

## EIGHTH DIVISION

[ CA-G.R. CV NO. 80037, September 18, 2006 ]

**CHARITO ADRIANO, PLAINTIFF-APPELLANT, VS. CDO  
FOODSPHERE, INCORPORATED, DEFENDANT-APPELLEE.**

### DECISION

**DACUDAO, J.:**

This appeal by writ of error seeks to overturn: (1) The Order issued on February 14, 2003<sup>1</sup> by the Regional Trial Court (or RTC) of Malolos, Bulacan, Branch 11, in Civil Case No. 732-M-02, which dismissed plaintiff-appellant's complaint for damages; and (2) The Order of the same Court dated July 1, 2003,<sup>2</sup> denying plaintiff-appellant's motion for reconsideration thereon.

The material operative facts:

On September 27, 2002, before the Malolos, Bulacan-RTC, the plaintiff Charito Adriano sued out a complaint for damages against the defendant CDO Foodsphere, Incorporated. It is thereunder alleged, among others:

"xxx xxx xxx

"3. On January 20, 2002, plaintiff bought CDO Regular Sweet Ham, manufactured by the defendant, from its authorized outlet in Marulas, Valenzuela, Metro Manila for the amount of P66.50;

"4. When plaintiff was preparing to cook the said ham, she noticed a metal with sharp curves with transparent tape wrapping almost half of it from the end on top of the ham wrapped in a sealed package;

"5. Having noticed a foreign matter inside the package of the ham that she bought from the defendant, she brought it to the Bureau of Food and Drugs in Civil Drive, Filinvest Corporate City, Alabang, Muntinlupa City for examination/analysis;

"6. Preliminary report of analysis of the said ham yielded the following results,

"Sample Description: one pack of CDO Regular Ham Sweet (unopen), 250 g.

"Weight of sample submitted: 216 grams

"Lot No. 2120

"Expiry Date: none

"Foreign Matter: a 2.5 in. long metal was found inside the package on top of the ham. The metal has sharp curves with transparent tape wrapping almost half of the metal starting from one end

"Remarks: Presence of foreign matter renders the sample **adulterated**.

"7. Plaintiff went to the defendant to complain about its adulterated ham bought by her;

"8. Instead of being sorry for its defective meat product, an employee of the defendant arrogantly told the plaintiff to do what she wanted;

"9. In selling the said adulterated ham to plaintiff, defendant violated the warranty that the same is fit for human consumption;

"10. Because of the said adulterated ham manufactured and sold by the defendant, plaintiff sustained actual damages in the sum of not less than P16,251.00;

"11. By reason of the attitude displayed by defendant's employee to the plaintiff when the latter was complaining about the adulterated ham that she bought from the defendant, the latter suffered social humiliation, anxiety, sleepless nights and other psychological disturbances entitling her to an award of moral **damages** in the sum of P100,000.00;

"12. Exemplary **damages** in the sum of P100,000.00 should also be assessed against the defendants for the act of its employee of treating the plaintiff arrogantly and as a punitive measure for the failure of the defendant in making it sure that its meat products being sold to the public is fit for human consumption;

"13. To vindicate her rights which was violated by the defendant, the plaintiff has been forced to litigate. In the process she obligated herself to pay P100,000.00 for the fees of her counsel and other expenses."<sup>3</sup>

Instead of an answer, defendant filed a motion to dismiss,<sup>4</sup> arguing that, consistent with the principle of primary jurisdiction, the complaint should have been initially referred to the Bureau of Food And Drugs (or BFAD) for resolution, as it is the proper agency equipped with special expertise on matters involved in this case; and that, indeed, under Article 159 of Republic Act No. 7394,<sup>5</sup> otherwise known as the Consumer Act of the Philippines, it is the BFAD which is vested with authority to receive consumer complaints.

In its order dated February 14, 2003,<sup>6</sup> the trial court ruled:

"On two (2) compelling grounds, the dismissal of the instant case is justifiable, to wit:

"a. This Court lacks jurisdiction to try this case because the amount of the demand, exclusive of damages and attorneys, is only P16,251.00. Section 19, par. 8 of the Judiciary Reorganization Act of 1980 provides:

"In all other cases in which the demand, exclusive of interest, damages of whatever kind, attorney's fees, and litigation expenses, and costs or the value of the property in controversy exceeds One hundred thousand pesos (P100,000.00) or, in such other cases in Metro Manila, where the demand, exclusive of the abovementioned items exceeds Two hundred thousand pesos (P200,000). (R.A. No. 7691).

"b. Granting arguendo that this case is cognizable by this Court, the doctrine of primary jurisdiction or the doctrine of prior resort, as enunciated by the High Court in *Abejo v. dela Cruz*, 49 SCRA 654, quoted hereunder, stands in the way of giving due course thereto.

"The courts cannot or will not determine a controversy involving a question which is within the jurisdiction of an administrative tribunal, where the question demands the exercise of sound administrative discretion requiring the special knowledge, experience, and services of the administrative tribunal to determine technical and intricate matters of fact, and a uniformity of ruling is essential to comply with the purposes of the regulating statute administered.

"Accordingly, the instant case is hereby DISMISSED.

"SO ORDERED.

"February 14, 2003

"(Sgd) BASILIO R. GABO, JR.  
"Judge"

Plaintiff moved for reconsideration thereon,<sup>7</sup> but the lower court denied her motion.

Taking exception thereto, plaintiff, as appellant, interposed the instant recourse, and now contends that the trial court erred in dismissing her complaint.

We agree with plaintiff-appellant.

As to whether or not the trial court has jurisdiction over the case: We quote the pertinent holding in *Mangaliag v. Catubig-Pastoral*:<sup>8</sup>

"Section 1 of Republic Act (R.A.) No. 7691, which took effect on April 15, 1994, provides *inter alia* that where the amount of the demand in civil cases exceeds P100,000.00, exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs, the exclusive jurisdiction thereof is lodged with in the RTC. Under Section 3 of the same law, where the amount of the demand in the complaint does not exceed P100,000.00, exclusive of interest, damages of whatever kind, attorney's fess, litigation expenses, and costs, the exclusive jurisdiction over the same is vested in the Metropolitan Trial Court, MTC and Municipal Circuit Trial Court. The jurisdictional amount was increased to P200,000.00, effective March 20, 1999, pursuant to Section 5 of R.A. No. 7691 and Administrative Circular No. 21-99.

"In Administrative Circular No. 09-94 dated March 14, 1994, the Court specified the guidelines in the implementation of R.A. No. 7691. Paragraph 2 of the Circular provides:

'2. The exclusion of the term 'damages of whatever kind in determining the jurisdictional amount under Section 19 (8) and Section 33 (1) of B.P. Blg. 129, as amended by R.A. No.