

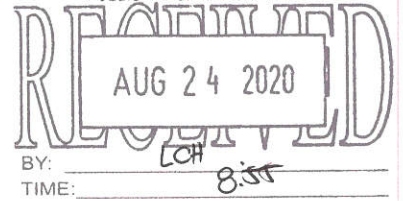


Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE



Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **March 4, 2020**, which reads as follows:*

**“G.R. No. 247238 (Dominador Cabrera and Rosa Cabrera v. Avelino Baguio, Evelyn Baguio, Lolita Duran, and Mr. Duran).** – The Court  
**NOTES:**

- (1) petitioners’ Compliance dated December 10, 2019 with the Resolution dated September 2, 2019, submitting the affidavit of service of the petition for review on *certiorari* to the Court of Appeals; and
- (2) respondent Lolita Duran’s comment dated January 20, 2020 on the petition.

After a judicious study of the case, the Court resolves to deny the instant petition for failure of Dominador Cabrera and Rosa Cabrera (collectively, petitioners) to show any reversible error on the part of the Court of Appeals (CA) in issuing the assailed Decision<sup>1</sup> dated November 29, 2018 and Resolution<sup>2</sup> dated March 6, 2019 in CA-G.R. CV No. 04342-MIN.

However, there is a need to delete the award of damages imposed by the Regional Trial Court (RTC), as affirmed by the CA, specifically in partially granting the counterclaim of respondent Lolita Duran (Lolita) by directing petitioners to pay her the sums of ₱100,00.00 as moral damages, ₱100,000.00 as attorney’s fees, and ₱20,000.00 as cost of litigation.

In granting the award of moral damages pursuant to Article 2217 of the Civil Code, the RTC held that Lolita suffered sleepless nights and anxiety due to the filing of the instant complaint. In essence, the RTC granted the award of moral damages predicated upon the unfounded complaint of petitioners or

<sup>1</sup> Penned by Associate Justice Tita Marilyn Payoyo-Villordon, with Associate Justices Edgardo T. Lloren and Oscar V. Badelles, concurring; *rollo*, pp. 10-20.

<sup>2</sup> *Id.* at 31-32.

under Article 2219(8) of the Civil Code on malicious prosecution, causing Lolita to suffer sleepless nights and anxiety.

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.<sup>3</sup>

When they filed this *accion reivindicatoria*, petitioners were merely exercising their right to litigate claiming ownership over the subject property having bought the same from the other respondents Avelino Baguio and Evelyn Baguio, submitting as evidence the two Deeds of Sale with Assumption of Mortgage. Under the circumstances, it cannot be concluded that the complaint was completely without basis and one that is filed simply to vex or harass Lolita. With two Deeds of Sale executed in their favor, petitioners believed that they had a legal basis to back up their claim. That the case was dismissed would not automatically warrant the award of moral damages in favor of respondent Lolita.<sup>4</sup>

The filing of an unfounded suit is not a ground for the grant of moral damages. Otherwise, moral damages must always be awarded in favor of the prevailing defendant against an unsuccessful plaintiff.<sup>5</sup> 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.

Attorney's fees and cost of litigation are, likewise, deleted. 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.<sup>6</sup> As We have explained above, there was no showing that petitioners filed the case in bad faith or that the action was vexatious and baseless. Accordingly, attorney's fees should not have been awarded, so with the cost of litigation.

**WHEREFORE**, the petition is **DENIED**. The Decision dated November 29, 2018 and the Resolution dated March 6, 2019 of the Court of Appeals in CA-G.R. CV No. 04342-MIN is hereby **AFFIRMED with MODIFICATION** in that the awards of moral damages, attorney's fees, and cost of litigation in favor of respondent Lolita Duran is deleted.

<sup>3</sup> *Villanueva-Ong v. Enrile*, 821 Phil. 538, 548 (2017).

<sup>4</sup> *Delos Santos v. Papa*, 605 Phil. 460 (2009).

<sup>5</sup> *Id.* at 471-472.

<sup>6</sup> *Timado v. Rural Bank of San Jose, Inc.*, 789 Phil. 453, 460 (2016).

**SO ORDERED.”**

Very truly yours,

*Misael D C Batt*  
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*Division Clerk of Court*  
*7/16/2020*

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[Civil Case No. 32, 904-09]

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