



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

ALBERT M. CHING and  
ROMEO J. BAUTISTA,

*Petitioners.*

- versus -

FELIX M. BANTOLO, ANTONIO  
O. ADRIANO and EULOGIO  
STA. CRUZ, JR., substituted by his  
children, represented by RAUL STA.  
CRUZ, JR.,

*Respondents.*

G.R. No. 177086

Present:

CARPIO,\* *Acting C. J.*,  
BRION,  
DEL CASTILLO,  
PEREZ, *and*  
PERLAS-BERNABE, *JJ.*

Promulgated:

DEC 05 2012 *Alfonso C. Cabalag, Jr.*

DECISION

DEL CASTILLO, *J.*:

"It is essential that for damages to be awarded, a claimant must satisfactorily prove during the trial that they have a factual basis, and that the defendant's acts have a causal connection to them."<sup>1</sup>

This Petition for Review on *Certiorari*<sup>2</sup> under Rule 45 of the Rules of Court assails the Decision<sup>3</sup> dated July 31, 2006 and the Resolution<sup>1</sup> dated March 12, 2007 of the Court of Appeals (CA) in CA-G.R. CV No. 79886.

*Factual Antecedents*

Respondents Felix M. Bantolo (Bantolo), Antonio O. Adriano and Eulogio Sta. Cruz,<sup>5</sup> Jr. are owners of several parcels of land situated in Tagaytay City, to

Per Special Order No. 1384 dated December 4, 2012.

*Coastal Pacific Trading, Inc. v. Southern Rolling Mills, Co., Inc.*, 529 Phil. 40, 40 (2006), citing *Air France v. Court of Appeals*, 253 Phil. 395, 402 (1989).

*Ratio*, pp. 25-87 with Annexes "A" to "F" inclusive.

*Id.* at 48-58; penned by Associate Justice Eliezer R. De Los Santos and concurred in by Associate Justices Fernanda Lampas Peralta and Myra Dimaranan Vidal.

*Id.* at 60; penned by Associate Justice Fernanda Lampas Peralta and concurred in by Associate Justices Noel G. Tijan and Myra Dimaranan-Vidal.

As per the Court's Resolution dated November 10, 2008, respondent Eulogio Sta. Cruz, Jr. was substituted by his heirs (*Id.* at unnumbered page).

wit:

Registered owner:

- Felix M. Bantolo - Original Certificates of Title (OCT) Nos. 787, 788, 789 & 799
- Antonio O. Adriano - OCT Nos. 793, 805, 806 & 807
- Eulogio Sta. Cruz, Jr. - OCT Nos. 790, 791, 800 & 801.<sup>6</sup>

On April 3, 2000, respondents executed in favor of petitioners Albert Ching (Ching) and Romeo J. Bautista a Special Power of Attorney (SPA)<sup>7</sup> authorizing petitioners to obtain a loan using respondents’ properties as collateral. Pertinent portions of the SPA are reproduced below:

1. To borrow money and apply for and secure a loan on their account with any bank or financial institution in such sum or sums which the herein Attorney-in-fact shall [deem] fit and advisable and the maximum extent of which shall be the loanable value of our real properties based on the attached appraisal report of Asian Appraisal Co., Inc. dated March 24, 1995 on the “Fair Market Value Appraisal” of said realties and/or parcels of land registered in our names respectively in the Registry of Deeds of Tagaytay City and located thereat, to wit:

	<u>Registrant</u>
1. OCT NO. OP-790	Eulogio Sta. Cruz, Jr.
2. OCT NO. OP-791	-do-
3. OCT NO. OP-800	-do-
4. OCT NO. OP-801	-do-
5. OCT NO. OP-793	Antonio O. Adriano
6. OCT NO. OP-805	-do-
7. OCT NO. OP-806	-do-
8. OCT NO. OP-807	-do-
9. OCT NO. OP-787	Felix M. Bantolo
10. OCT NO. OP-788	-do-
11. OCT NO. OP-789	-do-
12. OCT NO. OP-799	-do-

the photocopies of which certificates of title are hereto attached and made integral parts hereof, and we hereby authorize and/or vest authority unto the herein attorney-in-fact to deed, convey, and transfer by way of first mortgage all our rights of ownership and interest over the said parcels as technically described in and covered by the aforementioned original certificates of title in favor of any bank or financial institution of their choice, judgment and discretion subject to the usual conditions or such other terms which may be imposed by said bank or financial institutions, in order to secure and ensure the repayment of any loan

<sup>6</sup> Id. at 48-49.  
<sup>7</sup> Records, pp. 7-8.

indebtedness or obligation which our herein attorneys-in-fact may obtain by virtue of this power and authority with the further authority to receive the proceeds of such loan whether in cash, check or other bills of exchange with the corresponding obligation on the part of the attorney-in-fact to account for or render an accounting of the loan proceeds to us or in our favor;

2. To sign, execute, and deliver any deed or deeds of real estate mortgage over the aforestated parcels of land and the certificates of title covering the same in favor of the lending bank or financial institution or to secure any surety agreement, bond or undertaking with any Surety Company who may issue a surety or performance bond to ensure the repayment of any loan taken or obtained by our herein Attorneys-in-fact pursuant to the herein special power of attorney;

3. To do and perform any or all acts which may be necessary to carry out and/or implement the foregoing powers and authority vested by us unto aforementioned attorney-in-fact.

4. GIVING and GRANTING, as well as ratifying and confirming all acts and things which our said Attorney-in-fact will do and perform or has done and performed in or about the premises which acts and things done or performed or still to be done or performed are, for all legal intents and purpose are our own as if we ourselves were personally present.<sup>8</sup>

Without notice to petitioners, respondents executed a Revocation of Power of Attorney<sup>9</sup> effective at the end of business hours of July 17, 2000.<sup>10</sup>

On July 18, 2000, the Philippine Veterans Bank (PVB) approved the loan application of petitioner Ching in the amount of ₱25 million for a term of five years subject to certain conditions, to wit:

1) Third party mortgages acceptable. Within one (1) year, however, all mortgaged properties should be in the name of American Boulevard or Albert Ching;

2) Submission of new tax declarations free from claimants;

3) Submission of certification/clearance from DENR that said properties are not subject to forest reserve;

4) To require right of way of at least 6 meters wide which can be used as an actual access road.<sup>11</sup>

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<sup>8</sup> Id.

<sup>9</sup> Id. at 28.

<sup>10</sup> *Rollo*, p. 49

<sup>11</sup> Id.

On July 31, 2000, petitioner Ching thru a letter<sup>12</sup> informed respondents of the approval of the loan.<sup>13</sup>

Sometime in the first week of August 2000, petitioners learned about the revocation of the SPA.<sup>14</sup> Consequently, petitioners sent a letter<sup>15</sup> to respondents demanding that the latter comply with the agreement by annulling the revocation of the SPA.<sup>16</sup>

On September 8, 2000, petitioners filed before the Regional Trial Court (RTC) of Quezon City a Complaint<sup>17</sup> for Annulment of Revocation of SPA, Enforcement of SPA and/or interest in the properties covered by said SPA and Damages against respondents. Petitioners later amended<sup>18</sup> the Complaint, docketed as Q00-41851, to include an alternative prayer to have them declared as the owners of one-half of the properties covered by the SPA.<sup>19</sup>

Petitioners alleged that the SPA is irrevocable because it is a contract of agency coupled with interest.<sup>20</sup> According to them, they agreed to defray the costs or expenses involved in processing the loan because respondents promised that they would have an equal share in the proceeds of the loan or the subject properties.<sup>21</sup>

In their Answer,<sup>22</sup> respondents contended that petitioners have no cause of action.<sup>23</sup> Respondents alleged that they executed the SPA in favor of petitioners because of their assurance that they would be able to get a loan in the amount of ₱50 million and that ₱30 million would be given to respondents within a month's

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<sup>12</sup> Records, p. 328.

<sup>13</sup> *Rollo*, p. 50.

<sup>14</sup> Records, p. 18.

<sup>15</sup> Id. at 324.

<sup>16</sup> *Rollo*, p. 50.

<sup>17</sup> Records, pp. 1-6.

<sup>18</sup> Id. at 16-21.

<sup>19</sup> Id. at 19.

<sup>20</sup> Id. at 17.

<sup>21</sup> Id.

<sup>22</sup> Id. at 44-50.

<sup>23</sup> Id. at 45.

time.<sup>24</sup> When the one-month period expired, respondents complained to petitioner Ching and asked him to advance the amount of ₱500,000.00.<sup>25</sup> Petitioner Ching acceded to their request on the condition that they hand over to him the original titles for safekeeping.<sup>26</sup> Respondents, in turn, asked petitioner Ching to give them ₱1 million in exchange for the titles.<sup>27</sup> Petitioner Ching agreed and so they gave him the titles.<sup>28</sup> However, he never gave them the money.<sup>29</sup> They asked him to return the titles, but he refused.<sup>30</sup> Later, they were informed that the loan was approved in the amount of ₱25 million and that their share would be ₱6 million.<sup>31</sup> Since it was not the amount agreed upon, respondents revoked the SPA and demanded the return of the titles.<sup>32</sup>

### ***Ruling of the Regional Trial Court***

On December 18, 2002, the RTC rendered a Decision<sup>33</sup> in favor of petitioners. It upheld the validity of the SPA and declared its revocation illegal and unjust.<sup>34</sup> But although the SPA was declared valid, the RTC held that it could no longer be enforced because the circumstances present at the time of its execution have changed.<sup>35</sup> For this reason, the RTC found respondents liable for all the damages caused by the illegal revocation.<sup>36</sup> The RTC also declared petitioners owners of one-half of the subject properties.<sup>37</sup> As to the deficiency in the payment of the docket fees, if any, the RTC ruled that it would be considered a lien on the judgment.<sup>38</sup> Thus:

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<sup>24</sup> Id. at 46.

<sup>25</sup> Id.

<sup>26</sup> Id.

<sup>27</sup> Id.

<sup>28</sup> Id.

<sup>29</sup> Id.

<sup>30</sup> Id. at 47.

<sup>31</sup> Id.

<sup>32</sup> Id.

<sup>33</sup> *Rollo*, pp. 68-87; penned by Judge Normandie B. Pizarro.

<sup>34</sup> Id. at 79.

<sup>35</sup> Id. at 82.

<sup>36</sup> Id. at 79.

<sup>37</sup> Id. at 82.

<sup>38</sup> Id. at 86.

**WHEREFORE**, premises considered, judgment is hereby rendered declaring the [petitioners] to be the owners of 50% or one-half, pro-indiviso, of all the parcels of lands covered by OCT Nos. OP-787, OP-788, OP-789, OP-799, OP-793, OP-805, OP-806, OP-807, OP-790, OP-791, OP-800 and OP-801.

Furthermore, [respondents] are ordered to pay [petitioners] jointly and solidarily the following sums, to wit:

1. As actual damages:
  - a. The amount covered by the receipts which the [petitioners] used in procuring the loan after the SPA was executed amounting to ₱949,960.40; and
  - b. The amount of ₱500,000.00 as actual damages for the amount paid out to the [respondents] in exchange for the original certificates of title;
2. As moral damages, the amount of Php500,000.00 in favor [of] Albert M. Ching;
3. As exemplary damages, the amount of Php100,000.00; and
4. As attorney's fees, the amount of Php100,000.00.

No costs.

SO ORDERED.<sup>39</sup>

Aggrieved, respondents elevated the case to the CA.

Pending appeal, a Motion for Intervention with attached Petition-in-Intervention<sup>40</sup> was filed by First Aikka Development, Inc. and Sadamu Watanabe. They alleged that respondents individually executed Deeds of Irrevocable SPAs authorizing Tagaytay and Taal Management Corporation (TTMC), represented by its Japanese President Wataru Minagawa, to sell, lease, mortgage, or administer the subject properties;<sup>41</sup> and that by virtue of the said SPAs, they entered into a Memorandum of Agreement and a Supplement to Memorandum of Agreement with respondents and TTMC, whereby respondents agreed to sell the subject

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<sup>39</sup> Id. at 86-87. Emphasis in the original.

<sup>40</sup> CA *rollo*, 10-35.

<sup>41</sup> Id. at 19-20.

property to them.<sup>42</sup> Thus, they prayed that the Decision of the RTC be vacated and set aside, and that judgment be rendered in their favor.<sup>43</sup>

### ***Ruling of the Court of Appeals***

On June 15, 2004, the CA issued a Resolution<sup>44</sup> denying the Motion for Intervention for being filed out of time.

On July 31, 2006, the CA modified the Decision of the RTC. The CA ruled that petitioners are not entitled to one-half of the subject properties because it is contrary to human experience for a person to give one-half of his property to someone he barely knows.<sup>45</sup> The CA likewise ruled that petitioners are not entitled to reimbursement because they failed to show that the receipts presented in evidence were incurred in relation to the loan application.<sup>46</sup> As to the award of exemplary damages, the CA deleted the same because respondents did not act in a wanton, fraudulent, reckless, oppressive or malevolent manner.<sup>47</sup> The decretal portion of the CA Decision reads:

**WHEREFORE**, premises considered, the assailed decision is hereby **MODIFIED** as follows:

1. The Revocation of the Power of Attorney executed by the [respondents] is hereby declared null and void. The Special Power of Attorney dated April 3, 2000 is considered valid and subsisting;
2. The amount of ₱500,000.00 paid by the [petitioner] Ching to the [respondents] should be deducted from the amount to be loaned;
3. The expenses incurred and to be incurred in the processing of the loan application must be borne by the [petitioners] alone;
4. The [petitioners] are not entitled to the one-half of all the parcerls of land covered by OCT Nos. OP-787, OP-788, OP-789, OP-799, OP-793, OP-805, OP-806, OP-807, OP-790, OP-791, OP-800 and OP-801; and

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<sup>42</sup> Id. at 22-24.

<sup>43</sup> Id. at 30-31.

<sup>44</sup> Id. at 184-185; penned by Associate Justice Mario L. Guariña III and concurred in by Associate Justices Rodrigo V. Cosico and Santiago Javier Ranada.

<sup>45</sup> *Rollo*, p. 54.

<sup>46</sup> Id. at 54-55.

<sup>47</sup> Id. at 56.

5. The award of moral damages in the amount of ₱500,000.00 and attorney's fees in the amount of ₱100,000.00 are in order. The award of exemplary damages is deleted.

SO ORDERED.<sup>48</sup>

Petitioners moved for reconsideration but the CA denied the same in a Resolution<sup>49</sup> dated March 12, 2007.

### Issues

Hence, this petition raising the following issues:

#### A.

WHETHER X X X THE [CA] ERRED IN RULING THAT PETITIONERS' RECOVERY OF THE ACTUAL DAMAGES IN THE AMOUNT OF PHP500,000.00 BE MADE CONTINGENT UPON THE OBTENTION OF A LOAN THROUGH THE SUBJECT SPECIAL POWER OF ATTORNEY, WHICH THE RESPONDENTS, IN THE FIRST PLACE, REFUSED TO HONOR AND REVOKED IN BAD FAITH AND ILLEGALLY.

#### B.

WHETHER X X X THE [CA] ERRED IN RULING THAT THE PETITIONERS ARE NOT ENTITLED TO ONE-HALF OF THE RESPONDENTS' PROPERTIES DESPITE THE FINDING OF THE [RTC] THAT THE CONSIDERATION THEREFOR WAS THAT THE PETITIONERS SHALL PAY FOR THE LOAN TO BE OBTAINED UTILIZING THE RESPONDENTS' PROPERTIES AND THE FINDING OF THE [RTC] THAT PETITIONER CHING, TO HIS GRAVE PREJUDICE, FAILED TO UTILIZE THE PROCEEDS OF THE LOAN FOR THE LATTER'S BUSINESS PLAN AS WELL AS TO RECOVER HIS SHARE IN THE EXPENSES, WHICH PETITIONER CHING ADVANCED IN PROCURING THE LOAN.

#### C.

WHETHER X X X THE [CA] ERRED IN RULING THAT THE EXPENSES INCURRED AND TO BE INCURRED BY THE PETITIONERS IN APPLYING FOR A LOAN THROUGH THE SPA SHOULD BE BORNE BY THE PETITIONER[S] DESPITE THE EXISTENCE OF AN AGREEMENT TO THE CONTRARY BETWEEN THE PETITIONERS AND RESPONDENTS, THE EXISTENCE OF WHICH AGREEMENT WAS DULY FOUND BY THE [RTC].

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<sup>48</sup> Id. at 57-58.

<sup>49</sup> Id. at 60.



## D.

WHETHER X X X THE [CA] ERRED IN RULING THAT RESPONDENTS ARE NOT LIABLE TO PAY EXEMPLARY DAMAGES FOR REVOKING THE SPA IN BAD FAITH ON THE RATIOCINATION THAT THE RESPONDENTS DID NOT ACT IN A WANTON, FRAUDULENT, RECKLESS, OPPRESSIVE OR MALEVOLENT MANNER BECAUSE THE RESPONDENTS WERE PURPORTEDLY UNSATISFIED WITH THE AMOUNT OF THE LOAN APPROVED.<sup>50</sup>

***Petitioners' Arguments***

Petitioners, in essence, seek the reinstatement of the Decision of the RTC.<sup>51</sup> They contend that the CA's directive that the actual damages in the amount of ₱500,000.00 be deducted from the amount to be loaned, is a conditional judgment, and thus, null and void.<sup>52</sup> In addition, they claim that they are entitled to one-half of the subject properties,<sup>53</sup> and to reimbursement of all expenses incurred in procuring the loan.<sup>54</sup> Finally, they impute error on the part of the CA in deleting the award for exemplary damages, contending that the revocation was done by respondents in a malevolent and oppressive manner.<sup>55</sup>

***Respondents' Arguments***

Respondents, on the other hand, argue that the judgment was not conditional because the CA categorically declared respondents liable to return the amount of ₱500,000.00 to petitioner Ching.<sup>56</sup> They insist that they never agreed to give petitioners one-half of their respective properties.<sup>57</sup> Neither did they agree to reimburse petitioner Ching all the expenses incurred in obtaining the loan.<sup>58</sup> Petitioner Ching, in fact, admitted in court that he agreed to shoulder all the

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<sup>50</sup> Id. at 134-135.

<sup>51</sup> Id. at 144.

<sup>52</sup> Id. at 136-138.

<sup>53</sup> Id. at 138- 141.

<sup>54</sup> Id. at 141-142.

<sup>55</sup> Id. at 143-144.

<sup>56</sup> Id. at 159-162.

<sup>57</sup> Id. at 162-166.

<sup>58</sup> Id. at 166-172.

expenses.<sup>59</sup> Also, petitioners are not entitled to exemplary damages because when respondents revoked the SPA, they did not act in a wanton, fraudulent, reckless, oppressive or malevolent manner.<sup>60</sup>

### **Our Ruling**

The petition is partly meritorious.

There is no question that the SPA executed by respondents in favor of petitioners is a contract of agency coupled with interest.<sup>61</sup> This is because their bilateral contract depends upon the agency.<sup>62</sup> Hence, it “cannot be revoked at the sole will of the principal.”<sup>63</sup>

The only issue therefore is the extent of the liability of respondents and the damages to be awarded to petitioners.

***Petitioner Ching is entitled to actual damages in the amount of ₱500,000.00 without any condition.***

In exchange for his possession of the titles, petitioner Ching advanced the amount of ₱500,000.00 to respondents. Considering that the loan application with PVB did not push through, respondents are liable to return the said amount to petitioner Ching.

In ordering the award of ₱500,000.00, the CA decreed:

2. The amount of ₱500,000.00 paid by the [petitioner] Ching to the [respondents] should be deducted from the amount to be loaned;<sup>64</sup>

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<sup>59</sup> Id. at 166-168.

<sup>60</sup> Id. at 172-177.

<sup>61</sup> Id. at 53-54.

<sup>62</sup> *Republic of the Philippines v. Judge Evangelista*, 504 Phil. 115, 121 (2005).

<sup>63</sup> Id.

<sup>64</sup> *Rollo*, p. 57.

Obviously, the language employed by the CA made the judgment conditional. The return of the amount of ₱500,000.00 should not depend on the happening of a future event.<sup>65</sup> Whether or not a loan is obtained by petitioners, respondents are liable to pay the amount of ₱500,000.00 as actual damages. Thus, the dispositive portion of the CA Decision should be modified by ordering respondents to pay actual damages in the amount of ₱500,000.00, without any condition.

***Petitioners are not entitled to one-half of the subject properties.***

As to petitioners' claim to one-half of the subject properties, we agree with the CA that:

x x x it is far from human experience that a person will give half of his property to another person whom he barely knows. It is clear from the records of the case that the [respondents] do not know [petitioner] Ching. It was [petitioner] Bautista who introduced him to [respondent] Bantolo. The [respondents] agreed to give an SPA to Ching, because they were informed that the latter could help them secure a loan with their pieces of property as collateral. No one in his right mind would definitely agree to give half of his property to another. It is certain that they agreed that they would share in the proceeds of the loan but not in the property. **Hence, [petitioners] are not entitled to one-half of the property.**<sup>66</sup> (Emphasis supplied)

In fact, other than petitioner Ching's self-serving testimony,<sup>67</sup> no evidence was presented to show that respondents agreed to give one-half of the properties to petitioners.

***Petitioners are not entitled to reimbursement of all the expenses incurred in obtaining a loan.***

Petitioner Ching testified in court that he agreed to shoulder all the

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<sup>65</sup> *Pascua v. Heirs of Segundo Simeon*, 244 Phil. 1, 6 (1988).

<sup>66</sup> *Rollo*, p. 54.

<sup>67</sup> TSN, June 20, 2001, Direct Examination of petitioner Ching, pp. 5-6.

expenses, to wit:

Atty. Figueroa:

Mr. Witness, during your testimony in the last hearing, you said that [respondent] Bantolo approached you and proposed a business transaction with you, basically using a property, parcels of land, as collateral for a bank loan, which you are supposed to take care of. Now, you also testified in the last hearing that you will personally take care of the [loan application], and in fact, this loan application was approved by Philippine Veterans Bank. Now, by way of recapitulation, Mr. Witness, can you please tell us who will shoulder the expenses that will be incurred in the processing of this loan application?

A - I will shoulder everything.

Q - But you have an agreement with [respondent] Bantolo, and pursuant to this agreement, Mr. Witness, once the application for loan was approved, what will happen?

A - According to him, we will share 50-50 [in] the amount that we will pay and I have the option to choose between the money, if the same is small [or] to take the 50% of the property.

Q - That sharing agreement, Mr. Witness, is premised on the condition that the loan application will be approved. What happens, now, Mr. witness, if the loan is not approved by the bank[?] What happens specifically to the expenses that you have incurred in the processing of the loan application[?]

Atty. Noel:

Objection, your Honor. That question was already asked. In fact, the witness started on a general term, without any condition, that he will shoulder all the expenses. He did not qualify whether the loan will be approved or not. It has been answered already.

Court:

We are at the stage of direct examination. In the interest of truth, you answer.

A - I asked them about that but they told me that they don't have money to pay me, **so I shouldered all the expenses. I took the risk of shouldering all the expenses.**

Atty. Figueroa:

You said you took the risk. Will you be more specific what do you mean by this risk that you took, as far as the expenses are concerned?

A - What I mean, sir, is that **I will not be able to recover all my expenses if the loan is not granted by the Philippine Veterans Bank.**<sup>68</sup>  
(Emphasis supplied)

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<sup>68</sup> Id. at 5-7.

For this reason, we find that petitioners are not entitled to the reimbursement of the expenses they have incurred in applying for the loan.

Besides, petitioners failed to show that the receipts submitted as evidence were incurred in relation to the loan application.<sup>69</sup> As aptly pointed out by the CA, majority of the receipts were incurred abroad and in connection with petitioner Ching's business dealings.<sup>70</sup>

***Petitioners are not entitled to exemplary damages.***

Neither are petitioners entitled to exemplary damages.

Article 2229<sup>71</sup> of the Civil Code provides that exemplary damages may be imposed "by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages." They are, however, not recoverable as a matter of right.<sup>72</sup> They are awarded only if the guilty party acted in a wanton, fraudulent, reckless, oppressive or malevolent manner.<sup>73</sup>

In this case, we agree with the CA that although the revocation was done in bad faith, respondents did not act in a wanton, fraudulent, reckless, oppressive or malevolent manner. They revoked the SPA because they were not satisfied with the amount of the loan approved. Thus, petitioners are not entitled to exemplary damages.

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<sup>69</sup> *Rollo*, p. 55.

<sup>70</sup> *Id.*

<sup>71</sup> Exemplary or corrective damages are imposed, by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages.

<sup>72</sup> CIVIL CODE, Art. 2233 provides:

Exemplary damages cannot be recovered as a matter of right; the court will decide whether or not they should be adjudicated.

<sup>73</sup> CIVIL CODE, Art. 2232 provides:

In contracts and quasi-contracts, the court may award exemplary damages if the defendant acted in a wanton, fraudulent, reckless, oppressive, or malevolent manner.

## **CERTIFICATION**

I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**MARIA LOURDES P. A. SERENO**

*Chief Justice*

WHEREFORE, the petition is hereby partially **GRANTED**. The assailed Decision dated July 31, 2006 and the Resolution dated March 12, 2007 of the Court of Appeals in CA-G.R. CV No. 79886 are hereby **AFFIRMED** with **MODIFICATION** that respondents are ordered to pay petitioner Ching actual damages in the amount of ₱500,000.00.

SO ORDERED.



MARIANO C. DEL CASTILLO

*Associate Justice*

WE CONCUR:



ANTONIO T. CARPIO

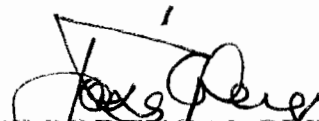
*Acting Chief Justice*

*Chairperson*



ARTURO D. BRION

*Associate Justice*



JOSE PORTUGAL PEREZ

*Associate Justice*

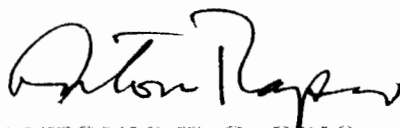


ESTELA M. PERLAS-BERNABE

*Associate Justice*

### CERTIFICATION

I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO

*Acting Chief Justice*