



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

LILY LIM,

Petitioner.

G.R. No. 175256

- versus -

KOU CO PING a.k.a. CHARLIE CO,

Respondent.

X ----- X

KOU CO PING a.k.a CHARLIE CO,

Petitioner.

G.R. No. 179160

Present:

LEONARDO-DE CASTRO,*

Acting Chairperson.

BERSAMIN,

DEL CASTILLO,

VILLARAMA, JR., *and*

PERLAS-BERNABE,**JJ.

- versus -

LILY LIM,

Respondent.

Promulgated:

23 AUG 2012

X ----- X

DECISION

DEL CASTILLO, J.:

Is it forum shopping for a private complainant to pursue a civil complaint for specific performance and damages, while appealing the judgment on the civil aspect of a criminal case for estafa?

Before the Court are consolidated Petitions for Review assailing the separate Decisions of the Second and Seventeenth Divisions of the Court of Appeals (CA) on the above issue. *Manila*

Lily Lim's (Lim) Petition for Review¹ assails the October 20, 2005 Resolution² of the Second Division in CA-G.R. CV No. 85138, which ruled on the above issue in the affirmative:

Due to the filing of the said civil complaint (Civil Case No. 5112396), Charlie Co filed the instant motion to dismiss [Lily Lim's] appeal, alleging that in filing said civil case, Lily Lim violated the rule against forum shopping as the elements of *litis pendentia* are present.

This Court agrees.³

x x x x

IN VIEW OF THE FOREGOING, the appeal is **DISMISSED**.

SO ORDERED.⁴

On the other hand, Charlie Co's (Co) Petition for Review⁵ assails the April 10, 2007 Decision⁶ of the Seventeenth Division in CA-G.R. SP No. 93395 for ruling on the same issue in the negative:

We find no grave abuse of discretion committed by respondent judge. The elements of *litis pendentia* and forum-shopping were not met in this case.⁷

x x x x

WHEREFORE, in view of the foregoing, the instant petition is **DENIED**. This case is **REMANDED** to the court of origin for further proceedings.

SO ORDERED.⁸

Factual Antecedents

In February 1999, FR Cement Corporation (FRCC), owner/operator of a

¹ Rollo of G.R. No. 175256, pp. 9-27.

² Id. at 29-35; penned by Associate Justice Eugenio S. Labitoria and concurred in by Associate Justices Eliezer R. De Los Santos and Jose C. Reyes, Jr.

³ Id. at 32.

⁴ Id. at 34.

⁵ Rollo of G.R. No. 179160, pp. 8-45.

⁶ Id. at 48-61; penned by Associate Justice Lucenito N. Tagle and concurred in by Associate Justices Amelita G. Tolentino and Sixto Marella, Jr.

⁷ Id. at 56.

⁸ Id. at 60.

cement manufacturing plant, issued several withdrawal authorities⁹ for the account of cement dealers and traders, Fil-Cement Center and Tigerbilt. These withdrawal authorities state the number of bags that the dealer/trader paid for and can withdraw from the plant. Each withdrawal authority contained a provision that it is valid for six months from its date of issuance, unless revoked by FRCC Marketing Department.

Fil-Cement Center and Tigerbilt, through their administrative manager, Gail Borja (Borja), sold the withdrawal authorities covering 50,000 bags of cement to Co for the amount of ₱3.15 million or ₱63.00 per bag.¹⁰ On February 15, 1999, Co sold these withdrawal authorities to Lim allegedly at the price of ₱64.00 per bag or a total of ₱3.2 million.¹¹

Using the withdrawal authorities, Lim withdrew the cement bags from FRCC on a staggered basis. She successfully withdrew 2,800 bags of cement, and sold back some of the withdrawal authorities, covering 10,000 bags, to Co.

Sometime in April 1999, FRCC did not allow Lim to withdraw the remaining 37,200 bags covered by the withdrawal authorities. Lim clarified the matter with Co and Borja, who explained that the plant implemented a price increase and would only release the goods once Lim pays for the price difference or agrees to receive a lesser quantity of cement. Lim objected and maintained that the withdrawal authorities she bought were not subject to price fluctuations. Lim sought legal recourse after her demands for Co to resolve the problem with the plant or for the return of her money had failed.

The criminal case

An Information for Estafa through Misappropriation or Conversion was

⁹ Records of Criminal Case No. 116377, pp. 15-57.

¹⁰ TSN, February 19, 2004, pp. 9, 13; Records of Criminal Case No. 116377, p. 424.

¹¹ Records of Criminal Case No. 116377, p. 58.

filed against Co before Branch 154 of the Regional Trial Court (RTC) of Pasig City. The accusatory portion thereof reads:

On or about between the months of February and April 1999, in San Juan, Metro Manila and within the jurisdiction of this Honorable Court, the accused, with intent to defraud Lily Lim, with grave abuse of confidence, with unfaithfulness, received in trust from Lily Lim cash money in the amount of ₱2,380,800.00 as payment for the 37,200 bags of cement, under obligation to deliver the 37,200 bags of cement to said Lily Lim, but far from complying with his obligation, misappropriated, misapplied and converted to his own personal use and benefit the said amount of ₱2,300,800.00 [sic] and despite demands, the accused failed and refused to return said amount, to the damage and prejudice of Lily Lim in the amount of ₱2,380,800.00.

Contrary to Law.¹²

The private complainant, Lily Lim, participated in the criminal proceedings to prove her damages. She prayed for Co to return her money amounting to ₱2,380,800.00, foregone profits, and legal interest, and for an award of moral and exemplary damages, as well as attorney's fees.¹³

On November 19, 2003, the RTC of Pasig City, Branch 154, rendered its Order¹⁴ acquitting Co of the estafa charge for insufficiency of evidence. The criminal court's Order reads:

The first and second elements of the crime of estafa [with abuse of confidence under Article 315, paragraph 1(b)] for which the accused is being charged and prosecuted were not established by the prosecution's evidence.

X X X X

In view of the absence of the essential requisites of the crime of estafa for which the accused is being charged and prosecuted, as above discussed, the Court has no alternative but to dismiss the case against the accused for insufficiency of evidence.¹⁵

WHEREFORE, in view of the foregoing, the **Demurrer to Evidence** is **GRANTED**, and the accused is hereby **ACQUITTED** of the crime of estafa charged against him under the present information for insufficiency of evidence.

¹² CA rollo of CA-G.R. CV No. 85138, p. 8.

¹³ Records of Criminal Case No. 116377, pp. 487-488.

¹⁴ Id. at 328-333; penned by Judge Abraham B. Borreta.

¹⁵ Id. at 330-331.

Insofar as the civil liability of the accused is concerned, however, set this case for the reception of his evidence on the matter on December 11, 2003 at 8:30 o'clock [sic] in the morning.

SO ORDERED.¹⁶

After the trial on the civil aspect of the criminal case, the Pasig City RTC also relieved Co of civil liability to Lim in its December 1, 2004 Order.¹⁷ The dispositive portion of the Order reads as follows:

WHEREFORE, premises considered, judgment is hereby rendered holding the accused **CHARLIE CO not civilly liable** to the private complainant Lily Lim.

SO ORDERED.¹⁸

Lim sought a reconsideration of the above Order, arguing that she has presented preponderant evidence that Co committed estafa against her.¹⁹

The trial court denied the motion in its Order²⁰ dated February 21, 2005.

On March 14, 2005, Lim filed her notice of appeal²¹ on the civil aspect of the criminal case. Her appeal was docketed as CA-G.R. CV No. 85138 and raffled to the Second Division of the CA.

The civil action for specific performance

On April 19, 2005, Lim filed a complaint for specific performance and damages before Branch 21 of the RTC of Manila. The defendants in the civil case were Co and all other parties to the withdrawal authorities, Tigerbilt, Fil-Cement Center, FRCC, Southeast Asia Cement, and La Farge Corporation. The

¹⁶ Id. at 333.

¹⁷ Id. at 514-519.

¹⁸ Id. at 519.

¹⁹ Id. at 528.

²⁰ Id. at 555-556.

²¹ CA *rollo* of CA-G.R. CV No. 85138, p. 18.

complaint, docketed as Civil Case No. 05-112396, asserted two causes of action: breach of contract and abuse of rights. Her allegations read:

ALLEGATIONS COMMON
TO ALL CAUSES OF ACTION

x x x x

23. Charlie Co obligated himself to deliver to Lily Lim 50,000 bags of cement of ₱64.00 per bag on an x-plant basis within 3 months from the date of their transaction, i.e. February 15, 1999. Pursuant to said agreement, Lily Lim paid Charlie Co ₱3.2 Million while Charlie Co delivered to Lily Lim FR Cement Withdrawal Authorities representing 50,000 bags of cement.

24. The withdrawal authorities issued by FR Cement Corp. allowed the assignee or holder thereof to withdraw within a six-month period from date a certain amount of cement indicated therein. The Withdrawal Authorities given to Lily Lim were dated either 3 February 1999 or 23 February 1999. The Withdrawal Authorities were first issued to Tigerbilt and Fil-Cement Center which in turn assigned them to Charlie Co. Charlie Co then assigned the Withdrawal Authorities to Lily Lim on February 15, 1999. Through these series of assignments, Lily Lim acquired all the rights (rights to withdraw cement) granted in said Withdrawal Authorities.

25. That these Withdrawal Authorities are valid is established by the fact that FR Cement earlier allowed Lily Lim to withdraw 2,800 bags of cement on the basis thereof.

26. However, sometime 19 April 1999 (within the three (3)-month period agreed upon by Charlie Co and Lily Lim and certainly within the six (6)-month period indicated in the Withdrawal Authorities issued by FR Cement Corp.), Lily Lim attempted but failed to withdraw the remaining bags of cement on account of FR Cement's unjustified refusal to honor the Withdrawal Authorities. x x x

x x x x

FIRST CAUSE OF ACTION:
BREACH OF CONTRACT

30. Charlie Co committed and is therefore liable to deliver to Lily Lim 37,200 bags of cement. If he cannot, then he must pay her the current fair market value thereof.

31. FR Cement Corporation is also liable to deliver to Lily Lim the amount of cement as indicated in the Withdrawal Authorities it issued. xxx FR Cement Corporation has no right to impose price adjustments as a qualification for honoring the Withdrawal Authorities.

32. Fil-Cement Center, Tigerbilt and Gail Borja as the original holders/ assignees of the Withdrawal Authorities repeatedly assured Lily Lim that the same were valid and would be honored. They are liable to make good on their assurances.

SECOND CAUSE OF ACTION:
ABUSE OF RIGHTS AND UNJUST ENRICHMENT

33. Charlie Co's acts of falsely representing to Lily Lim that she may be able to withdraw the cement from FR Cement Corp. caused Lily Lim to incur expenses and losses. Such act was made without justice, without giving Lily Lim what is due her and without observing honesty and good faith, all violative of the law, more specifically Articles 19 and 20 of the Civil Code. Such willful act was also made by Charlie Co in a manner contrary to morals, good customs or public policy, in violation of Article 21 of the Civil Code.

34. FR Cement Corporation's unjust refusal to honor the Withdrawal Authorities they issued also caused damage to Lily Lim. Further, FR Cement Corporation's act of withholding the 37,200 bags of cement despite earning income therefor constitutes as an unjust enrichment because FR Cement Corporation acquired income through an act or performance by another or any other means at the expense of another without just or legal ground in violation of Article 22 of the Civil Code.

35. Fil-Cement Center, Tigerbilt and Gail Borja's false assurances that Lily Lim would be able to withdraw the remaining 37,200 bags of cement caused Lily Lim to incur expenses and losses. x x x Moreover, Fil-Cement Center admitted receiving payment for said amount of cement, thus they are deemed to have come into possession of money at the expense of Lily Lim without just or legal ground, in violation of Article 22 of the Civil Code.

THIRD CAUSE OF ACTION:
MORAL AND EXEMPLARY DAMAGES and
ATTORNEY'S FEES AND COSTS OF SUIT²²

Lim prayed for Co to honor his contractual commitments either by delivering the 37,200 bags of cement, making arrangements with FRCC to allow Lim to withdraw the cement, or to pay for their value. She likewise asked that the defendants be held solidarily liable to her for the damages she incurred in her failed attempts to withdraw the cement and for the damages they inflicted on her as a result of their abuse of their rights.²³

Motions to dismiss both actions

In reaction to the filing of the civil complaint for specific performance and damages, Co filed motions to dismiss the said civil case²⁴ and Lim's appeal in the

²² Rollo of G.R. No. 179160, pp. 95-101.

²³ Id. at 102-103.

²⁴ Id. at 124-135.

civil aspect of the estafa case or CA-G.R. CV No. 85138.²⁵ He maintained that the two actions raise the same issue, which is Co's liability to Lim for her inability to withdraw the bags of cement,²⁶ and should be dismissed on the ground of *lis pendens* and forum shopping.

Ruling of the Court of Appeals Second Division in CA-G.R CV No. 85138

The appellate court (Second Division) favorably resolved Co's motion and dismissed Lim's appeal from the civil aspect of the estafa case. In its Resolution dated October 20, 2005, the CA Second Division held that the parties, causes of action, and reliefs prayed for in Lim's appeal and in her civil complaint are identical. Both actions seek the same relief, which is the payment of the value of the 37,200 bags of cement.²⁷ Thus, the CA Second Division dismissed Lim's appeal for forum shopping.²⁸ The CA denied²⁹ Lim's motion for reconsideration.³⁰

Lim filed the instant petition for review, which was docketed as G.R. No. 175256.

Ruling of the Manila Regional Trial Court in Civil Case No. 05-112396

Meanwhile, the Manila RTC denied Co's Motion to Dismiss in an Order³¹ dated December 6, 2005. The Manila RTC held that there was no forum shopping because the causes of action invoked in the two cases are different. It observed that the civil complaint before it is based on an obligation arising from contract and quasi-delict, whereas the civil liability involved in the appeal of the criminal case arose from a felony.

²⁵ CA *rollo* of CA-G.R. CV No. 85138, pp. 31-37.

²⁶ *Rollo* of G.R. No. 179160, pp. 128-131.

²⁷ *Rollo* of G.R. No. 175256, p. 34.

²⁸ *Id.*

²⁹ *Id.* at 37-38; penned by Associate Justice Jose C. Reyes, Jr. and concurred in by Associate Justices Marina L. Buzon and Amelita G. Tolentino.

³⁰ *Id.* at 39-48.

³¹ *Rollo* of G.R. No. 179160, pp. 142-144; penned by Judge Amor A. Reyes.

Co filed a petition for *certiorari*,³² docketed as CA-G.R. SP No. 93395, before the appellate court. He prayed for the nullification of the Manila RTC's Order in Civil Case No. 05-112396 for having been issued with grave abuse of discretion.³³

Ruling of the Court of Appeals Seventeenth Division in CA-G.R. SP No. 93395

The CA Seventeenth Division denied Co's petition and remanded the civil complaint to the trial court for further proceedings. The CA Seventeenth Division agreed with the Manila RTC that the elements of *litis pendentia* and forum shopping are not met in the two proceedings because they do not share the same cause of action.³⁴

The CA denied³⁵ Co's motion for reconsideration.³⁶

Co filed the instant Petition for Review, which was docketed as G.R. No. 179160.

Upon Co's motion,³⁷ the Court resolved to consolidate the two petitions.³⁸

Kou Co Ping's arguments

Co maintains that Lim is guilty of forum shopping because she is asserting *only one cause of action* in CA-G.R. CV No. 85138 (the appeal from the civil aspect of Criminal Case No. 116377) and in Civil Case No. 05-112396, which is for Co's violation of her right to receive 37,200 bags of cement. Likewise, the reliefs sought in both cases are the same, that is, for Co to deliver the 37,200 bags

³² CA rollo of CA-G.R. SP No. 93395, pp. 2-24.

³³ Id. at 21.

³⁴ Rollo of G.R. No. 179160, pp. 59-60.

³⁵ CA rollo of CA-G.R. SP No. 93395, p. 485.

³⁶ Id. at 448-458.

³⁷ Rollo of G.R. No. 179160), pp. 207-210.

³⁸ Id. at 239-240.

of cement or its value to Lim. That Lim utilized different methods of presenting her case – a criminal action for estafa and a civil complaint for specific performance and damages – should not detract from the fact that she is attempting to litigate the same cause of action twice.³⁹

Co makes light of the distinction between civil liability *ex contractu* and *ex delicto*. According to him, granting that the two civil liabilities are independent of each other, nevertheless, the two cases arising from them would have to be decided using the same evidence and going over the same set of facts. Thus, any judgment rendered in one of these cases will constitute *res judicata* on the other.⁴⁰

In G.R. No. 179160, Co prays for the annulment of the CA Decision and Resolution in CA-G.R. SP No. 93395, for a declaration that Lim is guilty of forum shopping, and for the dismissal of Civil Case No. 05-112396.⁴¹

In G.R. No. 175256, Co prays for the affirmation of the CA Decision in CA-G.R. CV No. 85138 (which dismissed Lim's appeal from the trial court's decision in Criminal Case No. 116377).⁴²

Lily Lim's arguments

Lim admits that the two proceedings involve substantially the same set of facts because they arose from only one transaction.⁴³ She is quick to add, however, that a single act or omission does not always make a single cause of action.⁴⁴ It can possibly give rise to two separate civil liabilities on the part of the offender – (1) *ex delicto* or civil liability arising from crimes, and (2) independent civil liabilities or those arising from contracts or intentional torts. The only caveat

³⁹ Id. at 288.

⁴⁰ *Rollo* of G.R. No. 175256, pp. 213-214; *rollo* of G.R. No. 179160, p. 289.

⁴¹ Id. at 215; id. at 290.

⁴² Id.; id.

⁴³ *Rollo* of G.R. No. 175256, p. 232.

⁴⁴ Id. at 231.

provided in Article 2177 of the Civil Code is that the offended party cannot recover damages twice for the same act or omission.⁴⁵ Because the law allows her two independent causes of action, Lim contends that it is not forum shopping to pursue them.⁴⁶

She then explains the separate and distinct causes of action involved in the two cases. Her cause of action in CA-G.R CV No. 85138 is based on the crime of estafa. Co violated Lim's right to be protected against swindling. He represented to Lim that she can withdraw 37,200 bags of cement using the authorities she bought from him. This is a fraudulent representation because Co knew, at the time that they entered into the contract, that he could not deliver what he promised.⁴⁷ On the other hand, Lim's cause of action in Civil Case No. 05-112396 is based on contract. Co violated Lim's rights as a buyer in a contract of sale. Co received payment for the 37,200 bags of cement but did not deliver the goods that were the subject of the sale.⁴⁸

In G.R. No. 179160, Lim prays for the denial of Co's petition.⁴⁹ In G.R. No. 175256, she prays for the reversal of the CA Decision in CA-G.R. CV No. 85138, for a declaration that she is not guilty of forum shopping, and for the reinstatement of her appeal in Criminal Case No. 116377 to the CA.⁵⁰

Issue

Did Lim commit forum shopping in filing the civil case for specific performance and damages during the pendency of her appeal on the civil aspect of the criminal case for estafa?

⁴⁵ Id. at 235; *rollo* of G.R. No. 179160, pp. 303-304.

⁴⁶ Id. at 232; id. at 301.

⁴⁷ Id.; id. at 301-302.

⁴⁸ Id.; id.

⁴⁹ *Rollo* of G.R. No. 179160, p. 309.

⁵⁰ *Rollo* of G.R. No. 175256, p. 237.

Our Ruling

A single act or omission that causes damage to an offended party may give rise to two separate civil liabilities on the part of the offender⁵¹ – (1) *civil liability ex delicto*, that is, civil liability arising from the criminal offense under Article 100 of the Revised Penal Code,⁵² and (2) *independent civil liability*, that is, civil liability that may be pursued independently of the criminal proceedings. The independent civil liability may be based on “an obligation not arising from the act or omission complained of as a felony,” as provided in Article 31 of the Civil Code (such as for breach of contract or for tort⁵³). It may also be based on an act or omission that may constitute felony but, nevertheless, treated independently from the criminal action by specific provision of Article 33 of the Civil Code (“in cases of defamation, fraud and physical injuries”).

The civil liability arising from the offense or *ex delicto* is based on the acts or omissions that constitute the criminal offense; hence, its trial is inherently intertwined with the criminal action. For this reason, the civil liability *ex delicto* is impliedly instituted with the criminal offense.⁵⁴ If the action for the civil liability *ex delicto* is instituted prior to or subsequent to the filing of the criminal action, its proceedings are suspended until the final outcome of the criminal action.⁵⁵ The civil liability based on delict is extinguished when the court hearing the criminal action declares that “the act or omission from which the civil liability may arise did not exist.”⁵⁶

On the other hand, the independent civil liabilities are separate from the criminal action and may be pursued independently, as provided in Articles 31 and 33 of the Civil Code, which state that:

⁵¹ *Cancio, Jr. v. Isip*, 440 Phil. 29, 34 (2002).

⁵² Art. 100. *Civil liability of a person guilty of felony*. — Every person criminally liable for a felony is also civilly liable.

⁵³ See Articles 32, 34, 2176, and 1157 of the Civil Code.

⁵⁴ RULES OF COURT, Rule 111, Section 1(a).

⁵⁵ *Id.*, Section 2.

⁵⁶ *Id.*

ART. 31. When the civil action is based on an **obligation not arising from the act or omission complained of as a felony**, such civil action may proceed independently of the criminal proceedings and regardless of the result of the latter. (Emphasis supplied.)

ART. 33. In cases of defamation, fraud, and physical injuries a civil action for damages, entirely separate and distinct from the criminal action, may be brought by the injured party. Such civil action shall **proceed independently of the criminal prosecution**, and shall require only a preponderance of evidence. (Emphasis supplied.)

Because of the distinct and independent nature of the two kinds of civil liabilities, jurisprudence holds that the offended party may pursue the two types of civil liabilities simultaneously or cumulatively, without offending the rules on forum shopping, *litis pendentia*, or *res judicata*.⁵⁷ As explained in *Cancio, Jr. v. Isip*:⁵⁸

One of the elements of *res judicata* is identity of causes of action. In the instant case, it must be stressed that the action filed by petitioner is an independent civil action, which remains separate and distinct from any criminal prosecution based on the same act. Not being deemed instituted in the criminal action based on *culpa criminal*, a ruling on the culpability of the offender will have no bearing on said independent civil action based on an entirely different cause of action, i.e., *culpa contractual*.

In the same vein, the filing of the collection case after the dismissal of the estafa cases against [the offender] did not amount to forum-shopping. The essence of forum shopping is the filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, to secure a favorable judgment. Although the cases filed by [the offended party] arose from the same act or omission of [the offender], they are, however, based on different causes of action. The criminal cases for estafa are based on *culpa criminal* while the civil action for collection is anchored on *culpa contractual*. Moreover, there can be no forum-shopping in the instant case because the law expressly allows the filing of a separate civil action which can proceed independently of the criminal action.⁵⁹

Since civil liabilities arising from felonies and those arising from *other* sources of obligations are authorized by law to proceed independently of each other, the resolution of the present issue hinges on whether the two cases herein involve different kinds of civil obligations such that they can proceed

⁵⁷ *Cancio, Jr. v. Isip*, supra note 51 at 40; *Casupanan v. Laroya*, 436 Phil. 582, 600 (2002).

⁵⁸ Supra note 51.

⁵⁹ Id. at 40.

independently of each other. The answer is in the affirmative.

The first action is clearly a civil action *ex delicto*, it having been instituted together with the criminal action.⁶⁰

On the other hand, the second action, judging by the allegations contained in the complaint,⁶¹ is a civil action arising from a *contractual obligation* and for *tortious conduct* (abuse of rights). In her civil complaint, Lim basically alleges that she entered into a sale contract with Co under the following terms: that she bought 37,200 bags of cement at the rate of ₱64.00 per bag from Co; that, after full payment, Co delivered to her the withdrawal authorities issued by FRCC corresponding to these bags of cement; that these withdrawal authorities will be honored by FRCC for six months from the dates written thereon. Lim then maintains that the defendants breached their contractual obligations to her under the sale contract and under the withdrawal authorities; that Co and his co-defendants wanted her to pay more for each bag of cement, contrary to their agreement to fix the price at ₱64.00 per bag and to the wording of the withdrawal authorities; that FRCC did not honor the terms of the withdrawal authorities it issued; and that Co did not comply with his obligation under the sale contract to deliver the 37,200 bags of cement to Lim. From the foregoing allegations, it is evident that Lim seeks to enforce the defendants' *contractual obligations*, given that she has already performed her obligations. She prays that the defendants either honor their part of the contract or pay for the damages that their breach has caused her.

Lim also includes allegations that the actions of the defendants were committed in such manner as to cause damage to Lim without regard for morals, good customs and public policy. These allegations, if proven, would constitute *tortious conduct* (abuse of rights under the Human Relations provisions of the

⁶⁰ RULES OF COURT, Rule 111, Section 1. *Casupanan v. Laroya*, supra note 57 at 596; *DMPI-Employees Credit Cooperative, Inc. v. Hon. Velez*, 422 Phil. 381, 387 (2001).

⁶¹ *Cancio, Jr. v. Isip*, supra note 51 at 39.

Civil Code).

Thus, Civil Case No. 05-112396 involves only the obligations arising from contract and from tort, whereas the appeal in the estafa case involves only the civil obligations of Co arising from the offense charged. They present different causes of action, which, under the law, are considered “separate, distinct, and independent”⁶² from each other. Both cases can proceed to their final adjudication, subject to the prohibition on double recovery under Article 2177 of the Civil Code.⁶³

WHEREFORE, premises considered, Lily Lim’s Petition in G.R. No. 175256 is **GRANTED**. The assailed October 20, 2005 Resolution of the Second Division of the Court of Appeals in CA-G.R. CV No. 85138 is **REVERSED** and **SET ASIDE**. Lily Lim’s appeal in CA-G.R. CV No. 85138 is ordered **REINSTATED** and the Court of Appeals is **DIRECTED** to **RESOLVE** the same with **DELIBERATE DISPATCH**.

Charlie Co’s Petition in G.R. No. 179160 is **DENIED**. The assailed April 10, 2007 Decision of the Seventeenth Division of the Court of Appeals in CA-G.R. SP No. 93395 is **AFFIRMED** *in toto*.

SO ORDERED.

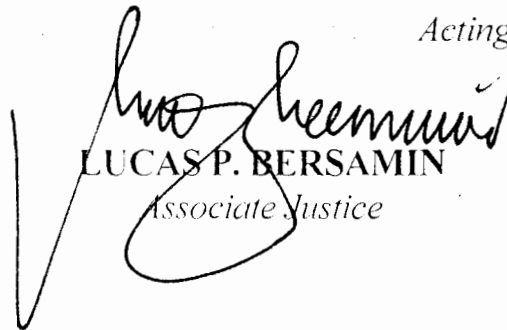

MARIANO C. DEL CASTILLO
Associate Justice

⁶² *Casipanan v. Laroya*, supra note 57 at 596.

⁶³ ART. 2177. Responsibility for fault or negligence under the preceding article is entirely separate and distinct from the civil liability arising from negligence under the Penal Code. But the plaintiff cannot recover damages twice for the same act or omission of the defendant.

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson


LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


ESTELA M. PERLAS-BERNABE
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.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson

CERTIFICATION

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.


ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)