

MERCELITA V. SILVESTRE, PLAINTIFF-APPELLEE, VS. ARTURO TAN AND RAFAEL R. GUILLERMO, DEFENDANTS-APPELLANTS.

Ponente: TAYAG, J.

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TAYAG, J.:

In a complaint for damages filed by plaintiff-appellee Mercelita V. Silvestre against defendants-appellants Arturo Tan and Rafael R. Guillermo, the Regional Trial Court of Makati City on May 30, 1999[1] rendered judgment, the dispositive portion of which reads:

“WHEREFORE, premises considered, finding preponderance of evidence to sustain the instant complaint, judgment is hereby rendered in favor of plaintiff, ordering defendants, jointly and severally:

- to pay plaintiff the amount of P29,633.17 as and by way of actual damages;
- to pay plaintiff the amount of P200,000.00 as and by way of compensatory damages;
- to pay plaintiff the amount of P200,000.00 as and by way of moral damages;
- to pay plaintiff the amount of P50,000.00 as and by way of exemplary damages;
- to pay plaintiff the amount of P100,000.00 as and by way of attorney's fees; and
- to pay the costs of suit.

SO ORDERED.”[2]

The suit stemmed from a vehicular accident that occurred on July 28, 1995 along the Maharlika Highway at Barangay Rosario, Gumaca, Quezon involving a Toyota Jeepney with Plate No. UV-PTD-185 driven by the son of plaintiff-appellee and in which plaintiff-appellee was a passenger and a Fuso Pick Up owned by defendant-appellant Arturo Tan and driven by Rafael Guillermo.

During the pre-trial conference, only the plaintiff-appellee's counsel appeared, armed with a Special Power of Attorney from his client. Neither the defendants-appellants nor their counsel appeared despite proper notice. By reason of the failure of the defendants-appellants to appear, the court a quo, on plaintiff-appellee's motion, declared the defendants-appellants “as in” default thereby allowing plaintiff-appellee to present her evidence ex-parte.

The motion by the defendants-appellants to set aside the order of default was denied by the court a quo on March 04, 1997. Consequently, they filed a petition for certiorari with the Court of Appeals. However, said petition was dismissed on March 13, 1998. Elevating the matter to the Honorable Supreme Court, the same was likewise dismissed.

Finding that the plaintiffs-appellees are entitled to reliefs sought as gathered from the evidence adduced and those admitted in the Commissioner's Report[3], the court a quo rendered its judgment on May 30, 1999.

Not in conformity with the court a quo's ruling, defendants-appellants appealed the decision. In their Brief[4],

defendants-appellants raise the following assignment of errors:

- THE LOWER COURT ERRED IN ORDERING THE DEFENDANTS-APPELLANTS TO PAY PLAINTIFF-APPELLEE OF THE AMOUNT OF P29,633.17 AS AND BY WAY OF ACTUAL DAMAGES;
- THE LOWER COURT ERRED IN ORDERING DEFENDANTS-APPELLANTS TO PAY PLAINTIFF-APPELLEE THE AMOUNT OF P200,000.00 AS AND BY WAY OF COMPENSATORY DAMAGES;
- THE LOWER COURT ERRED IN ORDERING DEFENDANTS-APPELLANTS TO PAY PLAINTIFF-APPELLEE THE AMOUNT OF P200,000.00 AS AND BY WAY OF MORAL DAMAGES;
- THE LOWER COURT ERRED IN AWARDING PLAINTIFF-APPELLEE THE AMOUNT OF P50,000.00 AS AND BY WAY OF EXEMPLARY DAMAGES;
- THE LOWER COURT ERRED IN ORDERING THE DEFENDANTS-APPELLANTS TO PAY PLAINTIFF-APPELLEE THE AMOUNT OF P100,000.00 AS AND BY WAY OF ATTORNEY'S FEES.[5]

The sole issue in this appeal is whether there is a valid basis for the award of damages in favor of the plaintiff-appellee.

The appeal is meritorious.

Scrutinizing the evidence presented and the circumstances of the case, this Court do not find proper the grant by the court a quo of the amount of damages including the attorney's fees, as the evidence on record does not support the award of those amount.

Actual or compensatory damages are those awarded in order to compensate a party for an injury or loss he suffered. They arise out of a sense of natural justice and are aimed at repairing the wrong done.[6] To be recoverable, actual and compensatory damages must be duly proved with reasonable degree of certainty. A court cannot rely on speculation, conjecture or guesswork as to the fact and amount of damages, but must depend upon competent proof that they have suffered and an evidence of the actual amount thereof. The party alleging a fact has the burden of proving it and a mere allegation is not evidence.[7]

There is nothing in the records of this case that will support the finding that plaintiff-appellee suffered actual damages in the amount of P29,633.17 and compensatory damages in the amount of P200,000.00. There must be competent proof of the actual amount of loss, and credence can be given only to claims that are duly supported by receipts.[8] Save for plaintiff-appellee's testimony and her son's testimony, she did not present any other competent and independent proof to corroborate her claim. The only receipt that was ever proffered by plaintiff-appellee proving her claims for actual damages are the receipts of medicines and receipts for every dressing of her injuries amounting to P10,089.84. No receipt or proof was ever presented proving her claims for compensation for the loss of business opportunities of P200,000.00. Given the dearth of evidence, plaintiff-appellee's claim for actual and compensatory damages should have been limited to P10,089.84.

On the matter of moral damages: There is no hard-and-fast rule in determining what would be fair and reasonable amount of moral damages, since each case must be governed by its own peculiar facts.

The concept of moral damages as announced in Article 2217 of the Civil Code is designed to compensate the complainant for his physical suffering, mental anguish, fright, serious anxiety, wounded feelings, moral shock, social humiliation and similar injury occasioned by the defendant's wrongful act or omission.

Article 2219 of the same Code specifies the cases where moral damages may be awarded, to wit:

“Art. 2219. Moral damages may be recovered in the following and analogous case:

- (1) a criminal offense resulting in physical injuries;
- (2) quasi-delicts causing physical injuries.

xxx xxx xxx

There was a congruence of findings that plaintiff-appellee suffered physical injuries per receipts of medicines and receipts for every dressing of her injuries amounting to P10,089.00.

Trial courts are given discretion in determining the amount with the limitation that it “should not be palpably and scandalously excessive.” Indeed, it must be commensurate to the loss or injury suffered[9]. We find excessive the P200,000.00 granted by the court a quo as moral damages, and which should thus be reduced to P100,000.00. Moral damages are not punitive in nature and were never intended to enrich the claimant at the expense of defendant[10].

Likewise, this Court believes that an award of P50,000.00 as exemplary damages is excessive. Thus, a reduced amount of P20,000.00 as exemplary damages is in order.

Finally, with regard to the award of attorney's fees, the same was correctly awarded since defendants-appellants has compelled plaintiff-appellee to incur expenses to protect her interest[11]. The Court deems, however, that the award of P100,000.00 for attorney's is excessive. Article 2208 provides that:

xxx xxx xxx

In all cases, the attorney's and expenses of litigation must be reasonable.

Hence, in the exercise of its discretion, this Court reduced it to P50,000.00.

WHEREFORE, the decision appealed from is hereby MODIFIED as follows:

- Ten Thousand Eighty Nine Pesos and Eighty Four Cents (P10,089.84) as actual damages;
- One Hundred Thousand Pesos (P100,000.00) as moral damages;
- Twenty Thousand Pesos (P20,000.00) as exemplary damages;
- Fifty Thousand Pesos (P50,000.00) as attorney's fees; and
- To pay the costs of suit.

SO ORDERED.

Asuncion, (Chairman) and Mendoza, JJ., concur.

[1] Rollo, pp. 44-50

[2] Rollo, pp. 49-50

[3] Rollo, pp. 44-47 (quoted in the RTC Decision, pp. 1-4)[4] Ibid., pp. 23-43

[5] Rollo, pp. 25-26 (Defendants-Appellants' Brief, pp. 1-2)

[6] Villafuerte vs. Court of Appeals, G.R. No. 134239, May 26, 2005[7] LBC Express, Inc. vs. Ado, G.G. No. 161760, August 25, 2005.

[8] Viron Transportation Corp., Inc. vs. delos Santos, G.R. No. 138296, November 22, 2000.[9] Samson, Jr. vs. Bank of the Philippine Islands, 405 SCRA 607.[10] Bank of the Philippine Islands vs. Ceobrero, 418 SCRA 15.

[11] Air Philippines Corp. vs. International Business Aviation Services Phils., Inc., G.R. No. 151963, September 9, 2004.

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