

SECOND DIVISION

[G.R. No. 107725, January 22, 1998]

ESPERO SALAO, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND JOWIE APOLONIO, RESPONDENTS.

DECISION

MENDOZA, J.:

This is a petition for review on certiorari of the decision^[1] of the Court of Appeals affirming the decision of the Regional Trial Court, Branch XIV, Malolos, Bulacan, which ordered petitioner Espero Salao to pay private respondent Jowie Apolonio P20,000.00 in actual damages, P10,000.00 in moral damages, and P15,000.00 in attorney's fees, as well as the appellate court's resolution of October 23, 1992 denying petitioner's motion for reconsideration.

This case originated from a complaint for damages filed by the private respondent for head injuries allegedly inflicted on him by petitioner on August 24, 1986. Private respondent, then a senior student at the Philippine Air Transport and Training Services, Inc., testified that on August 24, 1986, at around 6:30 p.m., he saw a friend's jeep parked outside the compound of the petitioner. Upon entering the compound he saw his friend having drinks with petitioner. He therefore decided to join them but petitioner saw him and drove him away for being a drug addict. As he was leaving petitioner hit him on the head with a gun and threatened him with further harm. Only the timely intervention of private respondent's brother, Gary Apolonio, and petitioner's mother, Lourdes Salao, saved him from further injuries in the hands of petitioner.^[2]

Private respondent submitted in evidence a certification and receipts,^[3] in support of his claim for damages. The expenses were incurred for an operation at Martinez Memorial Hospital which necessitated private respondent's confinement there from September 4 to 9, 1986.^[4]

The private respondent's claim was corroborated by his brother, Gary Apolonio, who testified that while he was buying cigarettes from a store in front of petitioner's residence, he saw the latter hit his brother on the head with a gun, even as he accused him of teaching petitioner's son, Dennis, how to abuse drugs. Gary said he had to take his brother to the hospital because of injuries on the head caused by petitioner.^[5]

Dr. Antonio Sarrosa testified that he operated on Jowie Apolonio for a fractured skull at the Martinez Memorial Hospital.^[6]

On the other hand, petitioner claimed it was private respondent who tried to assault him and he only acted in self defense by hitting private respondent with his gun.

According to petitioner, on August 24, 1986, between 5 and 6:30 p.m., he was surprised to see private respondent inside their yard having drinks with his nephew and the latter's friends. Because he told the group to stop drinking, private respondent resented his order and left. Later, petitioner's wife arrived and told him that private respondent was very angry and making threats against petitioner. As petitioner went to buy cigarettes at the store of his sister-in-law located also within the compound, private respondent shouted at him and hit him. Petitioner claimed that, in self defense, he pulled his gun and hit the private respondent with it. He asked the group to throw private respondent out of the compound.^[7]

Petitioner also claimed he was going to file charges against private respondent but was persuaded not to do so by private respondent's mother because they were neighbors.^[8] He said he counseled his sons not to keep private respondent in their company as he suspected him to be engaged in illegal acts and trying to make his sons do the same.^[9]

The trial court found the private respondent's version of the incident to be more convincing than that of the petitioner which it found to be "uncorroborated and self-serving."^[10] Accordingly, it rendered judgment against the petitioner. The trial court also denied petitioner's subsequent motion for reconsideration and new trial.

On appeal, the Court of Appeals affirmed the trial court's decision in toto and later denied petitioner's motion for reconsideration. Petitioner then brought this appeal questioning the award of damages and attorney's fees to private respondent. In his Reply to Private Respondent's Comment, he raised as additional ground the fact that in the criminal case for serious physical injuries and grave threats based on the same incident, the Municipal Trial Court of Obando, Bulacan found him "not guilty" and accordingly dismissed the case against him.

The appeal is without merit.

First. It is settled that issues not raised in the court a quo cannot be raised for the first time on appeal in this Court without violating the basic rules of fair play, justice and due process.^[11] In the case at bar, petitioner appealed to the Court of Appeals, assigning two errors allegedly committed by the trial court, to wit:

1. The Trial Court erred in taking cognizance of and hearing the case without plaintiff first availing the conciliation process provided by PD 1508; and
2. The Trial Court erred in denying defendant-appellants motion for reconsideration and alternatively motion for new trial.

The propriety of such award of damages and the effect of petitioner's acquittal in the criminal cases were not questioned by petitioner. Consequently, he is barred from raising these questions for the first time in this appeal.

Second. Petitioner has not shown that the award of damages is not supported by evidence. For example, the award of P20,000.00 for actual damages is based on hospital bills and receipts for medicine which private respondent properly identified in court and formally offered in evidence.^[12]