

**DEE HUA LIONG ELECTRICAL EQUIPMENT CORPORATION,
PETITIONER, VS. ROMEO REYES, ET AL., RESPONDENTS.***G.R. No. 72182. November 25, 1986*

Ponente: NARVASA, J.

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The Court of First Instance[1] sentenced petitioner to pay to private respondents P50,000.00 as actual damages; P50,000.00 as moral damages; P50,000.00 as exemplary damages; and P10,000.00 as attorney's fees, as well as to pay treble costs.[2] The Intermediate Appellate Court, on appeal,[3] affirmed petitioner's liability but reduced the award for moral and exemplary damages to P10,000.00 and P5,000.00, respectively. Petitioner seasonably appealed to this Court, impugning the award of damages and claiming that it had been denied due process in the proceedings before the Trial Court.

Following submission of the private respondents' comment on the petition for review, the Court issued a Resolution denying the petition for lack of merit.[4] Petitioner then filed a motion for reconsideration, which was likewise denied.[5] A second motion for reconsideration[6] was, however, admitted[7] and the private respondents were required to comment thereon, which they did. The Court now decides the appeal on the merits.

The Intermediate Appellate Court found that private respondent Romeo Reyes operated "the once thriving and prosperous Excelite Electronic Center in San Miguel, Bulacan";[8] that long prior to September, 1981, he began "receiving complaints of irate and dissatisfied customers who complained over the defective repairs done on their television and stereo units";[9] that he repeated the repair jobs over and over but despite his best efforts, and despite losing "man hours for over a month," "he lost the patronage of many customers (and) (h)is once thriving business was on the verge of ruin";[10] that he finally discovered that "the root cause of all these troubles" was the "low grade electronic filter capacitor(s) x x x (h)e had been buying from x x x (petitioner) for the past years"; that he "opened one of the capacitors x x x (and found) that the actual label of 22 micro farad was super-imposed by a fake label making it appear to be 2200 micro farad"; that although the "actual price of one capacitor with 22 micro farad is only P2.00 x x x he had been paying the amount of P6.40 to P7.40 per piece of the supposed 2200 micro farad capacitor";[11] that what private respondent thereafter did was to buy three (3) capacitors on September 14, 1981; that although the corresponding invoice (Exhibit A) stated the capacitors to be "with strength of 2200 x x x, in truth and in fact it was discovered as shown by Exhs. B and C to be only of 22 micro farad." [12] It was "this massive fraudulent scheme employed by x x x (Petitioner) in short selling to plaintiff the capacitors" that allegedly caused damages to private respondent.[13]

These findings of fact were based solely on the testimony of private respondent and his wife. No evidence was presented in behalf of petitioner because it was declared in default for failure of its counsel or other representative to appear at the pre-trial scheduled by the Trial Court, despite notice.[14]

On being served with notice of the judgment by default petitioner moved for new trial alleging that it had good cause to seek postponement of the pre-trial; and claiming moreover, to have a meritorious defense to the

complaint, adverting to a "Component Test Report" of the National Institute of Science and Technology" attesting to the correctness of the represented capacity of the capacitors in question, and a certification from the Japanese manufacturer to the effect that there was "merely a misprint" in the labels.[15] The Trial Court denied the motion. On appeal, the Intermediate Appellate Court sustained that denial of the motion for new trial in view of the demonstrated falsity of the ground relied upon for the requested postponement of the pre-trial, to wit: that Atty. Marquinez, the petitioner's counsel had personally to appear and represent another client at an earlier scheduled hearing of a case before the Municipal Court of Pasig, when in truth, as certified by the Clerk of the latter Court and as shaven by the minutes of its proceedings, it was another lawyer who appeared, not Atty. Marquinez.[16]

It is axiomatic that the findings of fact of the Intermediate Appellate Court are conclusive and may not be reviewed by this Court. There is no compelling reason to deviate from this well-known rule in this case. Upon those factual findings, this Court declares that the Trial Court was justified in declaring petitioner in default and rendering judgment by default against it, for failure to appear at the pre-trial despite notice.[17]

However, the adjudgement of damages appears to be quite excessive in the premises. The grant of P50,000.00 as actual damages is made to rest on nothing more substantial than the sworn declarations of the private respondents (plaintiff and his wife) that one (1) of the capacitors used in repairing an appliance was of 22 micro farad capacity instead of 2200 micro farad, and that three (3) other capacitors, subsequently purchased, had "superimposed" labels. There is no proof whatever that defective capacitors were used in the other numerous repair jobs done by private respondent, or that the repairs did indeed entail the use of capacitors. There is moreover no evidence of a deliberate intent on petitioner's part to foist a fraud on the general public, including private respondents, in the sale of capacitors. On the contrary, there are indications that there was merely a "misprint" in the labels. The award of damages to private respondent must, therefore, be struck down for want of adequate foundation. Actual or compensatory damages cannot be presumed, but must be duly proved, and proved with a reasonable degree of certainty. A court cannot rely on speculation, conjecture or guesswork as to the fact and amount of damages, but must depend upon competent proof that they have suffered and on evidence of the actual amount thereof. If the proof is flimsy and unsubstantial, no damages will be awarded.[18]

Proof of equivalent character is also necessary to support an award of moral damages, and it does not appear that any such evidence was offered here. The decision of the Trial Court, which summarizes the testimony of the only two witnesses for the private respondent, said respondent himself and his wife,[19] makes no mention of any testimony being given concerning moral damages, such as of wounded feelings, social humiliation, anxiety and the like, and to all appearances merely assumes the existence of moral injury from what proof of actual loss was adduced. More importantly, and as already pointed out, there is also no evidence that petitioner, in selling allegedly mislabelled capacitors, acted maliciously and with deliberate intent to defraud the private respondent and the general public.

"Furthermore, while no proof of pecuniary loss is necessary in order that moral damages may be awarded, the amount of indemnity being left to the discretion of the Court (Art. 2216), it is, nevertheless, essential that the claimant satisfactorily prove the existence of the factual basis of the damages (Art. 2217) and its causal relation to defendant's acts. This is so because moral damages though incapable of pecuniary estimation, 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 (*Algara vs. Sandejas*, 27 Phil 284). The trial court and the Court of Appeals both seem to be of the opinion that the mere fact that respondents were sued without any legal foundation entitled them to an award of moral damages, hence they made no definite finding as to what the supposed moral damages suffered consist of. Such a conclusion would make of moral damages a penalty, which they are not, rather than a compensation for actual injury suffered, which they are intended to be. Moral damages, in other words, are not corrective or exemplary damages." [20]

"Nor was there error in the appealed decision in denying moral damages, not only on account of the plaintiff's failure to take the witness stand and testify to her social humiliation, wounded feelings, anxiety, etc., as the decision holds, but primarily because a breach of contract like that of defendant, not being malicious or fraudulent, does not warrant the award of moral damages under Article 2220 of the Civil Code. x x x"[21]

Neither may private respondent recover exemplary damages since he is not entitled to moral or compensatory damages, and again because the petitioner is not shown to have acted in a wanton, fraudulent, reckless or oppressive manner.[22]

Upon the same considerations, and absent any proof that petitioner refused in gross and evident bad faith to satisfy the private respondent's claim, no counsel fees should be awarded.[23]

The Court is of the opinion that an award of nominal damages to private respondent in the amount of P5,000.00 is sufficient in the premises.[24]

WHEREFORE, the appealed Decision is modified and the liability of petitioner is hereby declared limited solely and exclusively to the payment of P5,000.00 as nominal damages. No pronouncement as to costs.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Cruz, and Feliciano, JJ., concur.

[1] of Bulacan (Branch IV-Baliwag)

[2] in Civil Case No. 1318-B

[3] A.C.-G.R. CV No. 70042

[4] Rollo, p. 172

[5] Rollo, p. 180

[6] Rollo, pp. 184 et seq.

[7] Rollo, p. 206

[8] Rollo, p. 33

[9] Rollo, p. 34

[10] Id.

[11] Id.

[12] Rollo, pp. 33, 34

[13] Id., p. 33

[14] Id., p. 29

[15] Id., pp. 96-111

[16] Id., pp. 29, 113-114

[17] American Insurance Company vs. Manila Port Service, 22 SCRA 482; Home Insurance Co. vs. United States Lines Co., 21 SCRA 863; Saulog vs. Custombuilt Manufacturing Corp., et al., 26 SCRA 1

[18] Art. 2199, Civil Code; Sanz vs. Lavin Bros., 6 Phil. 299; Heredia vs. Salinas, 10 Phil. 157; Chua Teck Hee vs. Philippine Publishing Co., 24 Phil. 447; Rubiso vs. Rivera, 41 Phil. 39; Jesswani vs. Hassaram Daldas, 104 Phil 310; Suntay Tanjangco vs. Jovellanos, 108 Phil. 713; Malonzo vs. Galang, 109 Phil. 16; Lim Kiok vs. Bataan Cigar and Cigarette Factory, L-15861, April 16, 1960; Abubakar Tan vs. Tan Ho. L-18820, Dec. 20, 1962; Delfin vs. Court of Agrarian Relations, et al., 19 SCRA 593; Raagas vs. Traya, 22 SCRA 839; De los Santos vs. De la Cruz, 37 SCRA 555; National Power Corporation vs. Court of Appeals, 113 SCRA 560; Siasat vs. Intermediate Appellate Court, 139 SCRA 238.

[19] Rollo, pp. 83-86

[20] Malonzo vs. Galang, supra; see also R & B Surety and Ins. Co., Inc. vs. Intermediate Appellate Court, 129 SCRA 736; Siasat vs. Intermediate Appellate Court, 129 SCRA 238.

[21] Francisco vs. Government Service Insurance System, 7 SCRA 577, citing Ventanilla vs. Centeno, L-14333, Jan. 28, 1961, 1 SCRA 215, and Fores vs. Miranda, L-12163, March 4, 1959.

[22] Art. 2234, Civil Code; Yutuk vs. Manila Electric Co., 2 SCRA 377; Francisco vs. Government Service Insurance System, supra; Gutierrez vs. Villegas, 8 SCRA 527; Air France vs. Carrascoso, 18 SCRA 155; Pan Pacific (Phil.) vs. Phil. Advertising Corp., 23 SCRA 977; Marchan vs. Mendoza, 24 SCRA 888.

[23] Francisco vs. Government Service Insurance System, supra.

[24] Art. 2221, Civil Code; Robes-Francisco Realty & Development Corp. vs. CFI of Rizal, 86 SCRA 59, Social Security System vs. CA, 120 SCRA 707

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