Torts cases and digest

Law, Common Law

SERGIO F. NAGUIAT, doing business under the name and style SERGIO F. NAGUIAT ENT. , INC. , & CLARK FIELD TAXI, INC. , petitioners, NATIONAL LABOR RELATIONS COMMISSION (THIRD DIVISION), NATIONAL ORGANIZATION OF WORKINGMEN and its members, LEONARDO T. GALANG, et al. , respondents. FACTS: Naguiat is the president and a stockholder of Clark Field Taxi, Inc. (CFT). Due to the phase-out of the US bases in the country, Clark Air Base was closed and the taxi drivers of CFTI were separated from service.

The drivers filed a complaint for the payment of sep. pay due to the termination/phase-out. NLRC held Naguiat and the company solidarily liable for the payment of sep. pay. ISSUE: WON Naguait should be held solidarily liable with CFTI. YES. HELD: Under the Corporation Code, Naguait is liable bec: (1) he actively managed the business; (2) there was evidence that CFTI obtained reasonably adequate insurance; and (3) there was a corporate tort in this case. Our jurisprudence is wanting to the definite scope of “ corporate tort. Essentially, “ tort” consists in the violation of a right given or the omission of a duty imposed by law. Simply stated, it is a breach of legal duty. PHILIPPINE NATIONAL BANK, petitioner, vs. THE COURT OF APPEALS, RITA GUECO TAPNIO, CECILIO GUECO and THE PHILIPPINE AMERICAN GENERAL INSURANCE COMPANY, INC. , respondents. Medina, Locsin, Coruna, & Sumbillo for petitioner. Manuel Lim & Associates for private respondents. Facts: Rita Gueco Tapnio had an export sugar quota of 1, 000 piculs for the agricultural year 1956-1957.

Since, she did not need it, she agreed to allow Mr. Jacobo Tuazon to use the said quotafor consideration of 2, 500. Her sugar cannot be exported without

sugar quota allotments. Sometimes, however a planter harvests less sugar than her quota so her excess quota is usedby her mother who pays for it. This is her arrangement with Mr. Tuazon. At the time of theagreement, she was indebted to PNB of San Fernando, Pampanga. Her indebtedness wasknown as a crop loan and was secured by her sugar crop, and since her quota was mortgagedto PNB, her arrangement with Mr.

Tuazon had to be approved by the bank. Upon presentmentof the lease arrangement, the PNB branch manager revised it by increasing the lease amount to P2. 80 per picul for a total of P2, 800. Such increase was agreed to by both Rita and Jacobo. However, when it was presented to the Board of Directors for approval, they further increasedthe amount to P3. 00 per picul. Jacobo asked for the reconsideration but he was denied thesame. The matter stood as it was until Jacobo informed Rita and PNB that he had lost interestin pursuing the deal.

In the meantime, the debt of Rita with the PNB matured. Since she had asurety agreement with the Philippine American General Insurance Co. Inc. (Philamgen), thelatter paid her outstanding debt. Philamgen in turn demanded from Rita the amount whichthey paid the bank. Instead of paying the bank, Rita claimed that she told Philamgen that shedid not consider herself indebted to the bank since she had an agreement with Jacobo Tuazon. When such was discontinued, she failed to realized the income with which she couldhave paid her creditors.

Philamgen filed a complaint for the collection of sum of moneyagainst Rita. Rita implicated PNB as a third party defendant claiming that herfailureto paywas due to the fault or negligence of PNB. Issue: WON PNB is liable for

the damage caused to Rita. Held: ? There is no question that Rita’s failure to utilize her sugar quota was due to thedisapproval of the lease by the Board of Directors of the petitioner, thus PNB should beheld liable. ? The Board justified the increase to P 3. 00 per picul by saying that it was the prevalent rateat that time.

However, there was no proof that any other person was willing to lease thesugar quota allotment of Rita for a price higher than P2. 80 per picul. Just because thereare isolated transactions where the lease price was P3. 00 per picul does not mean thatthere are always ready takers. ? While PNB had the ultimate authority of approving or disapproving the proposed leasesince the quota was mortgaged to the bank, the latter certainly cannot escape itsresponsibility of observing precaution and vigilance which the circumstances of the case justly demanded in approving or disapproving the lease of said sugar quota. According to Art. 19 of the Civil Code, “[e]very person must in the exercise of his rightsand the performance of his duties, act with justice, give everyone his due and observehonesty and good faith. ” This the petitioner failed to do. As a consequence, Art. 21 states,[a]ny person who willfully causes loss or injury to another in a manner that is contrary tomorals, good customs or public policy shall compensate the latter for the damage.

On the liability of the corporation, the court ruled that, “[a] corporation is civilly liable inthe same manner as natural persons for torts, because generally speaking, the rulesgoverning the liability of a principal or master for a tort committed by an agent or servantare the same whether the principal or master be a natural person or artificial person. All of the

authorities agree that a principal or master is liable for every tort which he expresslydirects or authorizes, and this is just as true of a corporation as of a natural person.

Acorporation, is liable therefore, whenever a tortuous act is committed by an officer oragent under express direction or authority from the stockholders or members acting as abody, or generally, from the directors as the governing body. NOTE: CLV tells us that it is clear from the ruling of the Court in this case that not everytortuous act committed by an officer can be ascribed to the corporation as its liability, for it isreasonable to presume that in the granting of authority by the corporation to its agent, such agrant did not include a direction to commit tortuous acts against third parties.

Only when thecorporation has expressly directed the commission of such tortuous act, would the damagesresulting therefrom be ascribable to the corporation. And such a direction by the corporation, is manifested either by its board adopting a resolution to such effect, as in this case, orhaving taken advantage of such a tortuous act the corporation, through its board, expresslyor impliedly ratifies such an act or is estopped from impugning such an act. Our jurisprudence is wanting as to the definite scope of " corporate tort. Essentially," tort" consists in the violation of a right given or the omission of a duty imposed by law; abreach of a legal duty. The failure of the corporate employer to comply with the law-imposedduty under the Labor Code to grant separation pay to employees in case of cessation of operations constitutes tort and its stockholder who was actively engaged in the managementor operation of the business should be held personally liable. Q: When is a corporation liable for tort?

A: A corporation is liable for tort when: (a) the act is committed by an officer or agent (2) underexpress direction of authority from the stockholders or members acting as a body or through theBoard of Directors. Q: How can authority given to the agent of the corporation be determined? A: Either by: (a) such direction by the corporation is manifested, by its board adopting aresolution to such effect (b) by having takien advantage of such a tortious act, the corporationthrough its board, has expressly or impliedly ratified such an act or estopped from impugning thesame.

Q: What is a derivative suit? A: Since, the act of the board is essentially that of the corporation and therefore corporate assetscannot escape enforcement of the award of damage to the tort victim. As a remedy, thestockholders may institute a derivative suit against the responsible board members and officersfor the damages suffered by the corporation as a result of the tort suit. M. H. WYLIE and CAPT. JAMES WILLIAMS, petitioners, vs. AURORA I. RARANG and THE HONORABLE INTERMEDIATE APPELLATE COURT, respondents. FACTS

Petitioners Wylie and Williams were the assistant administrative officer and commandingofficer, respectively, of the US Naval base in Subic. Respondent Aurora Rarang was an employee inthe Office of the Provost Marshal assigned as the merchandise control guard. Wylie, as one of his duties, supervised the publication of the ? Plan of the Day? a daily publication thatfeatured among others, an ? action line inquiry?. On Feb. 3, 1978, an inquiry was published saying thatconfiscated goods were being consumed/ used for personal benefit by the merchandise controlinspector and that a certain ?

Auring? was, in herself, a disgrace to the office. Rarang, being the onlyperson named Auring in the said office, went to press an action for damages against Wylie and Williamsand the US Naval Base. (That Rarang was indeed the Auring mentioned in the inquiry was provenby the apology letter issued by Wylie for the inadvertent publication.)She alleged that the article constituted false, injurious, and malicious defamation and libel tending toimpeach her honesty, virtue and reputation exposing her to public hatred, contempt and ridicule.

Defendants alleged that (1) defendants acted in performance of their official functions as officersof the US Navy and are thus immune from suit (2) US Naval Base is immune from suit being aninstrumentality of the US Government and (3) the RTC has no jurisdiction over the subject matter andthe parties involved. Lower court ruling: defendants pay damages because acts were not official acts of the USgovernment, but personal and tortious acts (which are not included in the rule that a sovereign countrycan? t be sued without its consent). Suit against US Naval Base was dismissed.

ISSUES1. WON officials of the US Naval Base inside Philippine Territory, in discharge of their official duties, areimmune from suit. 2. Are US officers who commit a crime or tortious act while discharging official functions still coveredby the principle of state immunity from suit? HELD1. Yes, they are immune. Ratio Officers of the US Navy as instrumentalities of the US government are immune from suit (but onlywhen they are acting/ discharging their official functions. Art. XVI, sec. 3 of 1987 constitution provides that state may not be sued without its consent.

Buteven without this affirmation, court is still bound by the doctrine of incorporation. Thedoctrine is applicable not only to suits against the state but also to complaints filedagainst officials for acts allegedly performed by them in discharge of their official duties. The traditional rule of immunity excepts a State from being sued in the courts of another Statewithout its consent or waiver. This rule is a necessary consequence of the principles of independenceandequalityof States. Because the activities of states have multiplied, it has been necessary todistinguish them ? etween sovereign and governmental acts (jure imperii) and private, commercial and proprietary acts (jure gestionis). The result is that State immunity now extends only toacts jure imperii. There is no question, therefore, that the petitioners actively participated in screening thefeatures and articles in the POD as part of their official functions. Under the rule that U. S. officials in the performance of their official functions are immune fromsuit, then it should follow that the petitioners may not be held liable for the questioned publication.

It is to be noted, however, that the petitioners were sued in their personal capacities for their allegedtortious acts in publishing a libelous article. 2. No. Ratio. Our laws and, we presume, those of the United States do not allow the commission of crimes in the name of official duty. The general rule is that public officials can be heldpersonally accountable for acts claimed to have been performed in connection with officialduties where they have acted ultra vires or where there is showing of bad faith.

Immunity from suitcannot institutionalize irresponsibility and non-accountabilitynor grant a privileged status notclaimed by any other official of

the Republic. Under Art. 2176 of the civil code, whoever by act or omission, causes damage to another, therebeing fault or negligence is obliged to pay for the damage done. Such fault or negligence, if there is no pre-existing contractual relation between the parties, is called a quasi-delict and isgoverned by the provisions of this Chapter. Indeed the imputation of theft contained in the POD dated February 3, 1978 is adefamation against the character and reputation of the private respondent.

Petitioner Wyliehimself admitted that the Office of the Provost Marshal explicitly recommended the deletion of thename Auring if the article were published. The petitioners, however, were negligentbecause under their direction they issued the publication without deleting the name " Auring. " Such act or omission is ultra vires and cannot be part of official duty. It was a tortious act whichridiculed the private respondent. The petitioners, alone, in their personal capacities are liable forthe damages they caused the private respondent GASHEM SHOOKAT BAKSH, petitioner, vs. HON.

COURT OF APPEALS and MARILOU T. GONZALES, respondents. Public Attorney's Office for petitioner. Corleto R. Castro for private respondent. FACTS: Petitioner Gashem Shookat Baksh was an Iranian citizen, exchange student taking a medical course in Dagupan City, who courted private respondent Marilou Gonzales, and promised to marry her. On the condition that they would get married, she reciprocated his love. They then set the marriage after the end of the school semester. He visited Marilou’s parents to secure their approval of marriage. In August 1987, he forced her to live with him, which she did.

However, his attitude toward her changed after a while; he would maltreat and even threatened to kill her, from which she sustained injuries. Upon confrontation with the barangay captain, he repudiated their marriage agreement, saying that he was already married to someone living in Bacolod. Marilou then filed for damages before the RTC. Baksh denied the accusations but asserted that he told her not to go to his place since he discovered her stealing hismoneyand passport. The RTC ruled in favor of Gonzales. The CA affirmed the RTC decision. ISSUES:

Whether or not breach of promise to marry is an actionable wrong. Whether or not Art. 21 of the Civil Code applies to this case. Whether or not pari delicto applies in t his case. HELD: The existing rule is that a breach of promise to marry per se is not an actionable wrong. This, notwithstanding, Art. 21 is designed to expand the concept of torts or quasi-delict in this jurisdictions by granting adequate legal remedy for the untold number of moral wrongs which is impossible for human foresight to specifically enumerate and punish in the statute books.

Art. 21 defines quasi-delict: Whoever by act or omission causes damage to another, there being fault or negligence is obliged to pay for the damage done. Such fault or negligence, if there is no pre-existing contractual relation between the parties, is called quasi-delict and is governed by the (Civil Code). It is clear that petitioner harbors a condescending if not sarcastic regard for the private respondent on account of the latter’s ignoble birth, inferior educational background, povertyand, as perceived by him, dishonorable employment.

From the beginning, obviously, he was not at all moved by good faith and an honest motive. Thus, his profession of love and promise to marry were empty words directly intended to fool, dupe, entice, beguile and deceive the poor woman into believing that indeed, he loved her and would want her to be his life partner. His was nothing but pure lust which he wanted satisfied by a Filipina who honestly believed that by accepting his proffer of love and proposal of marriage, she would be able to enjoy a life of ease and security.

Petitioner clearly violated the Filipino concept of morality and so brazenly defied the traditionalrespectFilipinos have for their women. It can even be said that the petitioner committed such deplorable acts in blatant disregard of Article 19 of the Civil Code which directs every person to act with justice, give everyone his due, and observe honesty and good faith in the exercise of his right and in the performance of his obligations. No foreigner must be allowed to make a mockery of our laws, customs and traditions. She is not in pari delicto with the petitioner.

Pari delicto means in equal fault. At most, it could be conceded that she is merely in delicto. Equity often interfered for the relief of the less guilty of the parties, where his transgression has been brought about by the imposition of undue influence of the party on whom the burden of the original wrong principally rests, or where his consent to the transaction was itself procured by fraud. Phoenix Construction Inc. vs. IAC PHOENIX CONSTRUCTION INC V IAC (DIONISIO) 148 SCRA 353FELICIANO; March 10, 1987 NATURE PETITION for review of the decision of the IAC

FACTS - 130AM 15 November 1975 - Leonardo Dionisio, driving hisVolkswagen car, was on his way home to Makati from acocktails-and-

dinner meeting with his boss where had taken " ashot or two" of liquor. Crossing the intersection of GeneralLacuna and General Santos Streets at Bangkal, Makati, not far from his home, when his car headlights (in his allegation)suddenly failed. He switched his headlights on " bright" andthereupon he saw a Ford dump truck looming some21/2meters away from his car. The dump truck, owned andregistered by Phoenix Construction Inc. as parked askew(partly blocking the way of oncoming traffic) on the right handside of General Lacuna Street facing the oncoming traffic. There were no lights nor any so-called " early warning" reflector devices set anywhere near the dump truck. The dump truckhad earlier that evening been driven home by Carbonel, itsregular driver. Dionisio claimed that he tried to avoid a collisionby swerving his car to the left but it was too late and his car smashed into the dump truck. As a result of the collision, Dionisio suffered some physical injuries including somepermanent facial scars, a " nervous breakdown" and loss of twogold bridge dentures. Dionisio commenced an action for damages claiming that thelegal and proximate cause of his injuries was the negligentmanner in which Carbonel had parked the dump truck. Phoenix and Carbonel countered that the proximate cause of Dionisio's injuries was his own recklessness in driving fast atthe time of the accident, while under the influence of liquor, without his headlights on and without a curfew pass. Phoenixalso sought to establish that it had exercised due care in theselection and supervision of the dump truck driver. CFI: in favor of Dionisio- IAC: affirmed TC but modified amounts ISSUE (obiter) WON last clear chance doctrine should be appliedtherefore exculpating Phoenix from paying any damages HELD NO- We hold that

private respondent Dionisio's negligence was" only contributory," that the " immediate and proximate cause" of the injury remained the truck driver's " lack of due care" andthat consequently respondent Dionisio may recover damages P a g e 6 though such damages are subject to mitigation by the courts(Article 2179, Civil Code of the Philippines). Ob iter Phoenix and Carbonel also ask us to apply what they refer toas the " last clear chance" doctrine. The theory here of petitioners is that while the petitioner truck driver wasnegligent, private respondent Dionisio had the " last clear chance" of avoiding the accident and hence his injuries, andthat Dionisio having failed to take that " last clear chance" mustbear his own injuries alone. The last clear chance doctrine of the common law was imported into our jurisdiction by Picart vs. Smith but it is a matter for debate whether, or to what extent, ithas found its way into the Civil Code of the Philippines.

Thehistorical function of that doctrine in the common law was tomitigate the harshness of another common law doctrine or rule-that of contributory negligence. The common law rule of contributory negligence prevented any recovery at all by aplaintiff who was also negligent, even if the plaintiff'snegligence was relatively minor as compared with the wrongfulact or omission of the defendant. The common law notion of last clear chance permitted courts to grant recovery to aplaintiff who had also been negligent provided that thedefendant had the last clear chance to avoid the casualty andfailed to do so.

Accordingly, it is difficult to see what role, if any, the common law last clear chance doctrine has to play in a jurisdiction where the common law concept of contributorynegligence as an absolute bar to recovery by the plaintiff,

hasitself been rejected, as it has been in A2179 CC- Is there perhaps a general concept of " last clear chance" thatmay be extracted from its common law matrix and utilized as ageneral rule in negligence cases in a civil law jurisdiction likeours?

We do not believe so. Under A2179, the task of a court, in technical terms, is to determine whose negligence-theplaintiff's or the defendant's-was the legal or proximate causeof the injury. That task is not simply or even primarily anexercise in chronology or physics, as the petitioners seem toimply by the use of terms like " last" or " intervening" or " immediate. The relative location in the continuum of time of the plaintiff's and the defendant's negligent acts or omissions, is only one of the relevant factors that may be taken intoaccount. Of more fundamental importance are the nature of thenegligent act or omission of each party and the character andgravity of the risks created by such act or omission for the restof the community.

The petitioners urge that the truck driver (and therefore his employer) should be absolved fromresponsibility for his own prior negligence because theunfortunate plaintiff failed to act with that increased diligencewhich had become necessary to avoid the peril preciselycreated by the truck driver's own wrongful act or omission, Toaccept this proposition is to come too close to wiping out thefundamental principle of law that a man must respond for theforseeable consequences of his own negligent act or omission.

Our law on quasi-delicts seeks to reduce the risks and burdensof living in society and to allocate them among the members of society. To accept the petitioners' proposition must tend toweaken the very bonds of society. Disposition CA decision is modified by reducing theaggregate amount of

compensatory damages, loss of expectedincome and moral damages Dionisio is entitled to by 20% of such amount REYNALDA GATCHALIAN, petitioner, vs. ARSENIO DELIM and the HON. COURT OF APPEALS, respondents. Pedro G. Peralta for petitioner. Florentino G. Libatique for private respondent.

On July 11, 1973, petitioner Reynalda Gatchalian boarded as paying passenger a minibus owned by respondents. While the bus was running along the highway, a " snapping sound" was heard, and after a short while, the bus bumped a cement flower pot, turned turtle and fell into a ditch. The passengers were confined in the hospital, and their bills were paid by respondent's spouse on July 14. Before Mrs. Delim left, she had the injured passengers sign an already prepared affidavit waiving their claims against respondents. Petitioner was among those who signed.

Notwithstanding the said document, petitioner filed a claim to recover actual and moral damages for loss of employment opportunities, mental suffering and inferiority complex caused by the scar on her forehead. Respondents raised in defense force majeure and the waiver signed by petitioner. The trial court upheld the validity of the waiver and dismissed the complaint. The appellate court ruled that the waiver was invalid, but also that the petitioner is not entitled to damages. Issues: (1) Whether there was a valid waiver (2) Whether the respondent was negligent 3) Whether the petitioner is entitled to actual and moral damages Held: (1) We agree with the majority of the Court of Appeals who held that no valid waiver of her cause of action had been made by petitioner. A waiver, to be valid and effective, must in the first place be couched in clear and unequivocal terms which leave no doubt as to

the intention of a person to give up a right or benefit which legally pertains to him. A waiver may not casually be attributed to a person when the terms thereof do not explicitly and clearly evidence an intent to abandon a right vested in such person.

The circumstances under which the Joint Affidavit was signed by petitioner Gatchalian need to be considered. Petitioner testified that she was still reeling from the effects of the vehicular accident when the purported waiver in the form of the Joint Affidavit was presented to her for signing; that while reading the same, she experienced dizziness but that, seeing the other passengers who had also suffered injuries sign the document, she too signed without bothering to read the Joint Affidavit in its entirety.

Considering these circumstances, there appears substantial doubt whether petitioner understood fully the import of the Joint Affidavit (prepared by or at the instance of private respondent) she signed and whether she actually intended thereby to waive any right of action against private respondent. Finally, because what is involved here is the liability of a common carrier for injuries sustained by passengers in respect of whose safety a common carrier must exercise extraordinary diligence, we must construe any such purported waiver most strictly against the common carrier.

To uphold a supposed waiver of any right to claim damages by an injured passenger, under circumstances like those exhibited in this case, would be to dilute and weaken the standard of extraordinary diligence exacted by the law from common carriers and hence to render that standard unenforceable. We believe such a purported waiver is offensive to public policy. (2) In case of death or injuries to passengers, a statutory presumption arises that the

common carrier was at fault or had acted negligently " unless it proves that it [had] observed extraordinary diligence as prescribed in Articles 1733 and 1755. To overcome this presumption, the common carrier must show to the court that it had exercised extraordinary diligence to present the injuries. The standard of extraordinary diligence imposed upon common carriers is considerably more demanding than the standard of ordinary diligence. A common carrier is bound to carry its passengers safely " as far as human care and foresight can provide, using the utmost diligence of a very cautious person, with due regard to all the circumstances". The records before the Court are bereft of any evidence showing that respondent had exercised the extraordinary diligence required by law.

The obvious continued failure of respondent to look after the roadworthiness and safety of the bus, coupled with the driver's refusal or neglect to stop the mini-bus after he had heard once again the " snapping sound" and the cry of alarm from one of the passengers, constituted wanton disregard of the physical safety of the passengers, and hence gross negligence on the part of respondent and his driver. (3) At the time of the accident, she was no longer employed in a public school. Her employment as a substituteteacherwas occasional and episodic, contingent upon the availability of vacancies for substitute teachers.

She could not be said to have in fact lost any employment after and by reason of the accident. She may not be awarded damages on the basis of speculation or conjecture. Petitioner's claim for the cost of plastic surgery for removal of the scar on her forehead, is another matter. A person is entitled to the physical integrity of his or her body; if that integrity is violated or

diminished, actual injury is suffered for which actual or compensatory damages are due and assessable. Petitioner Gatchalian is entitled to be placed as nearly as possible in the condition that she was before the mishap.

A scar, especially one on the face of the woman, resulting from the infliction of injury upon her, is a violation of bodily integrity, giving raise to a legitimate claim for restoration to her conditio ante. Moral damages may be awarded where gross negligence on the part of the common carrier is shown. Considering the extent of pain andanxietywhich petitioner must have suffered as a result of her physical injuries including the permanent scar on her forehead, we believe that the amount of P30, 000. 00 would be a reasonable award. Petitioner's claim for P1, 000. 00 as attorney's ees is in fact even more modest. JOSUE ARLEGUI, petitioner, vs. HON. COURT OF APPEALS and SPOUSES GIL AND BEATRIZ GENGUYON, respondents. Residential Apartment Unit no. 15 was leased for more than 20 years by Serafia Real Estate, Inc. tospouses Gil and Beatriz. In1984, Alberto Barretto (one of the owners of Serafia) informed the tenants of the apartment bldg. that Serfia and its assets had already been assigned and transferred to A. B. Barretto. The tenants formed an organization called Barretto Apartment Tenant Association to represent them innegotiations with A. B.

Barretto Enterprises for the purchase of the apartment units. Josue Arlegui waselected vice president and Mateo Tan Lu as auditor of the association. Genguyons were later surprised tolearn that the unit they were leasing had been sold to Mateo Tan Lu. Genguyons continued to occupy thepremises and paid rentals. They were then informed that Mateo Tan sold the apartment to Josue Arlegui. Arlegui demanded Genguyons to vacate the premises. ISSUE:

Whether or not a constructive trust existed HELD: The petitioner denies that a constructive trust was created and maintains that there was no fraudcommitted.

He neither received money from the Genguyons, nor was he unjustly enriched. However, therecords show that the Genguyons, along with the other tenants and members of the association, contributed money to enable the officers to negotiate with the Barrettos. Besides, constructive trusts donot only arise out of fraud or duress, but also by abuse of confidence, in order to satisfy the demands of justice. The petitioner also argues that the Genguyons' failed to prove the existence of an implied or constructivetrust. We disagree.

There is ample documentary and testimonial evidence to establish the existence of afiduciary relationship between them, and that petitioner's subsequent acts betrayed the trust andconfidence reposed on him. It is further argued that no implied trust, as defined under Article 1456 of the New Civil Code, was createdbecause the petitioner did not acquire the subject property through mistake or fraud. Nevertheless, theabsence of fraud or mistake on the part of the petitioner does not prevent the court from ruling that animplied or constructive trust was created nonetheless

A constructive trust, otherwise known as a trust ex maleficio, a trust ex delicto, a trust de son tort, aninvoluntary trust, or an implied trust, is a trust by operation of law which arises contrary to intention and ininvitum, against one who, by fraud, actual or constructive, by duress or abuse of confidence, bycommission of wrong, or by any form of unconscionable conduct, artifice, concealment, or questionablemeans, or who in any way against equity and

good conscience, either has obtained or holds the legalright to property which he ought not, in equity and good conscience, hold and enjoy.

It is raised by equityto satisfy the demands of justice. However, a constructive trust does not arise on every moral wrong inacquiring or holding property or on every abuse of confidence in business or other affairs; ordinarily sucha trust arises and will be declared only on wrongful acquisitions or retentions of property of which equity, in accordance with its fundamental principles and the traditional exercise of its jurisdiction or inaccordance with statutory provision, takes cognizance.

It has been broadly ruled that a breach of confidence, although in business or social relations, rendering an acquisition or retention of property byone person unconscionable against another, raises a constructive trust. *There was a breach of trust by the officers. SC annulled the sale of the apartment and ordered Arlegui toexecute deed of conveyance to Genguyon spouses BPI EXPRESS CARD CORPORATION, petitioner, vs. COURT OF APPEALS and RICARDO J. MARASIGAN, respondents. Marasigan was the holder of a BPI credit card. Due to his delinquency in payment, immediate demand was given by BPI to pay account.

Marasigan issued a postdated check. The check was thereafter kept in custiody by BPI and card was temporarily suspended. And on a relevant date, Marasigan after eating in Cafe Adriatico tried to use his card to pay but it was dishonored. HELD: The issuance of the postdated check was not effective payment on the part of Marasigan and thus, the bank was justified in suspending temporarily his use of the credit card. A check is only a substitute for money and not money, and the delivery of such instrument

doesn't itself operate as payment. BEATRIZ P. WASSMER, plaintiff-appellee, vs. FRANCISCO X.

VELEZ, defendant-appellant. Jalandoni & Jamir for defendant-appellant. Samson S. Alcantara for plaintiff-appellee. FACTS: Respondent Francisco Velez and petitioner Beatriz Wassmer were lovers who set their marriage for Sept. 4, 1954. On Sept. 2, however, Francisco left for Cagayan de Oro, leaving Beatriz with a note that his mother was approved to the marriage. A day before the supposed wedding, on Sept. 3, Francisco telegrammed Beatriz that nothing changed and that he assured her of his return and love. Francisco did not appear after all nor words were heard from him again; despite the fact that preparations were all made.

They applied for a marriage license on Aug. 23, and was issued thereof; invitations were printed and distributed to friends and relatives; dresses and other apparel were already bought; the two bought a matrimonial bed; bridal showers were given and gifts received. Beatriz then filed damages for breach of promise to marry. ISSUE: Whether or not breach of promise to marry is an actionable wrong. HELD: Mere breach of promise to marry is not an actionable wrong. But to formally set a wedding and go through all the preparations and publicity, and to walk out of it when the matrimony is about to be solemnized, is quite different.

This is palpably and unjustifiably contrary to customs for which Francisco must be held answerable for damages in accordance with Art. 21 of the Civil Code. Under Art. 2232 of the Civil Code, the conditions precedent is that the defendant acted in a wanton, fraudulent, reckless, oppressive or malevolent manner. When a breach of promise to marry is actionable under Article 21,

moral damages may be awarded under Art. 2219 (10) of the Civil Code. Exemplary damages may also be awarded under Art. 2232 of the Code where it is proven that the defendant clearly acted in wanton, reckless and oppressive manner.