

**SPOUSES JOSE TAN KAPOE AND CONCEPCION NGO KAN,
PETITIONERS, VS. SILVESTRE MASA, ENRIQUE MASA, JESUS MASA,
FRANCISCO MASA, ROGELIO MASA, AURELIA HERNANDEZ, ANGEL
MALUNAY, PRESCIL...**

G.R. No. 50473. January 21, 1985

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

A Petition for Review seeking the reversal of the Decision of respondent Court of Appeals, which affirmed the Decision of the Court of First Instance of Laguna, Branch I, awarding moral and exemplary damages as well as attorneys' fees and costs of suit to private respondents on the ground of malicious prosecution by petitioners.

Respondent Silvestre MASA is petitioners' tenant of a parcel of land located at Bo. Dila, Bay, Laguna. The other respondents are his co-workers except for minors, Enrico Masa and Brigido Masa, who represent their deceased father Felipe Masa.

Silvestre MASA, who had been petitioners' tenant for ten (10) years, wrote the latter asking for the conversion of their share tenancy relationship to one of leasehold, which petitioners rejected.

MASA then filed before the then Court of Agrarian Relations (CAR) at Los Banos, Laguna, a petition for conversion, which petitioners opposed and who, instead filed a petition for ejectment before the same Agrarian Court. Eventually, the conversion was authorized and the same was affirmed by this Court in G.R. No. L-29784.

Even at the incipience of the agrarian dispute, petitioners started filing one criminal case after another against MASA and his correspondents, totalling six cases in all. The first two were for Grave Threats and Oral Defamation, respectively. Eventually, the charge for Grave Threats was dismissed by the Municipal Court of Bay, Laguna, while in the case for Oral Defamation, MASA was acquitted.

The third criminal complaint against MASA before the Municipal Court of Bay, Laguna was for violation of Section 39 of Republic Act No. 1199 for having harvested his land-holding without prior notice to petitioners, which charge was dismissed for want of probable cause.

About six years later, petitioners filed a fourth criminal complaint against MASA, Jesus Masa and Enrique Masa also before the Municipal Court for alleged Usurpation of Real Rights. This was followed by a fifth criminal complaint against MASA for Malicious Mischief. Finally, petitioners filed the sixth and last criminal complaint before the Municipal Court against MASA and the other respondents for Malicious Mischief. On the same day that the last Complaint was filed, private respondents were arrested and incarcerated. MASA posted bail and was released (Exhibit "JJ") but all the rest were released only two days later after their bail bonds were approved (Exhibit "KK"). The fourth, fifth and sixth criminal cases were eventually dismissed by the Municipal Court.

This time, private respondents filed a Complaint for moral and exemplary damages against petitioners for

Malicious Prosecution before the then Court of First Instance of Laguna. After trial on the merits, the Court rendered a Decision, awarding the damages prayed for and attorney's fees as follows:

"WHEREFORE, in view of the foregoing considerations, judgment is hereby rendered for the plaintiffs and the defendant Jose Tan Kapoe is hereby ordered to pay plaintiffs Silvestre MASA P20,000.00, Felipe Masa, now deceased, thru his minor children plaintiffs Enrico and Brigida, both surnamed Masa P5,000.00, Jesus Masa P8,000.00, Enrique Masa P8,000.00, Aurelia Hernandez, P5,000.00, Angel Malunay, P5,000.00, Francisco Masa P5,000.00 and Rogelio Masa P5,000.00 as moral and exemplary damages aside from costs of suit and the sum of P3,000.00 in the concept of attorneys' fees."

Respondent Court of Appeals affirmed said judgment on appeal. Hence, this petition to review that affirmance, to which we gave "limited due course in so far as the award of moral and exemplary damages and attorney's fees is concerned."

Petitioners submit that moral damages cannot be awarded in the absence of any testimony as to physical suffering, mental anguish, fright, serious anxiety, social humiliation and similar injuries; and that moral damages and exemplary damages cannot be merged in one award.

It is true that the award of moral damages was made on the basis of documentary evidence consisting of Orders of the Court in the cases filed against private respondents without supporting oral testimonies. However, we find that the results of the filing of the unfounded successive complaints satisfactorily prove the existence of the factual basis for moral damages[1] and the causal relation to petitioners' acts.[2] Case after case was filed by petitioners. Not a single one prospered. Private respondents also suffered the humiliation of incarceration. Beyond doubt, petitioners' motive was obviously for harassment and embarrassment of private respondents and as a retaliatory measure for the agrarian case for conversion that they had filed, making the latter suffer moral suffering and anxiety.

The award of moral and exemplary damages in an aggregate amount may not be the usual way of awarding said damages. However, there can be no question that the entitlement to moral damages having been established, exemplary damages may be awarded.[3] And exemplary damages may be awarded even though not so expressly pleaded in the complaint nor proved.[4]

Attorney's fees are also recoverable when exemplary damages are awarded[5], and in criminal cases of malicious prosecution against the plaintiff.[6] The sum of P3,000.00 awarded is, to our minds, reasonable.

Although entitlement to damages has been proven, we find the aggregate award of damages excessive, and hereby modify the same as follow:

For Silvestre Masa against whom 6 criminal cases were filed, and who was incarcerated once

P7,000.00

For Jesus Masa and Enrique Masa against whom 2 criminal cases were filed and who were incarcerated once

3,000.00 each

For Angel Malunay, Prescila Hernandez, Aurelia Hernandez, Francisco Masa, Simplicia Hernandez and

Rogelio Masa against whom one criminal case each was filed and who were incarcerated once.

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2,000.00 each

For Enrico Masa and Brigido Masa, as representatives of the deceased Felipe Masa against whom one criminal case was filed and who was incarcerated once

2,000.00

Private respondents are likewise awarded the sum of P200.00 each as exemplary damages.

ACCORDINGLY, except for the modifications above indicated, the judgment under review of the then Court of Appeals is affirmed in all other respects.

SO ORDERED.

Teehankee, (Chairman), Plana, Relova, and De la Fuente, JJ., concur.

Gutierrez, Jr., J. no part, having penned the Decision in the Court of Appeals.

[1] Article 2217, 2219(8), Civil Code; *Hawpia vs. Court of Appeals, et al* 20 SCRA 535(1967); *Ventura vs. Bernabe*, 38 SCRA 587 (1971).

[2] *Enervida vs. de la Torre*, 55 SCRA 340, 346(1974).

[3] Article 2234, Civil Code; *Yutuk vs. Meralco*, 2 SCRA 337 (1961).

[4] Article 2234, Civil Code; *Marchan vs. Mendoza*, 24 SCRA 889 (1968).

[5] Article 2208 (1) Civil Code.

[6] Article 2208(3) *ibid*.

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