

FIRST DIVISION

[G. R. No. 118985, June 14, 1999]

**COCA COLA BOTTLERS, PHILS., INC., VICTORIANO HENSON AND
VICTOR AQUINO, PETITIONERS, VS. JOSE S. ROQUE,
RESPONDENT.**

D E C I S I O N

PARDO, J.:

What is before the Court is a petition for review on *certiorari* of the decision of the Court of Appeals^[1] reducing substantially the amount of damages awarded to petitioner by the Regional Trial Court, Sto. Domingo, Nueva Ecija,^[2] as follows:

"Accordingly, the defendants are hereby ordered jointly and severally, to pay plaintiff the following:

1. P12,500.00 representing his unpaid salaries for services rendered from June 20, 1982 up to September 15, 1982;
2. P50,000.00 representing actual and compensatory damages;
3. P300,000.00 as moral damages;
4. P50,000.00 as exemplary damages;
5. P50,000.00 for attorney's fees and other miscellaneous expenses;
and
6. to pay the costs.

"SO ORDERED."^[3]

The facts of the case are not disputed.

In 1971, Coca-Cola Bottlers Phils., Inc. (Coke Bottlers, for brevity) hired respondent Jose Roque as a route helper. In 1980, he was promoted to acting salesman. In June 1982, Coke Bottlers Supervisor Victoriano Henson reassigned Roque to his former position as route helper due to the accumulation of unremitted collections, a fact that Roque denied. Supervisor Henson initiated an administrative investigation of Roque without giving him an opportunity to be heard or to be represented by counsel. As a result of such unilateral investigation, in October 1982, Coke Bottlers ordered the summary dismissal of Roque.

On March 23, 1983, Victoriano Henson filed with the City Fiscal, Cabanatuan City, Nueva Ecija, a criminal case for estafa against Roque. During the preliminary investigation, Roque was unable to present evidence because the fiscal sent notices

to the wrong address.

On August 26, 1983, the City Fiscal filed with the Regional Trial Court, Cabanatuan City, Branch 29, Nueva Ecija, an information against Roque for estafa. After due trial, the court rendered a decision^[4] dated September 15, 1988, acquitting Roque of the crime charged for failure to prove his guilt beyond reasonable doubt.

On June 1, 1989, Jose S. Roque filed with the Regional Trial Court, Sto. Domingo, Nueva Ecija, a complaint for damages against Coke Bottlers. He contended that for seven (7) years while the estafa case was being tried, he and his entire family suffered tremendously and miserably, forcing them to the brink of poverty, and causing them embarrassment and humiliation.^[5]

In its decision dated January 20, 1992, the trial court ruled in favor of Roque, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered condemning the defendants to pay jointly and severally the following amounts to the plaintiff, to wit:

1. P 506,500.00 as actual or compensatory damages representing salaries for four (4) years of which plaintiff was deprived due to his illegal dismissal, unrealized optional retirement benefits, unpaid salaries, attorney's fees and other litigation expenses;
2. P 1,000,000 as moral damages;
3. P 50,000 as exemplary damages; and
4. costs of suit."^[6]

On February 3, 1992, Coke Bottlers filed a motion for reconsideration. However, on February 11, 1992, the trial court denied the motion.^[7]

In due time, Coke Bottlers appealed to the Court of Appeals.

Upon motion of plaintiff Roque, the trial court issued a writ of execution pending appeal dated March 18, 1992,^[8] which was partly enforced. Roque received the sum of P506,500.00 as actual and compensatory damages, subject to the final resolution of the appeal.^[9]

On August 24, 1994, the Court of Appeals promulgated its decision, the dispositive portion of which is quoted in the opening paragraph of this opinion.

Both parties filed motions for reconsideration of the decision. Roque questioned the reduction of the damages awarded to him by the trial court. Coke Bottlers claimed that the case was properly cognizable by the labor arbiter and not the regular courts.

On January 11, 1995, the Court of Appeals denied both motions for reconsideration stating that no new and substantial reasons were raised to warrant a reversal or modification of the decision.^[10]

Hence, this petition for review.

Petitioners raise the following issues:

1. Whether or not the Regional Trial Court, Nueva Ecija, has jurisdiction over the case considering that the complaint is in the nature of a claim for damages arising from and by virtue of an employer-employee relationship;
2. Whether or not the petitioners were denied their right to due process of law;
3. Whether or not the lower court erred in awarding damages for malicious prosecution;
4. Whether or not the lower court erred in awarding actual damages considering the same has no legal or evidentiary basis;
5. Whether or not the lower court erred in granting respondent's motion of execution pending appeal.

We shall now go over the issues *in seriatim*.

In the first assigned error, petitioners aver that the trial court has no jurisdiction over the subject matter of the case. They maintain that claims for actual, moral and other forms of damages arising from employer-employee relationship are within the exclusive jurisdiction of the labor arbiter, under Art. 217 of the Labor Code, as amended by R. A. No. 6715. They contend that the amendment to the Labor Code cured the earlier confusion as to the jurisdiction of the labor arbiter and the regular courts regarding claims for damages. According to petitioners, all claims for damages by an employee against an employer fall squarely within the jurisdiction of the labor arbiter. They argue that the cases^[11] relied upon by the Court of Appeals in deciding the jurisdictional issue have been overturned by R.A. No. 6715, which took effect on March 21, 1989. They assert that the claim for damages arose from acts attributable to the employer, while respondent was still an employee of the company. Hence, the action for damages arose from an employer-employee relationship.

The petitioners' contentions are without merit. Even under the amendatory law (R. A. No. 6715), not every claim of an employee against an employer is cognizable by the labor arbiter. Contrary to petitioners' contention, R. A. No. 6715, which amended the jurisdiction of the labor arbiter, did not overturn earlier decisions of this Court drawing a line on which cases are within the jurisdiction of the labor arbiter and those cognizable by the regular courts. In *Georg Grotjahn GMBH & Co. v. Isnani*,^[12] decided on August 10, 1994, after the effectivity of R.A. No. 6715, we said:

"Not every dispute between an employer and employee involves matters that only labor arbiters and the NLRC can resolve in the exercise of their adjudicatory or quasi-judicial powers. The jurisdiction of labor arbiters and the NLRC under Article 217 of the Labor Code is limited to disputes arising from an employer-employee relationship which can be resolved by

reference to the Labor Code, or other labor statutes, or their collective bargaining agreements."

In the instant case, respondent Roque claimed for unpaid salaries and other benefits due to an employee. In addition, he claimed damages basically on the sufferings, humiliations and embarrassments that he and his family experienced during the pendency of the criminal case that Coke Bottlers initiated against him for estafa. Since resolving the issue calls for the application of civil laws, the case is properly cognizable by the regular courts.

In his second assignment of error, petitioners claim a denial of due process. This is also devoid of merit. The trial court observed that petitioners repeatedly failed to appear both in the pre-trial hearings and the trial itself, without justifiable reasons. "The essence of due process is the opportunity to be heard."^[13] Petitioners were given several opportunities to present their side, but they chose to ignore them. They can not very well claim that they were denied of a right they had chosen to waive. Assuming *arguendo* that such right was denied, petitioners subsequently filed a motion for reconsideration of the trial court's decision. "Any defect was cured by the filing of a motion for reconsideration."^[14]

In the third assignment of error, petitioners aver that the appellate court erred in awarding damages to respondent due to malicious prosecution. The argument is not tenable. Both the trial and appellate courts ruled that petitioners were liable not due for malicious prosecution but for non-observance of conduct required of every individual in human relations.^[15] The trial court found petitioners to have acted in wanton and gross bad faith and injustice in manipulating the dismissal of respondent Roque, and in later on instigating a baseless criminal action against him, thereby subjecting him and his family to penury.^[16]

In awarding damages to respondent, both the trial and appellate courts invoked Articles 19, 21 and 2180 of the Civil Code of the Philippines. The finding of petitioners' bad faith in dealing with respondent Roque necessarily entitles the latter to moral and exemplary damages.^[17]

However, regarding the amount of P12,500.00 that the Court of Appeals awarded as actual damages, there is no question that respondent Roque rendered services from June 20, 1982 to September 15, 1982 and that his compensation therefor was not paid. Thus, it is a matter of justice for petitioners to pay for respondent's services duly rendered. The award of amounts representing retirement and other benefits, including bonuses and pensions, is, indeed, speculative and can not be granted. To be recoverable, actual damages must be pleaded and proven in court. The award must be based on evidence presented, not on flimsy, remote, speculative and insubstantial proof.^[18]

The additional P50,000.00 awarded as actual and compensatory damages must be deleted. There is no basis for this award. True, indemnification for damages comprehends not only the loss suffered, or actual damages ("*damnum emergens*") but also the profits which the obligee failed to obtain, or compensatory damages ("*lucrum cessans*").^[19] "To justify a grant of actual or compensatory damages, it is necessary to prove with a reasonable degree of certainty, premised upon competent proof and on the best evidence obtainable by the injured party, the actual amount of

loss."^[20] "One is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has adequately proved. Damages, to be recoverable, must not only be capable of proof, but must be actually proved with a reasonable degree of certainty. Speculative damages are too remote to be included in an accurate estimate of damages."^[21]

As regards the award of moral damages, we modify the decision of the Court of Appeals by reducing the amount to P50,000.00. There is enough showing that respondent Roque and his family experienced physical sufferings, mental anguish and fright as a result of the oppressive conduct of the petitioners. However, moral damages, though incapable of pecuniary estimation are awarded to compensate the claimant for actual injury, and are not meant to enrich complainant at the expense of the defendant.^[22] Under the circumstances, we reduce the amount to a fair, just and reasonable award.

As regards exemplary damages, "there can be no question that the entitlement to moral damages having been established, exemplary damages may be awarded . . . even though not so expressly pleaded in the complaint nor proved."^[23] Pursuant to Art 2208, Civil Code of the Philippines, attorney's fees may be recovered when exemplary damages are awarded.^[24] An award of P 50,000.00 as exemplary damages and attorney's fees is just and reasonable.

Anent the fifth assignment of error, the Court of Appeals has noted that the grant of execution pending appeal was properly raised in the Court of Appeals in CA-G.R. SP. No. 27750, decided on August 25, 1992.^[25] The Court of Appeals held that there was no grave abuse of discretion in the issuance of a writ of execution pending appeal. That decision is final and constitutes "the law of the case." In fact, that decision was the basis of partial payment made by Coke Bottlers, which was properly evidenced by a receipt.^[26]

WHEREFORE, the Court hereby **AFFIRMS** the decision of the Court of Appeals in CA-G. R. CV No. 37438, with modification, as follows:

"Accordingly, the defendants are hereby ordered jointly and severally, to pay plaintiff the following:

1. P 12,500.00 representing the unpaid salaries of Jose S. Roque for services rendered from June 20, 1982 up to September 15, 1982;
2. P 50,000.00, as moral damages;
3. P 50,000.00, as exemplary damages;
4. P 50,000.00 for attorney's fees and other litigation expenses; and
5. to pay the costs."

SO ORDERED.

Kapunan, and Ynares-Santiago, JJ., concur.

Davide, Jr., C.J., (Chairman), Pls. see dissenting opinion.