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THIRD DIVISION

[G.R. No. L-61464. May 28, 1988]

BA FINANCE CORPORATION, *petitioner, vs.* **THE HONORABLE COURT OF APPEALS, AUGUSTO YULO, LILY YULO (doing business under the name and style of A & L INDUSTRIES),** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; AUTHENTICATION AND PROOF OF DOCUMENTS; GENUINENESS OF STANDARD, HOW ESTABLISHED.—** In the case of *Plymouth Saving & Loan Ass'n. No. 2 v. Kassing* (125 N.E. 488, 494): "We believe the true rule deduced from the authorities to be that the genuineness of a 'standard' writing may be established (1) by the admission of the person sought to be charged with the disputed writing made at or for the purposes of the trial or by his testimony; (2) by witnesses who saw the standards written or to whom or in whose hearing the person sought to be charged acknowledged the writing thereof; (3) by evidence showing that the reputed writer of the standard has acquiesced in or recognized the same, or that it has been adopted and acted upon by him his business transactions or other concerns. xxx"

2. **ID.; ID.; ID.; ID.; CASE AT BAR.—** The records show that the signatures which were used as "standards" for comparison with the alleged signature of the private respondent in the Special Power of Attorney were those from the latter's residence certificates in the years 1973, 1974 and 1975, her income tax returns for the years 1973 and 1975 and from a document on long bond paper dated May 18, 1977. Not only were the signatures in the foregoing documents admitted by the private respondent as hers but most of the said documents were used by the private respondent in her transactions with the government.

3. *CIVIL LAW; ADMINISTRATION OF CONJUGAL* **PARTNERSHIP; OBLIGATIONS CONTRACTED BY THE HUSBAND TO BE CHARGEABLE AGAINST THE CONJUGAL PARTNERSHIP MUST REDOUND TO ITS BENEFIT.—** There is no dispute that A & L Industries was

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established during the marriage of Augusto and Lily Yulo and therefore the same is presumed conjugal and the fact that it was registered in the name of only one of the spouses does not destroy its conjugal nature. However, for the said property to be held liable, the obligation contracted by the husband must have redounded to the benefit of the conjugal partnership under Article 161 of the Civil Code.

4. **ID.; ID.; ID.; ID.; CASE AT BAR, NOT A CASE OF.**— In the present case, the obligation which the petitioner is seeking to enforce against the conjugal property managed by the private respondent Lily Yulo was undoubtedly contracted by Augusto Yulo for his own benefit because at the time he incurred the obligation he had already abandoned his family and had left their conjugal home. Worse, he made it appear that he was duly authorized by his wife in behalf of A & L Industries, to procure such loan from the petitioner. Clearly, to make A & L Industries liable now for the said loan would be unjust and contrary to the express provision of the Civil Code.

5. **REMEDIAL LAW; PROVISIONAL REMEDIES; ATTACHMENT, WHEN IMPROPER.**— "An attachment may be said to be wrongful when, for instance, the plaintiff has no cause of action, or that there is no true ground therefor, or that the plaintiff has a sufficient security other than the property attached, which is tantamount to saying that the plaintiff is not entitled to attachment because the requirements of entitling him to the writ are wanting.

6. **CIVIL LAW; DAMAGES; UNREALIZED PROFIT; AWARD NOT PROPER WHERE CLAIM IS SPECULATIVE & CONJECTURAL.**— We cannot, however, sustain the award of ₱500,000.00 representing unrealized profits because this amount was not proved or justified before the trial court. The basis of the alleged unearned profits is too speculative and conjectural to show actual damages for a future period. The private respondent failed to present reports on the average actual profits earned by her business and other evidence of profitability which are necessary to prove her claim for the said amount.

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DECISION

GUTIERREZ, JR., *J.*:

This is a petition for review seeking to set aside the decision of the Court of Appeals which affirmed the decision of the then Court of First Instance of Manila, dismissing the complaint instituted by the petitioner and ordering it to pay damages on the basis of the private respondent's counterclaim.

On July 1, 1975, private respondent Augusto Yulo secured a loan from the petitioner in the amount of ₱591,003.59 as evidenced by a promissory note he signed in his own behalf and as representative of the A & L Industries. Respondent Yulo presented an alleged special power of attorney executed by his wife, respondent Lily Yulo, who manages A & L Industries and under whose name the said business is registered, purportedly authorizing Augusto Yulo to procure the loan and sign the promissory note. About two months prior to the loan, however, Augusto Yulo had already left Lily Yulo and their children and had abandoned their conjugal home. When the obligation became due and demandable, Augusto Yulo failed to pay the same.

On October 7, 1975, the petitioner filed its amended complaint against the spouses Augusto and Lily Yulo on the basis of the promissory note. It also prayed for the issuance of a writ of attachment alleging that the said spouses were guilty of fraud in contracting the debt upon which the action was brought and that the fraud consisted of the spouses' inducing the petitioner to enter into a contract with them by executing a Deed of Assignment in favor of the petitioner, assigning all their rights, titles and interests over a construction contract executed by and between the spouses and A. Soriano Corporation on June 19, 1974 for a consideration of ₱615,732.50 when, in truth, the spouses did not have any intention of remitting the proceeds of the said construction contract to the petitioner because despite the provisions in the Deed of Assignment that the spouses shall, without compensation or costs, collect and receive in trust for the petitioner all payments made upon the construction contract

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and shall remit to the petitioner all collections therefrom, the said spouses failed and refused to remit the collections and instead, misappropriated the proceeds for their own use and benefit, without the knowledge or consent of the petitioner.

The trial court issued the writ of attachment prayed for thereby enabling the petitioner to attach the properties of A & L Industries. Apparently not contented with the order, the petitioner filed another motion for the examination of attachment debtor, alleging that the properties attached by the sheriff were not sufficient to secure the satisfaction of any judgment that may be recovered by it in the case. This was likewise granted by the court.

Private respondent Lily Yulo filed her answer with counterclaim, alleging that although Augusto Yulo and she are husband and wife, the former had abandoned her and their children five (5) months before the filing of the complaint; that they were already separated when the promissory note was executed; that her signature in the special power of attorney was forged because she had never authorized Augusto Yulo in any capacity to transact any business for and in behalf of A & L Industries, which is owned by her as a single proprietor, that she never got a single centavo from the proceeds of the loan mentioned in the promissory note; and that as a result of the illegal attachment of her properties, which constituted the assets of the A & L Industries, the latter closed its business and was taken over by the new owner.

After hearing, the trial court rendered judgment dismissing the petitioner's complaint against the private respondent Lily Yulo and A & L Industries and ordering the petitioner to pay the respondent Lily Yulo ₱660,000.00 as actual damages; ₱500,000.00 as unrealized profits; ₱300,000.00 as exemplary damages; ₱30,000.00 as and for attorney's fees; and to pay the costs.

The petitioner appealed. The Court of Appeals affirmed the trial court's decision except for the exemplary damages which it reduced from ₱300,000.00 to ₱150,000.00 and the attorney's fees which were reduced from ₱30,000.00 to ₱20,000.00.

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In resolving the question of whether or not the trial court erred in holding that the signature of respondent Lily Yulo in the special power of attorney was forged, the Court of Appeals said:

"The crucial issue to be determined is whether or not the signatures of the appellee Lily Yulo in Exhibits B and B-1 are forged. Atty. Crispin Ordoña, the Notary Public, admitted in open court that the parties in the subject documents did not sign their signatures in his presence. The same were already signed by the supposed parties and their supposed witnesses at the time they were brought to him for ratification. We quote from the records the pertinent testimony of Atty. Ordoña, thus:

"Q This document marked as Exhibit B-1, when this was presented to you by that common friend, June Enriquez, it was already typewritten, it was already accomplished, all typewritten?

"A Yes, sir.

"Q And the parties had already affixed their signatures in this document?

"A Yes, sir.

"Q In this document marked as Exhibit B although it appears here that this is an acknowledgment, you have not stated here that the principal actually acknowledged this document to be her voluntary act and deed?

"A This is one of those things that escaped my attention. Actually I have not gone over the second page. I believed it was in order I signed it. (TSN., pp. 13-14, Hearing of Nov. 26, 1976).

"The glaring admission by the Notary Public that he failed to state in the acknowledgment portion of Exhibit B-1 that the appellee Lily Yulo acknowledged the said document to be her own voluntary act and deed, is a very strong and commanding circumstance to show that she did not appear personally before the said Notary Public and did not sign the document.

"Additionally, the Notary Public admitted that, while June Enriquez is admittedly a mutual friend of his and the defendant Augusto Yulo,

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and who is also an instrumental witness in said Exhibit B-1, he could not recognize or tell which of the two signatures appearing therein, was the signature of this June Enriquez.

"Furthermore, as the issue is one of credibility of a witness, the findings and conclusions of the trial court before whom said witness, Atty. Crispin Ordoña, the Notary Public before whom the questioned document was supposedly ratified and acknowledged, deserve great respect and are seldom disturbed on appeal by appellate tribunals, since it is in the best and peculiar advantage of determining and observing the conduct, demeanor and deportment of a particular witness while he is testifying in court, an opportunity not enjoyed by the appellate courts who merely have to rely on the recorded proceedings which transpired in the court below, and the records are bare of any circumstance of weight, which the trial court had overlooked and which, if duly considered, may radically affect the outcome of the case.

"On the other hand, the appellee Lily Yulo, to back up her claim of forgery of her signature in Exhibit B-1, presented in court a handwriting expert witness in the person of Police Captain Yakal Giron of the Integrated National Police Training Command, and who is also a Document Examiner of the same Command's Crime Laboratory at Fort Bonifacio, Metro Manila. His experience as an examiner of questioned and disputed documents, in our mind, is quite impressive. To qualify him as a handwriting expert, he declared that he underwent extensive and actual studies and examination of disputed or questioned document, both at the National Bureau of Investigation Academy and National Bureau of Investigation Questioned Document Laboratory, respectively, from July 1964, up to his appointment as Document Examiner in June, 1975, and, to further his experience along this line, he attended the 297th Annual Conference of the American Society of Questioned Document Examiners held at Seattle, Washington, in August 1971, as a representative of the Philippines, and likewise conducted an observation of the present and modern trends of crime laboratories in the West Coast, U.S.A., in 1971; that the likewise had conducted actual tests and examination of about 100,000 documents, as requested by the different courts, administrative, and governmental agencies of the Government, substantial portions of which relate to actual court cases.

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"In concluding that the signatures of the appellee Lily Yulo, in the disputed document in question (Exh. B-1), were all forgeries, and no her genuine signatures, the expert witness categorically recited and specified in open court what he observed to be about twelve (12) glaring and material significant differences, in his comparison of the signatures appearing in the genuine specimen signatures of the said appellee and with those appearing in the questioned document (Exhibit B-1). Indeed, we have likewise seen the supposed notable differences, found in the standard or genuine signatures of the appellee which were lifted and obtained in the official files of the government, such as the Bureau of Internal Revenue on her income tax returns, as compared to the pretended signature of the appellee appearing in Exhibits B, B-1. It is also noteworthy to mention that the appellant did not even bother to conduct a cross-examination of the handwriting expert witness, Capt. Giron, neither did the appellant present another handwriting expert, at least to counter-act or balance the appellee's handwriting expert.

"Prescinding from the foregoing facts, we subscribe fully to the lower court's observations that the signatures of the appellee Lily Yulo in the questioned document (Exh. B-1) were forged. Hence, we find no factual basis to disagree." (pp. 28-30, *Rollo*)

As to the petitioner's contention that even if the signature of Lily Yulo was forged or even if the attached properties were her exclusive property, the same can be made answerable to the obligation because the said properties form part of the conjugal partnership of the spouses Yulo, the appellate court held that these contentions are without merit because there is strong preponderant evidence to show that A & L Industries belongs exclusively to respondent Lily Yulo, namely: a) The Certificate of Registration of A & L Industries, issued by the Bureau of Commerce, showing that said business is a single proprietorship, and that the registered owner thereof is only Lily Yulo; b) The Mayor's Permit issued in favor of A & L Industries, by the Caloocan City Mayor's Office showing compliance by said single proprietorship company with the City Ordinance governing business establishments; and c) The Special Power of Attorney itself, assuming but without admitting its due execution, is tangible proof that Augusto Yulo has no interest whatsoever

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in the A & L Industries, otherwise, there would have been no necessity for the Special Power of Attorney if he is a part owner of said single proprietorship.

With regard to the award of damages, the Court of Appeals affirmed the findings of the trial court that there was bad faith on the part of the petitioner as to entitle the private respondent to damages as shown not only by the fact that the petitioner did not present the Deed of Assignment or the construction agreement or any evidence whatsoever to support its claim of fraud on the part of the private respondent and to justify the issuance of a preliminary attachment, but also by the following findings:

"Continuing and elaborating further on the appellant's *mala fide* actuations in securing the writ of attachment, the lower court stated as follows:

"'Plaintiff not satisfied with the instant case where an order for attachment has already been issued and enforced, on the strength of the same Promissory Note (Exhibit 'A'), utilizing the Deed of Chattel Mortgage (Exhibit '4'), filed a foreclosure proceedings before the Office of the Sheriff of Caloocan (Exhibit '6') foreclosing the remaining properties found inside the premises formerly occupied by the A & L Industries. A minute examination of Exhibit '4' will show that the contracting parties thereto, as appearing in par. 1 thereof, are Augusto Yulo, doing business under the style of A & L Industries (should be A & L Glass Industries Corporation), as mortgagor and BA Finance Corporation as mortgagee, thus the enforcement of the Chattel Mortgage against the property of A & L Industries exclusively owned by Lily T. Yulo appears to be without any factual or legal basis whatsoever. The chattel mortgage, Exhibit '4' and the Promissory Note, Exhibit 'A,' are based on one and the same obligation. Plaintiff tried to enforce as it did enforce its claim into two different modes a single obligation.

"'Aware that defendant Lily Yulo, filed a Motion to Suspend Proceedings by virtue of a complaint she filed with the Court of First Instance of Caloocan, seeking annulment of the Promissory Note, the very basis of the plaintiff in filing this complaint, immediately after the day it filed a Motion for the Issuance of an Alias Writ of Preliminary Attachment . . . Yet,

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inspite of the knowledge and the filing of this Motion to Suspend Proceedings, the Plaintiff still filed a Motion for the Issuance of a Writ of Attachment dated February 6, 1976 before this court. To add insult to injury, plaintiff even filed a Motion for Examination of the Attachment Debtor, although aware that Lily Yulo had already denied participation in the execution of Exhibits "A" and "B." These incidents and actions taken by plaintiff, to the thinking of the court, are sufficient to prove and establish the element of bad faith and malice on the part of plaintiff which may warrant the award of damages in favor of defendant of Lily Yulo. (*Ibid.*, pp. 102-103).'

"Indeed, the existence of evident bad faith on the appellant's part in proceeding against the appellee Lily Yulo in the present case, may likewise be buttressed on the fact that its officer Mr. Abraham Co, did not even bother to demand the production of at least the duplicate original of the Special Power of Attorney (Exhibit B) and merely contended himself with a mere xerox copy thereof, neither did he require a more specific authority from the A & L Industries to contract the loan in question, since from the very content and recitals of the disputed document, no authority, express or implied, has been delegated or granted to August Yulo to contract a loan, especially with the appellant." (pp. 33-34, *Rollo*)

Concerning the actual damages, the appellate court ruled that the petitioner should have presented evidence to disprove or rebut the private respondent's claim but it remained quiet and chose not to disturb the testimony and the evidence presented by the private respondent to prove her claim.

In this petition for *certiorari*, the petitioner raises three issues. The first issue deals with the appellate court's affirmance of the trial court's findings that the signature of the private respondent on the Special Power of Attorney was forged. According to the petitioner, the Court of Appeals disregarded the direct mandate of Section 23, Rule 132 of the Rules of Court which states in part that evidence of handwriting by comparison may be made "with writings admitted or treated as genuine by the party against whom the evidence is offered, or proved to be genuine to the satisfaction of the judge," and that there is no evidence on record which proves or tends to prove the genuineness of the standards used.

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There is no merit in this contention.

The records show that the signatures which were used as "standards" for comparison with the alleged signature of the private respondent in the Special Power of Attorney were those from the latter's residence certificates in the years 1973, 1974 and 1975, her income tax returns for the years 1973 and 1975 and from a document on long bond paper dated May 18, 1977. Not only were the signatures in the foregoing documents admitted by the private respondent as hers but most of the said documents were used by the private respondent in her transactions with the government. As was held in the case of *Plymouth Saving & Loan Ass'n. No. 2 v. Kassing* (125 N.E. 488, 494):

"We believe the true rule deduced from the authorities to be that the genuineness of a 'standard' writing may be established (1) by the admission of the person sought to be charged with the disputed writing made at or for the purposes of the trial or by his testimony; (2) by witnesses who saw the standards written or to whom or in whose hearing the person sought to be charged acknowledged the writing thereof; (3) by evidence showing that the reputed writer of the standard has acquiesced in or recognized the same, or that it has been adopted and acted upon by him his business transactions or other concerns. xxx"

Furthermore, the judge found such signatures to be sufficient as standards. In the case of *Taylor-Wharton Iron & Steel Co. v. Earnshaw* (156 N.E. 855, 856), it was held:

"When a writing is offered as a standard of comparison it is for the presiding judge to decide whether it is the handwriting of the party to be charged. 'Unless his finding is founded upon error of law, or upon evidence which is, as matter of law, insufficient to justify the finding, this court will not revise it upon exceptions.' (*Costelo v. Crowell*, 139 Mass. 588, 590, 2 N.E. 648; *Nuñez v. Perry*, 113 Mass, 274, 276.)"

We cannot find any error on the part of the trial judge in using the above documents as standards and also in giving credence to the expert witness presented by the private respondent whose testimony the petitioner failed to rebut and whose credibility it likewise failed to impeach. But more important is the fact that

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the unrebutted handwriting expert's testimony noted twelve (12) *glaring and material differences in the alleged signature of the* private respondent in the Special Power of Attorney as compared with the specimen signatures, something which the appellate court also took into account. In *Cesar v. Sandiganbayan* (134 SCRA 105, 132), we ruled:

"Mr. Maniwang pointed to other significant divergences and distinctive characteristics between the sample signatures and the signatures on the questioned checks in his report which the court's Presiding Justice kept mentioning during Maniwang's testimony.

"In the course of his cross-examination, NBI expert Tabayoyong admitted that he saw the differences between the exemplars used and the questioned signatures but he dismissed the differences because he did not consider them fundamental. We rule that significant differences are more fundamental than a few similarities. A forger always strives to master some similarities."

The second issue raised by the petitioner is that while it is true that A & L Industries is a single proprietorship and the registered owner thereof is private respondent Lily Yulo, the said proprietorship was established during the marriage and its assets were also acquired during the same. Therefore, it is presumed that this property forms part of the conjugal partnership of the spouses Augusto and Lily Yulo and thus, could be held liable for the obligations contracted by Augusto Yulo, as administrator of the partnership.

There is no dispute that A & L Industries was established during the marriage of Augusto and Lily Yulo and therefore the same is presumed conjugal and the fact that it was registered in the name of only one of the spouses does not destroy its conjugal nature (See *Mendoza v. Reyes*, 124 SCRA 161, 165). However, for the said property to be held liable, the obligation contracted by the husband must have redounded to the benefit of the conjugal partnership under Article 161 of the Civil Code. In the present case, the obligation which the petitioner is seeking to enforce against the conjugal property managed by the private respondent Lily Yulo was undoubtedly contracted by Augusto Yulo for his own benefit because at the time he incurred the obligation he

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had already abandoned his family and had left their conjugal home. Worse, he made it appear that he was duly authorized by his wife in behalf of A & L Industries, to procure such loan from the petitioner. Clearly, to make A & L Industries liable now for the said loan would be unjust and contrary to the express provision of the Civil Code. As we have ruled in *Luzon Surety Co., Inc. v. De Garcia* (30 SCRA 111, 115-117):

"As explained in the decision now under review: It is true that the husband is the administrator of the conjugal property pursuant to the provisions of Art. 163 of the new Civil Code. However, as such administrator the only obligations incurred by the husband that are chargeable against the conjugal property are those incurred in the legitimate pursuit of his career, profession or business with the honest benefit that he is doing right for the benefit of the family. This is not true in the case at bar for we believe that the husband in acting as guarantor or surety for another in am indemnity agreement as that involved in this case did not act for the benefit of the conjugal partnership. Such inference is more emphatic in this case, when no proof is presented that Vicente Garcia in acting as surety or guarantor received consideration therefor, which may redound to the benefit of the conjugal partnership.' (*Ibid*, pp. 46-47).

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". . . In the most categorical language, a conjugal partnership under that provision is liable only for such 'debts and obligations contracted by the husband for the benefit of the conjugal partnership.' There must be the requisite showing then of some advantage which clearly accrued to the welfare of the spouses. There is none in this case. xxx

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"Moreover, it would negate the plain object of the additional requirement in the present Civil Code that a debt contracted by the husband to bind a conjugal partnership must redound to its benefit. That is still another provision indicative of the solicitude and tender regard that the law manifests for the family as a unit. Its interest is paramount; its welfare uppermost in the minds of the codifiers and legislators."

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We, therefore, rule that the petitioner cannot enforce the obligation contracted by Augusto Yulo against his conjugal properties with respondent Lily Yulo. Thus, it follows that the writ of attachment cannot issue against the said properties.

Finally, the third issue assails the award of actual damages. According to the petitioner, both the lower court and the appellate court overlooked the fact that the properties referred to are still subject to a levy on attachment. They are, therefore, still under *custodia legis and thus, the assailed decision should have included* a declaration as to who is entitled to the attached properties and that assuming arguendo that the attachment was erroneous, the lower court should have ordered the sheriff to return to the *private respondent the attached properties instead of condemning* the petitioner to pay the value thereof by way of actual damages.

In the case of *Lazatin v. Twaño* (2 SCRA 842, 847), we ruled:

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"xxx It should be observed that Sec. 4 of Rule 59, does not prescribe the remedies available to the attachment defendant in case of a wrongful attachment, but merely provides an action for recovery upon the bond, based on the undertaking therein made and not upon the liability arising from a tortious act, like the malicious suing out of an attachment. Under the first, where malice is not essential, the *attachment defendant, is entitled to recover only the actual damages* sustained by him by reason of the attachment. Under the second, where the attachment is maliciously sued out, the damages recoverable may include a compensation for every injury to his credit, business or feelings (*Tyler v. Mahoney*, 168 NC 237, 84 SE 362; Pittsburg etc., 5 Wakefield, etc., 135 NC 73, 47 SE 234). xxx"

The question before us, therefore, is whether the attachment of the properties of A & L Industries was wrongful so as to entitle the petitioner to actual damages only or whether the said attachment was made in bad faith and with malice to warrant the award of other kinds of damages. Moreover, if the private respondent is entitled only to actual damages, was the court justified in ordering the petitioner to pay for the value of the

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attached properties instead of ordering the return of the said properties to the private respondent Lily Yulo?

Both the trial and appellate courts found that there was bad faith on the part of the petitioner in securing the writ of attachment. We do not think so. "An attachment may be said to be wrongful when, for instance, the plaintiff has no cause of action, or that there is no true ground therefor, or that the plaintiff has a sufficient security other than the property attached, which is tantamount to saying that the plaintiff is not entitled to attachment because the requirements of entitling him to the writ are wanting. (7 C.J.S., 664)" (p. 48, Section 4, Rule 57, Francisco, Revised Rules of Court)

Although the petitioner failed to prove the ground relied upon for the issuance of the writ of attachment, this failure cannot be equated with bad faith or malicious intent. The steps which were taken by the petitioner to ensure the security of its claim were premised on the firm belief that the properties involved could be made answerable for the unpaid obligation due it. There is no question that a loan in the amount of ₱591,003.59 was borrowed from the bank.

We, thus, find that the petitioner is liable only for actual damages and not for exemplary damages and attorney's fees. Respondent Lily Yulo has manifested before this Court that she no longer desires the return of the attached properties since the said attachment caused her to close down the business. From that time she has become a mere employee of the new owner of the premises. She has grave doubts as to the running condition of the attached machineries and equipments considering that the attachment was effected way back in 1975. She states as a matter of fact that the petitioner has already caused the sale of the machineries for fear that they might be destroyed due to prolonged litigation. We, therefore, deem it just and equitable to allow private respondent Lily Yulo to recover actual damages based on the value of the attached properties as proven in the trial court, in the amount of ₱660,000.00. In turn, if there are any remaining attached properties, they should be permanently released to herein petitioner.

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We cannot, however, sustain the award of ₱500,000.00 representing unrealized profits because this amount was not proved or justified before the trial court. The basis of the alleged unearned profits is too speculative and conjectural to show actual damages for a future period. The private respondent failed to present reports on the average actual profits earned by her business and other evidence of profitability which are necessary to prove her claim for the said amount (See *G. A. Machineries, Inc. v. Yaptinchay*, 126 SCRA 78, 88).

The judgment is therefore set aside insofar as it holds the petitioner liable for ₱500,000.00 actual damages representing unrealized profits, ₱150,000.00 for exemplary damages and ₱20,000.00 for attorney's fees. As stated earlier, the attached properties, should be released in favor of the petitioner.

WHEREFORE, the decision of the Court of Appeals is hereby SET ASIDE and the petitioner is ordered to pay the private respondent Lily Yulo the amount of SIX HUNDRED SIXTY THOUSAND PESOS (₱660,000.00) as actual damages. The remaining properties subject of the attachment are ordered released in favor of the petitioner.

SO ORDERED.

Fernan (Chairman), Feliciano, Bidin, and *Cortes. JJ.,* concur.

FIRST DIVISION

[G.R. No. 66884. May 28. 1988]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **VICENTE TEMBLOR** ***alias*** **"RONALD,"** *defendant-appellant.*