

[ **G.R. NO. 141309, June 19, 2007** ]

**LIWAYWAY VINZONS-CHATO, PETITIONER, VS. FORTUNE  
TOBACCO CORPORATION, RESPONDENT.**

**DECISION**

**YNARES-SANTIAGO, J.:**

Petitioner assails the May 7, 1999 Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. SP No. 47167, which affirmed the September 29, 1997 Order<sup>[2]</sup> of the Regional Trial Court (RTC) of Marikina, Branch 272, in Civil Case No. 97-341-MK, denying petitioner's motion to dismiss. The complaint filed by respondent sought to recover damages for the alleged violation of its constitutional rights arising from petitioner's issuance of Revenue Memorandum Circular No. 37-93 (RMC 37-93), which the Court declared invalid in *Commissioner of Internal Revenue v. Court of Appeals*.<sup>[3]</sup>

Petitioner Liwayway Vinzons-Chato was then the Commissioner of Internal Revenue while respondent Fortune Tobacco Corporation is an entity engaged in the manufacture of different brands of cigarettes, among which are "Champion," "Hope," and "More" cigarettes.

On June 10, 1993, the legislature enacted Republic Act No. 7654 (RA 7654), which took effect on July 3, 1993. Prior to its effectivity, cigarette brands "Champion," "Hope," and "More" were considered local brands subjected to an ad valorem tax at the rate of 20-45%. However, on July 1, 1993, or two days before RA 7654 took effect, petitioner issued RMC 37-93 reclassifying "Champion," "Hope," and "More" as locally manufactured cigarettes bearing a foreign brand **subject to the 55% ad valorem tax**.<sup>[4]</sup> RMC 37-93 in effect subjected "Hope," "More," and "Champion" cigarettes to the provisions of RA 7654, specifically, to Sec. 142,<sup>[5]</sup> (c)(1) on locally manufactured cigarettes which are **currently classified and taxed at 55%**, and which imposes an *ad valorem* tax of "55% provided that the minimum tax shall not be less than Five Pesos (P5.00) per pack."<sup>[6]</sup>

On July 2, 1993, at about 5:50 p.m., BIR Deputy Commissioner Victor A. Deoferio, Jr. sent *via telefax* a copy of RMC 37-93 to Fortune Tobacco but it was addressed to no one in particular. On July 15, 1993, Fortune Tobacco received, by ordinary mail, a certified xerox copy of RMC 37-93. On July 20, 1993, respondent filed a motion for reconsideration requesting the recall of RMC 37-93, but was denied in a letter dated July 30, 1993.<sup>[7]</sup> The same letter assessed respondent for *ad valorem* tax deficiency amounting to P9,598,334.00

(computed on the basis of RMC 37-93) and demanded payment within 10 days from receipt thereof.<sup>[8]</sup> On August 3, 1993, respondent filed a petition for review with the Court of Tax Appeals (CTA), which on September 30, 1993, issued an injunction enjoining the implementation of RMC 37-93.<sup>[9]</sup> In its decision dated August 10, 1994, the CTA ruled that RMC 37-93 is defective, invalid, and unenforceable and further enjoined petitioner from collecting the deficiency tax assessment issued pursuant to RMC No. 37-93. This ruling was affirmed by the Court of Appeals, and finally by this Court in *Commissioner of Internal Revenue v. Court of Appeals*.<sup>[10]</sup> It was held, among others, that RMC 37-93, has fallen short of the requirements for a valid administrative issuance.

On April 10, 1997, respondent filed before the RTC a complaint<sup>[11]</sup> for damages against petitioner in her private capacity. Respondent contended that the latter should be held liable for damages under Article 32 of the Civil Code considering that the issuance of RMC 37-93 violated its constitutional right against deprivation of property without due process of law and the right to equal protection of the laws.

Petitioner filed a motion to dismiss<sup>[12]</sup> contending that: (1) respondent has no cause of action against her because she issued RMC 37-93 in the performance of her official function and within the scope of her authority. She claimed that she acted merely as an agent of the Republic and therefore the latter is the one responsible for her acts; (2) the complaint states no cause of action for lack of allegation of malice or bad faith; and (3) the certification against forum shopping was signed by respondent's counsel in violation of the rule that it is the plaintiff or the principal party who should sign the same.

On September 29, 1997, the RTC denied petitioner's motion to dismiss holding that to rule on the allegations of petitioner would be to prematurely decide the merits of the case without allowing the parties to present evidence. It further held that the defect in the certification against forum shopping was cured by respondent's submission of the corporate secretary's certificate authorizing its counsel to execute the certification against forum shopping. The dispositive portion thereof, states:

WHEREFORE, foregoing premises considered, the motion to dismiss filed by the defendant Liwayway Vinzons-Chato and the motion to strike out and expunge from the record the said motion to dismiss filed by plaintiff Fortune Tobacco Corporation are both denied on the grounds aforesaid. The defendant is ordered to file her answer to the complaint within ten (10) days from receipt of this Order.

SO ORDERED.<sup>[13]</sup>

The case was elevated to the Court of Appeals via a petition for certiorari under Rule 65. However, same was dismissed on the ground that under Article 32 of the Civil Code, liability may arise even if the defendant did not act with malice or bad faith. The appellate court ratiocinated that Section 38, Book I of the Administrative Code is the general law on

the civil liability of public officers while Article 32 of the Civil Code is the special law that governs the instant case. Consequently, malice or bad faith need not be alleged in the complaint for damages. It also sustained the ruling of the RTC that the defect of the certification against forum shopping was cured by the submission of the corporate secretary's certificate giving authority to its counsel to execute the same.

Undaunted, petitioner filed the instant recourse contending that the suit is grounded on her acts done in the performance of her functions as a public officer, hence, it is Section 38, Book I of the Administrative Code which should be applied. Under this provision, liability will attach only when there is a clear showing of bad faith, malice, or gross negligence. She further averred that the Civil Code, specifically, Article 32 which allows recovery of damages for violation of constitutional rights, is a general law on the liability of public officers; while Section 38, Book I of the Administrative Code is a special law on the superior public officers' liability, such that, if the complaint, as in the instant case, does not allege bad faith, malice, or gross negligence, the same is dismissible for failure to state a cause of action. As to the defect of the certification against forum shopping, she urged the Court to strictly construe the rules and to dismiss the complaint.

Conversely, respondent argued that Section 38 which treats in general the public officers' "acts" from which civil liability may arise, is a general law; while Article 32 which deals specifically with the public officers' violation of constitutional rights, is a special provision which should determine whether the complaint states a cause of action or not. Citing the case of *Lim v. Ponce de Leon*,<sup>[14]</sup> respondent alleged that under Article 32 of the Civil Code, it is enough that there was a violation of the constitutional rights of the plaintiff and it is not required that said public officer should have acted with malice or in bad faith. Hence, it concluded that even granting that the complaint failed to allege bad faith or malice, the motion to dismiss for failure to state a cause of action should be denied inasmuch as bad faith or malice are not necessary to hold petitioner liable.

The issues for resolution are as follows:

- (1) May a public officer be validly sued in his/her private capacity for acts done in connection with the discharge of the functions of his/her office?
- (2) Which as between Article 32 of the Civil Code and Section 38, Book I of the Administrative Code should govern in determining whether the instant complaint states a cause of action?
- (3) Should the complaint be dismissed for failure to comply with the rule on certification against forum shopping?
- (4) May petitioner be held liable for damages?

On the first issue, the general rule is that a public officer is not liable for damages which a person may suffer arising from the just performance of his official duties and within the

scope of his assigned tasks.<sup>[15]</sup> An officer who acts within his authority to administer the affairs of the office which he/she heads is not liable for damages that may have been caused to another, as it would virtually be a charge against the Republic, which is not amenable to judgment for monetary claims without its consent.<sup>[16]</sup> However, a public officer is by law not immune from damages in his/her personal capacity for acts done in bad faith which, being outside the scope of his authority, are no longer protected by the mantle of immunity for official actions.<sup>[17]</sup>

Specifically, under Section 38, Book I of the Administrative Code, civil liability may arise where there is bad faith, malice, or gross negligence on the part of a superior public officer. And, under Section 39 of the same Book, civil liability may arise where the subordinate public officer's act is characterized by willfulness or negligence. Thus –

**Sec. 38. Liability of Superior Officers.** – (1) A public officer shall not be civilly liable for acts done in the performance of his official duties, unless there is a clear showing of bad faith, malice or gross negligence.

x x x x

**Section 39. Liability of Subordinate Officers.** – No subordinate officer or employee shall be civilly liable for acts done by him in good faith in the performance of his duties. However, he shall be liable for willful or negligent acts done by him which are contrary to law, morals, public policy and good customs even if he acts under orders or instructions of his superior.

In addition, the Court held in *Cojuangco, Jr. v. Court of Appeals*,<sup>[18]</sup> that a public officer who directly or indirectly violates the constitutional rights of another, may be validly sued for damages under Article 32 of the Civil Code even if his acts were not so tainted with malice or bad faith.

Thus, the rule in this jurisdiction is that a public officer may be validly sued in his/her private capacity for acts done in the course of the performance of the functions of the office, where said public officer: (1) acted with malice, bad faith, or negligence; or (2) where the public officer violated a constitutional right of the plaintiff.

Anent the second issue, we hold that the complaint filed by respondent stated a cause of action and that the decisive provision thereon is Article 32 of the Civil Code.

A general statute is one which embraces a class of subjects or places and does not omit any subject or place naturally belonging to such class. A special statute, as the term is generally understood, is one which relates to particular persons or things of a class or to a particular portion or section of the state only.<sup>[19]</sup>

A general law and a special law on the same subject are statutes in *pari materia* and should,

accordingly, be read together and harmonized, if possible, with a view to giving effect to both. The rule is that where there are two acts, one of which is special and particular and the other general which, if standing alone, would include the same matter and thus conflict with the special act, the special law must prevail since it evinces the legislative intent more clearly than that of a general statute and must not be taken as intended to affect the more particular and specific provisions of the earlier act, unless it is absolutely necessary so to construe it in order to give its words any meaning at all.<sup>[20]</sup>

The circumstance that the special law is passed before or after the general act does not change the principle. Where the special law is later, it will be regarded as an exception to, or a qualification of, the prior general act; and where the general act is later, the special statute will be construed as remaining an exception to its terms, unless repealed expressly or by necessary implication.<sup>[21]</sup>

Thus, in *City of Manila v. Teotico*,<sup>[22]</sup> the Court held that Article 2189 of the Civil Code which holds provinces, cities, and municipalities civilly liable for death or injuries by reason of defective conditions of roads and other public works, is a special provision and should prevail over Section 4 of Republic Act No. 409, the Charter of Manila, in determining the liability for defective street conditions. Under said Charter, the city shall not be held for damages or injuries arising from the failure of the local officials to enforce the provision of the charter, law, or ordinance, or from negligence while enforcing or attempting to enforce the same. As explained by the Court:

Manila maintains that the former provision should prevail over the latter, because Republic Act 409 is a special law, intended exclusively for the City of Manila, whereas the Civil Code is a general law, applicable to the entire Philippines.

The Court of Appeals, however, applied the Civil Code, and, we think, correctly. It is true that, insofar as its territorial application is concerned, Republic Act No. 409 is a special law and the Civil Code a general legislation; but, as regards the subject matter of the provisions above quoted, Section 4 of Republic Act 409 establishes a general rule regulating the liability of the City of Manila for "damages or injury to persons or property arising from the failure of" city officers "to enforce the provisions of" said Act "or any other law or ordinance, or from negligence" of the city "Mayor, Municipal Board, or other officers while enforcing or attempting to enforce said provisions." Upon the other hand, Article 2189 of the Civil Code constitutes a particular prescription making "provinces, cities and municipalities . . . liable for damages for the death of, or injury suffered by, any person by reason" – specifically – "of the defective condition of roads, streets, bridges, public buildings, and other public works under their control or supervision." **In other words, said section 4 refers to liability arising from negligence, in general, regardless of the object thereof, whereas Article 2189 governs liability due to "defective streets," in particular. Since the present action is based upon the alleged defective**

condition of a road, said Article 2189 is decisive thereon.<sup>[23]</sup>

In the case of *Bagatsing v. Ramirez*,<sup>[24]</sup> the issue was which law should govern the publication of a tax ordinance, the City Charter of Manila, a special act which treats ordinances in general and which requires their publication before enactment and after approval, or the Tax Code, a general law, which deals in particular with "ordinances levying or imposing taxes, fees or other charges," and which demands publication only after approval. In holding that it is the Tax Code which should prevail, the Court elucidated that:

There is no question that the Revised Charter of the City of Manila is a special act since it relates only to the City of Manila, whereas the Local Tax Code is a general law because it applies universally to all local governments. Blackstone defines general law as a universal rule affecting the entire community and special law as one relating to particular persons or things of a class. And the rule commonly said is that a prior special law is not ordinarily repealed by a subsequent general law. The fact that one is special and the other general creates a presumption that the special is to be considered as remaining an exception of the general, one as a general law of the land, the other as the law of a particular case. **However, the rule readily yields to a situation where the special statute refers to a subject in general, which the general statute treats in particular. Th[is] exactly is the circumstance obtaining in the case at bar. Section 17 of the Revised Charter of the City of Manila speaks of "ordinance" in general, i.e., irrespective of the nature and scope thereof, whereas, Section 43 of the Local Tax Code relates to "ordinances levying or imposing taxes, fees or other charges" in particular. In regard, therefore, to ordinances in general, the Revised Charter of the City of Manila is doubtless dominant, but, that dominant force loses its continuity when it approaches the realm of "ordinances levying or imposing taxes, fees or other charges" in particular. There, the Local Tax Code controls.** Here, as always, a general provision must give way to a particular provision. Special provision governs.

Let us examine the provisions involved in the case at bar. Article 32 of the Civil Code provides:

ART. 32. Any public officer or employee, or any private individual, who directly or indirectly obstructs, defeats, violates, or in any manner impedes or impairs any of the following rights and liberties of another person shall be liable to the latter for damages:

x x x x

(6) The right against deprivation of property without due process of law;

x x x x

(8) The right to the equal protection of the laws;

X X X X

The rationale for its enactment was explained by Dean Bocobo of the Code Commission, as follows:

"DEAN BOCOBO. Article 32, regarding individual rights, Attorney Cirilo Paredes proposes that Article 32 be so amended as to make a public official liable for violation of another person's constitutional rights only if the public official acted maliciously or in bad faith. The Code Commission opposes this suggestion for these reasons:

"The very nature of Article 32 is that the wrong may be civil or criminal. It is not necessary therefore that there should be malice or bad faith. To make such a requisite would defeat the main purpose of Article 32 which is the effective protection of individual rights. Public officials in the past have abused their powers on the pretext of justifiable motives or good faith in the performance of their duties. Precisely, the object of the Article is to put an end to official abuse by the plea of good faith. In the United States this remedy is in the nature of a tort.

"Mr. Chairman, this article is firmly one of the fundamental articles introduced in the New Civil Code to implement democracy. There is no real democracy if a public official is abusing and we made the article so strong and so comprehensive that it concludes an abuse of individual rights even if done in good faith, that official is liable. As a matter of fact, we know that there are very few public officials who openly and definitely abuse the individual rights of the citizens. In most cases, the abuse is justified on a plea of desire to enforce the law to comply with one's duty. And so, if we should limit the scope of this article, that would practically nullify the object of the article. Precisely, the opening object of the article is to put an end to abuses which are justified by a plea of good faith, which is in most cases the plea of officials abusing individual rights."<sup>[25]</sup>

The Code Commission deemed it necessary to hold not only public officers but also private individuals civilly liable for violation of the rights enumerated in Article 32 of the Civil Code. It is not necessary that the defendant under this Article should have acted with malice or bad faith, otherwise, it would defeat its main purpose, which is the effective protection of individual rights. It suffices that there is a violation of the constitutional right of the plaintiff.<sup>[26]</sup>

Article 32 was patterned after the "tort" in American law.<sup>[27]</sup> A tort is a wrong, a tortious act which has been defined as the commission or omission of an act by one, without right,

whereby another receives some injury, directly or indirectly, in person, property, or reputation.<sup>[28]</sup> There are cases in which it has been stated that civil liability in tort is determined by the conduct and not by the mental state of the tortfeasor, and there are circumstances under which the motive of the defendant has been rendered immaterial. The reason sometimes given for the rule is that otherwise, the mental attitude of the alleged wrongdoer, and not the act itself, would determine whether the act was wrongful.<sup>[29]</sup> Presence of good motive, or rather, the absence of an evil motive, does not render lawful an act which is otherwise an invasion of another's legal right; that is, liability in tort is not precluded by the fact that defendant acted without evil intent.<sup>[30]</sup>

The clear intention therefore of the legislature was to create a distinct cause of action in the nature of tort for violation of constitutional rights, irrespective of the motive or intent of the defendant.<sup>[31]</sup> This is a fundamental innovation in the Civil Code, and in enacting the Administrative Code pursuant to the exercise of legislative powers, then President Corazon C. Aquino, could not have intended to obliterate this constitutional protection on civil liberties.

In *Aberca v. Ver*,<sup>[32]</sup> it was held that with the enactment of Article 32, the principle of accountability of public officials under the Constitution acquires added meaning and assumes a larger dimension. No longer may a superior official relax his vigilance or abdicate his duty to supervise his subordinates, secure in the thought that he does not have to answer for the transgressions committed by the latter against the constitutionally protected rights and liberties of the citizen. Part of the factors that propelled people power in February 1986 was the widely held perception that the government was callous or indifferent to, if not actually responsible for, the rampant violations of human rights. While it would certainly be too naive to expect that violators of human rights would easily be deterred by the prospect of facing damage suits, it should nonetheless be made clear in no uncertain terms that Article 32 of the Civil Code makes the persons who are directly, as well as indirectly, responsible for the transgression, joint tortfeasors.

On the other hand, Sections 38 and 39, Book I of the Administrative Code, laid down the rule on the civil liability of superior and subordinate public officers for acts done in the performance of their duties. For both superior and subordinate public officers, the presence of bad faith, malice, and negligence are vital elements that will make them liable for damages. Note that while said provisions deal in particular with the liability of government officials, the subject thereof is general, *i.e.*, "acts" done in the performance of official duties, without specifying the action or omission that may give rise to a civil suit against the official concerned.

Contrarily, Article 32 of the Civil Code specifies in clear and unequivocal terms a particular specie of an "act" that may give rise to an action for damages against a public officer, and that is, a tort for impairment of rights and liberties. Indeed, Article 32 is the special provision that deals specifically with violation of constitutional rights by public officers. All other actionable acts of public officers are governed by Sections 38 and 39 of



the Administrative Code. While the Civil Code, specifically, the Chapter on Human Relations is a general law, Article 32 of the same Chapter is a special and specific provision that holds a public officer liable for and allows redress from a particular class of wrongful acts that may be committed by public officers. Compared thus with Section 38 of the Administrative Code, which broadly deals with civil liability arising from errors in the performance of duties, Article 32 of the Civil Code is the specific provision which must be applied in the instant case precisely filed to seek damages for violation of constitutional rights.

The complaint in the instant case was brought under Article 32 of the Civil Code. Considering that bad faith and malice are not necessary in an action based on Article 32 of the Civil Code, the failure to specifically allege the same will not amount to failure to state a cause of action. The courts below therefore correctly denied the motion to dismiss on the ground of failure to state a cause of action, since it is enough that the complaint avers a violation of a constitutional right of the plaintiff.

Anent the issue on non-compliance with the rule against forum shopping, the subsequent submission of the secretary's certificate authorizing the counsel to sign and execute the certification against forum shopping cured the defect of respondent's complaint. Besides, the merits of the instant case justify the liberal application of the rules.<sup>[33]</sup>

**WHEREFORE**, in view of the foregoing, the petition is **DENIED**. The Decision of the Court of Appeals dated May 7, 1999 which affirmed the Order of the Regional Trial Court of Marikina, Branch 272, denying petitioner's motion to dismiss, is **AFFIRMED**. The Presiding Judge, Regional Trial Court of Marikina, Branch 272, is hereby **DIRECTED** to continue with the proceedings in Civil Case No. 97-341-MK with dispatch.

With costs.

**SO ORDERED.**

*Austria-Martinez, Chico-Nazario, and Nachura, JJ., concur.*

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[1] *Rollo*, pp. 62-71. Penned by Associate Justice Hector L. Hofileña and concurred in by Associate Justices Omar U. Amin and Teodoro P. Regino.

[2] *Id.* at 598-602. Penned by Judge Reuben P. De La Cruz.

[3] 329 Phil. 987 (1996).

[4] Prior to its amendment by RA 7654, Section 142(c)(1) of the National Internal Revenue Code, (as amended by R.A. No. 6956), provides:

"On locally manufactured cigarettes bearing a foreign brand, fifty-five percent (55%) Provided, That this rate shall apply regardless of whether or not the right to use or title to the foreign brand was sold or transferred by its owner to the local manufacturer. Whenever it has to be determined whether or not a cigarette bears a foreign brand, the listing of brands manufactured in foreign countries appearing in the current World Tobacco Directory shall govern."

[5] Pertinent portion thereof, states:

SEC. 142. Cigars and Cigarettes. –

x x x x

(c) Cigarettes packed by machine. - There shall be levied, assessed and collected on cigarettes packed by machine a tax at the rates prescribed below based on the constructive manufacturer's wholesale price or the actual manufacturer's wholesale price, whichever is higher:

(1) On **locally** manufactured cigarettes **which are currently classified and taxed at fifty-five percent (55%)** or the exportation of which is not authorized by contract or otherwise, fifty-five (55%) provided that the minimum tax shall not be less than Five Pesos (P5.00) per pack.

(2) On *other locally manufactured cigarettes, forty-five percent (45%)* provided that the minimum tax shall not be less than Three Pesos (P3.00) per pack.

[6] *Commissioner of Internal Revenue v. Court of Appeals, supra* note 3 at 1001-1003; Separate Opinion of Justice Josue N. Bellosillo, *id.* at 1014-1015.

[7] *Id.* at 1004.

[8] *Rollo*, pp. 542-543.

[9] *Id.* at 569.

[10] *Supra* note 3. The motion for reconsideration of the Court's Decision was denied with finality on October 7, 1996.

[11] *Rollo*, pp. 533-552.

[12] *Id.* at 555-584.

[13] *Id.* at 602. Petitioner filed a motion for reconsideration but was denied on December 4, 1997 (*Rollo*, pp. 603-606).

[14] No. L-22554, August 29, 1975, 66 SCRA 299.

- [15] *Orocio v. Commission on Audit*, G.R. No. 75959, August 31, 1992, 213 SCRA 109, 126, cited in Agpalo, *Philippine Administrative Law*, 2004 edition, p. 473.
- [16] *Republic v. Court of Appeals*, G.R. No. 86147, February 26, 1990, 182 SCRA 721, 728.
- [17] *Meneses v. Court of Appeals*, G.R. No. 82220, July 14, 1995, 246 SCRA 162, 174.
- [18] G.R. No. 119398, July 2, 1999, 309 SCRA 602, 604.
- [19] Agpalo, *Statutory Construction*, second edition (1990), p. 197.
- [20] *Id.* at 197-198.
- [21] *Id.* at 198.
- [22] G.R. No. L-23052, January 29, 1968, 22 SCRA 267.
- [23] *Id.* at 269-270. Emphasis supplied.
- [24] G.R. No. L-41613, December 17, 1976, 74 SCRA 306, 311-312. (Emphasis added)
- [25] Report of the Special Joint Committee of the Congress on the Amendments to the New Civil Code, XVI *The Lawyers' Journal*, No. 5, May 31, 1951, 258. Cited in *Lim v. Ponce de Leon*, *supra* note 14 at 309. Article 32 of the Civil Code was also applied in the following cases: *Aberca v. Ver*, G.R. No. L-69866, April 15, 1988, 160 SCRA 590; *MHP Garments, Inc. v. Court of Appeals*, G.R. No. 86720, September 2, 1994, 236 SCRA 227; *Cojuangco, Jr. v. Court of Appeals*, *supra* note 18; *Obra v. Court of Appeals*, G.R. No. 120852, October 28, 1999, 317 SCRA 594; *Lui v. Matillano*, G.R. No. 141176, May 27, 2004, 429 SCRA 449; *Silahis International Hotel, Inc. v. Soluta*, G.R. No. 163087, February 20, 2006, 482 SCRA 660.
- [26] *Silahis International Hotel, Inc. v. Soluta*, *supra*.
- [27] Report of the Special Joint Committee of the Congress on the Amendments to the New Civil Code, XVI *The Lawyers' Journal*, No. 5, May 31, 1951, p. 259.
- [28] 74 Am Jur 2d, Torts, §1, 620.
- [29] *Id.*, § 6, 623-624.

[30] *Id.* at 624.

[31] In the report on the Special Joint Committee of the Congress on the Amendments to the New Civil Code, Dean Bocobo expressed that while the defendant may not be exonerated on the basis solely of good faith, the inherent justifiability of his/her act, which is up to the courts to decide under the peculiar circumstance of each case, may be the basis of absolution. Thus:

CONGRESSMAN DE LEON. So that Mr. Justice, under the provisions [Article 32] of the new Civil Code, there is no more plea of acting in good faith?

DEAN BOCOBO. It would not be good faith but it would be inherent justifiability of the act, which is up to our courts to decide under the peculiar circumstance of each case, because we had back in our minds the old saying that "Hell is paved with good intentions." (Lawyers' Journal, No. 5, May 31, 1951, p. 259.)

[32] *Supra* note 25.

[33] *LDP Marketing, Inc. v. Monter*, G.R. No. 159653, January 25, 2006, 480 SCRA 137, 144-145.