G.R. No. 121964

THIRD DIVISION

[G.R. No. 121964, June 17, 1997]

DRA. ABDULIA RODRIGUEZ, LEONOR PRIETOS, LEONORA RODRIGUEZ NOLASCO, LUZVIMINDA ANTIG AND JUANITA RODRIGUEZ, PETITIONERS, VS. COURT OF APPEALS, HARRY VILORIA, MARGARITA MILAGROS VILORIA AND JOHN P. YOUNG, RESPONDENTS.

D E C I S I O N

DAVIDE, JR., J.:

In this petition for review under Rule 45 of the Rules of Court, petitioners seek reversal of that portion of the 14 March 1995 decision[1] of respondent Court of Appeals in CA-G.R. CV No. 36247[2] dismissing petitioners' complaint in Civil Case No. CEB-8095 of the Cebu Regional Trial Court, Branch 21. The latter was an action for damages based on quasi-delict filed by petitioners against private respondents due to a fire which allegedly started in private respondents' construction site and damaged petitioners' building.

After trial on the merits, the trial court found that the fire was not caused by an instrumentality within the exclusive control of defendants (private respondents) and rendered a decision[3] against petitioners. The dispositive portion of the decision reads as follows:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered:

(1) Dismissing plaintiff's complaint;

(2) Condemning plaintiffs to pay defendants,

(a) Moral damages of P500,000 for defendants Vilorias, and moral damages of P200,000 for defendant John P. Young;

(b) Exemplary damages of P75,000;

(c) Attorney's fees of P30,000

(3) Ordering plaintiffs to pay, jointly and severally, the costs.

SO ORDERED."[4]

Plaintiffs, herein petitioners, appealed from the judgment to respondent Court of Appeals which docketed the appeal as CA-G.R. CV No. 36247. In asking for the reversal of the judgment they imputed upon the trial court the commission of the

following errors:

I

THE LOWER COURT GRAVELY ERRED IN EVALUATING THE TESTIMONY OF EYEWITNESSES.

II

THE TRIAL COURT ERRED IN NOT ADMITTING IN EVIDENCE THE FIRE INVESTIGATION REPORT DONE BY THE FIRE DEPARTMENT OFFICIAL.

III

THE TRIAL COURT ERRED IN AWARDING DAMAGES TO DEFENDANTS-APPELLEES (PRIVATE RESPONDENTS HEREIN).

IV

ASSUMING ARGUENDO THAT DEFENDANTS-APPELLEES COULD LAWFULLY PRESENT EVIDENCE ON THEIR COUNTERCLAIM, THE TRIAL COURT SERIOUSLY ERRED IN AWARDING ASTRONOMICAL DAMAGES.

V

THE TRIAL COURT ERRED IN NOT FINDING A CASE FOR DAMAGES IN FAVOR OF PLAINTIFFS (HEREIN PETITIONERS).[5]

Respondent Court of Appeals summarized the antecedents in this case as follows:

> On March 15, 1989, a fire broke out which razed two apartment buildings, owned by plaintiffs-appellants Abdulia Rodriguez, Leonora Rodriguez Nolasco and Juanita Rodriguez, and partially destroying a commercial building.
>
> Plaintiffs-appellants, with co-plaintiffs-appellants Leonora Prietos and Luzviminda Antig who were lessees of the apartment units, filed a case for damages against defendants-appellees Harry John Viloriam [sic], Margarita Milagros Viloria, and John P. Young. The complaint alleged that by reason of the gross negligence and want of care of the construction workers and employees of the defendants-appellees, the bunkhouse or workers' quarters in the construction site caught fire spreading rapidly, burning the adjacent buildings owned by plaintiffs-appellants. Due to the negligence of defendants-appellees which resulted in the fire, plaintiffs-appellants suffered actual damages representing the value of the buildings and other personal properties.
>
> Defendant-appellee John Young, the building contractor, in his answer, contended that he can not be held responsible even if there was negligence on the part of the employees for he had exercised the diligence of a good father of a family in the selection and supervision of

his workers. Plaintiffs-appellants had no cause of action against him. As counterclaim, defendant-appellee Young sought for moral damages in the amount of P200,000.00, and exemplary damages of P50,000.00 and attorney's fees of P10,000.00.

Defendants-appell[ees] Harry and Margarita Viloria also alleged that plaintiffs-appellants had no cause of action against them. The fire court not have been caused by gross negligence of their workers for they did not have any worker in the construction of their building. The said construction was being undertaken by the independent contractor, John Young, who hired and supervised his own workers. The newly constructed building was partially destroyed by the fire. As counterclaim, defendants-appell[ees] prayed for moral damages in the sum of P2,500,000.00, exemplary damages of P100,000.00 and attorney's fees of P20,000.00.

After trial and reception of evidence, the court a quo resolved that the fire was not caused by an instrumentality within the exclusive control of the defendants-appellants. The decision stated that plaintiffs-appellants failed to establish that the fire was the result of defendants-appellees' or their workers' negligence.[6]

Respondent Court of Appeals sustained petitioners only on the third assigned error. Its discussion on the assigned errors was as follows:

As to the first assigned error, the trial court did not err in the evaluation of the testimonies of the witnesses, specially in the testimony of applicants' witness, Noel Villarin. It seemed unbelievable that witness Villarin was able to see Paner pour gasoline on the generator through a five-inch wide hole which was four meters away from where the former was eating. As pointed out by the appellees how could Villarin see what was going on at the ground floor which is about ten or eleven feet below. No other witness had testified having seen the same. No one had even pinpointed the real source of the fire. As it is, the conclusions reached by the trial court which has the opportunity to observe the witnesses when they testified as to what transpired [is] entitled to full respect[7] is applied. Where the issue is on the credibility of witnesses, generally the findings of a court a quo will not be disturbed on appeal.[8]

As to the second assigned error stating that the report was an exception to the hearsay rule is [sic] untenable. The report was not obtained from informants who had the duty to do so. Even the reporting officer had no personal knowledge of what actually took place. Admittedly, the said report was merely hearsay as it failed to comply with the third requisite of admissibility pursuant to Sec. 35, Rule 123, to the effect that a public officer or other person had sufficient knowledge of the facts by him stated, which must have been acquired by him personally or through official information.[9] To qualify the statements as "official information" acquired by the officers who prepared the reports, the persons who made the statements not only must have personal knowledge of the facts stated but must have the duty to give such statements for [the] record. [10]

> We find the third assigned error to be meritorious. In the absence of a wrongful act or omission or of fraud or bad faith, moral damages cannot be awarded and that the adverse result of an action does not per se make the action wrongful and subject the actor to the payment of damages for the law could not have meant to impose a penalty on the right to litigate.[11] Neither may exemplary damages be awarded where there is no evidence of the other party having acted in [a] wanton, fraudulent or reckless or oppressive manner.[12] Since the award of exemplary damages is unwarranted, the award of attorney's fees must necessarily be disallowed.[13] We find the award of damages to be without adequate evidential [sic] basis.
>
> And more, appellants failed to establish that the proximate cause of their loss was due to defendants-appellees' negligence. Strangely however, it was not even ascertained with definiteness the actual cause or even source of the fire. In sum, appellants failed to prove that the fire which damaged their apartment buildings was due to the fault of the appellees.
>
> Considering the foregoing premises, We find as proper the dismissal of the complaint, however, as to the damages awarded to defendants-appellees, We find no legal basis to grant the same.
>
> In Dela Paz vs. Intermediate Appellate Court, [G.R. No. L-71537, 17 September 1987] it was held that -

"The questioned decision, however, is silent as to how the court arrived at these damages. Nowhere in the decision did the trial court discuss the merit of the damages prayed for by the petitioners. There should be clear factual and legal bases for any award of considerable damages."[14]

The Court of Appeals thus decreed:

> ACCORDINGLY, the decision dated September 19, 1991 is hereby AFFIRMED. The award of damages in favor of defendants-appellees including the award of attorney's fees are hereby DELETED and SET ASIDE.[15]

Rebuffed in their bid for reconsideration of the decision, petitioners filed the instant petition, and as grounds therefor allege that:

I

THE COURT OF APPEALS ERRED IN MISAPPLYING FACTS OF WEIGHT AND SUBSTANCE AFFECTING THE CASE AT BAR.

II

THE COURT OF APPEALS ERRED IN RULING THAT THE FIRE INVESTIGATION REPORT

IS INADMISSIBLE IN EVIDENCE.

III

THE COURT OF APPEALS ERRED IN RULING THAT SECTION 44, RULE 130 OF THE RULES OF COURT IS NOT APPLICABLE TO THE CASE AT BAR.

After private respondents filed their respective comments to the petition as required, we resolved to give due course to the petition and required the parties to submit their respective memoranda, which they subsequently did.

Under the first assigned error petitioners want us to give full credit to the testimony of Noel Villarin, their principal witness, who, they claimed, "maintained his straight-forward and undisguised manner of answering the questions" despite the "intense cross-examination." The trial court, however, refused to believe Villarin, not only because he had an ulterior motive to testify against private respondent Young, for which reason the trial court observed:

> It may be worth recalling that principal and lone plaintiff's witness Noel Villarin did testify that only during the hearing did he tell his story about the fire because all his tools were burned, and John Young neither had replenish [sic] those tools with sympathy on [sic] him nor had visited him in the hospital (supra, p. 4). The Court, observing Villarin, could only sense the spitful tone in his voice, manifesting released pent-up ill-will against defendant Young.[16]

but more importantly, because the trial court found that "defendants' witnesses have belied Villarin's word," thus:

> "Talino" Reville told the Court that it was impossible to see the generator when one was upstairs of the bunkhouse -- "it could not be seen because it was under the floor of the bunkhouse; it was not possible for Villarin to see it." He was with Villarin eating their supper then, and they were "already through eating but we were still sitting down" and so, how could Villarin have "peeped" through that "hole on the wall" high above them? All defendants's [sic] witnesses testified that the generator never caught fire, and no one at all had heard any explosion anywhere before the fire was discerned. Exhibit 1 (a photograph of the fire while it was raging) reveals that the bunkhouse was intact.
>
> And Paner -- who, said Villarin, brought the gasoline which caught fire from a stove as it was poured by Villarin to [sic] the generator -- was neither impleaded as another defendant nor called as a witness, or charged as an accused in a criminal action. Which omission also strikes the Court as strange. Such suppression of evidence gives rise to the presumption that if presented Paner would prove to be adverse to the plaintiffs (by analogy: People v. Camalog, G.R. 77116, 31 January 1989). [17]

The trial court explained why it had to accept the version of defendants' witnesses in this wise: