Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

BERNARD B. BENASA,
Petitioner,

- versus -

PRESENTACION R. MAHOR,
Respondent.

G.R. No. 236659

Present:

LEONEN, *J.*, *Chairperson*,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., *JJ.*

Promulgated:

AUG 31 2022

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DECISION

LOPEZ, J., *J.*:

This Court resolves a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court filed by petitioner Bernard B. Benasa (*Benasa*), seeking to reverse and set aside the Decision[2] dated July 19, 2017 and the Resolution[3] dated January 8, 2018 of the Court of Appeals (*CA*) in CA-G.R. CV No. 108032, which affirmed the Decision[4] dated September 8, 2016 and the Resolution[5] dated November 14, 2016 of the Regional Trial Court (*RTC*), Branch 78 of Quezon City, in Civil Case No. Q-12-70718, dismissing his Petition for Accounting, Inventory and Reconveyance of Real Properties with Damages.

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1 *Rollo*, p. 3-14.
2 Penned by Justice Manuel M. Barrios, with Associate Justices Ramon M. Bato, Jr. and Renato C. Francisco, concurring; id. at 18-26.
3 Id. at 28-30.
4 Rendered by Presiding Judge Fernando T. Sagun, Jr.; CA *rollo*, pp. 31-40.
5 Id. at 41-42.

The instant controversy stemmed from a Petition for Accounting, Inventory and Reconveyance of Real Properties with Damages[6] filed by Benasa against respondent Presentacion R. Mahor (*Mahor*) before the RTC.

Benasa averred that he and Mahor were childhood sweethearts, but the latter eventually married one Pablo Mahor (*Pablo*). On the other hand, he remained single and later became a seafarer. Sometime in 1974, while Mahor's marriage still subsisted, they reunited and engaged in an adulterous relationship, even as he spent most of his time overseas due to his work.[7]

Benasa asserted that using the salaries and benefits that he regularly remitted to Mahor in monthly allotments, the latter was able to purchase several real properties in the Philippines.[8] These included lots situated in Quezon City, Tagaytay City, and Baliuag, Bulacan covered by Transfer Certificate of Title (*TCT*) Nos. N-223267, T-17493, and T-306188, respectively. Unfortunately, these properties were registered only in the name of Mahor, contrary to Benasa's instruction to her to have them registered under his name.[9]

Upon Benasa's retirement in 1999, he requested Mahor to make an inventory and accounting of all the cash remittances that he entrusted to her and the properties she purchased with the same money during their cohabitation. Mahor, however, did not comply. This strained their relationship leading to their eventual separation.[10]

A decade later, Benasa, through counsel, sent a demand letter dated July 25, 2009 to Mahor with the same request to account for all the money and properties entrusted to her from the period of 1974 to 1999. As Mahor still did not heed his request, Benasa then filed the petition against her to render a complete accounting, inventory, and reconveyance of all the money and properties, real and personal, that he entrusted to her.[11]

Benasa contended that Mahor was able to purchase the properties because he sent and entrusted a large portion of his salaries and benefits to her during their "cohabitation." Without these remittances, Mahor would not have been able to acquire the properties since she was unemployed at the time. Benasa anchored his right to a complete accounting, inventory and reconveyance of all the money and properties entrusted to Mahor, on the

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6 *Rollo*, pp. 33-37.
7 Id. at 33.
8 Id. at 34.
9 Id.
10 Id. at 35.
11 Id.

supposed existence of a co-ownership between them as provided under Article 147 or 148 of the Family Code.[12]

To prove that he indeed sent remittances to Mahor, Benasa presented several slips and passbooks which covered the period from 1974 to 1999, with an aggregate amount of US$585,755.89, as well as an additional sum of ₱200,927.00.[13] Benasa also presented an inventory of several personal properties kept in their shared home in Quezon City and various photographs where he encircled and labelled certain objects to indicate as to what they were and where he allegedly purchased them. Benasa contended that he could no longer recover these personal properties, as he was barred by Mahor from entering the premises.[14]

Likewise, to prove that he was the one who purchased the house in Quezon City, he presented several photographs, which include Mahor, who could be seen visibly pointing to a house.[15] Benasa alleged that at the back of the photograph was a handwritten note from Mahor, stating that said property was purchased from the allotments he sent to her, thus:

> Dearest daddy,
>
> It's me in front of our new house I bought from my allotment.
>
> Love and care,
> Honey[16]

Benasa also presented several letters from Mahor as additional evidence, one[17] of them wherein Mahor acknowledged that Benasa sent her money and the said money being deposited in her account, which states that:

> And the total amount of our S/A now is P67,318.34 as of July. I think your $190.00 dollars increase is already added in my allotment daddy coz last June I got only P 12,471.88 while this July I got P15,439.45 with a difference of P2,967.57. Am I right daddy? Is my addition okay? Our balance should have been P77,318.34 have I not transferred to our Express teller the P10,000.00, daddy. I also opened our $ account in the same bank, I asked them if it can also be a joint account. [E]ven if you are not here but they said they need also your signature so I am the only one named in the book daddy. Will this be okay with you daddy? Kasi saying din yung araw na dadaan without any interest of our $s. One thing more daddy I am afraid to keep cash here at home.[18]

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12 Id. at 50.
13 Records, pp. 120-126.
14 Id. at 104.
15 Id. at 102.
16 Id. at 161.
17 Id. at 187.
18 Id.

Lastly, to establish that he and Mahor indeed cohabited, he adduced numerous photographs[19] showing their intimate demeanor towards one another, as well as love letters[20] exchanged between them, evincing the affectionate manner they communicated while he was assigned overseas.

In further corroborating his claims, Benasa's brother, Valerio Benasa, was presented to attest that he had personal knowledge that Benasa and Mahor lived together as husband and wife, and that all the properties acquired during their cohabitation were in fact, sourced from the very salaries and benefits sent to her by him, as a seafarer.

Notably, when the suit was filed, Mahor was situated abroad, thus, summons to her was effected *via* substituted service. However, due to her failure to file an Answer, she was consequently declared in default by the RTC in its Order[21] dated July 30, 2014. Nevertheless, trial on the merits ensued.

The RTC rendered a Decision[22] dated September 8, 2016, denying Benasa's petition requesting for a complete accounting, inventory and reconveyance of the properties. The dispositive portion of the which states:

> **WHEREFORE, premises considered, the instant petition is hereby DENIED for lack of merit. [Accordingly] ordered dismissed.**
>
> **SO ORDERED.**[23] (Emphasis in the original)

The RTC was unconvinced by the evidence presented by Benasa to prove that he had a right to the abovementioned claims.

As to his claim regarding the complete accounting and inventory of the money and properties, the RTC found that the evidence presented was insufficient to serve as basis that a co-ownership existed between him and Mahor under Articles 147 and 148 of the Family Code. For their relations to be governed by Articles 147 and 148, the RTC stated that the parties must cohabit or live together "as husband or wife." The RTC was of the position that these provisions were inapplicable to the case at bar as what transpired between Benasa and Mahor was not the marital cohabitation contemplated under the law, but at best, a simple love affair.[24]

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19 Id. at 118-119.
20 Id. at 131-136.
21 Id. at 77-78
22 CA *rollo*, pp. 31-40.
23 Id. at 40.
24 Id.

Further, the slips and passbook presented by Benasa only proved the fact that he did send money to Mahor, but they did not contain any indication or instruction, whether oral or written, that they were held by her in trust.[25] Pertinently, the RTC highlighted that the writings and letters presented by Benasa failed to support his claims that the relationship between him and Mahor was a "cohabitation" as defined by law, for the words "honey" and "daddy" were generic in designation and did not in fact show that these were specifically addressed to Benasa.[26]

The RTC also denied Benasa's prayer that Mahor be ordered to reconvey the properties which she acquired or purchased using the money of Benasa since he was unable to prove that she acquired those properties using solely the remittances she received from him. The RTC propounded that as the real properties in question were bought or acquired during the marriage of respondent and Pablo, her legal husband, the same presumably belonged to them. As this was not overcome by the evidence presented by Benasa, the presumption still stands.[27]

Lastly, the RTC denied Benasa's claim that Mahor be made to surrender all the personal properties owned by him which he was barred from accessing in their property in Quezon City, since aside from presenting pictures of the properties, he failed to adduce other evidence to show his legal rights thereto. Mere identification of his alleged properties without clearly establishing his rights thereto cannot prevail over the legal presumptions and effects of possession under Article 433[28] and 542[29] of the Civil Code.[30]

Benasa filed a Motion for Reconsideration[31] dated October 6, 2016, but this was denied by the RTC in a Resolution[32] dated November 14, 2016, for lack of merit. Unsatisfied, Benasa appealed to the CA.[33]

In its Decision[34] dated July 19, 2017, the CA denied the appeal. The dispositive portion states that:

> **WHEREFORE**, the foregoing considered, the Decision dated 08 September 2016 and Order dated 14 November 2016 of the Regional Trial Court, Branch 78, Quezon City, are **AFFIRMED**.

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25 Id at 38.
26 Id.
27 Id. at 39.
28 CIVIL CODE, Article 433. Actual possession under a claim of ownership raises a disputable presumption of ownership. xxx
29 CIVIL CODE, Article 542. The possession of real property presumes that of the movables therein, so long as it is not shown or proved that they should be excluded therefrom.
30 *Rollo*, p. 39.
31 Records, pp. 194-199.
32 CA *rollo*, pp. 41-42.
33 Id. at 10.
34 *Rollo*, pp.18-26.

SO ORDERED.[35] (Emphasis in the original)

In upholding the RTC, the CA agreed that Article 148 of the Family Code is inapplicable because it only applies when there is proof of actual cohabitation of the couple.[36]

The CA agreed with the RTC that all the real estate properties were acquired during Mahor's subsisting marriage with her husband, Pablo. Therefore, the presumption is that they are conjugal in nature or belonging to their marriage. The CA also found that Benasa and Mahor did not physically live together under one roof as husband and wife long enough for their relationship to qualify as the "cohabitation" contemplated under the law, considering that Benasa was out of the Philippines most of the time due to his work as a seafarer.[37]

In the same vein, the CA declared that Benasa's acts of remitting his salaries and benefits in the form of allotments to Mahor did not necessarily equate to the financial support or assistance that a husband extends to his wife. Notably, the CA found that the slips and passbook presented by Benasa to prove that Mahor used the remittances to purchase the properties, reflected only his name and Mahor was only added as an alternative party. The CA found it unclear as to whether it was truly Mahor who withdrew the whole amount or a part thereof from Benasa's account, and by how much each time. Further, Benasa was unable to prove that the properties registered under Mahor's name were only entrusted to her.[38]

The CA opined that Benasa failed to prove ownership of the personal properties he claimed in the property located in Quezon City, as he merely presented photographs encircling the same to label them as rightfully his, without other evidence to support his claims. Thus, the CA sustained the RTC's ruling that Benasa failed to sufficiently prove his cause of action.[39]

Benasa then filed a Motion for Reconsideration[40] dated August 22, 2017, which was similarly denied by the CA in its Resolution[41] on January 8, 2018.

Hence, this Petition.

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35 Id. at 26.
36 Id. at. 23-24.
37 Id.
38 Id. at 24-25.
39 Id.
40 CA *rollo*, pp. 215-224.
41 Id. at 41-42.

Issue

The issue for this Court's Resolution is whether the CA erred in ruling against Benasa when it refused to declare him as a co-owner of the real and personal properties under Article 148 of the Family Code.

Our Ruling

The petition is meritorious.

At the outset, it should be pointed out that as alleged by petitioner, his illicit relationship with respondent started in 1974 while the latter's marriage still subsisted. At the time, the law in effect was the Old Civil Code of the Philippines, Article 144 of which provides:

> Article 144. When a man and a woman live together as husband and wife, but they are not married, or their marriage is void from the beginning, the property acquired by either or both of them through their work or industry or their wages and salaries shall be governed by the rules on co-ownership.

In *Tumlos v. Spouses Fernandez*,[42] this Court clarified that Article 144 of the Old Civil Code applies only to a relationship between a man and a woman who are not incapacitated to marry each other, or to one in which the marriage of the parties is void from the beginning. In other words, the provision does not apply when the cohabitation amounts to adultery or concubinage.[43] We ruled that for the property relations of couples living in a state of adultery or concubinage, the applicable law is Article 148 of the Family Code, which has "filled the hiatus in Article 144 of the Civil Code," and has a retroactive application so long as vested rights remain unimpaired.[44] Thus, it is now settled that Article 148 of the Family Code governs the property regime of bigamous marriages, adulterous relationships, relationships in a state of concubinage, relationships where both man and woman are married to other persons, and multiple alliances of the same married man or woman and the properties acquired through their actual joint contribution shall belong to the co-ownership.[45]

Article 148 of the Family Code provides:

> Article 148. In cases of cohabitation not falling under the preceding Article, only the properties acquired by both of the parties through their actual joint contribution of money, property, or industry shall be owned

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42 386 Phil. 936 (2000).
43 Id. at 950.
44 Id. at 951.
45 *Aguilar-Mendoza v. Mendoza*, G.R. No. 251402, September 16, 2020 (Notice); See *Cariño v. Cariño*, 403 Phil. 861 (2001).

> by them in common in proportion to their respective contributions. In the absence of proof to the contrary, their contributions and corresponding shares are presumed to be equal. The same rule and presumption shall apply to joint deposits of money and evidences of credit.
>
> If one of the parties is validly married to another, his or her share in the co-ownership shall accrue to the absolute community or conjugal partnership existing in such valid marriage. If the party who acted in bad faith is not validly married to another, his or her share shall be forfeited in the manner provided in the last paragraph of the preceding Article.
>
> The foregoing rules on forfeiture shall likewise apply even if both parties are in bad faith.

According to petitioner, he had no intention of abandoning respondent and that it was only by the nature of his work as a seafarer that he had to leave every so often. This did not mean, however, that he was not cohabiting with her. Thus, he still has a right to the properties as a co-owner because he contributed support for their family, entitling him to a complete accounting, inventory, and reconveyance of the same.

The term "cohabit" was analyzed in the early case of *People v. Pitoc and Del Basco*[46] in this wise:

> The word cohabit has many different meanings, each depending upon the sense in which it is used. Here, we have a law intended to prohibit a married man from keeping a mistress in his dwelling or anywhere else under "scandalous circumstances" Hence, the meaning of the word cohabit here must relate and be confined to the subject-matter of the law itself. When used in that sense, it should be construed to mean "to dwell or live together as husband and wife; to live together as husband and wife although not legally married; to live together in the same house, claiming to be married; to live together at bed and board."
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> x x x x
>
> "Cohabit' means, according to Webster, first, to dwell with another in the same place; second, to live together as husband and wife.
>
> "Bishop, in his work on Marriage, Divorce, and Separation, par. 1669, says to 'cohabit' is to dwell together, so that matrimonial cohabitation is the living together of a man and woman ostensibly as husband and wife.
>
> "The word 'cohabit' is said to mean to dwell or live together as husband and wife. And as used in Pub. St. c. 207, par. 4, providing that whoever, having a former wife living, marries another or continues to cohabit with such second wife, is guilty of bigamy, etc.

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46 43 Phil. 758 (1922).

> "Obviously the legal sense of the term, as used in Acts 1877-77, p. 302, c. 7, par. 7, making it criminal for person not married to cohabit together, is to live together in the same house as married persons living together or in the manner of husband and wife.'
>
> "To 'cohabit,' according to the sense in which the word is used in a penal statute, means dwelling together as husband and wife, or in sexual intercourse, and comprises a continued period of time. Hence the offense is not the single act of adultery; it is cohabiting in a state of adultery; and it may be week, a month, a year, or longer, but still it is one offense only.
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> "To 'cohabit' means to dwell together, inhabit or reside in company, or in the same place or country. Specifically, 'to dwell or live together as husband and wife,' often with reference to persons not legally married, and usually, but not always, implying sexual intercourse[.][47]

This was reiterated in *Ocampo v. People of the Philippines*,[48] where it was held:

> The term "cohabit" means to dwell together, in the manner of husband and wife, for some period of time, as distinguished from occasional, transient interviews for unlawful intercourse. x x x And, whether an association, for illicit intercourse, has been such as to constitute an unlawful assumption of the conjugal relation, is, in every case a question of fact x x x and the extent of such association as to constitute a cohabitation within the meaning of the law, is a matter of court's appreciation.[49]

Thus, it would appear that cohabitation would require a significant period of staying together before a man and a woman may be said to be in cohabitation. Nonetheless, the law does not fix a period to determine this. Rather, the circumstances of the case must be taken into consideration, especially when it pertains to the civil law concept of cohabitation being referred to under Article 148 of the Family Code, by which contributions to the property regime are sought to be determined.

In this case, petitioner is a seafarer and has maintained his relationship with respondent as such. In the course of his employment, petitioner has to perform his work overseas and on such duration of contracts that will not allow him to stay in a dwelling for which he may spend a longer period of time with respondent. Under such situation, it becomes important to also take into consideration the intent of petitioner to return to the place where he considers as his residence or dwelling with respondent. As it would appear, this intent was manifested through his actions.

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47 Id. at 761-762.
48 72 Phil. 268 (1941).
49 Id. at 269.

It does not appear that petitioner's relationship was known to Pablo, the wedded husband of respondent. As such, it is understandable that petitioner had to keep his relationship with respondent in secret. While he was not referred to by his name in the letters presented in evidence, his possession of these letters cannot simply be borne out of caprice. There must be a reason for his possession of those letters, which pertains to exchanges of communication, embodied not just in one letter, but numerous letters.

Thus, petitioner's intention to continue cohabiting with respondent despite working as a seafarer abroad was unmistakable and evinced by his continued communication to her through written letters, which were reciprocated. Petitioner was also able to submit numerous photographs wherein they displayed affection for one another, some even taken in some of the properties that they shared. Notably, these photographs[50] were developed showing the dates when they were taken. The letters sent also display the dates as to when were they posted and received. These were all exchanged during the period of 1974-1999.

Further, it was during this same period that petitioner would remit large portions of his hard-earned salaries as an overseas filipino worker to respondent. After returning from his work overseas, petitioner would live in the Quezon City property covered by TCT No. N-223267 that he shared together with respondent, which she later prevented him from entering, upon the severance of their cohabitation in 1999.

Verily, as petitioner was able to substantiate his claim that he and respondent were cohabiting as husband and wife under Article 148 of the Family Code, the properties acquired by them during their cohabitation shall be owned by them in common in proportion to their respective actual contributions, as co-owners.

Petitioner has a right to the real properties as a co-owner and his prayer for accounting, inventory and reconveyance of real properties should prevail

The RTC and the CA mis-appreciated petitioner's allegations of facts respecting the ownership of the subject properties. Petitioner never claimed the three properties as exclusively his. He merely stated that portions of the payments for the three properties located in Quezon City, Tagaytay City, and Baliuag, Bulacan and covered by TCT Nos. N-223267, T-17493, and T-306188, were remitted by him from his salaries to the respondent before their

50 CA *rollo*, pp. 102.

separation in fact in 1999. Such payments should be considered as his contribution towards the co-owned properties. This is what led to the filing of the Petition for accounting, inventory and reconveyance of real properties against respondent in the first place, which the latter ignored.

Pertinently, there was no writing or document presented to show that the properties purchased by respondent of the three properties were held for the benefit of petitioner. As a matter of fact, these properties are all registered in the name of respondent alone, without any indication that these were held in trust for petitioner.

However, the fact that the properties were solely registered under the name of respondent alone, is not conclusive proof of ownership as its issuance does not foreclose the possibility that such property may be co-owned by persons not named therein, the claimant must nonetheless prove his/her title in the concept of an owner.[51]

In the case at bar, petitioner, as a co-owner, presented evidence showing that he made contributions in the acquisition of the subject properties. To reiterate, it was during their period of cohabitation of the parties when respondent received remittances from the petitioner.

Petitioner was able to present several slips and passbooks[52] which covered the period from 1974 to 1999, when he remitted to respondent an aggregate amount worth US$585,755.89, as well as an additional amount of ₱200,927.00, as follows:

Year	**Vessel**	**Allotment**	**Others**	**Bank Deposited**
1974-1975	M/V ORDEVS	$18,000.00	$46,152.00	PHILTRUST
1977	M/V ARIESCHIEF	$4,631.00	$51,154.96	PHILTRUST
1978	M/V ARIESCHIEF	$25,577.00	$2,947.00	SECURITY BANK
1979	M/T RALLTTIME II	$17,611.53	$2,270.00	SECURITY BANK
1979-1980	M/T NOGA	$76,860.00		PHILTRUST
1980	M/T NOGA	$26,360.00		PHILTRUST
1981	M/V BRUNHORN	$1,581.00	$6,239.60	PHILTRUST

51 *Dultra Vda. de Canada v. Baclot*, G.R. No. 221874, July 7, 2020.
52 CA *rollo*, p. 22.

1981-1982	M/V TROPICAL BREEZE	$5,798.10	$11,166.00	PHILTRUST
1982-1983	M/V TROPICAL SEA	$2635.50	$9,105.00	PHILTRUST
1983-1984	VM/V SIBOTO	$7717.60	$31,224.00	PHILTRUST
1986	M/V CHILEAN REEFER	$6500.00	$69,539.00	PHILTRUST
1987	M/V CHILEAN	$3825.00	$28,435.00	PHILTRUST
1990-1991	M/S NEDLLYOD	$12,000.00	$86,400.00	BPI
1998-1999	M/V SKAUBORD	$5,589.00	$8,303.00	PNB
1998-1999	M/S SEALAND	₱200,927.00	$18,134.00	FAR EAST BANK & TRUST COMPANY[53]
TOTAL		**$214,686.33** **₱200,927.00**	**$371,069.56**	

The continuous transactions made by petitioner in favor of respondent cannot simply be set aside. Respondent was even added as an alternative party in the passbooks[54] indicating that she was given access thereto, for her benefit. This was evident in the letter wherein she referred to the allotments she received from the petitioner to be deposited in a bank account. To reiterate, the respondent wrote to petitioner stating that:

> [A]lso opened our $ account in the same bank, they said they need also your signature so I am the only one named in the book daddy. Will this be okay with you daddy? Kasi saying din yung araw na dadaan without any interest of our $s. One thing more daddy I am afraid to keep cash here at home.[55]

In relation to this, this Court notes that respondent wrote to petitioner on the back of a photograph of the Quezon City property that it was "bought from *my* allotment." The words "my allotment"[56] is clearly in reference to the same remittances the respondent received from petitioner.

Suffice to say, the amount remitted by petitioner, from his salaries as a seafarer, or in the total amount of US$585,755.89 and the additional amount

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53 Records, p. 2.
54 Id. at 127-128.
55 Id. at 132.
56 Id.

of ₱200,927.00 to respondent during their 25-year cohabitation can hardly be considered a meager sum.

As the evidence presented was sufficient to prove petitioner's contributions in their cohabitation towards the acquisition of the contested properties and as co-owner, his prayer for accounting, inventory and reconveyance of real properties should prevail.

However, this Court cannot sustain petitioner's claim on the personal properties located in the property in Quezon City. The inventory and photos attached by petitioner encircling these, and claiming to be his, were self-serving and inadequate, for these only identified the property, but did not establish that these were actually purchased by him and not by respondent. It should be emphasized that petitioner's insistence that respondent was unemployed during the period of their illicit relationship and could not afford the subject properties as alleged by petitioner, is a patronizing assumption unsupported by evidence.

Further, as this Court is not a trier of facts, this case must be remanded to the RTC for the accounting, reception of evidence, and evaluation thereof for the proper determination of the ownership and share of the parties in the properties mentioned above, which include the properties located in Quezon City, Tagaytay City, and Baliuag, Bulacan, covered by TCT Nos. N-223267, T-17493, and T-306188 based on Article 148 of the Family Code.

With regard to the award of moral damages and exemplary damages, Article 2217[57] in relation to Article 2218[58] of the Civil Code expressly grants the award of moral damages.

ACCORDINGLY, the petition is **GRANTED**. The Decision dated July 19, 2017 and the Resolution dated January 8, 2018 of the Court of Appeals in CA-G.R. CV No. 108032, upholding the Decision dated September 8, 2016 and the Resolution dated November 14, 2016 of the Regional Trial Court are hereby **REVERSED** and **SET ASIDE**. Further:

1) The instant case is **REMANDED** to Branch 78, Regional Trial Court, Quezon City. Respondent, Presentacion R. Mahor, is hereby **ORDERED** to make and submit a complete and proper accounting

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[57] Art. 2217. Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act for omission.

[58] Art. 2218. In the adjudication of moral damages, the sentimental value of property, real or personal, may be considered.

report and/or inventory of all the money properties entrusted to her by petitioner, Bernard B. Benasa, from 1974 to 1999; and

2) Further, Presentacion R. Mahor is **ORDERED** to pay Bernard B. Benasa PHP 100,000.00 as and by way of Moral and Exemplary damages; and PHP 10,000.00 as attorney's fees. .

SO ORDERED.

JHOSEP Y. LOPEZ
Associate Justice

WE CONCUR:

on separate concurring opinion

MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
Associate Justice

ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

I attest 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.

MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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.

ALEXANDER G. GESMUNDO
Chief Justice