



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

THELMA B. SIAN represented by **G.R. No. 201812**
ROMUALDO A. SIAN,

Petitioner, Present:

-versus-

LEONEN, *J.*,
Chairperson,
 GESMUNDO,
 CARANDANG,
 ZALAMEDA, and
 GAERLAN, *JJ.*

SPOUSES CAESAR A. SOMOSO AND ANITA B. SOMOSO, the former being substituted by his surviving son, ANTHONY VOLTAIRE B. SOMOSO, MACARIO M. DE GUZMAN, JR., in his capacity as SHERIFF III of the Regional Court of Panabo, Davao, Branch 4,

Respondents.

Promulgated:
January 22, 2020

M. S. O. C. Staff

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DECISION

CARANDANG, J.:

This Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assails the Decision² dated September 30, 2011 and the Resolution³ dated April 24, 2012 of the Court of Appeals (CA) in CA-G.R. CV No. 00812-MIN, which partly granted respondents' appeal and denying petitioner Thelma Sian's (petitioner) motion for reconsideration.

¹ *Rollo*, pp. 5-23.

² Penned by Associate Justice Romulo V. Borja, with Associate Justices Edgardo T. Lloren and Carmelita Salandanan Manahan, concurring; *id.* at 36-57.

³ Penned by Associate Justice Romulo V. Borja, with Associate Justices Edgardo T. Lloren and Melchor Q.C. Sadang, concurring; *id.* at 32-34.

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Facts of the Case

Sometime on March 26, 1981, Caesar A. Somoso (Somoso) filed with the Regional Trial Court (RTC) of Tagum, Davao, Branch 3, a collection suit⁴ with prayer for issuance of writ of preliminary attachment against Spouses Iluminada (Iluminada) and Juanito Quiblatin (collectively, Sps. Quiblatin). On May 8, 1981, the RTC granted the prayer for issuance of writ of preliminary attachment on the properties of Sps. Quiblatin. On May 20, 1981, the Provincial Sheriff attached the properties of Sps. Quiblatin, which included a parcel of land covered by Transfer Certificate of Title (TCT) No. T-29793 (subject property) covering an area of 413 square meters, more or less, issued in the name of "Iluminada Quiblatin, married to Juanito Quiblatin." On July 14, 1981, the attachment on the subject property was annotated on TCT No. T-29793. On September 30, 1985, the RTC decided the case in favor of respondent, ordering Sps. Quiblatin to pay Somoso the sum of ₱154,000.00 with 12% interest *per annum* until the entire obligation is fully paid, ₱5,000.00 as expenses of litigation, ₱20,000.00 as attorney's fees and the costs of suit. Sps. Quiblatin failed to appeal, hence, the decision became final and executory. On October 30, 1989, a Writ of Execution was issued. Among the properties levied is the subject property.

Before the writ of execution could be implemented, petitioner, represented by her husband, Romualdo Sian, filed on March 13, 1990 a third-party claim over TCT No. T-29793. They alleged that the subject property was sold to them by Iluminada on July 26, 1980 and the deed of sale was duly registered with the Register of Deeds (RD) of Davao on August 18, 1981. TCT No. T-34705⁵ was issued in the name of petitioner by the RD on the same date. Petitioner prayed for the auction sale not to proceed, and the immediate release of the subject property to her.

The RTC dismissed the third-party claim in its Order⁶ dated June 6, 1990. It ruled that the levy was annotated on the subject property in the RD on July 14, 1981 ahead of the registration of the deed of sale of the third-party claimant on August 18, 1981. It further declared that the third-party claim can only be taken up in a separate and independent action.

Thus, petitioner filed an action for annulment and cancellation of writ of attachment and notice of levy, injunction, damages and attorney's fees⁷ against respondents before the RTC of Panabo City, Davao del Norte, Branch 4. Petitioner alleged that she is the registered owner of the subject property and had been in possession thereof since July 26, 1980 up to the present, that she has been religiously paying the taxes, and had introduced improvements. It was sometime in 1981 that she was shocked to learn that the subject property was among those levied by the Sheriff of Davao del Norte in connection with a collection suit. Since the levy on July 14, 1981, the Sheriff had withheld possession of the subject property despite her third-party claim filed in his

⁴ Docketed as Civil Case No. 1460.

⁵ Records, pp. 6-7.

⁶ Id. at 28-33.

⁷ Id. at 1-5.

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office. Petitioner further claimed that the levy and attachment of the subject property is without legal basis, as respondents knew from the very beginning that she bought the land from Iluminada.

Respondents countered that TCT No. T-34705, in the name of petitioner, is null and void, as it was obtained through machination employed by petitioner in connivance with Iluminada, a fugitive of justice. Respondents further claimed that the title of the subject property had been attached long before TCT No. T-34705 was issued to petitioner. Further, the alleged Deed of Sale dated July 26, 1980 was not annotated on TCT No. T-29793, even when the subject property was attached on July 14, 1981.⁸

On motion of respondents, the RTC issued a temporary restraining order enjoining petitioner from constructing any building inside the subject property.⁹

Petitioner subsequently amended¹⁰ her complaint to include the allegation that at the time the Sheriff made a levy on the subject property, Iluminada was not yet served with summons of the complaint in Civil Case No. 1460, which was only served on her by publication on March 1, 1984.

Respondents specifically denied the allegation and averred that petitioner, not being a party to said case, has no personality to assail the proceedings therein.

RTC Ruling

After trial on the merits, the RTC rendered a Decision¹¹ dated May 7, 2001 dismissing petitioner's amended complaint, as well as the other claims and counterclaims, for lack of or insufficient evidence. The RTC ruled that petitioner's rights are subordinate to that of respondents', considering that petitioner's title was issued subject to the attachment/levy in favor of respondent. When the Sheriff attached the property on July 14, 1981, TCT No. T-29793 was still registered in the name of the judgment debtor, Iluminada Quiblatin. Although the Deed of Sale was executed on July 26, 1980, it was registered in the RD only on August 18, 1981.

Petitioner moved for reconsideration.¹² In the Order¹³ dated February 16, 2006, the RTC partially reconsidered its decision by declaring petitioner as the legal owner of the property, subject to the timely and valid attachment/levy on the subject property by the Sheriff. As such owner, she may well be in the material possession of the subject property, but because of the timely and valid attachment/levy effected by the Sheriff, such property, though owned by petitioner, was brought under *custodia legis*.

⁸ Id. at 15-25.

⁹ Id. at 92.

¹⁰ Id. at 125-130.

¹¹ Id. at 317-325.

¹² Id. at 326-330.

¹³ Id. at 350-353.

Respondents filed an appeal before the CA.

CA Ruling

On September 30, 2011, the CA issued a Decision¹⁴ partly granting the appeal by ordering petitioner to pay respondents the amount of ₱50,000.00 as moral damages, ₱25,000.00 as exemplary damages, and ₱30,000.00 as attorney's fees and litigation cost. It affirmed the rest of the decision of the RTC.

The CA ruled that the third-party claimant is not prevented from vindicating his ownership of the attached property in an appropriate proceeding, which in this case, was by way of reivindicatory action or a suit for damages; that the reivindicatory action had not prescribed; and that the sale of the subject property by Iluminada to petitioner is not fictitious. The CA further declared that the right of respondents to the subject property is not in the nature of ownership but a right to have the property sold in satisfaction of their claims against Iluminada. The fact that petitioner is declared owner does not alter the fact that the subject property may be sold to satisfy respondents' claim. Upon the sale on execution of the property, petitioner will then be divested of ownership of the subject property.

The CA awarded damages to respondents after considering petitioner's suit to be frivolous. It explained that petitioner's main or essential cause of action is to annul or declare the attachment on the subject property null and void. Thus, when petitioner registered the sale, she was aware of the levy on the subject property. Hence, she knew that her action to have the levy cancelled was frivolous.

Petitioner moved for reconsideration, but it was denied in the Resolution¹⁵ dated April 24, 2012 of the CA.

Hence, petitioner filed this Petition for Review on *Certiorari*¹⁶ under Rule 45.

Petitioner argues that respondents are not entitled to damages for their failure to prove the same and that she is not guilty of bad faith in pursuing her claim over the subject property. Being the registered owner, petitioner may not be faulted in assailing the validity of the levy by filing this complaint. Further, the award of moral damages may be granted only if bad faith is proven. The fact that she was able to successfully register the subject property on August 18, 1981, although late, does not constitute bad faith, much less a wrongful act or omission. She did so in order to protect her interest over the land. Respondents could not deny the fact that at the time the levy on attachment was made, petitioner was in actual possession of the subject

¹⁴ *Rollo*, pp. 36-57.

¹⁵ *Id.* at 32-34.

¹⁶ *Id.* at 5-23.

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property. Thus, petitioner averred that there is no basis for the award of moral damages; consequently, exemplary damages cannot be awarded either.

In their Comment,¹⁷ respondents maintained that petitioner was in bad faith when she filed the complaint, considering that there is absolutely no basis to annul the levy on the subject property. They averred that petitioner was trying to mislead the trial court with the “simulated” deed of sale, coupled with the false claim that petitioner was in possession of the property. Also, respondents claimed that they do not know about petitioner’s transaction on the subject property. They claimed that petitioner could not possibly buy the subject property on July 26, 1980, since petitioner was not in the Philippines during the whole year of 1980.

Issue

The issue is simple: whether petitioner should pay respondents ₱50,000.00 as moral damages, ₱25,000.00 as exemplary damages, and ₱30,000.00 as attorney’s fees and litigation cost for instituting a frivolous suit against respondents.

Our Ruling

The petition is meritorious.

After a judicious study of the case, the Court finds that the CA erred in awarding damages. Petitioner’s complaint for annulment and cancellation of writ of attachment and notice of levy is not frivolous, contrary to the CA’s conclusion. The CA explained that when petitioner registered the sale, she was aware of the levy on the subject property, hence, she knew that her action to have the levy cancelled was frivolous.

A frivolous action is a groundless lawsuit with little prospect of success.¹⁸ It is often brought merely to harass, annoy, and cast groundless suspicions on the integrity and reputation of the defendant.¹⁹

When petitioner filed the third-party complaint, she was merely exercising her right to litigate, claiming ownership over the subject property, submitting as evidence the Deed of Sale dated July 26, 1980 and TCT No. T-34705 issued in her name. Being the registered owner of the subject property, she has a remedy under the law to assail the writ of attachment and notice of levy. A third-party claimant or any third person may vindicate his claim to his property wrongfully levied by filing a proper action, which is distinct and separate from that in which the judgment is being enforced. Such action would have for its object the recovery of the possession of the property seized by the Sheriff, as well as damages resulting from the allegedly wrongful seizure and detention thereof despite the third-party claim.²⁰

¹⁷ Id. at 62-74.

¹⁸ BLACK’S LAW DICTIONARY, Sixth Edition, p. 668.

¹⁹ See *Prieto v. Corpuz*, 539 Phil. 65, 72 (2006).

²⁰ *Capa v. Court of Appeals*, 533 Phil. 691, 702 (2006).

When the third-party complaint was denied by the RTC, petitioner's remedy was to file an independent reivindicatory action against the judgment creditor – herein respondents.²¹ In fact, this was the directive of the RTC when it denied petitioner's third-party complaint. Hence, when petitioner filed the complaint for annulment and cancellation of writ of attachment and notice of levy, injunction, damages and attorney's fees, she did not act in bad faith nor was the complaint frivolous.

The remedies of a third-party claimant under Section 16 of Rule 39 of the Rules of Court is further explained by Justice Florenz D. Regalado in this wise:

The remedies of a third-party claimant mentioned in Section 16, Rule 39 of the Rules of Court, that is, a summary hearing before the court which authorized the execution, or a "terceria" or third-party claim filed with the sheriff, or an action for damages on the bond posted by the judgment creditor, or an independent reivindicatory action, are cumulative remedies and may be resorted to by a third-party claimant independently of or separately from and without need of availing of the others. If he opted to file a proper action to vindicate his claim of ownership, he must institute an action, distinct and separate from that in which the judgment is being enforced, with a competent court even before or without filing a claim in the court which issued the writ, the latter not being a condition *sine qua non* for the former. This proper action would have for its object the recovery of ownership or possession of the property seized by the Sheriff, as well as damages against the sheriff and other persons responsible for the illegal seizure or detention of the property. The validity of the title of the third-party claimant shall be resolved in said action and a writ of preliminary injunction may be issued against the sheriff.²²

When the CA held that petitioner's complaint was frivolous, it was in effect granting the award of moral damages on the basis of Article 2219(8) of the Civil Code on malicious prosecution. Traditionally, the term malicious prosecution has been associated with unfounded criminal actions. Jurisprudence has also recognized malicious prosecution to include baseless civil suits intended to vex and humiliate the defendant despite the absence of a cause of action or probable cause.²³ However, it should be stressed that the filing of an unfounded suit is not a ground for the grant of moral damages. Otherwise, moral damages must every time be awarded in favor of the prevailing defendant against an unsuccessful plaintiff. The law never intended to impose a penalty on the right to litigate so that the filing of an unfounded suit does not automatically entitle the defendant to moral damages.²⁴

Besides, as the Court explained above, there was no showing that petitioner filed the case in bad faith or that the action was vexatious and baseless. Accordingly, since respondents are not entitled to moral damages,

²¹ Florenz D. Regalado, REMEDIAL LAW COMPENDIUM, Vol. I, 1999 Ed., pp. 443-446.

²² Id. at 445-446, citing *Sy v. Discaya*, 260 Phil. 401 (1990).

²³ *Villanueva-Ong v. Enrile*, G.R. No. 212904, November 22, 2017, 846 SCRA 376, 387-386.

²⁴ *Delos Santos v. Papa*, 605 Phil. 460, 471 (2009).

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neither can they be awarded with exemplary damages, so with attorney's fees and the cost of litigation.

The rule in our jurisdiction is that exemplary damages are awarded in addition to moral damages.²⁵ In the case of *Mahinay v. Velasquez, Jr.*,²⁶ the Court pronounced:

If the court has no proof or evidence upon which the claim for moral damages could be based, such indemnity could not be outrightly awarded. The same holds true with respect to the award of exemplary damages where it must be shown that the party acted in a wanton, oppressive or malevolent manner. Furthermore, this specie of damages is allowed only in addition to moral damages such that no exemplary damages can be awarded unless the claimant first establishes his clear right to moral damages.²⁷

The award of attorney's fees should be deleted as well. The general rule is that attorney's fees cannot be recovered as part of damages because of the policy that no premium should be placed on the right to litigate. They are not to be awarded every time a party wins a suit. The power of the court to award attorney's fees under Article 2208 demands factual, legal, and equitable justification. Even when a claimant is compelled to litigate with third persons or to incur expenses to protect his rights, still attorney's fees may not be awarded where no sufficient showing of bad faith could be reflected in a party's persistence in a case other than an erroneous conviction of the righteousness of his cause.²⁸

WHEREFORE, premises considered, the instant petition is **PARTLY GRANTED**. The Decision dated September 30, 2011 and the Resolution dated April 24, 2012 of the Court of Appeals in CA-G.R. CV No. 00812-MIN as to the award of damages are hereby **REVERSED** and **SET ASIDE**.

SO ORDERED.


ROSMARID D. CARANDANG
Associate Justice


²⁵ Id. at 472.

²⁶ 464 Phil. 146 (2004).

²⁷ Id. at 150.

²⁸ *Spouses Timado v. Rural Bank of San Jose, Inc.*, 789 Phil. 453, 460 (2016).

WE CONCUR:



MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson



ALEXANDER G. GESMUNDO
Associate Justice



RODIL V. ZALAMEDA
Associate Justice



SAMUEL H. GAERLAN
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 MARIO VICTOR F. LEONEN
Associate Justice
Chairperson, Third Division

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