Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PACALNA SANGGACALA, ALI MACARAYA MATO, MUALAM DIMATINGCAL, and CASIMRA SULTAN,	**G.R. No. 209538**
Petitioners,	Present:
-versus-	GESMUNDO*, *Chief Justice* LEONEN, *Chairperson* HERNANDO, ROSARIO*, and LOPEZ, J., *JJ.*
NATIONAL POWER CORPORATION,	**Promulgated:**
Respondent.	July 7, 2021

x----------x

DECISION

LEONEN, *J.*:

Tort law can be used to address environmental harms to a well-defined area or specific person, or a class of persons, when readily supported by general and specific causation and closely fits the elements of a tort cause of action.

---

* Designated additional Member per Raffle dated June 25, 2021.
** Designated additional Member per Special Order No. 2833.

This Court resolves a Petition for Review on Certiorari[1] assailing the Decision[2] and Resolution[3] of the Court of Appeals, which reversed the Joint Judgment[4] of the Regional Trial Court.

National Power Corporation, a government-owned and controlled corporation created under Commonwealth Act No. 120, as amended,[5] is tasked "to undertake the development of hydroelectric generation of power and the production of electricity from nuclear, geothermal and other sources, as well as the transmission of electric power on a nationwide basis[.]"[6]

To carry out its mandate, National Power Corporation has the power to:

> construct, operate and maintain power plants, auxiliary plants, dams, reservoirs, pipes, mains, transmission lines, power stations and substations, and other works for the purpose of developing hydraulic power from any river, creek, lake, spring and waterfall in the Philippines and supplying such power to the inhabitants thereof[.][7]

In 1973, the Office of the President issued Memorandum Order No. 398 "prescribing measures to preserve the Lake Lanao Watershed, [and] to enforce the reservation of areas around the lake below [702] meters elevation[.]" National Power Corporation was then mandated to "place in every town around the lake, at the normal maximum lake elevation of seven hundred and two meters, benchmarks warning that cultivation of land below said elevation is prohibited."[8]

In 1978, National Power Corporation constructed the Agus Regulation Dam at Saduc, Marawi City for the control and management over Lake Lanao's water outflow and "to run the turbine machines for power production of their Hydro Electric Power Plant along the Agus River such as Agus I, II, IV, VI, VII and VIII."[9]

---

1 *Rollo*, pp. 8–24. Under Rule 45 of the Rules of Court.

2 Id. at 26–35. The March 26, 2013 Decision in CA-G.R. CV No. 01114-MIN was penned by Associate Justice Oscar V. Badelles and concurred in by Associate Justices Romulo V. Borja and Henri Jean Paul B. Inting (now, Associate Justice of the Supreme Court) of the Special Twenty-First Division of the Court of Appeals, Cagayan de Oro City.

3 Id. at 37–41. The September 16, 2013 Resolution in CA-G.R. CV No. 01114-MIN was penned by Associate Justice Oscar V. Badelles and concurred in by Associate Justices Romulo V. Borja and Henri Jean Paul B. Inting (now, Associate Justice of the Supreme Court) of the Special Twenty-First Division of the Court of Appeals, Cagayan de Oro City.

4 Id. at 136–158. The December 12, 2005 Joint Judgment in Civil Case Nos. 1322-95, 1332-95, 1355-95 and 1361-95 was penned by Presiding Judge Santos B. Adiong of the Regional Trial Court of Lanao del Sur, Marawi City, Branch 8.

5 Commonwealth Act No. 120 (1936) is amended by Republic Act No. 6395 (1971) and Presidential Decree No. 938 (1976).

6 Republic Act No. 6395 (1971), sec. 2.

7 Republic Act No. 6395 (1971), sec. 3(g).

8 Memorandum Order No. 398 (1973), sec. 4.

9 *Rollo*, p. 138.

Pacalna Sanggacala, Ali Macaraya Mato, Mualam Dimatingcal and Casimra Sultan (collectively, Sanggacala, et al.) are members of Ranao-National Power Corporation Affected Organization—a group of farmers, farmland, and fishpond owners along the Lake Lanao shore.[10]

In separate complaints for damages, Sanggacala, et al. claimed that the National Power Corporation's refusal to open the floodgates of Agus Regulation Dam whenever flooding occurred damaged their farmlands and crops for the years 1979, 1984, 1986, 1989, 1993, 1994, 1995, and 1996.[11] According to Sanggacala, et al., the National Power Corporation admitted that damages were due to claimants, by paying the affected residents because of the high water surface elevation of Lake Lanao in 1993 and 1994.[12]

Furthermore, Letter of Instruction No. 1310, which set the minimum lake elevation at 697 meters and the maximum at 702, allegedly enabled the National Power Corporation to illegally expropriate all the farmlands, fishponds, and fish cages around the lakeshore within the five-meter elevation difference, which included Sanggacala, et al.'s properties.[13] Sanggacala, et al. alleged that based on the research study conducted by one Lindy Washburn, the normal water elevation of Lake Lanao should be at 700.09 meters, and that any level above or below it affects and damages the aquatic resources, farmlands, and fishponds along the lakeshore.[14]

In its Answer, the National Power Corporation alleged that Sanggacala, et al.'s properties were not among those damaged by Lake Lanao's rise in water level, and, assuming that they were affected, the damage was not an actionable wrong, being a *damnum absque injuria*.[15] Furthermore, it claimed that the improvements were introduced by Sanggacala, et al. on the lake shore area below the 702-meter water mark, in violation of Memorandum Order No. 398.[16]

Thereafter, trial ensued.[17]

In a December 12, 2005 Joint Judgment,[18] the Regional Trial Court ruled in favor of Sanggacala, et al., and ordered the National Power Corporation to pay them actual damages, moral damages, exemplary damages, attorney's fees, just compensation, rental, and interest, to wit:

WHEREFORE, for all the foregoing findings and considerations,

---

10 Id. at 27.
11 Id. at 28 and 153.
12 Id. at 139.
13 Id. at 138.
14 Id. at 138.
15 Id. at 144.
16 Id.
17 Id.
18 Id. at 136–158.

judgment is hereby rendered in favor of the plaintiffs and against defendant National Power Corporation ordering said defendant to pay unto the plaintiffs the following, to wit:

CIVIL CASE NO. 1332-95
ALI MACARAYA MATO VS NPC

To pay to plaintiff Ali Macaraya Mato the following:

1. The sum of One Million Eight Hundred Ninety Thousand Pesos (P1,890,000.00) as Actual Damage for the growing crops of the Plaintiff on his 3.5 hectares farmland that was damage last 1979, 1984, 1986, 1989, 1994, 1995 and 1996.
2. The sum of Two Million Eight Hundred Thousand Pesos (P2,800,000.00) as yearly Rental of the 3.5 hectare farmland of the plaintiff on the eight (8) years that he suffered damages due to the flooding of his farmland last 1979, 1984, 1986, 1989, 1993, 1994, 1995 and 1996 at Three Hundred Fifty Thousand (P350,000.00) Every Flooding
3. The sum of Three Million Five Hundred Thousand Pesos (P3,500,000.00) as Just Compensation on his 3.5 Hectare farmland due to the established Continuous and Non-Apparent Easement by the Defendant to the Plaintiff farmland.
4. The sum of Four Hundred Thousand Pesos (P400,000.00) as Moral Damages to the eight (8) times that the Plaintiff suffered damages due to flooding of his farmland last 1979, 1984, 1986, 1993, 1994, 1995 and 1996 at Fifty Thousand Pesos (P50,000.00) each flooding
5. The sum of Two Hundred Forty Thousand Pesos (P240,000.00) as Exemplary Damages for the eight (8) times that the Plaintiff suffered damages due to floodings last 1979, 1984, 1986, 1993, 1994, 1995 and 1996 at Thirty Thousand Pesos (P30,000.00) each flooding.
6. The sum of Two Hundred Thousand Pesos (P200,000.00) as Attorneys Fee and Twenty Thousand Pesos (P20,000.00) Litigation Expenses.
7. Six percent (6%) interest of the amount awarded from 1979 until fully paid by the defendant and
8. To pay the costs.

CIVIL CASE NO. 1332-95
MUALAM DIMATINGCAL VS NPC

To pay to plaintiff Mualam Dimatingcal the following:

1. The sum of One Million Eight Hundred Eighty Thousand Pesos (P1,080,000.00) as Actual Damage of the growing crops of plaintiff on his 2 hectares farmland that was damage last 1979, 1984, 1986, 1989, 1993, 1994, 1995 and 1996.
2. The sum of One Million Six Hundred Thousand Pesos (P1,600,000.00) as yearly Rental of the 2 hectare farmland of the plaintiff on the eight (8) years that he suffered damages due to the flooding of his farmland last 1979, 1984, 1986, 1989, 1993, 1994, 1995 and 1996 at Two Hundred Thousand (P200,000.00) Every Flooding
3. The sum of Two Million Pesos (P2,000,000.00) as Just Compensation on his Two (2) Hectare farmland due to the

established Continuous and Non-Apparent Easement by the Defendant to the Plaintiff farmland

4. The sum of Four Hundred Thousand Pesos (P400,000.00) as Moral Damages to the eight (8) times that the Plaintiff suffered damages due to flooding of his farmland last 1979, 1984, 1986, 1989, 1993, 1994, 1995 and 1996 at Fifty Thousand Pesos (P50,000.00) each flooding
5. The sum of Two Hundred Forty Thousand Pesos (P240,000.00) as Exemplary Damages for the eight (8) times that the Plaintiff suffered damages due to flooding last 1979, 1984, 1986, 1993, 1994, 1995 and 1996 at Thirty Thousand Pesos (P30,000.00) each flooding.
6. The sum of Two Hundred Thousand Pesos (P200,000.00) as Attorneys Fee and Twenty Thousand Pesos (P20,000.00) Litigation Expenses.
7. Six percent (6%) interest of the amount awarded from 1979 until fully paid by the defendant and
8. To pay the costs

CIVIL CASE NO. 1361-95
CASMIRA SULTAN VS NPC

To pay to plaintiff Casmira Sultan the following:

1. The sum of One Million Eight Hundred Eighty Thousand Pesos (P1,080,000.00) as Actual Damage of the growing crops of Plaintiff in his 2 hectares farmland that was damage last 1979, 1984, 1986, 1989, 1993, 1994, 1995 and 1996.
2. The sum of One Million Six Hundred Thousand Pesos (P1,600,000.00) as yearly Rental of the 2 hectare farmland of the plaintiff on the eight (8) years that he suffered damages due to the flooding of his land last 1979, 1984, 1986, 1989, 1993, 1994, 1995 and 1996 at Two Hundred Thousand (P2,000,000.00) Every Flooding
3. The sum of Two Million Pesos (P2,000,000.00) as Just Compensation on his Two (2) Hectare farmland due to the established Continuous and Non-Apparent Easement by the Defendant to the Plaintiff farmland
4. The sum of Four Hundred Thousand Pesos (P400,000.00) as Moral Damages to the eight (8) times that the Plaintiff suffered damages due to flooding of his farmland last 1979, 1984, 1986, 1989, 1993, 1994, 1995 and 1996 at Fifty Thousand Pesos (50,000.00) each flooding;
5. The sum of Two Hundred Forty Thousand Pesos (P240,000.00) as exemplary for the eight (8) times that the Plaintiff suffered damages due to flooding last 1979, 1984, 1986, 1993, 1994, 1995 and 1996 at Thirty Thousand Pesos (P30,000.00) each flooding.
6. The sum of Two Hundred Thousand Pesos (P200,000.00) as Attorneys Fee and Twenty Thousand Pesos (P20,000.00) Litigation Expenses.
7. Six percent (6%) interest of the amount awarded from 1979 until fully paid by the defendant and
8. To pay the costs.

CIVIL CASE NO. 1322-95
PACALNA SANGGACALA VS NPC

To pay to plaintiff Pacalna Sanggacala the following:

1. The sum of One Million Eight Hundred Eighty Thousand Pesos (P1,080,000.00) as Actual Damage for the growing crops of the Plaintiff on his 2 hectare farmland that was damage last 1979, 1984, 1986, 1989, 1993, 1994, 1995 and 1996.
2. The sum of One Million Six Hundred Thousand Pesos (P1,600,000.00) as yearly Rental of the 2 hectare farmland of the plaintiff on the eight (8) years that he suffered damages due to the flooding of his farmland last 1979, 1984, 1986, 1989, 1993, 1994, 1995 and 1996 at Two Hundred Thousand (P200,000.00) Every Flooding
3. The sum of Two Million Pesos (P2,000,000.00) as Just Compensation on his Two (2) Hectare farmland due to the established Continuous and Non-Apparent Easement by the Defendant to the Plaintiff farmland
4. The sum of Four Hundred Thousand Pesos (P400,000.00) as Moral Damages to the eight (8) times that the Plaintiff suffered damages due to flooding of his farmland last 1979, 1984, 1986, 1989, 1993, 1994, 1995 and 1996 at Fifty Thousand Pesos (50,000.00) each flooding
5. The sum of Two Hundred Forty Thousand Pesos (P240,000.00) as Exemplary Damages for the eight (8) times that the Plaintiff suffered damages due to flooding last 1979, 1984, 1986, 1993, 1994, 1995 and 1996 at Thirty Thousand Pesos (P30,000.00) each flooding.
6. The sum of Two Hundred Thousand Pesos (P200,000.00) as Attorneys Fee and Twenty Thousand Pesos (P20,000.00) Litigation Expenses.
7. Six percent (6%) interest of the amount awarded from 1979 until fully paid by the defendant and
8. To pay the costs

SO ORDERED.[19]

The Regional Trial Court found that Sanggacala et al.'s properties were damaged by the National Power Corporation's refusal to open its Agus Regulation Dam whenever there was overflooding.[20] Furthermore, the trial court held that Sanggacala, et al. should be awarded damages, applying similarly decided cases and the rule on conclusiveness of judgment.[21] Thus, the trial court found legal and factual basis in awarding Sanggacala, et al. actual damages, moral damages, exemplary damages, attorney's fees, just compensation, rental payments, and interest.[22]

Accordingly, the National Power Corporation filed an appeal before the Court of Appeals.[23]

---

19 Id. at 153–158.
20 Id. at 147.
21 Id. at 149.
22 Id. at 149–152.
23 Id. at 26.

In a March 26, 2013 Decision,[24] the Court of Appeals reversed the trial court's decision and held that Sanggacala, et al. failed to establish a *prima facie* case for recovery of damages against the National Power Corporation.[25] The Court of Appeals found that the research study conducted by Lindy Washburn, which Sanggacala et al. relied upon, was not only insufficient to prove their claim, but also lacked evidentiary value for not being formally offered as evidence, and for being hearsay.[26] The Court of Appeals found as mere conclusion without supporting evidence the allegation that the construction of Agus Regulation Dam caused the destructive flood.[27] In finding that the reliefs prayed for lacked legal and factual bases, the Court of Appeals concluded, as follows:

> **WHEREFORE**, premises considered, the instant appeal is **GRANTED**. The Joint Judgment dated December 12, 2005 of the Regional Trial Court (RTC), Branch 8, Marawi City, in Civil Cases No. 1322-95, 1332-95, 1355-95 and 1361-95 is **REVERSED** and **SET ASIDE.**
>
> **SO ORDERED.**[28] (Emphasis in the original)

In a September 16, 2013 Resolution, the Court of Appeals denied the motion for reconsideration filed by Sanggacala, et al.[29]

On December 4, 2013, Sanggacala, et al. filed a Petition for Review on Certiorari against the National Power Corporation before this Court.

Petitioners claim that they only discovered that respondent's refusal to open Agus Regulation Dam's floodgate caused the flooding on their properties after similar cases were filed by farmers and fishpond owners in similar situations.[30] Petitioners allege that respondent's assignment of errors was substantially the same and was already ruled upon by this Court in the 2005 case of *National Power Corporation v. Court of Appeals*.[31]

Petitioners claim that their individual testimonies served as the main evidence of the damages they suffered from the flooding in 1979, 1984, 1986, 1989, 1993, 1994, and 1995. Lindy Washburn's research study merely described the circumstances leading to the flooding of the areas around Lake Lanao during rainy season.[32]

---

24 Id. at 26–35.
25 Id. at 32.
26 Id. at 32–34.
27 Id. at 34.
28 Id. at 34–35.
29 Id. at 37–41.
30 Id. at 11–12.
31 Id. at 16 citing 493 Phil. 218 (2005) [Per J. Chico-Nazario, Second Division].
32 Id. at 20.

Petitioners further cite Court of Appeals decisions namely, *National Power Corporation v. Honorable Santos Adiong and Rasamala Gorigao, et al.* on the proof needed for damages, and *National Power Corporation v. Honorable Amer Ibrahim, Presiding Judge and Palawan Disomimba et al.*, for conclusiveness of judgment.[33]

Lastly, petitioners claim that the Court of Appeals neither passed upon the facts stated in the trial court's decision nor did it controvert Lindy Washburn's research study, but solely discredited the research study based on mere technicality.[34]

In a February 17, 2014 Resolution,[35] respondent, through the Office of the Solicitor General, was required to comment on the petition.

In its Comment,[36] respondent argues that petitioners failed to discharge the burden of proving their claim for damages, and to establish the direct causal connection between their refusal to open the Agus Regulation Dam floodgate and the alleged damages they have suffered.[37] Respondent claims that petitioners' evidence, such as their tax declarations and photographs of the flooded farmlands, cannot be considered as proof of actual damages because petitioners failed to provide the date when the photographs were taken, and to show their alleged unearned earnings due to the flood.[38] Respondent insists that petitioners failed to adduce evidence to justify the grant of moral damages, exemplary damages, and attorney's fees.[39] Respondent further maintains that the doctrine of conclusiveness of judgment is inapplicable, since there are different parties, evidence, subject matters, and periods of alleged suffering between the present case and the previous cases.[40]

In a June 23, 2014 Resolution,[41] this Court required petitioners to file a reply. However, no reply was filed.

In a January 21, 2015 Resolution,[42] this Court required the parties to submit their respective memoranda. Further, the Court appointed Dean Sedfrey Candelaria (Dean Candelaria) of the Ateneo De Manila University Law School and Prof. Rommel J. Casis of the University of the Philippines College of Law as *amici curiae*, and also required them to submit their respective memoranda.[43]

---

33 Id. at 20–22.
34 Id. at 22.
35 Id. at 78.
36 Id. at 88–102.
37 Id. at 94–95.
38 Id. at 97.
39 Id. at 98.
40 Id.
41 Id. at 103.
42 Id. at 105–107.
43 Id. at 106.

In its January 2, 2018 Memorandum,[44] petitioners maintain that the construction of the Agus Regulation Dam in 1979 altered the water level of Lake Lanao, with the water held causing flood around the lakeshores, which in turn destroyed their farmlands and crops.[45] Petitioners reiterate that they suffered damages due to the flooding, specifically in 1979, 1984, 1985, 1986, 1991, 1992, 1993, 1994 and 1995, since the Agus Regulation Dam became operational.[46]

In its May 27, 2015 Memorandum,[47] respondent reiterates that petitioners failed to establish the direct causal connection between Agus Regulation Dam's construction and the damages they allegedly suffered, and that petitioners failed to earn their usual income due to the flooding allegedly caused by respondent.[48] Respondent denies liability for environmental tort based on negligence, claiming that it was neither at fault nor negligent in performing its duties under Memorandum Order No. 398.[49]

On the other hand, respondent claims that petitioners' planting and growing of their crops below the 702-meter elevation violated Memorandum Order No. 398, and was the proximate cause of the damages they allegedly suffered.[50] Furthermore, respondent argues that the doctrine of *damnum absque injuria* applies, since it did not cause any legal injury to petitioners.[51] Finally, respondent claims that there is no conclusiveness of judgment, because there is no identity of parties and subject matter between this case and *National Power Corporation v. Court of Appeals*.[52]

In a June 30, 2015 *Amicus* Brief,[53] Dean Candelaria, as *amicus curiae,* said that the petition should be denied, and that the Court of Appeals decision should be affirmed *in toto.*[54] He opined that the rule on conclusiveness of judgment does not apply, because the parties and the subject matter are different.[55] According to him, respondent did not commit environmental tort based on negligence. Moreover, he claims that the doctrine of *damnum absque injuria* is inapplicable, as there was no proof that the refusal to open the Agus Regulation Dam was the proximate cause of inundation and of the alleged damages suffered by petitioners.[56] He further states that petitioners failed to justify their entitlement to actual, moral, and exemplary damages.[57]

---

44 Id. at 277–279.
45 Id. at 278.
46 Id.
47 Id. at 231–253.
48 Id. at 241–243.
49 Id. at 246.
50 Id.
51 Id. at 247.
52 Id. at 249 citing 493 Phil. 218 (2005) [Per J. Chico-Nazario, Second Division].
53 Id. at 254–269.
54 Id. at 265.
55 Id. at 258.
56 Id. at 260–261.
57 Id. at 263–264.

This Court resolves the following issues:

First, whether or not there is conclusiveness of judgment per *National Power Corporation v. Court of Appeals*;[58]

Second, whether or not respondent National Power Corporation committed environmental tort based on negligence;

Third, whether or not petitioners Sanggacala, et al. proved their claim for damages against respondent through preponderant evidence;

Fourth, whether or not the doctrine of *damnum absque injuria* applies in this case; and

Finally, whether or not petitioners Sanngacala, et al. are entitled to the damages awarded by the trial court.[59]

We grant the Petition.

I

The two concepts of *res judicata*—bar by prior judgment and conclusiveness of judgment[60]—are provided under the Rules of Court, respectively under Rule 39, Section 47, paragraphs (b) and (c):

> SECTION 47. Effect of judgments or final orders. — The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:
>
> . . . .
>
> (b) In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity; and
>
> (c) In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.

---

58 493 Phil. 218 (2005) [Per J. Chico-Nazario, Second Division].
59 *Rollo*, pp. 105–106.
60 *Taar v. Lawan*, 820 Phil. 26, 48 (2017) [Per J. Leonen, Third Division].

Res judicata has the following elements:

> . . .(1) the first judgment must be final; (2) the first judgment was rendered by a court that has jurisdiction over the subject and the parties; (3) the disposition must be a judgment on the merits; and (4) the parties, subject, and cause of action in the first judgment are identical to that of the second case.[61] (Citations omitted)

In bar by prior judgment, the first judgment "precludes the prosecution of a second action upon the same claim, demand[,] or cause of action."[62]

On the other hand, *res judicata* in the concept of conclusiveness of judgment, also known as preclusion of issues,[63] states:

> . . . a fact or question which was in issue in a former suit, and was there judicially passed on and determined by a court of competent jurisdiction, is conclusively settled by the judgment therein, as far as concerns the parties to that action and persons in privity with them, and cannot be again litigated in any future action between such parties or their privies, in the same court or any other court of concurrent jurisdiction on either the same or a different cause of action, while the judgment remains unreversed or unvacated by proper authority.[64] (Citations omitted)

Essentially, for conclusiveness of judgment to apply, the parties and issues in the two cases must be the same.[65] An absolute identity of parties is not required in order for parties to be considered the same; there must only be a substantial identity of parties or a "community of interest between a party in the first case and a party in the second case[,] even if the latter was not impleaded in the first case."[66] One test to determine substantial identity of parties would be "whether the success or failure of one party materially affects the other."[67] Simply put, there must be privity between the parties in the first and second case, such as when a successor-in-interest or an heir participates in the second case.[68]

Meanwhile, there is an identity of issues "when a competent court has adjudicated the fact, matter, or right, or when the fact, matter, or right was

---

61 *Presidential Decree No. 1271 Committee v. De Guzman,* 801 Phil. 731, 766 (2016) [Per J. Leonen, Second Division].

62 *Taar v. Lawan,* 820 Phil. 26, 48–49 (2017) [Per J. Leonen, Third Division].

63 Id. at 767.

64 *Presidential Decree No. 1271 Committee v. De Guzman,* 801 Phil. 731, 766 (2016) [Per J. Leonen, Second Division] citing *Nabus v. Court of Appeals*, 271 Phil. 768, 784–785 (1991) [Per J. Regalado, Second Division].

65 Id. at 767.

66 *Taar v. Lawan,* 820 Phil. 26, 50 (2017) [Per J. Leonen, Third Division].

67 *Pryce Corporation v. China Banking Corporation,* 727 Phil. 1, 12 (2014) [Per J. Leonen, En Banc].

68 *Presidential Decree No. 1271 Committee v. De Guzman,* 801 Phil. 731, 766 (2016) [Per J. Leonen, Second Division].

'necessarily involved in the determination of the action'[.]"[69] Whether an issue has been resolved in the first case, it must be established that the evidence needed to resolve the second case "would have authorized a judgment for the same party in the first action."[70] The doctrine of *res judicata* in the concept of conclusiveness of judgment does not apply here.

In *National Power Corporation v. Court of Appeals*,[71] the private respondents, owners of fishponds and its improvements sited along the Lake Lanao shore, claimed that their properties were washed away by flood due to the petitioner's failure to increase the water outflow from the Agus Regulation Dam, despite the rise of the lake's water level from heavy rains in 1986.

Here, petitioners, owners of farmlands and crops which are also sited along the Lake Lanao shore, claimed that their properties were damaged by flood due to respondent's refusal to open the floodgates of Agus Regulation Dam for the years 1979, 1984, 1986, 1989, 1993, 1994, 1995, and 1996.[72] Clearly, there is no identity of parties and of subject matter in the 2005[73] case and in here. Petitioners failed to show that they shared a common interest with private respondents in *National Power Corporation.* Aside from claiming different damages for different properties, the period for which they alleged damages on their respective properties was likewise different.

Thus, the doctrine of *res judicata* by conclusiveness of judgment does not apply.

II

Obligations arise from the law, contracts, quasi-contracts, criminal offenses, and *quasi-delict*.[74] Governed by Article 2176 of the Civil Code, *quasi-delict* or *culpa aquiliana* is "the wrongful or negligent act or omission which creates a *vinculum juris* and gives rise to an obligation between two persons not formally bound by any other obligation,"[75]:

> Art. 2176. 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 a quasi-delict and is governed by the provisions of this Chapter.

---

69 Id. at 767.

70 Id.

71 493 Phil. 218 (2005) [Per J. Chico-Nazario, Second Division].

72 *Rollo*, p. 28 and 153.

73 *National Power Corporation v. Court of Appeals*, 493 Phil. 218 (2005) [Per J. Chico-Nazario, Second Division].

74 CIVIL CODE, art. 1157.

75 *Orient Freight International Inc. v. Keihin Everett Forwarding Company, Inc.*, 816 Phil. 163, 175 (2017) [Per J. Leonen, Second Division] citing *Spouses Batal v. Spouses Tominaga*, 534 Phil. 798, 804 (2006) [Per J. Austria-Martinez, First Division].

This Court differentiated *quasi-delict* from torts in *Baksh v. Court of Appeals*:[76]

> *Quasi-delict*, known in Spanish legal treatises as *culpa aquiliana*, is a civil law concept while torts is an Anglo-American or common law concept. Torts is much broader than *culpa aquiliana* because it includes not only negligence, but intentional criminal acts as well such as assault and battery, false imprisonment and deceit. In the general scheme of the Philippine legal system envisioned by the Commission responsible for drafting the New Civil Code, intentional and malicious acts with certain exceptions, are to be governed by the Revised Penal Code while negligent acts or omissions are to be covered by Article 2176 of the Civil Code. In between these opposite spectrums are injurious acts which, in the absence of Article 21, would have been beyond redress. Thus, Article 21 fills that vacuum. It is even postulated that together with Articles 19 and 20 of the Civil Code, Article 21 has greatly broadened the scope of the law on civil wrongs; it has become much more supple and adaptable than the Anglo-American law on torts.[77] (Citations omitted)

In subsequent cases, this Court referred to torts[78] and *quasi-delict*[79] interchangeably when enumerating the following elements: (1) damages suffered by the plaintiff; (2) fault or negligence of the defendant, or some other person for whose acts he or she must respond; and (3) the connection of cause and effect between the fault or negligence of the defendant and the damages incurred by the plaintiff.[80]

Environmental tort is a hybrid of two disciplines—tort law and environmental law, and may provide an "institutional answer that addresses the remaining gaps in public health protection."[81] Environmental harm may include "immediate and future physical injury to people, emotional distress from fear of future injury, social and economic disruption, remediation costs, property damage, ecological damage, and regulatory harms."[82]

---

76 292 Phil. 113 (1993) [Per J. Davide, Jr., Third Division].

77 Id. at 128.

78 *Gregorio v. Court of Appeals*, 615 Phil. 653 (2009) [Per J. Nachura, Third Division], *Corinthian Gardens Association Inc. v. Spouses Tanjangco*, 578 Phil. 712 (2008) [Per J. Nachura, Third Division].

79 *Indophil Textile Mills, Inc. v. Adviento*, 740 Phil. 336 (2014) [Per J. Peralta, Third Division]; *Philippine National Construction Corp., v. Court of Appeals*, 505 Phil. 87 (2005) [Per J. Callejo, Sr., Second Division].

80 *Indophil Textile Mills, Inc. v. Adviento*, 740 Phil. 336 (2014) [Per J. Peralta, Third Division]; *Gregorio v. Court of Appeals*, 615 Phil. 653 (2009) [Per J. Nachura, Third Division], *Corinthian Gardens Association Inc. v. Spouses Tanjangco*, 578 Phil. 712 (2008) [Per J. Nachura, Third Division]; *Philippine National Construction Corp., v. Court of Appeals*, 505 Phil. 87 (2005) [Per J. Callejo, Sr., Second Division].

81 Troyen A. Brennan, *Environmental Torts*, 46 VANDERBILT LAW REVIEW 1 (1993), available at <https://core.ac.uk/download/pdf/288236257.pdf> (last accessed on April 27, 2021).

82 Albert C. Lin, *The Unifying Role of Harm in Environmental Law*, WISCONSIN LAW REVIEW 897, 928, available at <https://escholarship.org/uc/item/6w95v8dx> (last accessed on April 29, 2021).

While environmental laws are principally concerned with the "prevention or correction of environmental harm"[83] and tort laws are principally concerned with "righting [a] wrong[,]"[84] the core principles of these two disciplines show room for overlap:

> [T]ort law is mainly supported by principles of corrective justice or compensation based on fault, and deterrence, while much of environmental law is supported by principles of prevention, which include environmental protection and conservation, and deterrence. It therefore follows that where an environmental law or action principally furthers corrective justice and deterrence, the underlying principles would appear to support overlap with tort law most fully. In areas where an environmental law or interest is principally concerned with other policy determinations, for instance prevention and conservation, tort law would appear less suited or appropriate for overlap.
>
> Such a formulation helps to explain why a law establishing a nature preserve, which many courts and commentators might consider an environmental law, does not implicate or overlap with tort law. The principles and policy objectives supporting the law are entirely distinct from that of tort law. Conversely, a law imposing liability for the cleanup of hazardous substances, which is law designed to mete out corrective justice and compensate for a direct injury, would overlap with tort law principles.[85] (Citation omitted)

Thus, tort law provides a means to address environmental harms, where the "harm is to a well-defined area or specific person or class of persons, is readily supported by general and specific causation, and closely fits the traditional elements of a tort cause of action[;]" to wit:

> Tort law has traditionally provided a blunt instrument for remedying harms to the environment. Indeed, the lack of a neat fit between certain harms to environmental interests and a remedy through the common law tort system has been a significant catalyst for the increase in environmental statutes and regulations over the past several decades. Nevertheless, general tort law theories have been successfully applied to remedy numerous types of harm to the environment. This occurs in areas where the harm is to a well-defined area or specific person or class of persons, is readily supported by general and specific causation, and closely fits the traditional elements of a tort cause of action.
>
> In addition, the interests remedied by the tort system are always direct harms to an individual or legally recognized entity. This requirement of a direct injury is necessary to establish standing to maintain a tort suit. The tort system has never provided a remedy for harm to environmental interests in the absence of a direct injury, and has been reluctant to recognize a harm suffered where the injury alleged is marginal or highly attenuated

---

83 Mark Latham, Victor E. Schwartz, and Christopher E. Appel, *The Intersection of Tort and Environmental Law: Where the Twains Should Meet and Depart*, 80 FORDHAM L. REV. 737, 742 (2011), available at <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=4670&context=flr> (last accessed on April 28, 2021).

84 Id. at 746.

85 Id. at 749.

from the plaintiff. For example, courts have historically viewed with great skepticism claims brought by environmentalist groups or taxpayers solely alleging harm to the environment, often pointing to failure to satisfy standing or direct injury requirements.

. . . .

In the "classic" environmental tort action involving negligence, or nuisance, or both, an accident occurs releasing a hazardous substance onto another's land. The polluter is clearly identifiable, the impacted area relatively confined, the injuries caused and capable of being caused in the absence of remediation are known, and the extent of the damage both to persons and property are readily quantifiable. The elements of the tort actions are satisfied, and the common law can provide an effective remedy.

But rarely in environmental tort actions are these issues quite so clear-cut. Problems and disputes among the parties often develop over the scope of the impacted area, the parties responsible, causation, and the potential long-term effects of a hazardous substance release. Where there is no immediate accident or event giving rise to the action, but rather a gradual release involving multiple hazardous substances with differing degrees of potential toxicity and exposure routes, or multiple potential sources or defendants, the benefits of the tort system quickly begin to break down and can result in a very costly, protracted, and unsatisfactory resolution of the claim. Virtually all modern environmental tort actions also involve dueling experts with competing views regarding causation and the scope of the harm and remediation necessary. It is in these more complex toxic tort cases where the tort system often becomes far less efficient and effective in responding to alleged environmental harms.

Regardless of the relative efficiency of the common law, tort law remains an important source of law to resolve harms to the environment. In the case of comparatively simple and straightforward harms, for instance flooding someone's land and killing off plant life, tort law may provide the only means of redress available. Similarly, where a release of a substance onto another's property or public land is not necessarily toxic in nature, for example dumping a dirt pile or causing unwanted vegetation, the remedy will likely rest exclusively with the tort system. These are, again, areas where the tort elements readily fit and the scope of the injury is well defined and understood, as is the measure and form of corrective action. Where the situation is more serious and complex, numerous parties are involved, and the scope of alleged injury is more widespread, the common law has been less up to the task and environmental legislation has proved both helpful and necessary.[86] (Emphasis supplied, citations omitted)

More important, for an environmental tort action to prosper, there must "be an actual injury to a person or group of persons or to property."[87] The essential purpose of an environmental tort action is "to provide corrective justice based upon the relative fault or blameworthiness of another."[88]

---

[86] Id. at 750–754.
[87] Id. at 765.
[88] Id. at 766.

There are two primary theories commonly underlying tort action—the law of nuisance and the law of negligence:

> The primary tort theories that have been successfully used to remedy alleged environmental harms are rooted in the law of nuisance and negligence. Nuisance law has emerged as a widely used theory to address environmental interests, in part, because of the perceived vagueness and broad latitude of the tort action. As Deans William Prosser and W. Page Keeton famously observed, "There is perhaps no more impenetrable jungle in the entire law than that which surrounds the word 'nuisance.' It has meant all things to all people[.]"
>
> . . . .
>
> The other theory commonly underlying environmental tort actions, negligence, is broader in scope, and also permits traditional tort damages as a remedy. Because negligence requires the breach of a duty of care and a duty may be created where a party creates an unreasonable risk of harm to another, the law of negligence can potentially reach those environmental harms that do not implicate a possessory interest in the use and enjoyment of land. A negligence claim may be brought by essentially any party directly injured by another's failure to exercise reasonable care under the circumstances.
>
> Examples of negligence actions with an environmental effect might include physical injuries sustained from exposure to hazardous substances released into the environment, the failure to adequately reduce or warn of such serious risks of injury, or perhaps the failure to promptly remediate an acknowledged harm to the environment, for example in the aftermath of an oil spill or a release of toxic chemicals following a train derailment. A shared characteristic of negligence claims in the environmental context, similar to nuisance, is that they routinely involve some form of hazardous release into the environment by readily identifiable parties that causes direct harm to humans or property damage. Not coincidentally, this presents the area in which negligence, nuisance, and other common law tort actions function most effectively to remedy environmental harm.[89] (Citations omitted)

Negligence has been defined in our jurisdiction as an omission to do an act which a reasonable person would do, guided by those considerations which ordinarily regulate the conduct of human affairs, or the "failure to observe that degree of care, precaution and vigilance that the circumstance justly demand."[90] Further:

> . . .A negligent act is one from which an ordinary prudent person in the actor's position, in the same or similar circumstances, would foresee such an appreciable risk of harm to others as to cause him [or her] not to do the act or to do it in a more careful manner.[91] (Citation omitted)

---

89 Id. at 750–752.

90 *Philippine National Construction Corp., v. Court of Appeals,* 505 Phil. 87 (2005) [Per J. Callejo, Sr., Second Division].

91 *Corinthian Gardens Association Inc. v. Spouses Tanjangco,* 578 Phil. 712, 725 (2008) [Per J. Nachura, Third Division].

If the law does not provide for the degree of diligence to be exercised, then the required diligence is that of a good father of a family.[92] The complaining party has the burden of proving the other party's negligence, since there is no presumption of negligence in *quasi-delicts*.[93]

This Court further elucidated on the concept of negligence and the test to determine whether it exists in a case:

> Negligence is the omission to do something which a reasonable man, guided by those considerations which ordinarily regulate the conduct of human affairs, would do, or the doing of something which a prudent and reasonable man would do. It also refers to the conduct which creates undue risk of harm to another, the failure to observe that degree of care, precaution and vigilance that the circumstance justly demand, whereby that other person suffers injury. The Court declared the test by which to determine the existence of negligence in *Picart v. Smith*, viz:
>
> > The test by which to determine the existence of negligence in a particular case may be stated as follows: Did the defendant in doing the alleged negligent act use that reasonable care and caution which an ordinarily prudent person would have used in the same situation? If not, then he is guilty of negligence. The law here in effect adopts the standard supposed to be supplied by the imaginary conduct of the discreet paterfamilias of the Roman law. The existence of negligence in a given case is not determined by reference to the personal judgment of the actor in the situation before him. The law considers what would be reckless, blameworthy, or negligent in the man of ordinary intelligence and prudence and determines liability by that.
>
> The test for determining whether a person is negligent in doing an act whereby injury or damage results to the person or property of another is this: could a prudent man, in the position of the person to whom negligence is attributed, foresee harm to the person injured as a reasonable consequence of the course actually pursued? If so, the law imposes a duty on the actor to refrain from that course or to take precautions to guard against its mischievous results, and the failure to do so constitutes negligence. Reasonable foresight of harm, followed by the ignoring of the admonition born of this provision, is always necessary before negligence can be held to exist.[94] (Citations omitted)

Each case of negligence must be decided in accordance with its peculiar circumstances as held in *Corliss v. Manila Railroad Company*:[95]

---

92 *Orient Freight International Inc. v. Keihin Everett Forwarding Company, Inc.*, 816 Phil. 163, 176 (2017) [Per J. Leonen, Second Division].

93 Id. citing *Huang v. Phil. Hoteliers, Inc.*, 700 Phil. 327 (2012) [Per J. Perez, Second Division].

94 *Philippine National Construction Corp., v. Court of Appeals, et.al.*, 505 Phil. 87 (2005) [Per J. Callejo, Sr., Second Division].

95 137 Phil. 101 (1969) [Per J. Fernando, En Banc].

> . . ."Negligence is want of the care required by the circumstances. It is a relative or comparative, not an absolute, term and its application depends upon the situation of the parties and the degree of care and vigilance which the circumstances reasonably require. Where the danger is great, a high degree of care is necessary, and the failure to observe it is a want of ordinary care under the circumstances."
>
> . . . .
>
> It cannot be stressed too much that the decisive considerations are too variable, too dependent in the last analysis upon a commonsense estimate of the situation as it presented itself to the parties for us to be able to say that this or that element having been isolated, negligence is shown. The factors that enter the judgment are too many and diverse for us to imprison them in the formula sufficient of itself to yield the correct answer to the multi-faceted problems the question of negligence poses. Every case must be dependent on its facts. The circumstances indicative of lack of due care must be judged in the light of what could reasonably be expected of the parties. If the objective standard of prudence be met, then negligence is ruled out.[96]

In *Philippine National Construction Corp., v. Court of Appeals, et.al.*,[97] the petitioner was found negligent for failing to exercise the requisite diligence in keeping the NLEX safe for motorists, since it did not foresee that the highway's wet condition would endanger motorists passing by at night or in the wee hours of the morning. In *Corinthian Gardens Association Inc. v. Spouses Tanjangco*,[98] the petitioner, being responsible in ensuring compliance with approved building plans under its Manual Rules and Regulations, was held negligent in failing to prevent the encroachment of another's perimeter wall into private respondent's property.

Whether or not there was negligence is a question of fact, which this Court will generally not disturb on appeal.[99] Thus, in the 1988 case of *National Power Corporation v. Court of Appeals,*[100] this Court upheld the lower courts' finding of negligence on the part of National Power Corporation, because it only "opened the spillway gates of the Angat Dam. . . at the height of typhoon 'Welming'" knowing "very well that it was safer to have opened [it] gradually and earlier" since it had knowledge of the incoming typhoon "at least four days before it actually struck."[101]

Whether negligence exists is a question of fact, which is generally not cognizable in a petition for review where only questions of law may be raised.[102] Factual findings by the lower courts are generally binding and

---

96 Id. at 108–109.
97 505 Phil. 87 (2005) [Per J. Callejo, Sr., Second Division].
98 578 Phil. 712 (2008) [Per J. Nachura, Third Division].
99 *National Power Corporation v. Court of Appeals*, 244 Phil. 353 (1988) [Per J. Gutierrez, Jr., Third Division].
100 Id.
101 Id. at 358.
102 RULES OF COURT, Rule 45, sec. 1.

conclusive this Court, save upon certain exceptions.[103] However, the Court of Appeals' failure to apply the applicable law and jurisprudence prompted this Court's review.

In the 1992 case of *National Power Corporation v. Court of Appeals,*[104] National Power Corporation was found negligent for opening all the three floodgates of the Angat Dam spillway at the height of typhoon "Kading" without prior warning to the people living near or within the vicinity of the dam, which resulted to a massive flood causing several deaths of people and destruction of properties near the Angat River. This Court awarded damages to the private respondents after finding that the petitioner's negligence was the proximate cause of loss and damage:

> [P]etitioners cannot escape liability because their negligence was the proximate cause of the loss and damage. The Court of Appeals found that:
>
> > "As hereinabove stated, it has been shown that the defendants failed to take the necessary safeguards to prevent the danger that the Angat Dam posed in a situation of such nature as that of typhoon 'Kading'. The representative of the 'PAGASA' who testified in these proceedings, Justo Iglesias, Jr., stated that based on their records the rainfall on October 26 and 27, 1978 is classified only as moderate, and could not have caused flash floods. He testified that flash floods exceeds 50 millimeters per hour and lasts for at least two (2) hours. He stated that typhoon "Yaning" which occurred on October 7 to 14, 1978 gave a much heavier rainfall than 'Kading', and so did other previous typhoons."
>
> This was corroborated by the testimonies of private respondents, most of whom have lived in the area all their lives, but had never before experienced such flooding as would have placed them on alert, even during previous stronger typhoons such as "Dading" and "Yoling."
>
> . . . .
>
> . . . There is no question that petitioners have the right, duty and obligation to operate, maintain and preserve the facilities of Angat Dam, but their negligence cannot be countenanced, however noble their intention may be. The end does not justify the means, particularly because they could have done otherwise than simultaneously opening the spillways to such extent.

---

[103] *Pascual v. Burgos*, 776 Phil. 167 (2016) [Per J. Leonen, Second Division] cites the following exceptions: (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.

[104] 286 Phil. 230 (1992) [Per J. Nocon, Second Division].

> Needless to say, petitioners are not entitled to counterclaim.[105] (Citation omitted)

In the 1993 *National Power Corporation* cases[106] this Court applied and reiterated the 1992 *National Power Corporation* case[107] considering that all the private respondents in those cases were similarly situated and sustained damages proximately caused by National Power Corporation's negligent act of opening all the three floodgates of the Angat Dam spillway at the height of typhoon "Kading[.]" Thus, this Court held in the first 1993 *National Power Corporation* case:

> These same errors were raised by herein petitioners in G.R. No. 96410, entitled National Power Corporation, et al. vs. Court of Appeals, et al., which this Court decided on 3 July 1992. The said case involved the very same incident subject of the instant petition. In no uncertain terms, We declared therein that the proximate cause of the loss and damage sustained by the plaintiffs therein — who were similarly situated as the private respondents herein — was the negligence of the petitioners, and that the 24 October 1978 "early warning notice" supposedly sent to the affected municipalities, the same notice involved in the case at bar, was insufficient. We thus cannot now rule otherwise not only because such a decision binds this Court with respect to the cause of the inundation of the town of Norzagaray, Bulacan on 26-27 October 1978 which resulted in the loss of lives and the destruction to property in both cases, but also because of the fact that on the basis of its meticulous analysis and evaluation of the evidence adduced by the parties in the cases subject of CA-G.R. CV Nos. 27290-93, public respondent found as conclusively established that indeed, the petitioners were guilty of "patent gross and evident lack of foresight, imprudence and negligence in the management and operation of Angat Dam," and that "the extent of the opening of the spillways, and the magnitude of the water released, are all but products of defendants-appellees' headlessness, slovenliness, and carelessness."[108] (Citations omitted)

In the 2005 *National Power Corporation* case[109] where private respondents sued National Power Corporation for its failure to increase the water outflow from the Agus Regulation Dam despite the rise of the lake's water level from heavy rains in 1986 causing damage to their fishponds and its improvements sited along the Lake Lanao shore, this Court ruled that National Power Corporation was negligent for failing to perform its two-fold duty under Memorandum Order No. 398, specifically: (1) to maintain the normal maximum level of the lake at 702 meters; and (2) to build and maintain

---

105 Id. at 238–240.

106 *National Power Corporation v. Court of Appeals,* 294 Phil. 415 (1993) [Per J. Davide, Jr., Third Division]; *National Power Corporation v. Court of Appeals*, 295 Phil. 717 (1993) [Per J. Davide, Jr., Third Division].

107 *National Power Corporation v. Court of Appeals*, 286 Phil. 230 (1992) [Per J. Nocon, Second Division].

108 *National Power Corporation v. Court of Appeals,* 294 Phil. 415, 425–426 (1993) [Per J. Davide, Jr., Third Division].

109 *National Power Corporation v. Court of Appeals*, 493 Phil. 218 (2005) [Per J. Chico-Nazario, Second Division].

benchmarks warning the inhabitants in the area of the prohibition on cultivation of land below the 702-meter elevation, thus:

> By the bulk of evidence, NPC ostensibly reneged on both duties.
>
> With respect to its job to maintain the normal maximum level of the lake at 702 meters, the Court of Appeals, echoing the trial court, observed with alacrity that when the water level rises due to the rainy season, the NPC ought to release more water to the Agus River to avoid flooding and prevent the water from going over the maximum level. And yet, petitioner failed to do so, resulting in the inundation of the nearby estates. The facts, as unraveled by the trial court from the evidence on record, established that before the construction of the Agus Regulation Dam across the Agus River just beyond the Marawi City Bridge, no report of damages to landowners around the lake was ever heard. After its construction and when it started functioning in 1978, reports and complaints of damages sustained by landowners around the lake due to overflooding became widespread. The factual findings of the trial court rightly support its conclusions on this respect —
>
> > . . . Lake Lanao has only one outlet, the Agus River which in effect is the natural regulator. When the Lake level is high, more water leaves the lakes towards the Agus River. Under such a natural course, overflooding is remote because excess in water level of the lake, there is a corresponding increase in the volume of water drain down towards the Agus River and *vice versa.*
> >
> > In order to achieve its goal of generating hydroelectric power, defendant NPC constructed the Intake Regulation Dam, the purpose of which being to control and regulate the amount of water discharged into the Agus River. With this dam, defendant NPC is able to either increase or decrease the volume of water discharged into the Agus River depending on the amount of power to be generated. When the lake level rises, specially during rainy days, it is indispensable to wide open the dam to allow more water to flow to the Agus River to prevent overflowing of the lakeshore and the land around it. But the NPC cannot allow the water to flow freely into its outlet — the Agus River, because it will adversely affect its hydroelectric power plants. It has to hold back the water by its dam in order to maintain the volume of water required to generate the power supply. As a consequence of holding back the water, the lands around the lake are inundated. This is even admitted by defendant's witness Mama Manongguiring. Consequently, in October, November and December of 1986 when the lake level increased, farmlands in the Basak area around Lake Lanao and fishponds were inundated as a result of such holding back of water by defendant NPC. (Emphasis in the original)

Petitioner adduced in evidence its company records to bear out its claim that the water level of the lake was, at no point in time, higher than 702 meters. The trial court and the Court of Appeals, however, did not lend credence to this piece of evidence. Both court below held that the data

contained in petitioner's records collapse in the face of the actual state of the affected areas. During the ocular inspection conducted by the lower court where representatives of both parties were present, it was established that in the subject areas, the benchmarks as pointed out by the NPC representative, *could not be seen nor reached because they were totally covered with water.* This fact, by itself, constitutes an unyielding proof that the water level did rise above the benchmarks and inundated the properties in the area.

In the absence of any clear explanation on what other factors could have explained the flooding in the neighboring properties of the dam, it is fair to reasonably infer that the incident happened because of want of care on the part of NPC to maintain the water level of the dam within the benchmarks at the maximum normal lake elevation of 702 meters. An application of the doctrine of *res ipsa loquitur,* the thing speaks for itself, comes to fore. Where the thing which causes injury is shown to be under the management of the defendant, and the accident is such as in the ordinary course of things does not happen if those who have the management use proper care, it affords reasonable evidence, in the absence of an explanation by the defendant, that the accident arose from want of care.

....

This brings us to the second duty of NPC under Memorandum Order No. 398 — to build and maintain benchmarks to warn the inhabitants in the area that cultivation of land below the 702-meter elevation is forbidden.

Notably, despite the clear mandate of Memorandum Order No. 398, petitioner's own witness, Principal Hydrologist Mama Manongguiring, testified that *although the dam was built in 1978, the benchmarks were installed only in July and August of 1984 and that apparently, many had already worn-out, to be replaced only in October of 1986.* As adroitly observed by the Court of Appeals, it was only after many years from the time it was built that NPC installed said benchmarks. At that time, many farms and houses were already swamped and many fishponds, including those of the private respondents, damaged.

Consequently, even assuming that the fishponds were erected below the 702-meter level, NPC must, nonetheless, bear the brunt for such damages inasmuch as it has the duty to *erect* and *maintain* the benchmarks precisely to warn the owners of the neighboring properties not to build fishponds below these marks. Such benchmarks, likewise, serve the evidentiary purpose of extricating NPC from liability in cases of overflooding in the neighboring estates because all NPC would have to do is point out that such constructions are below the 702-meter allowable elevation. Without such points of reference, the inhabitants in said areas are clueless whether or not their improvements are within the prohibited area. Conversely, without such benchmarks, NPC has no way of telling if the fishponds, subject matter of the present controversy, are indeed below the prescribed maximum level of elevation.

....

In the case at bar, both the appellate court and the trial court uniformly found that it was such negligence on the part of NPC which directly caused the damage to the fishponds of private respondents. The degree of damages suffered by the latter remains unrebutted and there exists adequate documentary evidence that the private respondents did have

> fishponds in their respective locations and that these were inundated and damaged when the water level escalated in October 1986.[110] (Citations omitted)

Considering that the 1992 *National Power Corporation* case[111] has been applied in the 1993 *National Power Corporation* cases[112] involving the private respondents who were similarly situated, the ruling in the 2005 *National Power Corporation*[113] case—that National Power Corporation was negligent in performing its duty under Memorandum Order No. 398, and such negligence caused damage to the properties of petitioners along the shore of Lake Lanao—is likewise binding on us.

Aside from this, the trial court in the present case aptly considered the following evidence in finding negligence on the part of respondent:

> 1. The [petitioners] and other affected farmers has not experienced subject flooding before the erection of [respondent's] regulation dam;
>
> 2. The research study of Miss Lindy Washburn has established that the normal lake elevation is 700.09 meters above sea level[;]
>
> 3. The issuance by [respondent's] Board of Directors Resolution No. authorizing the release of P25,941,807.00 as financial assistance to the 3,565 claimants from the Barangays and Municipalities around Lake Lanao that were affected and has suffered damages to their farm crops due to the high water elevation. This very resolution is in effect an admission on the part of [respondent] that the 3,565 claimants were adversely affected by the high water surface elevation of the lake in 1993 and 1994 due to its regulation dam[;]
>
> 4. In CA – G.R. SP No. 26139 (one of the cases cited by the [petitioners], the Court of Appeals ruled that –
>
> > *"While Memo Order 398 expressly prohibits the introduction of improvements in areas below 702 meter around lake the said memo also imposes a duty upon [respondent], to conduct a sufficient information drive to inform or properly educate the people around the affected areas of said prohibition. [Respondent] has the burden of proving that it complied with said duty which it failed to do so. Moreover, [respondent] failed to prove that subject farmlands were constructed within the prohibited areas."*
>
> It is to be noted that the [petitioners] are illiterate farmers who cannot be expected to know of [respondent's] operations unless otherwise informed properly. Respondent likewise failed to present any evidence that

---

110 Id. at 226–231.

111 *National Power Corporation v. Court of Appeals et al.*, 286 Phil. 230 (1992) [Per J. Nocon, Second Division].

112 *National Power Corporation v. Court of Appeals et al.*, 294 Phil. 415 (1993) [Per J. Davide, Jr., Third Division]; *National Power Corporation v. Court of Appeals et al.*, 295 Phil. 717 (1993) [Per J. Davide, Jr., Third Division].

113 *National Power Corporation v. Court of Appeals et al.*, 493 Phil. 218 (2005) [Per J. Chico-Nazario, Second Division].

> the alleged benchmarks were actually erected by them along the lakeshore clearly showing the 702 m. a. s. l. which would in effect serve as a stern warning to one and all including the [petitioners].[114]

The doctrine of *res ipsa loquitur*, the thing speaks for itself, also finds application, such that:

> . . .Where the thing which causes injury is shown to be under the management of the defendant, and the accident is such as in the ordinary course of things does not happen if those who have the management use proper care, it affords reasonable evidence, in the absence of an explanation by the defendant, that the accident arose from want of care.[115] (Citation omitted)

Accordingly, the essential elements of an environmental tort action based on negligence are present. The environmental harm in a well-defined area or specific person or class of persons is the damage to the farmlands and other properties of petitioners sited along the shore of Lake Lanao.

Further, the finding of respondent's negligence in operating the Agus Regulation Dam caused inundation and damage to petitioners' properties shows a general and specific causation, and closely fits the traditional elements of a tort cause of action.

III

The basis for an award of tort damages is a legal injury to an individual, thus:

> . . .To warrant the recovery of damages, there must be both a right of action for a legal wrong inflicted by the defendant, and damage resulting to the plaintiff therefrom. Wrong without damage, or damage without wrong, does not constitute a cause of action, since damages are merely part of the remedy allowed for the injury caused by a breach or wrong.
>
> There is a material distinction between damages and injury. Injury is the illegal invasion of a legal right; damage is the loss, hurt, or harm which results from the injury, and damages are the recompense or compensation awarded for the damage suffered. Thus, there can be damage without injury in those instances in which the loss or harm was not the result of a violation of a legal duty. These situations are often called *damnum absque injuria.*
>
> In order that a plaintiff may maintain an action for the injuries of which he complains, he must establish that such injuries resulted from a breach of duty which the defendant owed to the plaintiff — a concurrence of injury to the plaintiff and legal responsibility by the person causing it.

---

114 *Rollo,* pp. 147–148.

115 *National Power Corporation v. Court of Appeals*, 493 Phil. 218 (2005) [Per J. Chico-Nazario, Second Division].

> The underlying basis for the award of tort damages is the premise that an individual was injured in contemplation of law. Thus, there must first be the breach of some duty and the imposition of liability for that breach before damages may be awarded; it is not sufficient to state that there should be tort liability merely because the plaintiff suffered some pain and suffering.
>
> Many accidents occur and many injuries are inflicted by acts or omissions which cause damage or loss to another but which violate no legal duty to such other person, and consequently create no cause of action in his favor. In such cases, the consequences must be borne by the injured person alone. The law affords no remedy for damages resulting from an act which does not amount to a legal injury or wrong.
>
> In other words, in order that the law will give redress for an act causing damage, that act must be not only hurtful, but wrongful. There must be damnum et injuria. If, as may happen in many cases, a person sustains actual damage, that is, harm or loss to his person.[116] (Citations omitted)

Damnum absque injuria, or damage without injury, arises when the loss or harm was not the result of a violation of a legal duty.[117] When this occurs, the consequences must be borne by the injured person alone, since there is no remedy for damages resulting from an act which does not amount to a legal injury or wrong.[118] In the 2005 *National Power Corporation,*[119] case, this Court already found the principle of *damnum absque injuria* inapplicable, because National Power Corporation's negligence due to its inability to maintain the level of water in its dams was satisfactorily and extensively established. Similarly, having established respondent's negligence in its failure to observe its legal mandate, the principle of *damnum absque injuria* finds no application here.

IV

To determine preponderance or superior weight of evidence on the issues involved in civil cases, this Court may consider:

> all the facts and circumstances of the case, the witnesses' manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they are testifying, the nature of the facts to which they testify, the probability or improbability of their testimony, their interest or want of interest, and also their personal credibility so far as the same may legitimately appear upon the trial.[120]

---

116 *Spouses Custodio v. Court of Appeals,* 323 Phil. 575, 585–586 (1996) [Per J. Regalado, Second Division].

117 *BPI Express Card Corporation v. Court of Appeals,* 357 Phil. 262, 276 (1998) [Per J. Kapunan, Third Division].

118 Id.

119 *National Power Corporation v. Court of Appeals et al.*, 493 Phil. 218 (2005) [Per J. Chico-Nazario, Second Division].

120 RULES OF COURT, Rule 133, sec. 1.

Whether or not a party proved its claim for damages through preponderant evidence, and whether it is entitled to damages, are both questions of fact which are generally not within the province of a petition for review.[121] Questions of fact would involve the correctness of the lower courts' appreciation of the evidence presented by the parties.[122] Factual findings by the lower courts are generally binding and conclusive this Court, save upon certain exceptions,[123] which were not alleged in this case. However, because of the finding of negligence and the Court of Appeals' failure to award damages, this Court reviews the issue of damages.

In crimes and *quasi-delicts*, the defendant shall be liable for all damages which are the natural and probable consequences of the act or omission complained of. It is not necessary that such damages have been foreseen or could have reasonably been foreseen by the defendant.[124]

Here, the trial court awarded actual or compensatory damages based on petitioners' testimonies as to their actual harvest of *palay* crops annually, which were destroyed by the flood for the years 1979, 1984, 1986, 1989, 1993, 1994, 1995 and 1996.[125] In awarding these damages, the trial court considered as documentary evidence the respective tax declaration of petitioners' properties, pictures of petitioners' flooded land, court decisions on monetary claims of parties' similarly situated, and petitioners' testimonial evidence.

Further, the evaluation of the witnesses' testimonies by the trial court is received with the highest respect on appeal, because the trial court has the direct opportunity to observe them on the stand and assess their credibility by detecting the truthfulness or falsity of their statements.[126] Moreover, respondent failed to rebut these damages. Accordingly, this Court affirms the award of actual or compensatory damages to petitioners.

"In [*quasi-delicts*], exemplary damages may be granted if the defendant acted with gross negligence."[127] On the other hand, moral damages include "physical suffering, mental anguish, fright, serious anxiety,

---

121 *Manila Electric Co. v. Nordec Philippines*, 830 Phil. 61 (2018) [Per J. Leonen, Third Division]; RULES OF COURT, Rule 45, sec. 1.

122 *Pascual v. Burgos*, 776 Phil. 167 (2016). [Per J. Leonen, Second Division].

123 Id., citing the following exceptions: (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.

124 CIVIL CODE, art. 2202.

125 *Rollo*, p. 150.

126 *National Power Corporation v. Court of Appeals*, 295 Phil. 717 (1993) [Per J. Davide, Jr., Third Division].

127 CIVIL CODE, art. 2231.

besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury[,]" and may be recovered if proven to be the proximate result of the defendant's wrongful act or omission.[128]

Here, the trial court awarded exemplary damages based on the wanton negligence or manifest bad faith of respondent for its refusal to open the floodgates of Agus Regulation Dam despite petitioners' pleas.[129] However, respondent's negligence does not amount to gross negligence, so as to entitle petitioners to exemplary damages. Also, the trial court did not explain its basis for the award of moral damages, despite its grant in the dispositive portion of the Joint Judgment. Thus, it is proper for the award of moral and exemplary damages to be deleted.

As for the award of just compensation and rental, this Court finds these awards incongruent and lacking in sufficient basis. Although the trial court stated that the payment of just compensation was anchored on Republic Act No. 6395, Section 3(f)[130] and the Civil Code provisions on easement,[131] the determination of just compensation is governed by Rule 67 of the Rules of Court, which is a distinct remedy from the complaint of damages filed in this case, and thus requires different allegations of cause of action and evidence as in this case. Furthermore, the trial court merely based its grant of rental payment due to petitioners' claim that their farmlands became storage of flood water, which respondent used to run the turbine machine of its hydro-electric power plants.[132] There were no evidence offered to support this allegation.

Finally, this Court affirms the trial court's grant of attorney's fees and interest, considering it was not controverted by respondent.[133] "When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest," reasonable attorney's fees and expenses of litigation can be recovered.[134] Similarly, interest as a part of the damages maybe adjudicated in the discretion of the court in *quasi-delicts*.[135]

WHEREFORE, the Petition is **GRANTED**. The March 26, 2013 Decision and September 16, 2013 Resolution of the Court of Appeals in CA-

---

128 CIVIL CODE, art. 2217.

129 *Rollo,* p. 150.

130 Republic Act No. 6395 (1971), sec. 3(f) states:
(f) To take water from any public stream, river, creek, lake, spring or waterfall in the Philippines, for the purposes specified in this Act; to intercept and divert the flow of waters from lands of riparian owners and from persons owning or interested in waters which are or may be necessary for said purposes, upon payment of just compensation therefor; to alter, straighten, obstruct or increase the flow of water in streams or water channels intersecting or connecting therewith or contiguous to its works or any part thereof: Provided, That just compensation shall be paid to any person or persons whose property is, directly or indirectly, adversely affected or damaged thereby[.]

131 *Rollo,* p. 151.

132 Id. at 152.

133 Id. at 150.

134 CIVIL CODE, art. 2208(2).

135 CIVIL CODE, art. 2211.

G.R. CV No. 01114-MIN are hereby **REVERSED** and **SET ASIDE**. The December 12, 2005 Joint Judgment of the Regional Trial Court of Marawi City, Branch 8, in Civil Case Nos. 1322-95, 1332-95, 1355-95, and 1361-95, is **REINSTATED** with **MODIFICATION**, such that the awards of just compensation, rental, moral damages, and exemplary damages are **DELETED**. The National Power Corporation is ordered to pay actual or compensatory damages of ₱1,890,000.00 to Ali Macaraya Mato, and ₱1,080,000.00 to Pacalna Sanggacala, Mualam Dimatingcal, and Casimra Sultan, with attorneys' fees of ₱200,000.00, and legal interest of 6% on these monetary claims from finality of this Decision until fully paid.[136]

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

ALEXANDER G. GESMUNDO
Chief Justice

RAMON PAUL L. HERNANDO
Associate Justice

RICARDO R. ROSARIO
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

---

[136] *See Nacar v. Gallery Frames*, 716 Phil. 267 (2013) [Per J. Peralta, En Banc].

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARVIC M.V.F. LEONEN
Associate Justice
Chairperson

CERTIFICATION

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

ALEXANDER G. GESMUNDO
Chief Justice