

**MANUEL S. ARANETA, ET AL., PLAINTIFFS AND APPELLANTS, VS.
JUAN ARREGLADO, ET AL., DEFENDANTS AND APPELLEES.***G. R. No. L-11394. September 09, 1958*

Ponente: REYES, J.B.L., J.

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Manuel S. Araneta and Benjamin Araneta, father and son, appeal from a decision of the Court of First Instance of Manila (in its case No. 24322) sentencing defendants Juan Arreglado, his wife, and his son, Jose Dario Arreglado, to pay the former only P3,943 damages in lieu of the P112,000 claimed in the complaint.

The basic facts of the case are not in dispute: On March 7, 1951, while plaintiff Benjamin Araneta was talking with the other students of the Ateneo de Manila while seated atop a low ruined wall bordering the Ateneo grounds along Dakota Street, in the City of Manila, Dario Arreglado, a former student of the Ateneo, chanced to pass by. Those on the wall called Dario and conversed with him, and in the course of their talk, twitted him on his leaving the Ateneo and enrolling in the De La Salle College. Apparently, Arreglado resented the banter and suddenly pulling from his pocket a Japanese Lugar pistol (licensed in the name of his father Juan Arreglado), fired the same at Araneta, hitting him in the lower jaw, and causing him to drop backward, bleeding profusely. Helped by his friends, the injured lad was taken first to the school infirmary and later to the Singian Hospital, where he lay hovering between life and death for three days. The vigor of youth came to his rescue; he rallied and after some time finally recovered, the gunshot wound left him with a degenerative injury to the jawbone (mandible) and a scar in the lower portion of the face, where the bullet had plowed through. The behavior of Benjamin was likewise affected, he becoming inhibited and morose after leaving the hospital.

Dario Arreglado was indicted for frustrated homicide (Criminal Case No. 15143, of Manila) and pleaded guilty; but in view of his youth, Dario being only 14 years of age, the court suspended the proceedings as prescribed by Article 80 of the Revised Penal Code, and ordered him committed to the care of Mr. Deogracias Lerma, under the supervision of the Commissioner of Social Welfare, conformably to Republic Act No. 47. Because Arreglado observed proper conduct and discipline while on probation, the court, upon recommendation of the Social Welfare Administrator, finally discharged him on May 22, 1958, and quashed the criminal case.

Thereafter, on October 13, 1954, an action was instituted by Araneta and his father against Juan Arreglado, his wife, and their son, Dario, to recover material, moral and exemplary damages. After trial, the Court of First Instance found that Dario Arreglado's father had acted negligently in allowing his son to have access to the pistol used to injure Benjamin Araneta, and sentenced defendants to pay P3,943, damages and attorney's fees, as stated at the beginning of this decision. The trial Judge also overruled the claim of the defense that because the court failed to award any damages to Araneta in the criminal case, a separate civil action for their recovery is now foreclosed. The Arreglados did not appeal the decision but the Aranetas did; and in view of the amount originally claimed (P112,000), the case was taken directly to this Court. "

We agree with the appellants that the damages awarded by the lower court for the injuries suffered by Benjamin

Araneta are inadequate. In allowing not more than P1,000 as compensation for the "permanent deformity and—something like an inferiority complex" as well as for the "pathological condition on the left side of the jaw" caused to said plaintiff, the court below overlooked the clear evidence on record that to arrest the degenerative process taking place in the mandible and restore the injured boy to a nearly normal condition, surgical intervention was needed, for which the doctor's charges would amount to P3,000, exclusive of hospitalization fees, expenses and medicines. Furthermore, the operation, according to Dr. Dino, would probably have to be repeated in order to effectuate a complete cure, while removal of the scar on the face obviously demanded plastic surgery.

We are not impressed by the reasoning of the court a quo in refusing to consider the cost of plastic treatment as a proper element of the indemnity for damages. It argued that—

"* * * if this was really necessary it is peculiar that the father, Manuel S. Araneta, would have allowed himself to wait for the outcome of this case in order to secure funds to bring his son to America; it is admitted that plaintiff is a man of much more than moderate means and no father in his position would have let pass the present situation; he would without loss of time, have taken his son to America, cost what it may, if it was necessary; and the fact that he has waited and waited in the opinion of the court would prove that after all plastic surgery was not and is not very necessary." (Rec. App., p. 63)

The father's failure to submit his son to a plastic operation as soon as possible does not prove that such treatment is not called for. The damage to the jaw and the existence of the scar in Benjamin Araneta's face are physical facts that can not be reasoned out of existence. That the injury should be treated in order to restore him as far as possible to his original condition is undeniable. The father's delay, or even his negligence, should not be allowed to prejudice the son who has no control over the parents action nor impair his right to a full indemnity.

We do not believe that plaintiffs-appellants should recover the cost of a plastic operation and surgical treatment in the United States, since their own experts asserted that the operation could be competently performed here by local practitioners. Still, taking into account the necessity and cost of corrective measures to fully repair the damage; the pain suffered by the injured party; his feelings of inferiority due to consciousness of his present deformity, as well as the voluntary character of the injury inflicted; and further considering that a repair, however skillfully conducted, is never equivalent to the original state, we are of the opinion that the indemnity granted by the trial court should be increased to a total of P18,000.

It is also the hope of the Court that the award in the present case will remind licensed possessors of firearms of their peremptory duty to adequately safeguard such dangerous weapons at all times, and to take all requisite measures to prevent minors and other unauthorized parties from having access thereto. Competent observers have recently called attention to the fact that the growing teenage hooliganism in our society is principally due to parent's complacency in and neglect of their progeny.

Appellants complain that the court should have allowed more than P500 to compensate Benjamin's lost school year. We find this complaint unjustified, since the damages due to the lost schooling and the resulting reduction in the lad's future earning capacity are manifestly speculative, and may not exist at all. Moreover, the record does not show facts sufficient to justify a larger award on this account.

As to the moral damages for pain, anxiety and suffering undergone by the father, Manuel Araneta, our ruling in *Strebel vs. Figueras*, 96 Phil., 321, has settled that question. We held there that moral damages in case of physical injuries are only recoverable by the party who suffered them and not by his next of kin, unless there is statutory provision to the contrary.

Wherefore, the decision appealed from is affirmed with the modification that plaintiff Benjamin Araneta shall

recover damages in the amount of Eighteen Thousand Pesos (P18,000.00) from defendants Dario Arreglado and (his parents Mr. and Mrs. Juan Arreglado, who shall answer in solidum for the payment of the indemnity, pursuant to Article 2194 of the Civil Code of the Philippines. Costs against appellees. So ordered.

Paras, C. J., Padilla, Montemayor, Reyes, A., Bautista Angelo, and Endencia, JJ., concur.

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