



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

MARY ELIZABETH MERCADO, G.R. No. 207324  
Petitioner,

Present:

LEONEN, *J.*, Chairperson,  
GISMUNDO,  
CARANDANG,  
HERNANDO\*, and  
GAERLAN, *JJ.*

-versus-

RENE V. ONGPIN,  
Respondent.

Promulgated:  
September 30, 2020

*Misdebat*

X-----X

DECISION

LEONEN, *J.*:

Malice or bad faith must be proved to sustain an action for damages based on Article 19 of the Civil Code.

This is a Petition for Review on Certiorari<sup>1</sup> under Rule 45 of the Rules of Court, assailing the Decision<sup>2</sup> and Resolution<sup>3</sup> of the Court of Appeals in CA-G.R. CV No. 98320. The Court of Appeals deleted the Regional Trial Court's award of moral and exemplary damages and attorney's fees to Mary

\* Designated additional Member per Raffle dated September 16, 2020.

<sup>1</sup> *Rollo*, pp. 6–24.

<sup>2</sup> *Id.* at 25–35. The Decision dated February 21, 2013 docketed as CA-G.R. CV No. 98320 was penned by Associate Justice Amy C. Lazaro-Javier (now a member of this Court), and concurred in by Associate Justices Mariflor P. Punzalan Castillo and (now a member of this Court) Rodil V. Zalameda.

<sup>3</sup> *Id.* at 36. The Resolution dated May 22, 2013 docketed CA-G.R. CV No. 98320 was penned by Associate Justice Amy C. Lazaro-Javier (now a member of this Court), and concurred in by Associate Justices Mariflor P. Punzalan Castillo and (now a member of this Court) Rodil V. Zalameda.

Elizabeth Mercado (Mercado) in a case for the declaration of nullity of her marriage to Rene V. Ongpin (Ongpin).

On February 5, 1972, Ongpin married Alma D. Mantaring (Mantaring) in Quezon City. Later, Mantaring obtained a divorce decree from the District Court of Clark County, Nevada, United States of America.<sup>4</sup> Believing he was divorced from Mantaring, Ongpin married Mercado in Princeton, New Jersey, United States of America on April 21, 1989. However, the two separated on March 16, 2000.<sup>5</sup> Ongpin subsequently obtained a judicial declaration of the nullity of his marriage to Mantaring on November 25, 2003.<sup>6</sup>

On January 8, 2006, Ongpin filed a petition for declaration of nullity of his marriage to Mercado before the Bacoor, Cavite Regional Trial Court.<sup>7</sup> The petition was based on Article 35(4) of the Family Code, which states:

Art. 35. The following marriages shall be void from the beginning:

.....

(4) Those bigamous or polygamous marriages not falling under Article 41;

Ongpin claimed that, after he married Mercado, he found that Mantaring was still a Filipino citizen when she obtained the divorce decree, and as such, his marriage to her was still valid and subsisting at the time of his second marriage.<sup>8</sup>

On the other hand, Mercado argued that their marriage was valid under Article 26 of the Family Code and not prohibited by Article 35(4), because she was a United States citizen at the time.<sup>9</sup> Further, she claimed that the petition was Ongpin's scheme to evade liability in a separate civil case for separation of property she filed in 2002 over the properties acquired during their marriage that Ongpin was allegedly concealing or disposing with intent to deprive her of her share. She also claimed moral and exemplary damages, and costs of suit.<sup>10</sup>

On November 12, 2009, the Regional Trial Court issued a Decision<sup>11</sup> declaring Ongin and Mercado's marriage void. The dispositive portion of the Decision stated:

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<sup>4</sup> Id. at 79.

<sup>5</sup> Id. at 80.

<sup>6</sup> Id. at 26.

<sup>7</sup> Id. at 25.

<sup>8</sup> Id. at 26.

<sup>9</sup> Id.

<sup>10</sup> Id. at 27.

<sup>11</sup> Id. at 79–91. The Decision dated November 12, 2009 docketed as Civil Case No. BCV-2006-68 was penned by Executive Judge Eduardo Israel Tanguanco of Branch 89, Regional Trial Court, Bacoor, Cavite.

ACCORDINGLY, judgment is rendered declaring the marriage entered into between Ongpin V. Ongpin and respondent Mercado Mercado-Ongpin as null and void.

The petitioner is ordered to pay respondent ₱250,000.00 as moral damages, ₱100,000.00 as exemplary damages, and ₱150,000.00 as and for attorney's fees.

Let copies of this Decision be furnished [to] the parties and their respective counsel, the Office of the Solicitor General, the Office of the Provincial Prosecutor of Cavite, the National Statistics Office and the Offices of the Local Civil Registrar of the City of Manila, San Pedro, Laguna and Bacoor, Cavite.

Considering that the determination of the property regime of petitioner and respondent is pending before Branch 19 of this Court, let the corresponding Decree of Declaration of Absolute Nullity of Marriage be issued after such determination and compliance with section 22 of A.M. No. 02-11-10 dated 04 March 2003 of the Supreme Court.

SO ORDERED.<sup>12</sup>

The Regional Trial Court found that Ongpin was incapacitated to marry at the time he married Mercado, rendering their marriage null and void pursuant to Article 35(4) of the Family Code.<sup>13</sup>

Further, the Regional Trial Court found that Ongpin was liable for moral damages pursuant to Article 2219<sup>14</sup> in relation to Articles 19,<sup>15</sup> 20,<sup>16</sup> and 21<sup>17</sup> of the Civil Code.<sup>18</sup> The trial court held that Ongpin's act of contracting a second marriage despite his first marriage not yet being annulled,

<sup>12</sup> Id. at 91.

<sup>13</sup> Id. at 87–88.

<sup>14</sup> CIVIL CODE, art. 2219 states:

ARTICLE 2219. Moral damages may be recovered in the following and analogous cases:

- (1) A criminal offense resulting in physical injuries;
- (2) Quasi-delicts causing physical injuries;
- (3) Seduction, abduction, rape, or other lascivious acts;
- (4) Adultery or concubinage;
- (5) Illegal or arbitrary detention or arrest;
- (6) Illegal search;
- (7) Libel, slander or any other form of defamation;
- (8) Malicious prosecution;
- (9) Acts mentioned in article 309;
- (10) Acts and actions referred to in articles 21, 26, 27, 28, 29, 30, 32, 34, and 35.

The parents of the female seduced, abducted, raped, or abused, referred to in No. 3 of this article, may also recover moral damages.

The spouse, descendants, ascendants, and brothers and sisters may bring the action mentioned in No. 9 of this article, in the order named.

<sup>15</sup> CIVIL CODE, art. 19 states:

ARTICLE 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

<sup>16</sup> CIVIL CODE, art. 20 states:

ARTICLE 20. Every person who, contrary to law, wilfully or negligently causes damage to another, shall indemnify the latter for the same.

<sup>17</sup> CIVIL CODE, art. 21 states:

ARTICLE 21. Any person who wilfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage.

<sup>18</sup> *Rollo*, pp. 88–90.

undermined the family as a social institution, and went against good morals, and the interest and general welfare of society.<sup>19</sup> Ongpin was also held liable for exemplary damages because his actions were tainted with bad faith. Finally, he was ordered to pay for attorney's fees as Mercado had been constrained to incur legal expenses to protect her interest.<sup>20</sup>

Ongpin filed a partial appeal of the November 12, 2009 Decision, assailing the award of moral and exemplary damages, and attorney's fees.<sup>21</sup> On February 21, 2013, the Court of Appeals issued a Decision<sup>22</sup> granting his appeal. The dispositive portion reads:

ACCORDINGLY, the Decision dated November 12, 2009 is MODIFIED, DELETING the award of moral and exemplary damages and attorney's fees.

SO ORDERED.<sup>23</sup>

According to the Court of Appeals, Ongpin did not deliberately contract a second marriage despite knowing that his first marriage subsisted. It found that Ongpin believed in good faith that the divorce decree secured by Mantaring was valid and binding, as he thought she was already a United States citizen. It was only after his marriage to Mercado that Ongpin consulted a lawyer and learned that the divorce was ineffectual. The Court of Appeals pointed out that Ongpin would not have married Mercado under pain of indictment for bigamy.<sup>24</sup>

As such, the Court of Appeals held that Ongpin could not be liable for moral damages, which required a showing of bad faith, or a conscious and intentional design to do a wrongful act. It found that Mercado failed to prove Ongpin's bad faith by clear and convincing evidence.<sup>25</sup>

Further, the Court of Appeals found that Ongpin did not file the petition to evade liability in the separation of property case, since the case was still pending and there was no liability to evade. It pointed out that the declaration of nullity of marriage would include a ruling on Ongpin and Mercado's property relations, notwithstanding the other case, preventing Ongpin from evading a settlement of his property relations with Mercado.<sup>26</sup>

In deleting the award of exemplary damages, the Court of Appeals held that Ongpin did not act in a wanton, fraudulent, reckless, oppressive, or

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<sup>19</sup> Id. at 90.

<sup>20</sup> Id.

<sup>21</sup> Id. at 118–134.

<sup>22</sup> Id. at 25–35.

<sup>23</sup> Id. at 34.

<sup>24</sup> Id. at 32.

<sup>25</sup> Id.

<sup>26</sup> Id. at 33.



malevolent manner, in merely seeking a judicial declaration of nullity of his marriage to Mercado. Similarly, it held that the award of attorney's fees should be deleted, as both parties had incurred costs to protect their interests.<sup>27</sup>

The Court of Appeals denied Mercado's motion for reconsideration in its May 22, 2013 Resolution.<sup>28</sup>

On June 17, 2013, Mercado filed with this Court a Motion to Admit,<sup>29</sup> and with it, her Petition for Review on Certiorari<sup>30</sup> under Rule 45 of the Rules of Court, assailing the Decision and Resolution of the Court of Appeals.

In her Petition for Review, Mercado argues that the Court of Appeals committed grave abuse of discretion when it reversed the findings of the Regional Trial Court.<sup>31</sup> She argues that the Court of Appeals ignored that Ongpin filed two petitions to have his marriage to Mantaring declared void, withdrawing the first one, and filing the second one only after Mercado filed the case for separation of property with the Regional Trial Court. She alleges that Ongpin only attempted to remedy the issue of his seemingly bigamous second marriage when it was expedient for him to do so.<sup>32</sup>

Mercado points out that, unlike Ongpin, she did not do anything wrong. She had the capacity to marry, was a United States citizen at the time of her marriage, and lived with Ongpin for more than 10 years until she finally left him in 2000. As such, she was entitled to moral damages.<sup>33</sup>

Moreover, she argues that Ongpin should be made to pay exemplary damages for his blatant disrespect for the institution of marriage, and to serve as an example for the public. She claims that she should be awarded attorney's fees for being compelled to litigate after Ongpin initiated the suit against her.<sup>34</sup>

This Court granted the Motion to Admit and ordered Ongpin to comment on the Petition for Review in its August 5, 2013 Resolution.<sup>35</sup>

On September 26, 2013, Ongpin filed his Comment<sup>36</sup> where he argues that the Court of Appeals correctly held that Mercado failed to prove that he deliberately contracted a second marriage knowing that that his first was still

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<sup>27</sup> Id. at 33–34.

<sup>28</sup> Id. at 36.

<sup>29</sup> Id. at 3–5.

<sup>30</sup> Id. at 6–24.

<sup>31</sup> Id. at 11.

<sup>32</sup> Id. at 14–15.

<sup>33</sup> Id. at 16.

<sup>34</sup> Id. at 19.

<sup>35</sup> Id. at 155.

<sup>36</sup> Id. at 156–165.

valid and subsisting. He claims that it was only after he and Mercado separated that Mantaring disclosed her Filipino citizenship at the time she obtained the divorce decree.<sup>37</sup> He points out that Mercado admitted during trial that, at the time she married Ongpin, she knew that both he and Mantaring were Filipino citizens, and that it was Mercado who advised him to get a declaration of nullity of his marriage to Mantaring in 1992.<sup>38</sup>

In her Reply,<sup>39</sup> Mercado claims that Ongpin had known about the invalidity of the divorce decree even before Mantaring told him.<sup>40</sup> She reiterates her claim that she did not know that Ongpin was incapacitated to marry her at the start of their marriage.<sup>41</sup>

Ongpin filed a rejoinder to her reply on January 24, 2014.<sup>42</sup>

In its November 19, 2014 Resolution,<sup>43</sup> this Court resolved to give due course to the Petition for Review and ordered the parties to submit their memoranda, which they complied with.<sup>44</sup>

While the case was pending, Ongpin filed three successive motions praying that this Court direct the Regional Trial Court to issue a partial entry of judgment and certificate of finality concerning the declaration of nullity of his and Mercado's marriage, as the only matter to be resolved by this Court is Mercado's entitlement to damages.<sup>45</sup>

The issues to be resolved in this case are: first, whether or not the Petition for Review raises questions of fact not reviewable in a Rule 45 petition; and second, whether or not Mary Elizabeth Mercado is entitled to moral and exemplary damages, and attorney's fees.

## I

Generally, this Court does not review questions of fact in a petition for review under Rule 45 of the Rules of Court.<sup>46</sup> Whether or not a party acted in bad faith is a question of fact.<sup>47</sup> Entitlement to damages likewise requires

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<sup>37</sup> Id. at 158.

<sup>38</sup> Id. at 158–159.

<sup>39</sup> Id. at 167–173.

<sup>40</sup> Id. at 168–169.

<sup>41</sup> Id. at 169–170.

<sup>42</sup> Id. at 180–185.

<sup>43</sup> Id. at 212–213.

<sup>44</sup> Id. at 271–290.

<sup>45</sup> Id. at 297–303.

<sup>46</sup> *First Sarmiento Property Holdings, Inc. v. Philippine Bank of Communications*, 833 Phil. 400, 413–414 (2018) [Per J. Leonen, En Banc].

<sup>47</sup> *Diaz v. Encanto*, 778 Phil. 593, 604 (2016) [Per J. Leonardo-De Castro, First Division].

examination of the factual circumstances of a case.<sup>48</sup> However, when the factual findings of the Regional Trial Court and Court of Appeals are conflicting, then this Court may resolve these issues.<sup>49</sup>

In its November 18, 2016 Decision, the Regional Trial Court held that respondent's act of marrying petitioner even though he had an existing first marriage constituted bad faith. The Court of Appeals ruled otherwise because it found that, at the time respondent married petitioner, he believed in good faith that he was validly divorced from his first wife. Further, it found that respondent did not seek to have his second marriage declared null and void only so that he could evade liability in the civil case filed by petitioner.

Considering these conflicting conclusions, this Court must now examine the factual findings to resolve whether or not respondent acted in bad faith when he married petitioner despite the subsistence of his first marriage.

## II

Moral damages are a form of compensation for the "physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury"<sup>50</sup> unjustly sustained by a person.<sup>51</sup> They are awarded when: (1) there is a physical, mental or psychological injury clearly sustained by the claimant; (2) a wrongful act or omission is factually established; (3) the act or omission is the proximate cause of the injury; and (4) the award of damages is based on any of the cases stated in Article 2219<sup>52</sup> of the Civil Code.<sup>53</sup>

This Court has sanctioned the award of moral damages in cases of bigamy based on Articles 19, 20 and 21 of the Civil Code.<sup>54</sup>

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<sup>48</sup> *Solid Homes, Inc. v. Court of Appeals*, 341 Phil. 261, 275 (1997) [Per J. Panganiban, Third Division].

<sup>49</sup> *Spouses Fernando v. Fernando*, 656 Phil. 205, 212 (2011) [Per J. Carpio Morales, Third Division].

<sup>50</sup> CIVIL CODE, art. 2217.

<sup>51</sup> *Expertravel & Tours, Inc. v. Court of Appeals*, 368 Phil. 444, 448 (1999) [Per J. Vitug, Third Division].

<sup>52</sup> CIVIL CODE, art. 2219 states:

ARTICLE 2219. Moral damages may be recovered in the following and analogous cases:

- (1) A criminal offense resulting in physical injuries;
- (2) Quasi-delicts causing physical injuries;
- (3) Seduction, abduction, rape, or other lascivious acts;
- (4) Adultery or concubinage;
- (5) Illegal or arbitrary detention or arrest;
- (6) Illegal search;
- (7) Libel, slander or any other form of defamation;
- (8) Malicious prosecution;
- (9) Acts mentioned in article 309;
- (10) Acts and actions referred to in articles 21, 26, 27, 28, 29, 30, 32, 34, and 35.

The parents of the female seduced, abducted, raped, or abused, referred to in No. 3 of this article, may also recover moral damages.

The spouse, descendants, ascendants, and brothers and sisters may bring the action mentioned in No. 9 of this article, in the order named.

<sup>53</sup> *Expertravel & Tours, Inc. v. Court of Appeals*, 368 Phil. 444, 448 (1999) [Per J. Vitug, Third Division].

<sup>54</sup> *See Manuel v. People*, 512 Phil. 818 (2005) [Per J. Callejo, Sr., Second Division].

Article 19 of the Civil Code sets the standards for the exercise of one's rights and performance of duties:

ARTICLE 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

This provision recognizes that even the exercise of a right may be the source of some illegal act, when done in a manner contrary to the standards it sets, and results in damage to another.<sup>55</sup> Meanwhile, Articles 20 and 21 provide for the legal remedy for a violation of Article 19:<sup>56</sup>

ARTICLE 20. Every person who, contrary to law, wilfully or negligently causes damage to another, shall indemnify the latter for the same.

ARTICLE 21. Any person who wilfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage.

For there to be a finding of an abuse of rights under Article 19, the following elements must concur: (1) there is a legal right or duty; (2) the right is exercised or the duty is performed in bad faith; and (3) the sole intent of the exercise or performance is to prejudice or injure another.<sup>57</sup> It must be shown that the exercise of the right or performance of the duty was done with bad faith. In *Dart Philippines, Inc. v. Spouses Calogcog*:<sup>58</sup>

Malice or bad faith is at the core of Article 19 of the Civil Code. Good faith refers to the state of mind which is manifested by the acts of the individual concerned. It consists of the intention to abstain from taking an unconscionable and unscrupulous advantage of another. It is presumed. Thus, he who alleges bad faith has the duty to prove the same. Bad faith does not simply connote bad judgment or simple negligence; it involves a dishonest purpose or some moral obloquy and conscious doing of a wrong, a breach of known duty due to some motives or interest or ill will that partakes of the nature of fraud. Malice connotes ill will or spite and speaks not in response to duty. It implies an intention to do ulterior and unjustifiable harm. Malice is bad faith or bad motive.<sup>59</sup>

In *Manuel v. People*,<sup>60</sup> this Court awarded moral damages to the

<sup>55</sup> *GF Equity, Inc. v. Valenzona*, 501 Phil. 153, 165–167 (2005) [Per J. Carpio Morales, Third Division].

<sup>56</sup> See *Globe Mackay Cable and Radic Corp. v. Court of Appeals*, 257 Phil. 783 (1989) [Per J. Cortes, Third Division]; *Philippine Commercial International Bank v. Gomez*, 773 Phil. 387 (2015) [Per J. Brion, Second Division].

<sup>57</sup> *Dart Philippines, Inc. v. Spouses Calogcog*, 613 Phil. 224, 234 (2009) [Per J. Nachura, Third Division].

<sup>58</sup> 613 Phil. 224 (2009) [Per J. Nachura, Third Division].

<sup>59</sup> *Id.* at 235.

<sup>60</sup> 512 Phil. 818 (2005) [Per J. Callejo, Sr., Second Division].



innocent spouse upon a finding that the bigamous spouse acted deceitfully and fraudulently when he contracted his second marriage:

In the present case, the petitioner courted the private complainant and proposed to marry her. He assured her that he was single. He even brought his parents to the house of the private complainant where he and his parents made the same assurance — that he was single. Thus, the private complainant agreed to marry the petitioner, who even stated in the certificate of marriage that he was single. She lived with the petitioner and dutifully performed her duties as his wife, believing all the while that he was her lawful husband. For two years or so until the petitioner heartlessly abandoned her, the private complainant had no inkling that he was already married to another before they were married.

Thus, the private complainant was an innocent victim of the petitioner's chicanery and heartless deception, the fraud consisting not of a single act alone, but a continuous series of acts. Day by day, he maintained the appearance of being a lawful husband to the private complainant, who changed her status from a single woman to a married woman, lost the consortium, attributes and support of a single man she could have married lawfully and endured mental pain and humiliation, being bound to a man who it turned out was not her lawful husband.<sup>61</sup>

There, this Court found that the bigamous spouse's continuous and collective acts of fraud before, during, and after his marriage were willful, deliberate, and malicious, causing injury to the innocent spouse. It was the bigamous spouse's continuing bad faith that disregarded public policy, undermined and subverted the family as a social institution, and went against good morals, and the interest and general welfare of society.<sup>62</sup>

Thus, the Regional Trial Court was in error when it held that the mere contracting of a second marriage despite the existence of a first marriage is, by itself, a ground for damages under Article 19 in relation to Article 20 or Article 21. As correctly stressed by the Court of Appeals, the bad faith, or deliberate intent to do a wrongful act, of the bigamous spouse must be established:

Here, it was not convincingly shown that appellant deliberately contracted a second marriage despite knowledge of the subsistence of his first marriage. He believed in good faith that the divorce decree given to his first wife was valid and binding in the Philippines because he thought all along that [his] first wife at that time was already an [American] citizen. Thus, he and Mercado, both consenting adults, freely married each other, both believing that the final divorce decree was valid and binding in the Philippines. Indeed, both appellant and Mercado would not have married each other under pain of indictment for bigamy had they known that appellant's first marriage was still in existence, because it later turned out that Mercado was still a Filipino when the divorce decree was issued. So

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<sup>61</sup> Id. at 848.

<sup>62</sup> Id.

how could appellant be held liable for damages when he was not shown to have acted in bad faith when he married appellee? It has been consistently held that bad faith does not simply mean negligence or bad judgment. It involves a state of mind dominated by ill-will or motive. It implies a conscious and intentional design to do a wrongful act for a dishonest purpose or some moral obliquity. The person claiming moral damages must prove the existence of bad faith by clear and convincing evidence for the law always presumes good faith. Here, appellee failed to overcome the legal presumption of good faith. Thus, the award of moral damages must be deleted.<sup>63</sup>

Petitioner has not been able to prove that, at the time she and respondent married, respondent knew that his divorce from his first spouse was invalid. There is no proof that, upon the first spouse's confirmation of her Philippine citizenship at the time she obtained the divorce decree, respondent concealed this knowledge from petitioner or allowed her to continue believing that their marriage was valid. The malice or bad faith necessary to sustain an action based on Article 19 of the Civil Code has not been shown in this case.

Moreover, petitioner has not established that she has sustained an injury in law due to respondent's acts.

A review of the records shows that petitioner had known that there was some sort of anomaly in the dissolution of respondent's first marriage as early as 1992. As the Regional Trial Court found, within four years of petitioner and respondent's marriage, they found out that the divorce decree between respondent and Mantaring may not be valid because of their citizenship.<sup>64</sup> Both petitioner and respondent consulted with a lawyer, who advised them to have the first marriage annulled on the ground of psychological incapacity.<sup>65</sup> When respondent withdrew his petition for annulment, petitioner pleaded with him to continue the case.<sup>66</sup>

Petitioner does not dispute any of these findings made by the trial court.<sup>67</sup> She knew, or should have known, that there existed some issue regarding respondent's first marriage which might adversely affect the validity of her marriage to him. Yet, she did not initiate any actions of her own to protect her civil status, and appeared complacent with the uncertainty that hovered over the validity of her marriage with respondent.

There being no entitlement to moral damages, no exemplary damages can likewise be awarded to petitioner.<sup>68</sup>

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<sup>63</sup> *Rollo*, p. 32.

<sup>64</sup> *Rollo*, p. 85.

<sup>65</sup> *Id.*

<sup>66</sup> *Id.* at 85-86.

<sup>67</sup> *Id.* at 279-280.

<sup>68</sup> CIVIL CODE, art. 2234 states:

As regards attorney's fees, the Court of Appeals correctly held that none may be awarded to petitioner:

Consequently, the award of attorney's fees must also be deleted. Notably, it was not appellee alone who incurred costs to protect her interest. Appellant, too, spent for legal costs to finally settle the issue pertaining to the validity of his marriage with appellee. In the absence of malice and bad faith, the mental anguish suffered by a person for having been made a party in a civil case is not the kind of anxiety which would warrant the award of moral damages. Appellee's emotional suffering and anxiety are only such as are usually caused to a party hauled into [court] as a party in litigation, but is insufficient justification for the award of moral or exemplary damages.<sup>69</sup>

Finally, this Court notes that, on December 19, 2019, petitioner filed a motion to dismiss, praying that this Court consider her appeal withdrawn, the Court of Appeals' ruling binding against her, and directing an entry of judgment be issued in this case:

3. Thus, the Petitioner-Appellant has agreed to accept the decision of the Special Sixteenth Division of the Honorable Court of Appeals in CA-G.R. CV No. 98320 entitled "Ongpin V. Ongpin, petitioner-appellant, vs. Mercado Mercado-Ongpin, respondents-appellee" on February 21, 2013 modifying the decision of the Regional Trial Court, Fourth Judicial Region, Branch 89, Bacoor, Cavite, in Civil Case No. BCV-2006-08 dated November 12, 2009 deleting the award to her of moral and exemplary damages and attorney's fees, to wit:

ACCORDINGLY, the Decision dated November 12, 2009 is MODIFIED, DELETING the award of moral and exemplary damages and attorney's fees.

4. She, therefore, respectfully prays that her appeal be considered withdrawn and consider the Decision of the Honorable Court of Appeals as binding upon her.<sup>70</sup>

Once a case has been submitted for a court's decision, the petitioning party cannot, at their election, withdraw their appeal.<sup>71</sup> The grant or denial of the withdrawal is addressed to the sound discretion of the court.<sup>72</sup>

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ARTICLE 2234. While the amount of the exemplary damages need not be proved, the plaintiff must show that he is entitled to moral, temperate or compensatory damages before the court may consider the question of whether or not exemplary damages should be awarded. In case liquidated damages have been agreed upon, although no proof of loss is necessary in order that such liquidated damages may be recovered, nevertheless, before the court may consider the question of granting exemplary in addition to the liquidated damages, the plaintiff must show that he would be entitled to moral, temperate or compensatory damages were it not for the stipulation for liquidated damages.

<sup>69</sup> *Rollo*, pp. 33-34.

<sup>70</sup> Entry of Appearance with Motion to Dismiss, pp. 1-2.

<sup>71</sup> *Dee See Choon v. Stanley*, 38 Phil. 208, 209 (1918) [Per J. Malcolm, En Banc]. *See also La Campana Food Products, Inc. v. Court of Industrial Relations*, 138 Phil. 328 (1969) [Per J. Sanchez, En Banc]; *United States v. Sotto*, 38 Phil. 666 (1918) [Per J. Fisher, En Banc].

<sup>72</sup> *People v. Rocha*, 558 Phil. 521, 539 (2007) [Per J. Chico-Nazario, Third Division].

The practice of the courts has always been to the effect that once a case or appeal is submitted for decision, its withdrawal should not be at the discretion of the party, but dependent on the assent thereto of the adjudicating authority.

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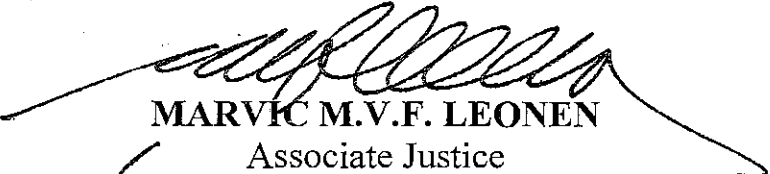
. . . What is important is that once the finality of the questioned judgment has been arrested by a motion for reconsideration, the reviewing officer should be given full opportunity to restudy the records and satisfy himself whether justice has been done; and if convinced that it was not done, to revise and correct the judgment as the interest of justice requires, irrespective of whether the defendant will be favored or prejudiced. The public interest demands no less. As the Spanish proverb goes, justice is “no mas pero no menos”.<sup>73</sup>

Petitioner can no longer elect to withdraw her Petition for Review at this late stage in the proceedings. It is merely incidental that, if we had granted petitioner’s motion, it would have had the same result as this resolution on the merits.

**WHEREFORE**, the Petition for Review on Certiorari is **DENIED**. The February 21, 2013 Decision and May 22, 2013 Resolution of the Court of Appeals are **AFFIRMED**.

The December 19, 2019 Entry of Appearance with Motion to Dismiss filed by petitioner Mary Elizabeth Mercado is **NOTED**.


**SO ORDERED.**

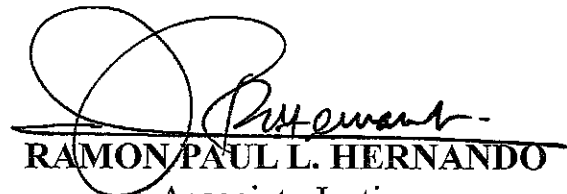
  
**MARVIC M.V.F. LEONEN**  
Associate Justice

WE CONCUR:

  
**ALEXANDER G. GESMUNDO**  
Associate Justice

<sup>73</sup> J.B.L. Reyes, dissenting, in *Rodriguez v. Hon. Reyes*, 146 Phil. 986, 999–1000 (1970) [Per J. Makalintal, En Banc].


  
**ROSMARI D. CARANDANG**  
Associate Justice

  
**RAMON PAUL L. HERNANDO**  
Associate Justice

  
**SAMUEL H. GAERLAN**  
Associate Justice

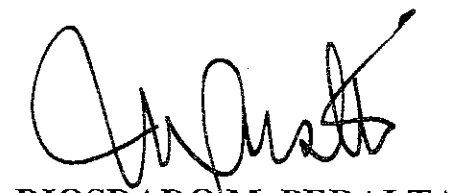
**ATTESTATION**

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 M.V.F. LEONEN**  
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.

  
**DIOSDADO M. PERALTA**  
Chief Justice