

## **FILINVEST CREDIT CORPORATION, PETITIONER, VS. THE INTERMEDIATE APPELLATE COURT AND NESTOR B. SUÑGA, JR., RESPONDENTS.**

*G.R. No. 65935. September 30, 1988*

Ponente: SARMIENTO, J.

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### **SARMIENTO, J.:**

In this special civil action for certiorari, Filinvest Credit Corporation implores us to declare the nullity of the Decision[1] dated September 30, 1983 and the Resolution[2] dated December 16, 1983 of the Intermediate Appellate Court[3] (now Court of Appeals) which were allegedly issued with grave abuse of discretion, amounting to lack of jurisdiction, or in excess of jurisdiction, and with patent denial of due process.[4]

The facts as found by the trial court are as follows:[5]

This is a case for damages filed by Nestor B. Sunga, Jr., businessman and owner of the NBS Machineries Marketing and the NAP-NAP Transit. Plaintiff alleged that he purchased a passenger minibus Mazda from the Motorcenter, Inc. at Calasiao, Pangasinan on March 21, 1978 and for which he executed a promissory note (Exhibit "B") to cover the amount of P62,592.00 payable monthly in the amount of P2,608.00 for 24 months due and payable the 1st day of each month starting May 1, 1978 thru and inclusive of May 1, 1980. On the same date, however, a chattel mortgage was executed by him in favor of the Motorcenter, Inc. (Exhibit "A"). The Chattel Mortgage and Assignment was assigned to the Filinvest Credit Corporation with the conformity of the plaintiff. Nestor Sunga claimed that on October 21, 1978, the minibus was seized by two (2) employees of the defendant Filinvest Credit Corporation upon orders of the Branch manager Mr. Gaspar de los Santos, without any receipt, who claimed that he was delinquent in the payments of his vehicle. The plaintiff reported the loss to the PC (Exhibit "Y") and after proper verification from the office of the Filinvest, the said vehicle was recovered from the Crisologo Compound which was later released by Rosario Fronda, Assistant Manager of the Filinvest, and Arturo Balatbat as caretaker of the compound. The police blotter of the Integrated National Police of Dagupan City shows that Nestor Sunga and T/Sgt. Isidro Pascual of the 153rd PC Company sought the assistance of the Dagupan police and one Florence Onia of the Filinvest explained that the minibus was confiscated because the balance was already past due. After verification that his accounts are all in order, Florence Onia admitted it was their fault. The motor vehicle was returned to the plaintiff upon proper receipt.

After trial, the court a quo rendered its decision[6], the decretal portion of which reads:

WHEREFORE, premises considered, this Court hereby renders judgment as follows, to wit:

(1) ORDERING the defendant Filinvest Credit Corporation to pay the plaintiff Nestor Sunga, Jr. the following damages, to wit:

(a) Moral Damages

P30,000.00

(b) Loss on Income of the minibus for three days

600.00

(c) Actual damages

500.00

(d) Litigation expenses

5,000.00

(e)

Attorney's Fees

10,000.00

(2) And to pay the costs.

SO ORDERED.

Dissatisfied with the aforecited decision, the defendant (petitioner herein), interposed a timely appeal with the respondent court. On September 30, 1983, the latter promulgated its decision affirming in toto the decision of the trial court dated July 17, 1981, "except with regard to the moral damages which, under the circumstances of the accounting error incurred by Filinvest, is hereby increased from P30,000.00 to P50,000.00." [7] As the reconsideration of said decision proved futile in view of its denial by the respondent court in its resolution of December 16, 1983, the petitioners come to us thru this instant petition for certiorari under Rule 65 of the Rules of Court.

The petitioner alleges the following errors:[8]

It is a patent grave abuse of discretion amounting to lack of jurisdiction and a bare denial of petitioner's constitutional right to due process of law, when the respondent Court completely ignored the assigned errors in the petitioner's Brief upon which private respondent had joined issues with petitioner.

In resolving the appeal before it thru matters and questions not raised at the trial or on appeal, by either of the parties, respondent Court exceeded its jurisdiction and acted with grave abuse of discretion.

When the respondent Court granted private respondent MORAL DAMAGES in an exaggerated and unconscionable amount, respondent Court exceeded the bounds of its discretion, amounting to an absence or lack of jurisdiction.

Respondent Court had NO authority to increase the award of DAMAGES to private respondent when the latter did not appeal the decision because private respondent considered the judgment (questioned by petitioner on appeal) as "perfect", "sound" and "wise" (at pp. 17 to 20, Brief for Appellee).

In relying upon a BILL pending before the Batasan Pambansa to buttress its judgment, the respondent Court acted contrary to law and jurisprudence, making of its judgment a NULLITY.

The extensive citation and adherence by the respondent Court on (sic) its decision in the case of "Edilberto Rebosura, et al. versus Rogaciano Oropeza, CA-G.R. No. 63048-R, December 17, 1983" (which is non-doctrinal

and under question in the Honorable Supreme Court) is not warranted in law and jurisprudence, and amounts to a grave abuse of discretion.

The various assignments of error may be synthesized into the sole issue<sup>[9]</sup> of: Whether or not the respondent court a) in allegedly ignoring the various assigned errors in petitioners brief; b) in resolving issues not raised at the trial and on appeal; c) in increasing the amount of moral damages; and (d) in adhering to its decision in *Edilberto Rebosura et al. vs. Rogaciano Oropeza*, CA-G.R. No. 63048-R, as well as to Batasan Bill No. 3075, which is yet to be enacted into law, acted with grave abuse of discretion amounting to lack of jurisdiction.

Contrary views are espoused by the parties in this case. Petitioner maintains that it was patent grave abuse of discretion amounting to lack of jurisdiction and a bare denial of the petitioner's constitutional right to due process of law, when the respondent court completely brushed aside the assigned errors in its brief.<sup>[10]</sup> It asserts that the constitutionality of the contractual stipulation between the parties embodied in the documents denominated as Promissory Note and Deed of Mortgage was not in issue in the court a quo and neither was the same raised on appeal<sup>[11]</sup> and therefore should not have been passed upon based on the premise that the appellate court should not consider any error other than those assigned or specified.<sup>[12]</sup> Further, it submits that the controversy on appeal is capable of adjudication on other substantive grounds, without necessarily treading into constitutional questions.<sup>[13]</sup> It is also the petitioner's submission that the increase in the award of moral damages from the P30,000.00 adjudged by the trial court which was not appealed by respondent Sunga who felt that the award was "perfect," "sound," and "wise," to a "whopping P50,000.00" imposed by the respondent Intermediate Appellate Court (now Court of Appeals) amounted to a grave abuse of discretion.<sup>[14]</sup> Thus, the increase in the award which the respondent appellate court justified by the accounting error committed by the petitioner, should not be countenanced, as the same had no legal basis.<sup>[15]</sup> It rationalizes that the respondent court's invocation of a pending bill in the legislature, Batasan Bill 3075, to support its decision, is untenable.<sup>[16]</sup> Lastly, it posits that *Rebosura* is not on all fours with the case at bar and therefore adherence thereto was misplaced,<sup>[17]</sup> citing the following distinctions:<sup>[18]</sup> 1) In *Rebosura*, there was unlawful entry while in this case, there was none; 2) in the former, the plaintiff did not breach the contract whereas in this case there is a finding by the court a quo of such violation; 3) in the former, the contract was denominated Deed of Sale with Reservation of Title, while in this case, the contracts referred to are the Promissory Note and Deed of Mortgage; 4) in former, the defendant Oropeza was an unpaid seller while the plaintiff *Rebosura* was the buyer, whereas, in this case, the petitioner is the promisee-mortgagee while Sunga is the promisor-mortgagor; 5) in the former, there was no notice of delinquency and repossession, whereas, in this case, there is notice and demand; and 6) in the former, the contract was in fine print, whereas, in this case, it is not so.

On the other side, the private respondent maintains that the respondent court did not abuse its discretion, stressing that a careful reading and understanding of the assailed decision would manifest that all assigned errors were resolved, citing portions of the decision which dealt specifically with each of the errors assigned.<sup>[19]</sup> He maintains that the award of moral damages, impeached as exaggerated and unconscionable, is justified by the prayer in the appellee's (respondent Sunga's) brief, to wit: FURTHER REMEDIES AND RELIEFS DEEMED JUST AND EQUITABLE UNDER AND WITHIN THE PREMISES ARE PRAYED FOR.<sup>[20]</sup> Lastly, the private respondent submits that the references to Batasan Bill No. 3075 and *Rebosura* were mere passing comments which did not in any way detract from the validity of the assailed decision.<sup>[21]</sup>

After carefully considering and weighing all the arguments of both protagonists, we hold that the respondent court committed a grave abuse of discretion in increasing extravagantly the award of moral damages and in granting litigation expenses. In those respects, the petition is granted and to that extent the questioned decision is modified.

There is no gainsaying that the plaintiff-appellee (respondent Sunga) did not appeal from the decision of the court

a quo which awarded him the sum of P30,000.00 by way of moral damages. "Well settled is the rule in this jurisdiction that whenever an appeal is taken in a civil case an appellee who has not himself appealed cannot obtain from the appellate court any affirmative relief other than the ones granted in the decision of the court below." [22] Verily the respondent court disregarded such a well settled rule when it increased the award for moral damages from P30,000.00 to P50,000.00, notwithstanding the fact that the private respondent did not appeal from the judgment of the trial court, an act indicative of grave abuse of discretion amounting to lack of jurisdiction.

Certiorari lies when a court has acted without or in excess of jurisdiction or with grave abuse of discretion. "Without jurisdiction" means that the court acted with absolute want of jurisdiction. There is "excess of jurisdiction" where the court has jurisdiction but has transcended the same or acted without any statutory authority (Leung Ben vs. O'Brien, 38 Phils., 182; Salvador Campos y CIA vs. Del Rosario, 41 Phils., 45). "Grave abuse of discretion" implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction (Abad Santos vs. Province of Tarlac, 38 Off. Gaz., 83,) or in other words, where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law. (Talavera-Luna vs. Nable, 38 Off. Gaz., 62). [23]

Or, as held in the recent case of Robert Young vs. Julio A. Sulit, Jr., [24] "(F)or certiorari to lie, there must be capricious, arbitrary, and whimsical exercise of power, the very antithesis of the judicial prerogative in accordance with centuries of civil law and common law tradition."

We had occasion to state that "there is no hard and fast rule in the determination of what would be a fair amount of moral damages, since each case must be governed by its own peculiar circumstances." [25] Be that as it may and in amplification of this generalization, we set the criterion that "in the case of moral damages, the yardstick should be that the "amount awarded should not be palpably and scandalously excessive" so as to indicate that it was the result of passion, prejudice or corruption on the part of the trial court x x x. Moreover, the actual losses sustained by the aggrieved parties and the gravity of the injuries must be considered in arriving at reasonable levels x x x." [26]

There is no dispute that the private respondent, a businessman and owner of the NBS Machineries Marketing and NAP-NAP transit, is entitled to moral damages due to the unwarranted seizure of the minibus Mazda, allegedly because he was delinquent in the payment of its monthly amortizations, which, as stated above, turned out to be incorrect.

[27] No doubt such incident tainted private respondent Sunga's reputation in the business community, thus causing him mental anguish, serious anxiety, besmirched reputation, wounded feelings, moral shock, and social humiliation. Considering, however, that respondent Sunga was dispossessed of his motor vehicle for barely three days, that is, from October 21, 1978 to October 23, 1978, possession of which was restored to him soon after the accounting errors were ironed out, we find that the award of moral damages even in the sum of P30,000.00 is excessive for it must be emphasized that "damages are not intended to enrich the complainant at the expense of a defendant. They are awarded only to enable the injured parties to obtain means, diversions or amusements that will serve to alleviate the moral sufferings the injured parties have undergone by reason of defendant's culpable action. In other words, the award of moral damages is aimed at a restoration within the limits of the possible, of the spiritual status quo ante; and therefore it must be proportionate to the suffering inflicted." [28] Moreover, "(M)oral damages though not incapable of pecuniary estimations, are in the category of an award designed to compensate the claimant for actual injury suffered and not to impose a penalty on the wrongdoer." [29]

It behooves us therefore to reiterate the caveat to lower courts "to guard against the award of exorbitant damages that are way out of proportion to the environmental circumstances of a case and which time and again, this Court

has reduced or eliminated. Judicial discretion granted to the courts in the assessment of damages must always be exercised with balanced restraint and measured objectivity."[30]

We do not agree with private respondent's argument that the increase in the award of moral damages is justified by the prayer in its brief, to wit: FURTHER REMEDIES AND RELIEFS DEEMED JUST AND EQUITABLE UNDER AND WITHIN THE PREMISES ARE PRAYED FOR. Such statement is usually extant in practically all pleadings as a final statement; it is rhetorical flourish as it were and could not be a substitute for appeal as required by the rules for "the appellee cannot seek modification or reversal of the judgment or affirmative relief, unless he has also appealed therefrom."[31]

With regard to the award of litigation expenses in the sum of P5,000.00, the same is hereby disallowed, there being no price for litigation.

WHEREFORE, the petition is partially GRANTED. The award of moral damages is REDUCED to P10,000.00 and the grant of litigation expenses is ELIMINATED. The rest of the judgment is AFFIRMED. Without costs.

**SO ORDERED.**

Melencio-Herrera, (Chairman), Paras, and Regalado, JJ., concur.  
Padilla, J., took no part.

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[1] Sison, Porfirio, V., J., Chairman, ponente; Bidin, Abdulwahid A., Veloso, Marcelino R., and Jurado, Desiderio, JJ., concurring.

[2] Sison, Porfirio, V., J., Chairman, ponente; Bidin, Abdulwahid A., Veloso, Marcelino R., and Jurado, Desiderio, JJ., concurring.

[3] 4th Civil Cases Division; Sison, P.V., J., Chairman; Borromeo, Isidro C. and Colayco, Jose C., JJ.

[4] Petition, 3.

[5] Decision, Court of First Instance of Pangasinan (now Regional Trial Court), Third Judicial District, Dagupan City; rendered by District Judge Felicidad Carandang Villalon, 62.

[6] Id., 70.

[7] Decision, IAC dated September 30, 1983, Rollo, 43.

[8] Memorandum For Petitioner, Rollo, 134-136.

[9] Petition, 4.

[10] Id., 3, Memorandum of petitioner, 134.

[11] Id., 17; Memorandum of petitioner, 138.

[12] Id., 139.

[13] Id., 139.

[14] Petition, 26-27; Id., 143.

[15] Id., 144.

[16] Id., 148.

[17] Id., 149.

[18] Id., 149-151.

[19] Memorandum of Respondents, p. 3.

[20] Respondent's Memorandum, 6; plaintiff-appellee's Comment, 92.

[21] Comments, 94.

[22] Anunciacion del Castillo vs. Miguel del Castillo, et al., G.R. No. L-33186, June 27, 1988; Madrideo, et al. vs. CA, L-62091, July 29, 1985, 137 SCRA 797 citing Dy vs. Kuizon, L-16654, Nov. 30, 1961, 3 SCRA 617.

[23] Alafriz vs. Nable, No. 47780, June 10, 1941, 72 Phil., 278.

[24] G.R. No. 57839, June 27, 1988.

[25] Cynthia Makabili et al. vs. Court of Appeals, et al., G.R. No. L-46877, January 22, 1988.

[26] Maximo Pleno vs. Court of Appeals, et al., G.R. No. L-56505, May 9, 1988.

[27] Rollo, 62-63.

[28] Cynthia Makabili, et al. vs. Court of Appeals, et al., G.R. No. 46877, January 22, 1988; Prudenciado vs. Alliance Transport System, Inc., L-33836, March 16, 1987; R and B Surety and Insurance Co., Inc. vs. Court of Appeals, No. 64515, June 22, 1984, 129 SCRA 736; Fortunato de Leon et al. vs. CA[,], L-31931, August 31, 1988.

[29] Fortunato de Leon vs. Court of Appeals, L-31931, August 31, 1988.

[30] R and B Surety and Insurance Co., Inc. vs. Court of Appeals, No. 64515, June 22, 1984, 129 SCRA 736.

[31] Anunciacion del Castillo vs. Miguel del Castillo, et al., G.R. L-33186, June 27, 1988.

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