

SPOUSES BELEN GREGORIO, PETITIONERS, VS. THE HONORABLE JUDGE ZOSIMO Z. ANGELES, PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, MAKATI, BRANCH 58, SPOUSES SYLVIA AND RAMON CARRION,...

G.R. No. 85847. December 21, 1989

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

The only issue here is whether or not the failure of the complaint to specify the sum of exemplary damages allegedly suffered (among other damages sustained) warrants its dismissal ostensibly in consonance with the Court's ruling in *Manchester Development Corporation v. Court of Appeals*.¹ The Court rules, insofar as the litigation is concerned, that it does not.

The facts, in their barest essentials, are not disputed.

On October 16, 1987, the petitioners sued the private respondents for a sum of money arising from a loan. The complaint, docketed as Civil Case No. 18058 of the Regional Trial Court, Branch 137, Makati, Metro Manila, prayed for judgment as follows:

WHEREFORE, premises considered, it is respectfully prayed that the Honorable Court, after due hearing, orders the defendants to pay jointly and severally:

- a. The principal of P100,000.00, less whatever was paid per evidence to be presented, if any;
- b. Attorney's fees of 25% of principal, plus interest or P52,000.00;
- c. Interests of 12% per annum = P108,000.00 for nine (9) years which is provided in Annex "B" and is part of the principal = P100,000.00 + P108,000.00;
- d. Exemplary damages subject to the discretion of the Honorable Court;
- e. Expenses of litigation of P10,000.00;
- f. For other relief which the Honorable Court may deem just to impose under the circumstances, such as issuance of the order/writ of attachment due to conversion as stated in the herein affidavit.²

On account of the failure on the part of the petitioners to appear at the pre-trial conference and to file a pre-trial brief, the trial court dismissed the complaint.

On February 23, 1988, the petitioners filed another complaint, denominated as Civil Case No. 88-159 of the Regional Trial Court, Branch 58, Makati, Metro Manila, praying as follows:

WHEREFORE, premises considered, it is respectfully prayed that the Honorable Court, after due hearing, orders the defendants to pay jointly and severally:

- a. The principal of P100,000.00, less whatever was paid per evidence to be presented, if any;
- b. Attorney's fees of 25% of principal, plus interest or P52,000.00;
- c. Interests of 12% per annum = P108,000.00 for nine (9) years which is provided in Annex "B" and is part of the principal = P100,000.00 + P108,000.00;
- d. Exemplary damages subject to the discretion of the Honorable Court;
- e. Expenses of litigation of P10,000.00;
- f. For other relief which the Honorable Court may deem just to impose under the circumstances, such as issuance of the order/writ of attachment due to conversion as stated in the herein affidavit.³

The private respondents moved for the dismissal of this complaint on the ground of failure to prosecute for an unreasonable length of time pursuant to Section 3, Rule 17 of the Revised Rules of Court. The trial court denied the dismissal motion.

Subsequently, the private respondents filed a "Motion to Dismiss and/or to Expunge Complaint from the Record." Expunction was sought for failure of the petitioners "to specify both in the body and in the prayer of their Complaint the amount of exemplary damages they seek to recover from the defendants ..."4 on the strength of Manchester as well as Circular No. 7 of the Court, implementing Manchester.

On November 10, 1988, the trial judge dismissed the case ...

... for failure of the plaintiff to comply with Administration Circular No. 7 dated March 24, 1988 re-affirming the pronouncement of the Supreme Court in this case in Manchester Development Corporation vs. Court of Appeals "No. L-75919, May 7, 1987." (149 SCRA 562)⁵

The lower court is now held to be in error in ordering dismissal.

The petition is possessed of merit.

The complaint (first or second) specified enough sums, as and for actual damages, except exemplary damages, within Manchester's (or Circular No. 7's) contemplation. What would have been fatal was if the petitioners mentioned no amount at all. This is the teaching of Manchester.

At any rate:

Art. 2233. Exemplary damages can-not be recovered as a matter of right; the court will decide whether or not they should be adjudicated.⁶

So also, "... the amount of the exemplary damages need not be proved ..."7

In other words, the amount payable by way of exemplary damages may be determined in the course of the trial. The plaintiff (the petitioners in this case) could not have therefore predicted how much exemplary losses they had incurred.

We are not saying--so let us make one thing clear--that the amount of exemplary damages need not be alleged in all cases. Certainly, it would have been different had the case been one purely for moral, nominal, temperate, or exemplary, damages, (as in libel) other than actual. Though these damages are, under the Civil Code, damages that can not be shown with certainty, unlike actual damages, the plaintiff must ascertain, in his estimation, the sums he wants, and the sums required to determine the amount of docket and other fees.

The case at bar is different. It is, in essence, a demand for specific performance, as a consequence of a contract of

loan between the parties in the sum of: "a. The principal of P100,000.00, less whatever was paid per evidence to be presented, if any; b. Attorney's fees of 25% of principal, plus interest or P52,000.00; c. Interests of 12% per annum = P108,000.00 for nine (9) years which is provided in Annex "B" and is part of the principal = P100,000.00 + P108,000.00; d. Exemplary damages subject to the discretion of the Honorable Court; e. Expenses of litigation of P10,000.00; f. For other relief which the Honorable Court may deem just to impose under the circumstances, such as issuance of the order/writ of attachment due to conversion as stated in the herein affidavit."8

The demand for exemplary damages was obviously meant to magnify the total claims, as is the usual practice, but the failure to specify it is not lethal. The court can assess the docketing fees on the basis of the actual damages sought.

So it has been held that where the complaint states enough facts and sums to "enable ... the Clerk of Court of the lower Court to compute the docket fees payable,"9 the trial court would be in error to expunge the pleading. What is fatal, so we are told,10 is if the complaint left to the judge mere "guesswork" as to the amounts payable as and by way of docket fees.

Finally, Manchester involved clearly an effort to defraud the government, and so, resort to its ruling must be justified by a showing of a prior attempt to cheat the courts. This is not the case here.

WHEREFORE, the petition is GRANTED. The case is REMANDED to the court a quo for further proceedings.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

1 No. L-75919, May 7, 1987, 149 SCRA 562.

2 Rollo, 13-14.

3 Rollo, 41.

4 Id., 61-62.

5 Id., 72.

6 CIVIL CODE, art. 2283.

7 Supra., art. 2634.

8 Rollo, id., 41.

9 Ng Soon v. Alday, G.R. No. 85879, September 29, 1989.

10 Supra.

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