

## FIRST DIVISION

[ G.R. No. 137148, January 30, 2002 ]

**BANK OF THE PHILIPPINE ISLANDS, PETITIONER, VS. CARLO S  
LEOBREIRA AND COURT OF APPEALS, RESPONDENTS.**

### D E C I S I O N

**PARDO, J.:**

#### The Case

The case is an appeal *via* certiorari from the decision of the Court of Appeals<sup>[1]</sup> affirming that of the trial court, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered:

"1. Ordering the defendant to pay plaintiff the total amount of One Million Three Hundred Thousand Pesos (P1,300,000.00) Philippine currency, under the different pertinent cause of action, with interest at the legal rate and date of filing of the complaint, until fully paid;

"2. Ordering the defendant to pay plaintiff the sum of Ten Million Pesos (P10,000,000.00), Philippine currency, as moral damages;

"3. Ordering the defendant to pay plaintiff exemplary damages in the amount of One Hundred Thousand Pesos (P100,000.00), Philippine currency;

"4. Ordering defendant to pay plaintiff the sum of Two Hundred Thousand Pesos (P200,000.00), Philippine currency, as and for attorney's fees;

"5. Ordering the defendant to pay the costs of suit;

"6. Declaring the writ of preliminary injunction heretofore issued permanent.

"SO ORDERED."<sup>[2]</sup>

#### The Facts

The facts, as found by the Court of Appeals, are as follows:

"Sometime in 1979, BPI unintentionally failed to deliver on time to plaintiff, who was then engaged in the business of exporting shells, three letters of credit in the aggregate amount of \$3,265.05, which were opened by plaintiff's foreign buyers. As a consequence, plaintiff

complained to BPI and demanded the payment of P500,000.00 damages. Thereupon, officers of BPI met with the plaintiff to explain what happened. In the said meeting, plaintiff accepted the explanation of the BPI officers and as settlement, BPI agreed to send letters of apology to the foreign buyers; BPI to shoulder plaintiff's legal expenses in the amount of P10,000.00 and BPI officers to assist him in obtaining additional loans (TSN, March 6, 1987, pp. 65-66). Plaintiff claimed that it was agreed upon that the loans would continue for as many years (or a little over 9 years) until he recovers his P500,000.00 damages. This alleged agreement was however vehemently denied by BPI. (TSN, March 6, 1987, pp. 67-68)

"In 1980, BPI granted to plaintiff a P200,000.00 revolving promissory note line at 10% interest; P100,000.00 export advance line at 12% interest and a P500,000.00 industrial guarantee loan at 12% interest. Said loans were secured by real estate mortgage dated November 20, 1976 (Exh. 4) and real estate mortgage dated February 8, 1980 (Exh. 5). In 1981, the loans were renewed and the interest rate of the revolving promissory note line was increased to 12%. In 1982, BPI restructuring the loans into; P200,000.00 revolving promissory note line at 16% interest; P100,000.00 export advance line of 10% interest and P163,000.00 industrial guarantee loan at a 12% interest; and an additional P300,000.00 short term loan at 16% interest was granted. In 1983, BPI once more, restructured the loans into; P200,000.00 revolving promissory note line at 16% interest; P35,000.00 industrial guarantee loan at 12% interest and P800,000.00 short term loan at 18% interest. In 1984, the loans were converted into an P800,000.00 revolving promissory note line at 26% interest. In 1985, the P800,000.00 revolving promissory note line was renewed and plaintiff was granted a new loan of P500,000.00 which was secured by another mortgage (the latter is the subject of a separate action - Civil Case No. 89-8573),

"The foregoing facts are undisputed. The defendant-appellant does not dispute that damages were caused and the fact that the plaintiff-appellee made a demand against defendant-appellant for damages of P500,000.00 is admitted. The damages caused to plaintiff-appellee by defendant-appellant bank by failing to handle the export papers is undisputed.

"It is undisputed, likewise, that after the demand, the officers of appellant bank admitted the damage caused and agreed to send letter of apology to the foreign buyers of appellee.

"The only factual dispute lies in the fact that appellant Bank allegedly did not agree to compensate the plaintiff-appellee for the damage cause. It is the simplistic argument of defendant-appellant that it only agreed to send letter of apology, pay P10,000 to cover the fees for lawyers."<sup>[3]</sup>

On July 31, 1998, petitioner BPI moved the Court of Appeals for reconsideration of the aforecited decision.<sup>[4]</sup>

On January 13, 1999, the Court of Appeals denied the motion ruling that "the