

THE MANILA BANKING CORPORATION, PETITIONER, VS. INTERMEDIATE APPELLATE COURT AND WILFREDO J. RIVERA, RESPONDENTS.

G.R. No. 66123. August 22, 1984

Ponente: RELOVA, J.

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RELOVA, J.:

Appeal from the judgment of the Intermediate Appellate Court in AC-G.R. CV No. 64721, entitled: Wilfredo J. Rivera, plaintiff-appellee vs. The Manila Banking Corporation, defendant-appellant, which reads:

"WHEREFORE, except as modified in the sense that the award of actual damage in the sum of P75,000.00 be eliminated and instead the sum of Ten Thousand (P10,000.00) Pesos be awarded as temperate damage and the reduction of the award of attorney's fees to the sum of Fifteen Thousand (P15,000.00) Pesos, the decision is affirmed in toto in all other respects.

Costs against the appellant."

(page 28, rollo).

Records show that in the morning of July 10, 1975 herein private respondent Wilfredo J. Rivera deposited with petitioner bank the sum of P80,189.19. In the afternoon of the same day, private respondent Rivera issued a Manila Banking Corporation Check No. 16756626 in the amount of P80,000.00 under Current Account No. 6-05350-5 payable to Collins Philippines with whom he had a business transaction. Thereafter, private respondent's wife received a letter of demand from Collins Philippines, dated July 15, 1975, saying that -

"Quite frankly, we are surprised why this has to happen considering our pleasant business relationship in the past and the representations and commitments you made to us prior to the issuance of the above check. At any rate, just to be sure, we are redepositing the same check with the fair warning that if the said check will again be dishonored, we shall close our business dealings and institute proper action for the protection of our interest." (p. 26, rollo).

His wife immediately informed him in the province about the letter of demand. Upon receipt of the message, Mr. Rivera complained to the Public Relations Officer of petitioner bank, inviting attention to the letter received by him from Collins Philippines complaining against the dishonor of his check. The Public Relations Officer of the bank, upon investigation, found that the money deposited was credited into another account and that was the reason why the check issued by him could not be encashed upon presentation.

As a consequence, private respondent claimed that he suffered humiliation and embarrassment due to the bank's gross negligence. Complaint was filed in court which awarded private respondent damages, as follows:

- "1) P75,000.00 as actual damages, to compensate plaintiff for the loss of business and business opportunities;
- 2) P25,000.00 as moral damages, to compensate plaintiff for the embarrassment, humiliation and mental

anguish suffered;

3) P10,000.00 as exemplary damages;

4) P25,000.00 as and for attorney's fees; and

5) Cost of suit."

(pages 25-26, rollo).

On appeal to the Intermediate Appellate Court, the judgment of the trial court was modified in the sense that -

"x x x the award of actual damage in the sum of P75,000.00 be eliminated and instead the sum of Ten Thousand (P10,000.00) Pesos be awarded as temperate damage and the reduction of the award of attorney's fees to the sum of Fifteen Thousand (P15,000.00) Pesos, the decision is affirmed in toto in all other respects." (page 28, rollo).

Upon the foregoing facts, respondent court ruled that -

"The award for actual damages has no factual basis. How the sum of P75,000.00 in the form of actual and compensatory damages was arrived at, was not at all shown by any means before the Court a quo. While actual damages may have been suffered, the law requires that such damages be proven by facts and figures. Indeed, while the appellee overlooked pre-senting adequate proof of actual and compensatory damages, We, however, find and so hold that there may indeed have been actual damages although the amount thereof was not established. We merely award the sum of P10,000.00 in the form of temperate damage in favor of the appellee.

"The appellant belittle the negligence of the bank especially so since the appellee's check was ultimately encashed. The argument is specious. It does not require too much imagination to visualize the possibility that the appellee could have died right after the deposit was made. Then the appellee could not have issued the check in question. The appellee could not have complained to the appellant about his check that was dishonored. The Bank may not have known about the wrong entry to the irreparable loss of the appellee. Indeed, the appellee is entitled to temperate damage.

"Regarding the award of attorney's fees, we find no reason to disturb it except as to the amount awarded which We find quite exorbitant and which We accordingly reduce to the sum of P15,000.00. Appellee is obviously entitled to it. (Art. 2208, New Civil Code)

"We, however, find no merit in the challenge against the award for moral and exemplary damages. The appellant argues that no moral damage should have been awarded because no court action was taken by Collins Philippines against the appellee for issuing a check that was dishonored. Moreover, the check was encashed the second time it was presented. This being so, whatever warning or threat the Collins' letter posed the same was rendered moot and academic when the check was ultimately honored. We do not agree. When the Collins' letter (Exhibit "C") was received by the appellee, the latter immediately felt embarrassed and humiliated. The mere fact that the check was honored afterwards, did not repair the harm done. It may have only mitigated it.

"Insofar as the award for the exemplary damage is concerned, suffice it to say that Banks are required to safeguard public interest as mandated by Banking Laws, practices and procedure. They are called upon to protect the faith of the people in the banking system. The bank was remiss with its sworn duty. The Court a quo correctly awarded the sum of P10,000.00 by way of exemplary damages." (pp. 27-28, rollo).

It is the submission of petitioner that (1) there is no evidence on record to support an award of temperate damages in favor of respondent Rivera; (2) private respondent is not entitled to moral damages because his credit and business standing was not impaired and he did not suffer serious anxiety and/or mental anguish; and (3) petitioner

should not be made to pay exemplary damages, attorney's fees and the costs of suit.

It will be noted that in respondent appellate court's decision, judgment was rendered eliminating the award of actual damages and, instead, the amount of P10,000.00 was awarded the private respondent by way of temperate damages and attorney's fees in the reduced amount of P15,000.00, and affirming the lower court's decision in all other respects. This would mean that the amount of P25,000.00 as moral damages and P10,000.00 as exemplary damages still stay.

We agree with petitioner that private respondent is not entitled to moral damages considering that in a matter of four hours the mistake was rectified and the payee, Collins Philippines, was paid the full amount of the check. In the case of *Singson vs. Bank of Philippine Island*, 23 SCRA 1117, the plaintiffs commenced the action against the bank and its President, Santiago Freixas, for damages (P100,000.00 as moral damages, P20,000.00 as exemplary damages, P20,000.00 as nominal damages, and P10,000.00 for attorney's fees and expenses of litigation, plus the costs) in consequence of illegal freezing of plaintiffs' account. This Court held that since "the wrong done to the plaintiffs was remedied as soon as the President of the bank realized the mistake he and his subordinate employee had committed, the Court finds that an award of nominal damages - the amount of which need not be proven - in the sum of P1,000.00, in addition to attorney's fees in the sum of P500.00, would suffice to vindicate plaintiffs' rights."

In the case at bar, temperate or moderate damages are proper not for indemnification of loss suffered but for the vindication or recognition of a right violated or invaded. Considering the facts of the case under appeal, the sum of P5,000.00 as temperate or moderate damages would suffice, plus attorney's fees of P5,000.00.

WHEREFORE, the judgment appealed from is modified in the sense that petitioner bank is hereby sentenced to pay private respondent Wilfredo J. Rivera the sums of P5,000.00, as temperate or moderate damages and P5,000.00, as attorney's fees, apart from the costs.

SO ORDERED.

Teehankee, Acting C.J., Melencio-Herrera, Plana, Gutierrez, Jr., and De La Fuente, JJ., concur.

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