



Republic of the Philippines  
**Supreme Court**  
 Manila

**SECOND DIVISION**

**BIGNAY EX-IM PHILIPPINES, INC.,**  
*Petitioner,*

**G.R. No. 171590**

- versus -

**UNION BANK OF THE PHILIPPINES,**  
*Respondent.*

X-----X

**UNION BANK OF THE PHILIPPINES,**  
*Petitioner,*

**G.R. No.171598**

Present:

- versus -

CARPIO, *Chairperson,*  
 BRION,  
 DEL CASTILLO,  
 PEREZ, *and*  
 PERLAS-BERNABE, *JJ.*

**BIGNAY EX-IM PHILIPPINES, INC.,**  
*Respondent.*

Promulgated:

FEB 12 2014 *Atty. Catalina Perfecto*

X-----X

**DECISION**

**DEL CASTILLO, J.:**

The gross negligence of the seller in defending its title to the property subject matter of the sale – thereby contravening the express undertaking under the deed of sale to protect its title against the claims of third persons resulting in the buyer’s eviction from the property – amounts to bad faith, and the buyer is entitled to the remedies afforded under Article 1555 of the Civil Code.

Before us are consolidated Petitions for Review on *Certiorari*<sup>1</sup> assailing the *Memorandum*

<sup>1</sup> Rollo, G.R. No. 171590, pp. 9-32; G.R. No. 171598, pp. 66-84.

August 25, 2005 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 67788 as well as its February 10, 2006 Resolution<sup>3</sup> denying the parties' respective motions for reconsideration.

### *Factual Antecedents*

In 1984, Alfonso de Leon (Alfonso) mortgaged in favor of Union Bank of the Philippines (Union Bank) real property situated at Esteban Abada, Loyola Heights, Quezon City, which was registered in his and his wife Rosario's name and covered by Transfer Certificate of Title (TCT) No. 286130 (TCT 286130).

The property was foreclosed and sold at auction to Union Bank. After the redemption period expired, the bank consolidated its ownership, whereupon TCT 362405 was issued in its name in 1987.

In 1988, Rosario filed against Alfonso and Union Bank, Civil Case No. Q-52702 for annulment of the 1984 mortgage, claiming that Alfonso mortgaged the property without her consent, and for reconveyance.

In a September 6, 1989 Letter-Proposal,<sup>4</sup> Bignay Ex-Im Philippines, Inc. (Bignay), through its President, Milagros Ong Siy (Siy), offered to purchase the property. The written offer stated, among others, that –

The property is the subject of a pending litigation between Rosario de Leon and Union Bank for nullification of the foreclosure before the Regional Trial Court of Quezon City. Should this offer be approved by your management, we suggest that instead of the usual conditional sale, a deed of absolute sale be executed to document the transaction in our favor subject to a mortgage in favor of the bank to secure the balance.

This documentation is intended to isolate the property from any lis pendens that the former owner may annotate on the title and to allow immediate reconstitution thereof since the original Torrens title was burned in 1988 when the City Hall housing the Register of Deeds of Quezon City was gutted by fire.<sup>5</sup>

On December 20, 1989, a Deed of Absolute Sale<sup>6</sup> was executed by and between Union Bank and Bignay whereby the property was conveyed to Bignay for ₱4 million. The deed of sale was executed by the parties through Bignay's Siy and Union Bank's Senior Vice President Anthony Robles (Robles). One of the

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<sup>2</sup> CA *rollo*, pp. 219-235; penned by Associate Justice Lucenito N. Tagle and concurred in by Associate Justices Martin S. Villarama, Jr. and Bienvenido L. Reyes (now Members of this Court).

<sup>3</sup> Id. at 286-288.

<sup>4</sup> Records, Vol. I, p. 232.

<sup>5</sup> Id.

<sup>6</sup> Id. at 15-17.

terms of the deed of sale is quoted below:

Section 1. The VENDEE hereby recognizes that the Parcel/s of Land with improvements thereon is acquired through foreclosure proceedings and agrees to buy the Parcel/s of Land with improvement[s] thereon in its present state and condition. The VENDOR therefore does not make any x x x representations or warranty with respect to the Parcel/s of Land but that it will defend its title to the Parcel/s of Land with improvement[s] thereon against the claims of any person whomsoever.<sup>7</sup>

On December 27, 1989, Bignay mortgaged the property to Union Bank, presumably to secure a loan obtained from the latter.

On December 12, 1991, a Decision<sup>8</sup> was rendered in Civil Case No. Q-52702, decreeing as follows:

WHEREFORE, premises above considered, finding that defendant Alfonso de Leon, Jr. had alone executed the mortgage (Exh. 7) on their conjugal property with T.C.T. No. 286130 (Exh. L) upon a forged signature (Exh. M-1) of his wife plaintiff Rosario T. de Leon, the Court hereby declares NULL and VOID the following documents:

1. Said Mortgage Contract dated April 11, 1984 (Exh. 7) executed by and between defendants Alfonso de Leon, Jr. alone and Union Bank of the Philippines;
2. Sheriff's Sale dated June 12, 1985 (Exh. F);
3. T.C.T. No. 362405 (Exh. O) issued in the name of defendant Union Bank on June 10, 1987 which replaced the said T.C.T. No. 286130;
4. Sale and mortgage by and between Union Bank and Bignay Ex-Im Phil. Inc. on December 27, 1989 over the subject conjugal property as annotated on T.C.T. No. 362405 (Exh. O).

Further, the Court hereby declares plaintiff Rosario T. de Leon the owner still of the undivided ONE HALF (1/2) of the subject property covered by T.C.T. No. 286130.

The order dated February 2, 1988 granting a writ of possession in favor of Union Bank is hereby SET ASIDE and QUASHED.

Defendant Alfonso de Leon, Jr. is hereby ordered to pay his co-defendant Union Bank of the Philippines the sum of his ₱1M loan with interest from the time the same was extended to him which is hereby charged against his

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<sup>7</sup> Id. at 15.

<sup>8</sup> Id. at 35-45; penned by Judge Pedro T. Santiago.

other undivided share of ONE HALF (½) of the subject property with T.C.T. No. 286130.

No damages is [sic], however, adjudicated against defendant Union Bank of the Philippines there being no substantial evidence that it is in complicity with defendant Alfonso de Leon, Jr. in the presentation of the forged signature of his wife plaintiff on the Special Power of Attorney (Exh. M).

Without cost, except for the professional fee, if any, for the examination of the forged signature (Exh. M-1) which shall be paid by defendant Alfonso de Leon, Jr.

SO ORDERED.<sup>9</sup>

Union Bank appealed the above Decision with the CA. It likewise sought a new trial of the case, which the trial court denied. The CA appeal was dismissed for failure to file appellant's brief; the ensuing Petition for Review with this Court was similarly denied for late filing and payment of legal fees.<sup>10</sup>

Union Bank next filed with the CA an action to annul the trial court's December 12, 1991 judgment.<sup>11</sup> In a September 9, 1993 Resolution, however, the CA again dismissed the Petition<sup>12</sup> for failure to comply with Supreme Court Circular No. 28-91.<sup>13</sup> The bank's Motion for Reconsideration was once more denied.<sup>14</sup>

This time, Bignay filed a Petition for annulment of the December 12, 1991 Decision, docketed as CA-G.R. SP No. 33901. In a July 15, 1994 Decision,<sup>15</sup> the CA dismissed the Petition. Bignay's resultant Petition for *Certiorari* with this Court suffered the same fate.<sup>16</sup>

Meanwhile, as a result of the December 12, 1991 Decision in Civil Case No. Q-52702, Bignay was evicted from the property; by then, it had demolished the existing structure on the lot and begun construction of a new building.

### ***Ruling of the Regional Trial Court***

On March 21, 1994, Bignay filed Civil Case No. 94-1129 for breach of warranty against eviction under Articles 1547 and 1548 of the Civil Code, with

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<sup>9</sup> Id. at 44-45.

<sup>10</sup> *Rollo*, G.R. No. 171590, pp. 37-38.

<sup>11</sup> Docketed as CA-G.R. SP No. 31689.

<sup>12</sup> *Rollo*, G.R. No. 171590, p. 38.

<sup>13</sup> Additional Requisites For Petitions Filed With The Supreme Court And The Court Of Appeals To Prevent Forum Shopping Or Multiple Filing Of Petitions And Complaints.

<sup>14</sup> *Rollo*, G.R. No. 171590, p. 38; Records, Vol. II, pp. 371-376.

<sup>15</sup> Records, Vol. 1, pp. 243-252.

<sup>16</sup> *Rollo*, G.R. No. 171590, pp. 38-39.

damages, against Union Bank and Robles. The case was assigned to Branch 141 of the Makati Regional Trial Court (RTC). Bignay alleged in its Complaint<sup>17</sup> that at the time of the sale, the title to the property was lost due to fire at the Register of Deeds; that at the time of the sale, Union Bank represented that there were no liens or encumbrances over the property other than those annotated on the title, and that a reconstitution of the lost title would be made; that on these assurances, Bignay began and completed construction of a building on the property; that it turned out that the property was the subject of a case by Rosario, and Bignay began to receive copies of court orders and pleadings relative to the case; that it issued a demand to Union Bank for the latter to make good on its warranties; that despite such demands, it appeared that Bignay was in jeopardy of losing the property as a result of Union Bank's lack of candor and bad faith in not disclosing the pending case. Bignay prayed to be awarded the following:

1. ₱54,000,000.00 as actual damages;
2. ₱2,000,000.00 as exemplary damages;
3. ₱1,000,000.00 by way of attorney's fees; and
4. Costs of suit.

In a March 10, 1995 Order<sup>18</sup> of the trial court, Robles was dropped as party defendant upon agreement of the parties and in view of Union Bank's admission and confirmation that it had authorized all of Robles's acts relative to the sale.

Union Bank interposed a Motion to Dismiss<sup>19</sup> grounded on lack of or failure to state a cause of action, claiming that it made no warranties in favor of Bignay when it sold the property to the latter on December 20, 1989. The trial court deferred the resolution of the motion on finding that the ground relied upon did not appear to be indubitable. Union Bank thus filed its Answer *Ad Cautelam*,<sup>20</sup> where it alleged that Bignay was not an innocent purchaser for value, knowing the condition of the property as evidenced by Siy's September 6, 1989 letter-proposal to purchase the same. It interposed a counterclaim as well, grounded on two promissory notes signed by Siy in favor of the bank – 1) Promissory Note No. 90-1446 dated December 20, 1990 for the amount of ₱1.5 million payable on demand with annual interest of 33%, and 2) Promissory Note No. 91-0286 dated February 26, 1991 for the amount of ₱2 million payable on demand with annual interest of 30% – which resulted in outstanding liabilities, inclusive of interest and penalties, in the total amount of more than ₱10.4 million as of December 20, 1996.

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<sup>17</sup> Records, Vol. I, pp. 1-14.

<sup>18</sup> Id. at 108.

<sup>19</sup> Id. at 25-31.

<sup>20</sup> Id. at 84-91.

During trial, Siy testified that she was a client of Union Bank, and that she was a regular buyer of some of the bank's acquired assets. She admitted that she maintained a close business relationship with Robles, who would identify cheap bank properties for her and then facilitate or assist her in the acquisition thereof. To do this, she claimed that she signed papers in blank and left them with Robles, who would then use the same in preparing the necessary documents, such as the supposed September 6, 1989 letter-proposal, which Siy claimed she knew nothing about.<sup>21</sup>

Siy further testified that for his services, Robles was given a 3% commission each time she obtained a loan from Union Bank. Moreover, she claimed that she gifted Robles with shares of stock in one of her corporations, International General Auto Parts Corporation (IGAPC), and made him an incorporator and director thereof.<sup>22</sup>

Finally, Siy testified that the existing structure on the subject property was demolished and a new one was constructed at a cost of ₱20 million. From the new structure, Bignay earned monthly rental income of ₱60,000.00, until the lessee was evicted on account of the execution of the Decision in Civil Case No. Q-52702.<sup>23</sup>

On the other hand, Robles – testifying for Union Bank – denied that he prepared the September 6, 1989 letter-proposal. He added that Siy was apprised of the then pending Civil Case No. Q-52702. He also admitted that Siy gave him shares of stock in IGAPC and made him an incorporator and director thereof.<sup>24</sup>

Evidence on Union Bank's counterclaim was likewise received by the trial court.

On March 21, 2000, the trial court rendered its Decision<sup>25</sup> in Civil Case No. 94-1129, which decreed thus:

WHEREFORE, decision is hereby rendered ordering the defendant to pay plaintiff the sum of Four Million (₱4,000,000.00) Pesos representing the cost of the land and Twenty Million (₱20,000,000.00) Pesos representing the value of the building constructed on the subject land, and the costs of this suit.

The counterclaim interposed by defendant is hereby dismissed without prejudice.

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<sup>21</sup> *Rollo*, G.R. No. 171590, p. 57.

<sup>22</sup> *Id.* at 57-58.

<sup>23</sup> *Id.* at 58.

<sup>24</sup> *Id.*

<sup>25</sup> Records, Vol. II, pp. 492-502; penned by Judge Manuel D. Victorio.

SO ORDERED.<sup>26</sup>

The trial court found that Union Bank's Senior Vice President, Robles, maintained a secret alliance and relationship of trust with Bignay's Siy, whereby Robles would look out for desirable properties from the bank's asset inventory, recommend them to Siy, then facilitate the negotiation, sale and documentation for her. In return, he would receive a 3% commission from Siy, or some other benefit; in fact, Siy made him an incorporator and director of one of her corporations, IGAPC. The trial court believed Siy's claim that she signed papers in blank and left them with Robles in order to facilitate the negotiation and purchase of bank properties which they both considered to be cheap and viable. In this connection, the trial court concluded that it was Robles – and not Siy – who prepared the September 6, 1989 letter-proposal on a piece of paper signed in blank by Siy, and that even though the pending Civil Case No. Q-52702 was mentioned in the letter-proposal, Siy in fact had no knowledge thereof. This is proved by the fact that she proceeded to construct a costly building on the property; if Siy knew of the pending Civil Case No. Q-52702, it is highly doubtful that she would do so.

The trial court thus declared that Union Bank, through Robles, acted in bad faith in selling the subject property to Bignay; for this reason, the stipulation in the December 20, 1989 deed of sale limiting Union Bank's liability in case of eviction cannot apply, because under Article 1553 of the Civil Code, "[a]ny stipulation exempting the vendor from the obligation to answer for eviction shall be void, if he acted in bad faith." Moreover, it held that in its handling of Civil Case No. Q-52702, the bank was guilty of gross negligence amounting to bad faith, which thus contravened its undertaking in the deed of sale to "defend its title to the Parcel/s of Land with improvement thereon against the claims of any person whatsoever."

In resolving the controversy, the trial court applied Article 1555 of the Civil Code, which provides thus:

Art. 1555. When the warranty has been agreed upon or nothing has been stipulated on this point, in case eviction occurs, the vendee shall have the right to demand of the vendor:

- (1) The return of the value which the thing sold had at the time of the eviction, be it greater or less than the price of the sale;
- (2) The income or fruits, if he has been ordered to deliver them to the party who won the suit against him;
- (3) The costs of the suit which caused the eviction, and, in a proper case, those of the suit brought against the vendor for the warranty;
- (4) The expenses of the contract, if the vendee has paid them;

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<sup>26</sup> Id. at 502.

(5) The damages and interests, and ornamental expenses, if the sale was made in bad faith.

Thus, it held that Bignay was entitled to the return of the value of the property (₱4 million), as well as the cost of the building erected thereon (₱20 million), since Union Bank acted in bad faith. At the same time, the trial court held that the bank's counterclaim was not at all connected with Bignay's Complaint, which makes it a permissive counterclaim for which the docket fees should accordingly be paid. Since the bank did not pay the docket fees, the trial court held that it did not acquire jurisdiction over its counterclaim; thus, it dismissed the same.

### ***Ruling of the Court of Appeals***

Union Bank took the trial court's March 21, 2000 Decision to the CA on appeal. On August 25, 2005, the CA issued the assailed Decision, decreeing as follows:

WHEREFORE, the instant Appeal is PARTLY GRANTED. Judgment is hereby rendered ordering defendant-appellant to pay plaintiff-appellee the sum of ₱4,000,000.00 representing the cost of the land and ₱20,000,000.00 representing the value of the building constructed on the subject land.

On the Counterclaim, judgment is rendered ordering plaintiff-appellee to pay defendant-appellant the principal amount of ₱1,500,000.00 under Promissory Note No. 90-1446 dated December 18, 1990, plus the stipulated interests and stipulated penalty charges from date of maturity of the loan or from June 6, 1991 until its full payment and also to pay the principal amount of ₱2,000,000.00 under Promissory Note No. 90-0286 dated February 25, 1991, plus the stipulated interests and stipulated penalty charges from date of maturity of the loan or from August 26, 1991 until full payment thereof.

No pronouncement as to costs.

SO ORDERED.<sup>27</sup>

Applying Articles 1548 and 1549 of the Civil Code,<sup>28</sup> the CA held that Union Bank is liable pursuant to its commitment under the December 20, 1989 deed of sale to defend the title to the property against the claims of third parties. It

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<sup>27</sup> Id. at 49-50.

<sup>28</sup> Art. 1548. Eviction shall take place whenever by a final judgment based on a right prior to the sale or an act imputable to the vendor, the vendee is deprived of the whole or of a part of the thing purchased.

The vendor shall answer for the eviction even though nothing has been said in the contract on the subject.

The contracting parties, however, may increase, diminish, or suppress this legal obligation of the vendor.

Art. 1549. The vendee need not appeal from the decision in order that the vendor may become liable for eviction.



shared the trial court's opinion that the bank was guilty of negligence in the handling and prosecution of Civil Case No. Q-52702, for which reason it should be made answerable, since it lost its title to the whole property when it could have protected its right to Alfonso's share therein considering that the Decision in Civil Case No. Q-52702 merely awarded Rosario's conjugal share. In other words, the CA intimated that if Union Bank exercised prudence, it could have maintained at least its rights and title to Alfonso's one-half share in the property, and the trial court's Decision completely nullifying the Alfonso-Union Bank mortgage, the bank's new title TCT 362405, and the Union Bank-Bignay sale could have been avoided.

The CA added that the declaration contained in the September 6, 1989 letter-proposal to the effect that Siy knew about the pending Civil Case No. Q-52702 cannot bind Bignay because the proposal was supposedly prepared and signed by Siy in her personal capacity, and not for and in behalf of Bignay. It further affirmed the trial court's view that it was Robles – and not Siy – who prepared the said letter-proposal on a piece of paper which she signed in blank and left with Robles to facilitate her transactions with Union Bank.

Regarding the bank's counterclaim, the CA held that Union Bank timely paid the docket fees therefor – amounting to ₱32,940.00 – at the time it filed its Answer *Ad Cautelam* on November 4, 1994, as shown by Official Receipt Nos. 4272579 and 4271965 to such effect and the rubberstamped mark on the face of the answer itself. It added that since the trial court received the bank's evidence on the counterclaim during trial, it should have made a ruling thereon.

Bignay filed its Motion for Partial Reconsideration<sup>29</sup> questioning the appellate court's ruling on Union Bank's counterclaim. On the other hand, Union Bank in its Motion for Reconsideration<sup>30</sup> took exception to the CA's application of Articles 1548 and 1549 of the Civil Code, as well as its finding that the bank was negligent in the handling and prosecution of Civil Case No. Q-52702.

On February 10, 2006, the CA issued the second assailed Resolution denying the parties' respective motions for reconsideration.

Thus, the present Petitions were filed. G.R. No. 171590 was initiated by Bignay, while G.R. No. 171598 was filed by Union Bank. In a June 21, 2006 Resolution<sup>31</sup> of the Court, both Petitions were ordered consolidated.

### Issues

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<sup>29</sup> CA *rollo*, pp. 254-268.

<sup>30</sup> Id. at 240-251.

<sup>31</sup> *Rollo*, G.R. No. 171590, p. 69.

The following issues are raised:

By Bignay as petitioner in G.R. No. 171590

1. IN A PERMISSIVE COUNTERCLAIM, WHEN SHOULD THE DOCKET FEES BE PAID TO ENABLE THE TRIAL COURT TO ACQUIRE JURISDICTION OVER THE CASE?
2. IN THE EVENT OF NON-PAYMENT OF DOCKET FEES FOR PERMISSIVE COUNTERCLAIMS, CAN THE COURT DISMISS THE SAID COUNTERCLAIMS?<sup>32</sup>

By Union Bank as petitioner in G.R. No. 171598

The portion of the [D]ecision of the Honorable Court of Appeals dated August 25, 2005 ordering petitioner to pay private respondent the total amount of ₱24.0 million should be set aside for it has altogether ignored:

- I. THE TESTIMONY OF ROBLES;
- II. THAT THE LETTER-PROPOSAL DATED SEPTEMBER 6, 1989 WAS SIGNED BY SIY IN BEHALF OF (BIGNAY);
- III. THE FACT THAT THE APPLICATION OF ARTS. 1548 AND 1549 OF THE CIVIL CODE WAS PATENTLY ERRONEOUS.<sup>33</sup>

***The Parties' Respective Arguments***

**G.R. No. 171590.** As petitioner in G.R. No. 171590, Bignay registers its doubts as to whether Union Bank indeed paid the docket fees on its permissive counterclaim, arguing that if the bank indeed paid the docket fees, the trial court would have so held in its March 21, 2000 Decision; instead, it specifically declared therein that the docket fees on the counterclaim remained unpaid at that point in time. In other words, Bignay appears to insinuate that there was an irregularity surrounding the bank's alleged payment of the docket fees on its counterclaim. It adds that since Union Bank is guilty of negligence and bad faith in transacting with Bignay, it should be penalized through the proper dismissal of its counterclaim; the Court should instead require Union Bank to prosecute its claims in a separate action.

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<sup>32</sup> Id. at 21.

<sup>33</sup> *Rollo*, G.R. No. 171598, pp. 74-75.

In the alternative, Bignay claims that the amount of ₱1,039,457.33 should be deducted from its adjudged liabilities to Union Bank, as it has been proved during trial that it paid such amount to the bank, as shown by receipts duly marked and offered in evidence as Exhibits “H” to “H-6.”

Bignay thus prays in its Petition that the assailed dispositions of the CA be modified to the extent that Union Bank’s counterclaim should be denied and dismissed.

In its Comment<sup>34</sup> praying that the CA’s ruling on its counterclaim be affirmed, Union Bank insists that it timely paid the docket fees on its counterclaim, arguing that the official receipts proving payment as well as the rubber stamp-mark on the face of its answer may not be overturned by Bignay’s baseless suspicions, claims and insinuations not supported by controverting evidence or proof. It adds that, contrary to Bignay’s assertion, a separate case for the prosecution of its counterclaim is unnecessary since the same may sufficiently be tried in Civil Case No. 94-1129 precisely as a permissive counterclaim; and by allowing its permissive counterclaim, multiplicity of suits is avoided.

In a Reply<sup>35</sup> to the bank’s Comment, Bignay among others vehemently insists that at the time of the rendition of the trial court’s judgment in Civil Case No. 94-1129, Union Bank had not yet paid the docket fees on its counterclaim; the bank’s claim that it paid the docket fees when it filed its *Answer Ad Cautelam* is absolutely questionable. If indeed the bank paid the docket fees, then it should have questioned the trial court’s dismissal of its counterclaim in a motion for reconsideration and attached the receipts showing its payment of the fees; yet it did not. Besides, if indeed the fact of payment of docket fees was stamped on the face of the bank’s *Answer Ad Cautelam* when it filed the same, the trial court should have noticed it, or at least its attention would have been directed to the fact; but it was not. And if indeed the docket fees were paid as early as 1994, it is incredible how Union Bank never informed the trial court of its payment, even after the adverse Decision in the case was rendered. Bignay adds that in a September 12, 2005 letter<sup>36</sup> to the Clerk of Court of the Makati City RTC, its counsel inquired into the circumstances surrounding the sudden appearance of official receipts – copies of which were attached to the letter – indicating that Union Bank paid the docket fees on its permissive counterclaim, when it appears that no such payment was in fact made; up to now, however, it has not received any reply from the said office.

**G.R. No. 171598.** In its Petition in G.R. No. 171598, Union Bank insists

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<sup>34</sup> Id. at 132-139.

<sup>35</sup> Id. at 153-165.

<sup>36</sup> Id. at 166.

that the September 6, 1989 letter-proposal effectively limited its liability for eviction since from said letter it is seen that Bignay knew beforehand of the pendency of Civil Case No. Q-52702. It insists that under the December 20, 1989 deed of sale, it did not make any representations or warranty with respect to the property; thus, the application of Articles 1548 and 1549 of the Civil Code by the CA was erroneous. Thus, the bank seeks a partial reversal of the CA's disposition – particularly the portion of the Decision which holds it liable to pay Bignay the respective sums of ₱4 million for the cost of the land, and ₱20 million for the cost of the building.

In its Comment,<sup>37</sup> Bignay claims that in urging the Court to consider the testimony of Robles and Siy's declaration in the September 6, 1989 letter-proposal, Union Bank is raising questions of fact in its Petition which this Court may not resolve. It likewise reiterates its argument relating to the bank's counterclaim; only this time, Bignay claims that the official receipts evidencing the bank's supposed payment of the docket fees were falsified.

### **Our Ruling**

The Court finds for Bignay.

Indeed, this Court is convinced – from an examination of the evidence and by the concurring opinions of the courts below – that Bignay purchased the property without knowledge of the pending Civil Case No. Q-52702. Union Bank is therefore answerable for its express undertaking under the December 20, 1989 deed of sale to “defend its title to the Parcel/s of Land with improvement thereon against the claims of any person whatsoever.” By this warranty, Union Bank represented to Bignay that it had title to the property, and by assuming the obligation to defend such title, it promised to do so at least in good faith and with sufficient prudence, if not to the best of its abilities.

The record reveals, however, that Union Bank was grossly negligent in the handling and prosecution of Civil Case No. Q-52702. Its appeal of the December 12, 1991 Decision in said case was dismissed by the CA for failure to file the required appellant's brief. Next, the ensuing Petition for Review on *Certiorari* filed with this Court was likewise denied due to late filing and payment of legal fees. Finally, the bank sought the annulment of the December 12, 1991 judgment, yet again, the CA dismissed the petition for its failure to comply with Supreme Court Circular No. 28-91. As a result, the December 12, 1991 Decision became final and executory, and Bignay was evicted from the property. Such negligence in the handling of the case is far from coincidental; it is decidedly glaring, and amounts to bad faith. “[N]egligence may be occasionally so gross as to amount to

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<sup>37</sup> Id. at 172-184.

malice [or bad faith].”<sup>38</sup> Indeed, in *culpa contractual* or breach of contract, gross negligence of a party amounting to bad faith is a ground for the recovery of damages by the injured party.<sup>39</sup>

Eviction shall take place whenever by a final judgment based on a right prior to the sale or an act imputable to the vendor, the vendee is deprived of the whole or of a part of the thing purchased.<sup>40</sup> In case eviction occurs, the vendee shall have the right to demand of the vendor, among others, the return of the value which the thing sold had at the time of the eviction, be it greater or less than the price of the sale; the expenses of the contract, if the vendee has paid them; and the damages and interests, and ornamental expenses, if the sale was made in bad faith.<sup>41</sup> There appears to be no dispute as to the value of the building constructed on the property by Bignay; the only issue raised by Union Bank in these Petitions is the propriety of the award of damages, and the amount thereof is not in issue. The award in favor of Bignay of ₱4 million, or the consideration or cost of the property, and ₱20 million – the value of the building it erected thereon – is no longer in issue and is thus in order.

However, the Court disagrees with the CA on the issue of Union Bank’s counterclaim. Bignay correctly observes that if the bank indeed paid the docket fees therefor, the trial court would have so held in its March 21, 2000 Decision; yet in its judgment, the trial court specifically declared that the docket fees remained unpaid at the time of its writing, thus –

Anent the counterclaims interposed by defendant for the collection of certain sum of money adverted earlier hereof [sic], this Court could not exercise jurisdiction over the same as defendant did not pay the docket fees therefor. Although the counterclaims were denominated as compulsory in the answer, the matters therein alleged were not connected with the plaintiff’s complaint. The counterclaims could stand independently from the plaintiff’s complaint hence they are a [sic] permissive counterclaims. During the pre-trial, this Court had already ruled that the counterclaims were permissive yet the records showed that defendant had not paid the docket fees. This Court therefore has not acquired jurisdiction over said case.<sup>42</sup>

And if it is true that the bank paid the docket fees on its counterclaim as early as in 1994, it would have vigorously insisted on such fact after being apprised of the trial court’s March 21, 2000 Decision. It is indeed surprising that the supposed payment was never raised by the bank in a timely motion for reconsideration, considering that the trial court dismissed its counterclaim; if there is any opportune time to direct the court’s attention to such payment and cause the counterclaim to

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<sup>38</sup> *Bankard, Inc. v. Dr. Feliciano*, 529 Phil. 53, 61 (2006), citing *Fores v. Miranda*, 105 Phil. 266, 276 (1959).

<sup>39</sup> *Cagunon v. Planters Development Bank*, 510 Phil. 51, 63 (2005).

<sup>40</sup> CIVIL CODE, Art. 1548.

<sup>41</sup> CIVIL CODE, Art. 1555.

<sup>42</sup> Records, Vol. II, p. 501.

be reinstated, it was at that point and no other. All it had to do was prove payment by presenting to the court the official receipts or any other acceptable documentary evidence, and thus secure the proper reversal of the ruling on its counterclaim. Still, nothing was heard from the bank on the issue, until it filed its brief with the CA on appeal. Indeed, “whatever is repugnant to the standards of human knowledge, observation and experience becomes incredible and must lie outside judicial cognizance.”<sup>43</sup>

More than the above, this Court finds true and credible the trial court’s express declaration that no docket fees have been paid on the bank’s counterclaim; the trial court’s pronouncement enjoys the presumption of regularity. Indeed, the sudden appearance of the receipts supposedly evidencing payment of the docket fees is highly questionable and irregular, and deserves to be thoroughly investigated; the actuations of the bank relative thereto go against the common experience of mankind, if they are not entirely anomalous.

**WHEREFORE**, the Court resolves as follows:


1. The Petition in G.R. No. 171590 is **GRANTED**. The August 25, 2005 Decision and February 10, 2006 Resolution of the Court of Appeals in CA-G.R. CV No. 67788 are **MODIFIED**, in that Union Bank of the Philippines’s counterclaim is ordered **DISMISSED**.

2. The Petition in G.R. No. 171598 is **DENIED**.

**SO ORDERED.**


  
**MARIANO C. DEL CASTILLO**  
*Associate Justice*

WE CONCUR:

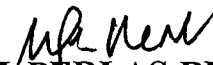
  
**ANTONIO T. CARPIO**  
*Associate Justice*  
*Chairperson*

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<sup>43</sup> *People v. De Guzman*, G.R. No. 192250, July 11, 2012, 676 SCRA 347, 360.

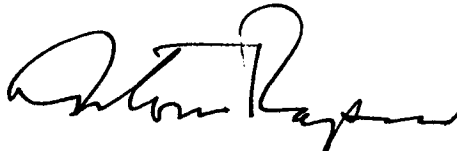
  
**ARTURO D. BRION**  
*Associate Justice*

  
**JOSE PORTUGAL PÉREZ**  
*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 cases were assigned to the writer of the opinion of the Court's Division.

  
**ANTONIO T. CARPIO**  
*Associate Justice*  
*Chairperson*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.

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

