

TWENTIETH DIVISION

[CA-G.R. CV NO. 03861, June 16, 2014]

HEIRS OF PERPETUO ESPULGAR, JR. REPRESENTED BY ETERNA D. ESPULGAR, PLAINTIFFS-APPELLEES, VS. SPS. ERNESTO AND NATIVIDAD BERLIN, DEFENDANTS-APPELLANTS.

D E C I S I O N

QUIJANO-PADILLA, J.:

This is an appeal on the Decision^[1] of the Regional Trial Court, Branch 33, Iloilo City in Civil Case No. 07-29485 dated September 8, 2010 ordering defendants-appellants to pay actual, moral, and exemplary damages to plaintiffs-appellees; confirming the writ of replevin earlier issued in the case; and declaring null and void *ab initio* the real estate mortgages dated November 17, 2006 and January 4, 2007 over the properties covered by Transfer Certificates of Title Nos. T-7235 and T-7236, respectively.

The Antecedents

The late Spouses Perpetuo and Rosita Espulgar (Spouses Espulgar) were the registered owners of three parcels of land covered by Transfer Certificates of Title Nos. T-5558, T-7235 and T-7236. After their deaths, plaintiffs-appellees, being the heirs of Spouses Espulgar, adjudicated among themselves the lots covered by the aforementioned titles. After executing the appropriate documents^[2] and having the same published in the newspaper, plaintiffs-appellees wanted to have the registration of the properties transferred into their names. Hence, they tasked Eterna Espulgar (Eterna) to pay the estate tax at the Bureau of Internal Revenue (BIR).

Accordingly, Eterna went to the BIR sometime in the last week of September 2006. She transacted with an employee thereat, Niva Libres (Libres), to whom she gave the amount of P35,000.00 and the original owner's copy of TCT Nos. T-7235 and T-7236.^[3] Libres told Eterna that the processing of her documents would take about 2 to 4 months. After the period lapsed, Eterna made a follow-up on Libres but the latter told the former that the certificates of title which would already be in plaintiffs-appellees' names would be given on March 7, 2007.

However, on the date promised, no certificates of title were given to Eterna. She was instead shocked to receive a letter^[4] from defendant-appellant Ernesto Berlin (Ernesto). The letter reminded Spouses Espulgar of their P600,000.00-loan which fell due on February 2007, and demanded them to settle the amount and the accrued interests within 10 days from receipt of the communication.

Puzzled, Eterna and some of the other plaintiffs-appellees immediately went to the clinic of defendant-appellant Dr. Natividad Berlin (Dr. Berlin), Ernesto's spouse, to

inquire about the demand letter they received from her husband. They learned from Dr. Berlin that the properties covered by TCT Nos. T-7235 and T-7236 were mortgaged by Spouses Espulgar to Dr. Berlin.^[5] Eterna informed Dr. Berlin that Spouses Espulgar had long been dead and that the titles covering the mortgaged properties were delivered to a BIR personnel for processing.

Dr. Berlin was surprised of the information since two elderly persons mortgaged the properties to her on two separate occasions. It was then that they realized that the two were impostors. Dr. Berlin told plaintiffs-appellees that the loan and mortgage transactions were brokered by Analyn Tesoro, Regma Blancaver and Josephine Bogó (Bogó), who was also a BIR employee. In the course of their verification regarding the transaction, Libres and Bogó were later brought to Dr. Berlin's clinic for confrontation. Thereat, Libres revealed that she turned over the certificates of title to Bogó for processing. Bogó, however, said that she gave these to Regma Blancaver.

Plaintiffs-appellees asked Dr. Berlin to return the certificates of title to them but the latter said that she would still need it in suing the persons involved in the transactions. Subsequently, Dr. Berlin sought the help of the National Bureau of Investigation (NBI) in criminally charging those persons while Eterna also lodged a separate criminal case against them.^[6]

On October 19, 2007, plaintiffs-appellees filed the instant case for replevin, nullity of mortgage and damages against defendants-appellants.^[7] Plaintiffs-appellees claimed that defendants-appellants refused to return to them the certificates of title despite knowing that these had been stolen and even after the appropriate charges had been filed against those involved in the fraudulent transactions. They also averred that plaintiffs-appellees' counsel already sent a formal demand^[8] to defendants-appellants, but the latter still refused to return the certificates of title.

Defendants-appellants filed their Answer.^[9] They alleged that the certificates of title were in the possession of the NBI and they already inquired from the office if these were already available since plaintiffs-appellees needed the titles. However, the NBI advised that the titles would still be used in the investigation and as evidence in the criminal cases that were filed.

Pre-trial was conducted in the case.^[10] Thereafter, the trial court resolved the propriety of immediately issuing a writ of replevin before the case is heard. In its Order dated April 18, 2008,^[11] the trial court directed for the issuance of the writ conditioned upon the posting and approval of the bond.

Subsequently, the case went to trial. The parties presented their respective evidence, upon which the trial court rendered the decision in favor of plaintiffs-appellees. The trial court confirmed the writ of replevin earlier issued and adjudged defendants-appellants liable to plaintiffs-appellees for damages for not returning the certificates of title after discovery of the fraud. The dispositive portion of the decision reads, viz.:

WHEREFORE, judgment is hereby rendered for the plaintiff and against defendant whereby the latter is ordered to pay plaintiffs the heirs of

Perpetuo Espulgar, Jr., represented by Eterna D. Espulgar, the following sums:

1. TEN THOUSAND EIGHT HUNDRED EIGHTY (P10,880.00) PESOS as actual damages;
2. EIGHTY THOUSAND (P80,000.00) PESOS as moral damages;
3. FORTY THOUSAND (P40,000.00) PESOS as exemplary damages;
4. THIRTY THOUSAND (P30,000.00) PESOS as attorney's fees and litigation expenses.

The Writ of Replevin issued in this case is hereby confirmed.

The Court likewise declares the real estate mortgages dated November 17, 2006 and January 2, 2007 involving TCT Nos. T-7235 and T-7236, respectively, NULL and VOID *AB INITIO*.

Defendants shall likewise pay the costs of the suit.^[12]

Aggrieved, defendants-appellants appealed^[13] to Us on a lone assignment of error that:

I.

THE TRIAL COURT ERRED IN ORDERING DEFENDANTS-APPELLANTS LIABLE FOR ACTUAL DAMAGES, MORAL DAMAGES, EXEMPLARY DAMAGES, ATTORNEY'S FEES AND LITIGATION EXPENSES DESPITE THE LACK OF FACTUAL AND LEGAL BASIS.

This Court's Ruling

The appeal is meritorious.

We emphasize the rule that claims for damages must be supported by proof. During the trial, the claimant must satisfactorily prove the existence of the factual basis of the damages and its causal connection to defendant's acts.^[14] In this case, Eterna's only testimony regarding their claim for damages was the following, thus:

Q: Madam Witness[,] by reason of this case, did you incur any damage?

A: Yes, sir, the expenses we spent and also with regards to the entries in the titles which I supposed to be cancelled and I also spent for that and all other expenses.^[15]

The foregoing scant declaration is inappropriate basis for the trial court's awards of actual, moral and exemplary damages, as well as attorney's fees and litigation expenses.

In order for actual damages to be recoverable, there must be competent proof of

the actual amount of loss. Eterna's unsubstantiated allegations did not constitute competent proof of the supposed expenses she incurred. Credence can be given only to claims which are duly supported by receipts.^[16] To seek recovery of actual damages, it is necessary to prove the actual amount of loss with a reasonable degree of certainty, premised on competent proof and on the best evidence obtainable by the injured party.^[17]

On the award for moral damages, nothing in the records justified its grant. Eterna never gave any testimony describing the supposed suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury as would entitle her and the other plaintiffs-appellees to moral damages. Since an award of moral damages is predicated on a categorical showing from the claimant that emotional and mental sufferings were actually experienced, the award must be disallowed absent any evidence thereon.^[18]

As plaintiffs-appellees were not entitled to moral damages, with more reason that they do not deserve the award for exemplary damages. Under Article 2234 of the Civil Code, a claimant must show that he is entitled to moral damages before the court may consider the question of whether or not exemplary damages should be awarded. Exemplary damages, therefore, is allowed only in addition to moral damages, such that no exemplary damages can be awarded unless the claimant first establishes his clear right to moral damages.^[19] As the award for moral damages has been scrapped, so must the grant of exemplary damages.

In justifying the awards for damages, the trial court declared that defendants-appellants failed to comply with their obligations under Articles 19,^[20] 20^[21] and 22^[22] of the Civil Code. In other words, they failed to observe good faith in dealing with plaintiffs-appellees. This finding of the trial court, however, is contradicted by Eterna's own testimony recounting the efforts of Dr. Berlin in retrieving the certificates of title, thus:

Q: Now, the criminal case that was filed by Dra. Berlin against the personnel of the Bureau of Internal Revenue (BIR) and the other persons you mentioned a while ago was coursed through the office of the National Bureau of Investigation (NBI), [a]m I correct?

A: Yes, sir.

Q: xxx You were inform[ed] that the certificates of title which xxx you originally placed with the Bureau of Internal Revenue (BIR) were already xxx in the possession of the National Bureau of Investigation? Is that correct?

A: Yes, sir.

Q: Now, upon knowing that the certificates of title were already in the office of the National Bureau of Investigation (NBI)[,] **you together with Dra. Berlin took steps to find out or request from the National Bureau of Investigation whether the certificates of title could be returned to you, [a]m I correct?**

A: **Yes, sir.**

Q: **And in fact, Dra. Berlin has written a letter that was given to you asking the NBI to release the titles to you, [a]m I correct?**