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SO ORDERED.

Puno, C.J. (Chairperson), Corona, Azcuna, and *Leonardo-de Castro, JJ.,* concur.

FIRST DIVISION

[G.R. No. 160273. January 18, 2008]

CEBU COUNTRY CLUB, INC., SABINO R. DAPAT, RUBEN D. ALMENDRAS, JULIUS Z. NERI, DOUGLAS L. LUYM, CESAR T. LIBI, RAMONTITO[*] E. GARCIA and JOSE B. SALA, *petitioners, vs.* **RICARDO F. ELIZAGAQUE,** *respondent.*

SYLLABUS

1. CIVIL LAW; HUMAN RELATIONS; PETITIONERS' VIOLATED THE RULES GOVERNING HUMAN RELATIONS IN REJECTING RESPONDENT'S APPLICATION FOR PROPRIETARY MEMBERSHIP. — In rejecting respondent's application for proprietary membership, we find that petitioners violated the rules governing human relations, the basic principles to be observed for the rightful relationship between human beings and for the stability of social order. The trial court and the Court of Appeals aptly held that petitioners committed fraud and evident bad faith in disapproving respondent's applications. This is contrary to morals, good custom or public policy. Hence, petitioners are liable for damages pursuant to Article 19 in relation to Article 21 of the same Code. It bears stressing that the amendment to Section 3(c) of CCCI's Amended By-Laws requiring the unanimous vote of the directors present at a special or regular meeting was **not printed** on the application form respondent

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[*] Also referred to as "Ramonito" in the records of the case.

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filled and submitted to CCCI. What was printed thereon was the original provision of Section 3(c) which was silent on the required number of votes needed for admission of an applicant as a proprietary member.

2. ID.; ID.; ID.; PETITIONERS' SHOULD HAVE, AT THE VERY LEAST, INFORMED RESPONDENT WHY HIS APPLICATION WAS DISAPPROVED AND NOT LEFT GROPING IN THE DARK WONDERING WHY; PRINCIPLE OF *DAMNUM ABSQUE INJURIA* OR DAMAGE WITHOUT INJURY DOES NOT APPLY WHEN THERE IS AN ABUSE OF A PERSON'S RIGHT. — Petitioners explained that the amendment was not printed on the application form due to economic reasons. We find this excuse flimsy and unconvincing. Such amendment, aside from being extremely significant, was introduced way back in 1978 or almost twenty (20) years before respondent filed his application. We cannot fathom why such a prestigious and exclusive golf country club, like the CCCI, whose members are all affluent, did not have enough money to cause the printing of an updated application form. It is thus clear that respondent was left groping in the dark wondering why his application was disapproved. He was not even informed that a unanimous vote of the Board members was required. When he sent a letter for reconsideration and an inquiry whether there was an objection to his application, petitioners apparently ignored him. Certainly, respondent did not deserve this kind of treatment. Having been designated by San Miguel Corporation as a special non-proprietary member of CCCI, he should have been treated by petitioners with courtesy and civility. At the very least, they should have informed him why his application was disapproved. The exercise of a right, though legal by itself, must nonetheless be in accordance with the proper norm. When the right is exercised arbitrarily, unjustly or excessively and results in damage to another, a legal wrong is committed for which the wrongdoer must be held responsible. It bears reiterating that the trial court and the Court of Appeals held that petitioners' disapproval of respondent's application is characterized by bad faith. As to petitioners' reliance on the principle of *damnum absque injuria* or damage without injury, suffice it to state that the same is misplaced. In *Amonoy v. Gutierrez*, we held that this principle does not apply when **there is an abuse of a person's right**, as in this case.

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3. ID.; DAMAGES; MORAL DAMAGES; UPHELD; AMOUNT REASONABLY REDUCED TAKING INTO CONSIDERATION THE ATTENDING CIRCUMSTANCES. — As to the appellate court's award to respondent of moral damages, we find the same in order. Under Article 2219 of the New Civil Code, moral damages may be recovered, among others, in acts and actions referred to in Article 21. We believe respondent's testimony that he suffered mental anguish, social humiliation and wounded feelings as a result of the arbitrary denial of his application. However, the amount of ₱2,000,000.00 is excessive. While there is no hard-and-fast rule in determining what would be a fair and reasonable amount of moral damages, the same should not be palpably and scandalously excessive. Moral damages are not intended to impose a penalty to the wrongdoer, neither to enrich the claimant at the expense of the defendant. Taking into consideration the attending circumstances here, we hold that an award to respondent of ₱50,000.00, instead of ₱2,000,000.00, as moral damages is reasonable.

4. ID.; ID.; EXEMPLARY DAMAGES; LIKEWISE UPHELD AND REDUCED; IMPOSED NOT TO ENRICH ONE PARTY OR IMPOVERISH ANOTHER BUT TO SERVE AS DETERRENT AGAINST OR AS A NEGATIVE INCENTIVE TO CURB SOCIALLY DELETERIOUS ACTIONS. — Anent the award of exemplary damages, Article 2229 allows it by way of example or correction for the public good. Nonetheless, since exemplary damages are imposed not to enrich one party or impoverish another but to serve as a deterrent against or as a negative incentive to curb socially deleterious actions, we reduce the amount from ₱1,000,000.00 to ₱25,000.00 only.

5. ID.; ID.; ATTORNEY'S FEES AND LITIGATION EXPENSES; MAY BE RECOVERED IN CASES WHEN EXEMPLARY DAMAGES ARE AWARDED AND WHERE THE COURT DEEMS IT JUST AND EQUITABLE. — On the matter of attorney's fees and litigation expenses, Article 2208 of the same Code provides, among others, that attorney's fees and expenses of litigation may be recovered in cases when exemplary damages are awarded and where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered, as in this case. In any event, however, such award must be reasonable, just and equitable. Thus, we reduce the

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amount of attorney's fees (₱500,000.00) and litigation expenses (₱50,000.00) to ₱50,000.00 and ₱25,000.00, respectively.

6. MERCANTILE LAW; CORPORATION CODE; PETITIONERS ARE JOINTLY AND SEVERALLY LIABLE FOR DAMAGES EVEN IF ONLY ONE (1) OF THEM VOTED FOR THE DISAPPROVAL OF RESPONDENT'S APPLICATION UNDER SECTION 31 OF THE CORPORATION CODE. — Lastly, petitioners' argument that they could not be held jointly and severally liable for damages because only one (1) voted for the disapproval of respondent's application lacks merit. Section 31 of the Corporation Code provides: SEC. 31. Liability of directors, trustees or officers. — Directors or trustees who willfully and knowingly vote for or assent to patently unlawful acts of the corporation or who are guilty of gross negligence or **bad faith** in directing the affairs of the corporation or acquire any personal or pecuniary interest in conflict with their duty as such directors, or trustees shall be **liable jointly and severally** for all damages resulting therefrom suffered by the corporation, its stockholders or members and other persons.

APPEARANCES OF COUNSEL

J. Neri and Associates Law Firm for petitioners.
Farcon Gabriel Farcon and Associates for respondent.

D E C I S I O N

SANDOVAL-GUTIERREZ, *J.*:

For our resolution is the instant Petition for Review on *Certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision[1] dated January 31, 2003 and Resolution dated October 2, 2003 of the Court of Appeals in CA-G.R. CV No. 71506.

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[1] Penned by Associate Justice Remedios A. Salazar-Fernando and concurred in by then Associate Justice Ruben T. Reyes (now a member of this Court) and Associate Justice Edgardo F. Sundiam.

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The facts are:

Cebu Country Club, Inc. (CCCI), petitioner, is a domestic corporation operating as a non-profit and non-stock private membership club, having its principal place of business in Banilad, Cebu City. Petitioners herein are members of its Board of Directors.

Sometime in 1987, San Miguel Corporation, a special company proprietary member of CCCI, designated respondent Ricardo F. Elizagaque, its Senior Vice President and Operations Manager for the Visayas and Mindanao, as a special non-proprietary member. The designation was thereafter approved by the CCCI's Board of Directors.

In 1996, respondent filed with CCCI an application for proprietary membership. The application was indorsed by CCCI's two (2) proprietary members, namely: Edmundo T. Misa and Silvano Ludo.

As the price of a proprietary share was around the ₱5 million range, Benito Unchuan, then president of CCCI, offered to sell respondent a share for only ₱3.5 million. Respondent, however, purchased the share of a certain Dr. Butalid for only ₱3 million. Consequently, on September 6, 1996, CCCI issued Proprietary Ownership Certificate No. 1446 to respondent.

During the meetings dated April 4, 1997 and May 30, 1997 of the CCCI Board of Directors, action on respondent's application for proprietary membership was deferred. In another Board meeting held on July 30, 1997, respondent's application was voted upon. Subsequently, or on August 1, 1997, respondent received a letter from Julius Z. Neri, CCCI's corporate secretary, informing him that the Board disapproved his application for proprietary membership.

On August 6, 1997, Edmundo T. Misa, on behalf of respondent, wrote CCCI a letter of reconsideration. As CCCI did not answer, respondent, on October 7, 1997, wrote another letter of reconsideration. Still, CCCI kept silent. On November 5, 1997, respondent again sent CCCI a letter inquiring whether any member

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of the Board objected to his application. Again, CCCI did not reply.

Consequently, on December 23, 1998, respondent filed with the Regional Trial Court (RTC), Branch 71, Pasig City a complaint for damages against petitioners, docketed as Civil Case No. 67190.

After trial, the RTC rendered its Decision dated February 14, 2001 in favor of respondent, thus:

> WHEREFORE, judgment is hereby rendered in favor of plaintiff:
>
> 1. Ordering defendants to pay, jointly and severally, plaintiff the amount of ₱2,340,000.00 as actual or compensatory damages.
>
> 2. Ordering defendants to pay, jointly and severally, plaintiff the amount of ₱5,000,000.00 as moral damages.
>
> 3. Ordering defendants to pay, jointly and severally, plaintiff the amount of ₱1,000,000.00 as exemplary damages.
>
> 4. Ordering defendants to pay, jointly and severally, plaintiff the amount of ₱1,000,000.00 as and by way of attorney's fees and ₱80,000.00 as litigation expenses.
>
> 5. Costs of suit.
>
> Counterclaims are hereby DISMISSED for lack of merit.
>
> SO ORDERED.[2]

On appeal by petitioners, the Court of Appeals, in its Decision dated January 31, 2003, affirmed the trial court's Decision with modification, thus:

> WHEREFORE, premises considered, the assailed Decision dated February 14, 2001 of the Regional Trial Court, Branch 71, Pasig City in Civil Case No. 67190 is hereby AFFIRMED with MODIFICATION as follows:
>
> 1. Ordering defendants-appellants to pay, jointly and severally, plaintiff-appellee the amount of ₱2,000,000.00 as moral damages;
>
> 2. Ordering defendants-appellants to pay, jointly and severally, plaintiff-appellee the amount of ₱1,000,000.00 as exemplary damages;

[2] Annex "C" of the petition, *rollo*, pp. 65-91.

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3. Ordering defendants-appellants to pay, jointly and severally, plaintiff-appellee the mount of ₱500,000.00 as attorney's fees and ₱50,000.00 as litigation expenses; and

4. Costs of the suit.

The counterclaims are DISMISSED for lack of merit.

SO ORDERED.[3]

On March 3, 2003, petitioners filed a motion for reconsideration and motion for leave to set the motion for oral arguments. In its Resolution[4] dated October 2, 2003, the appellate court denied the motions for lack of merit.

Hence, the present petition.

The issue for our resolution is whether in disapproving respondent's application for proprietary membership with CCCI, petitioners are liable to respondent for damages, and if so, whether their liability is joint and several.

Petitioners contend, *inter alia*, that the Court of Appeals erred in awarding exorbitant damages to respondent despite the lack of evidence that they acted in bad faith in disapproving the latter's application; and in disregarding their defense of *damnum absque injuria*.

For his part, respondent maintains that the petition lacks merit, hence, should be denied.

CCCI's Articles of Incorporation provide in part:

SEVENTH: That this is a non-stock corporation and membership therein as well as the right of participation in its assets shall be limited to qualified persons who are duly accredited owners of Proprietary Ownership Certificates issued by the corporation in accordance with its By-Laws.

Corollary, Section 3, Article 1 of CCCI's Amended By-Laws provides:

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[3] Annex "A" of the petition, *id.*, pp. 40-62.

[4] Annex "B" of the petition, *id.*, pp. 63-64.

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SECTION 3. HOW MEMBERS ARE ELECTED – The procedure for the admission of new members of the Club shall be as follows:

(a) Any proprietary member, seconded by another voting proprietary member, shall submit to the Secretary a written proposal for the admission of a candidate to the "Eligible-for-Membership List";

(b) Such proposal shall be posted by the Secretary for a period of thirty (30) days on the Club bulletin board during which time any member may interpose objections to the admission of the applicant by communicating the same to the Board of Directors;

(c) After the expiration of the aforesaid thirty (30) days, if no objections have been filed or if there are, the Board considers the objections unmeritorious, the candidate shall be qualified for inclusion in the "Eligible-for-Membership List";

(d) Once included in the "Eligible-for-Membership List" and after the candidate shall have acquired in his name a valid POC duly recorded in the books of the corporation as his own, he shall become a Proprietary Member, upon a non-refundable admission fee of ₱1,000.00, provided that admission fees will only be collected once from any person.

On March 1, 1978, Section 3(c) was amended to read as follows:

(c) After the expiration of the aforesaid thirty (30) days, the Board may, by **unanimous vote of all directors present at a regular or special meeting**, approve the inclusion of the candidate in the "Eligible-for-Membership List."

As shown by the records, the Board adopted a secret balloting known as the "black ball system" of voting wherein each member will drop a ball in the ballot box. A white ball represents conformity to the admission of an applicant, while a black ball means disapproval. Pursuant to Section 3(c), as amended, cited above, a unanimous vote of the directors is required. When respondent's application for proprietary membership was voted upon during the Board meeting on July 30, 1997, the ballot box contained one (1) black ball. Thus, for lack of unanimity, his application was disapproved.

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Obviously, the CCCI Board of Directors, under its Articles of Incorporation, has the right to approve or disapprove an application for proprietary membership. But such right should not be exercised arbitrarily. Articles 19 and 21 of the Civil Code on the Chapter on Human Relations provide restrictions, thus:

> Article 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.
>
> Article 21. Any person who willfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage.

In *GF Equity, Inc. v. Valenzona*,[5] we expounded Article 19 and correlated it with Article 21, thus:

> This article, known to contain what is commonly referred to as the principle of abuse of rights, sets certain standards which must be observed not only in the exercise of one's rights but also in the performance of one's duties. These standards are the following: to act with justice; to give everyone his due; and to observe honesty and good faith. The law, therefore, recognizes a primordial limitation on all rights; that in their exercise, the norms of human conduct set forth in Article 19 must be observed. **A right, though by itself legal because recognized or granted by law as such, may nevertheless become the source of some illegality. When a right is exercised in a manner which does not conform with the norms enshrined in Article 19 and results in damage to another, a legal wrong is thereby committed for which the wrongdoer must be held responsible.** But while Article 19 lays down a rule of conduct for the government of human relations and for the maintenance of social order, it does not provide a remedy for its violation. Generally, an action for damages under either Article 20 or Article 21 would be proper. (Emphasis in the original)

In rejecting respondent's application for proprietary membership, we find that petitioners violated the rules governing

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[5] G.R. No. 156841, June 30, 2005, 462 SCRA 466.

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human relations, the basic principles to be observed for the rightful relationship between human beings and for the stability of social order. The trial court and the Court of Appeals aptly held that petitioners committed fraud and evident bad faith in disapproving respondent's applications. This is contrary to morals, good custom or public policy. Hence, petitioners are liable for damages pursuant to Article 19 in relation to Article 21 of the same Code.

It bears stressing that the amendment to Section 3(c) of CCCI's Amended By-Laws requiring the unanimous vote of the directors present at a special or regular meeting was **not printed** on the application form respondent filled and submitted to CCCI. What was printed thereon was the original provision of Section 3(c) which was silent on the required number of votes needed for admission of an applicant as a proprietary member.

Petitioners explained that the amendment was not printed on the application form due to economic reasons. We find this excuse flimsy and unconvincing. Such amendment, aside from being extremely significant, was introduced way back in 1978 or almost twenty (20) years before respondent filed his application. We cannot fathom why such a prestigious and exclusive golf country club, like the CCCI, whose members are all affluent, did not have enough money to cause the printing of an updated application form.

It is thus clear that respondent was left groping in the dark wondering why his application was disapproved. He was not even informed that a unanimous vote of the Board members was required. When he sent a letter for reconsideration and an inquiry whether there was an objection to his application, petitioners apparently ignored him. Certainly, respondent did not deserve this kind of treatment. Having been designated by San Miguel Corporation as a special non-proprietary member of CCCI, he should have been treated by petitioners with courtesy and civility. At the very least, they should have informed him why his application was disapproved.

The exercise of a right, though legal by itself, must nonetheless be in accordance with the proper norm. When the right is exercised

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arbitrarily, unjustly or excessively and results in damage to another, a legal wrong is committed for which the wrongdoer must be held responsible.[6] It bears reiterating that the trial court and the Court of Appeals held that petitioners' disapproval of respondent's application is characterized by bad faith.

As to petitioners' reliance on the principle of *damnum absque injuria* or damage without injury, suffice it to state that the same is misplaced. In *Amonoy v. Gutierrez*,[7] we held that this principle does not apply when **there is an abuse of a person's right**, as in this case.

As to the appellate court's award to respondent of moral damages, we find the same in order. Under Article 2219 of the New Civil Code, moral damages may be recovered, among others, in acts and actions referred to in Article 21. We believe respondent's testimony that he suffered mental anguish, social humiliation and wounded feelings as a result of the arbitrary denial of his application. However, the amount of ₱2,000,000.00 is excessive. While there is no hard-and-fast rule in determining what would be a fair and reasonable amount of moral damages, the same should not be palpably and scandalously excessive. Moral damages are not intended to impose a penalty to the wrongdoer, neither to enrich the claimant at the expense of the defendant.[8] Taking into consideration the attending circumstances here, we hold that an award to respondent of ₱50,000.00, instead of ₱2,000,000.00, as moral damages is reasonable.

Anent the award of exemplary damages, Article 2229 allows it by way of example or correction for the public good. Nonetheless, since exemplary damages are imposed not to enrich one party or impoverish another but to serve as a deterrent against or as a negative incentive to curb socially deleterious

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[6] *Solidbank Corporation v. Mindanao Ferroalloy Corporation*, G.R. No. 153535, July 28, 2005, 464 SCRA 409, 428, citing *Metropolitan Waterworks and Sewerage System v. Act Theater, Inc.*, 432 SCRA 418, 422 (2004).

[7] G.R. No. 140420, February 15, 2001, 351 SCRA 731.

[8] *Lamis v. Ong*, G.R. No. 148923, August 11, 2005, 466 SCRA 510, 519.

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actions,[9] we reduce the amount from ₱1,000,000.00 to ₱25,000.00 only.

On the matter of attorney's fees and litigation expenses, Article 2208 of the same Code provides, among others, that attorney's fees and expenses of litigation may be recovered in cases when exemplary damages are awarded and where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered, as in this case. In any event, however, such award must be reasonable, just and equitable. Thus, we reduce the amount of attorney's fees (₱500,000.00) and litigation expenses (₱50,000.00) to ₱50,000.00 and ₱25,000.00, respectively.

Lastly, petitioners' argument that they could not be held jointly and severally liable for damages because only one (1) voted for the disapproval of respondent's application lacks merit.

Section 31 of the Corporation Code provides:

> SEC. 31. Liability of directors, trustees or officers. — Directors or trustees who willfully and knowingly vote for or assent to patently unlawful acts of the corporation or who are guilty of gross negligence or **bad faith** in directing the affairs of the corporation or acquire any personal or pecuniary interest in conflict with their duty as such directors, or trustees shall be **liable jointly and severally** for all damages resulting therefrom suffered by the corporation, its stockholders or members and other persons. (Emphasis ours)

WHEREFORE, we *DENY* the petition. The challenged Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 71506 are *AFFIRMED* with modification in the sense that (a) the award of moral damages is reduced from ₱2,000,000.00 to ₱50,000.00; (b) the award of exemplary damages is reduced from ₱1,000,000.00 to ₱25,000.00; and (c) the award of attorney's fees and litigation expenses is reduced from ₱500,000.00 and ₱50,000.00 to ₱50,000.00 and ₱25,000.00, respectively.

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[9] *Country Bankers Insurance Corporation v. Lianga Bay and Community Multi-Purpose Cooperative, Inc.*, G.R. No. 136914, January 25, 2002, 374 SCRA 653.

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Costs against petitioners.

SO ORDERED.

Puno, C.J. (Chairperson), Corona, Azcuna, and *Leonardo-de Castro, JJ.,* concur.