

VICENTE LAMIS AND SANDIGAN PROTECTIVE & INVESTIGATION AGENCY, INC., PETITIONERS, VS. DAVID Y. ONG, RESPONDENT.

G.R. NO. 148923. August 11, 2005

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us is a petition for review on certiorari filed by Vicente Lamis and Sandigan Protective & Investigation Agency, Inc. assailing the Decision[1] dated March 13, 2001 of the Court of Appeals and its Resolution dated June 28, 2001 in CA-G.R. CV No. 61034, entitled "David Y. Ong, petitioner, versus Vicente Lamis and Sandigan Protective & Investigation Agency, Inc., respondents."

The facts as shown by the records are:

Sandigan Protective and Investigation Agency, Inc. (Sandigan), petitioner, was the security agency providing security services at the Manila Chinese Cemetery. The visiting hours were at 6:00 a.m. to 6:00 p.m. Sandigan instructed the security guards not to allow any one to enter the cemetery from 6:00 p.m. to 6:00 a.m.

On September 20, 1994, Vicente Lamis, also a petitioner, was the guard assigned at the south gate of the cemetery for the 6:00 p.m. to 6:00 a.m. slot.

Around 3:00 in the morning, a Mitsubishi Lancer, with a PSM 679 plate, driven by David Y. Ong, herein respondent, arrived at the south gate of the cemetery. He beeped his car and continued doing so, but Lamis did not open the gate. Eventually, he went outside the gate and informed respondent that being beyond visiting hours, he cannot enter the cemetery. Suddenly, respondent accelerated the speed of his car, trying to enter the cemetery. This irked Lamis. He closed the gate and took a shot gun entrusted to him by one of the roving guards.

About thirty minutes thereafter, respondent's car returned at full speed toward the closed gate where Lamis was standing. He fired a warning shot but respondent did not stop his car. Lamis fired another warning shot. Respondent then alighted from his car. Seeing it was closed, he got inside the car, but before he could do so, Lamis shot him, hitting his right arm, left hip, and right waist. He managed to drive to the Chinese General Hospital where he was examined and treated. Thereafter, the hospital guard reported the incident to the police who immediately conducted an investigation.

Petitioner Sandigan conducted its own investigation but did not turn over to the police the firearm used by Lamis.

Subsequently, Sandigan paid Lamis' mother the amount spent for his medical expenses. Meanwhile, he was given another job but he absented from work without leave. Thus, he was suspended and eventually dismissed from the service.

On March 16, 1994, respondent filed with the Regional Trial Court, Branch 45, Manila a complaint for frustrated homicide against Lamis, docketed as Criminal Case No. 94-J-27836.

Later, or on March 31, 1995, respondent also filed a complaint for damages against both petitioners, docketed as Civil Case No. 95-73446. On March 20, 1998, the trial court rendered a Decision, the dispositive portion of which reads:

"WHEREFORE, premises considered, the defendants Vicente Lamis and Sandigan Protective & Investigation Agency, Inc. are ordered to pay jointly and solidarily to plaintiff the following amounts:

- Five Hundred Thousand Pesos (P500,000.00) as moral damages;
- Three Hundred Thousand Pesos (P300,000.00) as exemplary damages;
- Fifty Thousand Pesos (P50,000.00) as attorney's fees, and;
- The costs of suit.

The respective counterclaims of the defendants are dismissed for lack of merit.

SO ORDERED."[2]

On appeal, the Court of Appeals rendered the assailed Decision affirming the trial court's judgment, holding that:

x x x

"We do not agree with the appellants (now petitioners).

x x x

Indeed, the acts of appellant Lamis were not the result of negligence but were deliberate and intentional constituting, as they were, delictual acts for which he was even charged of "Frustrated Homicide" in "People versus Vicente Lamis, Criminal Case No. 94-J-27836" (Exhibit "H"). Hence, we agree with the court a quo that appellant Lamis' plea of having acted in complete self-defense in shooting the appellee with two (2) guns and, hence, not civilly liable to the appellee, is barren of merit.

x x x

The appellants fault the court a quo for not giving approbation to appellant Lamis' plea of having acted in self-defense. But, then, case law has it that the findings of facts of the trial court, its calibration of the testimonial evidence of the parties, the probative weight accorded by the court a quo of the evidence of the parties and its conclusions anchored on its findings, are accorded by the Appellate Court, high respect, if not, conclusive effect, because of the unique advantage of the trial court of observing, at close, range, the demeanor and conduct of the witnesses as they regale the court with their respective testimonies.

x x x

Our Supreme Court expostulated in "Maria A. Dulay, et al. versus Court of Appeals, et al., 293 SCRA 720" that the law is not limited, in scope, to acts or omissions resulting from negligence. It also includes acts committed with negligence and acts that are voluntary and intentional, whether such acts are delictual or not and whether or not the defendant is prosecuted in a criminal case independently and separately from the civil action instituted by the aggrieved party for the recovery of damages against the offending party x x x.

x x x

The next issue that comes to fore is whether or not appellant Sandigan mustered the requisite quantum of evidence to prove that it exercised due diligence of a good father of a family in the selection and its supervision of its employees to prevent damage/injuries.

x x x

In the present recourse, appellant Sandigan failed to discharge its burden. The appellant relied solely on a copy of its Rules and Regulations, Exhibit "1", and the testimony of Salvador Manansala to discharge its burden.

x x x

Appellant Sandigan's utter neglect was made more pronounced when it failed to adduce in evidence any copy of its Report on the shooting incident involving appellant Lamis. Neither did it surrender to the police authorities the .38 caliber gun and shotgun used by appellant Lamis in shooting the appellee.

x x x

The appellants, however, plead that the awards for damages be reduced because of the flagrant violation by the appellee of the curfew imposed by the management of the cemetery. We are not inclined to agree to appellant's plea. We find and consider the awards by the court a quo reasonable in the light of the factual milieu in the present recourse."

Petitioner filed a motion for reconsideration but the Appellate Court denied the same in its Resolution dated June 28, 2001.

Hence, the instant petition for review on certiorari raising the following issues:

"I

WHETHER, CONSIDERING THE EVIDENCE ON RECORD, THE COURT OF APPEALS CORRECTLY DISMISSED PETITIONER LAMIS' PLEA OF SELF-DEFENSE.

II

WHETHER THE COURT OF APPEALS CORRECTLY HELD PETITIONER SANDIGAN LIABLE DESPITE THE FACT THAT SANDIGAN EXERCISED DUE DILIGENCE IN THE SELECTION AND SUPERVISION OF ITS SECURITY GUARDS.

III

WHETHER THE COURT OF APPEALS, DESPITE LACK OF BASIS TO SUPPORT ANY FINDING OF LIABILITY AGAINST PETITIONERS, CORRECTLY AWARDED DAMAGES IN FAVOR OF RESPONDENT."

Anent the first and second issues, petitioners contend that the Court of Appeals erred in ruling that: (a) petitioner Lamis did not act in self-defense, and (b) petitioner Sandigan failed to prove that it exercised due diligence in the selection and supervision of its security guards.

The first two issues are obviously questions of fact. Certainly, such matters mainly require a calibration of the evidence or a determination of the credibility of the witnesses presented by the parties and the existence and relevancy of specific surrounding circumstances, their relation to each other and to the whole, and the probabilities of the situation.[3]

The well-entrenched rule is that questions of fact may not be the subject of an appeal by certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, as this recourse is generally confined to questions of law.[4] Under the said Rule, the jurisdiction of this Court over cases brought to it is limited to the review and rectification of errors of law committed by the lower court.

Moreover, it is doctrinally settled that where the trial court's factual findings are adopted and affirmed by the Court of Appeals, as in this case, the same are final and conclusive and may not be reviewed by this Court.[5] It bears emphasis that in the appreciation of evidence, the Appellate Court accords due deference to the trial court's

factual findings because the latter had the opportunity to observe the demeanor of the witnesses when they testified during the trial and, therefore, is in a better position to determine their credibility.[6] Thus, we find no compelling reason to overturn the factual findings and conclusion of law by the Court of Appeals relative to the first and second issues.

With respect to the third issue, petitioners maintain that there is no legal basis for the trial court's award of damages.

As earlier stated, the trial court found that Lamis' act of shooting the respondent was "deliberate and intentional," hence, both petitioners are jointly and solidarily liable to respondent for damages.

Article 2176 of the Civil Code provides that "Whoever by an act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. x x x." The obligation imposed by this Article is "demandable not only for one's own wrongful acts or omissions, but also for those persons for whom one is responsible." [7] Thus, petitioner Sandigan, being the employer of petitioner Lamis, is likewise liable for damages caused by the latter.[8]

As stated earlier, petitioner Sandigan already paid the medical expenses (or actual damages) incurred by respondent.

We find, however, that the trial court erred in awarding to respondent moral damages in the sum of P500,000.00, exemplary damages of P300,000.00 and attorney's fee in the amount of P50,000.00. These amounts are quite excessive. We have held that although the trial court is given the discretion to determine the amount of such damages, the appellate court may modify or change the amount awarded when it is inordinate,[9] as in this case.

It bears stressing that the award of moral damages is meant to compensate the claimant for any physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury unjustly caused by the defendant's wrongful acts.[10] Although incapable of pecuniary estimation, the amount must somehow be proportional to and in approximation of the suffering inflicted.[11] Moral damages are not intended to impose a penalty to the wrongdoer,[12] neither to enrich the claimant at the expense of the defendant.[13] There is no hard-and-fast rule in determining what would be a fair and reasonable amount of moral damages, since each case must be governed by its own peculiar facts. Trial courts are given discretion in determining the amount, with the limitation that it should not be palpably and scandalously excessive.[14] We hold that an award to respondent of P30,000.00, instead of P500,000.00, as moral damages is reasonable.

Likewise, we are convinced that the award of exemplary damages should be reduced from P300,000.00 to P25,000.00. Such damages are imposed not to enrich the claimant and impoverish the defendant but to serve as a deterrent against, or as a negative incentive to curb, socially deleterious actions.[15]

Finally, an award of P20,000.00 as attorney's fee is deemed sufficient considering that the suit involved is merely for damages. Attorney's fee may be awarded when a party is compelled to litigate or incur expenses to protect his interest by reason of an unjustified act of the other party,[16] as in the present case.

WHEREFORE, the petition is DENIED. The assailed Decision dated March 13, 2001 and Resolution dated June 28, 2001 of the Court of Appeals in CA-G.R. CV No. 61034 are AFFIRMED with MODIFICATION in the sense that petitioners are ordered to pay respondent (a) P30,000.00 as moral damages, (b) P25,000.00 as exemplary damages, and (c) P20,000.00 as attorney's fee. Costs against petitioners.

SO ORDERED.

Panganiban, (Chairman), Carpio Morales, and Garcia, JJ., concur.
Corona, J., on leave.

[1] Penned by Justice Romeo J. Callejo, Sr. (now a member of this Court), and concurred in by Justice Renato C. Dacudao and Justice Josefina Guevara-Salonga.

[2] Rollo at 96.

[3] Imperial vs. Jaucian, G.R. No. 149004, April 14, 2004, 427 SCRA 517.

[4] Id., citing Spouses Uy vs. Court of Appeals, 411 Phil. 788 (2001).

[5] Go vs. Court of Appeals, G.R. No. 112550, February 5, 2001, 351 SCRA 145.

[6] Bañas vs. Asia Pacific Finance Corporation, G.R. No. 128703, October 18, 2000, 343 SCRA 527; Philippine National Bank vs. Court of Appeals, G.R. No. 81524, February 4, 2000, 324 SCRA 714, citing People vs. Dinglasan, 267 SCRA 26 (1997); People vs. Topaguen, 269 SCRA 601 (1997).

[7] Paragraph 1, Article 2180, Civil Code of the Philippines.

[8] Paragraphs 4 & 5, id.

[9] YHT Realty Corporation vs. Court of Appeals, G.R. No. 126780, February 17, 2005, 451 SCRA 638; Leyson vs. Bontuyan, G.R. No. 156357, February 18, 2005, 452 SCRA 94; De Castro vs. Court of Appeals, 384 SCRA 607 (2002).

[10] Article 2217, Civil Code of the Philippines; Samson, Jr. vs. Bank of the Philippine Islands, G.R. No. 150487, July 10, 2003, 405 SCRA 607.

[11] Samson, Jr. vs. Bank of the Philippine Islands, id.

[12] Supercars Management & Development Corporation vs. Flores, G.R. No. 148173, December 10, 2004, 446 SCRA 34.

[13] Samson, Jr. vs. Bank of the Philippine Islands, supra; Salao vs. Court of Appeals, G.R. No. 107725, January 22, 1998, 284 SCRA 493; Insular Life Assurance Company, Ltd. vs. Young, 373 SCRA 626 (2002).

[14] Samson, Jr. vs. Bank of the Philippine Islands, supra, citing Singson vs. Court of Appeals, 346 Phil. 831; 282 SCRA 149 (1997); Del Rosario vs. Court of Appeals, 334 Phil. 812; 267 SCRA 158 (1997).

[15] Country Bankers Insurance Corporation vs. Lianga Bay and Community Multi-Purpose Cooperative, Inc., 374 SCRA 653; Quisumbing vs. Manila Electric Company, 380 SCRA 195 (2002).

[16] Terminal Facilities and Services Corporation vs. Philippine Ports Authority, 378 SCRA 82 (2002).

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