

SECOND DIVISION

[CA G.R. CV NO. 70301, August 18, 2006]

ROSITA V. LIM, ON HER BEHALF AND ON BEHALF OF HER MINOR CHILDREN JENNIFER, LYSANDER AND BEVERLIE, PLAINTIFFS-APPELLEES, VS. LUIS TAN, ALFONSO TAN, EUSEBIO TAN, WILLIAM TAN, VICENTE TAN, JOAQUIN TAN, AND ANG TIAT CHUAN, DEFENDANTS-APPELLANTS,

DECISION

ENRIQUEZ, JR., J.:

This is an appeal filed by defendants-appellants Luis Tan, Alfonso Tan, Eusebio Tan, William Tan, Vicente Tan and Joaquin Tan (hereafter Tan brothers) and Ang Tiat Chuan (hereafter collectively referred to as appellants) from the Decision dated June 21, 1999 and the Order dated February 10, 2000, rendered by the Regional Trial Court, Branch 37, City of Manila (hereafter RTC), in Civil Case No. 83-15633 for Damages. The dispositive portions of which, respectively, read as follows:

"WHEREFORE, judgment is hereby rendered ordering the surviving Defendants and the heirs and successors-in-interest of the deceased Defendants, who have been substituted in their place as Defendants, to pay to the Plaintiffs, jointly and severally, the following amounts:

1. Fifteen million one hundred thousand pesos (P15,100,000.00) as actual and compensatory damages;
2. Twenty-five million pesos (P25,000,000.00) as moral damages;
3. Ten million pesos (P10,000,000.00) as exemplary damages;
4. One million pesos (P1,000,000.00) as and by way of attorney's fees;
5. Five hundred thousand pesos (P500,000.00) for litigation expenses; and
6. The costs of the suit."

"WHEREFORE, the 'Motion for Reconsideration' of the Defendants Tan Brothers is hereby DENIED for lack of merit."

The facts of the case as gathered from the records are as follows:

Florentino Lim (hereafter Florentino Lim) was gunned down on August 25, 1973 in Cagayan de Oro City. An information was filed against defendants: Mariano Velez, Jr., Antonio Occaciones, Leopoldo Nicolas, Enrique Labita, Oscar Yaun and Manuel

Beleta, herein appellants, and John Does for Murder and Illegal Possession of Firearms with the military courts. The case was assigned to Military Commission No. 1 (hereafter Military Commission). Trial of the case ensued.

On June 10, 1976, the Military Commission rendered judgment finding Luis Tan, Ang Tiat Chuan, Mariano Velez, Jr., Antonio Ocasionos, Leopoldo Nicolas, and Marciano Benemerito guilty of murder. The other accused namely: Alfonso Tan, Eusebio Tan, William Tan, Vicente Tan, Joaquin Tan, Enrique Labita, and Oscar Yaun were acquitted by the Military Commission.

On February 11, 1983, Rosita B. Lim (hereafter Rosita Lim), wife of the deceased Florentino Lim with their children Jennifer, Lysander and Beverlie, all surnamed Limketkai (hereafter appellees) filed a civil action for damages against those charged with the slaying of Florentino Lim. Said complaint was later amended on March 22, 1983.

Appellants Tan Brothers instead of filing an answer, filed a motion to dismiss, alleging improper venue and extinction of civil liability since they were acquitted by the Military Commission. The RTC denied appellants affirmative defenses. The denial caused appellants to file a petition for certiorari with the Court of Appeals. The said petition was denied. Thus, the issue was raised before the Supreme Court, which affirmed the ruling of the Court of Appeals. This paved the way for the RTC to continue hearing the case.

While the proceedings of the instant case was being conducted, two (2) new information against defendants were filed before the Regional Trial Court, Branch 24, Cagayan de Oro City (hereafter Branch 24) pursuant to the ruling in *Cruz v. Enrile*, 160 SCRA 700. The civil case was transferred to Branch 24 to be jointly heard with the criminal case. The proceedings before Branch 24, however, was suspended due to the petition filed by William, Joaquin, and Vicente Tan with the Supreme Court questioning the re-opening of the criminal case. The Tan Brothers asserted that the verdict of the Military Commission has become final and therefore, should no longer be disturbed. The Supreme Court gave due course to herein appellants' petition and in its decision in *Tan vs. Barrios*, 190 SCRA 686, it ruled in favor of the Tan Brothers, holding that their acquittal in the Military Commission should no longer be disturbed because the acts of the Military Commission were those of a court which had, at least, a *de facto* existence, and therefore, should be considered valid. Thereafter, the case was remanded to the RTC for continuation of trial. Thereafter, the Tan Brothers filed another petition for certiorari. The Supreme Court denied the said petition in *Tan v. Nitafan*, March 11, 1994. The Court notes the fact that the entire record of the criminal case was adapted en toto by the parties in the civil action.

On June 21, 1999, the RTC rendered the assailed Decision. Thereafter, appellants moved for the reconsideration of the said decision. On February 10, 2000, the RTC denied said motion. Defendants-appellants Tan Brothers and Ang Tiat Chuan seasonably filed their notice of appeal of the RTC's decision. Appellants, in the instant appeal, assigned several errors as follows:

I

THE TRIAL COURT COMMITTED GRAVE AND REVERSIBLE ERROR IN
ADJUDGING THE TAN BROTHERS CIVILLY LIABLE FOR THE DEATH OF

FLORENTINO LIM DESPITE THE PATENT INADEQUACIES AND INADMISSIBILITY OF THE EVIDENCE PRESENTED BY THE PLAINTIFFS-APPELLEES.

II

THE TRIAL (COURT) COMMITTED GRAVE AND REVERSIBLE ERROR WHEN IT RULED THAT THE MIRANDA DOCTRINE APPLIES ONLY TO CRIMINAL, NOT CIVIL CASES.

III

THE TRIAL COURT COMMITTED GRAVE AND REVERSIBLE ERROR WHEN IT REFUSED TO MAKE A DISTINCTION BETWEEN THE CIVIL LIABILITY OF LUIS TAN AND THE OTHER TAN BROTHERS ESPECIALLY CONSIDERING THAT THE LATTER WERE ACQUITTED BY ALL THE MEMBERS OF MILITARY COMMISSION NO. 1.

IV

THE TRIAL COURT COMMITTED GRAVE AND REVERSIBLE ERROR WHEN IT RULED THAT THE MOTIVE FOR THE TAN BROTHERS TO ALLEGEDLY KILL FLORENTINO LIM WAS PURPORTED RIVALRY IN THE THEATER BUSINESS.

V.

EVEN ASSUMING THAT ALL DEFENDANTS MAY BE FOUND TO BE CIVILLY LIABLE TO PAY PLAINTIFFS (WHICH IS DENIED),THE TRIAL COURT COMMITTED GRAVE AND REVERSIBLE ERROR IN AWARDING SUCH AN UNCONSCIONABLE AND EXORBITANT AMOUNT AS DAMAGES IN FAVOR OF THE PLAINTIFFS.

The first and second errors will be discussed jointly. Defendants-appellants argue that certain inadmissible evidence that should have been excluded were still considered by the military tribunal in the resolution of the criminal case that led to the finding of guilt on the part of Luis Tan, Ang Tiat Chuan, Mariano Velez, Jr., Antonio Ocasiones, Leopoldo Nicolas, and Marciano Benemerito.

In this regard, the Court notes that records of the instant case reveal that the RTC examined the evidence presented in this case. The RTC thus, declared to wit: "The parties having adopted the evidence adduced during the proceedings before the Military Commission No. 1, and there having no additional evidence adduced by the parties except the deposition of plaintiff Rosita V. Lim, the Court is tasked to decide this case on the basis of the evidence taken and received by the Military Tribunal."

Furthermore, this Court finds that the RTC has sufficiently addressed these twin (2) issues being raised by defendants-appellants. In its decision the RTC held:

"An analysis of the proceedings in the case would bear out an ingenious scheme on the part of the Defendants to prevent the admission of the Plaintiffs' evidence as based on the transcript of stenographic notes

during the trial and proceedings before the Military Commission, although the said transcripts likewise establish the evidence for the defendants. This is borne out by the fact that the Defendants copiously lifted from the said transcripts in their attempt to discredit the witnesses who gave their testimonies during the trial before the military tribunal. This Court is not however inclined to give in to such scheme. X x x

Further, it appears that during the trial of the case in court, manifestations were made by defendants, through their lawyers, to the effect that they are adopting their evidence on record during the military trial, and in addition thereto, would present additional witnesses. On record however, it appears that no additional evidence or witness was ever adduced by the Defendants.

Be that as it may, it also appears on record that when the Plaintiffs were presenting and identifying the transcripts, the Defendants conducted cross-examination on the stenographers who took the proceedings before the military tribunal. To the mind of the Court, the cross-examination thereon is deemed a waiver of their earlier objection to the said record."

Moreover, the RTC stated:

"Worthy of note, too is the fact that the killing and identity of the *dramatis personae* were established not only on the basis of what the Defendants call as extrajudicial confessions of those persons taken into the custody of the police and military. These same persons confirmed and affirmed their own accounts during the trial proper before the military tribunal, then already assisted by their respective counsel, whom the Court notes to be composed of legal luminaries.

Thus, the Court throws out the Defendants' contention that the evidence which now confronts them as inadmissible in the instant case."

Further, the Court notes that defendants-appellants uses the decision of the Military Commission, specifically the acquittal of some of them, in arguing that they should not be held civilly liable in the case at bar. To the Court, this lends credence to the conclusion of the RTC that defendants-appellants first two (2) assigned errors are untenable. In view of the same, this Court sustains the findings and ruling of the lower court that Luis Tan, Ang Tiat Chuan, Mariano Velez, Jr., Antonio Ocasiones, Leopoldo Nicolas, and Marciano Benemerito should be held solidarily liable for damages in favor of appellees. Likewise, with this finding, the Court deemed it unnecessary to discuss the fourth error raised.

In the third assignment of error, appellants argue that there should have been a distinction between the civil liability of those who were found guilty and those who were acquitted in the criminal case. According to appellants, the fact that the Military Commission unanimously acquitted some of them necessitates a finding that they cannot be held civilly liable for the crime charged.

The RTC held, in its decision, that there was conspiracy between and among all appellants, including those who were acquitted in the criminal case, in plotting against the life of Florentino Lim and held all of them solidarily liable for damages. The RTC held that while the levels of participation of accused differed from one

another, all of them took part in the grand conspiracy and should be made liable therefor. Thus, the conspiratorial plot was masterminded by Luis Tan, who broached the idea to Ang Tiat Chuan, who then bankrolled the operation and asked Mariano Velez to look for a hired gun. Antonio Ocaciones enlisted the assistance of Labita who contacted the hired gun, Benemerito. Beleta testified that Alfonso and Eusebio Tan worked behind the scenes to assassinate Florentino Lim. As to Vicente and Joaquin Tan, they attended a meeting of the Tan Brothers where Manuel Wee accidentally overheard about the illegal plot. William Tan, who was in Manila at the time of the meeting, was obviously consulted about the plan, considering that the Tan family was a closely-knit group where major decisions are arrived at only after consultation with all members thereof.

This Court does not agree with the conclusion reached by the RTC that all defendants-appellants were part of the conspiratorial plot against Florentino Lim. In fact, a scrutiny of the assailed decision reveals that even the RTC was not thoroughly convinced of the conspiratorial participation of some of the defendants-appellants. The pertinent findings of the RTC read as follows:

"It stands to reason therefore that Luis Tan, Ang Tiat Chuan, Velez, Ocaciones, Labita, Beleta and Benemerito clearly took part in the conspiracy.

Beleta was utilized as government witness in the prosecution before the military tribunal. Upon the other hand, Benemerito was preterited from the present action.

While being a witness for the government, Beleta opened a can of worms and brought to light the participation of Alfonso Tan and Eusebio Tan who worked behind the scenes.

As to **William Tan, Vicente Tan** and **Joaquin Tan**, evidence would likewise bear out their complicity in the grand conspiracy to eliminate Florentino Lim. A perusal of the Plaintiff's evidence on record would show that the Tans were a closely-knit group, where major decisions are arrived at only after a thorough consultation with one another. This is shown by the testimony of Manuel Wee, a trusted employee of the Tans, who testified having barged into the conference room of the Tans and Go E. Kuan sometime in early August 1993, before the assassination of Florentino Lim. He was then looking for Dongi, when he overheard Go E. Kuan inquire from the Tans whether Velez can be trusted. It was at this precise moment when Alfonso Tan a.k.a. Bon Tiak pressed his finger into his lips as a sign for everyone present to keep silence. Apparently shaken from Wee's having unceremoniously barged into the conference room, Go E. Kuan censured Wee. x x x As a closely-knit group, consensus must first be had before enlisting Velez in the case of the grand conspiracy. With the proximity of the dates of the Ang Tiat Chuan-Luis Tan and the Ang Tiat Chuan-Velez meetings preceding the conference of the Tan with Go E. Kuan, the pieces of the jigsaw puzzle are now falling into pieces.

While William Tan was not around during the said meeting, it is not far-fetched for the affluent Tan brothers to get in touch with their brother