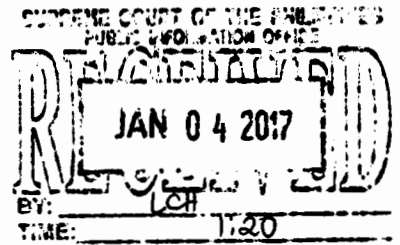




Republic of the Philippines  
**Supreme Court**  
**Manila**



**FIRST DIVISION**

**CATHERINE CHING, LORENZO CHING, LAURENCE CHING, AND CHRISTINE CHING,**

Petitioners,

- versus -

**QUEZON CITY SPORTS CLUB, INC.; MEMBERS OF THE BOARD OF DIRECTORS, NAMELY: ANTONIO T. CHUA, MARGARET MARY A. RODAS, ALEJANDRO G. YABUT, JR., ROBERT C. GAW, EDGARDO A. HO, ROMULO D. SALES, BIENVENIDO ALANO, AUGUSTO E. OROSA, AND THE FINANCE MANAGER, LOURDES RUTH M. LOPEZ,**

Respondents.

**G.R. No. 200150**

Present:

SERENO, *CJ.*,  
 Chairperson,  
 LEONARDO-DE CASTRO,  
 BERSAMIN,  
 PERLAS-BERNABE, and  
 CAGUIOA, *JJ.*

Promulgated:

**NOV 07 2016**

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**DECISION**

**LEONARDO-DE CASTRO, *J.*:**

Assailed before the Court under Rule 45 of the Rules of Court is the Decision<sup>1</sup> dated June 27, 2011 in CA-G.R. CV No. 92293 of the Court of Appeals, which reversed and set aside the Decision<sup>2</sup> dated May 23, 2008 of the Regional Trial Court (RTC) of Quezon City, Branch 223, in Civil Case No. Q-03-50022; and ordered the dismissal of the Complaint for Damages of petitioners, spouses Lorenzo (Lorenzo) and Catherine (Catherine) Ching and their children Laurence and Christine Ching, against respondents, Quezon City Sports Club, Inc. (Club); the Board of Directors (BOD) of respondent Club, namely, Antonio T. Chua (Chua), Margaret Mary A. Rodas, Alejandro

<sup>1</sup> *Rollo*, pp. 36-51; penned by Associate Justice Ramon M. Bato, Jr. with Associate Justices Juan Q. Enriquez, Jr. and Florito S. Macalino concurring.

<sup>2</sup> *Id.* at 55-71; penned by Presiding Judge Ramon A. Cruz.

*mtw*

G. Yabut, Jr., Robert C. Gaw, Edgardo A. Ho (Ho), Romulo D. Sales, Bienvenido Alano, and Augusto E. Orosa; and the Finance Manager of respondent Club, Lourdes Ruth M. Lopez (Lopez). The RTC directed respondents to jointly and severally pay petitioners ₱200,000.00 as moral damages, ₱50,000.00 as exemplary damages, ₱50,000.00 as attorney's fees; and costs of suit.

Respondent Club is a duly registered domestic corporation providing recreational activities, sports facilities, and exclusive privileges and services to its members.

Petitioner Catherine became a member and regular patron of respondent Club in 1989. Per policy of respondent Club, petitioner Catherine's membership privileges were extended to immediate family members.

On June 15, 1999, the National Labor Relations Commission (NLRC) rendered a Decision in NLRC NCR Case No. 00-07-06219, ordering respondent Club to pay backwages, 13<sup>th</sup> and 14<sup>th</sup> month pay, and allowances to six illegally dismissed employees. The successive appeals of respondent Club to the Court of Appeals and this Court were unsuccessful, and the judgment for illegal dismissal against respondent Club became final and executory. As a result, an *alias* writ of execution of said judgment was served on respondent Club on September 19, 2001 for the total amount of ₱4,433,550.00.

Because respondent Club was not in a financial position to pay the monetary awards in NLRC NCR Case No. 00-07-06219, respondent BOD approved on September 20, 2001 Board Resolution No. 7-2001,<sup>3</sup> entitled "*Special Assessment for Club Members in Relation to the Marie Rose Navarro, et al. v. QCSI, et al. Case*," resolving to "seek the assistance of its members by assessing each member the amount of TWO THOUSAND FIVE HUNDRED PESOS (₱2,500.00) payable in five (5) equal monthly payments starting the month of September 2001."

Petitioner Catherine was duly notified of the implementation of the special assessment through a Letter<sup>4</sup> dated September 25, 2001 from the Treasurer of respondent Club. The amount of ₱500.00 was debited and/or charged to Catherine's account each month from September 2001 to January 2002, as reflected in the Statements of Account<sup>5</sup> issued by respondent Club. Each Statement of Account sent by respondent Club to petitioner Catherine included a general notice, quoted below:

<sup>3</sup> Records, Volume 1, pp. 413-414.

<sup>4</sup> Id. at 8-9.

<sup>5</sup> Records, Volume 2, pp. 582-596.

*mtw*

- (\*) This statement is rendered as of the above date and shall be deemed correct if no discrepancy is reported within ten (10) days from receipt hereof.
- (\*) Accounts which are past due for 60 days and the amount is over Php20,000.00 will be automatically suspended.
- (\*) Accounts that are 75 days in arrears will be automatically suspended regardless of amount.
- (\*) Over the counter (OTC) payments are now accepted at 27 Asiatrust Banks branches Metro Manila wide.<sup>6</sup>

Petitioner Catherine believed that the imposition of the special assessment in Board Resolution No. 7-2001 was unjust and/or illegal, however, she took no action against the same. Petitioner Catherine simply avoided paying the special assessment by settling the amounts due in her Statements of Account from September 2001 to January 2002 short of ₱500.00.<sup>7</sup>

Respondent BOD then passed Board Resolution No. 3-2002 on April 18, 2002 which suspended the privileges of the members of respondent Club who had not yet paid the special assessment, thus:

As per report of the Finance Manager, 80% of the active/assessed members paid the special assessment while 20% have not yet [paid] their shares.

To fully enforce Board Resolution No. 7-2001 and in order to be fair with the other members who have already paid, the Board deemed it appropriate to suspend the privileges of those members who would continue not to pay the said special assessment despite receipt of the demand to do so.<sup>8</sup>

Petitioner Catherine continued availing herself of the services of respondent Club and regularly paid the amounts due in her Statements of Account from February 2002 to May 2003, but always leaving behind a balance of more or less ₱2,500.00.<sup>9</sup> Petitioner Catherine was not personally informed of Board Resolution No. 3-2002 nor advised that she was already deemed delinquent in the payment of any of her Statements of Account.

On May 22, 2003, petitioner Laurence went to respondent Club intending to avail himself of its services using the account of his mother, petitioner Catherine. Respondent Club refused to accommodate petitioner Laurence because his mother's membership privileges had been suspended. The following day, May 23, 2003, petitioner Catherine went to respondent Club to verify the suspension of her membership privileges. Respondent

<sup>6</sup> Id. at 584, 587, 590, 593, and 596.

<sup>7</sup> Id.

<sup>8</sup> Records, Volume 1, p. 10.

<sup>9</sup> Id. at 38-58.



Lopez, the Finance Manager of respondent Club, gave petitioner Catherine copies of Board Resolution Nos. 7-2001 and 3-2002. Petitioner Catherine also noticed during said visit that her name was included and highlighted in respondent Lopez's Memorandum dated May 22, 2003 addressed to "All Outlets" with the subject matter of "Suspended Members Due to Non-Payment of ₱2,500.00 Special Assessment," copies of which were posted at the workstations of the employees of respondent Club and in other conspicuous places within the premises of respondent Club.<sup>10</sup>

Petitioner Catherine, through counsel, sent respondents a letter dated May 24, 2003 demanding the immediate recall of the suspension of her membership privileges, an explanation why she should not file a case for damages against respondents, and an apology for besmirching her name and good reputation.<sup>11</sup> Respondents, also through counsel, replied in a letter dated May 29, 2003 pointing out that respondent Club had never besmirched the reputation of any of its members in its 20 years of existence; that petitioner Catherine herself admitted that she had failed to pay the ₱2,500.00 special assessment fee; and that the list of suspended members who failed to pay the special assessment fee was never posted but was given to the members concerned.<sup>12</sup>

Meanwhile, so she can avail herself of the services of respondent Club, petitioner Catherine registered as a guest of either her husband, petitioner Lorenzo, or her other daughter, Noelle Ching (Noelle). Consequently, petitioner Catherine was paying more than double her customary fees to enjoy the services of respondent Club.

On July 7, 2003, petitioners instituted before the RTC a Complaint for damages against respondents, based on Articles 19, 20, and 21 of the Civil Code.<sup>13</sup> Petitioners prayed for the following reliefs:

Wherefore, it is respectfully prayed that after due hearing, judgment be rendered against the [respondents] ordering them to reinstate the membership of [petitioner] Catherine Ching with the Quezon City Sports Club, Inc., and ordering [respondents] to:

- a. Refund the amount of ₱1,822.80 incurred by [petitioners] as a consequence of the illegal suspension of the membership of Catherine Ching;

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<sup>10</sup> Id. at 12-13.

<sup>11</sup> Id. at 11.

<sup>12</sup> Id. at 14.

<sup>13</sup> Articles 19, 20, and 21 of the Civil Code states:

Art. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

Art. 20. Every person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same.

Art. 21. Any person who willfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage.

- b. Pay to [petitioners] the amount of Two Million Pesos (₱2,000,000.00) as moral damages;
- c. Pay to [petitioners] the amount of Two Hundred Thousand Pesos (₱200,000.00) as attorney's fees and ₱2,500.00 per court appearance;
- d. Pay exemplary damages for ₱50,000.00 or in such amount as may be determined by the Honorable Court; and
- e. Pay the costs of the suit.<sup>14</sup>

Respondents filed their separate Answers with Counterclaims, seeking the dismissal of petitioners' Complaint and payment of moral damages, exemplary damages, and attorney's fees.

During trial, petitioners Catherine and Lorenzo<sup>15</sup> and Roland Dacut<sup>16</sup> (Dacut), an employee of respondent Club and petitioner Catherine's regular tennis trainer for 10 years, all took the witness stand. All documentary exhibits formally offered by petitioners were admitted by the RTC in its Order<sup>17</sup> dated November 21, 2005.

It was revealed during trial that a few days after the filing of the Complaint, petitioner Catherine was refused access to respondent Club, even as a mere guest of her daughter Noelle. Apparently, respondents "disapproved" Noelle's letter dated July 8, 2003 extending her membership privileges at respondent Club to her mother, petitioner Catherine, and other immediate family members.<sup>18</sup> To lift the suspension of her membership privileges, petitioner Catherine finally paid "under protest" the special assessment of ₱2,500.00 on July 13, 2003.<sup>19</sup>

Petitioner Catherine lamented that even though she had already paid the special assessment, respondents continued harassing her when she was at respondent Club. Every time petitioner Catherine went to respondent Club, a security guard would unusually monitor her movements and activities. Dacut was also directed by the management of respondent Club to stop playing with petitioner Catherine or other members of her family.<sup>20</sup>

Petitioners also filed a Manifestation on January 22, 2007 informing the RTC that on September 21, 2006, respondent BOD issued Board Resolution No. 10-2006,<sup>21</sup> in which they resolved to expel petitioner

<sup>14</sup> Records, Volume 1, p. 6.

<sup>15</sup> TSN, July 21, 2005, July 28, 2005, and September 29, 2005.

<sup>16</sup> TSN, October 13, 2005.

<sup>17</sup> Records, Volume 1, p. 305.

<sup>18</sup> Id. at 265.

<sup>19</sup> Id. at 267.

<sup>20</sup> TSN, October 13, 2005, p. 9.

<sup>21</sup> Records, Volume 1, pp. 345-348. The board resolution reads:

WHEREAS, a letter-complaint dated 6 May 2006 was submitted by Director Edgardo A. Ho to the Board of Directors calling for the imposition of disciplinary action on Catherine Ching for allegedly committing an act inimical to the interest of the Club, namely, filing a case against

Catherine as a regular member of respondent Club due to her filing of the civil suit against respondents. Petitioner Catherine received a notice of her expulsion on November 20, 2006.<sup>22</sup> Petitioner Catherine's expulsion from respondent Club became the subject matter of another case before the RTC.

Respondents, for their part, presented the testimonies of respondent Lopez,<sup>23</sup> Finance Manager; respondent Ho,<sup>24</sup> BOD member; and Karen Layug,<sup>25</sup> Human Resources Department Manager, all of respondent Club. The RTC, in its Order<sup>26</sup> dated July 10, 2007, admitted all the documentary evidence formally offered by respondents.

The RTC rendered its Decision on May 23, 2008. The RTC, based on the "Business Judgment Rule" and *Philippine Stock Exchange, Inc. v. Court of Appeals*,<sup>27</sup> held that questions of policy and management are left to the honest decision of the officers and directors of a corporation; and the courts are without authority to substitute their judgment for that of the BOD unless said judgment had been attended with bad faith. The RTC found no evidence of bad faith on the part of respondents in adopting Board Resolution No. 7-2001 on September 20, 2001, imposing the special assessment of ₱2,500.00 on all members of respondent Club. Respondent Club was forced to adopt said Board Resolution because it was not in a financial capacity to pay the judgment in NLRC NCR Case No. 00-07-06219. The special assessment was reasonable and fair in order to save respondent Club from the execution of the *alias* writ of execution.

The RTC pointed out petitioner Catherine's admission in the Pre-Trial Order dated July 26, 2005 that she was aware of the issuance of Board Resolution No. 7-2001. Petitioner Catherine's silence and/or failure to immediately challenge the validity of said Board Resolution could only be construed as her assent to the same and/or waiver of her right to question its propriety.

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the Club, which resulted to (a) exposing the Club to unnecessary expenses; (b) constraining Director Ho to go to court in order to defend the Club and to prove his counter-claim.

WHEREAS, the House Committee sent a [M]emorandum dated 15 June 2006 to Catherine Ching directing her to submit her explanation.

WHEREAS, a letter-explanation dated 27 June 2006 was submitted by Catherine Ching alleging that she merely exercising her legal right when she filed the civil case against the Club because she was suspended by the Club for no apparent reason.

WHEREAS, on 21 September 2006, the members of the Board of Directors deliberated on administrative case of Catherine Ching and after thoroughly discussing its merits, unanimously voted for her expulsion.

WHEREAS, the House Committee is hereby authorized to issue the notice of expulsion to Catherine Ching.

<sup>22</sup> Id. at 346-348.

<sup>23</sup> TSN, December 8, 2005.

<sup>24</sup> TSN, January 26, 2006.

<sup>25</sup> TSN, September 5, 2007.

<sup>26</sup> Records, Volume 1, p. 425.

<sup>27</sup> 346 Phil. 218, 234 (1997).

The RTC though ruled that respondents failed to comply with the By-Laws of respondent Club when they suspended petitioner Catherine's privileges. According to the trial court:

Section 35 of the By-laws of the [respondent] Club provides the grounds and the procedure for the suspension and/or expulsion of a member. A member maybe suspended or expelled if he or she violates the By-laws, rules, regulations, resolution and orders duly promulgated by the Board of Directors or for an act, which in the opinion of the board, are serious or prejudicial to the Club. In either case however, a suspension or expulsion comes after proper notice and hearing. It could be for this reason why Board Resolution [No.] 3-2002 required "receipt of a demand" upon a member before his privileges are suspended. Here, it appears that the privileges of [petitioners] were suspended without notice or demand having been issued to [petitioner] Catherine to pay the special assessment and if she fails her privileges and that of her dependents will be suspended. True it is that the statement of account contains a reminder that an account which is more than seventy-five (75) days in arrears, regardless of the amount, will be suspended but the Statements of Account, offered in evidence by [respondents] were for other expenses and billings incurred by [petitioners] such as Sports and Recreation Chits (CHH), Charge Account Slip Chits (CHC), Beauty Parlor Chits (CBP), Reflexology Chits (RC), Restaurant Chits (CHR), Monthly Dues (MD) and Locker Rental (LR), and none containing a demand for the payment for the special assessment. There could be some other Statements of Account but these were not formally offered and since they were not offered the Court will not consider them as such. Needless to state, the Statements of Account forming part of the [respondents'] evidence do not prove demand upon the [petitioners] to pay for the Special Assessment before their privileges can be suspended. True also that [petitioner] Catherine admitted during the Pre-trial Conference of her being aware of the billings for the special assessment but this admission is vague as to the time when she came to know of these billings partaking of a demand.<sup>28</sup>

In addition, the RTC adjudged that respondents acted in bad faith or with malice in continuing to deprive petitioner Catherine her membership privileges even after she had already paid the special assessment, thus:

The [c]ourt finds no reason to doubt the testimony of Roland Dacut. It gains weight because he has no reason to testify particularly against his employer whom he has served for twenty (20) years. His testimony establishes [respondent] Chua's deliberate intention to deny the [petitioners] of their privilege of playing tennis at the [respondent] Club despite their membership. This deliberate intention is further established by Roland Dacut's testimony that everytime [petitioner] Catherine would come to the [respondent] Club the security guards would monitor her moves or activities by following where she would go. The [c]ourt is appalled by these actions because at the time he was directed to stop playing with the [petitioners] sometime around August or September of 2004, [petitioner] Catherine's membership with the [respondent] Club has already been reinstated when she paid the special assessment in July 2003. [Respondent] Club's action in depriving [petitioners] of their privileges are certainly not consistent with good faith. [Respondents'] violation of

their By-laws coupled by their acts of depriving the [petitioners] of their privileges despite their reinstatement in July 2003 thus would entitle them for the damages they claim. [Petitioners'] evidence while not preponderant to support the invalidity of Board Resolution No. 7-2001 however are strong enough to prove violation of the Club's By-laws where [petitioners] were immediately suspended without notice and hearing and for their continuous act of depriving them of their privilege as members of the [respondent] Club.<sup>29</sup> (Citations omitted.)

The RTC decreed in the end:

WHEREFORE, on the basis of the foregoing, judgment is hereby rendered in favor of [petitioners] (a) DIRECTING all the [respondents], jointly and severally to pay the [petitioners] moral damages in the amount of two hundred thousand pesos (₱200,000.00), Philippine Currency; (b) DIRECTING all the [respondents], jointly and severally to pay the [petitioners] the amount of fifty thousand pesos (₱50,000.00), Philippine Currency as exemplary damages; (c) DIRECTING all the [respondents], jointly and severally to pay the [petitioners] the amount of fifty thousand pesos (₱50,000.00), Philippine Currency as and by way of attorney's fees; and (d) to pay the costs of the suit.<sup>30</sup>

Respondents filed a Motion for Reconsideration of the foregoing RTC judgment, attaching certified true copies of petitioner Catherine's Statements of Account issued by respondent Club from September 2001 to January 2002, which included the ₱500.00 monthly installment charges for the special assessment. In an Order<sup>31</sup> dated September 24, 2008, the RTC denied the Motion for Reconsideration of respondents.

Respondents appealed before the Court of Appeals.

In its Decision dated June 27, 2011, the Court of Appeals narrowed down the pivotal issue for its resolution to whether or not respondents are liable to pay petitioners moral and exemplary damages, attorney's fees, and costs of suit for (a) suspending petitioner Catherine's membership privileges without prior notice as required by the By-Laws of respondent Club; and (b) posting the Memorandum dated May 22, 2003 within the premises of respondent Club.

The Court of Appeals ruled in favor of respondents.

The Court of Appeals determined that Section 33(a) of the By-Laws of respondent Club on the "Billing of Members, Posting of Suspended Accounts" applied to petitioners' case, instead of Section 35 of the same By-Laws on "Suspension and Expulsion;" and the former allowed automatic suspension of a member's privileges after notice, but with no need for a hearing. The appellate court reasoned:

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<sup>29</sup> Id. at 68-69.

<sup>30</sup> Id. at 70-71.

<sup>31</sup> Records, Volume 2, p. 612.

*mtu*



The fact that there is a separate provision in the Club's By-Laws specifically dealing with suspension due to non-payment of accounts negates [petitioners'] claim that Catherine's suspension may only be implemented upon proper notice and hearing. As testified to by the Club's Finance Manager and admitted by Catherine during the pre-trial, the Club's policy on the suspension of accounts was implemented on the basis of the following annotations found in the monthly Statement of Account, to wit:

\* \* \* \* NOTICE \* \* \* \*

(\*) This statement is rendered as of the above date and shall be deemed correct if no discrepancy is reported within ten (10) days from receipt hereof.

(\*) **Accounts which are past due for 60 days and the amount is over Php 20,000.00 will be automatically suspended.**

(\*) **Accounts that are 75 days in arrears will be automatically suspended regardless of amount.**

X X X X

While the Club's Treasurer was previously required to notify the member that if his bill is not paid in full by the end of the same month, his name will be posted as suspended the following day, it is apparent that the policy of the club regarding non-payment of accounts was changed into automatic suspension, depending on the amount and length of time that the bill remains unpaid. However, the current policy appears to be beneficial to the members since they are granted an extension of 60 or 75 days, as the case may be, within which to settle their outstanding obligations before their accounts may be suspended.

At any rate, We find that the monthly Statements of Account (Statements) sent to Catherine should be considered as sufficient notice of suspension. An examination of Catherine's Statements for the months of September to December 2001 and January 2002 show that she was billed for the special assessment in the amount of ₱500.00 and was reflected therein as "SAL-02", "SAL-03", "SAL-04", and "SAL-05". Catherine cannot feign ignorance of this fact in view of her admission, viz.: (1) her Statements clearly indicate that accounts that are 75 days in arrears will be automatically suspended; (2) she was billed for the ₱2,500.00 special assessment from September 2001 to January 2002; and (3) the special assessment remained unpaid for 1 year and 4 months. In addition, the amount of the special assessment, together with the penalties for non-payment thereof, were written in the box with the heading "OVER 60 DAYS" in her subsequent Statements. In view of the foregoing, the Club correctly suspended Catherine's account considering that the special assessment remained unpaid for more than 75 days.

Be that as it may, the court *a quo* ruled that the entries with the code "SAL" do not appear in the Statements which were formally offered by [respondents]. Indeed, a formal offer is necessary, since judges are required to base their findings of fact and their judgment solely and strictly upon the evidence offered by the parties at the trial. In the case at bar, it appears that while [respondents] Alano, Ho, and Lopez attached the pertinent pages of Catherine's Statements (September 2001 to January

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2002) which contain the entries "SAL" to their Answer, they failed to include these pages to the Statements which they formally offered in evidence. However, a scrutiny of the Statements attached to their Answer reveals that they form an integral part of the Statements formally offered in evidence. More importantly, the offer of the Statements attached to their Answer would be a mere superfluity since Catherine had already admitted that she was aware that she was billed for the ₱2,500.00 special assessment from September 2001 to January 2002.<sup>32</sup> (Citations omitted.)

The Court of Appeals also found no bad faith or intent to injure/humiliate on the part of respondents, considering that: (a) the suspension of petitioner Catherine's privileges was in accordance with the By-Laws and policy of respondent Club; (b) despite petitioner Catherine's failure to pay the special assessment charged against her from September 2001 to January 2002, and the approval on April 18, 2002 of Board Resolution No. 3-2002 which suspended the privileges of members of respondent Club who had not paid the special assessment, petitioner Catherine's privileges were not actually suspended until respondent Lopez issued her Memorandum dated May 22, 2003; (c) billing clerks and attendants were furnished copies of respondent Lopez's Memorandum dated May 22, 2003 for their guidance or reference since it was their duty to check the status of a member's account, and if they wrongfully accommodated a suspended member, then the charges incurred by said member would be automatically deducted from their salaries; (d) copies of respondent Lopez's Memorandum dated May 22, 2003 were posted in the billing clerks' cubicles and there was no proof that copies of said Memorandum were posted in conspicuous places within the premises of respondent Club; and (e) there was likewise no evidence that respondents instructed or authorized the billing clerks to post copies of respondent Lopez's Memorandum dated May 22, 2003 in their cubicles and to highlight petitioner Catherine's name. Hence, there was no basis for awarding moral and exemplary damages, attorney's fees, and costs of suit in petitioners' favor.

To the Court of Appeals, Dacut's testimony that they were instructed by the management of respondent Club to avoid petitioners was hearsay, as the instructions were merely relayed to him by Sonny Torres (Torres), a tennis attendant. Dacut had no personal knowledge as to whether respondents had in fact directed Torres to give such an instruction to the trainers. Although hearsay evidence could be admitted due to the lack of objection to the same, as what happened in this case, it was still without probative value.

Lastly, the Court of Appeals denied the counterclaims for damages of respondents. Respondents failed to establish that petitioners were moved by bad faith or malice in impleading the respondent BOD in the case *a quo*. In the absence of a wrongful act or omission, or of fraud or bad faith on petitioners' part, moral damages could not be awarded; and without moral

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<sup>32</sup> Rollo, pp. 43-45.

damages, then there was no basis to award exemplary damages and attorney's fees.

The dispositive portion of the Decision of the appellate court reads:

**WHEREFORE**, the Decision dated May 23, 2008 of the Regional Trial Court of Quezon City, Branch 223, in Civil Case No. Q-03-50022, is hereby **REVERSED** and **SET ASIDE**. [Petitioners'] Complaint is hereby **DISMISSED** for lack of merit.<sup>33</sup>

Petitioners' Motion for Reconsideration was denied by the Court of Appeals in its Resolution<sup>34</sup> dated January 12, 2012.

Hence, petitioners filed the instant Petition with the following assignment of errors:

I

THE COURT OF APPEALS ERRED IN RULING THAT THE SUSPENSION OF CATHERINE CHING IN NOT PAYING THE SPECIAL ASSESSMENT PURSUANT TO A BOARD RESOLUTION CAN BE MADE UNDER ARTICLE 33 OF THE BY-LAWS OF THE CLUB.

II

THE COURT OF APPEALS ERRED IN RULING THAT THERE WAS NO BAD FAITH OR INTENT TO INJURE OR HUMILIATE IN THE POSTING AND HIGHLIGHTING OF THE NAME OF CATHERINE CHING IN THE MEMORANDUM CONTAINING THE LIST OF SUSPENDED MEMBERS.

III

THE COURT OF APPEALS ERRED IN RULING THAT THE TESTIMONY OF ROLAND DACUT IS HEARSAY.<sup>35</sup>

Preliminarily, the Court notes that this Petition does not question the imposition of the special assessment of ₱2,500.00 upon the members of respondent Club under Board Resolution No. 7-2001. It also does not challenge petitioner Catherine's eventual expulsion from respondent Club on November 20, 2006, which is the subject matter of another case.

The instant Petition assails the manner by which respondents suspended petitioner Catherine's membership privileges at respondent Club. It was allegedly done in violation of petitioners' right to due process and with ill motive and in bad faith, causing damage to petitioners.

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<sup>33</sup> Id. at 50.

<sup>34</sup> Id. at 53-54.

<sup>35</sup> Id. at 15.

*mtu*

The Petition is partly meritorious.

The following facts are undisputed: (1) respondent BOD approved Board Resolution No. 7-2001 on September 20, 2001 imposing the special assessment of ₱2,500.00 upon every member of the respondent Club, payable in five monthly installments of ₱500.00, to raise the payment for the monetary judgment against respondent Club in NLRC NCR Case No. 00-07-06219; (2) petitioner Catherine was charged the ₱500.00 monthly installment for the special assessment in her Statements of Account from September 2001 to January 2002, but she did not pay any of them; (3) petitioner Catherine was continually charged the total of ₱2,500.00 special assessment in her Statements of Account from February 2002 to May 2003, which she still did not pay; (4) petitioner Catherine received all the said Statements of Account; (5) by virtue of Board Resolution No. 3-2002, passed by respondent BOD on April 18, 2002, and respondent Lopez's Memorandum dated May 22, 2003, the membership privileges of members of respondent Club who did not pay the special assessment, which included petitioner Catherine, were suspended; (6) petitioner Catherine paid the ₱2,500.00 special assessment only on July 13, 2003, after her membership privileges were already suspended.

Petitioners, on one hand, maintain that petitioner Catherine's nonpayment of the special assessment of ₱2,500.00 was a violation of a resolution of the respondent Board, to which Section 35(a) of the By-Laws of respondent Club – requiring notice and hearing prior to the member's suspension – should have applied:

#### SUSPENSION AND EXPULSION

Sec. 35. (a) For violating these By-Laws or rules and regulations of the Club, or **resolution** and orders duly promulgated at Board or stockholders' meeting, or for any other causes and acts of a member which in the opinion of the Board are serious or prejudicial to the Club such as acts or conduct of a member or the immediate members of his family, his guest or visitors, which the Board may deem disorderly or injurious to the interest or hostile to the objects of the Club, the offending member may be suspended, or expelled by a two-thirds (2/3) vote of the Board of Directors **upon proper notice and hearing.**<sup>36</sup> (Emphases supplied.)

Respondents, on the other hand, invoke Section 33(a) of the By-Laws of respondent Club, which allows the suspension of a member with unpaid bills after notice:

Sec. 33. (a) Billing of Members, Posting of Suspended Accounts – As soon as possible after the end of every month, a statement showing the account or bill of a member for said month will be prepared and sent to them. If the bill of any regular

<sup>36</sup> Records, Volume 1, pp. 296-297.

member **remains unpaid** by the 20<sup>th</sup> of the month following that in which the bill was incurred, the **Treasurer shall notify him** that if his bill is not paid in full by the end of the same month, his name will be posted as suspended the following day at the Clubhouse Bulletin Board. While posted, a regular member together with the immediate members of his family may not use the facilities or avail of the privileges of the Club.<sup>37</sup> (Emphases supplied.)

The Court had previously recognized in *Forest Hills Golf and Country Club, Inc. v. Gardpro, Inc.*,<sup>38</sup> that articles of incorporation and by-laws of a country club are the fundamental documents governing the conduct of the corporate affairs of said club; they establish the norms of procedure for exercising rights, and reflected the purposes and intentions of the incorporators. The by-laws are the self-imposed rules resulting from the agreement between the country club and its members to conduct the corporate business in a particular way. In that sense, the by-laws are the private “statutes” by which the country club is regulated, and will function. Until repealed, the by-laws are the continuing rules for the government of the country club and its officers, the proper function being to regulate the transaction of the incidental business of the country club. The by-laws constitute a binding contract as between the country club and its members, and as among the members themselves. The by-laws are self-imposed private laws binding on all members, directors, and officers of the country club. The prevailing rule is that the provisions of the articles of incorporation and the by-laws must be strictly complied with and applied to the letter.

In construing and applying the provisions of the articles of incorporation and by-laws of the country club, the Court, also in *Forest Hills*, sustained the application by the Court of Appeals therein of the rules on interpretation of contracts under Articles 1370 and 1374 of the Civil Code. The plain meaning rule embodied in Article 1370 of the Civil Code provides that if the terms of the contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulations shall control; while Article 1374 of the Civil Code declares that “[t]he various stipulations of a contract shall be interpreted together, attributing to the doubtful ones that sense which may result from all of them taken jointly.” Verily, all stipulations of the contract are considered and the whole agreement is rendered valid and enforceable, instead of treating some provisions as superfluous, void, or inoperable.

Being guided accordingly, the Court now turns to the pertinent By-Laws of respondent Club.

At cursory glance, it would seem that the suspension of petitioner Catherine’s privileges was due to the ₱2,500.00 special assessment charged

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<sup>37</sup> Id. at 295.

<sup>38</sup> G.R. No. 164686, October 22, 2014, 739 SCRA 28, 42-43.

in her Statements of Account from September 2001 to January 2002, which remained unpaid for over three months by the time respondent BOD passed Board Resolution No. 3-2002 on April 18, 2002; and for one year and four months by the time respondent Lopez issued her Memorandum dated May 22, 2003. However, tracing back, the ₱2,500.00 special assessment was not an ordinary account or bill incurred by petitioners in respondent Club, as contemplated in Section 33(a) of the By-Laws.

Section 33(a) of the By-Laws refers to the regular dues and ordinary accounts or bills incurred by members as they avail of the services at respondent Club, and for which the members are charged in their monthly Statement of Account. The immediate payment or collection of the amount charged in the member's monthly Statement of Account is essential so respondent Club can carry-on its day-to-day operations, which is why Section 33(a) allows for the automatic suspension of a nonpaying member after a specified period and notification.

The special assessment in the instant case arose from an extraordinary circumstance, *i.e.*, the necessity of raising payment for the monetary judgment against respondent Club in an illegal dismissal case. The special assessment of ₱2,500.00 was imposed upon the members by respondent BOD through Board Resolution No. 7-2001 dated September 20, 2001; it only so happened that said Board Resolution was implemented by directly charging the special assessment, in ₱500.00 installments, in the members' Statements of Account for five months. Thus, petitioner Catherine's nonpayment of the special assessment was, ultimately, a violation of Board Resolution No. 7-2001, covered by Section 35(a) of the By-Laws. This much was acknowledged by respondent BOD itself when it mentioned in Board Resolution No. 3-2002 that "[t]o enforce Board Resolution No. 7-2001," it was suspending the members who did not pay the special assessment.

Section 35(a) of the By-Laws requires notice and hearing prior to a member's suspension. Definitely, in this case, petitioner Catherine did not receive notice specifically advising her that she could be suspended for nonpayment of the special assessment imposed by Board Resolution No. 7-2001 and affording her a hearing prior to her suspension through Board Resolution No. 3-2002. Respondents merely relied on the general notice printed in petitioner Catherine's Statements of Account from September 2001 to April 2002 warning of automatic suspension for accounts of over ₱20,000.00 which are past due for 60 days, and accounts regardless of amount which are 75 days in arrears. While said general notice in the Statements of Account might have been sufficient for purposes of Section 33(a) of the By-Laws, it fell short of the stricter requirement under Section 35(a) of the same By-Laws. Petitioner Catherine's right to due process was clearly violated.

*mw*

Nevertheless, it is not lost upon this Court that petitioner Catherine herself admitted violating Board Resolution No. 7-2001 by not paying the ₱2,500.00 special assessment. Petitioner Catherine cannot deny knowledge of the special assessment because the first installment of ₱500.00 was already charged in her Statement of Account for September 2001 and she willfully did not pay said amount. Despite being aware of the special assessment, petitioner Catherine simply chose not to pay the same, without taking any other step to let respondents know of her opposition to said special assessment, until she complained in her letter dated May 24, 2003 about the suspension of her membership privileges. Again, the Court is not called upon to determine the propriety of the imposition of the special assessment upon the members of the respondent Club. Whatever reasons petitioner Catherine might have against the special assessment would not change the fact of her nonpayment of the same in violation of Board Resolution No. 7-2001. Consequently, there was ground for respondents to suspend petitioner Catherine's membership privileges.

Moreover, bad faith does not simply connote bad judgment or negligence. It imports a dishonest purpose or some moral obliquity and conscious doing of wrong. It means a breach of a known duty through some motive or interest or ill will that partakes of the nature of fraud. The determination of whether one acted in bad faith is evidentiary in nature, and acts of bad faith must be substantiated by evidence. Indeed, it is well-settled that bad faith under the law cannot be presumed; it must be established by clear and convincing evidence. The ascertainment of good faith, or lack of it, is a question of fact. While the general rule is that questions of fact are outside the province of this Court to determine in a petition for review under Rule 45 of the Revised Rules of Court – because the Court is not a trier of facts – the rule is not iron-clad. Among the recognized exceptions to such rule is that the findings of the Court of Appeals are contrary to that of the trial court, as in this case.<sup>39</sup>

After a review of the records, the Court, like the Court of Appeals, finds no bad faith on the part of respondents in implementing petitioner Catherine's suspension. Petitioners utterly failed to establish that respondents acted with malice or ill will or motive in the issuance and distribution to the billing clerks and attendants of respondent Lopez's Memorandum dated May 22, 2003, which bore the list of suspended members of respondent Club. In contrast, respondents were able to explain that these were done in the ordinary course of business, *i.e.*, to implement Board Resolution Nos. 7-2001 and 3-2002. It was necessary that the billing clerks and attendants had a list of the suspended members of respondent Club as they were the ones on the frontline who directly deal with the members and would bear the penalty if they mistakenly allowed suspended members access to the services of respondent Club. There was also no proof that respondents actually ordered the highlighting of petitioner Catherine's

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<sup>39</sup> See *Philippine National Bank v. Heirs of Estanislao Militar*, 526 Phil. 788 (2006).



name in the list and/or the posting of the list in the billing clerks' work stations; these could have been easily done by the billing clerks themselves on their own volition. Noticeably, there were also other names highlighted in the list, not just petitioner Catherine's. In addition, the posting of the list of suspended members in conspicuous places in respondent Club did not necessarily connote bad faith on the part of respondents because Section 33(a) of the By-Laws, which respondents misguidedly believed applied to this case, authorized the posting of such a list on the Clubhouse Bulletin Board.

The Court further affirms the Court of Appeals in not according weight and credence to Dacut's testimony that respondents expressly ordered the trainers not to play with petitioners. Reproduced below are the pertinent portions of Dacut's testimony:

ATTY. CALMA:

Q Now, was your playing tennis with [her] continuous?

A No, sir.

Q Why?

A The management of the Quezon City Sports Club directed or ordered us trainers not to play with Mrs. Ching.

Q Was it only Mrs. Ching? Did they say that you not [play] with Mrs. Ching only?

A The Ching family, sir.

Q Who relayed to you the order?

A The tennis attendant told us, sir, *sa taas*, but he does not want to mention the name.

Q Who was this tennis attendant?

A Sonny Torres, sir.

Q When he said, *taas*, what does he meant by that?

A The tennis attendant was referring to the President.

Q Who is the President, do you know him?

A Antonio Chua.

Q Now, how did he tell you about this order?

A He told the tennis attendant not to play with Mrs. Ching and were told to just hide in case Mrs. Ching arrives.

Q So, if Mrs. Ching arrives to play tennis in the Club, what would you do considering this order?

A To run and to hide and not to play with Mrs. Ching.

Q Why?

A According to the attendant, he said that once we play with Mrs. Ching, *may paglalagyan kami*.

*mtu*



- Q Mr. Witness, do you know the reason why that order was issued?  
A Mrs. Ching told me it was because of the assessment fee of two thousand five hundred pesos (₱2,500.00).
- Q Why, what happened? What did Mrs. Ching do with that two thousand five hundred pesos (₱2,500.00)?  
A She did not pay the assessment, sir.<sup>40</sup>

Irrefragably, Dacut had no personal knowledge that respondent Chua, President of respondent Club, had in fact given the order to the trainers not to play with petitioners. Dacut only relied on what Torres, a tennis assistant, relayed to him and the other trainers. Yet, Torres only said that the order was given “*sa taas*” (from the top), without mentioning any name. It was Dacut who deduced that Torres was referring to respondent Chua. It was also not clear by what authority Torres spoke for or on behalf of respondent Chua. Therefore, Dacut’s testimony on this matter is evidently hearsay evidence, which, although admitted for lack of objection, had no probative value.

Worthy of reiterating herein is the following disquisition of the Court in *Patula v. People*<sup>41</sup> on hearsay evidence:

To elucidate why the Prosecution’s hearsay evidence was unreliable and untrustworthy, and thus devoid of probative value, reference is made to Section 36 of Rule 130, *Rules of Court*, a rule that states that a witness can testify only to those facts that she knows of her personal knowledge; that is, which are derived from her own perception, except as otherwise provided in the *Rules of Court*. The personal knowledge of a witness is a substantive prerequisite for accepting testimonial evidence that establishes the truth of a disputed fact. A witness bereft of personal knowledge of the disputed fact cannot be called upon for that purpose because her testimony derives its value not from the credit accorded to her as a witness presently testifying but from the veracity and competency of the extrajudicial source of her information.

In case a witness is permitted to testify based on what she has heard another person say about the facts in dispute, the person from whom the witness derived the information on the facts in dispute is not *in court* and *under oath* to be examined and cross-examined. The weight of such testimony then depends not upon the veracity of the witness but upon the veracity of the other person giving the information to the witness without oath. The information cannot be tested because the declarant is not standing in court as a witness and cannot, therefore, be cross-examined.

It is apparent, too, that a person who relates a hearsay is not obliged to enter into any particular, to answer any question, to solve any difficulties, to reconcile any contradictions, to explain any obscurities, to remove any ambiguities; and that she entrenches herself in the simple assertion that she was told so, and leaves the burden entirely upon the dead or absent author. Thus, the rule against hearsay testimony rests mainly on the ground that there was no opportunity to cross-examine the declarant.

<sup>40</sup> TSN, October 13, 2005, pp. 8-11.

<sup>41</sup> 685 Phil. 376, 393-396 (2012).

The testimony may have been given under oath and before a court of justice, but if it is offered against a party who is afforded no opportunity to cross-examine the witness, it is hearsay just the same.

Moreover, the theory of the hearsay rule is that when a human utterance is offered as evidence of the truth of the fact asserted, the credit of the assertor becomes the basis of inference, and, therefore, the assertion can be received as evidence only when made on the witness stand, subject to the test of cross-examination. However, if an extrajudicial utterance is offered, not as an assertion to prove the matter asserted but without reference to the truth of the matter asserted, the hearsay rule does not apply. For example, in a slander case, if a prosecution witness testifies that he heard the accused say that the complainant was a thief, this testimony is admissible not to prove that the complainant was really a thief, but merely to show that the accused uttered those words. This kind of utterance is hearsay in character but is not legal hearsay. The distinction is, therefore, between (a) the fact that the statement was made, to which the hearsay rule does not apply, and (b) the truth of the facts asserted in the statement, to which the hearsay rule applies.

Section 36, Rule 130 of the *Rules of Court* is understandably not the only rule that explains why testimony that is hearsay should be excluded from consideration. Excluding hearsay also aims to preserve the right of the opposing party to cross-examine the *original* declarant claiming to have a direct knowledge of the transaction or occurrence. If hearsay is allowed, the right stands to be denied because the declarant is not in court. It is then to be stressed that the right to cross-examine the adverse party's witness, being the only means of testing the credibility of witnesses and their testimonies, is essential to the administration of justice.

To address the problem of controlling inadmissible hearsay as evidence to establish the truth in a dispute while also safeguarding a party's right to cross-examine her adversary's witness, the *Rules of Court* offers two solutions. The first solution is to require that *all* the witnesses in a judicial trial or hearing be examined only in court *under oath or affirmation*. Section 1, Rule 132 of the *Rules of Court* formalizes this solution, viz.:

Section 1. *Examination to be done in open court.* – The examination of witnesses presented in a trial or hearing shall be done in open court, and under oath or affirmation. Unless the witness is incapacitated to speak, or the question calls for a different mode of answer, the answers of the witness shall be given orally.

The second solution is to require that *all* witnesses be *subject to the cross-examination by the adverse party*. Section 6, Rule 132 of the *Rules of Court* ensures this solution thusly:

Section 6. *Cross-examination; its purpose and extent.* – Upon the termination of the direct examination, the witness may be cross-examined by the adverse party as to any matters stated in the direct examination, or connected therewith, with sufficient fullness and freedom to test his accuracy and truthfulness and freedom from

interest or bias, or the reverse, and to elicit all important facts bearing upon the issue.

Although the second solution traces its existence to a Constitutional precept relevant to criminal cases, *i.e.*, Section 14, (2), Article III, of the 1987 *Constitution*, which guarantees that: "*In all criminal prosecutions, the accused shall x x x enjoy the right x x x to meet the witnesses face to face x x x,*" the rule requiring the cross-examination by the adverse party equally applies to non-criminal proceedings.

We thus stress that the rule excluding hearsay as evidence is based upon serious concerns about the trustworthiness and reliability of hearsay evidence due to its not being given under oath or solemn affirmation and due to its not being subjected to cross-examination by the opposing counsel to test the perception, memory, veracity and articulateness of the out-of-court declarant or actor upon whose reliability the worth of the out-of-court statement depends. (Citations omitted.)

In all, there was no evidence that respondents acted in bad faith by particularly singling out petitioners, from among all other members of respondent Club who did not pay the assessment, to be harassed or humiliated.

Considering that there was justifiable ground for the suspension of petitioner Catherine's privileges in respondent Club, but her right to due process was violated as she was not afforded notice and hearing prior to the suspension, the Court proceeds to determine the reliefs to which petitioners are entitled.

The elements for the award of moral damages in a case are: (1) an injury clearly sustained by the claimant; (2) a culpable act or omission factually established; (3) a wrongful act or omission by the defendant as the proximate cause of the injury sustained by the claimant; and (4) the award of damages predicated on any of the cases stated in Article 2219 of the Civil Code.<sup>42</sup> Also, the person claiming moral damages must prove the existence of bad faith by clear and convincing evidence, for the law always presumes good faith. It is not enough that one suffered sleepless nights, mental anguish, and serious anxiety as the result of the actuations of the other party.

<sup>42</sup>

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.
- The parents of the female seduced, abducted, raped, or abused, referred to in No. 3 of this article, may also recover moral damages.
- The spouse, descendants, ascendants, and brothers and sisters may bring the action mentioned in No. 9 of this article, in the order named.

Invariably, such action must be shown to have been willfully done in bad faith or with ill motive.<sup>43</sup>

There being no clear and convincing evidence of respondents' bad faith in suspending petitioner Catherine's privileges in respondent Club nor in implementing such suspension, petitioners are not entitled to moral damages. Since the basis for moral damages has not been established, there is no basis to recover exemplary damages and attorney's fees, as well.<sup>44</sup>

Under Article 2229 of the Civil Code, "[e]xemplary or corrective damages are imposed, by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages." Article 2234 of the same Code further provides that "[w]hile 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." Because petitioners herein failed to show that they are entitled to moral damages, then the Court cannot award exemplary damages.

As regards the award of attorney's fees, it is well-settled that it is the exception rather than the general rule. Counsel's fees are not awarded every time a party prevails in a suit because of the policy that no premium should be placed on the right to litigate. Attorney's fees, as part of damages, are not necessarily equated to the amount paid by a litigant to a lawyer. In the ordinary sense, attorney's fees represent the reasonable compensation paid to a lawyer by his client for the legal services he has rendered to the latter; while in its extraordinary concept, they may be awarded by the court as indemnity for damages to be paid by the losing party to the prevailing party. Attorney's fees, as part of damages, are awarded only in the instances specified in Article 2208 of the Civil Code.<sup>45</sup> As such, it is necessary for the court to make findings of fact and law that would bring the case within the ambit of these enumerated instances to justify the grant of such award, and

<sup>43</sup> *Nazareno v. City of Dumaguete*, 607 Phil. 768, 803-804 (2009).

<sup>44</sup> *Manay, Jr. v. Cebu Air, Inc.*, G.R. No. 210621, April 4, 2016.

<sup>45</sup> Article 2208 of the Civil Code reads:

Article 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;
- (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.

in all cases it must be reasonable.<sup>46</sup> None of the grounds stated in Article 2208 are present in the present case. As the Court held in *Asian Terminals, Inc. v. Allied Guarantee Insurance, Co., Inc.*,<sup>47</sup> “[a]lthough attorney’s fees may be awarded when a claimant is ‘compelled to litigate with third persons or incur expenses to protect his interest’ by reason of an unjustified act or omission on the part of the party from whom it is sought, but when there is a lack of findings on the amount to be awarded, and since there is no sufficient showing of bad faith in the defendant’s refusal to pay other than an erroneous assertion of the righteousness of its cause, attorney’s fees cannot be awarded against the latter.”

Even so, the Court deems it proper to award nominal damages to petitioners. Article 2221 of the Civil Code authorizes the award of nominal damages to a plaintiff whose right has been violated or invaded by the defendant, for the purpose of vindicating or recognizing that right, not for indemnifying the plaintiff for any loss suffered. The Court may also award nominal damages in every case where a property right has been invaded. The amount of such damages is addressed to the sound discretion of the court, taking into account the relevant circumstances.<sup>48</sup> For its failure to observe due process, as provided under Section 35(a) of the By-Laws, in the suspension of petitioner Catherine’s privileges, respondent Club is liable to pay petitioners nominal damages in the amount of ₱25,000.00.

The Court clarifies that only respondent Club shall be liable for the nominal damages because in the absence of malice and bad faith, officers of a corporation cannot be made personally liable for the liabilities of the corporation which, by legal fiction, has a personality separate and distinct from its officers, stockholders, and members.

**WHEREFORE**, in view of the foregoing, the instant Petition is partly **GRANTED**. The Decision dated June 27, 2011 of the Court of Appeals in CA-G.R. CV No. 92293 is **REVERSED and SET ASIDE**. The respondent Quezon City Sports Club, Inc. is **ORDERED** to pay petitioners Lorenzo Ching, Catherine Ching, Laurence Ching, and Christine Ching nominal damages in the amount of ₱25,000.00.

**SO ORDERED.**

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

<sup>46</sup> *Travel and Tours Advisers, Incorporated v. Cruz, Sr.*, G.R. No. 199282, March 14, 2016.

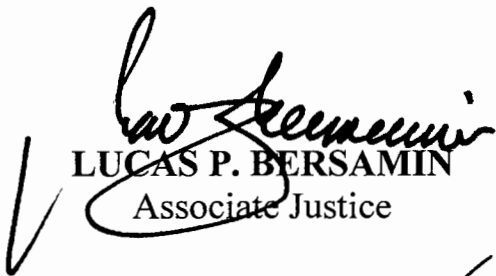
<sup>47</sup> G.R. No. 182208, October 14, 2015.

<sup>48</sup> *Cojuangco, Jr. v. Court of Appeals*, 369 Phil. 41, 60-61 (1999).

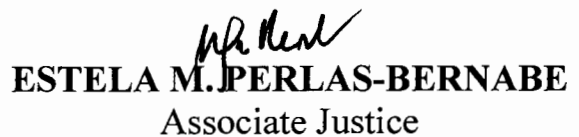
WE CONCUR:



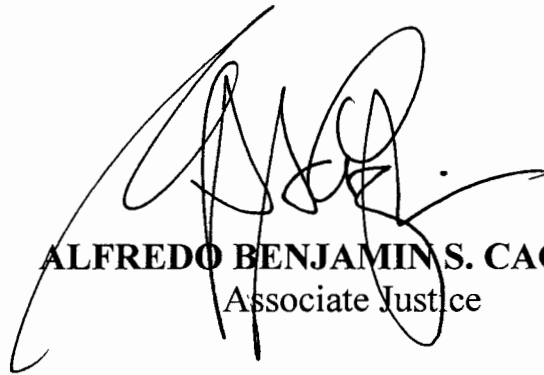
**MARIA LOURDES P. A. SERENO**  
Chief Justice



**LUCAS P. BERSAMIN**  
Associate Justice



**ESTELA M. PERLAS-BERNABE**  
Associate Justice



**ALFREDO BENJAMINS S. CAGUIOA**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, 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