

TALISAY-SILAY MILLING CO., INC., AND TALISAY-SILAY INDUSTRIAL COOPERATIVE ASSOCIATION, INC., PETITIONERS, VS. ASOCIACION DE AGRICULTORES DE TALISAY-SILAY, INC.; FIRST FARMERS MI...

G.R. No. 91852. August 15, 1995

Ponente: FELICIANO, J.

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FELICIANO, J.:

On 15 February 1966, Talisay-Silay Milling Co., Inc. ("TSMC") and Talisay-Silay Industrial Cooperative Association, Inc. ("TSICA") instituted an action for damages (Civil Case No. 9133) against defendants Asociación de Agricultores de Talisay-Silay, Inc. ("AATSI"), First Farmers Milling Co., Inc. ("FFMCI"), Dominador Agravante and other individual sugar planters and Ramon Nolan in his personal and official capacity as administrator of the Sugar Quota Administration. On 9 March 1967, an amended and supplemental complaint formally included as defendants the Philippine National Bank ("PNB") and the National Investment Development Corporation ("NIDC").

On 4 March 1972, the then Court of First Instance of Rizal, Branch VIII rendered its decision in Civil Case No. 9133 the dispositive portion of which reads:

"WHEREFORE, premises considered judgment is hereby rendered:

1. Declaring as illegal the transfer of sugar quota allotments or production allowance of the defendant planters from the Talisay-Silay Milling Co., Inc. to First Farmers Milling Co., Inc.;
2. Ordering the said planters to return to and continue to mill their sugar canes with the Talisay-Silay Milling, Co., Inc.;
3. Restraining the defendant Sugar Quota Administration or his agents from approving the issuance of quota license for 'A' sugar by First Farmers Milling Co., Inc. to defendant farmers;
4. Condemning the defendants jointly and severally to pay plaintiff Talisay-Silay Industrial Cooperative Association the amount of P6,609,714.32 and to plaintiff Talisay-Silay Milling Co., Inc. the sum of P8,802,612.89 with legal rate of interest from the filing of the complaint until fully paid, with costs against defendants.

SO ORDERED."[1]

Appeal was had by defendants-appellants AATSI, et al. and on 30 October 1989, the Court of Appeals rendered a decision affirming with modification the decision of the court a quo.[2] More specifically, the Court of Appeals (a) absolved from liability appellants Ramon Nolan of the Sugar Quota Administration, the PNB and the NIDC, and (b) reduced the amount of damages due plaintiffs-appellees TSMC and TSICA from approximately P15.4 million to only P1 million. The Court of Appeals decreed:

"WHEREFORE, premises considered, judgment is hereby rendered as follows:

(1) declaring the transfer of export quotas from TSMC to FFMC invalid and inoperative;

(2) ordering planters Dominador Agravante et al., Asociación de Agricultores de Talisay-Silay and First Farmers Milling Co., Inc. (FFMC) to pay to Talisay-Silay Milling Co., Inc. and Talisay--Silay Industrial Cooperative Association, Inc. the sum of P1,000,000.00 as actual damages with legal interest from the filing of the complaint.

(3) dismissing the petition for certiorari entitled "Asociación de Agricultores de Talisay--Silay, Inc., et al. v. Talisay-Silay Milling Co., Inc., et al." G.R. No. L-25935.

No costs.

SO ORDERED."[3]

A motion for reconsideration and a partial motion for reconsideration were filed by defendants-appellants AATSI, et al. and by Atty. Ramon A. Gonzales, former counsel of plaintiffs-appellees TSMC and TSICA in his own behalf, respectively.[4] AATSI, et al. argued that TSMC and TSICA were not entitled to any award of damages since their amended and supplemental complaint which had superseded their original complaint failed to specify the amount of damages being prayed for.[5] On the other hand, Atty. Ramon A. Gonzales filed his motion in respect of the compensation he expects to receive for legal services rendered to TSMC and TSICA.[6] Both motions for reconsideration were denied by the appellate court.[7]

The present Petition for Review was filed by TSMC and TSICA and by intervenor-petitioner Atty. Ramon A. Gonzales. Petitioners TSMC and TSICA essentially seek a review of the decision of the Court of Appeals reducing the award of damages granted by the court a quo from approximately P15.4 million to only P1 million. On the other hand, petitioner-intervenor Atty. Ramon A. Gonzales maintains that by previously filing a notice of attorney's lien, he now has the right to appeal the decision of the Court of Appeals or seek its modification.

On 22 May 1991, the Court issued a Resolution denying the Petition for Review insofar as petitioner Atty. Ramon A. Gonzales was concerned. The Court ruled that by virtue of his withdrawing as counsel pending resolution of the case by the Court of Appeals, Atty. Gonzales no longer had the locus standi to file, on behalf of his clients, a partial motion for reconsideration before the Court of Appeals nor a Petition for Review before the Supreme Court. The Court said:

"Of course, an attorney, although not a party to the case but who represents a party thereto may file the necessary pleadings in order to protect his client's interests. This, however, presupposes that the lawyer still has the authority to represent the party. Atty. Gonzales withdrew from the case pending its resolution by the Court of Appeals. His authority to act as counsel for petitioners having terminated, Atty. Gonzales could not file on behalf of petitioners a motion for reconsideration of the decision of the Court of Appeals. A fortiori, he could not file on his own behalf a motion for reconsideration, as he did in the present case.

Therefore, we consider that Atty. Gonzales was bereft of legal personality to file a motion for reconsideration in the Court of Appeals, just as he is bereft of legal standing to file the instant Petition for Review. Atty. Gonzales may seek to enforce his lien and obtain compensation for his services. The law has provided a lawyer several means effectively to enforce his lien and Atty. Gonzales may certainly avail of them. But he may not file a motion for reconsideration nor a Petition for Review because by so doing, he seeks not to enforce his lien but, as noted by the Court of Appeals, to increase the amount of damages his former clients would be entitled to receive, that is, to realize upon a cause of action belonging to such former clients."[8]

Hence, there is left for determination the extent of liability, if any, of respondents AATSI, et al. who had seceded

and transferred their sugar export quota from TSMC to FFMCI.

The Court gave due course to the instant Petition and required the parties with locus standi to file their respective memoranda.[9] On 27 August 1993, respondents AATSI, et al. filed their memorandum.[10] On 27 April 1994, petitioners TSMC and TSICA filed theirs.[11]

The disposition of the instant case, to the mind of the Court, involves the resolution of the following issues: (a) whether AATSI, et al. are, in fact, liable to TSMC and TSICA; (b) assuming AATSI, et al. are liable, whether the Court of Appeals erred in reducing the amount of damages awarded by the trial court to TSMC and TSICA from P15.4 million to P1 million; and (c) assuming error on the part of the Court of Appeals, whether the amount of damages awarded by the trial court is supported by the evidence of record.

I

The rulings of the trial and appellate courts need to be viewed in the context of the laws relating to the sugar trade which had been enacted by the legislatures of the Philippines and of the United States of America. A very condensed statement of these laws is essayed below.

In 1933, addressing the threat of overproduction of sugar by countries exporting the commodity to the United States, the Congress of the United States of America enacted the "Agricultural Adjustment Act" also known as the "Jones--Costigan Act." That Act established a system of quotas for the exportation of sugar into the United States free of duties. The Philippines was granted a quota of 953,000 short tons. In 1934, the United States Congress enacted the "Philippine Independence Act" or the "Tydings-McDuffie Act," primarily known as the document paving the way for the grant of complete independence to the then Commonwealth of the Philippines. Incorporated in the Tydings-McDuffie Act was an authority to the Philippine legislature to enact a proportional allocation or production scheme for unrefined sugar: firstly, among sugar mills (or districts) and secondly, among sugar planters or plantations attached to a sugar mill.[12]

To implement the above Acts, a number of executive orders were issued. On 2 July 1934, the American Governor-General in the Philippines issued Executive Order No. 489 providing for the creation and completion of a master record or registry list by the Insular Auditor of all sugar producing mills and their adherent plantations with the production and percentage share of each for the years 1931 to 1933. Subsequently, the Insular Auditor submitted to the Governor-General the Sugar Mill Audit of 1934 and the Sugar Plantation Audit of 1934 covering all centrifugal mills and plantations in the Philippines which had produced sugar during the period from 1931 to 1933. On the basis of the audit reports, the Governor-General issued Executive Order No. 525 by virtue of which Mill District No. 44, also known as the Talisay-Silay Mill District composed of Talisay-Silay Milling Co., Inc. and its adherent plantations, was established. Later, by the terms of Executive Order No. 900, the entire quota of sugar to be exported from the Philippines into the United States was proportionately distributed or allocated among the various mill districts in the Philippines. This quota or allocation among mill districts was termed "mill district U.S. production coefficient" and when expressed in tons of sugar, was known as "mill district production allowance." The production allowance granted a mill district was in turn divided into the "plantation owner's U.S. marketing coefficient" and the "mill's U.S. marketing coefficient" in accordance with the sugar plantations' and the sugar mills' respective share reported in the audit report of the Insular Auditor.

On 3 December 1934, declaring that a state of national emergency existed, i.e., that the production of sugar in the Philippines had reached such a degree of development that unless restricted and regulated, a huge surplus of unmarketable sugar would inevitably result, the Philippine Legislature enacted Act No. 4166 known as the "Sugar Limitation Act." This Act essentially reiterated the policies laid down by the Tydings-McDuffie Act insofar as the production of sugar for export to the United States was concerned. Section 10 of Act 4166 provided that the Act

would remain in force for three (3) years commencing with the 1931-1932 crop year unless the Governor-General determined that the state of emergency declared in the Act had ceased. This declared state of emergency was continued for another six (6) crop years by section 4 of Commonwealth Act No. 77 approved on 26 October 1936; then for another period of six (6) crop years commencing on 1941 by Commonwealth Act No. 584; and finally extended until 1974 by Republic Act No. 279 approved on 16 July 1948.

In 1946, the Congress of the United States passed the United States-Philippines Trade Relations Act, known as the "Bell Trade Act" essentially continuing the policies of the Tydings-McDuffie Act insofar as the production of sugar for export to the United State was concerned.

In 1952, the Congress of the Republic of the Philippines, still acting by virtue of its powers to limit and regulate the sugar industry, approved Republic Act No. 809 known as the "Sugar Act of 1952" which provided for a production-sharing scheme between a sugar mill or central and its adherent sugar planters in the absence of a written milling agreement between the mill and planters. Section 1 of R.A. No. 809 read:

"Section 1. In the absence of written milling agreements between the majority of planters and the millers of sugar-cane in any milling district in the Philippines, the unrefined sugar produced in that district from the milling by any sugar central of the sugar-cane of any sugar-cane planter or plantation owner, as well as all by-products and derivatives thereof, shall be divided between them as follows:

Sixty per centum [60%] for the planter, and forty per centum [40%] for the central in any milling district the maximum actual production of which is not more than four hundred thousand piculs: Provided, That the provisions of this section shall not apply to sugar centrals with an actual production of less than one hundred fifty thousand piculs.

Sixty-two and one-half per centum [62-1/2%] for the planter, and thirty-seven and one-half per centum [37-1/2%] for the central in any milling district the maximum actual production of which exceeds four hundred thousand piculs but does not exceed six hundred thousand piculs;

Sixty-five per centum [65%] for the planter, and thirty-five per centum [35%] for the central in any milling district the maximum actual production of which exceeds six hundred thousand piculs but does not exceed nine hundred thousand piculs;

Sixty-seven and one-half per centum [67-1/2%] for the planter, and thirty-two and one-half per centum [32-1/2%] for the central in any milling district the maximum actual production of which exceeds nine hundred thousand piculs but does not exceed one million two hundred thousand piculs;

Seventy per centum [70%] for the planter, and thirty per centum [30%] for the central in any milling district the maximum actual production of which exceeds one million two hundred thousand piculs.

By actual production is meant the total production of the mill for the crop year immediately preceding." (Emphases and brackets supplied)

On 22 June 1957, Congress approved Republic Act No. 1825 entitled "An Act to Provide for the Allocation, Reallocation and Administration of Absolute Quota on Sugar," which governed the transfer, under certain conditions, of a planter's sugar production allowance or quota from one sugar mill to another. Section 4 of R.A. No. 1825 provides as follows:

"Section 4. The production allowance or quota corresponding to each piece of land under the provisions of this act shall be deemed to be an improvement attaching to the land entitled thereto. In the absence of a milling contract or contracts, or where such milling contract or contract shall have expired, such production allowance or quota shall be transferable preferably within the same district in accordance with such rules and regulations

as may be issued by the Sugar Quota Office: Provided, that a plantation owner may transfer his production allowance or quota from one district to another when the following conditions exist: (a) when there is no milling contract between the planter and miller or when said contracts shall have expired; and (b) when the mill of the district in which the land of the planter lies is not willing to give him the participation laid down in section one of Republic Act Numbered Eight Hundred Nine regarding the division of shares between the sugar mill and plantation owner." (Italics supplied)

In their respective decisions, both the trial court and the Court of Appeals held that the abovequoted Section 4 had been violated by AATSI and certain individual sugar planters when they transferred their production allotments or sugar quota from TSMC to FFMCI despite the non-concurrence of the twin conditions specified in Section 4 for the lawful transfer of such quota, i.e., (a) the absence or expiration of their milling contract with TSMC; and (b) the refusal of the sugar mill TSMC and of TSICA to comply with the production-sharing or participation scheme established by Section 1 of R.A. No. 809.

In its motion for reconsideration before the Court of Appeals, appellant AATSI contended that when it left TSMC and moved over to appellant FFMCI during crop year (CY) 1964-1965, there no longer existed a milling contract between AATSI and TSMC as their last milling contract had expired at the end of crop year (CY) 1951-1952 and had never been renewed or extended. The Court of Appeals, however, was unperturbed:

"We, however, inadvertently overlooked the finding x x x that 'x x x Republic Act 809, particularly sections 1 and 9 thereof, was applicable to and in force and effect in the Talisay-Silay Milling district from crop year 1960-61 to crop year 1966-67 x x x.' For this reason, the appellants claimed that since section 1 of R.A. 809 was applicable at the time of the transfer of their export quotas, the alleged mills' refusal to grant the participation provided in said law gave rise to the second condition required under Sec. 4, R.A. 1825 for a valid transfer of 'A' sugar quotas.

Nonetheless, the applicability of Section 1 of R.A. 809 [i.e., the absence of a milling contract] when the transfer of export quotas was made did not necessarily mean that condition (b) of Section 4 of R.A. 1825, that is, the miller is not willing to give the sugar planters and their laborers the participation in the sugar produce under Sec. 1 of R.A. 809, was present at the time of said transfer. As aptly held by the trial court:

'It is admitted by the parties that the contract of the plaintiff and defendant planters have already expired and have not been renewed and/or extended since 1951-1952 crop year although the defendant planters continued to mill with the plaintiff TSMC up to crop year 1964-1965 when they transferred their milling operations to the defendant FFMCI. The defendants contend that since they have no milling contract with the plaintiff TSMC they are free to mill with another sugar mill since the plaintiff refused to give or [was] unwilling to give the sharing basis established in section 1, [Republic] Act 809. As above mentioned, the milling contract between the plaintiff and the defendants ended in the crop year 1951-1952. The same year Rep. Act 809 was approved. They began to secede only in 1964-1965 crop year or twelve years thereafter and up to [sic] the time they seceded there was already a court case wherein the constitutionality of Rep. Act 809 is an issue and the 7-1/2% controversial portion of the sharing basis is being deposited in the court from time to time (in escrow) to be distributed at the final judgment. In other words, at the time of their secession the defendant planters knew that plaintiff is willing to give, as in fact has given through the court the questioned participation in Rep. Act 809 subject to the outcome of the said case.

The Court therefore believes that in this respect the plaintiff could not be said to be unwilling to give to the defendant planters the 70% participation under Rep. Act 809 which they claim they are entitled under said Rep. Act 809.'"[13] (Italics supplied)

We find no cogent reason to disturb the conclusion of the Court of Appeals and the court a quo that the transfer of export sugar quota by AATSI and certain individual sugar planters from TSMC to FFMCI was illegal and invalid

for having been effected despite the absence of the second condition imposed by Section 4 of Republic Act No. 1825, that is, that TSMC was not willing to give AATSI, et al. the participation of the plantation owner laid down in Republic Act No. 809 vis-a-vis the sugar mill.

Two (2) circumstances show the willingness of TSMC, et al. to comply with the participation scheme mandated by Republic Act No. 809. First, AATSI had seceded from TSMC only at the end of crop year (CY) 1964-1965, i.e., only after twelve (12) years had elapsed since crop year (CY) 1951-52 which significantly was the same year that Republic Act No. 809 was approved. These twelve (12) years were marked by the continued production of sugar and its by-products by TSMC, TSICA and AATSI, et al. despite the nonexistence of a written milling contract among them. Second, when the constitutionality of R.A. 809 was assailed in *Asociación de Agricultores de Talisay-Silay, Inc., et al. v. Talisay-Silay Milling Co., Inc., et al.*,^[14] in particular, the participation or sharing scheme Republic Act No. 809 had provided, TSMC nevertheless deposited from time to time, in escrow with the PNB subject to the disposition of the trial court, amounts representing the participation mandated by Republic Act No. 809.^[15] TSMC thereby signalled its willingness to abide by the seventy percent (70%) share claimed by the planters should the court hold them entitled to such percentage share. These are conclusions for the overturning of which respondents AATSI, et al. have offered no reasonable basis.

From the foregoing, it clearly appears that AATSI, et al. had no legal basis for transferring its sugar allotment or quota to FFMCI since TSMC never refused and in fact was complying with the participation scheme required by Republic Act No. 809. We agree with the Court of Appeals and the trial court that, by so transferring their sugar allotments, AATSI as well as the individual sugar planters similarly situated became liable to TSMC and TSICA. By accepting AATSI, et al.'s invalidly transferred sugar allotments, FFMCI became solidarily liable with the transferors to TSMC and TSICA.

II

In reducing the amount of damages awarded by the court a quo to petitioners TSMC and TSICA from roughly P15.4 million to only P1 million, the Court of Appeals, citing *Malayan Insurance Co., Inc. v. Manila Port Services*^[16] reasoned that the reduction was dictated by the failure of TSMC and TSICA to comply with Section 5, Rule 10 of the Rules of Court, i.e., TSMC and TSICA's failure to amend their complaint to conform to the evidence presented during trial which showed that TSMC and TSICA suffered damages amounting to more than P1 million by virtue of the illegal transfer of export sugar quota from TSMC to FFMCI.^[17]

We are unable to agree with the Court of Appeals on this point.

Section 5, Rule 10 of the Rules of Court reads as follows:

"Sec. 5. Amendment to conform to or authorize presentation of evidence. — When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects, as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after the judgment; but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice him in maintaining his action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence." (Italics supplied)

In applying the abovequoted Section 5, the Court, in *Northern Cement Corporation v. Intermediate Appellate Court*,^[18] clearly, though impliedly, held that the *Malayan Insurance Company, Inc.* case relied upon by the

Court of Appeals can no longer be cited with any confidence. In *Northern Cement Corporation*, under a set of facts very closely similar to the facts of the instant case, the Court said:

"It is contended that the respondent court erred in limiting the refund to the amount specified by the petitioner in its counter-claim. The trial court had allowed the refund in the sum of P526,280.53 on the justification that this had been established by the evidence adduced at the trial. On appeal, however, the respondent court reversed, holding that this refund should be limited to the sum of P31,652.62, which was the amount claimed in the counterclaim. In support, it cited a number of cases, including *Malayan Insurance Company v. Manila Port Services* (85 SCRA 320), where it was held:

"The contention is meritorious. In its complaint, the appellee asked for 'the sum of P3,236.46 on all causes of action, plus interest thereon from the time of first demand until complete and full payment thereof; the sum of P500.00 by way of attorney's fees, and costs.' The trial court, however, awarded to the appellee the total amount of P4,564.77, with interests thereon at the rate of 6% per annum from the filing of the complaint; attorney's fees in the amount of P300.00; and the costs of suit. In the case of *J.M. Tuason & Co. v. Santiago*, this Court ruled that where the plaintiff failed to amend the prayer of its complaint as to the amount of damages so as to make it conform to the evidence, the amount demanded in the complaint should be awarded as damages. There having been no amendment to the prayer in the complaint to conform with evidence, the award to the appellee should be reduced to the sum of P3,235.46, on all causes of action, plus interest thereon at the rate of 6 per annum from the filing of the complaint.

The applicable rule is Rule 10, Section 5 [of the Rules of Court], providing as follows:

xxx xxx xxx

There have been instances where the Court has held that even without the necessary amendment, the amount proved at the trial may be validly awarded, as in *Tuazon v. Bolanos* (95 Phil. 106), where we said that if the facts shown entitled plaintiff to relief other than that asked for, no amendment to the complaint was necessary, especially where defendant had himself raised the point on which recovery was based. The appellate court could treat the pleading as amended to conform to the evidence although the pleadings were actually not amended. Amendment is also unnecessary when only clerical error or non substantial matters are involved, as we held in *Bank of the Philippine Islands v. Laguna* (48 Phil. 5). In *Co Tiamco v. Diaz* (75 Phil. 672), we stressed that the rule on amendment need not be applied rigidly, particularly where no surprise or prejudice is caused the objecting party. And in the recent case of *National Power Corporation v. Court of Appeals* (113 SCRA 556), we held that where there is a variance in the defendant's pleadings and the evidence adduced by it at the trial, the Court may treat the pleading as amended to conform with the evidence.

It is the view of the Court that pursuant to the above-mentioned rule and in light of the decisions cited, the trial court should not be precluded from awarding an amount higher than that claimed in the pleadings notwithstanding the absence of the required amendment. But this is upon the condition that the evidence of such higher amount has been presented properly, with full opportunity on the part of the opposing parties to support their respective contentions and to refute each other's evidence."^[19] (Italics supplied)

The failure of a party to amend a pleading to conform to the evidence adduced during trial does not preclude an adjudication by the court on the basis of such evidence which may embody new issues not raised in the pleadings,^[20] or serve as a basis for a higher award of damages.^[21] Although the pleading may not have been amended to conform to the evidence submitted during trial, judgment may nonetheless be rendered, not simply on the basis of the issues alleged but also on the basis of issues discussed and the assertions of fact proved in the course of trial.^[22] The court may treat the pleading as if it had been amended to conform to the evidence, although it had not been actually so amended. Former Chief Justice Moran put the matter in this way:

"When evidence is presented by one party, with the expressed or implied consent of the adverse party, as to issues not alleged in the pleadings, judgment may be rendered validly as regards those issues, which shall be

considered as if they have been raised in the pleadings. There is implied consent to the evidence thus presented when the adverse party fails to object thereto." [23] (Italics supplied)

Clearly, a court may rule and render judgment on the basis of the evidence before it even though the relevant pleading had not been previously amended, so long as no surprise or prejudice is thereby caused to the adverse party. Put a little differently, so long as the basic requirements of fair play had been met, as where litigants were given full opportunity to support their respective contentions and to object to or refute each other's evidence, the court may validly treat the pleadings as if they had been amended to conform to the evidence and proceed to adjudicate on the basis of all the evidence before it.

The record of the instant case shows that TSMC and TSICA formally offered as evidence documents (Exhibits "P-1"- "P-8" and "W-1"- "W-6") which set out in detail the estimated unrealized income suffered by TSMC and TSICA during four (4) consecutive crop years, i.e., (CYs) 1964--1965, 1965-1966, 1966-1967 and 1967-1968, the failure of realization being attributed to the transfer by AATSI, et al. of their sugar quota to FFMCI. These documents, along with the corroborative testimony of one Ricardo Yapjoco, [24] a Certified Public Accountant and Internal Auditor of TSMC, were the basis of the trial court's award of P8,802,612.89 to TSMC and of P6,609,714.32 to TSICA. It is noteworthy that the joint record on appeal reveals that AATSI, et al. objected to the Offer of Evidence of TSMC and TSICA, specifically to Exhibits "P-1"- "P-8" and "W-1"- "W-6," [25] not on the basis that such evidence fell outside the scope of the issues as defined in the pleadings as they then stood, but rather on the basis that such evidence was "incompetent" and speculative in character, i.e., as "being mere estimates prepared by witness Yapjoco" and constituting merely his "opinion." It should also be noted that the testimony of Mr. Yapjoco was subjected to extensive cross-examination by counsel for AATSI, et al. [26] The trial court did not expressly overrule AATSI, et al.'s objection to the Offer of Evidence of TSMC and TSICA; it is nevertheless clear that the trial court did not accord much weight to that objection.

The point that may be here underscored is that AATSI, et al., having been given the opportunity and having in fact been able to register their objections to the evidence formally offered by TSMC and TSICA including, in particular, Exhibits "P-1"- "P-8" and "W-1"- "W-6," were not in any way prejudiced by the discrepancy between the allegations in the complaint filed and the propositions which the evidence submitted by TSMC and TSICA tended to establish. We conclude that the Court of Appeals erred when it failed to treat the amended and supplemental complaint of TSMC and TSICA as if such complaint had in fact been amended to conform to the evidence, and when it limited the damages due to TSMC and TSICA to the amount prayed for in their original complaint.

III

Turning to the extent of liability incurred by AATSI, FFMCI and the individual sugar planters when they illegally seceded and transferred their sugar quota from TSMC and TSICA, we address first the issue raised by AATSI, et al. that the pieces of evidence offered by TSMC and TSICA and relied upon by the court a quo, in particular, Exhibits "P-1"- "P-8" and "W-1"- "W-6," are "incompetent" and the testimony of Mr. Yapjoco merely his "opinion." [27] According to AATSI, et al.,

"The evidence of damages must be clear. Manresa expresses the rule on the quantum of proof of 'ganancias frustradas'. Thus: - 'la necesidad de una prueba robusta.'

At once apparent is that the pronouncement of the court [a quo] on the quantum of damages x x x does not distinctly state the factors and the law on which it is based. It simply concluded - 'unrealized profits.' It did not state what facts were considered in arriving at the different figures, what amounts plaintiffs failed to receive and what were deducted to determine the 'unrealized profits,' how the court arrived at the figures constituting the

so-called unrealized profits.

What the lower court had thus stated - 'unrealized profits' - is purely a conclusion of law, not a finding of the essential ultimate facts." (Italics provided by the text)[28]

In fine, AATSI, et al. maintains that TSMC and TSICA failed to clearly prove unrealized profits or ganancias frustradas and that the court a quo had erred in awarding the same.

We consider that the evidence of record requires us to reject this overly broad contention.

The familiar rule is that damages consisting of unrealized profits, frequently referred as 'ganancias frustradas' or "lucrum cessans," are not to be granted on the basis of mere speculation, conjecture or surmise but rather by reference to some reasonably definite standard such as market value, established experience or direct inference from known circumstances.[29] Uncertainty as to whether or not a claimant suffered unrealized profits at all — i.e., uncertainty as to the very fact of injury — will, of course, preclude recovery of this species of damages. Where, however, it is reasonably certain that injury consisting of failure to realize otherwise reasonably expected profits had been incurred, uncertainty as to the precise amount of such unrealized profits will not prevent recovery or the award of damages. The problem then would be the ascertainment of the amount of such unrealized profits.

In the case at bar, as earlier stated, Exhibits "P-1" and "W-1" were offered by TSMC and TSICA to substantiate their claim for unrealized profits covering four (4) crop years, CYs 1964-1965, 1965-1966, 1966-1967 and 1967-1968.[30] Exhibits "P-1" and "W-1" set forth the income that TSMC and TSICA claim should have been realized had they milled the sugar allocations for Mill District No. 44 (composed of TSMC and TSICA) during those four (4) crop years, which allocations had been transferred to and milled by FFMCI.

To support the figures set out in Exhibits "P-1" and "W-1," TSMC and TSICA submitted detailed schedules marked as Exhibits "P-2"-"P-8" and "W-2"-"W-6," respectively. These schedules purport to show, in greater detail, the various components of the "Total Sales Value" of the sugar allotted to Mill District No. 44 as well as the "Total Cost of Production" of such sugar on a given crop year. Deducting the Total Cost of Production from the Total Sales Value, the remainder represents the "Total Unrealized Income" suffered by TSMC and TSICA in a given crop year.

Examination of Exhibits "P-2" to "P-8" and "W-2" to "W-6" shows that the figures there set out were based, in turn, on data provided by (a) circulars issued by the Sugar Quota Administration;[31] (b) certifications issued by the then Bureau of Commerce listing the average selling prices of sugar and molasses during given years;[32] as well as (c) the sugar and molasses production and distribution reports of FFMCI.[33] Combining these specific documentary material with the testimony of Mr. Yapjoco, we consider that they provided sufficient basis for a reasonable estimate of the unrealized net income or profit sustained by TSMC and TSICA for CYs 1964-1965, 1965-1966, 1966-1967 and 1967-1968. We do not believe that the data embodied in Exhibits "P-1" to "P-8" and "W-1" to "W-6" can be dismissed as merely speculative; the data, in fact, appears to rest on fairly definite standards utilized by the governmental agency having relevant administrative jurisdiction (i.e., the Sugar Quota Administration) and accounting standards widely employed in the world of business and commerce.

Nevertheless, a review of the damages actually awarded to TSMC and TSICA by the trial court on the one hand and the Court of Appeals on the other, reveals the need for a more careful and thorough examination of the matter. As earlier noted, the Court of Appeals' award of P1 million based simply on the amount set out in the original complaint of TSMC and TSICA must be discarded. Upon the other hand, the award by the trial court of damages to TSMC and TSICA was arrived at merely by totalling up the unrealized income sustained by TSMC and TSICA over the relevant four (4) crop year period:

"Because of the refusal of the defendants planters to return to TSMC, plaintiff TSMC [and TSICA] suffered an unrealized profit of P1,934,847.73 in 1964-65 while for 1965-66 crop year, in the amount of P3,033,301.16, for 1966-67 in the amount of P4,656,643.20; and for 1967--1968, in the amount of P4,805,472.12.

The plaintiff TSMC failed to realize P3,015,077.77 and plaintiff TASICA failed to realize P6,609,714.32 or a total of P9,624,792.09. In 1967-68 after the lease to TASICA has expired, TSMC failed to realize a net income of P4,805,514.12." [34] (Brackets supplied)

We believe, in other words, that the figures and computations utilized by the trial court in its award of damages need further examination and refinement.

For instance, the award of damages rendered by the trial court took into account the loss of income suffered by TSMC and TSICA when AATSI, et al. transferred two (2) types of sugar quota: the "domestic quota" and the "export quota." In respect of the domestic quota, the Court, in *Hawaiian Philippines Corporation v. Asociación de Hacenderos de Silay-Saravia, Inc.*, [35] ruled that the transfer by AATSI, et al. of their domestic quota was valid considering that Section 9 of Act No. 4166 as amended by R.A. No. 1072, required only one (1) condition for the validity of a transfer of such quota: the absence or expiration of a milling contract between the sugar central and the sugar planter. The consent of the sugar central was not required for the validity of a transfer of the domestic sugar quota. Accordingly, the transfer by AATSI, et al. of their domestic sugar quota must be regarded as valid and the loss of income attributable to the transfer of such domestic sugar quota from TSMC and TSICA to FFMCI must be deducted from the aggregate amount of damages due to TSMC and TSICA.

A second example: Exhibits "P-1" and "W-1" embody figures relating to "molasses." Molasses are a by-product of milled sugar, whether that sugar be covered by a "domestic quota" or by an "export quota." The amount of income lost traceable to molasses, that would have been extracted from domestic sugar must be deducted from the aggregate damages due to TSMC and TSICA.

We consider, therefore, that there is need for recalculation of the damages due to TSMC and TSICA, in the interest of substantial and impartial justice. To this end, and following the course of action taken by the Court in the *Northern Cement Corporation* case, the Court finds it necessary and appropriate to remand this case to the Court of Appeals in accordance with Section 9 of B.P. Blg. 129 for a more careful evaluation of the evidence already adduced by the parties and re-computation of the damages appropriately due to TSMC and TSICA. The Court also directs that, in computing the actual amount of damages due, the Court of Appeals should provide for legal interest in accordance with recent caselaw of this Court. [36]

Finally, in accordance with the rule laid down in *Sun Insurance Office, Ltd. (SIOL) v. Asuncion*, [37] the corresponding additional judicial filing fees shall constitute a lien on the judgment award, to be assessed and collected by the Clerk of Court.

WHEREFORE, the Decision and Resolution of the Court of Appeals in CA-G.R. No. 51350-R dated 30 October 1989 and 10 January 1990, respectively are hereby MODIFIED insofar as the award of actual damages due Talisay-Silay Milling Co., Inc. and Talisay-Silay Industrial Cooperative Association, Inc. are concerned. Subject to the rulings referred to herein, this case is REMANDED to the Court of Appeals for the determination, with all deliberate dispatch, of the amount of damages due Talisay-Silay Milling Co., Inc. and Talisay-Silay Industrial Cooperative Association, Inc. considering that this litigation among the parties has already lasted more than twenty-eight (28) years. The rest of the Decision of the Court of Appeals is hereby AFFIRMED. Costs against respondents.

SO ORDERED.

Romero, Melo, and Vitug, JJ., concur.

[1] Joint Record on Appeal [Talisay-Silay Milling Co., Inc., et al.], pp. 369-370; Joint Record on Appeal [Asociación de Agricultores de Talisay-Silay, Inc., et al.], pp. 359-360.

[2] Rollo, pp. 39-75.

[3] Id., p. 75.

[4] Pending resolution of the appeal in the Court of Appeals, Atty. Gonzales withdrew as counsel from the case with the consent of his clients and at the same time filed with the appellate court a notice of attorney's lien.

[5] The prayer for damages in the original complaint reads:

"(3) Sentencing the defendants jointly and severally to pay unto plaintiff the sum of not less than ONE MILLION PESOS (P1,000,000.00) as actual damages and exemplary damages in the amount to be fixed at the discretion of this Honorable Court, with interest from the time of filing this complaint until fully paid and for costs against said defendants;" (Joint Record on Appeal [Talisay-Silay Milling Co., Inc., et al.], pp. 15-16; Joint Record on Appeal [Asociación de Agricultores de Talisay-Silay, Inc., et al.], pp. 15)

while the prayer for damages in the amended and supplemental complaint reads:

"(4) Ordering defendants, jointly and severally (defendant administrator in his personal capacity) to pay plaintiffs the actual and exemplary damages as may be proved hereof and attorney's fees in the amount of 10% of said damages, plus legal interest from the filing of the original complaint;" ((Joint Record on Appeal [Talisay-Silay Milling Co., Inc., et al.], pp. 127-128; Joint Record on Appeal [Asociación de Agricultores de Talisay-Silay, Inc., et al.], pp. 129)

[6] Atty. Ramon A. Gonzales claims to be entitled to ten percent (10%) of whatever may be recovered by Talisay-Silay Milling Co., Inc. and Talisay-Silay Industrial Cooperative Association, Inc. (Court of Appeals Resolution, Rollo, p. 82)

[7] Court of Appeals Resolution, Rollo, pp. 77-82.

[8] Extended Resolution, G.R. No. 91852, Talisay-Silay Milling, Co., Inc., et al. v. Asociación de Agricultores de Talisay-Silay Inc., et al., 22 May 1991, Rollo pp. 243-244.

[9] Rollo, p. 252.

[10] Id., pp. 273-308.

[11] Rollo, pp. 273-308; On 8 September 1993, the Philippine National Bank (PNB) and the National Investment Development Corporation (NIDC) filed a "Manifestation / Motion" stating that the "present proceedings do not dwell on matters that concern PNB and NIDC nor contest the Court of Appeals' findings that PNB and NIDC are not liable to petitioners for damages." Movants PNB and NIDC prayed that they be excused from filing their respective memoranda. (Rollo, pp. 270-272.) On 7 February 1994, the Court noted, among others, the Manifestation / Motion of PNB and NIDC. (Rollo, p. 309-310)

[12] In the case of unrefined sugar, the amount thereof to be exported annually to the United States free of duty was to be allocated among the sugar producing mills of the Philippine Islands proportionately on the basis of their

average annual production for the calendar years 1931, 1932 and 1933. The amount of sugar from each mill which may be so exported was to be allocated in each year between the mill and the planters on the basis of the proportion of sugar to which the mill and the planters were respectively entitled. (See Section 6 [d], Tydings-McDuffie Act)

[13] Court of Appeals Resolution, Rollo, pp. 80-81.

[14] 88 SCRA 294 (1979); R.A. 809 was eventually declared not to be unconstitutional.

[15] See 88 SCRA at 472-474; more specifically, the differential between the statutorily-mandated share of the planters and the share previously being paid by TSMC. By agreement of the parties, the 7-1/2% of the total proceeds for CY 1954-1955 was not deposited in escrow but was instead covered by a surety bond obtained by TSMC; 88 SCRA at 473.

[16] 85 SCRA 320 (1978).

[17] Court of Appeals Decision, Rollo, p. 74; Court of Appeals Resolution, Rollo, p. 81.

[18] 158 SCRA 408 (1988).

[19] 158 SCRA at 416-417.

[20] Jacinto v. Court of Appeals, 198 SCRA 211 (1991); Pilapil v. Court of Appeals, 216 SCRA 33 (1992); Universal Motors Corporation v. Court of Appeals, 205 SCRA 449 (1992).

[21] Northern Cement Corporation v. Intermediate Appellate Court, 158 SCRA 408 (1988); Pacific Banking Corporation v. Mendoza, 168 SCRA 709 (1988).

[22] Universal Motors Corporation v. Court of Appeals, *supra*, citing Paras, Rules of Court Annotated, Vol. I, 2nd ed. 1989, p. 303.

[23] Moran, Comments on the Rules of Court, Vol. 1 (1979 ed., p. 377. Chief Justice Moran's statement of the applicable rule is documented by, e.g., the following cases: Karagdag v. Barado, 33 Phil. 529 (1916); Del Val v. Del Val, 29 Phil. 534 (1915); Lizarraga Hermanos v. Yap Tico, 24 Phil. 504 (1913); Roces v. Jalandoni, 12 Phil. 599 (1909).

[24] TSN, 25 September 1968, pp. 3-70; TSN, 10 July 1969, pp. 75-78.

[25] Joint Record on Appeal (Talisay-Silay Milling Co., Inc., et al.), p. 282; Joint Record on Appeal (Asociación de Agricultores de Talisay-Silay, Inc., et al.), p. 269.

[26] TSN, 20 November 1968, pp. 6-81; TSN, 10 July 1969, PP. 5-74 and 79-82; TSN, 21 November 1968, pp. 2-26.

[27] See note 29. The Court notes that although this issue was seasonably raised by AATSI, et al. in its Objection to Plaintiffs' Offer of Evidence dated 28 July 1969 and Joint Brief, the matter was not explicitly resolved by the Court of Appeals. It is surmised that the Court of Appeals deemed the issue irrelevant and superfluous considering its position that the damages forthcoming to TSMC and TSICA should not be more than P1 million.

[28] Joint Brief for Defendant-Appellants Asociación de Agricultores de Talisay-Silay, Inc., Dominador Agravante, et al., and First Farmers Milling Co., Inc., pp. 166-167.

[29] See General Enterprises, Inc. v. Lianga Bay Logging Company, Inc., 11 SCRA 733 (1964).

[30] Exhibit "P-1" is captioned "Unrealized Income on Sugar Canes of Planters Adhered to Mill District No. 44 Milled by First Farmers Milling, Co., Inc.: Crop 1964-65 to Crop 1966-67." On the other hand, Exhibit "W-1" is captioned "Crop 1967-68: Unrealized Income on Sugar Canes of Planters Adhered to Mill District No. 44 Milled by First Farmers Milling, Company, Inc. Against the Income Derived from Canes Milled by TSM on Binalbagan Planters."

[31] Sugar Quota Administration Circular Letter No. 1, dated 25 September 1964 (Exhibit "S"); Sugar Quota Administration Circular for Crop Year 1965-1966, dated 7 February 1966 (Exhibit "T"); Sugar Quota Administration Circular for Crop Year 1966-1967 (Exhibit "U").

[32] Bureau of Commerce Certificate (Exhibit "R").

[33] Sugar and Molasses Weekly Production Report [FFMC] (Exhibits "Q," "Q-1" and "Q-2"); FFMC Weekly Sugar and Molasses Distribution Report for Crop Year 1967-1968 (Exhibit "V").

[34] Trial Court Decision found on Joint Record on Appeal (Talisay-Silay Milling Co., Inc., et al.), p. 368 and Joint Record on Appeal (Asociación de Agricultores de Talisay-Silay, Inc., et al.), pp. 358-359.

[35] 151 SCRA 306 (1987).

[36] See *Eastern Shipping Lines, Inc. v. CA*, G.R. No. 97412, 12 July 1994.

[37] 170 SCRA 274 [1989]; The Court ruled, *inter alia*:

"3. Where the trial court acquires jurisdiction over a claim by the filing of the appropriate pleading and payment of the prescribed filing fee but, subsequently, the judgment awards a claim not specified in the pleading, or if specified the same has been left for determination by the court, the additional filing fee therefor shall constitute a lien on the judgment. It shall be the responsibility of the Clerk of Court or his duly authorized deputy to enforce said lien and assess and collect the additional fee." (170 SCRA at 285)

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