



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

RENO R. GONZALES,¹ LOURDES R. GONZALES, and REY R. GONZALES,

Petitioners,

G.R. No. 181096

Present:

- versus -

CAMARINES SUR II ELECTRIC COOPERATIVE, INC., as represented by ANTONIO BORJA, JANE T. BARRAMEDA, and REGINA (NENA) D. ALVAREZ,

Respondents.

SERENO, *CJ*, Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 VILLARAMA, JR., and
 REYES, *JJ*.

Promulgated:

MAR 06 2013

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DECISION

SERENO, *CJ*:

Before this Court is a Rule 45 Petition, seeking a review of the 18 December 2007 Court of Appeals (CA) Decision in CA-G.R. CV No. 86075,² which deleted the award of actual damages, exemplary damages, and attorney's fees and reduced the moral damages granted to petitioners in the 25 June 2005 Decision of the Regional Trial Court (RTC) of Naga City, Branch 27 in Civil Case No. 99-4439.³

The antecedent facts are as follows:⁴

Petitioner spouses Reno Gonzales (Reno) and Lourdes Gonzales owned an apartment for rent at Naga City, Unit No. 11-A of which was

¹ Died on 16 January 2005.

² *Rollo*, pp. 38-46; CA Decision, penned by Associate Justice Myrna D. Vidal, with Associate Justices Jose L. Sabio, Jr. and Jose C. Reyes, Jr. concurring.

³ *Rollo*, pp. 72-84; RTC Decision penned by Judge Leo L. Intia.

⁴ *Id.* at 39-42.

rented out to Mr. and Mrs. Samuel Samson (Samsons). These lessees reneged on their obligation to pay the unit's electric bills for the second semester of 1992. As a result, respondent Camarines Sur II Electric Cooperative, Inc. (CASURECO) disconnected the power supply.

Nevertheless, electric power was restored to the unit when the Samsons executed a Promissory Note in favor of CASURECO promising to pay their overdue electric bills.

The spouses Gonzales then protested the restoration of the power supply to the unit, given the accumulating unpaid electric bills of their lessees for the second semester of 1992.⁵ Acting belatedly on the protest, CASURECO terminated the power supply of the unit at the time that the Samsons vacated it.

With a new lessee about to occupy the unit, the spouses Gonzales wrote CASURECO and sought a dialogue with its area manager, Jane Barrameda, to restore the unit's power supply. As a result of their dialogue, the parties reached a compromise agreement, whereby CASURECO would restore power supply to the unit and remove its old accountabilities, provided that petitioners would deposit the equivalent of two monthly electric bills of the Samsons. Accordingly, petitioners complied with their obligation which resulted in the restoration of the power supply to the unit.

On 9 December 1994, the power supply to the unit was again cut off. Thus, Reno wrote to respondents and reminded them of the compromise agreement to remove the old accountabilities of the unit. Thereafter, electric power was restored.

Later on, the spouses' son, petitioner Rey R. Gonzales (Rey), together with his family, occupied the unit without any interruption of electric supply. However, in some electric bills issued by CASURECO, the company required the payment of both the current consumption and the past electric bills. The bills contained a notice of disconnection of electric services if the dues were not paid. All in all, from 1992 to 1999, petitioners constantly reminded respondent of their compromise agreement, which had already committed CASURECO to write off the past unpaid power bills.

Of these bills, the electric bill⁶ for 23 August 1999 to 23 September 1999 in the amount of ₱1,148.17 included the past unpaid electric bills in the total amount of ₱11,6745.22 [sic].⁷ Rey tendered only ₱1,148.17 as payment

⁵ Id. at 48-49, letters dated 31 August 1992 and 21 May 1993.

⁶ Records, p. 305.

⁷ The electric bill reflects ₱11,617.81 as the total amount due on or before due date.

for the current consumption, which the teller of CASURECO refused to accept.

Days after the bill's due date, CASURECO allowed petitioners to pay only the current consumption. Reno subsequently went to the office of respondent to pay, but he angrily left the premises because the teller wanted to collect the surcharge of ₱21 for late payment.

As a result, petitioners filed a Complaint against respondents for consignation, mandamus, injunction and damages before the RTC in order to permanently remove the old accountability left by the Samsons in the electric bill and to prevent respondents from disconnecting the unit's power supply. They also consigned to the trial court the charges for their current electric consumption amounting to ₱1,148.17.

In its 25 June 2005 Decision,⁸ the RTC accepted the consignation of petitioners as effective payment for the unit's current electric consumption. It also adjudged that they were not liable for the past unpaid electric bills of the Samsons by virtue of a valid and binding compromise agreement⁹ between petitioners and CASURECO.

Furthermore, the RTC found that respondents harassed petitioners with constant threats of electric service disconnection. For seven years, they had to keep going to CASURECO's office every time they received a monthly bill, only to explain to the management that the unit's old accountabilities had long been settled. In order to teach CASURECO a lesson and to prevent such wanton, fraudulent, reckless, oppressive and malevolent acts from happening to other hapless consumers, the RTC granted actual, moral, and exemplary damages, as well as attorney's fees and cost of suit in favor of petitioners.¹⁰ The dispositive portion reads:

WHEREFORE, the Court finds for the Plaintiffs and hereby declares/orders that:¹¹

A) The consignation made by plaintiffs is valid; there was a compromise agreement by and between plaintiffs and defendant on the old accountability incurred by the previous lessee - Mr. Samson; The plaintiffs are not liable to pay for the electric power consumption of their previous lessee Mr. Samson, and defendant is ordered to desist from cutting electric service to the Unit by reason of such non-payment by, or liability of, Mr. Samson.

⁸ *Rollo*, pp. 72-84; RTC Decision dated 25 June 2005.

⁹ *Id.* at 80-82.

¹⁰ *Id.* at 83-84.

¹¹ *Id.* at 84.

B) Defendant CASURECO to pay Plaintiffs:

1. Actual damages in the amount of Pesos: Five Thousand (₱5,000.00);
2. Moral damages in the amount of Pesos; Fifty Thousand (₱50,000.00);
3. Exemplary damages in the amount of Pesos: Fifty Thousand (₱50,000.00);
4. Attorney's fees on quantum meruit basis in the amount of Pesos: Fifty Thousand (₱50,000.00);
5. The cost of suit in the amount of not less that Pesos: Two Thousand Eight Hundred Sixty and Seventy[-]Five Centavos (₱2,860.75).

SO ORDERED.

Aggrieved, respondents appealed to the CA and raised new issues pertaining to the solidary liability of the spouses Gonzales and the Samsons for the unpaid electric bills. The appellate court no longer discussed the assigned error for having been alleged only for the first time on appeal.

In this respect, petitioners obtained favorable judgment from the CA resulting in the affirmation of the RTC's ruling that, by virtue of a compromise agreement, petitioners were not liable for the old accountabilities of the unit. This Court notes that since this particular issue was not appealed by either petitioners or respondents, this matter is already considered settled and final between the parties.¹²

However, the CA modified the award of damages.¹³ It deleted the award of actual damages in the amount of ₱5,000, because petitioners failed to submit receipts or any other proof to substantiate the pecuniary loss they had incurred in restoring the unit's power supply. It also removed the grant of exemplary damages based on the finding that CASURECO's actions did not evince bad faith.

The CA further explained that petitioners, as the winning party, were not automatically entitled to attorney's fees. It reasoned that none of the instances of granting that award as enumerated in Article 2208 of the Civil Code existed in the case. Hence, it deleted the grant of attorney's fees. Moreover, it ruled that the RTC's award of moral damages to petitioners was excessive. It thus reduced the award of moral damages from ₱50,000 to ₱25,000.

¹² *Philippine National Bank v. Spouses Francisco*, 398 Phil. 654 (2000).

¹³ *Rollo*, pp. 42-46.

Dissatisfied with the deletion and reduction of compensation for damages, petitioners seek from this Court the grant of the following: (1) actual damages or, in the alternative, temperate damages; (2) exemplary damages; (3) attorney's fees; and (4) an increase in the award of moral damages. Clearly, the sole contention raised in the instant appeal is whether or not petitioners are entitled to the aforementioned damages.

RULING OF THE COURT

Actual Damages vis à vis Temperate Damages

From the years 1992 to 1999, petitioners maintain that they are entitled to compensatory damages because of their actual expenditures in going to and from CASURECO's office in order to forestall the disconnection of the unit's power supply. These expenses allegedly include transportation and gasoline, postage of letters, photocopying, and printing of documents.

Despite the enumeration of expenditures, the claim of petitioners for actual damages cannot be granted. In *People v. Buenavidez*,¹⁴ this Court stressed that only expenses supported by receipts, and not merely a list thereof, shall be allowed as bases for the award of actual damages. As admitted by petitioners themselves,¹⁵ none of these expenses, which were incurred over a span of seven years, was backed up by documentary proof such as a receipt or an invoice. Considering, therefore, that adequate compensation is awarded only if the pecuniary loss suffered is proven¹⁶ by competent proof and by the best evidence obtainable showing the actual amount of loss,¹⁷ the CA correctly denied petitioners' claims for actual damages.

In the alternative, petitioners contend anew in their Rule 45 Petition that they are entitled to temperate damages. They argue that they definitely suffered pecuniary losses, as they had to keep going back to CASURECO's office to complain about the old accountabilities of the Samsons.

Anent this contention, we rule in favor of petitioners. Prefatorily, even if this claim was raised only for the first time on appeal and, hence, generally not cognizable by this Court,¹⁸ we have nevertheless given due course to newly raised questions that are closely related to or dependent on

¹⁴ 458 Phil. 25, 34 (2003).

¹⁵ *Rollo*, p. 23.

¹⁶ CIVIL CODE, Art. 2199.

¹⁷ *ACI Philippines, Inc. v. Coquia*, G.R. No. 174466, 14 July 2008, 558 SCRA 300, 313.

¹⁸ *Canada v. All Commodities Marketing Corporation*, G.R. No. 146141, 17 October 2008, 569 SCRA 321.

an assigned error.¹⁹ As an illustrative case, we have resolved the issue of temperate damages in *Viron Transportation Co., Inc. v. Delos Santos*,²⁰ albeit raised only in the petition for review on certiorari filed before this Court.

Article 2224 of the Civil Code provides that temperate damages may be recovered when the court finds that some pecuniary loss has been suffered but its amount cannot, from the nature of the case, be provided with certainty.

Notwithstanding the wording of the Civil Code cited above, we have already settled in jurisprudence²¹ that even if the pecuniary loss suffered by the claimant is capable of proof, an award of temperate damages is not precluded. The grant of temperate damages is drawn from equity to provide relief to those definitely injured. Therefore, it may be allowed so long as the court is convinced that the aggrieved party suffered some pecuniary loss.²²

Here, the RTC acknowledged that petitioners suffered some form of pecuniary loss when it accepted as fact that they went back and forth to the office of CASURECO at Del Rosario, Naga City, to settle the account of the Samsons. Although the CA did not review this factual finding, we find that the RTC's pronouncement on this matter was nonetheless substantiated by the evidence on record given the attached letters with postages, documents, and testimonies that signified an ongoing transaction between the parties to settle the electric charges. Indeed, they were at least able to prove that they incurred undue costs in pursuing their rights against CASURECO.

Hence, the award of temperate damages to petitioners is in order. Given that these are more than nominal but less than compensatory damages,²³ we deem it reasonable under the circumstances²⁴ to award them ₱3,000.

Deletion of the Award for Exemplary Damages and Attorney's Fees

Petitioners assert that CASURECO acted in bad faith when it kept on unjustifiably charging them the old accountabilities of the unit despite knowing very well that the spouses were under no obligation to pay based on the compromise agreement. To make matters worse, CASURECO did not only disconnect the unit's power supply but also continuously threatened

¹⁹ RULES OF COURT, Rule 51, Sec. 8.

²⁰ 399 Phil. 243 (2000).

²¹ *Republic v. Tuvera*, G.R. No. 148246, 16 February 2007, 516 SCRA 113, 151-152.

²² *Tan v. OMC Carriers, Inc.*, G.R. No. 190521, 12 January 2011, 639 SCRA 471, 482.

²³ CIVIL CODE, Art. 2224.

²⁴ CIVIL CODE, Art. 2225.

them with disconnection. For these acts pursued in bad faith, petitioners claim that they are entitled to exemplary damages and, consequently, attorney's fees.

In order to obtain exemplary damages under Article 2232 of the Civil Code, the claimant must prove that the assailed actions of the defendant are not just wrongful, but also wanton, fraudulent, reckless, oppressive or malevolent.

In this case, the CA concluded that there was no evidence that CASURECO acted in bad faith. Sadly, this conclusion was not preceded by any explanation from the appellate court.

In contrast, the RTC discussed the evident bad faith of respondents. With the promissory note issued by the Samsons, respondents recognized that the obligation to pay the electric bills did not belong to petitioners. Additionally, the compromise agreement also purported that petitioners were not liable to pay the old accountabilities of the unit. However, despite the clear import of the compromise agreement and the promissory note, the RTC highlighted that CASURECO betrayed the compromise agreement by refusing to remove the old accountabilities of the unit, unjustifiably and repetitively reflecting them for seven years in several electric bills of petitioners with threats of electric service disconnection, and unduly disconnecting the unit's power supply. The trial court thus concluded that CASURECO could not be deemed to have exercised honesty and good faith in transacting with petitioners.

Absent any contrary finding by the CA, and as clearly borne out by the compromise agreement²⁵ and the electric bills²⁶ adverted to, we affirm the findings of the trial court. Consequently, we reinstate the award of exemplary damages given to petitioners by the RTC.

As regards attorney's fees, the Civil Code provides that the award shall be given to the claimant if exemplary damages are awarded,²⁷ or if the defendant acted in gross and evident bad faith in refusing to satisfy the former's plainly valid, just and demandable claim.²⁸

Clearly, with the finding of bad faith in CASURECO's betrayal of the compromise agreement, and given that the award of exemplary damages is proper, this Court finds basis for restoring the grant of attorney's fees. We thus reinstate the award of attorney's fees to petitioners.

²⁵ *Rollo*, pp. 80-82, RTC Decision dated 25 June 2005.

²⁶ *Records*, pp. 9-10.

²⁷ CIVIL CODE, Art. 2208 (1).

²⁸ CIVIL CODE, Art. 2208 (5).

The Award of Moral Damages

Petitioners assert that for seven long years, they were harassed, stressed, troubled, bothered and inconvenienced by the threats of disconnection over the old accountabilities of the unit, which, in the first place, were not their responsibility. Furthermore, they aver that although they constantly tried to remedy the problem through explanations and requests for correction of the electric bills, they still suffered from actual disconnection of electric supply. Finally, they emphasize that at the time the incidents in this case were transpiring, the spouses were supposed to be enjoying their retirement, while Rey was just starting to rear his family. For petitioners, these aforementioned circumstances justify the increase of moral damages to ₱50,000.

Both courts *a quo* agree²⁹ that petitioners are entitled to moral damages, since they adduced proof of moral suffering, mental anguish, fright and the like.³⁰ However, the CA ruled that the award of moral damages by the RTC was excessive and, hence, reduced the amount thereof from ₱50,000 to ₱25,000.

We disagree with the ruling of the CA on this matter. In *Danao v. Court of Appeals*,³¹ we laid down the rule that “the fairness of the award of damages by the trial court also calls for an appellate determination such that where the award of moral damages is far too excessive compared to the actual losses sustained by the claimants, the former may be reduced.”

In view, however, of the severe sufferings inflicted on petitioners by CASURECO, we affirm the RTC’s award of ₱50,000 as moral damages. This amount is appropriate considering that respondents irresponsibly failed to update its records from 1992 until 1999, despite the execution of the compromise agreement and the constant reminder by petitioners to make the appropriate rectifications. We further note that CASURECO offered no valid explanation for such flagrant omission. Hence, this Court maintains the original grant in order to exact better service from utility companies.

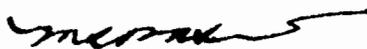
IN VIEW THEREOF, the 18 December 2007 Decision of the Court of Appeals in CA-G.R. CV No. 86075 is **AFFIRMED with the MODIFICATION** that temperate damages in the amount of ₱3,000 is granted to petitioners; and that the awards for exemplary damages, attorney’s fees and moral damages, as determined by the 25 June 2005 Decision of the Regional Trial Court in Civil Case No. 99-4439, are hereby reinstated.

²⁹ *Rollo*, p. 44, CA Decision dated 18 December 2007; *rollo*, pp. 82-84, RTC Decision dated 25 June 2005.

³⁰ CIVIL CODE, Art. 2217.

³¹ 238 Phil. 447, 461 (1987).

SO ORDERED.



MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

WE CONCUR:

Terésita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Martin S. Villarama, Jr.
MARTIN S. VILLARAMA, JR.
Associate Justice

Bienvenido L. Reyes
BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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