfectly possible to have in one's own favor such a determinate right but nevertheless have against one the whole of law and this is the situation which produces that famous maxim "summum his summa iniuria". The responsibility arising from the abuse of right covers both the subjective character of right and its social end and function.[9]

Under the aforementioned operative definition of abuse of right, therefore, petitioner's acts of failing to actually bring Pascasio (the father of respondents) to the birthday celebration which respondents mounted for him, and her concomitant failure to inform the latter of their foreseen absence from the party, or to just let them know that they had already returned to Manila after the schedule of the same, despite her justifications - that, based on her own narrative, are easily surmountable challenges - betrays intention and bad faith on petitioner's part. This is a clear breach of the intrinsic limitation on her right as the spouse of Pascasio arising from good faith, as well as breach of the extrinsic limitation arising from its conflict with the rights of others. So that although she indeed possessed the determinate right of bringing or not bringing her spouse to the birthday celebration, her exercise of said right placed her squarely against the basic rule on observance of good faith.

The Court of Appeals succinctly described this abuse of right through the apparent pretense in petitioner's defense, to wit:

Second, defendant-appellant testified that before going to Tarlac, she and Pascasio attended a birthday celebration at the Century Club, Quezon City on 21 February 2004. Her testimony further reveals that as early as that day, Pascasio was (allegedly) already decided on not attending the party prepared by his children. If said testimony is to be believed, it puzzles the Court why defendant-appellant did not attempt to contact, at that earliest time, plaintiffs-appellees to advise them of their father's sudden change of heart. Defendant-appellant knew that the celebration prepared by the Banaria children is not simple as guests were invited and a considerable sum of money is spent for the event. Indeed, had defendant-appellant informed plaintiffs-appellees of her predicament, the damage or injury that plaintiffs-appellees are now complaining of could have been prevented.

Further, petitioner argues that this was no more than a case of *damnum absque injuria*, or a damage without injury as the loss or harm suffered was not a result of a violation of a legal duty.[10] Here, petitioner is in error. *Damnum absque injuria* or damage without injury may not be appreciated in petitioner's actions as said principle contemplates a situation wherein in the exercise of a right, "the purpose was good, the exercise normal and still damage is caused".[11] As applied to petitioner's actions, her failure to inform respondents of their intended absence from the party or their whereabouts, in the least, to the extent that respondents found it necessary to file a Missing Person's report with the local police,[12] exhibits the utter lack of consideration for respondents, or otherwise a deficit in good faith relations with the latter.

With respect to the indemnification for the damage caused, I agree that respondents herein are entitled to moral and exemplary damages in addition to actual damages, but wish to supplement the basis for finding the propriety of said awards. For moral damages, such may be properly awarded in this case, pursuant to Article 2219(10) in relation to Article 21 of the Civil Code, where the former enumerates the instances when moral damages may be

appreciated. Exemplary damages was also properly found in favor of respondents, pursuant to Article 2231 in relation to Articles 19 and 21 of the Civil Code. To my mind, the lower courts and the ponencia aptly found gross negligence on the part of the petitioner when, despite clear opportunities to inform respondents of their foreseen absence from the event in question, petitioner nevertheless repeatedly failed to undertake the same. Given that such a simple act of phoning any of respondents at any point during the time prior to and after the party could have spared respondents from the loss and humiliation that they subsequently sustained, the fact that petitioner kept failing to do so escapes reason. I therefore agree that such repeated failure is properly characterized as gross negligence under the contemplation of Article 2231. As the Court has held in the case of *Abrogar v. Cosmos Bottling Co., et al.*,^[13] gross negligence is the thoughtless disregard of consequences without exerting any effort to avoid them. In this case, petitioner's utter disregard of each opportunity she could have taken to inform respondents of their father's absence is correctly characterized as gross negligence which correspondingly entitled herein respondents to exemplary damages.^[14]

In fine, Articles 19, 20, and 21 have been historically planted to ensure that no wanton discounting of the rights of others may escape with impunity for the sole reason that no black letter law specifically prohibits the same. For if the case were otherwise, we would be constantly confronted with the irony wherein, as the Report of the Code Commission itself described,^[15] people would be free to cause damage to others, and violate the most elementary principles of morality, so long as no positive law is broken. Such a situation could not be further from the contemplations of the law, and the abuse of right principle under Articles 19, 20, and 21 of the Civil Code ensure that it remains so.

(Sgd.)ALFREDO BENJAMIN S. CAQUIOA

Associate Justice

[1]In brief, the factual backdrop involves a legal spouse who did not bring her frail and ailing husband (Pascasio) to the latter's 90th birthday celebration prepared for him by his children from a previous marriage, and relatedly failed to advise Pascasio's family of his absence or the reason therefor whether prior to or after the same. As a consequence of such, herein petitioner's stepchildren sustained injury and loss, and prompted them to file a complaint for damages against petitioner, imputing against her malicious and injurious abuse of rights.

[2]See Desiderio P Jurado, *CIVIL LAW REVIEWER*, 2009 ed., p. 33.

[3]See Francisco R. Capistrano, *CIVIL CODE OF THE PHILIPPINES WITH COMMENTS AND ANNOTATIONS*, 1950 ed., Vol. 1, p.2

[4]Id.

[5]Eduardo P. Caguioa, *COMMENTS AND CASES ON CIVIL LAW, CIVIL CODE OF THE PHILIPPINES*, 1959 ed.. Vol. I, p. 29.

[6]Id.

[7]Baksh v. Court of Appeals, G.R. No. 97336, February 19, 1993, 219 SCRA 115, 127-128; citing Arturo M. Tolentino, COMMENTARIES AND JURISPRUDENCE ON TUB CIVIL CODE OF THE PHILIPPINES, 1985 ed.,

Vol. 1, p. 72; the case adds;

In the general scheme of the Philippine legal system envisioned by the Commission responsible for drafting the New Civil Code, intentional and malicious acts, with certain exceptions, are to be governed by the Revised Penal Code while negligent acts or omissions are to be covered by Article 2176 of the Civil Code, in between these opposite spectrums are injurious acts which, in the absence of Article 21, would have been beyond redress. Thus, Article 21 fills that vacuum. It is even postulated that together with Articles 19 and 20 of the Civil Code, Article 21 has greatly broadened the scope of the law on civil wrongs; it has become much more supple and adaptable than the Anglo-American law on torts.

[8]Andrade v. Court of Appeals, G.R. No. 127932, December 7, 2001, 371 SCRA 555, 563.

[9]Supra note 5 at 26-27. Emphasis in the original.

[10]Rollo. p. 31.

[11]Supra note 5 at 28.

[12]Rollo, p. 36.

[13]G.R. No. 164749, March 15, 2017, 820 SCRA 301.

[14]Id. at 350; citing Mendoza v. Sps. Gomez, G.R. No. 1601 10, June 18, 2014, 726 SCRA 505, 526.

[15]Supra note 5 at 30; citing Report of Code Commission, pp. 40-41.

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