

FIRST DIVISION

[G.R. No. 142029, February 28, 2001]

**ERLINDA FRANCISCO, DOING BUSINESS IN THE NAME AND
STYLE OF CEBU FOUNTAINHEAD BAKESHOP AND JULIANA
PAMAONG, PETITIONERS, VS. RICARDO FERRER, JR., ANNETTE
FERRER, ERNESTO LO AND REBECCA LO, RESPONDENTS.**

D E C I S I O N

PARDO, J.:

Appeal *via certiorari*^[1] taken by petitioners from the decision of the Court of Appeals^[2] increasing the trial court's award of moral damages to Ricardo Ferrer, Jr., Annette Ferrer, Ernesto Lo and Rebecca Lo to two hundred fifty thousand pesos (P250,000.00) and awarding exemplary damages in the amount of one hundred thousand pesos (P100,000.00), in addition to the following:

"1. The cost of the wedding cake in the amount of P3,175.00;

"2. Attorney's fees in the amount of P10,000.00; and

"3. Cost of litigation."

The facts, as found by the Court of Appeals,^[3] are as follows:

"On November 19, 1992 Mrs. Rebecca Lo and her daughter Annette Ferrer ordered a three layered cake from Fountainhead Bakeshop, Mango Avenue Branch. It was then agreed that the wedding cake shall be delivered at 5:00 o'clock in the afternoon at the Cebu Country Club, Cebu City, stating clearly that the wedding is scheduled on December 14, 1992.

"Plaintiffs made their first deposit in the amount of P1,000.00 on November 19, 1992 and two weeks thereafter made a full payment on the remaining balance.

"On the day of the wedding, December 14, 1992, plaintiffs arrived at the Cebu Country club around 6:00 o'clock in the evening. They immediately notice the absence of the wedding cake.

"At 7:00 o'clock in the evening they made a follow-up call to Fountainhead Bakeshop and was informed that it was probably late because of the traffic.

"At 8:00 o'clock they were informed that no wedding cake will be delivered because the order slip got lost. Plaintiffs were then compelled to buy the only available cake at the Cebu Country Club which was a sans

rival. Even though they felt that it was a poor substitute to a wedding cake, the cutting of the cake is always a part of the ceremony.

"At 10:00 o'clock in the evening, the wedding cake arrived but plaintiffs declined to accept it, besides their order was a three-layered cake and what was actually delivered was a two-layered one.

"Subsequently, defendant Erlinda Francisco sent a letter of apology accompanied with a P5,000.00 check, however, the same was declined by plaintiffs because they felt it was inadequate.

"Two weeks after the wedding, defendant Erlinda Francisco called Mrs. Rebecca Lo and apologized.

"Ricardo Ferrer, son-in-law of Rebecca Lo corroborated the latter's testimony, stating that two weeks after the wedding, as a result of the non-delivery of the wedding cake, Ramon Montinola, the son-in-law of Erlinda Francisco, went to Rebecca Lo's residence and offered the sum of P5,000.00 to indemnify for the damage done, but it was rejected."^[4]

On March 12, 1993, respondents filed with the Regional Trial Court, Cebu City an action for breach of contract with damages against petitioners.^[5]

After due trial, on May 19, 1995, the trial court rendered a decision in favor of plaintiffs [herein defendants], the dispositive portion of which reads as follows:

"THE FOREGOING CONSIDERED, judgment is hereby rendered in favor of the plaintiffs and against Erlinda Francisco.

"Directing the latter to pay the former the following:

"1. The cost of the wedding cake in the amount of P3,175.00;

"2. Moral damages in the amount of P30,000.00;

"3. Attorney's fees in the amount of P10,000.00; and

"4. Cost of litigation.

"SO ORDERED."^[6]

On May 25, 1995, petitioners appealed to the Court of Appeals.^[7]

After due proceedings, on July 05, 1999, the Court of Appeals promulgated its decision modifying the appealed decision as set out in the opening paragraph of this opinion.^[8]

Hence, this appeal.^[9]

The issues raised are (1) whether the Court of Appeals erred in affirming the trial court's award of moral damages and increasing the amount from thirty thousand

(P30,000.00) to two hundred fifty thousand pesos (P250,000.00); and (2) whether the Court of Appeals was justified in awarding in addition to moral damages, exemplary damages of one hundred thousand pesos (P100,000.00).

Petitioners submit that the Court of Appeals and the trial court erred in awarding moral damages in favor of respondents because moral damages are recoverable in breach of contract cases only where the breach was palpably wanton, reckless, malicious, in bad faith, oppressive or abusive.^[10]

We agree. "To recover moral damages in an action for breach of contract, the breach must be palpably wanton, reckless, malicious, in bad faith, oppressive or abusive."^[11]

"Under the provisions of this law,^[12] in culpa contractual or breach of contract, moral damages may be recovered when the defendant acted in bad faith or was guilty of gross negligence (amounting to bad faith) or in wanton disregard of his contractual obligation and, exceptionally, when the act of breach of contract itself is constitutive of tort resulting in physical injuries."^[13]

"Moral damages may be awarded in breaches of contracts where the defendant acted fraudulently or in bad faith."^[14]

"Bad faith does not simply connote bad judgment or negligence, it imports a dishonest purpose or some moral obliquity and conscious doing of a wrong, a breach of known duty through some motive or interest or ill will that partakes of the nature of fraud."^[15]

In this case, "[w]e find no such fraud or bad faith."^[16]

"Moral damages are in the category of an award designed to compensate the claimant for actual injury suffered and not to impose a penalty on the wrongdoer."^[17]

"The person claiming moral damages must prove the existence of bad faith by clear and convincing evidence for the law always presumes good faith. It is not enough that one merely suffered sleepless nights, mental anguish, serious anxiety as the result of the actuations of the other party. Invariably such action must be shown to have been willfully done in bad faith or with ill motive."^[18] "Mere allegations of besmirched reputation, embarrassment and sleepless nights are insufficient to warrant an award for moral damages. It must be shown that the proximate cause thereof was the unlawful act or omission of the [private respondent] petitioners."^[19]

"An award of moral damages would require certain conditions to be met, to wit: (1) *first*, there must be an injury, whether physical, mental or psychological, clearly sustained by the claimant; (2) *second*, there must be culpable act or omission factually established; (3) *third*, the wrongful act or omission of the defendant is the proximate cause of the injury sustained by the claimant; and (4) *fourth*, the award of damages is predicated on any of the cases stated in Article 2219" of the Civil Code. ^[21]