



REPUBLIC OF THE PHILIPPINES  
 SUPREME COURT  
 Manila  
 SECOND DIVISION

SUPREME COURT OF THE PHILIPPINES  
 PUBLIC INFORMATION OFFICE  
**RECEIVED**  
 NOV 25 2019  
 BY: YCO  
 TIME: 10:00

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **09 October 2019** which reads as follows:*

**G.R. No. 197640 - FAR EAST BANK & TRUST COMPANY vs. ABT SUPERMART, INC. and ARTHUR B. TAMULA and PEDRITA TAMULA**

**G.R. No. 197964 – ABT SUPERMART, INC., ARTHUR B. TAMULA, MARJORIE ANN T. JIMENEZ, ARTHUR LLOYD D. TAMULA, JACQUELINE T. SERAFICA, RAYMUND D. TAMULA and MICHAEL D. TAMULA vs. BANK OF THE PHILIPPINE ISLANDS (formerly FAR EAST BANK AND TRUST COMPANY)**

X-----X

**The Case**

These twin cases refer to the: 1) Petition<sup>1</sup> dated July 20, 2011 filed by Far East Bank and Trust Company (now Bank of the Philippine Islands) in G.R. No. 197640; and 2) Petition (with motion for consolidation)<sup>2</sup> dated September 3, 2011 filed by ABT Supermart, Inc. (ABT Supermart), Arthur Tamula, Marjorie Ann Jimenez, Arthur Lloyd Tamula, Jacqueline Serafica, Raymund Tamula, and Michael Tamula in G.R. No. 197964. Both petitions assail the following dispositions of the Court of Appeals in CA-G.R. CV No. 00487-MIN entitled “*ABT Supermart, Inc. and Arthur B. Tamula and Pedrita Tamula*.”

- 1) Decision<sup>3</sup> dated October 19, 2010, which affirmed with modification the trial court’s disposition in favor of ABT Supermart, thus:

WHEREFORE, the June 15, 2005 Decision of the Regional Trial Court in Civil Case No. 07-487 is MODIFIED as follows:

<sup>1</sup> Rollo for G.R. No. 197640, pp. 3-13.  
<sup>2</sup> Rollo for G.R. No. 197964, pp. 8-25.  
<sup>3</sup> Rollo for G.R. No. 197640, pp. 16-30.

10/20

1. Exemplary damages is awarded appellee ABT Supermart in the amount of P50,000.00 and attorney's fees in the amount of P20,000.00
2. All awards to Arthur B. Tamula are deleted.

SO ORDERED.<sup>4</sup>

- 2) Resolution<sup>5</sup> dated July 11, 2011, denying the parties' respective motions for reconsideration.

ABT Supermart is a company based in Kolambugan, Lanao del Norte. Represented by its president, Arthur Tamula and joined by his wife Pedrita Tamula,\* it filed a complaint for breach of contract/trust with damages against Far East Bank and Trust Company (FEBTC). The case was raffled to the Regional Trial Court, Branch 7, Tubod, Lanao del Norte.

#### Antecedents

ABT Supermart maintained Savings Account No. 0190-06544-3 and Current Account No. 0090-00777-8 with FEBTC. The savings account had an automatic transfer feature to the current account. Spouses Arthur and Pedrita Tamula were the authorized signatories of the company checks.<sup>6</sup>

On July 3, 1998, ABT Supermart issued Far East Bank Check No. 4756963 for ₱25,964.00 payable to A & A Distributors. The latter deposited the check with Solidbank in Ozamiz City. When Solidbank presented the check to FEBTC, it was dishonored for being "*drawn against uncollected deposits.*" On November 12, 1999, ABT Supermart wrote FEBTC inquiring why the check was dishonored.<sup>7</sup>

On January 12, 2000, ABT Enterprises, through Spouses Arthur and Pedrita Tamula, filed the complaint below against FEBTC. They alleged that their account had sufficient funds to cover the check. As of July 31, 1998, ABT Supermart's account had a balance of ₱74,891.25. The dishonor of the check caused Spouses Tamula embarrassment and inflicted damage on their social standing in the business community. They suffered sleepless nights, besmirched reputation, mental anguish, and inconvenience, thus, entitling them to ₱100,000.00 each as moral damages.<sup>8</sup>

<sup>4</sup> *Id.* at 30.

<sup>5</sup> *Id.* at 41-42.

\* After her death, she was substituted by her heirs, namely, Marjorie Ann Jimenez, Arthur Lloyd Tamula, Jacqueline Serafica, Raymund Tamula, and Michael Tamula.

<sup>6</sup> Rollo for G.R. No. 197640, pp. 16-17.

<sup>7</sup> *Id.* at 17.

<sup>8</sup> *Id.*



In its answer, FEBTC countered that when the check was presented for payment on July 3, 1998, ABT Supermart only had ₱222.54 in its savings account while its current account had an overdraft of ₱248,653.69. By compulsory counterclaim, it demanded costs of suit and attorney's fees because it was compelled to litigate to vindicate its tarnished image and goodwill.<sup>9</sup>

Trial ensued.

### **Ruling of the Trial Court**

By Decision<sup>10</sup> dated June 15, 2005, the trial court held that FEBTC failed to prove that ABT Supermart only had ₱222.54 in its account. ABT Supermart was able to prove, through its passbook, that it had a balance of ₱88,890.34 as of July 6, 1998. The best evidence of a bank transaction is a passbook. The trial court decreed:

WHEREFORE, in the light of the preponderance of evidence, the Court renders judgment in favor of plaintiff Arthur B. Tamula only vis-à-vis defendant and orders the following:

a) Defendant to pay moral damages to plaintiff Arthur B. Tamula the sum of P500,000.00;

b) Defendant to pay exemplary damages to plaintiff Arthur B. Tamula the sum of P300,000.00

c) Defendant to pay attorney's fee of P30,000.00;

d) Counterclaim of defendant is ordered dismissed;

e) Defendant to pay P5,000.00 as expenses in litigation;

f) And to pay the cost of the proceedings.

SO ORDERED.<sup>11</sup>

### **Proceedings before the Court of Appeals**

On appeal, FEBTC faulted the trial court for not giving weight to the handwritten notes and documents of its bank officers that ABT Supermart only had a balance of ₱222.54 in its checking account; for not taking into account the other sixteen (16) dishonored checks issued by ABT Supermart, from June 25, 1997 to July 6, 1998; for focusing only on the evidentiary weight of ABT Supermart's passbook to the exclusion of other evidence; and

---

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 19-20.

<sup>11</sup> *Id.* at 19.

for awarding Arthur Tamula moral damages, exemplary damages, and attorney's fees.<sup>12</sup>

### **Ruling of the Court of Appeals**

By its assailed Decision dated October 19, 2010, the Court of Appeals affirmed with modification. It held that the trial court did not only focus on ABT Supermart's passbook but took into account the parties' respective evidence before concluding that FEBTC did not exercise proper care and diligence in handling ABT Supermart's accounts. There was, however, no basis for the award of damages to Arthur Tamula since he was merely acting as a representative of ABT Supermart, a juridical entity. As a deterrent, the Court of Appeals ordered FEBTC to pay ₱50,000.00 as exemplary damages to ABT Supermart and ₱20,000.00 as attorney's fees, since ABT Supermart was compelled to litigate.<sup>13</sup>

ABT Supermart, et al and FEBTC filed their respective motions for reconsideration which the Court of Appeals denied through its Resolution dated July 11, 2011.

### **The Present Petition**

ABT Supermart, et al and FEBTC now seek affirmative relief from the Court via their respective petitions for review on certiorari.

In G.R. No. 197640, FEBTC insists that ABT Supermart only had a withdrawable balance of ₱222.54 as of July 3, 1998. The ABT Supermart's records with the bank were up to date. As of that day, the account had an uncleared deposit of ₱32,638.71 covered by checks coming from the Bank of the Philippine Islands, Development Bank of the Philippines, United Coconut Planter's Bank, and Philippine National Bank. Clearing these checks required seven (7) days. Its agents acted in good faith and regularly performed their functions when it dishonored ABT Supermart's FEBTC Check No. 4756963 for being drawn against uncollected deposits.<sup>14</sup>

In their Comment<sup>15</sup> dated July 22, 2013, ABT Supermart, et al. essentially argued that the issues raised by FEBTC are factual in nature albeit the trial court's factual findings, when affirmed by the Court of Appeals, are binding on this Court.

In G.R. No. 197964, ABT Supermart, et al. argues that because of FEBTC's failure to observe the appropriate standard of diligence, it was liable for moral damages, in addition to exemplary damages and attorney's fees.

---

<sup>12</sup> *Id.* at 19-23.

<sup>13</sup> *Id.* at 26-30.

<sup>14</sup> *Id.* at 3-15.

<sup>15</sup> *Id.* at 124-126.



Spouses Arthur and Pedrita Tamula are entitled to moral damages since they suffered besmirched reputation, mental anguish, and inconvenience. They ask that FEBTC be ordered to pay them ₱1,000,000.00 moral damages, ₱900,000.00 exemplary damages, and twenty percent (20%) of the monetary awards as attorney's fees.<sup>16</sup>

In its Comment<sup>17</sup> dated January 12, 2012, FEBTC reiterates that it was able to demonstrate that at the time ABT Supermart's check was presented for encashment, ABT Supermart's savings and current accounts only had a balance of ₱222.54. ABT Supermart did not have sufficient balance during the clearing period. The passbook alone does not determine the available withdrawable balance.

### Ruling

Both petitions are devoid of merit.

*First.* The Rules of Court requires that only questions of law should be raised in petitions filed under Rule 45. Not being a trier of facts, the Court will not entertain factual questions, nay, recalibrate the parties' respective evidence.<sup>18</sup>

Notably, the factual issues raised by FEBTC are the same ones it had raised before the trial court and the Court of Appeals. Indeed, in the absence of any showing that the trial court and Court of Appeals overlooked, misapprehended or misinterpreted facts or circumstances of weight as to materially affect the disposition of the case, their factual findings are accorded the highest degree of respect.<sup>19</sup>

*Second.* FEBTC is liable to pay ABT Supermart exemplary damages and attorney's fees. Under Article 2229, exemplary or corrective damages may be imposed, by way of example or correction for the public good. For the business of banking is impressed with public interest and great reliance is made on the bank's sworn profession of diligence and meticulousness in giving irreproachable service. Banks must always act in good faith and must win the confidence of clients and people in general.<sup>20</sup> Here, the FEBTC's employees concerned failed to exercise the required degree of diligence and meticulousness in handling ABT Supermart's banking needs. On this score, the Court of Appeals keenly observed:

Clearly, appellant's failure to specifically deny in its answer the allegation that it had failed to answer appellees' demand letters constitutes a judicial admission of that fact. Under the Rules, a judicial admission is admission, verbal or written, made by a party in the course of the

<sup>16</sup> Rollo for GR No. 197964, pp. 8-25.

<sup>17</sup> *Id.* at 92-102.

<sup>18</sup> See *Pascual v. Burgos*, 776 Phil. 167, 182 (2016).

<sup>19</sup> *People v. Manzano, Jr.*, G.R. No. 217974, March 05, 2018.

<sup>20</sup> *Games and Garments Developers, Inc. v. Allied Banking Corp.*, 763 Phil. 573, 606 (2015).



proceedings in the same case. It does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made.

Second. To the mind of the Court, the trial court is correct in holding that the failure of the appellant to reply to the demand letters manifests bad faith on its part. The fact that the bank had failed to properly credit to appellee ABT Supermart's account the latter's deposit of local checks beyond the clearing period to do so may have been by itself merely a negligent act. But when called upon to explain its failure, appellant failed to respond in any reasonable manner. This omission is inexplicable. It does not matter what constrained appellant from answering appellees' letters – whether it is a guilty conscience or a refusal to be bothered by a mere depositor's query or a need to evade having to explain the inexplicable the omission amounts to concealment. x x x<sup>21</sup>

The award of attorney's fees and cost of suit to ABT Supermart is proper since it was compelled to bring the action by reason of FEBTC's act or omission and incur expenses to protect its interest.<sup>22</sup> Additionally, since exemplary damages are awarded here, attorney's fees should be granted as well.<sup>23</sup>

**Third.** ABT Supermart is not entitled to moral damages. A juridical person is generally not entitled to moral damages because, unlike a natural person, it cannot experience physical suffering or such sentiments as wounded feelings, serious anxiety, mental anguish or moral shock. Although in some cases, the grant of moral damages to corporations is allowed, it is not automatically granted; there must still be proof of the existence of the factual basis of the damage and its causal relation to the defendant's acts. This is so because moral damages, though incapable of pecuniary estimation, are in the category of an award designed to compensate the claimant for actual injury suffered and not to impose a penalty on the wrongdoer.<sup>24</sup> Here, since ABT Supermart has not adequately proven the extent of injury it supposedly suffered by reason of FEBTC's negligence, its claim for moral damages should fail.

**Fourth.** Spouses Arthur and Pedrita Tamula (represented by Pedrita's heirs) are not entitled to moral and exemplary damages for they sued on behalf of ABT Supermart and not in their personal capacities. Sections 2 and 3, Rule 3 of the Rules of Court ordain:

SEC. 2 Parties in interest. A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.

<sup>21</sup> Rollo for G.R. No. 197640, pp. 25-26.

<sup>22</sup> *DBP v. Clarges Realty Corp.*, 793 Phil. 227 (2016).

<sup>23</sup> *Dela Cruz v. Octaviano*, 814 Phil. 891 (2017).

<sup>24</sup> *First Lepanto-Taisho Insurance Corp. v. Chevron Philippines, Inc.*, 679 Phil. 313, 329 (2012).

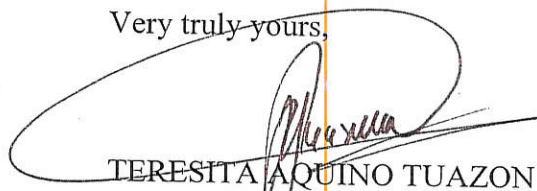
SEC. 3. Representatives as parties. Where the action is allowed to be prosecuted or defended by a representative or someone acting in a fiduciary capacity, the beneficiary shall be included in the title of the case and shall be deemed to be the real party in interest. A representative may be a trustee of an express trust, a guardian, an executor or administrator, or a party authorized by law or these Rules. An agent acting in his own name and for the benefit of an undisclosed principal may sue or be sued without joining the principal except when the contract involves things belonging to the principal.

Verily, being mere representatives of ABT Supermart, the real party in interest, Spouses Tamula cannot assert any personal claim in the suit they initiated on behalf of ABT Supermart.

**WHEREFORE**, the petitions in G.R. Nos. 197640 and 197964 are **DENIED**. The awards of ₱50,000.00 as exemplary damages and ₱20,000.00 as attorney's fees to ABT Supermart, Inc. are **AFFIRMED** with **MODIFICATION** that these monetary awards are subject to six percent (6%) interest from finality of this resolution until fully paid.

**SO ORDERED.**"

Very truly yours,



TERESITA AQUINO TUAZON

Deputy Division Clerk of Court *with 11/20*

21 NOV 2019

\*ATTY. FLORENDO B. OPAY (reg)  
Counsel for Far East Bank & Trust Company/  
Bank of the Philippine Islands  
Crossing, Tubod  
9209 Lanao del Norte

\*ABERILLA LAW OFFICE (reg)  
Counsel for ABT Supermart, Inc. et al.  
01 Doña Josefa Ave. cor. Tubod Highway  
Rosario Heights, 9200 Iligan City

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 07  
Tubod, Lanao del Norte  
(Civil Case No. 07-487)

COURT OF APPEALS (reg)  
Mindanao Station  
Cagayan de Oro City  
CA-G.R. CV No. 00487-MIN

JUDGMENT DIVISION (x)  
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)  
LIBRARY SERVICES (x)  
[For uploading pursuant to A.M. No. 12-7-SC]

OFFICE OF THE CHIEF ATTORNEY (x)  
OFFICE OF THE REPORTER (x)  
Supreme Court, Manila

\*With copy CA Decision dated 19 October 2010  
*Please notify the Court of any change in your address.*  
GR197640 & 197964. 10/09/2019(59)URES

