



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

SPOUSES ALEXANDER AND JULIE LAM, Doing Business Under the Name and Style "COLORKWIK LABORATORIES" AND "COLORKWIK PHOTO SUPPLY",
Petitioners,

G.R. No. 167615

Present:

CARPIO, *J.*, Chairperson,
BRION,
DEL CASTILLO,
MENDOZA, and
LEONEN, *JJ.*

-versus-

KODAK PHILIPPINES, LTD.,
Respondent.

Promulgated:
11 JAN 2016

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DECISION

LEONEN, *J.*:

This is a Petition for Review on Certiorari filed on April 20, 2005 assailing the March 30, 2005 Decision¹ and September 9, 2005 Amended Decision² of the Court of Appeals, which modified the February 26, 1999 Decision³ of the Regional Trial Court by reducing the amount of damages awarded to petitioners Spouses Alexander and Julie Lam (Lam Spouses).⁴

¹ Rollo, pp. 58–75. The case, docketed as CA-G.R. No. CV-64158, was entitled *Kodak Philippines, Ltd. v. Spouses Alexander and Julie Lam*.

² Id. at 423.

³ Id. at 76–79. The Decision was penned by Judge Salvador S. Abad Santos of Branch 65 of the Regional Trial Court, Makati City.

⁴ Id. at 74–75.

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The Lam Spouses argue that respondent Kodak Philippines, Ltd.'s breach of their contract of sale entitles them to damages more than the amount awarded by the Court of Appeals.⁵

I

On January 8, 1992, the Lam Spouses and Kodak Philippines, Ltd. entered into an agreement (Letter Agreement) for the sale of three (3) units of the Kodak Minilab System 22XL⁶ (Minilab Equipment) in the amount of ₱1,796,000.00 per unit,⁷ with the following terms:

This confirms our verbal agreement for Kodak Phils., Ltd. to provide Colorkwik Laboratories, Inc. with three (3) units Kodak Minilab System 22XL . . . for your proposed outlets in Rizal Avenue (Manila), Tagum (Davao del Norte), and your existing Multicolor photo counter in Cotabato City under the following terms and conditions:

1. Said Minilab Equipment packages will avail a total of 19% multiple order discount based on prevailing equipment price provided said equipment packages will be purchased not later than June 30, 1992.

2. 19% Multiple Order Discount shall be applied in the form of merchandise and delivered in advance immediately after signing of the contract.

* Also includes start-up packages worth P61,000.00.

3. NO DOWNPAYMENT.

4. Minilab Equipment Package shall be payable in 48 monthly installments at THIRTY FIVE THOUSAND PESOS (P35,000.00) inclusive of 24% interest rate for the first 12 months; the balance shall be re-amortized for the remaining 36 months and the prevailing interest shall be applied.

5. Prevailing price of Kodak Minilab System 22XL as of January 8, 1992 is at ONE MILLION SEVEN HUNDRED NINETY SIX THOUSAND PESOS.

6. Price is subject to change without prior notice.

*Secured with PDCs; 1st monthly amortization due 45 days after installation[.]⁸

On January 15, 1992, Kodak Philippines, Ltd. delivered one (1) unit

⁵ Id. at 462, 468, 469, and 472–473.

⁶ Id. at 76. The Kodak Minilab System 22XL is a Noritsu QSS 1501 with 430-2 Film Processor (non plumbed) with standard accessories.

⁷ Id. at 76.

⁸ Id. at 94.

of the Minilab Equipment in Tagum, Davao Province.⁹ The delivered unit was installed by Noritsu representatives on March 9, 1992.¹⁰ The Lam Spouses issued postdated checks amounting to ₱35,000.00 each for 12 months as payment for the first delivered unit, with the first check due on March 31, 1992.¹¹

The Lam Spouses requested that Kodak Philippines, Ltd. not negotiate the check dated March 31, 1992 allegedly due to insufficiency of funds.¹² The same request was made for the check due on April 30, 1992. However, both checks were negotiated by Kodak Philippines, Ltd. and were honored by the depository bank.¹³ The 10 other checks were subsequently dishonored after the Lam Spouses ordered the depository bank to stop payment.¹⁴

Kodak Philippines, Ltd. canceled the sale and demanded that the Lam Spouses return the unit it delivered together with its accessories.¹⁵ The Lam Spouses ignored the demand but also rescinded the contract through the letter dated November 18, 1992 on account of Kodak Philippines, Ltd.'s failure to deliver the two (2) remaining Minilab Equipment units.¹⁶

On November 25, 1992, Kodak Philippines, Ltd. filed a Complaint for replevin and/or recovery of sum of money. The case was raffled to Branch 61 of the Regional Trial Court, Makati City.¹⁷ The Summons and a copy of Kodak Philippines, Ltd.'s Complaint was personally served on the Lam Spouses.¹⁸

The Lam Spouses failed to appear during the pre-trial conference and submit their pre-trial brief despite being given extensions.¹⁹ Thus, on July 30, 1993, they were declared in default.²⁰ Kodak Philippines, Ltd. presented evidence *ex-parte*.²¹ The trial court issued the Decision in favor of Kodak Philippines, Ltd. ordering the seizure of the Minilab Equipment, which

⁹ Id. at 76.

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Id.

¹⁴ Id.

¹⁵ Id. at 106. In the letter dated October 14, 2002, Kodak Philippines, Ltd., through counsel, demanded from the Lam Spouses the surrender of possession of the delivered unit of the Minilab Equipment and its accessories. The letter stated that failure to comply will prompt Kodak Philippines, Ltd. to file a case for recovery of possession.

¹⁶ Id. at 68.

¹⁷ Id. In the Lam Spouses' Petition for Review, the checks were issued in favor of Kodak Philippines, Ltd. on March 9, 1992, the same day the first unit was delivered, in accordance with the Letter Agreement which provided that the first check would be due 45 days after the installation of the system (Id. at 13).

¹⁸ Id. at 19–20.

¹⁹ Id. at 76.

²⁰ Id.

²¹ Id.

included the lone delivered unit, its standard accessories, and a separate generator set.²² Based on this Decision, Kodak Philippines, Ltd. was able to obtain a writ of seizure on December 16, 1992 for the Minilab Equipment installed at the Lam Spouses' outlet in Tagum, Davao Province.²³ The writ was enforced on December 21, 1992, and Kodak Philippines, Ltd. gained possession of the Minilab Equipment unit, accessories, and the generator set.²⁴

The Lam Spouses then filed before the Court of Appeals a Petition to Set Aside the Orders issued by the trial court dated July 30, 1993 and August 13, 1993. These Orders were subsequently set aside by the Court of Appeals Ninth Division, and the case was remanded to the trial court for pre-trial.²⁵

On September 12, 1995, an Urgent Motion for Inhibition was filed against Judge Fernando V. Gorospe, Jr.,²⁶ who had issued the writ of seizure.²⁷ The ground for the motion for inhibition was not provided. Nevertheless, Judge Fernando V. Gorospe Jr. inhibited himself, and the case was reassigned to Branch 65 of the Regional Trial Court, Makati City on October 3, 1995.²⁸

In the Decision dated February 26, 1999, the Regional Trial Court found that Kodak Philippines, Ltd. defaulted in the performance of its obligation under its Letter Agreement with the Lam Spouses.²⁹ It held that Kodak Philippines, Ltd.'s failure to deliver two (2) out of the three (3) units of the Minilab Equipment caused the Lam Spouses to stop paying for the rest of the installments.³⁰ The trial court noted that while the Letter Agreement did not specify a period within which the delivery of all units was to be made, the Civil Code provides "reasonable time" as the standard period for compliance:

The second paragraph of Article 1521 of the Civil Code provides:

Where by a contract of sale the seller is bound to send the goods to the buyer, but no time for sending them is fixed, the seller is bound to send them within a reasonable time.

What constitutes reasonable time is dependent on the circumstances availing both on the part of the seller and the buyer. In this case, delivery of the first unit was made five (5) days after the date of the agreement. Delivery of the other two (2) units,

²² Id.

²³ Id. at 439.

²⁴ Id. at 76

²⁵ Id.

²⁶ Id. at 77.

²⁷ Id. at 113.

²⁸ Id. at 77.

²⁹ Id.

³⁰ Id.

however, was never made despite the lapse of at least three (3) months.³¹

Kodak Philippines, Ltd. failed to give a sufficient explanation for its failure to deliver all three (3) purchased units within a reasonable time.³²

The trial court found:

Kodak would have the court believe that it did not deliver the other two (2) units due to the failure of defendants to make good the installments subsequent to the second. The court is not convinced. First of all, there should have been simultaneous delivery on account of the circumstances surrounding the transaction. . . . Even after the first delivery . . . no delivery was made despite repeated demands from the defendants and despite the fact no installments were due. Then in March and in April (three and four months respectively from the date of the agreement and the first delivery) when the installments due were both honored, still no delivery was made.

Second, although it might be said that Kodak was testing the waters with just one delivery - determining first defendants' capacity to pay - it was not at liberty to do so. It is implicit in the letter agreement that delivery within a reasonable time was of the essence and failure to so deliver within a reasonable time and despite demand would render the vendor in default.

....

Third, at least two (2) checks were honored. If indeed Kodak refused delivery on account of defendants' inability to pay, non-delivery during the two (2) months that payments were honored is unjustified.³³

Nevertheless, the trial court also ruled that when the Lam Spouses accepted delivery of the first unit, they became liable for the fair value of the goods received:

On the other hand, defendants accepted delivery of one (1) unit. Under Article 1522 of the Civil Code, in the event the buyer accepts incomplete delivery and uses the goods so delivered, not then knowing that there would not be any further delivery by the seller, the buyer shall be liable only for the fair value to him of the goods received. In other words, the buyer is still liable for the value of the property received. Defendants were under obligation to pay the amount of the unit. Failure of delivery of the other units did not thereby give unto them the right to suspend payment on the unit delivered. Indeed, in incomplete deliveries, the buyer has the remedy of refusing payment unless delivery is first made. In this case though, payment for the two undelivered units have not even commenced; the installments made were for only one (1) unit.

³¹ Id.

³² Id. at 77-78.

³³ Id.

Hence, Kodak is right to retrieve the unit delivered.³⁴

The Lam Spouses were under obligation to pay for the amount of one unit, and the failure to deliver the remaining units did not give them the right to suspend payment for the unit already delivered.³⁵ However, the trial court held that since Kodak Philippines, Ltd. had elected to cancel the sale and retrieve the delivered unit, it could no longer seek payment for any deterioration that the unit may have suffered while under the custody of the Lam Spouses.³⁶

As to the generator set, the trial court ruled that Kodak Philippines, Ltd. attempted to mislead the court by claiming that it had delivered the generator set with its accessories to the Lam Spouses, when the evidence showed that the Lam Spouses had purchased it from Davao Ken Trading, not from Kodak Philippines, Ltd.³⁷ Thus, the generator set that Kodak Philippines, Ltd. wrongfully took from the Lam Spouses should be replaced.³⁸

The dispositive portion of the Regional Trial Court Decision reads:

PREMISES CONSIDERED, the case is hereby dismissed. Plaintiff is ordered to pay the following:

1) PHP 130,000.00 representing the amount of the generator set, plus legal interest at 12% per annum from December 1992 until fully paid; and

2) PHP 1,300,000.00 as actual expenses in the renovation of the Tagum, Davao and Rizal Ave., Manila outlets.

SO ORDERED.³⁹

³⁴ Id. at 78. CIVIL CODE, art. 1522: "Where the seller delivers to the buyer a quantity of goods less than he contracted to sell, the buyer may reject them, but if the buyer accepts or retains the goods so delivered, knowing that the seller is not going to perform the contract in full, he must pay for them at the contract rate. If, however, the buyer has used or disposed of the goods delivered before he knows that the seller is not going to perform his contract in full, the buyer shall not be liable for more than the fair value to him of the goods so received. Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell, the buyer may accept the goods included in the contract and reject the rest. If the buyer accepts the whole of the goods so delivered he must pay for them at the contract rate. Where the seller delivers to the buyer the goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods which are in accordance with the contract and reject the rest.

In the preceding two paragraphs, if the subject matter is indivisible, the buyer may reject the whole of the goods.

The provisions of this article are subject to any usage of trade, special agreement, or course of dealing between the parties. (n)"

³⁵ Id.

³⁶ Id.

³⁷ Id. at 80.

³⁸ Id.

³⁹ Id.

On March 31, 1999, the Lam Spouses filed their Notice of Partial Appeal, raising as an issue the Regional Trial Court's failure to order Kodak Philippines, Ltd. to pay: (1) ₱2,040,000 in actual damages; (2) ₱50,000,000 in moral damages; (3) ₱20,000,000 in exemplary damages; (4) ₱353,000 in attorney's fees; and (5) ₱300,000 as litigation expenses.⁴⁰ The Lam Spouses did not appeal the Regional Trial Court's award for the generator set and the renovation expenses.⁴¹

Kodak Philippines, Ltd. also filed an appeal. However, the Court of Appeals⁴² dismissed it on December 16, 2002 for Kodak Philippines, Ltd.'s failure to file its appellant's brief, without prejudice to the continuation of the Lam Spouses' appeal.⁴³ The Court of Appeals' December 16, 2002 Resolution denying Kodak Philippines, Ltd.'s appeal became final and executory on January 4, 2003.⁴⁴

In the Decision⁴⁵ dated March 30, 2005, the Court of Appeals Special Fourteenth Division modified the February 26, 1999 Decision of the Regional Trial Court:

WHEREFORE, PREMISES CONSIDERED, the Assailed Decision dated 26 February 1999 of the Regional Trial Court, Branch 65 in Civil Case No. 92-3442 is hereby **MODIFIED**. Plaintiff-appellant is ordered to pay the following:

1. P130,000.00 representing the amount of the generator set, plus legal interest at 12% per annum from December 1992 until fully paid; and
2. *P440,000.00 as actual damages;*
3. *P25,000.00 as moral damages; and*
4. *P50,000.00 as exemplary damages.*

SO ORDERED.⁴⁶ (Emphasis supplied)

The Court of Appeals agreed with the trial court's Decision, but extensively discussed the basis for the modification of the dispositive portion.

⁴⁰ Id. at 23.

⁴¹ Id.

⁴² Id. at 129. The Resolution was penned by Associate Justice Oswaldo D. Agcaoilil and concurred in by Associate Justices Eliezer R. De Los Santos and Regalado E. Maambong of the Thirteenth Division, Court of Appeals Manila.

⁴³ Id.

⁴⁴ Id. at 130. A Partial Entry of Judgment was issued by the Court of Appeals on January 4, 2003.

⁴⁵ Id. at 58–75. The Decision was penned by Associate Justice Andres B. Reyes, Jr. and concurred in by Associate Justices Lucas P. Bersamin (now an Associate Justice of this court) and Rosalinda Asuncion-Vicente of the Special Fourteenth Division, Court of Appeals Manila.

⁴⁶ Id. at 74–75.

The Court of Appeals ruled that the Letter Agreement executed by the parties showed that their obligations were susceptible of partial performance. Under Article 1225 of the New Civil Code, their obligations are divisible:

In determining the divisibility of an obligation, the following factors may be considered, to wit: (1) the will or intention of the parties, which may be expressed or presumed; (2) the objective or purpose of the stipulated prestation; (3) the nature of the thing; and (4) provisions of law affecting the prestation.

Applying the foregoing factors to this case, *We found that the intention of the parties is to be bound separately for each Minilab Equipment to be delivered as shown by the separate purchase price for each of the item, by the acceptance of Sps. Lam of separate deliveries for the first Minilab Equipment and for those of the remaining two and the separate payment arrangements for each of the equipment.* Under this premise, Sps. Lam shall be liable for the entire amount of the purchase price of the Minilab Equipment delivered considering that Kodak had already completely fulfilled its obligation to deliver the same. . . .

Third, it is also evident that the *contract is one that is severable in character as demonstrated by the separate purchase price for each of the minilab equipment.* “If the part to be performed by one party consists in several distinct and separate items and the price is apportioned to each of them, the contract will generally be held to be severable. In such case, each distinct stipulation relating to a separate subject matter will be treated as a separate contract.” *Considering this, Kodak's breach of its obligation to deliver the other two (2) equipment cannot bar its recovery for the full payment of the equipment already delivered. As far as Kodak is concerned, it had already fully complied with its separable obligation to deliver the first unit of Minilab Equipment.*⁴⁷ (Emphasis supplied)

The Court of Appeals held that the issuance of a writ of replevin is proper insofar as the delivered Minilab Equipment unit and its standard accessories are concerned, since Kodak Philippines, Ltd. had the right to possess it:⁴⁸

The purchase price of said equipment is P1,796,000.00 which, under the agreement is payable with forty eight (48) monthly amortization. It is undisputed that Sps. Lam made payments which amounted to Two Hundred Seventy Thousand Pesos (P270,000.00) through the following checks: Metrobank Check Nos. 00892620 and 00892621 dated 31 March 1992 and 30 April 1992 respectively in the amount of Thirty Five Thousand Pesos (P35,000.00) each, and BPI Family Check dated 31 July

⁴⁷ Id. at 66–67, *citing* 4 ARTURO TOLENTINO, COMMENTARIES AND JURISPRUDENCE ON THE CIVIL CODE OF THE PHILIPPINES, 255–257 (1995 ed.).

⁴⁸ Id. at 64.

1992 amounting to Two Hundred Thousand Pesos (P200,000.00). This being the case, Sps. Lam are still liable to Kodak in the amount of One Million Five Hundred Twenty Six Thousand Pesos (P1,526,000.00), which is payable in several monthly amortization, pursuant to the Letter Agreement. *However, Sps. Lam admitted that sometime in May 1992, they had already ordered their drawee bank to stop the payment on all the other checks they had issued to Kodak as payment for the Minilab Equipment delivered to them. Clearly then, Kodak ha[d] the right to repossess the said equipment, through this replevin suit. Sps. Lam cannot excuse themselves from paying in full the purchase price of the equipment delivered to them on account of Kodak's breach of the contract to deliver the other two (2) Minilab Equipment, as contemplated in the Letter Agreement.*⁴⁹ (Emphasis supplied)

Echoing the ruling of the trial court, the Court of Appeals held that the liability of the Lam Spouses to pay the remaining balance for the first delivered unit is based on the second sentence of Article 1592 of the New Civil Code.⁵⁰ The Lam Spouses' receipt and use of the Minilab Equipment before they knew that Kodak Philippines, Ltd. would not deliver the two (2) remaining units has made them liable for the unpaid portion of the purchase price.⁵¹

The Court of Appeals noted that Kodak Philippines, Ltd. sought the rescission of its contract with the Lam Spouses in the letter dated October 14, 1992.⁵² The rescission was based on Article 1191 of the New Civil Code, which provides: "The power to rescind obligations is implied in reciprocal ones, in case one of the obligors should not comply with what is incumbent upon him."⁵³ In its letter, Kodak Philippines, Ltd. demanded that the Lam Spouses surrender the lone delivered unit of Minilab Equipment along with its standard accessories.⁵⁴

The Court of Appeals likewise noted that the Lam Spouses rescinded the contract through its letter dated November 18, 1992 on account of Kodak Philippines, Inc.'s breach of the parties' agreement to deliver the two (2) remaining units.⁵⁵

As a result of this rescission under Article 1191, the Court of Appeals ruled that "both parties must be restored to their original situation, as far as practicable, as if the contract was never entered into."⁵⁶ The Court of Appeals ratiocinated that Article 1191 had the effect of extinguishing the

⁴⁹ Id. at 64–65.

⁵⁰ Id. at 65.

⁵¹ Id. at 65–66.

⁵² Id. at 68.

⁵³ Id.

⁵⁴ Id.

⁵⁵ Id.

⁵⁶ Id. at 69.

obligatory relation as if one was never created:⁵⁷

To rescind is to declare a contract void in its inception and to put an end to it as though it never were. It is not merely to terminate it and to release parties from further obligations to each other but abrogate it from the beginning and restore parties to relative positions which they would have occupied had no contract been made.⁵⁸

The Lam Spouses were ordered to relinquish possession of the Minilab Equipment unit and its standard accessories, while Kodak Philippines, Ltd. was ordered to return the amount of ₱270,000.00, tendered by the Lam Spouses as partial payment.⁵⁹

As to the actual damages sought by the parties, the Court of Appeals found that the Lam Spouses were able to substantiate the following:

Incentive fee paid to Mr. Ruales in the amount of P100,000.00; the rider to the contract of lease which made the Sps. Lam liable, by way of advance payment, in the amount of P40,000.00, the same being intended for the repair of the flooring of the leased premises; and lastly, the payment of P300,000.00, as compromise agreement for the pre-termination of the contract of lease with Ruales.⁶⁰

The total amount is ₱440,000.00. The Court of Appeals found that all other claims made by the Lam Spouses were not supported by evidence, either through official receipts or check payments.⁶¹

As regards the generator set improperly seized from Kodak Philippines, Ltd. on the basis of the writ of replevin, the Court of Appeals found that there was no basis for the Lam Spouses' claim for reasonable rental of ₱5,000.00. It held that the trial court's award of 12% interest, in addition to the cost of the generator set in the amount of ₱130,000.00, is sufficient compensation for whatever damage the Lam Spouses suffered on account of its improper seizure.⁶²

The Court of Appeals also ruled on the Lam Spouses' entitlement to moral and exemplary damages, as well as attorney's fees and litigation expenses:

In seeking recovery of the Minilab Equipment, Kodak cannot be

⁵⁷ Id. at 68.

⁵⁸ Id. at 69.

⁵⁹ Id.

⁶⁰ Id. at 71.

⁶¹ Id. at 71–72.

⁶² Id. at 73.

considered to have manifested bad faith and malevolence because as earlier ruled upon, it was well within its right to do the same. However, with respect to the seizure of the generator set, where Kodak misrepresented to the court *a quo* its alleged right over the said item, Kodak's bad faith and abuse of judicial processes become self-evident. Considering the off-setting circumstances attendant, the amount of P25,000.00 by way of moral damages is considered sufficient.

In addition, so as to serve as an example to the public that an application for replevin should not be accompanied by any false claims and misrepresentation, the amount of P50,000.00 by way of exemplary damages should be pegged against Kodak.

With respect to the attorney's fees and litigation expenses, We find that there is no basis to award Sps. Lam the amount sought for.⁶³

Kodak Philippines, Ltd. moved for reconsideration of the Court of Appeals Decision, but it was denied for lack of merit.⁶⁴ However, the Court of Appeals noted that the Lam Spouses' Opposition correctly pointed out that the additional award of P270,000.00 made by the trial court was not mentioned in the decretal portion of the March 30, 2005 Decision:

Going over the Decision, specifically page 12 thereof, the Court noted that, in addition to the amount of Two Hundred Seventy Thousand (P270,000.00) which plaintiff-appellant should return to the defendants-appellants, the Court also ruled that defendants-appellants should, in turn, relinquish possession of the Minilab Equipment and the standard accessories to plaintiff-appellant. Inadvertently, these material items were not mentioned in the decretal portion of the Decision. Hence, the proper correction should herein be made.⁶⁵

The Lam Spouses filed this Petition for Review on April 14, 2005. On the other hand, Kodak Philippines, Ltd. filed its Motion for Reconsideration⁶⁶ before the Court of Appeals on April 22, 2005.

While the Petition for Review on Certiorari filed by the Lam Spouses was pending before this court, the Court of Appeals Special Fourteenth Division, acting on Kodak Philippines, Ltd.'s Motion for Reconsideration, issued the Amended Decision⁶⁷ dated September 9, 2005. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, this Court resolved that:

⁶³ Id. at 73–74.

⁶⁴ Id. at 368–371.

⁶⁵ Id. at 369.

⁶⁶ Id. at 385.

⁶⁷ Id. at 367. The Amended Decision was penned by Associate Justice Andres B. Reyes, Jr. and concurred in by Associate Justices Lucas P. Bersamin (now an Associate Justice of this court) and Rosalinda Asuncion-Vicente of the Special Fourteenth Division, Court of Appeals Manila.

A. Plaintiff-appellant's Motion for Reconsideration is hereby **DENIED** for lack of merit.

B. The decretal portion of the 30 March 2005 Decision should now read as follows:

“WHEREFORE, PREMISES CONSIDERED, the Assailed Decision dated 26 February 1999 of the Regional Trial Court, Branch 65 in Civil Cases No. 92-3442 is hereby **MODIFIED**. Plaintiff-appellant is ordered to pay the following:

a. P270,000.00 representing the partial payment made on the Minilab equipment.

b. P130,000.00 representing the amount of the generator set, plus legal interest at 12% per annum from December 1992 until fully paid;

c. P440,000.00 as actual damages;

d. P25,000.00 as moral damages;
and

e. P50,000.00 as exemplary damages.

Upon the other hand, defendants-appellants are hereby ordered to return to plaintiff-appellant the Minilab equipment and the standard accessories delivered by plaintiff-appellant.

SO ORDERED.”

SO ORDERED.⁶⁸ (Emphasis in the original)

Upon receiving the Amended Decision of the Court of Appeals, Kodak Philippines, Ltd. filed a Motion for Extension of Time to File an Appeal by Certiorari under Rule 45 of the 1997 Rules of Civil Procedure before this court.⁶⁹

This was docketed as G.R. No. 169639. In the Motion for Consolidation dated November 2, 2005, the Lam Spouses moved that G.R. No. 167615 and G.R. No. 169639 be consolidated since both involved the same parties, issues, transactions, and essential facts and circumstances.⁷⁰

In the Resolution dated November 16, 2005, this court noted the Lam

⁶⁸ Id. at 370–371.

⁶⁹ Id. at 393.

⁷⁰ Id. at 384–388.

Spouses' September 23 and September 30, 2005 Manifestations praying that the Court of Appeals' September 9, 2005 Amended Decision be considered in the resolution of the Petition for Review on Certiorari.⁷¹ It also granted the Lam Spouses' Motion for Consolidation.⁷²

In the Resolution⁷³ dated September 20, 2006, this court deconsolidated G.R. No. 167615 from G.R. No. 169639 and declared G.R. No. 169639 closed and terminated since Kodak Philippines, Ltd. failed to file its Petition for Review.

II

We resolve the following issues:

First, whether the contract between petitioners Spouses Alexander and Julie Lam and respondent Kodak Philippines, Ltd. pertained to obligations that are severable, divisible, and susceptible of partial performance under Article 1225 of the New Civil Code; and

Second, upon rescission of the contract, what the parties are entitled to under Article 1190 and Article 1522 of the New Civil Code.

Petitioners argue that the Letter Agreement it executed with respondent for three (3) Minilab Equipment units was not severable, divisible, and susceptible of partial performance. Respondent's recovery of the delivered unit was unjustified.⁷⁴

Petitioners assert that the obligations of the parties were not susceptible of partial performance since the Letter Agreement was for a package deal consisting of three (3) units.⁷⁵ For the delivery of these units, petitioners were obliged to pay 48 monthly payments, the total of which constituted one debt.⁷⁶ Having relied on respondent's assurance that the three units would be delivered at the same time, petitioners simultaneously rented and renovated three stores in anticipation of simultaneous operations.⁷⁷ Petitioners argue that the divisibility of the object does not necessarily determine the divisibility of the obligation since the latter is tested against its susceptibility to a partial performance.⁷⁸ They argue that even if the object is susceptible of separate deliveries, the transaction is

⁷¹ Id. at 383–A.

⁷² Id. at 383–B.

⁷³ Id. at 504.

⁷⁴ Id. at 446–456.

⁷⁵ Id. at 449.

⁷⁶ Id.

⁷⁷ Id. at 450.

⁷⁸ Id. at 450–453.

indivisible if the parties intended the realization of all parts of the agreed obligation.⁷⁹

Petitioners support the claim that it was the parties' intention to have an indivisible agreement by asserting that the payments they made to respondent were intended to be applied to the whole package of three units.⁸⁰ The postdated checks were also intended as initial payment for the whole package.⁸¹ The separate purchase price for each item was merely intended to particularize the unit prices, not to negate the indivisible nature of their transaction.⁸² As to the issue of delivery, petitioners claim that their acceptance of separate deliveries of the units was solely due to the constraints faced by respondent, who had sole control over delivery matters.⁸³

With the obligation being indivisible, petitioners argue that respondent's failure to comply with its obligation to deliver the two (2) remaining Minilab Equipment units amounted to a breach. Petitioners claim that the breach entitled them to the remedy of rescission and damages under Article 1191 of the New Civil Code.⁸⁴

Petitioners also argue that they are entitled to moral damages more than the ₱50,000.00 awarded by the Court of Appeals since respondent's wrongful act of accusing them of non-payment of their obligations caused them sleepless nights, mental anguish, and wounded feelings.⁸⁵ They further claim that, to serve as an example for the public good, they are entitled to exemplary damages as respondent, in making false allegations, acted in evident bad faith and in a wanton, oppressive, capricious, and malevolent manner.⁸⁶

Petitioners also assert that they are entitled to attorney's fees and litigation expenses under Article 2208 of the New Civil Code since respondent's act of bringing a suit against them was baseless and malicious. This prompted them to engage the services of a lawyer.⁸⁷

Respondent argues that the parties' Letter Agreement contained divisible obligations susceptible of partial performance as defined by Article 1225 of the New Civil Code.⁸⁸ In respondent's view, it was the intention of

⁷⁹ Id. at 30–31 and 453.

⁸⁰ Id. at 455.

⁸¹ Id. at 456.

⁸² Id. at 455–456.

⁸³ Id. at 456.

⁸⁴ Id. at 460.

⁸⁵ Id. at 462.

⁸⁶ Id. at 468–469.

⁸⁷ Id. at 472–473.

⁸⁸ Id. at 548.

the parties to be bound separately for each individually priced Minilab Equipment unit to be delivered to different outlets.⁸⁹

The three (3) Minilab Equipment are intended by petitioners LAM for install[a]tion at their Tagum, Davao del Norte, Sta. Cruz, Manila and Cotabato City outlets. Each of these units [is] independent from one another, as many of them may perform its own job without the other. Clearly the objective or purpose of the prestation, the obligation is divisible.

The nature of each unit of the three (3) Minilab Equipment is such that one can perform its own functions, without awaiting for the other units to perform and complete its job. So much so, the nature of the object of the Letter Agreement is susceptible of partial performance, thus the obligation is divisible.⁹⁰

With the contract being severable in character, respondent argues that it performed its obligation when it delivered one unit of the Minilab Equipment.⁹¹ Since each unit could perform on its own, there was no need to await the delivery of the other units to complete its job.⁹² Respondent then is of the view that when petitioners ordered the depository bank to stop payment of the issued checks covering the first delivered unit, they violated their obligations under the Letter Agreement since respondent was already entitled to full payment.⁹³

Respondent also argues that petitioners benefited from the use of the Minilab Equipment for 10 months—from March to December 1992—despite having paid only two (2) monthly installments.⁹⁴ Respondent avers that the two monthly installments amounting to ₱70,000.00 should be the subject of an offset against the amount the Court of Appeals awarded to petitioners.⁹⁵

Respondent further avers that petitioners have no basis for claiming damages since the seizure and recovery of the Minilab Equipment was not in bad faith and respondent was well within its right.⁹⁶

III

The Letter Agreement contained an indivisible obligation.

⁸⁹ Id. at 548–549.

⁹⁰ Id. at 549.

⁹¹ Id.

⁹² Id.

⁹³ Id. at 550.

⁹⁴ Id. at 551.

⁹⁵ Id. at 552.

⁹⁶ Id. at 554.

Both parties rely on the Letter Agreement⁹⁷ as basis of their respective obligations. Written by respondent's Jeffrey T. Go and Antonio V. Mines and addressed to petitioner Alexander Lam, the Letter Agreement contemplated a "package deal" involving three (3) units of the Kodak Minilab System 22XL, with the following terms and conditions:

This confirms our verbal agreement for Kodak Phils., Ltd. to provide Colorkwik Laboratories, Inc. with three (3) units Kodak Minilab System 22XL . . . for your proposed outlets in Rizal Avenue (Manila), Tagum (Davao del Norte), and your existing Multicolor photo counter in Cotabato City under the following terms and conditions:

1. Said Minilab Equipment packages will avail a total of 19% multiple order discount based on prevailing equipment price provided said equipment packages will be purchased not later than June 30, 1992.

2. 19% Multiple Order Discount shall be applied in the form of merchandise and delivered in advance immediately after signing of the contract.

* Also includes start-up packages worth P61,000.00.

3. NO DOWNPAYMENT.

4. Minilab Equipment Package shall be payable in 48 monthly installments at THIRTY FIVE THOUSAND PESOS (P35,000.00) inclusive of 24% interest rate for the first 12 months; the balance shall be re-amortized for the remaining 36 months and the prevailing interest shall be applied.

5. Prevailing price of Kodak Minilab System 22XL as of January 8, 1992 is at ONE MILLION SEVEN HUNDRED NINETY SIX THOUSAND PESOS.

6. Price is subject to change without prior notice.

*Secured with PDCs; 1st monthly amortization due 45 days after installation[.]⁹⁸

Based on the foregoing, the intention of the parties is for there to be a single transaction covering all three (3) units of the Minilab Equipment. Respondent's obligation was to deliver all products purchased under a "package," and, in turn, petitioners' obligation was to pay for the total purchase price, payable in installments.

The intention of the parties to bind themselves to an indivisible obligation can be further discerned through their direct acts in relation to the package deal. There was only one agreement covering all three (3) units of the Minilab Equipment and their accessories. The Letter Agreement

⁹⁷ Id. at 94.

⁹⁸ Id. at 94.

specified only one purpose for the buyer, which was to obtain these units for three different outlets. If the intention of the parties were to have a divisible contract, then separate agreements could have been made for each Minilab Equipment unit instead of covering all three in one package deal. Furthermore, the 19% multiple order discount as contained in the Letter Agreement was applied to all three acquired units.⁹⁹ The “no downpayment” term contained in the Letter Agreement was also applicable to all the Minilab Equipment units. Lastly, the fourth clause of the Letter Agreement clearly referred to the object of the contract as “Minilab Equipment Package.”

In ruling that the contract between the parties intended to cover divisible obligations, the Court of Appeals highlighted: (a) the separate purchase price of each item; (b) petitioners’ acceptance of separate deliveries of the units; and (c) the separate payment arrangements for each unit.¹⁰⁰ However, through the specified terms and conditions, the tenor of the Letter Agreement indicated an intention for a single transaction. This intent must prevail even though the articles involved are physically separable and capable of being paid for and delivered individually, consistent with the New Civil Code:

Article 1225. For the purposes of the preceding articles, obligations to give definite things and those which are not susceptible of partial performance shall be deemed to be indivisible.

When the obligation has for its object the execution of a certain number of days of work, the accomplishment of work by metrical units, or analogous things which by their nature are susceptible of partial performance, it shall be divisible.

However, even though the object or service may be physically divisible, an obligation is indivisible if so provided by law or intended by the parties. (Emphasis supplied)

In *Nazareno v. Court of Appeals*,¹⁰¹ the indivisibility of an obligation is tested against whether it can be the subject of partial performance:

An obligation is indivisible when it cannot be validly performed in parts, whatever may be the nature of the thing which is the object thereof. The indivisibility refers to the prestation and not to the object thereof. In the present case, the Deed of Sale of January 29, 1970 supposedly conveyed the six lots to Natividad. The obligation is clearly indivisible because the performance of the contract cannot be done in parts, otherwise the value of what is transferred is diminished. Petitioners are therefore

⁹⁹ Id. at 356. Aside from the Letter Agreement, the 19% Multiple Order Discount was also contained in the Sample Computation supplied by respondent to petitioner.

¹⁰⁰ Id. at 66.

¹⁰¹ 397 Phil. 707 (2000) [Per J. Mendoza, Second Division].

mistaken in basing the indivisibility of a contract on the number of obligors.¹⁰² (Emphasis supplied, citation omitted)

There is no indication in the Letter Agreement that the units petitioners ordered were covered by three (3) separate transactions. The factors considered by the Court of Appeals are mere incidents of the execution of the obligation, which is to deliver three units of the Minilab Equipment on the part of respondent and payment for all three on the part of petitioners. The intention to create an indivisible contract is apparent from the benefits that the Letter Agreement afforded to both parties. Petitioners were given the 19% discount on account of a multiple order, with the discount being equally applicable to all units that they sought to acquire. The provision on “no downpayment” was also applicable to all units. Respondent, in turn, was entitled to payment of all three Minilab Equipment units, payable by installments.

IV

With both parties opting for rescission of the contract under Article 1191, the Court of Appeals correctly ordered for restitution.

The contract between the parties is one of sale, where one party obligates himself or herself to transfer the ownership and deliver a determinate thing, while the other pays a certain price in money or its equivalent.¹⁰³ A contract of sale is perfected upon the meeting of minds as to the object and the price, and the parties may reciprocally demand the performance of their respective obligations from that point on.¹⁰⁴

The Court of Appeals correctly noted that respondent had rescinded the parties’ Letter Agreement through the letter dated October 14, 1992.¹⁰⁵ It likewise noted petitioners’ rescission through the letter dated November 18, 1992.¹⁰⁶ This rescission from both parties is founded on Article 1191 of the New Civil Code:

The power to rescind obligations is implied in reciprocal ones, in case one of the obligors should not comply with what is incumbent upon him.

The injured party may choose between the fulfilment and the rescission of the obligation, with the payment of damages in either

¹⁰² Id. at 729.

¹⁰³ CIVIL CODE, art. 1458 - By the contract of sale, one of the contracting parties obligates himself to transfer the ownership of and to deliver the determinate thing, and the other to pay therefore a price certain in money or its equivalent.

¹⁰⁴ *Province of Cebu v. Heirs of Morales*, 569 Phil. 641 (2008) [Per J. Ynares-Santiago, Third Division].

¹⁰⁵ *Rollo*, p. 68.

¹⁰⁶ Id.

case. He may also seek rescission, even after he has chosen fulfilment, if the latter should become impossible.

The court shall decree the rescission claimed, unless there be just cause authorizing the fixing of a period.

Rescission under Article 1191 has the effect of mutual restitution.¹⁰⁷
In *Velarde v. Court of Appeals*:¹⁰⁸

Rescission abrogates the contract from its inception and requires a mutual restitution of benefits received.

....

*Rescission creates the obligation to return the object of the contract. It can be carried out only when the one who demands rescission can return whatever he may be obliged to restore. To rescind is to declare a contract void at its inception and to put an end to it as though it never was. It is not merely to terminate it and release the parties from further obligations to each other, but to abrogate it from the beginning and restore the parties to their relative positions as if no contract has been made.*¹⁰⁹ (Emphasis supplied, citations omitted)

The Court of Appeals correctly ruled that both parties must be restored to their original situation as far as practicable, as if the contract was never entered into. Petitioners must relinquish possession of the delivered Minilab Equipment unit and accessories, while respondent must return the amount tendered by petitioners as partial payment for the unit received. Further, respondent cannot claim that the two (2) monthly installments should be offset against the amount awarded by the Court of Appeals to petitioners because the effect of rescission under Article 1191 is to bring the parties back to their original positions before the contract was entered into. Also in *Velarde*:

As discussed earlier, the breach committed by petitioners was the nonperformance of a reciprocal obligation, not a violation of the terms and conditions of the mortgage contract. Therefore, the automatic rescission and forfeiture of payment clauses stipulated in the contract does not apply. Instead, Civil Code provisions shall govern and regulate the resolution of this controversy.

Considering that the rescission of the contract is based on Article 1191 of the Civil Code, mutual restitution is required to bring back the parties to their original situation prior to the inception of the contract. Accordingly, the initial payment of ₱800,000 and the corresponding mortgage payments in the amounts of ₱27,225, ₱23,000 and ₱23,925 (totaling ₱874,150.00) advanced by petitioners should be returned by

¹⁰⁷ *Laperal v. Southridge*, 499 Phil. 367 (2005) [Per J. Garcia, Third Division].

¹⁰⁸ 413 Phil. 360 (2001) [Per J. Panganiban, Third Division].

¹⁰⁹ *Id.* at 363–375.

*private respondents, lest the latter unjustly enrich themselves at the expense of the former.*¹¹⁰ (Emphasis supplied)

When rescission is sought under Article 1191 of the Civil Code, it need not be judicially invoked because the power to resolve is implied in reciprocal obligations.¹¹¹ The right to resolve allows an injured party to minimize the damages he or she may suffer on account of the other party's failure to perform what is incumbent upon him or her.¹¹² When a party fails to comply with his or her obligation, the other party's right to resolve the contract is triggered.¹¹³ The resolution immediately produces legal effects if the non-performing party does not question the resolution.¹¹⁴ Court intervention only becomes necessary when the party who allegedly failed to comply with his or her obligation disputes the resolution of the contract.¹¹⁵ Since both parties in this case have exercised their right to resolve under Article 1191, there is no need for a judicial decree before the resolution produces effects.

V

The issue of damages is a factual one. A petition for review on certiorari under Rule 45 shall only pertain to questions of law.¹¹⁶ It is not the duty of this court to re-evaluate the evidence adduced before the lower courts.¹¹⁷ Furthermore, unless the petition clearly shows that there is grave abuse of discretion, the findings of fact of the trial court as affirmed by the Court of Appeals are conclusive upon this court.¹¹⁸ In *Lorzano v. Tabayag, Jr.*:¹¹⁹

For a question to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them. The resolution of the issue must rest solely on what the law provides on the given set of circumstances. *Once it is clear that the issue invites a review of the evidence presented, the question posed is one of fact.*

....

For the same reason, we would ordinarily disregard the petitioner's allegation as to the propriety of the award of moral

¹¹⁰ Id. at 375.

¹¹¹ J. Leonen, Concurring Opinion in *EDS Manufacturing, Inc. v. Healthcheck International, Inc.*, G.R. No. 162802, October 9, 2013, 707 SCRA 133 [Per J. Peralta, Third Division].

¹¹² Id. See also *University of the Philippines v. De Los Angeles*, 146 Phil. 108 (1970) [Per J. J. B. L. Reyes, Second Division].

¹¹³ Id.

¹¹⁴ Id.

¹¹⁵ Id.

¹¹⁶ RULES OF COURT, Rule 45, sec. 1.

¹¹⁷ *Frondarina v. Malazarte*, 539 Phil. 279 (2006) [Per J. Velasco Jr., Third Division].

¹¹⁸ *Muaje-Tuazon v. Wenphil Corporation*, 540 Phil. 503 (2006) [Per J. Quisumbing, Third Division].

¹¹⁹ *Lorzano v. Tabayag, Jr.*, 681 Phil. 39 (2012) [Per J. Reyes, Second Division].

damages and attorney's fees in favor of the respondent as it is a question of fact. Thus, questions on whether or not there was a preponderance of evidence to justify the award of damages or whether or not there was a causal connection between the given set of facts and the damage suffered by the private complainant or whether or not the act from which civil liability might arise exists are questions of fact.

Essentially, the petitioner is questioning the award of moral damages and attorney's fees in favor of the respondent as the same is supposedly not fully supported by evidence. However, in the final analysis, the question of whether the said award is fully supported by evidence is a factual question as it would necessitate whether the evidence adduced in support of the same has any probative value. For a question to be one of law, it must involve no examination of the probative value of the evidence presented by the litigants or any of them.¹²⁰ (Emphasis supplied, citations omitted)

The damages awarded by the Court of Appeals were supported by documentary evidence.¹²¹ Petitioners failed to show any reason why the factual determination of the Court of Appeals must be reviewed, especially in light of their failure to produce receipts or check payments to support their other claim for actual damages.¹²²

Furthermore, the actual damages amounting to ₱2,040,000.00 being sought by petitioners¹²³ must be tempered on account of their own failure to pay the rest of the installments for the delivered unit. This failure on their part is a breach of their obligation, for which the liability of respondent, for its failure to deliver the remaining units, shall be equitably tempered on account of Article 1192 of the New Civil Code.¹²⁴ In *Central Bank of the Philippines v. Court of Appeals*:¹²⁵

Since both parties were in default in the performance of their respective reciprocal obligations, that is, Island Savings Bank failed to comply with its obligation to furnish the entire loan and Sulpicio M. Tolentino failed to comply with his obligation to pay his ₱17,000.00 debt within 3 years as stipulated, they are both liable for damages.

Article 1192 of the Civil Code provides that in case both parties have committed a breach of their reciprocal obligations, the liability of the first infractor shall be equitably tempered by the courts. WE rule that the liability of Island Savings Bank for damages in not furnishing the entire

¹²⁰ Id. at 48–50.

¹²¹ *Rollo*, pp. 70–73.

¹²² Id. at 71.

¹²³ Id. at 52.

¹²⁴ Article 1192. In case both parties have committed a breach of the obligation, the liability of the first infractor shall be equitably tempered by the courts. If it cannot be determined which of the parties first violated the contract, the same shall be deemed extinguished, and each shall bear his won damages.

¹²⁵ 223 Phil. 266 (1985) [Per C.J. Makasiar, Second Division].

loan is offset by the liability of Sulpicio M. Tolentino for damages, in the form of penalties and surcharges, for not paying his overdue ₱17,000.00 debt. The liability of Sulpicio M. Tolentino for interest on his ₱17,000.00 debt shall not be included in offsetting the liabilities of both parties. Since Sulpicio M. Tolentino derived some benefit for his use of the ₱17,000.00, it is just that he should account for the interest thereon.¹²⁶ (Emphasis supplied)

The award for moral and exemplary damages also appears to be sufficient. Moral damages are granted to alleviate the moral suffering suffered by a party due to an act of another, but it is not intended to enrich the victim at the defendant's expense.¹²⁷ It is not meant to punish the culpable party and, therefore, must always be reasonable vis-a-vis the injury caused.¹²⁸ Exemplary damages, on the other hand, are awarded when the injurious act is attended by bad faith.¹²⁹ In this case, respondent was found to have misrepresented its right over the generator set that was seized. As such, it is properly liable for exemplary damages as an example to the public.¹³⁰

However, the dispositive portion of the Court of Appeals Amended Decision dated September 9, 2005 must be modified to include the recovery of attorney's fees and costs of suit in favor of petitioners. In *Sunbanun v. Go*.¹³¹

Furthermore, we affirm the award of exemplary damages and attorney's fees. Exemplary damages may be awarded when a wrongful act is accompanied by bad faith or when the defendant acted in a wanton, fraudulent, reckless, oppressive, or malevolent manner which would justify an award of exemplary damages under Article 2232 of the Civil Code. *Since the award of exemplary damages is proper in this case, attorney's fees and cost of the suit may also be recovered as provided under Article 2208 of the Civil Code.*¹³² (Emphasis supplied, citation omitted)

Based on the amount awarded for moral and exemplary damages, it is reasonable to award petitioners ₱20,000.00 as attorney's fees.

WHEREFORE, the Petition is **DENIED**. The Amended Decision dated September 9, 2005 is **AFFIRMED with MODIFICATION**. Respondent Kodak Philippines, Ltd. is ordered to pay petitioners Alexander and Julie Lam:

¹²⁶ Id. at 276–277.

¹²⁷ *Lorzano v. Tabayag, Jr.*, 681 Phil. 39 (2012) [Per J. Reyes, Second Division].

¹²⁸ Id.

¹²⁹ *Sunbanun v. Go*, 625 Phil. 159 (2010) [Per J. Carpio, Second Division].

¹³⁰ *Rollo*, p. 74.


¹³¹ 625 Phil. 159 (2010) [Per J. Carpio, Second Division].

¹³² Id. at 166–167.

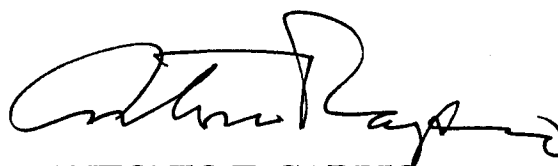
- (a) ₱270,000.00, representing the partial payment made on the Minilab Equipment;
- (b) ₱130,000.00, representing the amount of the generator set, plus legal interest at 12% per annum from December 1992 until fully paid;
- (c) ₱440,000.00 as actual damages;
- (d) ₱25,000.00 as moral damages;
- (e) ₱50,000.00 as exemplary damages; and
- (f) ₱20,000.00 as attorney's fees.

Petitioners are ordered to return the Kodak Minilab System 22XL unit and its standard accessories to respondent.

SO ORDERED.


MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


JOSE CATRAL MENDOZA
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.



ANTONIO T. CARPIO
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.



MARIA LOURDES P. A. SERENO
Chief Justice