

## FIRST DIVISION

[ G.R. NO. 157632, December 06, 2006 ]

**JOSE S. ROQUE, JR., SUBSTITUTED BY HIS WIFE NORMA ROQUE,  
PETITIONER, VS. JAIME T. TORRES, SUBSTITUTED BY HIS SON  
JAMES KENLEY M. TORRES, AND THE HONORABLE COURT OF  
APPEALS, RESPONDENTS.**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

Before Us is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Civil Procedure, assailing the Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. CV No. 55895, dated 21 March 2003, which reversed and set aside the Judgment<sup>[2]</sup> of the Regional Trial Court (RTC) of Quezon City, Branch 104, in Civil Case No. Q-93-14408, dated 8 April 1997, ordering respondent to pay petitioner damages in the total amount of P1,600,000.00 and attorney's fees.

The instant case sprang from an action for damages filed by the original petitioner, the late Jose Roque, Jr., against respondent, the recently deceased Jaime Torres, for injuries sustained by petitioner on 27 August 1989, allegedly inflicted by the security guards employed by respondent.

In this petition, the deceased petitioner Jose Roque, Jr. is substituted by his wife Norma Roque while respondent Jaime T. Torres, per agreement of all his heirs, is herein represented by his son James Kenley M. Torres.

Petitioner was the administrator of certain parcels of land in Upper Boso-Boso, Antipolo, Rizal, particularly Lots No. 13259 and 13260 covered by Original Certificates of Titles (OCTs) No. NP-419 and NP-422, both registered in the name of his son Rafael Roque. Sometime before the incident, respondent, claiming to be the owner of said property, hired security guards from Anchor Security and Detective Agency, namely Cesar Aquino, Alfredo Negro, and Mariano Cabos, who allegedly barred petitioner from entering the property and threatened him with physical harm should he attempt to tend the said land. As a result, petitioner filed a case for grave threats against said security guards before the Municipal Trial Court (MTC) of Rizal.

Prior to the incident, or on 9 September 1988, respondent instituted an Action<sup>[3]</sup> for cancellation of OCTs No. NP-419 and NP-422 in the name of petitioner's son Rafael Roque before the RTC of Antipolo which was dismissed by the trial court in an Order<sup>[4]</sup> dated 26 June 1989. According to the court *a quo*, therein petitioner Torres' action was premature for failure to exhaust administrative remedies in the Bureau of Lands, consistent with the established doctrine that where a party seeks for the cancellation of a Free Patent, he must pursue his action in the proper agency and a review by the court will not be permitted unless administrative remedies have been exhausted. The trial court also declared that the said action was in effect an action

for reversion under Section 101 of the Public Land Act, thus, the action should be in the name of the government and not the private complainants. Respondent appealed the dismissal before the Court of Appeals, which later affirmed the decision of the lower court in a Decision<sup>[5]</sup> dated 11 June 1990. Respondent's appeal to this Court was also dismissed in a Resolution dated 11 February 1991.

Petitioner maintained that at around four o'clock in the afternoon of 27 August 1989, he, together with his housemaid Leilyn Saplot Kandt, Magno Imperial, Jose Imperial, and Eliseo Pesito, visited the said property and was surprised to see seven security guards, including the above-mentioned security guards, guarding the property upon orders of respondent. Aquino, Negro, and Cabos approached petitioner and asked: "*Bakit wala ka noong arraignment sa Antipolo noong August 16, 1989?*"<sup>[6]</sup> to which he replied that his presence was not necessary since he was not the accused. Thereafter, the said security guards asked him to leave the property and uttered: "*Bakit mo kami kinakalaban? Utos ni Torres na ito'y bantayan pagkat ito'y kanyang property raw!.*" Petitioner showed his son's titles to the property but the security guards merely answered: "*Fake 'yan at hindi kayo maaaring pumasok dito. Kayo ay dapat paalisin.*" A security guard then cocked his shotgun and warned petitioner to leave the place. Petitioner offered to settle the dispute in the office of Anchor Security Agency, through its manager, Mrs. Nassam, but the security guards merely replied: "*Wala kaming pakialam kay Nassam. Lahat ginagawa dito, lahat ay utos ni Torres. At 'yan ay sinusunod naming dahil si Torres ang bumubuhay sa amin.*"

When petitioner refused to leave the premises, Cabos threatened petitioner that should he stay inside, Cabos would shoot him, so petitioner immediately left the place. However, Cabos still fired at him but missed. Petitioner ran fast to his makeshift hut where Cabos followed him. Petitioner ran to the back of his makeshift hut and was shot again by Cabos, hitting petitioner on the back. When petitioner fell, he turned and saw Cabos and Negro shooting at him. At the same time, Aquino was also firing at the makeshift hut. After a while, the other security guards, namely Sulla, Betasulo, and Romy Mendoza, came, and together with Cabos and Negro, mauled and kicked petitioner all over his body until he lost consciousness.

As a result of the incident, petitioner was hospitalized and placed under continuous treatment and medication. Due to the multiple gunshot wounds, hematoma, and contusions sustained by petitioner, his left eye became 90 to 95% blind and his body was paralyzed from the bustline down. Consequently, petitioner filed a criminal case<sup>[7]</sup> for frustrated murder before the RTC of Antipolo against the security guards. Eventually, after suffering for more than nine years, petitioner died.

On his part, respondent admits the existence of the titles in the name of Rafael Roque but denies the latter's ownership over the property. He further admits the dismissal of his case for cancellation of Roque's titles based on a technical ground. Respondent likewise admits to the posting of the security guards on the property to guard the same from any intruder but denies that they were his personal security guards, and moreover claimed that they were security guards of the Antipolo Landowners and Farmers Association, Inc. (ALFAI), of which he was president. Respondent further asserts that being the President of ALFAI, his instruction to the security guards was to prevent squatters or intruders from entering the property and to make use of reasonable force to repel aggression in the event of any

untoward incident.

After trial, the lower court, on 8 April 1997, rendered judgment in favor of petitioner. According to the court *a quo*:

After a thorough examination of the evidence presented by both parties, the Court is faced with the issue of: "Whether or not defendant Torres can be held liable for damages to herein plaintiff as a result of the injuries inflicted by the security guards deployed in the property in question on August 28, 1989 [sic].

There is no question that the security guards involved in the shooting incident on August 28, 1989 [sic] were employed of [sic] Anchor Security and Detective Agency. There is also no question that the same security guards were hired by defendant Torres to man and guard the property in question in Boso-Boso, Antipolo, Rizal. In this simple scenario and **in the event that said security guards caused wrong to others while in their tour of duty, the law provides that the liability falls on the employer being the principal. On the contrary, for illegal or harmful acts committed by the security guards as [sic] per order of the client or the one who hired them, liability attaches to the latter. In the instant case, the unlawful act committed by the security guards against the plaintiff is within the strict compliance of the instruction of the defendant.** This is because of the fact that defendant Torres exercised direct supervision of the said security guards. As a matter of fact, he provided the guards with his school bus to perform their duties effectively. Hence, defendant Torres is liable for the unlawful acts committed by the said security guards against herein plaintiff. Such unlawful acts would not have been accomplished had defendant Torres being their "employer" at that time, not instructed them so. What resulted to the shooting of the plaintiff by the security guards cannot be given justice except by indemnifying him. And considering that plaintiff suffered parolization of his body and blindness in his left eye, notwithstanding the fact of incurring the amount of P300,000.00 as hospitalization and medical expenses plus the continuous medication up to the present, the Court believes that the plaintiff should be compensated. (Emphasis ours.)

WHEREFORE, judgment is hereby rendered in favor of the plaintiff as against defendant Torres and the latter is ordered to pay the plaintiff the following:

- a) the amount of P300,000.00 as actual damages;
- b) the amount of P1,000,000.00 as moral damages;
- c) the amount of P300,000.00 as exemplary damages; and
- d) the amount of P50,000.00 as attorney's fee.<sup>[8]</sup>

Aggrieved by the above judgment, respondent lodged an appeal before the Court of Appeals. According to respondent, he did not know that the security guards would

commit the alleged aggressive acts until the commission thereof, and that said security guards acted upon their own judgment. Respondent claimed that petitioner was an intruder and squatter on the property who entered it without permission from members of the ALFAI, the real owners of the said property. Thus, respondent argued that petitioner forcibly entered the property and that the security guards merely repelled the unlawful aggression.

Subsequently, the appellate court reversed the RTC judgment and rendered a Decision, the pertinent portions of which read:

It is appellee's contention that appellant as employer of the said security guards is liable for the injuries inflicted by the latter who acted under his instructions to guard the subject premises.

Verily, the obligation imposed under Article 2176 of the Civil Code is demandable not only for one's own acts or omissions but also for those persons for whom, one is responsible. The owners and managers of an establishment or enterprise are likewise responsible for damages caused by their employees in exercise of their duties and/or functions.

Relevantly, Article 2180 of the Civil Code provides that:

Art. 2180. The obligation imposed by article 2176 is not demandable not only for one's own acts or omissions, but also for those persons for whom one is responsible.

x x x x

The owners and managers of an establishment or enterprise are likewise responsible for damages caused by their employees in the service of the branches in which the latter are employed or on occasion of their functions.

Under the facts obtaining, the above provision of law does not apply. The court a quo succinctly declared:

"There is no question that the security guards involved in the shooting incident on August 28, 1989 were employed (sic) of Anchor Security Detective Agency. There is also no question that the same security guards were hired by defendant Torres to man and guard the property in question in Boso-Boso, Antipolo, Rizal.

x x x x

There is no question therefore that the said security guards who inflicted the injuries sustained by the appellee were not employees of herein appellant. This being so, the ruling in the case of *Soliman, Jr. vs. Tuazon* applies, viz:

It is settled that where the security agency, as here recruits, hires and assigns the work of its watchmen or security guards, the agency is the employer of such security guards or