

CHILD LEARNING CENTER, INC. AND SPOUSES EDGARDO L. LIMON AND SYLVIA S. LIMON, PETITIONERS, VS. TIMOTHY TAGARIO, ASSISTED BY HIS PARENTS BASILIO TAGORIO AND PROMULGATED: HERMINIA...

G.R. No. 150920. November 25, 2005

Ponente: AZCUNA, J.

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AZCUNA, J.:

This petition started with a tort case filed with the Regional Trial Court of Makati by Timothy Tagorio and his parents, Basilio R. Tagorio and Herminia Tagorio, docketed as Civil Case No. 91-1389. The complaint[1] alleged that during the school year 1990-1991, Timothy was a Grade IV student at Marymount School, an academic institution operated and maintained by Child Learning Center, Inc. (CLC). In the afternoon of March 5, 1991, between 1 and 2 p.m., Timothy entered the boy's comfort room at the third floor of the Marymount building to answer the call of nature. He, however, found himself locked inside and unable to get out. Timothy started to panic and so he banged and kicked the door and yelled several times for help. When no help arrived he decided to open the window to call for help. In the process of opening the window, Timothy went right through and fell down three stories. Timothy was hospitalized and given medical treatment for serious multiple physical injuries.

An action under Article 2176 of the Civil Code was filed by respondents against the CLC, the members of its Board of Directors, namely Spouses Edgardo and Sylvia Limon, Alfonso Cruz, Carmelo Narciso and Luningning Salvador, and the Administrative Officer of Marymount School, Ricardo Pilao. In its defense,[2] CLC maintained that there was nothing defective about the locking mechanism of the door and that the fall of Timothy was not due to its fault or negligence. CLC further maintained that it had exercised the due care and diligence of a good father of a family to ensure the safety, well-being and convenience of its students.

After trial, the court a quo found in favor of respondents and ordered petitioners CLC and Spouses Limon to pay respondents, jointly and severally, P200,253.12 as actual and compensatory damages, P200,000 as moral damages, P50,000 as exemplary damages, P100,000 as attorney's fees and the costs of the suit. The trial court disregarded the corporate fiction of CLC and held the Spouses Limon personally liable because they were the ones who actually managed the affairs of the CLC.

Petitioners CLC and the Spouses Limon appealed the decision to the Court of Appeals.

On September 28, 2001, the Court of Appeals[3] affirmed the decision in toto. Petitioners elevated the case to this Court under Rule 45 of the Rules of Court, after their motion for reconsideration was denied by Resolution of November 23, 2001.[4]

Petitioners question several factual findings of the trial court, which were affirmed by the Court of Appeals, namely:[5]

- That respondent was allegedly trapped inside the boy's comfort room located at the third floor of the school

building on March 5, 1991;

- That respondent allegedly banged and kicked the door of said comfort room several times to attract attention and that he allegedly yelled thereat for help which never came;
- That respondent was allegedly forced to open the window of said comfort room to seek help;
- That the lock set installed at the boy's comfort room located in the third floor of the school building on March 5, 1991 was allegedly defective and that the same lock set was involved in previous incidents of alleged malfunctioning;
- That petitioner Child Learning Center, Inc. allegedly failed to install iron grills in the window of the boy's comfort room at the third floor of the school building;
- That petitioner Child Learning Center, Inc. allegedly failed to exercise the due care of a good father of a family in the selection and supervision of its employees;
- That the proximate cause of respondent's accident was allegedly not due to his own contributory negligence;
- That there was an alleged basis to apply the legal principle of "piercing the veil of corporate entity" in resolving the issue of alleged liability of petitioners Edgardo L. Limon and Sylvia S. Limon;
- That there was alleged basis for petitioners to pay respondent actual, moral and exemplary damages, plus attorney's fees;
- That there was an alleged basis in not awarding petitioners' prayer for moral and exemplary damages, including attorney's fees.

Generally, factual findings of the trial court, affirmed by the Court of Appeals, are final and conclusive and may not be reviewed on appeal. The established exceptions are: (1) when the inference made is manifestly mistaken, absurd or impossible; (2) when there is grave abuse of discretion; (3) when the findings are grounded entirely on speculations, surmises or conjectures; (4) when the judgment of the Court of Appeals is based on 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 of fact are conclusions without citation of specific evidence on which they are based; (8) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and (9) when the findings of fact of the Court of Appeals are premised on the absence of evidence and are contradicted by the evidence on record.[6]

On the basis of the records of this case, this Court finds no justification to reverse the factual findings and consider this case as an exception to the general rule.

In every tort case filed under Article 2176 of the Civil Code, plaintiff has to prove by a preponderance of evidence: (1) the damages suffered by the plaintiff; (2) the fault or negligence of the defendant or some other person for whose act he must respond; and (3) the connection of cause and effect between the fault or negligence and the damages incurred.[7]

Fault, in general, signifies a voluntary act or omission which causes damage to the right of another giving rise to an obligation on the part of the actor to repair such damage. Negligence is the failure to observe for the protection of the interest of another person that degree of care, precaution and vigilance which the circumstances justly demand. Fault requires the execution of a positive act which causes damage to another while negligence consists of the omission to do acts which result in damage to another.[8]

In this tort case, respondents contend that CLC failed to provide precautionary measures to avoid harm and injury to its students in two instances: (1) failure to fix a defective door knob despite having been notified of the problem; and (2) failure to install safety grills on the window where Timothy fell from.

The trial court found that the lock was defective on March 5, 1991:[9]

The door knob was defective. After the incident of March 5, 1991, said door knob was taken off the door of the toilet where Timothy was in. The architect who testified during the trial declared that although there were standard specifications for door knobs for comfort room[s], and he designed them according to that requirement, he did not investigate whether the door knob specified in his plans during the construction [was] actually put in place. This is so because he did not verify whether the door knob he specified w[as] actually put in place at the particular comfort room where Timothy was barred from getting outside. (TSN, pp. 19-20, December 8, 1994).

The Court of Appeals held that there was no reason to disturb the factual assessment:[10]

After having perused the records, We fail to see any indication of whim or arbitrariness on the part of the trial magistrate in his assessment of the facts of the case. That said, We deem it not to be within Our business to recast the factual conclusions reached by the court below.

Petitioners would make much of the point that no direct evidence was presented to prove that the door knob was indeed defective on the date in question.

The fact, however, that Timothy fell out through the window shows that the door could not be opened from the inside. That sufficiently points to the fact that something was wrong with the door, if not the door knob, under the principle of *res ipsa loquitur*. The doctrine of *res ipsa loquitur* applies where (1) the accident was of such character as to warrant an inference that it would not have happened except for the defendant's negligence; (2) the accident must have been caused by an agency or instrumentality within the exclusive management or control of the person charged with the negligence complained of; and (3) the accident must not have been due to any voluntary action or contribution on the part of the person injured.[11] Petitioners are clearly answerable for failure to see to it that the doors of their school toilets are at all times in working condition. The fact that a student had to go through the window, instead of the door, shows that something was wrong with the door.

As to the absence of grills on the window, petitioners contend that there was no such requirement under the Building Code. Nevertheless, the fact is that such window, as petitioners themselves point out, was approximately 1.5 meters from the floor, so that it was within reach of a student who finds the regular exit, the door, not functioning. Petitioners, with the due diligence of a good father of the family, should have anticipated that a student, locked in the toilet by a non-working door, would attempt to use the window to call for help or even to get out. Considering all the circumstances, therefore, there is sufficient basis to sustain a finding of liability on petitioners' part.

Petitioners' argument that CLC exercised the due diligence of a good father of a family in the selection and supervision of its employees is not decisive. Due diligence in the selection and supervision of employees is applicable where the employer is being held responsible for the acts or omissions of others under Article 2180 of the Civil Code.[12] In this case, CLC's liability is under Article 2176 of the Civil Code, premised on the fact of its own negligence in not ensuring that all its doors are properly maintained.

Our pronouncement that Timothy climbed out of the window because he could not get out using the door, negates petitioners' other contention that the proximate cause of the accident was Timothy's own negligence. The injuries he sustained from the fall were the product of a natural and continuous sequence, unbroken by any intervening cause, that originated from CLC's own negligence.

We, however, agree with petitioners that there was no basis to pierce CLC's separate corporate personality. To disregard the corporate existence, the plaintiff must prove: (1) Control by the individual owners, not mere majority or complete stock ownership, resulting in complete domination not only of finances but of policy and business practice in respect to a transaction so that the corporate entity as to this transaction had at the time no separate mind, will or existence of its own; (2) such control must have been used by the defendant to commit fraud or wrong, to perpetuate the violation of a statutory or other positive legal duty, or a dishonest and unjust act in contravention of the plaintiff's legal right; and (3) the control and breach of duty must proximately cause the injury or unjust loss complained of. The absence of these elements prevents piercing the corporate veil.[13] The evidence on record fails to show that these elements are present, especially given the fact that plaintiffs' complaint had pleaded that CLC is a corporation duly organized and existing under the laws of the Philippines.

On 9[th] and 10[th] points raised concerning the award of damages, the resolution would rest on factual determinations by the trial court, affirmed by the Court of Appeals, and no legal issue warrants our intervention.

WHEREFORE, the petition is partly granted and the Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 50961 dated September 28, 2001 and November 23, 2001, respectively, are MODIFIED in that petitioners Spouses Edgardo and Sylvia Limon are absolved from personal liability. The Decision and Resolution are AFFIRMED in all other respects. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Ynares-Santiago, and Carpio, JJ., concur.

[1] Complaint, Records, p. 1.

[2] Answer With Counterclaim, Records, p. 23.

[3] Per Decision penned by Justice Bienvenido L. Reyes and concurred in by Justices Eubolo G. Verzola and Marina L. Buzon; Rollo, pp. 51-60.

[4] Rollo, pp. 62-63.

[5] Petition, Rollo, pp. 22-23.

[6] Manufacturers Building, Inc. v. Court of Appeals, G.R. No. 116847, March 16, 2001, 354 SCRA 521.

[7] Metro Manila Transit Corp. v. Court of Appeals, G.R. No. 104408, June 21, 1993, 223 SCRA 521.

[8] Judge Alicia Gonzales-Decano, Notes on Torts and Damages, Central Law Book Publishing Co., Inc. (2004), pp. 18-19.

[9] Rollo, p. 68.

[10] Rollo, p. 57.

[11] Wild Valley Shipping Co., Ltd. v. Court of Appeals, G.R. No. 119602, October 6, 2000, 342 SCRA 213, 228.

[12] Paragraph 1, Article 2180, states, in relevant part, "The obligation imposed by Article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible."

[13] Lim v. Court of Appeals, G.R. No. 124715, January 24, 2000, 323 SCRA 102.

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