

ZENITH INSURANCE CORPORATION, PETITIONER, VS. COURT OF APPEALS AND LAWRENCE FERNANDEZ, RESPONDENTS.

G.R. No. 85296. May 14, 1990

Ponente: MEDIALDEA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-85296/>

MEDIALDEA, J.:

Assailed in this petition is the decision of the Court of Appeals in CA-G.R. C.V. No. 13498 entitled, “Lawrence L. Fernandez, plaintiff-appellee v. Zenith Insurance Corp., defendant-appellant” which affirmed in toto the decision of the Regional Trial Court of Cebu, Branch XX in Civil Case No. CEB-1215 and the denial of petitioner’s Motion for Reconsideration.

The antecedent facts are as follows:

On January 25, 1983, private respondent Lawrence Fernandez insured his car for “own damage” under private car Policy No. 50459 with petitioner Zenith Insurance Corporation. On July 6, 1983, the car figured in an accident and suffered actual damages in the amount of P3,640.00. After allegedly being given a run around by Zenith for two (2) months, Fernandez filed a complaint with the Regional Trial Court of Cebu for sum of money and damages resulting from the refusal of Zenith to pay the amount claimed. The complaint was docketed as Civil Case No. CEB-1215. Aside from actual damages and interests, Fernandez also prayed for moral damages in the amount of P10,000.00, exemplary damages of P5,000.00, attorney’s fees of P3,000.00 and litigation expenses of P3,000.00.

On September 28, 1983, Zenith filed an answer alleging that it offered to pay the claim of Fernandez pursuant to the terms and conditions of the contract which, the private respondent rejected. After the issues had been joined, the pre-trial was scheduled on October 17, 1983 but the same was moved to November 4, 1983 upon petitioner’s motion, allegedly to explore ways to settle the case although at an amount lower than private respondent’s claim. On November 14, 1983, the trial court terminated the pre-trial. Subsequently, Fernandez presented his evidence. Petitioner Zenith, however, failed to present its evidence in view of its failure to appear in court, without justifiable reason, on the day scheduled for the purpose. The trial court issued an order on August 23, 1984 submitting the case for decision without Zenith’s evidence (pp.10-11, Rollo). Petitioner filed a petition for certiorari with the Court of Appeals assailing the order of the trial court submitting the case for decision without petitioner’s evidence. The petition was docketed as C.A.-G.R. No. 04644. However, the petition was denied due course on April 29, 1986. (p.56, Rollo).

On June 4, 1986, a decision was rendered by the trial court in favor of private respondent Fernandez. The dispositive portion of the trial court’s decision provides:

“WHEREFORE, defendant is hereby ordered to pay to the plaintiff:

1. The amount of P3,640.00 representing the damage incurred plus interest at the rate of twice the prevailing interest rates;

2. The amount of P20,000.00 by way of moral damages;
3. The amount of P20,000.00 by way of exemplary damages;
4. The amount of P5,000.00 as attorney's fees;
5. The amount of P3,000.00 as litigation expenses; and
6. Costs." (p. 9, Rollo)

Upon motion of Fernandez and before the expiration of the period to appeal, the trial court, on June 20, 1986, ordered the execution of the decision pending appeal. The order was assailed by petitioner in a petition for certiorari with the Court of Appeals on October 23, 1986 in C.A.-G.R. No. 10420 but which petition was also dismissed on December 24, 1986 (p. 69, Rollo).

On June 10, 1986, petitioner filed a notice of appeal before the trial court. The notice of appeal was granted in the same order granting private respondent's motion for execution pending appeal. The appeal to respondent court assigned the following errors:

"I. The lower court erred in denying defendant appellant to adduce evidence in its behalf.

II. The lower court erred in ordering Zenith Insurance Corporation to pay the amount of P3,640.00 in its decision.

III. The lower court erred in awarding moral damages, attorney's fees and exemplary damages, the worst is that, the court awarded damages more than what are prayed for in the complaint." (p. 12, Rollo)

On August 17, 1988, the Court of Appeals rendered its decision affirming in toto the decision of the trial court. It also ruled that the matter of the trial court's denial of Fernandez' right to adduce evidence is a closed matter in view of its (CA) ruling in AC-G.R. 04644 wherein Zenith's petition questioning the trial court's order submitting the case for decision without Zenith's evidence, was dismissed.

The Motion for Reconsideration of the decision of the Court of Appeals dated August 17, 1988 was denied on September 29, 1988, for lack of merit. Hence, the instant petition was filed by Zenith on October 18, 1988 on the allegation that respondent Court of Appeals' decision and resolution ran counter to applicable decisions of this Court and that they were rendered without or in excess of jurisdiction. The issues raised by petitioners in this petition are:

- a) The legal basis of respondent Court of Appeals in awarding moral damages, exemplary damages and attorney's fees in an amount more than that prayed for in the complaint.
- b) The award of actual damages of P3,640.00 instead of only P1,927.50 which was arrived at after deducting P250.00 and P274.00 as deductible franchise and 20% depreciation on parts as agreed upon in the contract of insurance.

Petitioner contends that while the complaint of private respondent prayed for P10,000.00 moral damages, the lower court awarded twice the amount, or P20,000.00 without factual or legal basis; while private respondent prayed for P5,000.00 exemplary damages, the trial court awarded P20,000.00; and while private respondent prayed for P3,000.00 attorney's fees, the trial court awarded P5,000.00.

The propriety of the award of moral damages, exemplary damages and attorney's fees is the main issue raised herein by petitioner.

The award of damages in case of unreasonable delay in the payment of insurance claims is governed by the Philippine Insurance Code, which provides:

“SEC. 244. In case of any litigation for the enforcement of any policy or contract of insurance, it shall be the duty of the Commissioner or the Court, as the case may be, to make a finding as to whether the payment of the claim of the insured has been unreasonably denied or withheld; and in the affirmative case, the insurance company shall be adjudged to pay damages which shall consist of attorney’s fees and other expenses incurred by the insured person by reason of such unreasonable denial or withholding of payment plus interest of twice the ceiling prescribed by the Monetary Board of the amount of the claim due the insured, from the date following the time prescribed in section two hundred forty-two or in section two hundred forty-three, as the case may be, until the claim is fully satisfied; Provided, That the failure to pay any such claim within the time prescribed in said sections shall be considered prima facie evidence of unreasonable delay in payment.”

It is clear that under the Insurance Code, in case of unreasonable delay in the payment of the proceeds of an insurance policy, the damages that may be awarded are: 1) attorney’s fees; 2) other expenses incurred by the insured person by reason of such unreasonable denial or withholding of payment; 3) interest at twice the ceiling prescribed by the Monetary Board of the amount of the claim due the injured; and 4) the amount of the claim.

As regards the award of moral and exemplary damages, the rules under the New Civil Code of the Philippines shall govern.

“The purpose of moral damages is essentially indemnity or reparation, not punishment or correction. Moral damages are emphatically not intended to enrich a complainant at the expense of a defendant, they are awarded only to enable the injured party to obtain means, diversions or amusements that will serve to alleviate the moral suffering he has undergone by reason of the defendant’s culpable action.” (J. Cezar S. Sangco, *Philippine Law on Torts and Damages*, Revised Edition, p. 539) (See also *R and B Surety & Insurance Co., Inc. v. IAC*, G.R. No. 64515, June 22, 1984; 129 SCRA 745). While it is true that no proof of pecuniary loss is necessary in order that moral damages may be adjudicated, the assessment of which is left to the discretion of the court according to the circumstances of each case (Art. 2216, New Civil Code), it is equally true that in awarding moral damages in case of breach of contract, there must be a showing that the breach was wanton and deliberately injurious or the one responsible acted fraudulently or in bad faith (*Perez v. Court of Appeals*, G.R. No. L-20238, January 30, 1965; 13 SCRA 137; *Solis v. Salvador*, G.R. No. L-17022, August 14, 1965; 14 SCRA 887). In the instant case, there was a finding that private respondent was given a “run-around” for two months, which is the basis for the award of the damages granted under the Insurance Code for unreasonable delay in the payment of the claim. However, the act of petitioner of delaying payment for two months cannot be considered as so wanton or malevolent to justify an award of P20,000.00 as moral damages, taking into consideration also the fact that the actual damage on the car was only P3,640. In the pre-trial of the case, it was shown that there was no total disclaimer by respondent. The reason for petitioner’s failure to indemnify private respondent within the two-month period was that the parties could not come to an agreement as regards the amount of the actual damage on the car. The amount of P10,000.00 prayed for by private respondent as moral damages is equitable.

On the other hand, exemplary or corrective damages are imposed, by way of example or correction for the public good (Art. 2229, New Civil Code of the Philippines). In the case of *Noda v. Cruz-Arnaldo*, G.R. No. 57322, June 22, 1987; 151 SCRA 227, exemplary damages were not awarded at the insurance company had not acted in wanton, oppressive or malevolent manner. The same is true in the case at bar.

The amount of P5,000.00 awarded as attorney’s fees is justified under the circumstances of this case considering that there were other petitions filed and defended by private respondent in connection with this case.

As regards the actual damages incurred by private respondent, the amount of P3,640.00 had been established before the trial court and affirmed by the appellate court. Respondent appellate court correctly ruled that the deductions of P250.00 and P274.00 as deductible franchise and 20% depreciation on parts, respectively claimed

by petitioners as agreed upon in the contract, had no basis. Respondent court ruled:

“Under its second assigned error, defendant-appellant puts forward two arguments, both of which are entirely without merit. It is contented that the amount recoverable under the insurance policy defendant-appellant issued over the car of plaintiff-appellee is subject to deductible franchise, and x x x.

“The policy (Exhibit G, pp. 4-9, Record), does not mention any deductible franchise, x x x.” (p.13, Rollo)

Therefore, the award of moral damages is reduced to P10,000.00 and the award of exemplary damages is hereby deleted. The awards due to private respondent Fernandez are as follows:

- 1) P3,640.00 as actual claim plus interest of twice the ceiling prescribed by the Monetary Board computed from the time of submission of proof of loss;
- 2) P10,000.00 as moral damages;
- 3) P5,000.00 as attorney’s fees;
- 4) P3,000.00 as litigation expenses; and
- 4) Costs.

ACCORDINGLY, the appealed decision is MODIFIED as above stated.

SO ORDERED.

Narvasa, (Chairman), Cruz, and Grino-Aquino, JJ., concur.
Gancayco, J., on leave.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.