Republic of the Philippines
Supreme Court
Manila

**THIRD DIVISION**

**PHILIPPINE STOCK EXCHANGE, INC.,**
**Petitioner,**

- versus -

**ANTONIO K. LITONJUA[1] AND AURELIO K. LITONJUA, JR.,**
**Respondents.**

**G.R. No. 204014**

Present:

VELASCO, JR., *J.*,
Chairperson,
PERALTA,
PEREZ,
REYES, and
JARDELEZA, *JJ.*

Promulgated:

December 5, 2016

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## DECISION

**PEREZ, *J.*:**

Before this Court is a Petition for Review on *Certiorari* filed by the Philippine Stock Exchange, Inc. (PSE) seeking to annul the 23 May 2012 Decision[2] and 17 October 2012 Resolution[3] of the Court of Appeals (CA) upholding the 22 February 2010 Decision[4] of the Pasig City Regional Trial

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1 Respondent Antonio K. Litonjua died on 1 April 2012 and is now represented by Antonio Patrick A. Litonjua.

2 Penned by Associate Justice Danton Q. Bueser with Associate Justices Rosmari D. Carandang and Ricardo R. Rosario concurring; *rollo*, pp. 65-84

3 CA *rollo*, p. 327

4 RTC Decision; records pp. 693-702.

Court (RTC), Branch 154, granting the claim for refund of Antonio K. Litonjua and Aurelio K. Litonjua, Jr. (Litonjua Group).[5]

## Antecedent Facts

On 20 April 1999, the Litonjua Group wrote a letter-agreement to Trendline Securities, Inc. (Trendline) through its President Priscilla D. Zapanta (Zapanta), confirming a previous agreement for the acquisition of the 85% majority equity of Trendline's membership seat in PSE, a domestic stock corporation licensed by the Securities and Exchange Commission (SEC) to engage in the business of operating a market for the buying and selling of securities.[6] The salient features of the agreement are as follow:

> 1. The sale of majority equity Membership/Seat equivalent to eighty-five percent (85%) of the value, to Antonio and Aurelio K. Litonjua, Jr., and/or assignees and immediate members of their family (Litonjua Group). The balance of the fifteen percent (15%) equity to be retained by you and/or immediate members of your family;
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> 2. The aggregate price for the Membership/Seat is Twenty-three million Pesos (₱23,000,000.00) broken down as follows:
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> | | | |
> |---|---|---|
> | a. Litonjua Group | - 85% equity | ₱19,555,000.00 |
> | b. Zapanta | - 15% equity | ₱ 3,445,00.00 |
> | Total Equity: | | ₱ 23,000,000.00 |
>
> 3. Terms of Payment
>
> 1. On account of the outstanding claims of the Philippine Stock Exchange (PSE), the Litonjua Group is willing to pay in advance direct to PSE the present claims of ₱18,547,643.81 with the following conditions:
>
> a. That the amount of ₱18,547,643.81 is the entire obligation of Trendline Securities Inc., *i.e.* as full settlement of all claims and outstanding obligations including interest;
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> b. Upon acceptance of payment and approval of PSE board, PSE will lift the suspension and allow the Litonjua Group to resume the normal trading operation of the Membership/Seat;

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5 During the cross-examination, Antonio K. Litonjua testified that the Litonjua Group is composed of his brothers Aurelio and Aurelio, Jr and sons Patrick and Benedict, all surnamed Litonjua. P. 22, Cross, 25 November 2008.

6 Exhibit "A," records, pp. 8-9

c. That PSE will agree and accept nominations of our assignee for the Membership/Seat subject to PSE rules, regulations and criteria for accepting a new member or nominee;

d. That should the new membership be organized, PSE will approve and register the new member subject to rules, regulations and criteria for accepting a new member corporations.

2. The balance of ₱1,007,356.19 will be paid after incorporation of the new company to which the membership/seat will be transferred.

The letter was conformed to by Zapanta for and on behalf of Trendline.[7]

In a letter-confirmation dated 21 April 1999, the Litonjua Group undertook to pay the amount of ₱18,547,643.81 directly to PSE within three working days upon confirmation that it will be for the full settlement of all claims and outstanding obligations including interest of Trendline to lift its membership suspension and the resumption to normal trading operation. Further in the letter, Trendline was obligated to secure the approval and written confirmation of PSE for a new corporation to be incorporated that will own a seat.[8]

On 26 April 1999, Trendline, in compliance with the conditions set forth in the 20 April 1999 letter-agreement, advised PSE of the salient terms and conditions imposed upon it for the acquisition of the membership/seat.[9]

On 29 April 1999, the PSE, through Atty. Ruben L. Almadro (Atty. Almadro), Vice-President for Compliance and Surveillance Department, sent a letter[10] to Trendline advising the latter that the Business Conduct and Ethics Committee (BCEC) of PSE has resolved to accept the amount of ₱19,000,000.00 as full and final settlement of its outstanding obligations to be paid not later than 13 May 1999, broken down as follows:

| | |
|---|---|
| Unpaid PSE Advances to Clearing House | ₱15,918,744.14 |
| Compromise Fines/Penalties | 3,081,255.86 |
| | ₱19,000,000.00 |

7 Exhibit "A-2," id. at 9.
8 Exhibit "L," id. at 367.
9 Annex E; records, p. 60.
10 Exhibit "B," id. at 10.

Trendline was further advised that failure to pay the said amount by 13 May 1999 will result to collection in full of imposable fines/penalties and enforcement of payment by selling its seat at public auction.

On 3 May 1999, Trendline sent a reply-letter to PSE acknowledging its receipt of the 29 April 1999 letter and its assurance that the Litonjua Group will comply with the terms of the agreement.[11]

In compliance, the Litonjua Group in a letter dated 12 May 1999, delivered to PSE through Atty. Almadro three check payments,[12] all dated 13 May 1999 and payable to PSE, totaling to an amount of ₱19,000,000.00 broken down as follow:

| Bank | Check No. | Amount |
|---|---|---|
| 1. Metro Bank | 0127631 | ₱ 1,700,000.00 |
| 2. Standard Chartered | 0000062 | ₱ 1,350,000.00 |
| 3. Standard Chartered | 0000064 | ₱ 15,950,000.00 |
| | | ₱ 19,000,000.00 |

The letter, as conformed to by Trendline, indicated that the above payment represents the advance payment of the Litonjua Group for the acquisition of the seat/membership with the PSE and as full settlement of the outstanding obligation of Trendline.[13]

The letter and checks were received by the PSE from Trendline on 13 May 1999 as evidenced by Official Receipt Number 42264. It bore an annotation that the checks were received as an advance payment for full settlement of Trendline's outstanding obligation to PSE.[14]

Trendline, on its part, also sent a letter dated 13 May 1999 advising PSE of the payment of penalties and interest and reactivation of its suspension to seat/membership. Further, PSE was informed that Zapanta had already resigned as Trendline's nominee and in lieu of the position,

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11 Exhibit "O," id. at 371; see also p. 65.
12 Annexes "C-1,"; "C-2" and "C-3," id. at 12.
13 Annex "C," id. at 11 and 369.
14 Exhibit "D," id. at 13.

nominate Aurelio K. Litonjua, Jr. as the new nominee to the seat/membership.[15]

Despite several exchange of letters of conformity and delivery of checks representing payment of full settlement of Trendline's obligations, PSE failed to lift the suspension imposed on Trendline's seat.[16]

On 30 July 2006, the Litonjua Group, through a letter, requested PSE to reimburse the ₱19,000,000.00 it had paid with interest, upon knowledge that the specific performance by PSE of transferring the membership seat under the agreement will no longer be possible.[17]

PSE, however, refused to refund the claimed amount as without any legal basis. As a result, the Litonjua Group on 10 October 2006 filed a Complaint for Collection of Sum of Money with Damages against PSE before the RTC of Pasig City.[18]

PSE presented its version of the facts.

Prior to its re-organization in 2001, PSE was organized as a non-stock corporation with 200 members, one of which was Trendline. As a member, Trendline owns a trading seat with a right to conduct trading activities in the PSE.[19]

During the course of its trading activities, Trendline violated some PSE rules in trading and failed to pay its cash settlement payables to the Securities Clearing Corporation of the Philippines in the amount of ₱113.7 Million. As a result, PSE was compelled to assume Trendline's obligation. PSE, in turn, suspended Trendline's trading privileges.[20]

On 30 October 1998, Zapanta negotiated for an extension period until 31 July 1999 to settle its obligations with PSE. In reply, BCEC advised Trendline that it has until 31 March 1999 to settle its obligations to the PSE.[21]

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15 Exhibit "F," id. at 364.
16 Exhibit "E," id. at 14-15
17 Id.
18 Complaint; id. at 1-7
19 Petition for Review on *Certiorari*; *rollo*, p. 12.
20 Id.
21 Id.

Prior to the expiration of the deadline, Trendline and the Litonjua Group were already negotiationg for the purchase of the former's membership/seat. Accordingly, a letter-agreement dated 20 April 1999 was issued by the Group providing for the terms of acquisition, without, however, securing the consent of PSE for approval. This letter-agreement, was confirmed by Trendline through the approval of Zapanta.[22]

On 12 May 1999, PSE received three checks amounting to ₱19,000, 000.00 for the full settlement of Trendline's outstanding obligation. Trendline, and not the Litonjua Group, was the one indicated as the payor of the obligation.[23]

On 26 August 1999, PSE's Compliance and Surveillance Group (CSG) discovered during a follow-up audit that Trendline had a considerable amount of shortfalls and outstanding obligations to its clients, in addition to its unsettled and unliquidated accounts.[24]

Despite the outstanding obligations due to PSE, Zapanta, on 1 March 2004, requested the PSE's Compliance and Surveillance Group, for an audit of accounts preparatory to the issuance of clearance to transfer their corporate membership seat to the Litonjua Group.[25]

Granting the request, the CSG on 8 March 2004 conducted a special audit of Trendline's books and records. It was then confirmed that Trendline was not financially liquid to settle all its outstanding obligations to its clients.[26]

On 3 January 2006, Atty. Sixto Jose C. Antonio (Atty. Antonio) sent a letter to PSE informing the latter that Trendline has filed for a petition for corporate rehabilitation before the Regional Trial Court of Manila and that he has been appointed by the court as the rehabilitation receiver.[27]

In reply, PSE in a letter dated 6 February 2006 informed Atty. Antonio that 85% of Trendline's membership seat is being claimed by the

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22 Id. at pp. 12-13.
23 p. 14
24 Answer Ad Cautelam; records, p. 123
25 Id. at 148.
26 Answer Ad Cautelam; id. at 123-124.
27 Id. at 151.

Litonjua Group. Further, PSE enumerated the names of individuals who have a pending claims against Trendline totaling to ₱19,600,000.[28]

On 30 July 2006, PSE received a demand letter from the Litonjua Group requesting for a reimbursement of its paid ₱19,000,000.00 with interest reckoned from 13 May 1999.

Declining reimbursement, PSE in its Answer *Ad Cautelam* raised primarily that it received the amount not from the Litonjua Group but from Trendline as a settlement of its obligation. It insisted that the cause of action of the Litonjua Group is against Trendline and not the exchange, the latter being a non-party to the letter agreement.[29]

After conclusion of trial, the trial court rendered a decision granting that the Litonjua Group is entitled to claim a refund from PSE. The dispositive portions reads:

> WHEREFORE, premises considered, decision is rendered in favor of the plaintiffs and against the defendant PSE ordering the defendant PSE to pay the plaintiffs the amount of:
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> (1) [₱]19,000,000.00 plus interest thereon at 12% per annum from July 30, 2006;
>
> (2) Exemplary damages in the amount of [₱]1,000,000.00;
>
> (3) Attorney's fees in the amount of [₱]100,000.00, and
>
> (4) Cost of suit.[30]

The decision is anchored on the principle of *solutio indebiti* as defined in Article No. 2154 of the New Civil Code. *If something is received when there is no right to demand it, and it was unduly delivered through mistake, the obligation to return it arises.*[31]

The trial court clarified that Litonjua's cause of action is not founded on the 20 April 1999 letter-agreement but on the mistake on the part of the Litonjua Group when it delivered the ₱19,000,000.00 to PSE on the notion that amount was for the consideration of the trading seat of Trendline.

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28 Answer; id. at 154.
29 Answer Ad Cautelam; id. at 121-143.
30 RTC Decision; id. at 701.
31 Id. at 698 and 699, Records.

PSE's insistence that it was not a privy to the letter-agreement only bolstered the fact that it was devoid of any right to receive the payment.[32]

In addition to the refund, legal interest was likewise imposed from the date of demand reckoned from 30 July 2006 at twelve percent (12%) *per annum*. Also, exemplary damages were imposed due to the continuous refusal of PSE to refund the ₱19,000,000.00 despite the fact that it received the amount without any right to receive it. Such conduct of PSE was characterized by the trial court as wanton, oppressive and malevolent in nature as defined under Article 2232[33] of the New Civil Code justifying the award of exemplary damages. Finally, attorney's fees were awarded in view of the grant of exemplary damages and to the fact that the Litonjua Group was forced to litigate in court to assert its right.[34]

Aggrieved, PSE filed an appeal before the CA alleging errors on the part of the trial court when it ruled that (1) the cause of action of the Litonjua Group is based on quasi-contract; (2) in not finding that the party liable for refund is Trendline pursuant to Article 1236[35] of the New Civil Code; and lastly, in granting the award of exemplary damages.

On 23 May 2012, the CA affirmed, in the result, the challenged decision of the trial court. The appellate court principally relied on the principle of constructive trust instead of *solutio indebiti* as an appropriate remedy against the unjust enrichment of PSE. It was held that:

> We strongly believe that if we will not allow the recovery of the amount of Nineteen Million Pesos (₱19,000,000.00), there will be unjust enrichment on the part of the PSE. This We cannot tolerate[;] thus, the application here of the principles of the law on trust. In particular, constructive trust which is a class of implied trust.
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> A constructive trust is substantially an appropriate remedy against unjust enrichment. It is raised by equity in respect of property, which has been acquired by fraud, or where although acquired originally without fraud, it is against equity that it should be retained by the person holding it.
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> x x x x

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32 Id. at 699-700.

33 **Art. 2232. In contracts and quasi-contracts, the court may award exemplary damages if the defendant acted in a wanton, fraudulent, reckless, oppressive, or malevolent manner.**

34 Id. at p. 701.

35 **Art. 1236. The creditor is not bound to accept payment or performance by a third person who has no interest in the fulfillment of the obligation, unless there is a stipulation to the contrary.**

> Certainly, constructive trust is the formula through which the conscience of equity finds expression x x x. Applying the same in the instant case, as the money involved here – which amounts to millions – was actually acquired under the circumstance where the beneficial interest cannot be retained in good conscience, the equity converts PSE into a trustee. x x x The PSE, without a doubt, as the trustee of a constructive trust, has the obligation to convey or deliver back to the Litonjua Group the amount subject of the dispute. The money rightfully belongs to the latter there being no contract existing where PSE can base its right to receive the amount.[36]

As to the issue of the applicability of Article 1236, the CA ruled in the negative. According to the law:[37]

> The Creditor is not bound to accept the payment or performance by a third person who has no interest in the fulfillment of the obligation unless there is a stipulation to the contrary.
>
> Whoever pays for another may demand from the debtor what he has paid, except that if he paid without the knowledge or against the will of the debtor, he can recover only insofar as the payment has been beneficial to the debtor.

However, the provision must be read in relation to the provision on novation of contract provided by Article 1293 which states that, *novation which consists in substituting a new debtor in the place of the original one, may be made even without the knowledge or against the will of the latter, but not without the consent of the creditor. Payment of the new debtor gives him the rights mentioned in Art. 1236 and 1237.* (Emphasis ours)

It also ruled that the acts of PSE subsequent to the execution of the 20 April 1999 letter-agreement were tantamount to consent, only for it to retract later and claim that it never issued any Board Resolution authorizing PSE to bind itself to the terms and obligations of the letter-agreement. These acts, if not fraudulent, were made with recklessness, hence, the justification of the exemplary damages.

Before this Court, PSE posits the following issues: (1) The contemporaneous and subsequent acts of the PSE are not tantamount to rendering the PSE a party to the letter-agreement; (2) the case *of Smith, Bell and Co.* is not applicable to the present case; (3) the provision of Article 1236 should not be read together with Article 1293; (4) Trendline should be

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36 CA Decision; *rollo*, pp. 79-81.

37 Id. at 77.

considered as an indispensable party; (5) PSE was not unjustly enriched by its receipt of the amount of ₱19,000,000.00; (6) no constructive trust exists between the PSE and the Litonjua Group; and finally (7) the Litonjua Group is not entitled to exemplary damages.

In its Comment, the Litonjua Group countered that since PSE insists that there is no contract to speak of due to absence of consent, it is only equitable to return the money paid. The money was conditionally delivered by the Litonjua Group based on its belief that PSE had already approved of the transaction and the obligations imposed upon it by the letter-agreement. In view of the fact that the money was acquired through mistake, PSE, by force of law, is now considered as a trustee of an implied trust for the benefit of the Litonjua Group.[38]

We deny the petition.

After review of the records, we summarize the issues, thus: *First*, is PSE considered a party to the letter-agreement; *Second,* against whom should the Litonjua Group seek reimbursement; *Third*, is PSE liable to return the payment received; and *lastly*, whether the PSE is liable to pay exemplary damages.

PSE asserts that it is not a party in the letter-agreement due to the absence of any board resolution authorizing the corporation to be bound by the terms of the contract between Trendline and the Litonjua Group. In essence, it avers that no consent was given to be bound by the terms of the letter-agreement. We agree.

According to Article 1305 of the Civil Code, "a contract is a meeting of minds between two persons whereby one binds himself, with respect to the other, to give something or render some service." For a contract to be binding: there must be consent of the contracting parties; the subject matter of the contract must be certain; and the cause of the obligation must be established.[39] Consent, as a requisite to have a valid contract, is manifested by the meeting of the offer and the acceptance upon the thing and the cause which are to constitute the contract. The offer must be certain and acceptance absolute. A qualified acceptance constitutes a counter offer.[40]

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38 Comment; id. at 123-133.
39 Art. 1318 of the Civil Code.
40 Art. 1319 of the Civil Code.

In corporations, consent is manifested through a board resolution since powers are exercised through its board of directors. The mandate of Section 23 of the Corporation Code is clear that unless otherwise provided in the Code, "the corporate powers of all corporations shall be exercised, all business conducted and all property of such corporations controlled and held by the board of directors or trustees..."

Further, as a juridical entity, a corporation may act through its board of directors, which exercises almost all corporate powers, lays down all corporate business policies and is responsible for the efficiency of management. As a general rule, in the absence of authority from the board of directors, no person, not even its officers, can validly bind a corporation. This is so because a corporation is a juridical person, separate and distinct from its stockholders and members, having powers, attributes and properties expressly authorized by law or incident to its existence.[41]

Admittedly in this case, no board resolution was issued to authorize PSE to become a party to the letter-agreement. This fact was confirmed by PSE's Corporate Secretary Atty. Aissa V. Encarnacion in her direct testimony by way of judicial affidavit.[42] She testified that based on her review of the meetings of the PSE Board of Directors from 1998 to July 2009, there was no record of any board resolution authorizing PSE to bind itself to the said obligations under the letter-agreement or to lift the suspension over Trendline's PSE seat in accordance with the terms and conditions of the said letter-agreement. PSE was never authorized by the Board to be bound by the obligations stated therein. This fact was confirmed by Antonio K. Litonjua himself when he admitted during cross-examination that he failed to ask from PSE for any board resolution authorizing itself to be bound by the terms of the letter-agreement.[43]

From the foregoing, PSE is not considered as a party to the letter-agreement.

Following this precept, PSE maintains that the proper recourse of Litonjua Group is to demand reimbursement from Trendline following the provision of Article 1236. We disagree.

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41 *Peoples Aircargo And Warehousing Co. Inc., v. Court Of Appeals And Stefani Sao*, 357 Phil. 850, 862 (1998).

42 Exhibit "19," records, pp. 467-473. TSN of Antonio K. Litonjua, 25 November 2008.

43 TSN of Antonio K. Litonjua, 25 November 2008, pp. 41-42.

Reiterating Article 1236, the Creditor is not bound to accept the payment or performance by a third person who has no interest in the fulfillment of the obligation unless there is a stipulation to the contrary. Whoever pays for another may demand from the debtor what he has paid, except that if he paid without the knowledge or against the will of the debtor, he can recover only insofar as the payment has been beneficial to the debtor.

Contrary to the argument of PSE, we find inapplicable the provision of Article 1236 allowing the demand by the payor from the debtor of what was paid. It is correct that PSE is not bound to accept the payment of a third person who has no interest in the fulfillment of the obligation.[44] However, the Litonjua Group is not a disinterested party. Since the inception of the initial meeting between the Litonjua Group, PSE and Trendline, there was already a clear understanding that the Litonjua Group has the intention to settle the outstanding obligation of Trendline in consideration of its acquisition of 85% seat ownership and PSE's lifting of suspension of trading seat.

The next question now is, can PSE, though not a party to the agreement, be still held liable to return the money it received? We answer in the affirmative. This is pursuant to the principles of unjust enrichment and estoppel; it is only but rightful to return the money received since PSE has no intention from the beginning to be a party to the agreement.

PSE insists that there is no unjust enrichment when it received the ₱19,000,000.00 since it has every right to accept the amount which was voluntarily and knowingly paid by the Litonjua Group to discharge Trendline from its obligations to the corporation. Following this premise, it is not obligated to return the money. Again, we disagree.

The principle of unjust enrichment is embodied by the letter of Article 22 of the Civil Code:

> Article 22. Every person who through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him.

There is unjust enrichment when a person unjustly retains a benefit to the loss of another, or when a person retains money or property of another

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44 See for reference *Land Bank of the Philippines v. Ong*, 650 Phil. 627, 638 (2010).

against the fundamental principles of justice, equity and good conscience.[45] The principle of unjust enrichment requires two conditions: (1) that a person is benefited without a valid basis or justification, and (2) that such benefit is derived at the expense of another.[46]

The main objective of the principle against unjust enrichment is to prevent one from enriching himself at the expense of another without just cause or consideration.[47]

Applying law and jurisprudence, the principle of unjust enrichment requires PSE to return the money it had received at the expense of the Litonjua Group since it benefited from the use of it without any valid justification.

In addition, principle of estoppel finds merit.

Estoppel has its roots in equity. It is a response to the demands of moral right and natural justice. For estoppel to exist, it is indispensable that there be a declaration, act or omission by the party who is sought to be bound. It is equally a requisite that he, who would claim the benefits of such a principle, must have altered his position, having been so intentionally and deliberately led to comport himself; thus, by what was declared or what was done or failed to be done.[48]

In *Philippine National Bank v. The Honorable Intermediate Appellate Court (First Civil Cases Division) and Romeo Alcedo*,[49] estoppel is further elucidated in this wise:

> The doctrine of estoppel is based upon the grounds of public policy, fair dealing, good faith and justice, and its purpose is to forbid one to speak against its own act, representations, or commitments to the injury of one to whom they were directed and who reasonably relied thereon. Said doctrine springs from equitable principles and the equities in the case. It is designed to aid the law in the administration of justice where without its aid injustice might result.[50]

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45 *Philippine Realty and Holdings Corporation v. Ley Construction and Development Corporation*, 667 Phil. 32, 65 (2011).

46 *Flores v. Spouses Lindo, Jr.*, 664 Phil. 210, 221 (2011).

47 Id.

48 *Dizon v. Suntay*, 150-C Phil. 861, 867-868 (1972).

49 267 Phil. 720 (1990).

50 *Philippine National Bank v. The Honorable Intermediate Appellate Court (First Civil Cases Division) and Romeo Alcedo*, supra at 727, citing *Philippine National Bank v. Court of Appeals*, 183 Phil. 54, 63-64 (1979).

In this case, the Litonjua Group was led to believe that the payment of ₱19,000,000.00 will be the full settlement of all the obligations due, including the penalties and interests, in order to effect the lifting of the suspension of the seat/membership. This is apparent from the April 29, 1999 letter of Atty. Almadro to Trendline. According to its terms, the Business Conduct and Ethics Committee of PSE resolved to accept the amount of Nineteen Million Pesos (₱19,000,000.00) as full and final settlement of its outstanding obligations to be paid not later than 13 May 1999. Trendline was further advised that failure to pay the said amount by 13 May 1999 will result to collection in full of imposable fines/penalties and enforcement of payment by selling its seat at public auction. In turn, Trendline assured PSE that the Litonjua Group will pay the required amount. The Litonjua Group, before the turnover of the checks, even took a further step and sent a letter to Atty. Almadro indicating that the payment will be the full satisfaction for the acquisition of the seat/membership Trendline. Upon receipt of the checks, an annotation was indicated by PSE that the checks were received as advance payment for full settlement of Trendline's outstanding obligation. PSE became an active participant in all the transactions between the Litonjua Group and Trendline. By accepting Litonjua's payment, PSE is now estopped from claims that Trendline still has a penalty obligation that must be settled before the transfer of the seat.

PSE cannot assert to be a non-party to the letter-agreement and at the same time claim a right to receive the money for the satisfaction of the obligation of Trendline. PSE must not be allowed to contradict itself. A position must be made. PSE must either consider itself a party to the letter agreement and assume the all rights and obligations flowing from the transaction or disavow its consent derivative from its participation. Since, it is already made clear that it is not a party due to its lack of consent, it is now estopped from claiming the right to be paid.

Finally, PSE insists that the appellate court erred when it awarded exemplary damages to the Litonjua Group due to the corporation's recklessness in its business dealings. When it accepted the payment, PSE contends that it was merely exercising its right to be paid. We again disagree.

In contracts and quasi-contracts, the court may award exemplary damages if the defendant acted in a wanton, fraudulent, reckless, oppressive, or malevolent manner.[51] Exemplary damages cannot be recovered as a

[51] Art. 2232 of the Civil Code

matter of right; the court will decide whether or not they should be adjudicated.[52] While the amount of the exemplary damages need not be proven, 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.[53]

In *Arco Pulp and Paper Co., Inc. v. Dan T. Lim*,[54] the Court reiterated the ratio behind the award:

> Also known as 'punitive' or 'vindictive' damages, exemplary or corrective damages are intended to serve as a deterrent to serious wrong doings, and as a vindication of undue sufferings and wanton invasion of the rights of an injured or a punishment for those guilty of outrageous conduct. These terms are generally, but not always, used interchangeably. In common law, there is preference in the use of exemplary damages when the award is to account for injury to feelings and for the sense of indignity and humiliation suffered by a person as a result of an injury that has been maliciously and wantonly inflicted, the theory being that there should be compensation for the hurt caused by the highly reprehensible conduct of the defendant—associated with such circumstances as willfulness, wantonness, malice, gross negligence or recklessness, oppression, insult or fraud or gross fraud—that intensifies the injury. The terms punitive or vindictive damages are often used to refer to those species of damages that may be awarded against a person to punish him for his outrageous conduct. In either case, these damages are intended in good measure to deter the wrongdoer and others like him from similar conduct in the future.[55]

PSE, despite demands by the Litonjua Group, continuously refused to return the money received despite the fact that it received it without any legal right to do so. This conduct, as found by the trial court, falls within the purview of wanton, oppressive and malevolent in nature. Further, we find the words of the appellate court on its justification of the award meritorious:

> We cannot blame the Litonjua Group for believing that the actions of the PSE are as good as giving consent to the subject agreement. And, it surely came as a surprise on the part of the Litonjua Group to know that none of the PSE's dealings can be considered as approval of the agreement. It appears that these actions of the PSE, if it cannot be considered fraudulent, were definitely made with recklessness. As huge amount of money (P19 Million) were involved, the PSE could have been more cautious or wary in dealing with the Litonjua Group. It should have

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52 Art. 2233 of the Civil Code.

53 Art. 2234 of the Civil Code,.

54 737 Phil. 133 (2014).

55 Id. at 152-153, citing, *Tankeh v. Development Bank of the Philippines, et al.*, 720 Phil. 641, 693 (2013).

> avoided making actions that would send wrong signal to the other party with which it was transacting. Hence, we have no choice but to conclude that PSE acted with recklessness that would warrant an award of exemplary damages in favor of the Litonjua Group.[56]

Thus, absent any other compelling reason to overturn the findings, we uphold the award of exemplary damages.

Finally, a note on the legal interest.

Pursuant to Circular No. 799 of Monetary Board of the *Bangko Sentral ng Pilipinas* dated 21 June 2013, the rate of interest for the loan or forbearance of any money, goods or credits and the rate allowed in judgments, in the absence of an express contract as to such rate of interest, shall be six percent (6%) *per annum*. Therefore, the rate of interest imposed the trial court in its judgment, as affirmed by the ruling of the CA, will be at 12% interest *per annum* from 30 July 2006 to 30 June 2013 and 6% interest *per annum* 1 July 2013 until full satisfaction.

**WHEREFORE**, the petition is **DENIED**. Accordingly, the Decision and Resolution of the Court of Appeals dated 23 May 2012 and 17 October 2012 respectively, upholding the 22 February 2010 Decision of the Regional Trial Court of Pasig City are hereby **AFFIRMED WITH MODIFICATION.** Philippine Stock Exchange is hereby ordered to pay the Litonjua Group the following amounts:

1. as to the imposition of legal interest to be imposed to the ₱19,000,000.00 from 12% to 6% *per annum* reckoned from the date of demand on 30 July 2006;
2. Exemplary damages in the amount of ₱1,000,000.00;
3. Attorney's fees in the amount of ₱100,000.00; and
4. Cost of suit.

**SO ORDERED.**

**JOSE PORTUGAL PEREZ**
Associate Justice

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56 *Rollo*, p. 82.

**WE CONCUR:**

**PRESBITERO J. VELASCO, JR.**
Associate Justice

**DIOSDADO M. PERALTA**
Associate Justice

**BIENVENIDO L. REYES**
Associate Justice

**FRANCIS H. JARDELEZA**
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.

**PRESBITERO J. VELASCO, JR.**
Associate Justice
Chairperson, Third Division

## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified 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.

**MARIA LOURDES P. A. SERENO**
Chief Justice

CERTIFIED TRUE COPY
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
DEC 19 2016