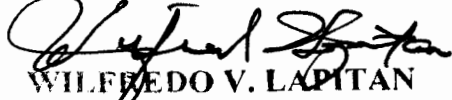




Republic of the Philippines
Supreme Court
 Baguio City

CERTIFIED TRUE COPY

 WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

MAY 29 2018

THIRD DIVISION

TERESA GUTIERREZ YAMAUCHI,
 Petitioner,

G.R. No. 199513

Present:

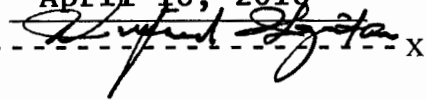
VELASCO, JR., J.,
Chairperson,
 BERSAMIN,
 LEONEN,
 MARTIRES, and
 GISMUNDO, JJ.

- versus -

ROMEO F. SUÑIGA,
 Respondent.

Promulgated:

April 18, 2018



X ----- X

DECISION

MARTIRES, J.:

We resolve the petition for review on certiorari appealing the 12 April 2011 Decision¹ and the 22 November 2011² Resolution of the Court of Appeals (CA) in CA-G.R. CV No. 91381. Although the CA affirmed the 28 January 2008 Decision³ of the Regional Trial Court, Branch 24 of Manila (RTC) in Civil Case No. 02-105365, it (1) reduced the award for actual damages, and (2) deleted the award for moral and exemplary damages, attorney's fees, and costs of suit. The instant petition contests only the CA's reduction and deletion of the award of damages.



¹ *Rollo*, pp. 41-56; penned by Associate Justice Ramon M. Bato, Jr., and concurred in by Associate Justices Juan Q. Enriquez, Jr. and Florito S. Macalino.

² *Id.* at 58-59.

³ *Records*, pp. 507-514; penned by Judge Antonio M. Eugenio, Jr.

THE FACTS

On 13 December 2002, Teresa Gutierrez Yamauchi (*Yamauchi*) filed a complaint against Romeo F. Suñiga (*Suñiga*) for rescission with prayer for damages.⁴ The factual antecedents leading to the complaint are summarized by the CA as follows:

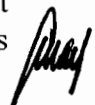
[Yamauchi] owns a house located at Block 88, Lot 23, Laguna Bel-Air, Sta. Rosa, Laguna [hereinafter subject house]. Sometime in September 2000, [Yamauchi] consulted [Suñiga], the husband of her cousin, regarding the renovation of the subject house. After [Yamauchi] gave [Suñiga] a sketch of her intended renovations, the latter apprised her of the estimated cost that it would entail. Based on the Scope of Works given by [Suñiga] and accepted by [Yamauchi], the total cost was ~~₱869,658.00~~ ₱849,658.00 for the renovation and ₱20,000.00 for permits and licenses. The estimated costs for the renovation were itemized in the document denominated as Bill of Materials. On October 9, 2000, [Yamauchi] gave a partial payment in the amount of ₱300,000.00 and another payment in the amount of ₱100,000.00 on January 31, 2001. It appears that, by January 2001, the renovation stopped as [Suñiga] was also constructing his house.

Subsequently, [Suñiga] gave [Yamauchi] a Billing Summary stating that he had accomplished 47.02% of the intended renovations and that after deducting the amount of ₱400,000.00 previously given by [Yamauchi], the latter was liable for the billing amount of ₱8,992.50. Likewise, [Suñiga] gave [Yamauchi] an Accomplishment Billing stating that he had accomplished 25.13% of the additional works and that [Yamauchi] was liable for the billing amount of ₱49,512.50. These additional works consisted of a carport balcony, lanai trellis, and installation of new door and dormer at the carport balcony.

At around March 2001, [Yamauchi] inquired from [Suñiga] as to when the renovation would be completed and the latter asked for additional funds. [Yamauchi] requested [Suñiga] to advance the expenses and proposed and that she will pay him later, but [Suñiga] replied that he had no money. The renovation was thereafter suspended and [Suñiga] told [Yamauchi] that he will resume the renovation after the construction of his house, and [Yamauchi] should give the additional funds then. In the interim, [Yamauchi] consulted her neighbor, a certain Engr. Froilan Thomas, who told her that the amount stated on the Bill of Materials could actually build a new house. Feeling shortchanged and deceived, [Yamauchi] asked [Suñiga] to explain why she should pay the additional amount he was demanding. The confrontation eventually led to a heated argument and [Suñiga] decided to stop the work and pulled out the workers and recalled the materials.

[Yamauchi], through counsel, sent a letter to [Suñiga] stating that due to the bloated amount of the cost of renovation and [Suñiga's] stubborn refusal to complete the project, she was constrained to terminate their contract. She demanded the payment of P400,000.00, plus 12% interest thereon. [Suñiga] sent a reply stating that the demand for payment was

⁴ Id. at 1-14.



without basis since the stoppage of the renovation was due to [her] non-payment of the billing. In turn, [Suñiga] demanded the payment of ₱49,512.50, representing the amount of additional works that he had partially accomplished.⁵

In her complaint, Yamauchi alleged that she was seeking rescission of their contract because of the following: (a) Suñiga's misrepresentation that he was a licensed architect; (b) the changes on the subject house were not in accordance with what they agreed upon; (c) Suñiga refused to comply with his obligation to finish the renovation by December 2000; (d) there were some renovations which were reported as accomplished, when in fact they had not yet been constructed; and (e) the subject house was rendered uninhabitable. According to Yamauchi, these circumstances constituted substantial breach of Suñiga's contractual obligations, entitling her to seek for the rescission of the contract, plus award of damages and attorney's fees.⁶

Suñiga filed his answer with counterclaims denying Yamauchi's allegations and at the same time claiming that: (a) he did not solicit the contract and it was Yamauchi who requested him to renovate the subject house; (b) he told Yamauchi that payments would be on accomplishment basis; (c) there was no target schedule as Yamauchi intimated to him that she did not have sufficient funds to finance the project; (d) he was able to accomplish 47% of the renovation works aside from the additional works requested by Yamauchi; and (e) it was Yamauchi who asked him to suspend the renovation. Claiming that he was the one who had the right to seek rescission, Suñiga averred that Yamauchi should pay her unpaid obligation in the amount of ₱58,005.00, as well as attorney's fees, moral and exemplary damages, and costs of suit.⁷

The RTC Ruling

After reception of evidence and submission of the parties' respective memoranda, the RTC rendered its decision warranting rescission and payment of damages in favor of Yamauchi.⁸ As a result, the RTC ruled:

Palpable in the case at bar is the action of [Yamauchi] in periodically assessing the progress of [the] renovation and in all instances felt shorthanded. From the delay in starting the construction, lack of a laborer at the site, the utter absence of supervision by [Suñiga], and the bloated cost of construction materials. All these can only be indicative of [Suñiga's] breach of his obligation to [Yamauchi]. Thus, we find it unjust that [Suñiga] would rebuke [Yamauchi] for coming up short with the

⁵ *Rollo*, pp. 42-43.

⁶ *Id.* at 44.

⁷ *Id.*

⁸ Records, pp. 507-514; penned by Judge Antonio M. Eugenio, Jr.

payments when he has violated the very terms of the agreement and was in no position to fulfill what was incumbent [upon] him to accomplish.⁹

x x x x

The dispositive portion of the RTC decision reads:

Accordingly, judgment is hereby rendered ordering [Suñiga] to pay [Yamauchi] the following:

- (1) Four Hundred Thousand (P400,000.00) Pesos, as actual damages;
- (2) Fifty Thousand (P50,000.00) Pesos, as moral damages;
- (3) Fifty Thousand (P50,000.00) Pesos, as exemplary damages;
- (4) Attorney's fees in the amount of Thirty Thousand (P30,000.00) Pesos; and
- (5) Costs of suit.¹⁰

The CA Ruling

Dissatisfied, Suñiga appealed to the CA, which affirmed the RTC's ruling to rescind the contract between Yamauchi and Suñiga under Article 1191 of the Civil Code.¹¹ The CA held however, that the RTC erred in its award for damages, to *wit*:

Accordingly, when a decree for rescission is handed down, it is the duty of the court to require both parties to surrender that which they have respectively received and to place each other as far as practicable in his original situation. In the present case, the court a quo ordered [Suñiga] to return the entire amount (P400,000.00) paid by [Yamauchi].

We differ from the court a quo's conclusion.

The rule is that when it is no longer possible to return the object of the contract, an indemnity for damages operates as restitution. The important consideration is that the indemnity for damages should restore to the injured party what was lost. However, restoration of the parties to their relative position which they would have occupied had no contract ever been made is not practicable nor possible because we cannot turn back the hands of time so as to undo the partial renovations undertaken by [Suñiga]. At any rate, it is worthy to note that [Yamauchi] had not lost the entire amount (P400,000.00) she gave to [Suñiga]. A perusal of the

⁹ Id. at 513.

¹⁰ Id. at 514.


¹¹ Id. at 52; on the matter of rescission, the CA said: "In view of all the acts committed by [Suñiga] – unauthorized additional works, the bloated costs in the Billing Summary and Accomplishment Billing, and the unjustified termination of the contract – the court a quo correctly rescinded the parties' agreement as the aforementioned acts constituted substantial breach of [Suñiga]'s obligation."

photographs offered by [Yamauchi], as part of her evidence, clearly shows that the house had been partially renovated by [Suñiga]. Ergo, to order [Suñiga] to pay actual damages in the amount of ₱400,000.00 to [Yamauchi] would result to unjust enrichment on the latter's part.

Settled is the rule that actual damages must be proved with reasonable degree of certainty. A party is entitled only up to such compensation for the pecuniary loss that he had duly proven. It cannot be presumed. Absent proof of the amount of actual damages sustained, the court cannot rely on speculations, conjectures, or guesswork as to the fact and amount of damages, but must depend upon competent proof that they have been suffered by the injured party and on the best obtainable evidence of the actual amount thereof. In this case, [Yamauchi]'s evidence relative to the award of actual damages consists of the checks she paid to [Suñiga]. On the other hand, in support of his claim that there was 47.02%-accomplishment, [Suñiga] adduced in evidence the Billing Summary. In addition, the foreman of the renovation project, Alberto Otto, corroborated [Suñiga]'s claim and categorically testified that they had accomplished 45%-50% of the renovation. As [w]e have earlier stated, the photographs presented by [Yamauchi] undoubtedly show that the house had been partially renovated by [Suñiga]. [He] had already demolished the exterior wall, built the 2.5-meter extension (sans paint, doors, windows and roof), and the concrete posts for the garage/carport were already in place. Thus, [w]e are inclined to believe [Suñiga's] claim that he had accomplished 47.02% of the renovation. However, in view of the fact the amount charged by [Suñiga] for demolition works was ₱75,650.00 which was not in accordance with their initial agreement of ₱35,070.00, [Suñiga] should return the amount of ₱40,580 to [Yamauchi]. Also, [Suñiga] should return the amount of ₱20,000.00, representing costs for permits and licenses, since [Yamauchi] had already paid the amount of ₱11,000.00, representing payment to Laguna Bel-Air Homeowners' Association for construction bond/permit. In sum, [Yamauchi] is only entitled to the amount of ₱60,580.00 as actual damages.

As to the award of moral and exemplary damages, [w]e find that the court a quo erred in awarding the same to [Yamauchi].

The established rule is that a breach of contract may give rise to an award of moral damages if the party guilty of the breach acted fraudulently or in bad faith. In this case, there was no proof that [Suñiga] acted fraudulently or in bad faith. In any case, it should be pointed out that [Yamauchi] is not entirely blameless for the stoppage of the renovation as [she] had not sufficient funds. Hence, the award of moral damages must be deleted. As [Yamauchi] is not entitled to moral damages, *a fortiori*, she is not entitled to exemplary damages. Exemplary 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. In the instant case, [Yamauchi] failed to establish her claim for moral damages, thus, she is not entitled to exemplary damages. Further, the award of attorney's fees and cost of suit should also be vacated since the court a quo did not make any finding that any of the instances enumerated in Article 2208 of the New Civil Code exists. Besides, while it may be true that [Yamauchi] was constrained to engage the services of counsel due to [Suñiga]'s refusal to return the amount of ₱400,000.00, such refusal was justified taking into account Our disquisition that [Yamauchi] is not entitled thereto, but only to the amount of ₱60,580.00.



WHEREFORE, the Decision dated January 28, 2008 of the Regional Trial Court of Manila, Branch 24, in Civil Case No. 02-105365, is hereby **AFFIRMED** with the **MODIFICATION** in that the award for actual damages is hereby reduced to ₱60,580.00 while the awards of moral and exemplary damages, attorney's fees and cost of suit are hereby **DELETED**.¹²

On 3 May 2011, Yamauchi filed a partial motion for reconsideration questioning the reduction and deletion of the award for damages.¹³ As to actual damages, Yamauchi claimed that she actually lost the entire amount of ₱400,000.00 because after the so-called "renovation," her house was left in shambles and became uninhabitable. In other words, the money she paid to Suñiga went nowhere because the house was now destroyed and useless. Thus, even if the house was partially renovated, Yamauchi could not use it because Suñiga left it exposed to the elements.

As for moral and exemplary damages, Yamauchi argued that Suñiga misrepresented himself and acted in bad faith during the whole period of engagement. Yamauchi averred that he considered hiring Suñiga believing that he was a licensed architect. However, she later found out that he was in fact not one. In their meetings, never did Suñiga correct Yamauchi's belief that he was not a licensed architect. The bloated figures in the billing summary submitted by Suñiga showed that he had been dealing with her in bad faith. Suñiga also kept requesting Yamauchi to make payments for the renovations, for which, as found out later that Yamauchi had already made double payments.

Unmoved, the CA denied Yamauchi's motion saying that there were no new and substantial issues raised therein; hence, the present petition before this Court.

OUR RULING

Before us, Yamauchi raised the following:

ISSUES

I.

THE HONORABLE COURT OF APPEALS ERRED IN REDUCING THE AMOUNT OF ACTUAL DAMAGES AWARDED TO MS. GUTIERREZ-YAMAUCHI.



¹² Id. at 53-56.

¹³ Id. at 181-205.

II.

THE HONORABLE COURT OF APPEALS ERRED IN DELETING THE AWARD FOR MORAL AND EXEMPLARY DAMAGES, ATTORNEY'S FEES AND COSTS OF LITIGATION.¹⁴

Procedural Issue

We are generally precluded from resolving a Rule 45 petition that solely raises the issue of damages because the Rules of Court expressly state that a petition for review on certiorari shall raise only questions of law. By asking us to review the award for damages, Yamauchi wants us to review the weight, credence, and probative value of the evidence presented. In doing so we are to review factual matters that are usually outside the scope of our Rule 45 review.

Nevertheless, the Court has recognized exceptional circumstances as to when we can dwell on questions of fact in resolving a petition for review on certiorari: (1) when the inference made is manifestly mistaken, absurd or impossible; (2) when there is grave abuse of discretion; (3) when the findings are grounded entirely on speculations, surmises or conjectures; (4) when the judgment of the CA is based on misapprehension of facts; (5) when the CA, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (6) when the findings of fact are conclusions without citation of specific evidence on which they are based; (7) when the CA manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and (8) when the findings of fact of the CA are premised on the absence of evidence and are contradicted by the evidence on record.¹⁵

Another circumstance that was not mentioned is when the RTC and the CA have conflicting findings on the kind and amount of damages suffered.¹⁶ This being the case here, we are compelled to consider the case as one of the recognized exceptions and look into the evidence on record to resolve the present petition.



¹⁴ Id. at 22-23.

¹⁵ *College Assurance Plan v. Belfranlt Development, Inc.*, 563 Phil. 355, 364-365 (2007).

¹⁶ *Tan v. OMC Carriers, Inc.*, 654 Phil. 443 (2011) citing *Sarmiento v. Court of Appeals*, 353 Phil. 834, 846 (1998).

Actual or compensatory damages are awarded provided the pecuniary loss has been duly proven.

Actual or compensatory damages are those damages which the injured party is entitled to recover for the wrong done and injuries received when none were intended.¹⁷ These are compensation for an injury and will *supposedly* put the injured party in the position in which he was before he was injured.¹⁸ Since actual damages are awarded to compensate for a pecuniary loss, the injured party is required to prove two things: (1) the fact of the injury or loss and (2) the actual amount of loss with reasonable degree of certainty premised upon competent proof and on the best evidence available.¹⁹

In the instant case, the CA reduced the award for damages because Suñiga had already completed 47.02% of the renovations on the subject house; thus, awarding full compensation would result in unjust enrichment for Yamauchi. However, the CA failed to consider the fact that the house became uninhabitable because the renovation was left unfinished. Yamauchi took pictures showing the physical condition of the house nine (9) months after the supposed renovation.²⁰ True enough, these photographs confirmed that the house was no longer habitable since the renovated portions left the entire house open and exposed to the elements of nature. Contrary to the position of the CA, Yamauchi did not gain anything from the incomplete renovation of her house. She, in fact, lost it in its entirety.

Yamauchi's testimony is enlightening:

Q: Can you inform what was the state of your Laguna Bel-Air residence prior to the engagement of the services of Architect Suñiga?

A: The house was handed to me ready to move in state complete already new built homes and everything is complete.²¹

x x x x

Q: So after discovering that, after feeling that way because of the discovery of his alleged profession now you turned to this Court, specifically what do you want from this Court to give you? What are the reliefs you are asking for?

A: After the loss of my first investment, your Honor, after my hard earned money, I want my money back. I want the money that I paid plus



¹⁷ *Empire East Lend Holdings, Inc. v. Capitol Industrial Construction Groups, Inc.*, 588 Phil. 156, 170 (2008).

¹⁸ *Filipinas (Pre-Fab Bldg.) Systems, Inc. v. Metro Rail Transit Development Corporation*, 563 Phil. 184, 216 (2007).

¹⁹ See *Oceaneering Contractors (Phils.), Inc. v. Barreto*, 657 Phil. 607, 617 (2011) and *Manila Electric Corporation v. T.E.A.M. Electronics Corporation*, 564 Phil. 639, 565 (2007).

²⁰ Records, pp. 182-184; Exhibits "H" to "H-8" of Yamauchi.

²¹ TSN, 19 November 2003, p. 84.

interest because I got it from my time deposit. I want him to pay the interest since the day that I demanded him to pay me back in 2001 and then I also wanted him to pay for the destruction of my house because it is **useless already. I cannot use it anymore and so I want him to pay for that.**

Court:

Q: What do you mean useless?

A: Sira na po e, wala na pong pinto ang bahay, all the parts, Your Honor.

Q: Sira na?

A: Opo, because the year 2000 I thought I could move my children there pero hindi talaga pupuwede, it is not certain to earn that amount just to improve it again, so I want him to pay for the destruction of the house. All I have now is just a lot and the destroyed house so I want him to pay for that.²² x x x (emphasis supplied)

Putting together the pictures showing the actual physical condition of the house and Yamauchi's testimony, we cannot but conclude that Yamauchi suffered great losses because the renovation was not completed. Contrary to findings of the CA, that Suñiga would receive unjust enrichment if she were given full reimbursement. Yamauchi gained practically nothing from the partial renovation made by Suñiga. The RTC shares our sentiments:

This is no more evident than in the photographs of renovations which indubitably show that works made rendered the house uninhabitable, a far cry to its condition prior to the so called redesign. An eloquent example is the garage which could not accommodate [Yamauchi's] car; no iron grill in the additional veranda contrary to what is stated in the billing summary; and a car park with no roofing, ceiling and floor.

The billing summary prepared by [Suñiga] likewise reveals acts of fraud. While in the bill of materials, the cost of demolition is P35,075.00, in the billing summary, it is P75,650.00; while in the bill of materials, the exterior would cost only P35,598.80, in the billing summary the same is billed at P95,650.00.

The performance or shall we say, non-performance of [Suñiga] left must to be desired and [Yamauchi] was better off with the house prior to its renovation. We can only surmise that given the state of the house it will probably cost [Yamauchi] a fortune to repair it. [Yamauchi] is thus entitled to rescission and damages under Article 1191 of the Civil Code on account of culpable breach of obligation by [Suñiga].²³

Henceforth, having established that Yamauchi had suffered actual losses, we now have to consider if the amount of losses were accurately proven, bearing in mind that the ultimate effect of rescission is to restore the parties to their original status before they entered into the contract.

²² Id. at 102-104.

²³ Records, pp. 513-514.

Rescission has the effect of “unmaking a contract, or its undoing from the beginning, and not merely its termination.”²⁴ Hence, rescission creates the obligation to return the object of the contract because to rescind is to declare a contract void at its inception and to put an end to it as though it never existed.²⁵ Our objective now is to bring Yamauchi back, as far as practicable, to a state as if no renovation happened.

Temperate or moderate damages in lieu of actual damages are awarded when the amount of loss cannot be proved with certainty.

Our problem, however, is that we cannot ascertain the amount of loss suffered by Yamauchi. *First*, there were indeed some renovation done that may have benefited Yamauchi and which we have to consider and deduct the “added” value from the monetary award given her. *Second*, we do not have the exact amount of loss on the Laguna Bel-Air house because Yamauchi did not present any evidence on the values of the house before and after the incomplete renovation. Under Article 2199 of the Civil Code, one is entitled to adequate compensation only for such pecuniary loss suffered as one has duly proved.

Nonetheless, in the absence of competent proof on the amount of actual damages suffered, a party is entitled to temperate damages.²⁶ The amount of loss of Yamauchi cannot be proved with certainty, but the fact that there has been loss on her part was established. Thus, we find it proper to award temperate damages in lieu of actual or compensatory damages.

Such amount is usually left to the discretion of the courts but the same should be reasonable, bearing in mind that temperate damages should be more than nominal but less than compensatory.²⁷ To our mind, and in view of the circumstances obtaining in this case, an award of temperate damages equivalent to ₱500,000.00 is just and reasonable. This amount is in consideration of the following: (1) Yamauchi has can no longer use the subject house unless she starts a new renovation; (2) the amount she gave Suñiga, to some extent, was lost because she was never able to use the house; and (3) the depreciation cost of the house due to being left exposed and unused.



²⁴ *Fong v. Dueñas*, 759 Phil. 373, 384 (2015) citing *Unlad Resources Development Corporation v. Dragon*, 582 Phil. 61, 79 (2008).

²⁵ *Id.*

²⁶ Civil Code, Art. 2224. Temperate or moderate damages, which are more than nominal but less than compensatory damages, may be recovered when the court finds that some pecuniary loss has been suffered but its amount cannot, from the nature of the case, be proved with certainty.

²⁷ *College Assurance Plan v. Belfranlt Development, Inc.*, supra note 15 at 367.

Moral damages may be awarded when the defendant acted fraudulently or in bad faith.

With regard to moral damages, we find it proper to reinstate the award as we find Suñiga had dealt with Yamauchi in bad faith. Moral damages are recoverable only if the party from whom it is claimed has acted fraudulently or in bad faith or in wanton disregard of his contractual obligations.²⁸ In *Adriano v. Lasala*,²⁹ the Court said:

Bad faith does not simply connote bad judgment or negligence. It imports a dishonest purpose or some moral obliquity and conscious doing of a wrong, a breach of known duty through some motive or interest or ill will that partakes of the nature of fraud. It is, therefore, a question of intention, which can be inferred from one's conduct and/or contemporaneous statements.³⁰

In the case at bar, Suñiga acted in bad faith when he misrepresented himself to be a licensed architect and bloated the figures of the renovation expenses. Gathered from the records is Suñiga's admission that he never took the licensure exam for architects, yet he signed documents pertaining to the renovation as if he was an architect.³¹ On cross-examination, Suñiga confirmed this fact, viz:

Q: For the information of the Honorable Court and all of us here, it is stated here that you have recognized that you have signed above the name Arch. Romeo F. Suñiga?

A: Yes, ma'am.

Q: Can you tell us what "Arch." means?

A: Architect.

Q: So, if I read it completely, I can say that it is submitted by, as you have signed, by Architect Romeo F. Suñiga?

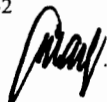
A: Yes.

Q: And this Architect Romeo F. Suñiga is you?

A: Yes, ma'am.

Q: So it is correct to state that you have signed this document as an Architect even though you know that you are not a licensed architect?

A: Yes, ma'am.³²



²⁸ *Arco Pulp and Paper Co., Inc. v. Lim*, 737 Phil. 133, 147-148 (2014) citing *Philippine Savings Bank v. Spouses Castillo*, 664 Phil 774, 786 (2011) further citing *Philippine National Bank v. Spouses Rocamora*, 616 Phil. 369, 385 (2009); *Pilipinas Shell Petroleum Corporation v. John Bordman Ltd. of Iloilo, Inc.*, 509 Phil. 728, 751 (2005).

²⁹ 719 Phil. 408 (2013).

³⁰ Id. at 419.

³¹ TSN, 31 July 2007, pp. 6-9.

³² Id. at 8-9.

As for the bloated expenses, the trial court noted:

The billing summary prepared by [Suñiga] likewise reveals acts of fraud. While in the bill of materials, the cost of demolition is P35,075.00, in the billing summary, it is P75,650.00; while in the bill of materials, the exterior would cost only P35,598.00, in the billing summary the same is billed at P95,650.00.³³

All these circumstances point to the fact that Suñiga was trying to take advantage of Yamauchi's inexperience. If he were an honest and fair contractor, Suñiga should have been upfront with his client and have tried not try to get away with an easy buck. To our mind, these are signs of bad faith warranting the award for moral damages.

Exemplary damages, attorney's fees, and interest due.

To set an example to contractors who deal with the general public, we also reinstate the award for exemplary or corrective damages. The law allows the grant of exemplary damages in cases such as this to serve as a warning to the public and as a deterrent against the repetition of this kind of underhanded actions.³⁴ The RTC's award of ₱50,000.00 seems just and reasonable under the circumstances.

In view of reinstating the award of exemplary damages, we find it also proper to award Yamauchi attorney's fees, in consonance with Article 2208(1) of the Civil Code. We find the award of attorney's fees, equivalent to 10% of the total amount adjudged Yamauchi, to be just and reasonable under the circumstances.

Lastly, we impose legal interest of six percent (6%) from the time this judgment becomes final and executory until it is wholly satisfied.³⁵

WHEREFORE, premises considered, the instant petition is **PARTIALLY GRANTED**. The Decision of the Court of Appeals dated 12 April 2011 in CA-G.R. CV No. 91381 is hereby **MODIFIED**. Romeo F. Suñiga is ordered to pay Teresa Gutierrez Yamauchi the following:

- (1) ₱500,000.00, as temperate damages;
- (2) ₱50,000.00, as moral damages;
- (3) ₱50,000.00, as exemplary damages; and



³³ Records, p. 514.

³⁴ See *Cebu Country Club, Inc. v. Elizagaque*, 566 Phil. 65, 75 (2008) citing *Country Bankers Insurance Corporation v. Lianga Bay*, 425 Phil. 511, 524 (2002).

³⁵ See *Nacar v. Gallery Frames*, 716 Phil. 267, 281-283 (2013).


- (4) Ten percent (10%) of the total amount awarded, as attorney's fees

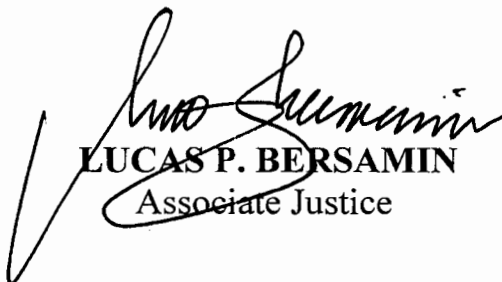
In addition, the total amount adjudged shall earn an interest rate of six percent (6%) per annum on the balance and interest due from the finality of this decision until fully paid.


SO ORDERED.

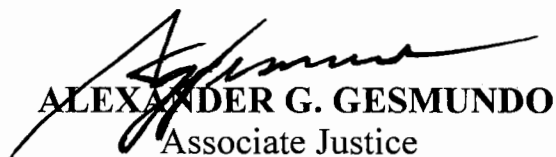

SAMUEL R. MARTIRES
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

ATTESTATION

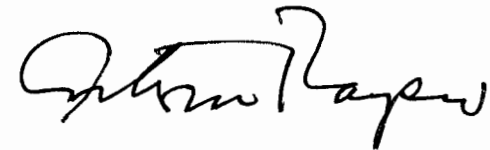
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



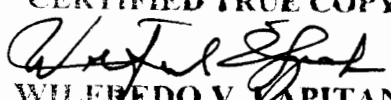
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

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.



ANTONIO T. CARPIO
Acting Chief Justice

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

MAY 29 2018