

## FIRST DIVISION

[ G.R. No. 163654, October 08, 2014 ]

**BPI EXPRESS CARD CORPORATION,\* PETITIONER, VS. MA.  
ANTONIA R. ARMOVIT, RESPONDENT.**

### D E C I S I O N

#### **BERSAMIN, J.:**

This case involves a credit card holder's claim for damages arising from the suspension of her credit privileges due to her supposed failure to re-apply for their reactivation. She has insisted that she was not informed of the condition for reactivation.

#### **The Case**

Petitioner BPI Express Credit Card Corporation (BPI Express Credit) seeks the reversal of and assails the adverse decision promulgated on February 26, 2004,<sup>[1]</sup> whereby the Court of Appeals (CA) affirmed the judgment rendered on April 22, 1996 by the Regional Trial Court, Branch 216, in Quezon City, (RTC) adjudging it liable to pay moral and exemplary damages, attorney's fees and costs of suit to its credit card holder Ma. Antonia R. Armovit, the respondent herein.<sup>[2]</sup>

#### **Antecedents**

Armovit, then a depositor of the Bank of the Philippine Islands at its Cubao Branch, was issued by BPI Express Credit a pre-approved BPI Express Credit Card (credit card) in 1989 with a credit limit of P20,000.00 that was to expire at the end of March 1993.<sup>[3]</sup> On November 21, 1992, she treated her British friends from Hong Kong to lunch at Mario's Restaurant in the Ortigas Center in Pasig. As the host, she handed to the waiter her credit card to settle the bill, but the waiter soon returned to inform her that her credit card had been cancelled upon verification with BPI Express Credit and would not be honored. Inasmuch as she was relying on her credit card because she did not then carry enough cash that day, her guests were made to share the bill to her extreme embarrassment.

Outraged, Armovit called BPI Express Credit to verify the status of her credit card. She learned that her credit card had been summarily cancelled for failure to pay her outstanding obligations. She vehemently denied having defaulted on her payments. Thus, by letter dated February 3, 1993,<sup>[4]</sup> she demanded compensation for the shame, embarrassment and humiliation she had suffered in the amount of P2,000,000.00.

In its reply letter dated February 5, 1993,<sup>[5]</sup> BPI Express Credit claimed that it had sent Armovit a telegraphic message on March 19, 1992 requesting her to pay her

arrears for three consecutive months, and that she did not comply with the request, causing it to temporarily suspend her credit card effective March 31, 1992.<sup>[6]</sup> It further claimed that she had been notified of the suspension and cautioned to refrain from using the credit card to avoid inconvenience or embarrassment;<sup>[7]</sup> and that while the obligation was settled by April, 1992, she failed to submit the required application form in order to reactivate her credit card privileges. Thus, BPI Express Credit countered that her demand for monetary compensation had no basis in fact and in law.

On March 12, 1993, Armovit received a telegraphic message from BPI Express Credit apologizing for its error of inadvertently including her credit card in Caution List No. 225 dated March 11, 1993 sent to its affiliated merchants.<sup>[8]</sup>

As a result, Armovit sued BPI Express Credit for damages in the RTC, insisting that she had been a credit card holder in good standing, and that she did not have any unpaid bills at the time of the incident.

In its answer with counterclaim,<sup>[9]</sup> BPI Express Credit raised the defense of lack of cause of action, and maintained that Armovit had defaulted in her obligations for three consecutive months, thereby causing the temporary suspension of her credit card in accordance with the terms and conditions of the credit card.<sup>[10]</sup> It pointed out that Armovit had been duly notified of the suspension; that for her failure to comply with the requirement for the submission of the application form and other documents as directed in its letter dated April 8, 1992,<sup>[11]</sup> her credit card had not been reactivated and had remained in the list of suspended cards at the time she used it on November 21, 1992; and that the telegraphic message of March 11, 1993, which was intended for another client whose credit card had been erroneously included in the caution list, was mistakenly sent to her.<sup>[12]</sup>

### **Judgment of the RTC**

In the judgment rendered April 22, 1996,<sup>[13]</sup> the RTC, ruling in favor of Armovit, observed that the terms and conditions governing the issuance and use of the credit card embodied in the application form had been furnished to her for the first time only on April 8, 1992, or after her credit card privileges had already been suspended; that, accordingly, she could not be blamed for not complying with the same; that even if she had been notified of the temporary suspension of her credit card, her payment on April 1, 1992 had rendered the continued suspension of her credit card unjustified; and that there was no clear showing that the submission of the application form had been a condition precedent to the lifting of its suspension.

Finding BPI Express Credit guilty of negligence and bad faith, the RTC ordered it to pay Armovit moral damages of P100,000.00; exemplary damages and attorney's fees each in the amount of P10,000.00; and the costs of suit.

### **Decision of the CA**

Both parties appealed to the CA.

On February 26, 2004, the CA promulgated its assailed decision,<sup>[14]</sup> concurring with

the RTC, and declared that because Armovit had not signed any application form in the issuance and renewals of her credit card from 1989 up to 1992, she could not have known the terms and conditions embodied in the application form even if the credit card had specified that its use bound the holder to its terms and conditions. It did not see merit in BPI Express Credit's contention that the submission of a new application form was a pre-requisite for the lifting of the suspension of her credit card, inasmuch as such condition was not stated in a clear and unequivocal manner in its letter dated April 8, 1992. It noted that the letter of apology mentioning another inadvertence committed, even if it claimed the letter of apology as intended for another card holder, still highlighted BPI Express Credit's negligence in its dealings with her account.

Anent Armovit's appeal, the CA did not increase the amounts of damages for lack of basis, observing that moral and exemplary damages were awarded not to enrich her at the expense of BPI Express Credit but to alleviate the anxiety and embarrassment suffered.

BPI Express Credit's motion for reconsideration was denied through the resolution promulgated on May 14, 2004.<sup>[15]</sup>

Hence, this appeal by petition for review on *certiorari*.

### **Issue**

The sole issue is whether or not the CA erred in sustaining the award of moral and exemplary damages in favor of Armovit.

### **Ruling of the Court**

The petition for review lacks merit.

The relationship between the credit card issuer and the credit card holder is a contractual one that is governed by the terms and conditions found in the card membership agreement.<sup>[16]</sup> Such terms and conditions constitute the law between the parties. In case of their breach, moral damages may be recovered where the defendant is shown to have acted fraudulently or in bad faith.<sup>[17]</sup> Malice or bad faith implies a conscious and intentional design to do a wrongful act for a dishonest purpose or moral obliquity.<sup>[18]</sup> However, a conscious or intentional design need not always be present because negligence may occasionally be so gross as to amount to malice or bad faith.<sup>[19]</sup> Hence, bad faith in the context of Article 2220 of the *Civil Code* includes gross negligence.<sup>[20]</sup>

BPI Express Credit contends that it was not grossly negligent in refusing to lift the suspension of Armovit's credit card privileges inasmuch as she had not complied with the requisite submission of a new application form; and that under the circumstances its negligence, if any, was not so gross as to amount to malice or bad faith following the ruling in *Far East Bank and Trust Company v. Court of Appeals*.<sup>[21]</sup>

The Court disagrees with the contentions of BPI Express Credit. The Terms and