

**JOSE S. ROQUE, JR., SUBSTITUTED BY HIS WIFE NORMA ROQUE,
PETITIONER, VS. JAIME T. TORRES, SUBSTITUTED BY HIS SON JAMES
KENLEY M. TORRES, AND THE HONORABLE COURT OF APPEALS,
RESP...**

G.R. NO. 157632. December 06, 2006

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before Us is a Petition for Review on Certiorari under Rule 45 of the Rules of Civil Procedure, assailing the Decision[1] of the Court of Appeals in CA-G.R. CV No. 55895, dated 21 March 2003, which reversed and set aside the Judgment[2] of the Regional Trial Court (RTC) of Quezon City, Branch 104, in Civil Case No. Q-93-14408, dated 8 April 1997, ordering respondent to pay petitioner damages in the total amount of P1,600,000.00 and attorney's fees.

The instant case sprang from an action for damages filed by the original petitioner, the late Jose Roque, Jr., against respondent, the recently deceased Jaime Torres, for injuries sustained by petitioner on 27 August 1989, allegedly inflicted by the security guards employed by respondent.

In this petition, the deceased petitioner Jose Roque, Jr. is substituted by his wife Norma Roque while respondent Jaime T. Torres, per agreement of all his heirs, is herein represented by his son James Kenley M. Torres.

Petitioner was the administrator of certain parcels of land in Upper Boso-Boso, Antipolo, Rizal, particularly Lots No. 13259 and 13260 covered by Original Certificates of Titles (OCTs) No. NP-419 and NP-422, both registered in the name of his son Rafael Roque. Sometime before the incident, respondent, claiming to be the owner of said property, hired security guards from Anchor Security and Detective Agency, namely Cesar Aquino, Alfredo Negro, and Mariano Cabos, who allegedly barred petitioner from entering the property and threatened him with physical harm should he attempt to tend the said land. As a result, petitioner filed a case for grave threats against said security guards before the Municipal Trial Court (MTC) of Rizal.

Prior to the incident, or on 9 September 1988, respondent instituted an Action[3] for cancellation of OCTs No. NP-419 and NP-422 in the name of petitioner's son Rafael Roque before the RTC of Antipolo which was dismissed by the trial court in an Order[4] dated 26 June 1989. According to the court a quo, therein petitioner Torres' action was premature for failure to exhaust administrative remedies in the Bureau of Lands, consistent with the established doctrine that where a party seeks for the cancellation of a Free Patent, he must pursue his action in the proper agency and a review by the court will not be permitted unless administrative remedies have been exhausted. The trial court also declared that the said action was in effect an action for reversion under Section 101 of the Public Land Act, thus, the action should be in the name of the government and not the private complainants. Respondent appealed the dismissal before the Court of Appeals, which later affirmed the decision of the lower court in a Decision[5] dated 11 June 1990. Respondent's appeal to this Court was also dismissed in a Resolution dated 11 February 1991.

Petitioner maintained that at around four o'clock in the afternoon of 27 August 1989, he, together with his housemaid Leilyn Saplot Kandt, Magno Imperial, Jose Imperial, and Eliseo Pesito, visited the said property and was surprised to see seven security guards, including the above-mentioned security guards, guarding the property upon orders of respondent. Aquino, Negro, and Cabos approached petitioner and asked: "Bakit wala ka noong arraignment sa Antipolo noong August 16, 1989?"[6] to which he replied that his presence was not necessary since he was not the accused. Thereafter, the said security guards asked him to leave the property and uttered: "Bakit mo kami kinakalaban? Utos ni Torres na ito'y bantayan pagkat ito'y kanyang property raw!." Petitioner showed his son's titles to the property but the security guards merely answered: "Fake 'yan at hindi kayo maaaring pumasok dito. Kayo ay dapat paalisin." A security guard then cocked his shotgun and warned petitioner to leave the place. Petitioner offered to settle the dispute in the office of Anchor Security Agency, through its manager, Mrs. Nassam, but the security guards merely replied: "Wala kaming pakialam kay Nassam. Lahat ginagawa dito, lahat ay utos ni Torres. At 'yan ay sinusunod naming dahil si Torres ang bumubuhay sa amin."

When petitioner refused to leave the premises, Cabos threatened petitioner that should he stay inside, Cabos would shoot him, so petitioner immediately left the place. However, Cabos still fired at him but missed. Petitioner ran fast to his makeshift hut where Cabos followed him. Petitioner ran to the back of his makeshift hut and was shot again by Cabos, hitting petitioner on the back. When petitioner fell, he turned and saw Cabos and Negro shooting at him. At the same time, Aquino was also firing at the makeshift hut. After a while, the other security guards, namely Sulla, Betasulo, and Romy Mendoza, came, and together with Cabos and Negro, mauled and kicked petitioner all over his body until he lost consciousness.

As a result of the incident, petitioner was hospitalized and placed under continuous treatment and medication. Due to the multiple gunshot wounds, hematoma, and contusions sustained by petitioner, his left eye became 90 to 95% blind and his body was paralyzed from the bustline down. Consequently, petitioner filed a criminal case[7] for frustrated murder before the RTC of Antipolo against the security guards. Eventually, after suffering for more than nine years, petitioner died.

On his part, respondent admits the existence of the titles in the name of Rafael Roque but denies the latter's ownership over the property. He further admits the dismissal of his case for cancellation of Roque's titles based on a technical ground. Respondent likewise admits to the posting of the security guards on the property to guard the same from any intruder but denies that they were his personal security guards, and moreover claimed that they were security guards of the Antipolo Landowners and Farmers Association, Inc. (ALFAI), of which he was president. Respondent further asserts that being the President of ALFAI, his instruction to the security guards was to prevent squatters or intruders from entering the property and to make use of reasonable force to repel aggression in the event of any untoward incident.

After trial, the lower court, on 8 April 1997, rendered judgment in favor of petitioner. According to the court a quo:

After a thorough examination of the evidence presented by both parties, the Court is faced with the issue of: "Whether or not defendant Torres can be held liable for damages to herein plaintiff as a result of the injuries inflicted by the security guards deployed in the property in question on August 28, 1989 [sic].

There is no question that the security guards involved in the shooting incident on August 28, 1989 [sic] were employed of [sic] Anchor Security and Detective Agency. There is also no question that the same security guards were hired by defendant Torres to man and guard the property in question in Boso-Boso, Antipolo, Rizal. In this simple scenario and in the event that said security guards caused wrong to others while in their tour of duty, the law provides that the liability falls on the employer being the principal. On the contrary, for illegal or harmful acts committed by the security guards as [sic] per order of the client or the one who hired

them, liability attaches to the latter. In the instant case, the unlawful act committed by the security guards against the plaintiff is within the strict compliance of the instruction of the defendant. This is because of the fact that defendant Torres exercised direct supervision of the said security guards. As a matter of fact, he provided the guards with his school bus to perform their duties effectively. Hence, defendant Torres is liable for the unlawful acts committed by the said security guards against herein plaintiff. Such unlawful acts would not have been accomplished had defendant Torres being their "employer" at that time, not instructed them so. What resulted to the shooting of the plaintiff by the security guards cannot be given justice except by indemnifying him. And considering that plaintiff suffered paralization of his body and blindness in his left eye, notwithstanding the fact of incurring the amount of P300,000.00 as hospitalization and medical expenses plus the continuous medication up to the present, the Court believes that the plaintiff should be compensated. (Emphasis ours.)

WHEREFORE, judgment is hereby rendered in favor of the plaintiff as against defendant Torres and the latter is ordered to pay the plaintiff the following:

- a) the amount of P300,000.00 as actual damages;
- b) the amount of P1,000,000.00 as moral damages;
- c) the amount of P300,000.00 as exemplary damages; and
- d) the amount of P50,000.00 as attorney's fee.[8]

Aggrieved by the above judgment, respondent lodged an appeal before the Court of Appeals. According to respondent, he did not know that the security guards would commit the alleged aggressive acts until the commission thereof, and that said security guards acted upon their own judgment. Respondent claimed that petitioner was an intruder and squatter on the property who entered it without permission from members of the ALFAI, the real owners of the said property. Thus, respondent argued that petitioner forcibly entered the property and that the security guards merely repelled the unlawful aggression.

Subsequently, the appellate court reversed the RTC judgment and rendered a Decision, the pertinent portions of which read:

It is appellee's contention that appellant as employer of the said security guards is liable for the injuries inflicted by the latter who acted under his instructions to guard the subject premises.

Verily, the obligation imposed under Article 2176 of the Civil Code is demandable not only for one's own acts or omissions but also for those persons for whom, one is responsible. The owners and managers of an establishment or enterprise are likewise responsible for damages caused by their employees in exercise of their duties and/or functions.

Relevantly, Article 2180 of the Civil Code provides that:

Art. 2180. The obligation imposed by article 2176 is not demandable not only for one's own acts or omissions, but also for those persons for whom one is responsible.

x x x x

The owners and managers of an establishment or enterprise are likewise responsible for damages caused by their employees in the service of the branches in which the latter are employed or on occasion of their functions.

Under the facts obtaining, the above provision of law does not apply. The court a quo succinctly declared:

"There is no question that the security guards involved in the shooting incident on August 28, 1989 were employed (sic) of Anchor Security Detective Agency. There is also no question that the same security guards

were hired by defendant Torres to man and guard the property in question in Boso-Boso, Antipolo, Rizal.

x x x x

There is no question therefore that the said security guards who inflicted the injuries sustained by the appellee were not employees of herein appellant. This being so, the ruling in the case of Soliman, Jr. vs. Tuazon applies, viz:

It is settled that where the security agency, as here recruits, hires and assigns the work of its watchmen or security guards, the agency is the employer of such security guards or watchmen. Liability for illegal or harmful acts committed by the security guards attaches to the employer agency, and not to the clients or customers of such agency.

At any rate, the appellant cannot be held liable under Art. 33 of the Civil Code as no evidence whatsoever, was adduced to show his participation in the commission of the acts complained of. Neither was appellee able to prove that appellant can be held liable in the alternative under Article 2176 in relation to Article 2180 of the Civil Code.

x x x x

WHEREFORE, the assailed decision is hereby REVERSED and SET ASIDE and the complaint as well as the counterclaim filed before the court a quo is DISMISSED.[9]

With the reversal of the trial court judgment, petitioner filed the instant appeal, raising the following issues:

- Whether or not the Court of Appeals committed grave and reversible error in ruling that petitioner failed to prove by mere preponderance of evidence that respondent Torres was involved in any malevolent designs on petitioner;
- Whether or not the Court of Appeals committed grave and reversible error in ruling that Article 2180 in relation to Article 2176 of the Civil Code is not applicable to the case at bar; and
- Whether or not the Court of Appeals committed grave and reversible error in applying the case of Soliman, Jr. v. Tuazon to the case at bar.

We agree with the Court of Appeals' finding that respondent cannot be held liable under Article 2180 of the Civil Code for the damages suffered by petitioner because respondent is not the employer of the security guards who inflicted the injuries upon the person of the petitioner. As reiterated in the recent case of Mercury Drug Corporation v. Libunao:[10]

In Soliman, Jr. v. Tuazon, we held that where the security agency recruits, hires and assigns the works of its watchmen or security guards to a client, the employer of such guards or watchmen is such agency, and not the client, since the latter has no hand in selecting the security guards. Thus, the duty to observe the diligence of a good father of a family cannot be demanded from the said client:

x x x [I]t is settled in our jurisdiction that where the security agency, as here, recruits, hires and assigns the work of its watchmen or security guards, the agency is the employer of such guards or watchmen. Liability for illegal or harmful acts committed by the security guards attaches to the employer agency, and not to the clients or customers of such agency. As a general rule, a client or customer of a security agency has no hand in selecting who among the pool of security guards or watchmen employed by the agency shall be assigned to it; the duty to observe the diligence of a good father of a family in the selection of the guards cannot, in the ordinary course of events, be demanded from the client whose premises or property are protected by the security guards.

x x x [T]he fact that a client company may give instructions or directions to the security guards assigned to it,

does not, by itself, render the client responsible as an employer of the security guards concerned and liable for their wrongful acts or omissions.[11]

This conclusion, however, does not necessarily preclude this Court from holding respondent liable under the law for damages resulting from the injuries inflicted on petitioner by the unlawful acts of the security guards. As stressed by petitioner in his Memorandum:

Assuming arguendo that the security guards are not respondent's employees, the same does not constitute a valid defense at all. Article 2176 of the Civil Code provides that a person who, by act or omission, causes damage to another through fault or negligence may be held liable in damages. By making it appear that he owns the disputed properties, putting security guards thereat to intimidate, harass or cause the rightful owner and his representatives and by providing the escape vehicle, more than sufficient evidence was established on the civil liability of private respondent under Article 2176 of the Civil Code of the Philippines.

It must be emphasized that private respondent committed all these overt acts despite an earlier Decision by the Regional Trial Court of Antipolo, Branch 71, affirming Rafael Roque's ownership of the properties and dismissing the case he (private respondent) filed for the cancellation of NP-419 and NP-422 in Rafael Roque's name. Had he not misrepresented to the security guards that he owns the properties and had he not hired these security guards/common thugs to secure the premises which he does not own, then the untoward incident would not have happened. To allow private respondent to escape liability, despite his misdeeds, will not only result in grave injustice to Jose Roque, Jr. who eventually died after having been paralyzed for several years as a result of [the] incident but will likewise result in the implied tolerance by this Honorable Court of private respondent's disobedience or disrespect of a lawful order/decision of the trial court (RTC Branch 71, Antipolo) which he failed or refused to honor.[12] (Emphasis ours.)

Article 2176 of the Civil Code states that "whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done." In the case at bar, respondent cannot feign ignorance of the fact that at the time of the shooting incident, the titles to the disputed property were already registered in the name of petitioner's son, the cancellation for title case filed by respondent having been dismissed. In fact, during trial, the offer for stipulation of petitioner's counsel that at the time of the shooting incident, there is a valid and existing title in the name of petitioner's son which was never cancelled by the court, was accepted by the respondent. Therefore, by hiring the security guards to prevent entry, possibly even by the registered owner, to the subject property, titles to which he fully knew he did not possess, respondent blatantly acted in bad faith. Respondent's unwarranted act of posting security guards within the property, which he clearly knew is registered in the name of another, unduly placed petitioner at harm and deprived him of his right to fully exercise his privileges and duties as administrator of said property. Respondent, by his grossly faulty acts, paved the way to the infliction of injuries by the security guards on petitioner.

Furthermore, respondent's palpable display of bad faith in claiming a superior right to the property over petitioner's son entitles petitioner to damages resulting therefrom. In order that a plaintiff may maintain an action for the injuries which he sustained, he must establish that such injuries resulted from a breach of duty which the defendant owed to the plaintiff – a concurrence of injury to the plaintiff and legal responsibility by the person causing it.[13] In other words, in order that the law will give redress for an act causing damage, the act must be not only hurtful, but wrongful.[14]

In the case at bar, it is clear that respondent violated the principle embodied in Article 19 of the Civil Code which mandates that "every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith." When a right is exercised in a manner which discards these norms resulting in damage to another, a legal wrong is committed for which the actor can be held accountable.[15] As we have stated in a previous case, if mere fault or negligence in one's acts can make him

liable for damages for injury caused thereby, with more reason should abuse or bad faith make him liable.[16]

With respect to the award of damages, we sustain the ruling of the trial court. It is essential in the award of damages that the claimant must have satisfactorily proven during the trial the existence of the factual basis of the damages and its causal connection to defendant's acts.[17] During trial, petitioner, through his own testimony and that of his wife, was able to establish that they have incurred actual damages in the amount of P300,000.00 for the hospitalization of petitioner as a result of the shooting and the mauling incident, thus, the award of actual damages in said amount is proper.

As regards the award of moral damages, we have ruled that there is no hard and fast rule in the determination of what would be a fair amount of moral damages, since each case must be governed by its own peculiar circumstances.[18] As reflected in the records of the instant case, there is no gainsaying the fact that petitioner, together with his family, had suffered physical suffering, mental anguish, fright, serious anxiety and moral shock resulting from respondent's acts which caused petitioner grave physical injuries eventually leading to his death. The several years of torment and agonizing on the part of the deceased petitioner and his family more than justify the award of moral damages. It must be emphasized that moral damages are not intended to enrich the complainant at the expense of a defendant.[19] They are awarded only to enable the injured parties to obtain means, diversions or amusements that will serve to alleviate the moral sufferings the injured parties have undergone by reason of defendant's culpable action.[20] In other words, the award of moral damages is aimed at a restoration within the limits of the possible, of the spiritual status quo ante; and therefore it must be proportionate to the suffering inflicted.[21] Therefore, in light of the sufferings sustained by petitioner and his family, we are inclined to sustain the award of P1,000,000.00 as moral damages.

As to exemplary damages, Article 2229 of the Civil Code provides that such damages may be imposed by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages. While exemplary damages cannot be recovered as a matter of right, they need not be proved, although plaintiff must show that he is entitled to moral, temperate or compensatory damages before the court may consider the question of whether or not exemplary damages should be awarded.[22] In the case at bar, having determined that petitioner is entitled to the award of actual and moral damages as a result of the wanton act of respondent in stationing security guards in the property, the title of which is under the name of petitioner's son, said act ultimately resulting in the paralysis and blindness of petitioner, we find the award of exemplary damages to be proper by way of correction for the public good of respondent's flagrant display of bad faith.

WHEREFORE, premises considered, the Petition for Review is hereby GRANTED. The Decision of the Court of Appeals in CA-G.R. CV No. 55895 is hereby REVERSED and SET ASIDE. The Judgment of the Regional Trial Court of Quezon City, Branch 104, in Civil Case No. Q-93-14408 ordering respondent Torres to pay petitioner Roque the amount of P300,000.00 as actual damages; the amount of P1,000,000.00 as moral damages; the amount of P300,000.00 as exemplary damages; and the amount of P50,000.00 as attorney's fee is hereby REINSTATED.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] Penned by Associate Justice Josefina Guevara-Salonga with Associate Justices Marina L. Buzon and Danilo B. Pine, concurring; rollo, pp. 40-49.

[2] Penned by Judge Angel V. Colet; rollo, pp. 115-122.

[3] Docketed as Civil Case No. 1250-A.

- [4] Penned by Judge Patricio M. Patajo; rollo, pp. 64-70.
- [5] Docketed as CA-G.R. SP No. 19477. Penned by Associate Justice Jorge S. Imperial with Associate Justices Reynato S. Puno (now a member of this Court) and Artemon D. Luna, concurring; rollo, pp. 74-80.
- [6] Referring to the arraignment of the case for grave threats.
- [7] Docketed as Criminal Case No. 90-5780; rollo, pp. 94-95.
- [8] RTC Judgment, pp. 5-6, rollo, pp. 120-122.
- [9] CA Decision, pp. 7-10; rollo, pp. 46-49.
- [10] G.R. No. 144458, 14 July 2004, 434 SCRA 404.
- [11] Id. at 417-418.
- [12] Rollo, pp. 208 – 209.
- [13] Equitable Banking Corporation v. Calderon, G.R.No. 156168, 14 December 2004, 446 SCRA 271, 280; citing BPI Express Card Corporation v. Court of Appeals, 357 Phil. 262, 276 (1998); citing Custodio v. Court of Appeals, 323 Phil. 575, 585 (1996).
- [14] Custodio v. Court of Appeals, 323 Phil. 575, 586 (1996).
- [15] Rellosa v. Pellosis, 414 Phil. 786, 792 (2001).
- [16] De Guzman v. National Labor Relations Commission, G.R. No. 90856, 23 July 1992, 211 SCRA 723, 731.
- [17] Makabali v. Court of Appeals, G.R. No. L-46877, 22 January 1988, 157 SCRA 253, 259-260.
- [18] Id. at 258.
- [19] Id. at 260.
- [20] Id.
- [21] Id.
- [22] Id. at 259.

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