



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

ADELAIDA C. NAVARRO- G.R. No. 217806
BANARIA,

Petitioner, **Present:**

- versus -

PERALTA, C.J., *Chairperson,*
 CAGUIOA, *Working Chairperson,*
 GESMUNDO,*
 REYES, J. JR., and
 LOPEZ, JJ.

ERNESTO A. BANARIA,
PANFILO A. BANARIA, GRACIA
SEVERA BANARIA-ESPIRITU,
REINA CLARA BANARIA-
MAGTOTO, MARCELINO S.
BANARIA, PAULINA BANARIA-
GELIDO, MARIA LOURDES
DIVINE BANARIA-DURAN,
GRACIA ISABELITA BANARIA-
ESPIRITU, GEOFFREY
BANARIA-ESPIRITU, ANNE
MARIE ESPIRITU-PAPPANIA,
JUSTIN BANARIA-ESPIRITU,
 Respondents.

Promulgated:

JUL 28 2020

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DECISION

REYES, J. JR., J.:

This resolves the petition for review on *certiorari*¹ filed under Rule 45 of the Rules of Civil Procedure seeking to review the Decision² dated October 15, 2014 of the Honorable Court of Appeals (Special First Division)

* Designated additional member in lieu of Associate Justice Amy Lazaro-Javier per Raffle dated April 22, 2019.

¹ *Rollo*, p. 17-33.

² Penned by Associate Justice Samuel H. Gaerlan (now a Member of the Court), with Associate Justices Apolinario D. Bruselas, Jr., and Amy C. Lazaro-Javier (also now a Member of the Court); *id.* at 34-49.

in CA-G.R. No. 97264, denying the appeal of herein petitioner by affirming with modification the Judgment³ dated May 23, 2011 rendered by the Regional Trial Court (RTC), Branch 216 (Quezon City) in Civil Case No. Q-0452212, and its Resolution⁴ dated April 14, 2015, denying petitioner's motion for reconsideration.

The Antecedents

The instant petition arose from the Complaint filed by respondents for Damages with the RTC of Quezon City against petitioner.

As borne by the records of the case, respondents are brother (Marcelino S. Banaria), sister (Paulina Banaria-Gelido), sons (Ernesto A. Banaria and Panfilo A. Banaria), daughters (Gracia Severa Banaria-Espiritu and Reina Clara Banaria-Magtoto), granddaughters (Gracia Isabelita Banaria-Espiritu, Anne Marie Espiritu-Pappania, Maria Lourdes Divine Banaria-Duran), and grandsons (Geoffrey Banaria-Espiritu and Justin Banaria-Espiritu) of the late Pascasio S. Banaria, Sr. (Pascasio), while petitioner Adelaida C. Navarro-Banaria (Adelaida) is the legal wife of Pascasio and stepmother of the Banaria siblings.⁵

Pascasio, the family patriarch, at the time of the filing of the complaint, was already frail and suffering from physical and mental infirmity incapacitating him to fully functioning on his own without any assistance.⁶

The action for damages of respondents stemmed from the alleged bad faith, malice, and deliberate failure of Adelaida to keep her word and honor her promise to bring Pascasio to his 90th birthday celebration held on February 22, 2004. Such special event was prepared by the respondents and the non-appearance of Pascasio during the event allegedly caused loss and injury to the respondents.⁷

Respondents alleged that the planning of the event started as early as February 2003 or a year before the planned 90th birthday celebration to be held on February 22, 2004. Between November 2003 and January 2004, respondents were in continuous contact with Adelaida to remind her of the upcoming event. Adelaida, for her part, confirmed Pascasio's attendance during the event although it coincides with the death anniversary of Adelaida's mother. The plan was to bring Pascasio to the venue in the early morning of February 22, 2004 before proceeding to her hometown in Tarlac.

³ RTC Decision was not attached.

⁴ Penned by Associate Justice Samuel H. Gaerlan (now a member of the Court), with Associate Justices Apolinario D. Bruselas, Jr., and Amy C. Lazaro-Javier (now a member of the Court); *rollo*, pp. 50-53.

⁵ *Rollo*, p. 35.

⁶ *Id.*

⁷ *Id.*

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Adelaida promised respondents that she will try her best to attend the birthday celebration in the evening after going to Tarlac.⁸

On February 13, 2004, Reina and Gracia Severa, who are both residing in the United States, arrived in the country to attend the birthday celebration of their father. They were able to visit their father and Adelaida in their home on February 14 and 15, 2004. Adelaida promised them during their visit that Pascasio would be present in his scheduled 90th birthday celebration.⁹

However, much to the dismay of the Banaria siblings as well as their guests, Pascasio was nowhere to be found in his 90th birthday celebration. Respondents continuously called Adelaida but they were not able to contact her. Almost 200 guests were at the venue waiting for Pascasio to come. The siblings deemed it proper to continue the celebration even without the birthday celebrant himself. Worried that there might be something untoward that happened to their father, respondents went to the nearest police station to report Pascasio as a missing person. However, they were advised by the police officers that before a person can be considered missing, there should be a 24-hour waiting period. Thus, respondents just entered their concern in the police blotter. The next day, the missing person report was officially made after Pascasio and Adelaida have not been seen or heard for more than 24 hours.¹⁰

Respondents called and went to the Securities and Exchange Commission (SEC), where Adelaida works but they failed to see her there. Afterwards, respondent Paulina was able to talk to one of Adelaida's maids named Kit. Kit told Paulina that she went to Tarlac with Pascasio and Adelaida in the morning of February 21, 2004 but went their separate ways upon reaching said province. However, when asked about the whereabouts of Pascasio and Adelaida, she said that she did not know where they were.¹¹

In the evening of February 23, 2004, Marcelino, Pascasio's brother, told the other respondents that Pascasio and Adelaida were at their residence then at 7-B Sigma Drive, Alpha village, Quezon City. Respondents went to the said place to ask Adelaida her reason why Pascasio was not able to attend the birthday celebration. Adelaida reasoned that Pascasio did not want to go to the party. When asked why Adelaida broke her commitment to bring Pascasio to the party, Adelaida uttered the words, "I am the wife."¹²

Thus, the Complaint for Damages filed by respondents against Adelaida.

⁸ Id.

⁹ Id. at 36.

¹⁰ Id.

¹¹ Id. at 37.

¹² Id.

In response, Adelaida rebutted the allegations of the respondents by saying that she was not privy to the respondents' planned birthday celebration for Pascasio. She also said that she deemed it wise to spare Pascasio of the embarrassment and humiliation of defecating and urinating without regard to the people around him brought about by his advanced age.¹³

Eventually, the RTC rendered its May 23, 2011 Decision, which ordered petitioner to pay the respondents' travel expenses, actual damages, moral damages, exemplary damages, and attorney's fees. The *fallo*¹⁴ of the decision reads:

WHEREFORE, in view of the foregoing considerations, judgment is hereby rendered in favor of plaintiffs and against the defendant Adelaida C. Navarro-Banaria ordering said defendant to pay unto the plaintiffs the following:

1. the total amount of \$3,619.00 (US Dollars) which may be paid in Philippine Currency computed at the exchange rate at the time of payment, representing the total sum for their (plaintiffs) travel expenses;

2. the amount of ₱61,200.00, Philippine currency, for the food and refreshments spent during the birthday of Pascasio S. Banaria, Sr., which the latter was not able to attend; the amount of ₱3,000.00 for the birthday cake; and the amount of ₱3,275.00 for the balloon arrangements;

3. the amount of ₱60,000.00, Philippine Currency, for each and every plaintiff, as and by way of moral damages;

4. the amount of ₱50,000.00, Philippine Currency, for the herein plaintiffs, as and by way of exemplary damages;

5. the amount of ₱60,000.00, Philippine Currency, as and by way of attorney's fees; and

the costs of suit.

SO ORDERED.

Aggrieved, petitioner elevated the case to the Court of Appeals, which, through the assailed October 15, 2014 Decision, affirmed with modification the Decision of the RTC. The *fallo*¹⁵ of the decision of the appellate court reads:

WHEREFORE, premises considered, the appeal is hereby **DENIED**. The Judgment dated 23 May 2011 of the Regional Trial Court-Branch 216 (Quezon City) is **AFFIRMED with the following MODIFICATIONS: a)** the amount of \$3,619.00 (US Dollars) awarded as actual damages in favor of the plaintiffs-appellees is **DELETED** for lack of

¹³ Id.

¹⁴ Id. at 38.

¹⁵ Id. at 48-49.

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factual and legal basis; b) the amount of moral damages awarded for ALL the plaintiffs-appellees is REDUCED to a fixed amount of Php300,000.00; c) the amount of exemplary damages awarded in favor of the plaintiffs-appellees is REDUCED to Php30,000.00; and d) the amount of attorney's fees awarded to plaintiffs-appellees is likewise REDUCED to php50,000.00.

The rest of the challenged Judgment stands.

SO ORDERED.

Despite petitioner's motion for reconsideration, the CA affirmed its October 15, 2014 Decision *via* the April 14, 2015 Resolution.

Hence, this petition.

The Issues

The petitioner anchors her prayer for the reversal of the October 15, 2014 Decision and the April 14, 2015 Resolution based on the following issues:

- A. Whether the Hon. Court of Appeals erred in ruling that petitioner violated Articles 19 and 21 of the Civil Code regarding Human Relations; and
- B. Whether the Hon. Court of Appeals erred in granting damages to the respondents.

The Court's Ruling

After a careful perusal of the arguments presented and the evidence submitted, the Court finds no merit in the petition.

Petitioner contends that she did not commit any violation under Article 19 of the Civil Code by alleging that the testimonies of the respondents were pure surmises and conjectures. Aside from that, petitioner avers that respondents failed to prove bad faith, malice and ill motive on her part. Because of this, petitioner posits that there can be no award of actual, moral and exemplary damages under the principle of *damnum absque injuria* or damage without injury since her legal right was not exercised in bad faith and with no intention to injure another.

Article 19 of the Civil Code provides that every person in the exercise of his rights and in the performance of his duties must act with justice, give everyone his due, and observe honesty and good faith. The principle embodied in this provision is more commonly known as the "abuse of right principle." The legal consequence should anyone violate this fundamental

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provision is found in Articles 20 and 21 of the Civil Code. The correlation between the two provisions are showed in the case of *GF EQUITY, Inc. v. Valenzona*, to wit:

[Article 19], known to contain what is commonly referred to as the principle of abuse of rights, sets certain standards which must be observed not only in the exercise of one's rights but also in the performance of one's duties. These standards are the following: to act with justice; to give everyone his due; and to observe honesty and good faith. The law, therefore, recognizes a primordial limitation on all rights; that in their exercise, the norms of human conduct set forth in Article 19 must be observed. **A right, though by itself legal because recognized or granted by law as such, may nevertheless become the source of some illegality. When a right is exercised in a manner which does not conform with the norms enshrined in Article 19 and results in damage to another, a legal wrong is thereby committed for which the wrongdoer must be held responsible.** But while Article 19 lays down a rule of conduct for the government of human relations and for the maintenance of social order, it does not provide a remedy for its violation. Generally, an action for damages under either Article 20 or Article 21 would be proper.¹⁶ (Emphasis supplied)

While Article 19 of the New Civil Code may have been intended as a mere declaration of principle, the "cardinal law on human conduct" expressed in said article has given rise to certain rules, *e.g.*, that where a person exercises his rights but does so arbitrarily or unjustly or performs his duties in a manner that is not in keeping with honesty and good faith, he opens himself to liability. The elements of an abuse of rights under Article 19 are: (1) there is a legal right or duty; (2) which is exercised in bad faith; (3) for the sole intent of prejudicing or injuring another.¹⁷

Consequently, when Article 19 is violated, an action for damages is proper under Article 20 and 21 of the New Civil Code. Article 20 pertains to damages arising from a violation of law.¹⁸

For starters, there is no question that as legal wife and guardian of Pascasio, who is physically and mentally infirm, Adelaida has the principal and overriding decision when it comes to the affairs of her husband including the celebration of the latter's 90th birthday.

However, it must be noted Adelaida's right, as with any rights, cannot be exercised without limitation. The exercise of this right must conform to the exacting standards of conduct enunciated in Article 19. Adelaida was clearly remiss in this aspect.

¹⁶ 501 Phil 153, 166 (2005).

¹⁷ *Metroheights Subdivision Homeowners Association, Inc. v. CMS Construction and Development Corp.*, G.R. No. 209359, October 17, 2018.

¹⁸ *Nikko Hotel Manila Garden v. Reyes*, 492 Phil 615, 627 (2005).

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Glaring is the fact that long before the scheduled date of Pascasio's 90th birthday celebration, Adelaida was already informed about the event. As early as February 2003 or a year before the scheduled event, Adelaida was already reminded of the event by the respondents to which she confirmed Pascasio's attendance. Even though Adelaida alleges that she was not privy to any birthday celebration for Pascasio, the fact remains that she was continuously informed and reminded about the scheduled event. She even contributed ₱5,000.00 for the costs.

Following Adelaida's testimony that Pascasio had already decided not to attend his birthday celebration a day before such event, she should have contacted the respondents immediately for the respondents to be able to take appropriate action. Adelaida knew fully well that the respondents already spent a considerable amount of money and earnest efforts were already made to ensure the success of the event. The least that Adelaida could have done was to inform the respondents immediately of any unforeseen circumstance that would hinder its success and to avert any further damage or injury to the respondents. Moreover, considering that numerous guests were invited and have confirmed their attendance, she placed the respondents in a very embarrassing situation.

Instead of making good on her prior commitment, Adelaida allegedly followed Pascasio's wish of going to Tarlac and arrived thereat in the afternoon of February 21, 2004. At that time, Adelaida still had the opportunity to contact the respondents and inform them that they will not be able to come, but she did not. Her excuse, that Pascasio grabbed her cellular phone and caused damage to it, is feeble and unrealistic. We find incredulous that Pascasio, who was allegedly infirm, would be able to grab the cellphone from Adelaida and throw it away, when he cannot even move on his own without any assistance. And even if true, there are certainly other means of communication aside from her cellphone if she really wanted to call the respondents.

Adelaida also neglected to contact the respondents immediately after their return to Manila on February 23, 2004. If she was sincere in bringing Pascasio to his birthday celebration, then she would have immediately called the respondents upon returning to Manila to inform them of their whereabouts and to state the reason for Pascasio non-attendance.

We find it dubious that Pascasio would refuse to attend his birthday celebration. Respondents have sufficiently established that it was an annual tradition for the family to celebrate the birthday of their father Pascasio. Besides, the allegation that Pascasio refused to attend his birthday celebration because of an alleged misunderstanding with his two sons was not duly proven. Common sense dictates that he should have conveyed about the matter to Reina and Gracia Severa when they visited him on February 14 and 15, 2004, but he did not.

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All in all, the foregoing shows that Adelaida intentionally failed to bring Pascasio to the birthday celebration prepared by the respondents thus violating Article 19 of the Civil Code on the principle of abuse of right. Her failure to observe good faith in the exercise of her right as the wife of Pascasio caused loss and injury on the part of the respondents, for which they must be compensated by way of damages pursuant to Article 21 of the Civil Code.

Actual damages are compensation for an injury that will put the injured party in the position where he/she was before the injury. They pertain to such injuries or losses that are actually sustained and susceptible of measurement. Except as provided by law or stipulation, a party is entitled to adequate compensation only for such pecuniary loss as is duly proven. Basic is the rule that to recover actual damages, not only must the amount of loss be capable of proof; it must also be actually proven with a reasonable degree of certainty, premised upon competent proof or the best evidence obtainable.¹⁹

We find proper the modification made by the CA to delete the award of \$3,619.00 (US Dollars) as actual damages for lack of factual and legal bases. We also agree that actual damages in the amount of ₱61,200.00 for the food and refreshments spent during the birthday of Pascasio, the amount of ₱3,000.00 for the birthday cake and the amount of ₱3,275.00 for the balloon arrangements should be paid as these expenses were incurred by respondents for Pascasio's grand birthday celebration.

As for moral damages, the CA is correct in granting a lump sum of ₱300,000.00. Moral damages are not punitive in nature but are designed to compensate and alleviate in some way the physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury unjustly caused to a person.²⁰ In the instant case, the respondents clearly suffered serious anxiety, humiliation and embarrassment in front of all guests who expected that Pascasio would be present in the event.

The award of exemplary damages of ₱30,000.00 is likewise affirmed. Exemplary damages, which are awarded by way of example or correction for the public good, may be recovered if a person acted in a wanton, fraudulent, reckless, oppressive, or malevolent manner towards another party, as in this case.²¹ The aim of awarding exemplary damages is to deter serious wrongdoings.²²

¹⁹ *International Container Terminal Services v. Chua*, 730 Phil. 475, 489 (2014).

²⁰ *Lee v. People*, G.R. No. 205746 (Notice), April 3, 2013.

²¹ *Japan Airlines v. Simangan*, 575 Phil. 359, 377 (2008).

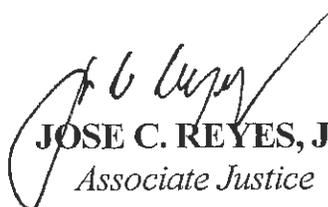
²² *Air France v. Gillego*, 653 Phil. 138, 153 (2010).

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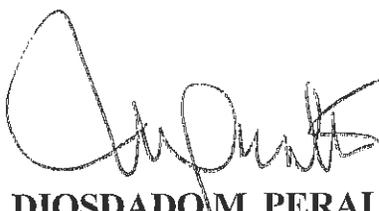
By the same token, the CA correctly awarded attorney's fees in the amount of ₱50,000.00 in favor of the respondents considering that they were constrained to file a case because of petitioner's acts characterized by bad faith, malice and wanton attitude which were intentional to inflict damage upon the former.

WHEREFORE, the Petition is **DENIED**. The Decision dated October 15, 2014 of the Court of Appeals is **AFFIRMED**.

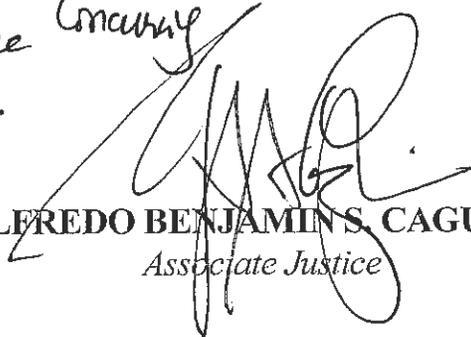
SO ORDERED.


JOSE C. REYES, JR.
Associate Justice

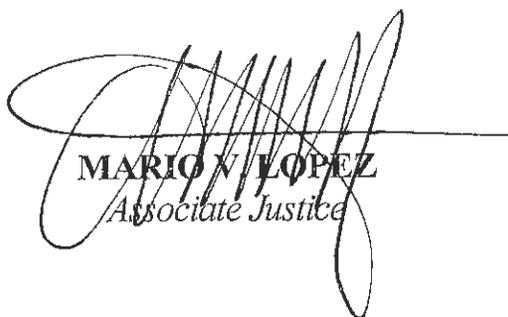
WE CONCUR:


DIOSDADO M. PERALTA
Chief Justice
Chairperson

*Here See Concurring
Opin.*

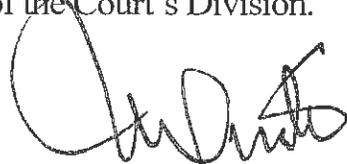

ALFREDO BENJAMINS S. CAGUIOA
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice


MARIO V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice

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