

## THIRD DIVISION

[ G.R. No. 130030, June 25, 1999 ]

**EXPERTRAVEL & TOURS, INC., PETITIONER, VS. THE HON.  
COURT OF APPEALS AND RICARDO LO, RESPONDENTS.**

### DECISION

**VITUG, J.:**

Petitioner, Expertravel and Tours, Inc., seeks in the instant petition for review on *certiorari* a modification of the decision, dated 20 March 1997, of the Court of Appeals affirming *in toto* the 07th November 1994 judgment of the Regional Trial Court (Branch 5) of Manila, the dispositive portion of which reads:

"WHEREFORE, in view of all the foregoing, judgment is rendered declaring the instant suit DISMISSED, and hereby orders the plaintiff to pay defendant Ricardo Lo moral damages in the amount of P30,000.00; attorney's fees in the amount of P10,000.00, and to pay the costs of the suit.

"No pronouncement as to other damages for lack of evidence to warrant the same."<sup>[1]</sup>

The factual and case settings of the controversy are culled from the pleadings on record and the assailed decision of the appellate court and that of the court *a quo*.

On 07 October 1987, Expertravel & Tours, Inc., ("Expertravel"), a domestic corporation engaged in the travel agency business, issued to private respondent Ricardo Lo four round-trip plane tickets for Hongkong, together with hotel accommodations and transfers, for a total cost of P39,677.20. Alleging that Lo had failed to pay the amount due, Expertravel caused several demands to be made. Since the demands were ignored by Lo, Expertravel filed a court complaint for recovery of the amount claimed plus damages.

Respondent Lo explained, in his answer, that his account with Expertravel had already been fully paid. The outstanding account was remitted to Expertravel through its then Chairperson, Ms. Ma. Rocio de Vega, who was theretofore authorized to deal with the clients of Expertravel. The payment was evidenced by a Monte de Piedad Check No. 291559, dated 06 October 1987, for P42,175.20 for which Ms. de Vega, in turn, issued City Trust Check No. 417920 in favor of Expertravel for the amount of P50,000.00, with the notation "placement advance for Ricardo Lo, etc." Per its own invoice, Expertravel received the sum on 10 October 1987.

The trial court, affirmed by the appellate court, held that the payment made by Lo was valid and binding on petitioner Expertravel. Even on the assumption that Ms. de Vega had not been specifically authorized by Expertravel, both courts said, the fact

that the amount "delivered to the latter remain(ed) in its possession up to the present, mean(t) that the amount redounded to the benefit of petitioner Expertravel, in view of the second paragraph of Article 1241 of the Civil Code to the effect that payment made to a third person shall also be valid in so far as it has redounded to the benefit of the creditor."

In this recourse, petitioner confines itself to the following related legal issues; *viz*:

"I. Can moral damages be recovered in a clearly unfounded suit?

"II. Can moral damages be awarded for negligence or quasi-delict that did not result to physical injury to the offended party?"<sup>[2]</sup>

There is merit in the petition.

Moral damages are not punitive in nature but are designed to compensate<sup>[3]</sup> and alleviate in some way the physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury unjustly caused to a person. Although incapable of pecuniary computation, moral damages, nevertheless, must somehow be proportional to and in approximation of the suffering inflicted.<sup>[4]</sup> Such damages, to be recoverable, must be the proximate result of a wrongful act or omission the factual basis for which is satisfactorily established by the aggrieved party.<sup>[5]</sup> An award of moral damages would require certain conditions to be met; to wit: (1) First, there must be an injury, whether physical, mental or psychological, clearly sustained by the claimant; (2) second, there must be a culpable act or omission factually established; (3) third, the wrongful act or omission of the defendant is the proximate cause of the injury sustained by the claimant; and (4) fourth, the award of damages is predicated on any of the cases stated in Article 2219.<sup>[6]</sup> Under the provisions of this law, in *culpa contractual* or breach of contract, moral damages may be recovered when the defendant acted in bad faith or was guilty of gross negligence (amounting to bad faith) or in wanton disregard of his contractual obligation and, exceptionally, when the act of breach of contract itself is constitutive of tort resulting in physical injuries.<sup>[7]</sup> By special rule in Article 1764, in relation to Article 2206, of the Civil Code, moral damages may also be awarded in case the death of a passenger results from a breach of carriage. In *culpa aquiliana*, or quasi-delict, (a) when an act or omission causes physical injuries, or (b) where the defendant is guilty of *intentional* tort,<sup>[8]</sup> moral damages may aptly be recovered. This rule also applies, as aforestated, to contracts when breached by tort. In *culpa criminal*, moral damages could be lawfully due when the accused is found guilty of physical injuries, lascivious acts, adultery or concubinage, illegal or arbitrary detention, illegal arrest, illegal search, or defamation. Malicious prosecution can also give rise to a claim for moral damages. The term "analogous cases," referred to in Article 2219, following the *ejusdem generis* rule, must be held similar to those expressly enumerated by the law.<sup>[9]</sup>

Although the institution of a clearly unfounded civil suit can at times be a legal justification for an award of attorney's fees,<sup>[10]</sup> such filing, however, has almost invariably been held not to be a ground for an award of moral damages.<sup>[11]</sup> The *rationale* for the rule is that the law could not have meant to impose a penalty on