

## THIRD DIVISION

**[ G.R. No. 177250, November 28, 2016 ]**

**ROSITA B. LIM, ON HER BEHALF AND ON BEHALF OF HER (THEN) MINOR CHILDREN NAMELY, JENNIFER, LYSANDER AND BEVERLIE, PETITIONERS, VS. LUIS TAN, ALFONSO TAN, EUSEBIO TAN, WILLIAM TAN, VICENTE TAN, JOAQUIN TAN, ANG TIAT CHUAN, RESPONDENTS.**

**[G.R. No. 177422]**

**LUIS TAN, ALFONSO TAN, EUSEBIO TAN, WILLIAM TAN, VICENTE TAN, JOAQUIN TAN, ANG TIAT CHUAN, PETITIONERS, VS. ROSITA B. LIM, ON HER BEHALF AND ON BEHALF OF HER (THEN) MINOR CHILDREN NAMELY, JENNIFER, LYSANDER AND BEVERLIE, RESPONDENTS.**

**[G.R. No. 177676]**

**ANG TIAT CHUAN, PETITIONER, VS. ROSITA B. LIM, ON HER BEHALF AND ON BEHALF OF HER (THEN) MINOR CHILDREN NAMELY, JENNIFER, LYSANDER AND BEVERLIE, RESPONDENTS.**

### DECISION

**REYES, J.:**

Assailed in these consolidated petitions for review on *certiorari*<sup>[1]</sup> are the Decision<sup>[2]</sup> dated August 18, 2006 and Resolution<sup>[3]</sup> dated March 29, 2007 of the Court of Appeals (CA) in CA-G.R. CV No. 70301, which affirmed with modification the Decision<sup>[4]</sup> dated June 21, 1999 of the Regional Trial Court (RTC) of Manila, Branch 37, in Civil Case No. 83-15633 for Damages.

### The Facts

This case spawned from the death of Florentino Lim (Florentino), a scion of the wealthy Lim Ket Kai family of Cagayan de Oro City, on August 25, 1973. Upon investigation, Luis Tan (Luis), William Tan, Joaquin Tan, Vicente Tan, Alfonso Tan and Eusebio Tan (the Tan brothers), and Ang Tiat Chuan (Chuan), together with eight others, were charged with murder before Military Commission No. 1.<sup>[5]</sup>

In a Decision dated June 10, 1976, the Military Commission found Luis, Chuan, and four of their co-accused, namely, Mariano Velez, Jr., Antonio Ocasiones, Leopoldo Nicolas, and Marciano Benemerito, guilty of murder. On the other hand, the other brothers of Luis were acquitted of the charges and were released on June 11, 1976.

<sup>[6]</sup>

The said judgment, however, simply concluded the criminal prosecution of those already haled to court but it did not entomb the indignant feelings instigated by the death of Florentino. Thus, on February 11, 1983, Rosita B. Lim (Rosita), wife of the deceased Florentino, together with her then minor children Jennifer, Lysander and Beverlie, all surnamed Lim Ket Kai (collectively, the petitioners), commenced a civil action for damages in the RTC of Manila, against all those charged with the slaying of Florentino.<sup>[7]</sup>

After trial, the court *a quo* rendered judgment in favor of the petitioners. The dispositive portion reads:

WHEREFORE, judgment is hereby rendered ordering the surviving Defendants and the heirs and successors-in-interest of the deceased Defendants, who have been substituted in their place as Defendants, to pay to the [petitioners], jointly and severally, the following amounts:

1. Fifteen million one hundred thousand pesos (P15,100,000.00) as actual and compensatory damages;
2. Twenty-five million pesos (P25,000,000.00) as moral damages;
3. Ten million pesos (P10,000,000.00) as exemplary damages;
4. One million pesos (P1,000,000.00) as and by way of attorney's fees;
5. Five hundred thousand pesos (P500,000.00) for litigation expenses; and
6. The costs of the suit.

SO ORDERED.<sup>[8]</sup>

Disagreeing with the RTC decision, the Tan brothers and Chuan filed a motion for reconsideration but it was denied; hence, they filed an appeal before the CA.

On appeal, the CA rendered the herein assailed decision, which modified the trial court's ruling, to wit:

**WHEREFORE**, premises considered, the Decision dated June 21, 1999 and the Order dated February 10, 2000 are hereby **MODIFIED**, as follows:

1. Defendants-appellants [Luis], [Chuan], Mariano Velez, Jr., Antonio Ocasiones, Leopoldo Nicolas, Marciano Benemerito, and Oscar Yaun are hereby ordered to pay the [petitioners], jointly and severally, the following amounts:
  - (a) Fifty Thousand Pesos (P50,000.00) as civil indemnity for the death of [Florentino];
  - (b) Three Hundred Fifty Thousand Pesos (P350,000.00) as temperate damages;
  - (c) One Hundred Fifty Thousand Pesos (P150,000.00) as

- moral damages;
- (d) One Hundred Fifty Thousand Pesos (P150,000.00) as exemplary damages;
- (e) One Hundred Thousand Pesos (P100,000.00) as attorney's fees; and
- (f) One Hundred Thousand Pesos (P100,000.00) as litigation expenses;

2. The claims against appellants Alfonso Tan, Eusebio Tan, William Tan, Vicente Tan, Joaquin Tan and Enrique Labita, stated in the Amended Complaint are hereby denied for lack of merit.

### **SO ORDERED.**<sup>[9]</sup>

Both parties respectively moved for reconsideration, but the CA Resolution<sup>[10]</sup> dated March 29, 2007 denied their motions. Thereafter, the parties filed their respective petitions for review on *certiorari*: G.R. No. 177250 was initiated by the petitioners, G.R. No. 177422 was filed by Luis, and G.R. No. 177676 was commenced by Chuan. These petitions were ordered consolidated by the Court in its Resolution<sup>[11]</sup> dated June 20, 2007.

The Court resolved to give due course to the instant petitions and required the parties to submit their respective comments and replies. However, in G.R. No. 177422, therein petitioners have failed to file the necessary petition for review to date after the Court granted the substitution by the heirs of Luis in its Resolution<sup>[12]</sup> dated September 19, 2007.

### **The Issue**

The sole issue to be resolved is whether the CA erred in modifying the damages, attorney's fees and litigation expenses awarded to the heirs of Florentino.

### **Ruling of the Court**

The petition is partly meritorious.

In the case at bar, the challenge essentially posed is the propriety of the awarded damages, attorney's fees and litigation expenses. To resolve said issue, an examination of factual circumstances would be necessary, a task that is clearly outside the province of a petition for review on *certiorari*. Nevertheless, this case has been dragged down for ages and the Court would like to put the whole matter to rest; hence, a review is justified by the need to make a definitive finding on this factual issue in light of the differing amounts of damages and attorney's fees awarded by the courts below.

After a careful examination of the present case, the Court sustains the awarded damages, attorney's fees and litigation expenses of the appellate court, but modifies the amount of the civil indemnity awarded to the heirs of Florentino.

"[I]t is jurisprudentially settled that when death occurs due to a crime, the following may be recovered: (1) civil indemnity *ex delicto* for the death of the victim; (2) actual or compensatory damages; (3) moral damages; (4) exemplary damages; (5)