Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

COCA-COLA BOTTLERS PHILS., INC.,
Petitioner,

- versus -

ERNANI GUINGONA MEÑEZ,
Respondent.

G.R. No. 209906

Present:

CARPIO, *J., Chairperson,*
PERALTA,
PERLAS-BERNABE,
CAGUIOA, and
REYES, JR.,* *JJ.*

Promulgated:

22 NOV 2017

x---x

DECISION

CAGUIOA, *J.:*

This is a Petition for Review on *Certiorari*[1] (Petition) under Rule 45 of the Rules of Court assailing the Decision[2] of the Court of Appeals[3] (CA) dated April 22, 2013 in CA-G.R. CV No. 02361 and the Resolution[4] dated October 11, 2013 denying the motion for reconsideration filed by petitioner, Coca-Cola Bottlers Phils., Inc. (CCBPI). The CA Decision granted the appeal and reversed the Decision[5] dated October 29, 2007 of the Regional Trial Court, 7th Judicial Region, Branch 39, Dumaguete City (RTC) in Civil Case No. 11316.

Facts and Antecedent Proceedings

The Decision of the CA dated April 22, 2013 states the facts as follows:

> Research [s]cientist Ernani Guingona Meñez [Meñez] was a frequent customer of Rosante Bar and Restaurant [Rosante] of Dumaguete City. On March 28, 1995, at about 3:00 o'clock in the afternoon, Me[ñ]ez

---

* On leave.

1 *Rollo*, pp. 3-70.

2 Id. at 71-83. Penned by Associate Justice Gabriel T. Ingles, with Associate Justices Pampio A. Abarintos and Marilyn B. Lagura-Yap concurring.

3 Eighteenth (18th) Division.

4 *Rollo*, pp. 84-89.

5 Id. at 371-390. Penned by Presiding Judge Arlene Catherine A. Dato.

went to Rosante and ordered two (2) bottles of beer. Thereafter, he ordered pizza and a bottle of "Sprite". His additional order arrived consisting of one whole pizza and a bottled softdrink Sprite with a drinking straw, one end and about three-fourths of which was submerged in the contents of the bottle, with the other and the remaining third of the straw outside the bottle, as is the usual practice in eateries when one orders a bottled softdrink.

Meñez then took a bite of pizza and drank from the straw the contents of the Sprite [b]ottle. He noticed that the taste of the softdrink was not one of Sprite but of a different substance repulsive to taste. The substance smelled of kerosene. He then felt a burning sensation in his throat and stomach and could not control the urge to vomit. He left his table for the toilet to vomit but was unable to reach the toilet room. Instead, he vomited on the lavatory found immediately outside the said toilet.

Upon returning to the table, he picked up the bottle of Sprite and brought it to the place where the waitresses were and angrily told them that he was served kerosene. [Meñez] even handed the bottle to the waitresses who passed it among themselves to smell it. All of the waitresses confirmed that the bottle smelled of kerosene and not of Sprite.

Meñez then went out of the restaurant taking with him the bottle. He found a person manning the traffic immediately outside the restaurant, whom he later came to know as Gerardo Ovas, Jr. of the Traffic Assistant Unit. He reported the incident and requested the latter to accompany him to the Silliman [University] Medical Center (SUMC). Heading to SUMC for medical attention, Ovas brought the bottle of Sprite with him.

While at the Emergency Room, [Meñez] again vomited before the hospital staff could examine him. [Meñez] had to be confined in the hospital for three (3) days.

Later, [Meñez] came to know that a representative from [Rosante] came to the hospital and informed the hospital staff that Rosante [would] take care of the hospital and medical bills.

The incident was reported to the police and recorded in the Police Blotter. The bottle of Sprite was examined by Prof. Chester Dumancas, a licensed chemist of Silliman University. The analysis identified the contents of the liquid inside the bottle as pure kerosene.

As a result of the incident, [Meñez] filed a complaint against [CCBPI and Rosante] and prayed for the following damages:

(a) Three Million Pesos (P3,000,000.00) as actual damages;
(b) Four Million Pesos (P4,000,000.00) as moral damages;
(c) Five Hundred Thousand Pesos (P500,000.00) as exemplary damages;
(d) One Hundred Thousand Pesos (P100,000[.00]) as attorney's fees;
(e) Cost of Suit.

In answer to the complaint filed, [CCBPI and Rosante] set out their own version of facts. Rosante x x x alleged that [Meñez] was heard to have only felt nausea but did not vomit when he went to the comfort room. Rosante further denied that the waitresses confirmed the content of the bottle to be kerosene. In fact, [Meñez] refused to have the waitresses smell it.

As an affirmative defense, [Rosante] argued that [Meñez] has no cause of action against it as it merely received said bottle of Sprite allegedly containing kerosene from [CCBPI], as a matter of routinary procedure. It argued that Rosante is not expected to open and taste each and every [content] in order to make sure it is safe for every customer.

It further alleged that Robert Sy was made as representative of [Rosante] when in fact he is not the registered owner of the establishment but merely involved in the management.

CCBPI for its part filed a motion to dismiss the complaint. The motion was founded on the grounds that:

> 1) [Meñez] failed to allege all the requisites of liability under Article 2187 of the Civil Code, not even for the law on torts and quasi-delict to apply against [CCBPI].
>
> 2) [Meñez] failed to exhaust administrative remedies and/or comply with the Doctrine of the Prior Resort.

CCBPI interposed that a perusal of the complaint revealed that there is no allegation therein which states that CCBPI uses noxious or harmful substance in the manufacture of its products. What the complaint repeatedly stated is that the bottle with the name SPRITE on it contained a substance which was later identified as pure kerosene.

As to the second ground, [CCBPI] cited Republic Act No. 3720, as amended x x x "*An Act to Ensure the Safety and Purity of Foods and Cosmetics, and the Purity, Safety, Efficacy and Quality of Drugs and Devices Being Made Available to the Public, Vesting the Bureau of Food and Drugs with Authority to Administer and Enforce the Laws pertaining thereto, and for other Purposes*[.]" CCBPI argued that pursuant to the law, [Meñez] failed to avail of and exhaust an administrative remedy provided for prior to a filing of a suit in court. It quoted,

> (d) When it appears to the Director xxx that any article of food xxx is adulterated or misbranded, he shall cause notice thereof to be given to the person or persons concerned and such person or persons shall be given an opportunity to be heard before the Board of Food and Drug Inspection and to submit evidence impeaching the correctness of the finding or charge in question.

From this provision, CCBPI concluded that an administrative remedy was existing and that [Meñez] failed to avail thereof.

CCBPI further argued that the doctrine of strict liability tort on product liability is but a creation of American Jurisprudence, as clearly shown by the cases cited in support thereof, and never before adopted as a doctrine of the Supreme Court. Hence, it submits that at most it only has a persuasive effect and should not be used as a precedent in fixing the liability of CCBPI.

Pre-[t]rial and [t]rial ensued. [Meñez] introduced several exhibits to substantiate the damages he prayed for. Among others were Explanation of Benefits and Statements of Account from healthcare providers to show that he had to undergo a series of examinations in the United States as consequence of the incident. [Meñez] also included in his exhibits his profile as a scientist in attempt to prove that damages were

also incurred with the delay of his work; still as a consequence of the kerosene poisoning.

With the termination of the trial, and the directive to parties to file their respective memoranda, the case was finally submitted for decision.[6]

The RTC Ruling

The CA Decision further states:

The Regional Trial Court (RTC) dismissed the complaint for insufficiency of evidence. The [RTC] found the evidence for [Meñez] to be ridden with gaps. It declared that there was failure of [Meñez] to categorically establish the chain of custody of the "Sprite" bottle which was the very core of the evidence in his complaint for damages. The Court noted that from the time of the incident, thirty-six (36) hours have lapsed before the "Sprite" bottle was submitted for laboratory examination. During such time, the "Sprite" bottle changed hands several times. The RTC then ruled that the scanty evidence presented by [Meñez] concerning the chain of custody of the said "Sprite" bottle and [his] unexplained failure x x x to present several vital witnesses to prove such fact indeed casts a serious doubt on the veracity of his allegations.

The [RTC] observed,

> "In this case, the results of the laboratory examination conducted on the "Sprite" bottle show that the same contained PURE KEROSENE, and not "Sprite" containing traces of kerosene or "Sprite" adulterated with kerosene. [x]xx A test result showing that the said "Sprite" bottle contained traces of kerosene would have been more in consonance with [Meñez]'s claim of negligence[.]"

The RTC further noted that since kerosene had a characteristic smell, and considering that the "Sprite" bottle allegedly contained pure kerosene, it was quite surprising why the employees of [Rosante] did not notice its distinct smell.

Finally, the RTC held that the complaint was devoid of merit as it should have first ventilated [Meñez's] grievance with the Bureau of Food and Drugs pursuant to R.A. 3720 as amended by Executive Order No. 175.

Thus, the [RTC] disposed,

> "WHEREFORE, the complaint is hereby DISMISSED for insufficiency of evidence, with costs against the plaintiff.
>
> Likewise, the counterclaims of defendants are hereby DISMISSED.
>
> SO ORDERED."

Aggrieved, [Meñez went to the CA] on appeal.[7]

---

6 Id. at 71-74.

7 Id. at 74-75.

The CA Ruling

In its Decision[8] dated April 22, 2013, the CA granted the appeal and reversed the Decision of the RTC. The CA ruled that the RTC erred in dismissing the case for failing to comply with an administrative remedy because it is not a condition precedent in pursuing a case for damages under Article 2187 of the Civil Code which is the basis of Meñez's complaint for damages.[9] The CA also ruled that Meñez was not entitled to actual damages given the observation of his attending physician, Dr. Juanito Magbanua, Jr. (Dr. Magbanua, Jr.), that "his hospital stay was uneventful" and "to [his] mind, he had taken in x x x only a small amount [of kerosene] because the degree of adverse effect on his body [was] very minimal knowing that if he had taken in a large amount he would have been in x x x very serious trouble and we would have seen this when we examine him."[10] The CA, however, awarded moral and exemplary damages in favor of Meñez.[11]

The dispositive portion of the CA Decision states:

> **WHEREFORE**, the appeal is hereby **GRANTED**. The decision in Civil Case No. 11316 is **REVERSED**. Defendant-Appellee Coca-Cola Bottlers Philippines Inc. is ORDERED to pay the following with six [per cent] (6%) interest per annum reckoned from May 5, 1995:
>
> 1. Moral damages in the amount of two hundred thousand pesos (P200,000.00);
> 2. Exemplary [d]amages in the amount of two hundred thousand pesos (P200,000.00);
> 3. Fifty thousand pesos (P50,000.00) as attorney's fees and cost of suit.
>
> The total aggregate monetary award shall in turn earn 12% per annum from the time of finality of this Decision until fully paid.
>
> **SO ORDERED.**[12]

CCBPI filed a motion for reconsideration, which was denied in the CA Resolution[13] dated October 11, 2013.

Hence, this Petition. Meñez filed a Comment[14] dated April 9, 2014. CCBPI filed a Reply[15] dated May 30, 2014.

Issues

Whether the CA erred in awarding moral damages to Meñez.

---

8 Id. at 71-83.
9 Id. at 71, 78.
10 Id. at 78-79.
11 See id. at 80-82.
12 Id. at 83.
13 Id. at 84-89.
14 Id. at 645-694.
15 Id. at 709-742.

Whether the CA erred in awarding exemplary damages to Meñez.

Whether the CA erred in awarding attorney's fees to Meñez.

Whether the CA erred in holding that Meñez did not violate the doctrine of exhaustion of administrative remedies and prior resort to the Bureau of Food and Drugs (BFD) is not necessary.

The Court's Ruling

The Petition is meritorious.

The CA correctly ruled that prior resort to BFD is not necessary for a suit for damages under Article 2187 of the Civil Code to prosper. Article 2187 unambiguously provides:

> ART. 2187. Manufacturers and processors of foodstuffs, drinks, toilet articles and similar goods shall be liable for death or injuries caused by any noxious or harmful substances used, although no contractual relation exists between them and the consumers.

Quasi-delict being the source of obligation upon which Meñez bases his cause of action for damages against CCBPI, the doctrine of exhaustion of administrative remedies is not applicable. Such is not a condition precedent required in a complaint for damages with respect to obligations arising from quasi-delicts under Chapter 2, Title XVII on Extra-Contractual Obligations, Article 2176, *et seq*. of the Civil Code which includes Article 2187.

However, the CA erred in ruling that Meñez is entitled to moral damages, exemplary damages and attorney's fees.

The cases when moral damages may be awarded are specific. Unless the case falls under the enumeration as provided in Article 2219, which is exclusive, and Article 2220 of the Civil Code, moral damages may not be awarded. Article 2219 provides:

> ART. 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.

x x x x (Emphasis supplied)

Article 2220 provides the following additional legal grounds for awarding moral damages: (1) willful injury to property if the court should find that, under the circumstances, such damages are justly due; and (2) breaches of contract where the defendant acted fraudulently or in bad faith.

In justifying the award of moral damages to Meñez, the CA invoked the U.S. cases *Escola v. Coca-Cola Bottling Co.*[16] and *Wallace v. Coca-Cola Bottling Plants, Inc.*[17] The CA, however, failed to show the direct connection of these cases with the instances when moral damages may be awarded under the Civil Code.

Apparently, the only ground which could sustain an award of moral damages in favor of Meñez and against CCBPI is Article 2219 (2) — quasi-delict under Article 2187 causing physical injuries.

Unfortunately, Meñez has not presented competent, credible and preponderant evidence to prove that he suffered physical injuries when he allegedly ingested kerosene from the "Sprite" bottle in question. Nowhere in the CA Decision is the physical injury of Meñez discussed. The RTC Decision states the diagnosis of the medical condition of Meñez in the medical abstract prepared by Dr. Abel Hilario Gomez, who was not presented as a witness,[18] and signed by Dr. Magbanua, Jr. (Exhibit "R"): "the degree of poisoning on the plaintiff [Meñez] was mild, since the amount ingested was minimal and did not have severe physical effects on his body."[19] In his testimony, Dr. Magbanua, Jr. stated: "To my mind, [Meñez] had taken in kerosene of exactly undetermined amount, apparently or probably, only a small amount because the degree of adverse effect on his body is very minimal knowing that if he had taken in a large amount he would have been in x x x very serious trouble and we would have seen this when we examined him."[20] The statements of the doctors who tended to the medical needs of Meñez were equivocal. "Physical effects on the body" and "adverse effect on his body" are not very clear and definite as to whether or not Meñez suffered physical injuries and if these statements indicate that he did, what their nature was or how extensive they were.

---

16 24 Cal.2d 453, 150 P.2d 436 (1944).
17 269 A.2d 117 (1970).
18 See *rollo*, p. 179.
19 Id. at 374.
20 Id. at 79.

Consequently, in the absence of sufficient evidence on physical injuries that Meñez sustained, he is not entitled to moral damages.

As to exemplary or corrective damages, these may be granted in quasi-delicts if the defendant acted with gross negligence pursuant to Article 2231[21] of the Civil Code.

The CA justified its award of exemplary damages in the following manner:

> On the liability of manufacturers, the principle of strict liability applies. It means that proof of negligence is not necessary. It appl[i]es even if the defendant manufacturer or processor has exercised all the possible care in the preparation and sale of his product x x x. Extra-ordinary diligence is required of them because the life of the consuming public is involved in the consumption of the foodstuffs or processed products.[22]

Evidently, the CA's reasoning is not in accord with the gross negligence requirement for an award of exemplary damages in a quasi-delict case.

Moreover, Meñez has failed to establish that CCBPI acted with gross negligence. Other than the opened "Sprite" bottle containing pure kerosene allegedly served to him at the Rosante Bar and Restaurant (Rosante), Meñez has not presented any evidence that would show CCBPI's purported gross negligence. The Court agrees with the RTC's finding that there was failure on the part of Meñez to categorically establish the chain of custody of the "Sprite" bottle which was the very core of the evidence in his complaint for damages and that, considering that the "Sprite" bottle allegedly contained pure kerosene, it was quite surprising why the employees of Rosante did not notice its distinct, characteristic smell. Thus, Meñez is not entitled to exemplary damages absent the required evidence. The only evidence presented by Meñez is the opened "Sprite" bottle containing pure kerosene. Nothing more.

Regarding attorney's fees, Article 2208 of the Civil Code provides:

> ART. 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:
>
> (1) When exemplary damages are awarded;
>
> (2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;

---

21 ART. 2231. In quasi-delicts, exemplary damages may be granted if the defendant acted with gross negligence.

22 *Rollo*, p. 82; citation omitted.

(3) In criminal cases of malicious prosecution against the plaintiff;

(4) In case of a clearly unfounded civil action or proceeding against the plaintiff;

(5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;

(6) In actions for legal support;

(7) In actions for the recovery of wages of household helpers, laborers and skilled workers;

(8) In actions for indemnity under workmen's compensation and employer's liability laws;

(9) In a separate civil action to recover civil liability arising from a crime;

(10) When at least double judicial costs are awarded;

(11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable.

The CA Decision did not even provide the basis for the award of ₱50,000.00 as attorney's fees and cost of suit. The award is found only in the dispositive portion and, unlike the award of moral and exemplary damages, there was no explanation provided in the body of the Decision. It can only be surmised that the CA awarded attorney's fees only because it awarded exemplary damages.

In any event, based on Article 2208 of the Civil Code, Meñez is not entitled to attorney's fees and expenses of litigation because, as with his claim for exemplary damages, he has not established any other ground that would justify this award.

WHEREFORE, the Petition is hereby **GRANTED**. The Court of Appeals Decision dated April 22, 2013 and Resolution dated October 11, 2013 in CA-G.R. CV No. 02361 are **REVERSED** and **SET ASIDE**. The dismissal of the complaint for insufficiency of evidence by the Regional Trial Court, 7th Judicial Region, Branch 39, Dumaguete City in its Decision dated October 29, 2007 in Civil Case No. 11316 is **AFFIRMED**.

SO ORDERED.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

DIOSDADO M. PERALTA
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

(On leave)
ANDRES B. REYES, JR.
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.

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second 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.

MARIA LOURDES P. A. SERENO
Chief Justice