

**SPOUSES ELISEO SEVILLA AND ERNA SEVILLA, PETITIONERS, VS.
HON. COURT OF APPEALS AND PATRICIA VILLAREAL, FOR HERSELF
AND IN BEHALF OF HER CHILDREN, TRICIA AND CLAIRE HOPE
VILLARE...**

G.R. No. 150284. November 22, 2010

Ponente: MENDOZA, J.

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MENDOZA, J.:

For review in this petition is the May 22, 2001 Decision[1] of the Court of Appeals (CA), in CA-G.R. CV No. 63518, which affirmed the Decision[2] of the Regional Trial Court, Branch 132, Makati City (RTC), finding the petitioners, spouses Eliseo and Erna Sevilla, jointly and severally, liable for damages to the private respondents.

From the records, it appears that on March 2, 1987, Patricia Villareal, for herself and in behalf of her children, Tricia and Claire Hope Villareal (the Villareals), filed an action for damages against spouses Eliseo and Erna Sevilla (the Sevillas), on account of the killing of her (Patricia's) husband, Jose K. Villareal (Jose). It was alleged that Eliseo, said to be a very jealous husband, discovered that his wife, Erna was having an illicit affair with Jose. On the early morning of June 6, 1986, Erna and Jose were caught red-handed having a rendezvous in a parking lot by Eliseo who was just waiting in ambush together with some companions. There, Jose was mauled and shot to death. Because of this incident, the Sevillas started disposing their properties and eventually left for the United States of America with their children. Thereafter, a criminal case for murder was filed against them before the RTC of Makati, but it was archived because they had already left the country. On March 2, 1987, the Villareals filed a civil case for damages against the Sevillas arising from the murder case.

Summons could not be personally served on the Sevillas as they had been residing abroad so service was made by publication in a newspaper of general circulation. The Sevillas failed to file their answer to the complaint and so the trial court declared them in default and allowed the Villareals to present evidence *ex parte*. Also, the trial court allowed the Villareals to litigate as pauper litigants.

After presenting their evidence *ex-parte*, the Villareals filed a "Motion for Leave to Admit an Amended Complaint and for Extraterritorial Service" to implead additional plaintiffs, include additional claims for damages and increase their claims for loss of income and moral and exemplary damages. The RTC admitted their amended complaint and ordered that summons be served anew on the Sevillas. But despite the proper service of summons by publication, the Sevillas failed to file their answer. This prompted the RTC to declare them again in default.

Ruling of the Regional Trial Court

On April 2, 1990, the RTC rendered its decision[3] ordering the Sevillas to pay the Villareals damages, among others, for the death of Jose Villareal. The dispositive portion of which reads, as follows:

WHEREFORE, judgment is hereby rendered ordering defendants, jointly and severally, to pay plaintiffs:

- (1) P30,000.00 by way of indemnity for the death of the victim;
- (2) P185, 883.00 for actual damages;
- (3) P10,491,157.00 as consequential damages representing loss of the victim's earning capacity;
- (4) P100, 000.00 moral damages
- (5) P25, 000.00 as exemplary damages;
- (6) P50, 000. 00 for attorney's fees
- (7) Interest on all the foregoing amounts at the rate of six percent (6%) per annum, computed from the date hereof; and
- (8) The costs of suit.

The unpaid additional docket fees on the Amended Complaint shall constitute a lien to this judgment.

SO ORDERED.

The RTC ruled, among others, that the Villareals were able to establish their cause of action against the Sevillas by preponderance of evidence. They were, therefore, entitled to recover civil liability from the Sevillas based on Article 100 of the Revised Penal Code.

With this adverse ruling, the Sevillas filed a motion to lift order and set aside judgment of default. This was denied by the RTC which prompted them to file a motion for reconsideration and suspension of proceedings while the criminal case against them was pending. Again, the motions were denied by the RTC in its August 10, 1990 order.

Unwilling to accede, the Sevillas elevated the matter to the CA by way of a Petition for Certiorari, Prohibition and Mandamus with Preliminary Injunction.

The CA, on December 23, 1991, set aside the judgment by default and other related orders of the RTC and ordered the admission of the answer of the Sevillas.

On October 16, 1992, the Villareals, aggrieved by the CA's order, challenged the same before this Court through a Petition for Review on Certiorari.

This Court, after careful examination of the petition, issued on September 17, 1998 a decision reversing the CA decision and affirming the RTC order and judgment by default, but allowing the Sevillas' appeal to the CA. So, on June 15, 1999, the RTC elevated the records of the case to the CA.

On May 8, 2001, during the pendency of the appeal, the Sevillas submitted an "Urgent Motion to Resolve One Issue that Will Make All Other Issues Moot."

Ruling of the Court of Appeals

On May 22, 2001, the CA rendered a decision affirming the April 2, 1990 RTC decision. The CA ruled, among others, that a chain of factual circumstances all led to the conclusion that the Sevillas, with the help of other men, committed the crime. These were:

- The victim was last seen alive with Erna at the 1851 Club located on the 20th floor of the said building;
- One of the getaway cars was in fact the same car driven by Erna in going to the scene of the crime;
- The car owned by [the Sevillas] was with another car that sped away and attempted to race with a witness' car toward the exit of the car park shortly after the shooting;
- The car's plate was substituted with the plate number of another car owned by [the Sevillas] upon loading of gasoline;

- Despite the close relationship between the victim and the [Sevillas], none of them attended the wake nor offered condolences to the bereaved family;
- Erna asked her personal accountant to retrieve her intimate letters to the victim from the victim's files;
- [The Sevillas] abruptly departed to a foreign country, to the extent of removing their children from school; and
- [The Sevillas] failed to appear as they still refuse to appear in the criminal case for the killing of the victim - all point to a single conclusion: [The Sevillas] planned and executed the killing and are now in hiding to avoid the legal consequences of their actions.[4]

Not in conformity, the Sevillas filed a Motion for Reconsideration focusing solely on the extent of the award of unliquidated damages, which was, nonetheless, denied by the CA.

On December 3, 2001, the Sevillas filed this petition raising this lone

ISSUE

Whether or not the Court of Appeals erred in ruling that the Villareals are entitled to an award of damages for the death of Jose Villareal.

Position of the Petitioners

The Sevillas argue that the CA rendered a decision based on hearsay, incompetent, and inadmissible evidence. They claim that the Villareals failed to prove their case even by circumstantial evidence. Moreover, they opine that the rule on indigent party was violated when the Villareals were allowed to litigate as pauper litigants.

Position of the Respondents

Conversely, the Villareals counter that the petition should be dismissed based on two (2) grounds, to wit: 1] technical grounds due to a) waiver and expiry of period to appeal by certiorari, and b) failure to raise questions of law; and 2] substantial grounds because the petition lacks merit. They agree with the conclusion of the courts below that there was enough circumstantial evidence to hold the Sevillas civilly liable for the death of the victim.

The Court's Ruling

The Court finds no solid reason to disturb the findings of the CA. Verily, the evaluation and calibration of the evidence necessarily involves consideration of factual issues - an exercise that is not appropriate for a petition for review on certiorari under Rule 45. This rule provides that the parties may raise only questions of law, because the Supreme Court is not a trier of facts. Generally, the Court is not duty-bound to analyze and weigh again the evidence introduced in, and considered by, the tribunals below. When supported by substantial evidence, the findings of fact of the CA are conclusive and binding on the parties and are not reviewable by this Court, unless the case falls under any of the following recognized exceptions: (1) when the conclusion is a finding grounded entirely on speculation, surmises and conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) where there is a grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings of fact are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents; and (10) when the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and contradicted by the evidence on

record.[5]

Unfortunately for the Sevillas, they fail to convince this Court that any of the above exceptions applies in this case. For this reason, the Court cannot but respect the findings and conclusions of the lower court. It is precluded from making further investigation on the facts of the case without violating established rules of procedure.

At any rate, the Court is convinced that the decision of the courts below are supported by a preponderance of evidence. Section 1, Rule 133 of the Revised Rules of Evidence provides how preponderance of evidence is determined:

Section 1. Preponderance of evidence, how determined. - In civil cases, the party having the burden of proof must establish his case by a preponderance of evidence. In determining where the preponderance or superior weight of evidence on the issues involved lies, the court may consider all the facts and circumstance of the case, the witnesses' manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they are testifying, the nature of the facts to which they testify, the probability of their testimony, their interest or want of interest, and also their personal credibility so far as the same may legitimately appear upon the trial. The court may also consider the number of witnesses, though the preponderance is not necessarily with the greater number.

"Preponderance of evidence" is the weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term "greater weight of the evidence" or "greater weight of the credible evidence." Preponderance of evidence is a phrase which, in the last analysis, means probability of the truth.[6] It is evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto. If plaintiff claims a right granted or created by law, he must prove his claim by competent evidence. He must rely on the strength of his own evidence and not upon the weakness of that of his opponent.

Applying said principle in the case at bench, the factual circumstances established by the Villareals through their testimonial and documentary evidences are sufficient and convincing enough to prove that they are entitled to an award of damages for the death of Jose Villareal compared to the bare allegations to the contrary of the Sevillas. These circumstances, which were earlier enumerated, have successfully swayed this Court to believe that indeed the Sevillas are liable for the death of the victim to the exclusion of others except their henchmen.

Furthermore, the Court notes that in the course of their appeal with the CA, the factual conclusions of the RTC were never assailed by the Sevillas. Instead of questioning the facts that would garner them a favorable judgment, what they filed were an "urgent motion to resolve one issue that will make all other issues moot"[7] and a "motion for reconsideration on the sole issue of the extent of the award of unliquidated damages." [8] Consequently, with the filing of these motions, the factual findings of the lower court were deemed admitted.

As correctly held by the CA, the Sevillas had all the opportunities to answer the criminal and civil cases filed against them, but they chose to run away and hide from the law. What makes matters worse, after having been declared in default is that they continually resorted to several delaying tactics by filing several pleadings in court, to the prejudice of the victim's family. All these have brought about inconceivable financial and emotional hardships to the Villareals in their quest for truth and justice. As can be gleaned from the facts, fifteen (15) long years have already elapsed from the time the victim was killed in June 1986 up to the time the CA rendered a decision on the main case on May 22, 2001. And throughout those years up to the present, the Sevillas never presented themselves in court.

Finally, adding insult to injury, in anticipation of their properties being levied in satisfaction of the RTC judgment against them, the Sevillas wittingly disposed all their properties. This resulted in another and separate long drawn court battle between the Villareals and the alleged buyers of the Sevilla properties. Evidently, all these are but

manifestations of bad faith and ill-will prejudicial to the Villareals who must in the interest of justice be compensated without further delay.

WHEREFORE, the May 22, 2001 Decision of the Court of Appeals in CA-G.R. CV No. 63518 is AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Nachura, Peralta, Abad, and Mendoza, JJ., concur.

[1] Rollo, pp. 6-24. Penned by Associate Justice Oswaldo D. Agcaoli with Associate Justice Cancio C. Garcia and Associate Justice Elvi John S. Asuncion, concurring.

[2] Id. at 184-207.

[3] Id.

[4] Id. at 18-19.

[5] Heirs of Jose Lim, represented by Elenito Lim v. Juliet Villa Lim, G.R. No. 172690, March 3, 2010.

[6] Amoroso v. Alegre, G.R. No. 142766, June 15, 2007, 524 SCRA 641, 652.

[7] Rollo, p. 27.

[8] Id.

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