

THIRD DIVISION

[G.R. No. 188715, April 06, 2011]

**RODOLFO N. REGALA, PETITIONER, VS. FEDERICO P. CARIN,
RESPONDENT.**

D E C I S I O N

CARPIO MORALES, J.:

Assailed via this petition for review of petitioner Rodolfo N. Regala is the May 26, 2009 Decision^[1] of the Court of Appeals which affirmed with modification the May 29, 2006 Decision^[2] of the Regional Trial Court (RTC) of Las Piñas City, Br. 255 in Civil Case No. LP-99-0058, ordering petitioner to pay respondent Federico P. Carin moral and exemplary damages and attorney's fees.

Petitioner and respondent are adjacent neighbors at Spirig Street, BF Resort Village, Las Piñas City. When petitioner decided to renovate his one storey residence by constructing a second floor, he under the guise of merely building an extension to his residence, approached respondent sometime in May 1998 for permission to bore a hole through a perimeter wall shared by both their respective properties, to which respondent verbally consented on condition that petitioner would clean the area affected by the work.

As earlier indicated, petitioner's real intention was to build a second floor, in fact with a terrace atop the dividing wall. In the course of the construction of the second floor, respondent and his wife Marietta suffered from the dust and dirt which fell on their property. As petitioner failed to address the problem to respondent's satisfaction, respondent filed a letter-complaint^[3] with the Office of the City Engineer and Building Official of Las Piñas City on June 9, 1998.

In his letter-complaint, respondent related that, despite the lack of a building permit for the construction of a second floor, petitioner had demolished the dividing wall, failed to clean the debris falling therefrom, allowed his laborers to come in and out of his (respondent's) property without permission by simply jumping over the wall, and trampled on his vegetable garden; and that despite his protestations, petitioner persisted in proceeding with the construction, he claiming to be the owner of the perimeter wall.

Several "*sumbongs*"^[4] (complaints) were soon lodged by respondent before the Office of Barangay Talon Dos against petitioner for encroachment, rampant invasion of privacy and damages arising from the construction, and for illegal construction of scaffoldings inside his (respondent's) property.

As no satisfactory agreement was reached at the last barangay conciliation proceedings in December 1998, and petitioner having continued the construction work despite issuance of several stop-work notices from the City Engineer's Office

for lack of building permit, respondent filed on March 1999 a complaint^[5] for damages against petitioner before the RTC of Las Piñas City.

In his complaint, respondent alleged in the main that, instead of boring just one hole as agreed upon, petitioner demolished the whole length of the wall from top to bottom into five parts for the purpose of constructing a second floor with terrace; and that debris and dust piled up on respondent's property ruining his garden and forcing him to, among other things, shut some of the windows of his house. Respondent thus prayed for the award of moral and exemplary damages.

Petitioner, denying respondent's allegations, claimed in his Answer^[6] that he was the sole and exclusive owner of the wall referred to as a perimeter wall, the same having been built within the confines of his property and being part and parcel of the house and lot package he purchased from the developer, BF Homes, Inc., in 1981; that the issue of its ownership has never been raised by respondent or his predecessor; and that securing the consent of respondent and his neighbors was a mere formality in compliance with the requirements of the Building Official to facilitate the issuance of a building permit, hence, it should not be taken to mean that he (petitioner) acknowledges respondent to be a co-owner of the wall. He added that he eventually secured the requisite building permit^[7] in March 1999 and had duly paid the administrative fine.^[8]

Further, petitioner, denying that a demolition of the whole length of the wall took place, claimed that he and his contractor's laborers had been diligently cleaning respondent's area after every day's work until respondent arrogantly demanded the dismantling of the scaffoldings, and barred the workforce from, and threatening to shoot anyone entering the premises; and that the complaint was instituted by respondent as leverage to force him to withdraw the criminal case for slander and light threats^[9] which he had earlier filed against respondent for uttering threats and obscenities against him in connection with the construction work.

At the trial, after respondent and his wife confirmed the material allegations of the complaint, petitioner took the witness stand and presented his witnesses.

Architect Antonio Punzalan III^[10] testified that he installed GI sheets to prevent debris from falling onto respondent's property and had instructed his workers to clean the affected area after every work day at 5:00 p.m., but they were later barred by respondent from entering his property.

Engineer Crisostomo Chan^[11] from the Office of the Building Official of Las Piñas City testified, among other things, on the circumstances surrounding the complaint for illegal construction filed by respondent and that a building permit was eventually issued to petitioner on March 15, 1999.

Engineer Sonia Haduca^[12] declared that upon a joint survey conducted on the properties of both petitioner and respondent in December 1998 to determine their exact boundaries, she found an encroachment by petitioner of six centimeters at the lower portion of the existing wall negligible, since the Land Survey Law permits an encroachment of up to ten centimeters.

By Decision of May 29, 2006, Branch 255 of the Las Piñas City RTC rendered judgment in favor of respondent whom it awarded moral damages in the sum of P100,000, exemplary damages of P100,000 and attorney's fees of P50,000 plus costs of suit.^[13]

In finding for respondent, the trial court declared that, apart from the fact that petitioner knowingly commenced the renovation of his house without the requisite building permit from the City Engineer's Office, he misrepresented to respondent his true intent of introducing renovations. For, it found that instead of just boring a hole in the perimeter wall as originally proposed, petitioner divided the wall into several sections to serve as a foundation for his firewall (which ended up higher than the perimeter wall) and the second storey of his house.

The trial court further declared that respondent and his family had thus to contend with the noise, dust and debris occasioned by the construction, which petitioner and his work crew failed to address despite respondent's protestations, by refusing to clean the mess or install the necessary safety devices.

Applying Article 2176 of the Civil Code on quasi-delicts, the trial court ruled that petitioner was at fault and negligent for failing to undertake sufficient safety measures to prevent inconvenience and damage to respondent to thus entitle respondent to moral and exemplary damages.

On appeal by petitioner, the Court of Appeals affirmed the trial court's decision with modification by reducing the award of moral and exemplary damages to P50,000 and P25,000, respectively. The appellate court anchored its affirmance on Article 19 of the New Civil Code which directs every person to, in the exercise of his rights and in the performance of his duties, act with justice, and observe honesty and good faith.

By Resolution^[14] of July 10, 2009, the appellate court denied petitioner's motion for reconsideration as well as respondent's prayer in his Comment that the original awards made by the trial court be restored.

Hence, petitioner's present petition faulting the appellate court in

Affirming with modification the decision of the trial court....considering the absence of any competent proof to warrant the grant of moral and exemplary damages as well as attorney's fees.^[15] (underscoring supplied)

Petitioner maintains that since moral and exemplary damages are compensatory in nature, being meant neither to punish nor enrich, the claimant must establish that not only did he sustain injury but also that the other party had acted in bad faith or was motivated by ill will. To petitioner, respondents failed to discharge this burden. He adds that the trial court did not delve into whether petitioner's renovations were the primary cause of respondent's claimed injuries, viz violation of privacy, sleepless nights and mental anguish, among other things, as it instead focused on the lack of a building permit as basis for the awards.

Rebutting the testimony of respondent's wife as to the alleged unauthorized intrusion of petitioner's workers into respondent's property in order to erect scaffoldings, petitioner points out that such an undertaking would take a considerable length of time and could not have gone unnoticed had consent not been given by respondent.

Moreover, petitioner posits, if consent had truly been withheld, there was nothing to prevent respondent from dismantling or immediately removing the offending structures - a course of action he did not even attempt.

In his Comment^[16] to the petition, respondent quotes heavily from the appellate and trial court's findings that fault and negligence attended petitioner's renovation, thus justifying the award of damages. He goes on to reiterate his plea that the awards given by the trial court in its decision of May 29, 2006 should be reinstated.

The petition is partly impressed with merit.

The trial court's award of moral and exemplary damages, as affirmed by the appellate court, was premised on the damage and suffering sustained by respondent arising from quasi-delict under Article 2176^[17] of the Civil Code. Thus the trial court explained:

Indeed, there was fault or negligence on the part of the defendant when he did not provide sufficient safety measures to prevent causing a lot of inconvenience and disturbance to the plaintiff and his family. The evidence presented by the plaintiff regarding the dirt or debris, as well as the absence of devices or safety measures to prevent the same from falling inside plaintiff's property, were duly established. It did not help the cause of the defendant that he made a lot of misrepresentations regarding the renovations on his house and he did not initially have a building permit for the same. In fact, it was only after the construction works were completed that the said permit was issued and upon payment of an administrative fine by the defendant.^[18]

In prayers for moral damages, however, recovery is more an exception rather than the rule. Moral damages are not meant to be punitive but are designed to compensate and alleviate the physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar harm unjustly caused to a person. To be entitled to such an award, the claimant must satisfactorily prove that he has suffered damages and that the injury causing it has sprung from any of the cases listed in Articles 2219^[19] and 2220^[20] of the Civil Code. Moreover, the damages must be shown to be the proximate result of a wrongful act or omission. The claimant must thus establish the factual basis of the damages and its causal tie with the acts of the defendant.

In fine, an award of moral damages calls for the presentation of 1) evidence of besmirched reputation or physical, mental or psychological suffering sustained by the claimant; 2) a culpable act or omission factually established; 3) proof that the wrongful act or omission of the defendant is the proximate cause of the damages sustained by the claimant; and 4) the proof that the act is predicated on any of the