

SILAHIS INTERNATIONAL HOTEL, INC. AND JOSE MARCEL PANLILIO, PETITIONERS, VS. ROGELIO S. SOLUTA, JOSELITO SANTOS, EDNA BERNATE, VICENTA DELOLA, FLORENTINO MATILLA, AND GLOWHRAIN-...

G.R. NO. 163087. February 20, 2006

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

The present Petition for Review on Certiorari partially assails the Court of Appeals Decision[1] of March 26, 2004 holding herein petitioners Silahis International Hotel, Inc. and Jose Marcel Panlilio, along with Floro Maniego and Steve Villanueva, civilly liable for damages under Article 32 of the Civil Code, for violation of respondents' constitutional right against unreasonable search of their office.

Petitioner Jose Marcel Panlilio (Panlilio) was the Vice President for Finance of his co-petitioner Silahis International Hotel, Inc. (hotel), while respondents Rogelio Soluta (Soluta), Joselito Santos, Edna Bernate (Edna), Vicenta Delola (Vicenta), and Florentino Matilla (Matilla) were employees of the hotel and officers of the Glowhrain-Silahis Union Chapter, the hotel employees union (the union).

Petitioners' version of the antecedents of the case are as follows:

In late 1987, as Coronel Floro Maniego (Maniego), General Manager of the Rapier Enforcement Professional Investigation and Security Agency, Inc. (REPISA) which the hotel contracted to provide its security force, had been receiving reports that sale and/or use of marijuana, dollar smuggling, and prostitution were going on in the union office at the hotel and that there existed a theft syndicate, he conducted a surveillance, with the approval of Panlilio, of suspected members and officers of the union.[2]

In the morning of January 11, 1988, Panlilio, his personal secretary Andy Dizon, Maniego, Bulletin reporter Nonoy Rosales, and REPISA security guard Steve Villanueva (Villanueva) entered the union office located at the hotel basement, with the permission of union officer Henry Babay (Babay) who was apprised about the suspected illegal activities, and searched the premises in the course of which Villanueva found a plastic bag under a table. When opened, the plastic bag yielded dry leaves of marijuana.[3] Panlilio thereupon ordered Maniego to investigate and report the matter to the authorities.

On the other hand, respondents' version follows:

On January 10, 1988, Loida Somacera (Loida), a laundrywoman of the hotel, stayed overnight at the female locker room at the basement of the hotel. At dawn of January 11, 1988, she heard pounding sounds outside, prompting her to open the door of the locker room upon which she saw five men in barong tagalog whom she failed to recognize but she was sure were not employees of the hotel,[4]forcibly opening the door of the union office.[5] She even saw one of the men hid something behind his back. She then closed the door and went back to bed. Soon after she heard the door of the union office opened.

In the morning of January 11, 1988, as union officer Soluta was trying in vain to open the door of the union office, Loida narrated to him what she had witnessed at dawn.

Soluta thus immediately lodged a complaint before the Security Officer. And he fetched a locksmith, Efren Guevarra, who tried to assist him, Edna, Arnold Ilustrisimo and Ed Bautista open the door. At that instant, men in barong tagalog armed with clubs arrived and started hitting Soluta and his companions, drawing them to run to the female locker room, and to thereafter proceed to the Engineering Office where they called for police assistance.[6]

While awaiting the arrival of the police, Babay and Panlilio, on the latter's request, met. At the meeting, Panlilio told Babay that they proceed to the union office where they would settle the mauling incident, to which Babay replied that the door of the office could not be opened. Panlilio thereupon instructed Villanueva to force open the door, and the latter did. Once inside, Panlilio and his companions began searching the office, over the objection of Babay who even asked them if they had a search warrant.[7] A plastic bag was found containing marijuana flowering tops.

As a result of the discovery of the presence of marijuana in the union office and after the police conducted an investigation of the incident, a complaint against the 13 union officers,[8] namely: Babay, Isaac Asuncion, Jr., Soluta, Teodoro Gimpayan, Vicenta, Edna, Arnulfo Ilustrisimo, Irene Velarde, Joselito Santos, Renato Lina, Avelino Meneses, Matilla, and Norman Agtani[9] was filed before the Fiscal's Office of Manila, for violation of Republic Act (R.A.) No. 6425, as amended by Batas Pambansa Bilang 179 (The Dangerous Drugs Act).

An Information[10] indicting the union officers was subsequently filed by the Fiscal's Office before the Regional Trial Court (RTC) of Manila.

After trial, Branch 5 of the RTC acquitted the accused. The trial court disposed:

WHEREFORE, with the specimen and/or the marijuana flowering tops allegedly found inside the Union Office occupied by the accused not admissible in evidence, coupled by the suspicious circumstance of confiscation, for lack of sufficient evidence, accused Henry Babay, Isaac Asuncion, Jr., Rogelio Soluta, Teodoro F. Gimpayan, Vicente Delola, Edna Bernate, Arnulfo Ilustrisimo, Irene Velarde, Joselito Santos, Avelino Meneses, Florentino Matilla and Norman Agtani, are ACQUITTED of the charge. The bonds they put up for their provisional liberty are cancelled.

The Branch Clerk is directed to turn over the custody of the seized plastic bag containing flowering tops of marijuana to the NBI Director as Permanent Custodian of the seized Dangerous Drugs.

SO ORDERED.[11] (Emphasis and underscoring supplied)

Soluta and his fellow union officers, together with the union, thereafter filed before the Manila RTC a Complaint[12] against petitioners et al. including prosecuting Fiscal Jose Bautista and Atty. Eduardo Tutaan who assisted in the prosecution of the case against them, for malicious prosecution and violation of their constitutional right against illegal search.

After trial, Branch 55 of the Manila RTC, by Decision[13] dated June 2, 1994, held the hotel, Panlilio, Maniego and Villanueva jointly and severally liable for damages as a result of malicious prosecution and illegal search of the union office. The dispositive portion of the trial court's decision reads:

WHEREFORE, premises considered, judgment is hereby rendered ordering the defendants Silahis International Hotel, Inc., Jose Marcel Panlilio, Floro Maniego and Steve Villanueva, individually and collectively, jointly and severally, to pay to:

- Plaintiffs Union, Rogelio S. Soluta, Joselito Santos, Florentino Matilla, Vicenta Delola and Edna

Bernate-Dacanay, jointly, the sum of P70,900.00 as actual damages, and the further sum of P1,000.00 each for the same plaintiffs, except the Union, in the same concept and nature.

- Plaintiffs Rogelio Soluta, Joselito Santos, Florentino Matilla, Vicenta Delola and Edna Bernate-Dacanay the sum of P100,000.00 each for moral damages.

- Plaintiffs Joselito Santos, Florentino Matilla, Vicenta Delola and Edna-Bernate-Dacanay the sum of P30,000.00 each as exemplary damages.

- To all the plaintiffs, jointly and severally, the sum of P30,000.00 for and as attorney's fees.

The complaint, insofar as plaintiff Erlisa Ilustrisimo and defendants Ramos, Bautista and Tutaan are concerned, is DISMISSED for lack of merit.

All the counterclaims of the defendants are likewise dismissed for lack of factual and legal basis.

Costs against the remaining defendants.

SO ORDERED.[14] (Emphasis and underscoring supplied)

On appeal, the Court of Appeals affirmed with modification the trial court's decision. It found herein petitioners et al. civilly liable for damages for violation of individual respondents' constitutional right against illegal search, not for malicious prosecution, set aside the award of actual damages to respondent union, and reduced the award of actual damages to individual respondents to P50,000. The dispositive portion of the appellate court's decision reads:

WHEREFORE, the Decision of the Regional Trial Court of Manila, Branch 55, is hereby AFFIRMED with the modification that the first paragraph of the dispositive portion should read:

"1. Plaintiffs Rogelio Soluta, Joselito Santos, Florentino Matilla, Vicenta Delola and Edna Bernate-Dacanay, jointly, the sum of P50,000.00 as actual damages, and the further sum of P1,000.00 each for the same plaintiffs in the same concept and nature."

The Decision is hereby AFFIRMED in all other respects.

SO ORDERED.[15]

Hence, the present petition of Panlilio and the hotel, they contending that:

THE COURT OF APPEALS GRAVELY ERRED IN ITS CONCLUSION THAT PETITIONERS ARE LIABLE FOR DAMAGES UNDER ARTICLE 32 OF THE CIVIL CODE IN THAT:

- THE COURT OF APPEALS' APPLICATION OF PEOPLE V. ARUTA (288 SCRA 626[1998]) AND SECTION 13, RULE 126 OF THE RULES OF CRIMINAL PROCEDURE IN THE INSTANT CASE IS LEGALLY FLAWED.

- PETITIONERS' SEARCH OF THE UNION OFFICE IN THE INSTANT CASE WAS ENTIRELY REASONABLE UNDER THE CIRCUMSTANCES.[16]

While petitioners concede that the appellate court correctly cited the principles enunciated in People v. Aruta[17]and Section 13, Rule 126[18] of the Rules of Criminal Procedure, it gravely erred when it applied Aruta to justify petitioners' alleged liability under Article 32 of the New Civil Code. They argue that Aruta does not involve Article 32 as nowhere in the decision is there any reference to Article 32.[19]

Similarly, petitioners argue that being private persons, they are not covered by the standards set forth in *Aruta* as the constitutional protection against illegal searches and seizures is not meant to be invoked against private individuals.[20]

Petitioners further argue that the search of the union office was reasonable under the circumstances,[21] given that the hotel owns the room where the union holds office; the search was not without probable cause as it was conducted precisely due to reports received by petitioners that the union office was being used as a venue for illegal activities, particularly the sale and/or use of prohibited drugs;[22] and the search was conducted with the consent and in the presence of union officer Babay.[23]

The petition fails.

Article 32 of the New Civil Code provides:

ART. 32. Any public officer or employee, or any private individual, who directly or indirectly obstructs, defeats, violates or in any manner impedes or impairs any of the following rights and liberties of another person shall be liable to the latter for damages:

x x x x

(9) The right to be secure in one's person, house, papers, and effects against unreasonable searches and seizures;

x x x x

The indemnity shall include moral damages. Exemplary damages may also be adjudicated. (Emphasis and underscoring supplied)

As constitutional rights, like the right to be secure in one's person, house, papers, and effects against unreasonable search and seizures, occupy a lofty position in every civilized and democratic community and not infrequently susceptible to abuse, their violation, whether constituting a penal offense or not, must be guarded against. As the Code Commission noted,

x x x x

(3) Direct and open violations of the Penal Code trampling upon the freedoms named are not so frequent as those subtle, clever and indirect ways which do not come within the pale of the penal law. It is in these cunning devices of suppressing or curtailing freedom, which are not criminally punishable, where the greatest danger to democracy lies. The injured citizen will always have, under the new Civil Code, adequate civil remedies before the courts because of the independent civil action, even in those instances where the act or omission complained of does not constitute a criminal offense.[24]

The Code Commission thus deemed it necessary to hold not only public officers but also private individuals civilly liable for violation of rights enumerated in Article 32 of the Civil Code. That is why it is not even necessary that the defendant under this Article should have acted with malice or bad faith, otherwise, it would defeat its main purpose, which is the effective protection of individual rights.[25] It suffices that there is a violation of the constitutional right of the plaintiff.

In the present case, as priorly stated, petitioners had, by their own claim, already received reports in late 1987 of illegal activities allegedly undertaken in the union office and Maniego conducted surveillance of the union officers. Yet, in the morning of January 11, 1988, petitioners and their companions barged into and searched the union office without a search warrant, despite ample time for them to obtain one, and notwithstanding the

objection of Babay.

The course taken by petitioners and company stinks in illegality, it not falling under any of the exceptional instances when a warrantless search is allowed by law. Petitioners' violation of individual respondents' constitutional right against unreasonable search thus furnishes the basis for the award of damages under Article 32 of the Civil Code.

In *MHP Garments, Inc. v. Court of Appeals*,^[26] a case for unfair competition, the progression of time between the receipt of the information and the raid of the stores of the therein private respondents' premises showed that there was sufficient time for the therein petitioners and the raiding party to apply for a judicial warrant. Yet they did not apply for one. They went on with the raid and seized the goods of the therein private respondents. Under the circumstances, this court upheld the grant of damages by the trial court to the therein private respondents for violation of their right against unreasonable search and seizure.

As for petitioners' contention that property rights justified the search of the union office, the same does not lie. For respondents, being the lawful occupants of the office, had the right to raise the question of validity of the search and seizure.^[27]

Neither does petitioners' claim that they were allowed by union officer Babay to enter the union office lie. Babay's account of why petitioners and company went to the union office – to consider Panlilio's suggestion to settle the mauling incident is more credible, as is his claim that he protested the search, and even asked if they were armed with a search warrant.

While it is doctrinal that the right against unreasonable searches and seizures is a personal right which may be waived expressly or impliedly, a waiver by implication cannot be presumed. There must be clear and convincing evidence of an actual intention to relinquish it to constitute a waiver thereof.^[28] There must be proof of the following: (a) that the right exists; (b) that the person involved had knowledge, either actual or constructive, of the existence of such right; and, (c) that the said person had an actual intention to relinquish the right. In other words, the waiver must be voluntarily, knowingly and intelligently made. The evidence shows otherwise, however.

That a violation of one's constitutional right against illegal search and seizure can be the basis for the recovery of damages under Article 32 in relation to Article 2219(6) and (10) of the New Civil Code, there is no doubt. Since the complaint^[29] filed before the trial court was for damages due to malicious prosecution and violation of constitutional right against illegal search and seizure, the award by the trial court of actual damages to respondent union was correctly set aside by the appellate court.

Article 32 speaks of an officer or employee or person "directly or indirectly" responsible for the violation of the constitutional rights and liberties of another. Hence, it is not the actor alone who must answer for damages under Article 32; the person indirectly responsible has also to answer for the damages or injury caused to the aggrieved party.^[30] Such being the case, petitioners, together with Maniego and Villanueva, the ones who orchestrated the illegal search, are jointly and severally liable for actual, moral and exemplary damages to herein individual respondents in accordance with the earlier-quoted pertinent provision of Article 32, in relation to Article 2219(6) and (10) of the Civil Code which provides:

Art. 2219. Moral damages may be recovered in the following and analogous cases:

x x x x

(6) Illegal search;

x x x x

(10) Acts and action referred to in Articles 21, 26, 27, 28, 29, 30, 32, 34 and 35. (Emphasis supplied)

Petitioners magnify the citation by the appellate court of Aruta allegedly “to justify [their] liability” under Article 32 of the Civil Code, which petitioners allege is erroneous as said case did not involve Article 32.

Aruta was, however, cited by the appellate court, not to justify petitioners’ liability but to rule out the legality of the search in the union office as the search was not done as an incident of a lawful arrest.

Petitioners cite *People v. Marti*[31] to support their thesis that the determinants in the validity of the constitutional right against searches and seizure cannot be invoked against private individuals.

But the ruling of this Court in *Marti*, a criminal case, bears on the issue of whether “an act of a private individual, allegedly in violation of [one’s] constitutional rights, [may] be invoked against the State.” In other words, the issue in that case was whether the evidence obtained by a private person, acting in a private capacity without the participation of the State, is admissible.

The issue in the present civil case, however, is whether respondent individual can recover damages for violation of constitutional rights. As reflected above, Article 32, in relation to Article 2219(6) and (10) of the Civil Code, allows so.

WHEREFORE, in light of the foregoing ratiocinations, the petition is DENIED.

Costs against petitioners.

SO ORDERED.

Quisumbing, (Chairman), Carpio and Tinga, JJ., concur.

[1] Rollo, p. 34, penned by Justice Jose C. Reyes, Jr. with Justices Romeo A. Brawner and Rebecca De Guia-Salvador concurring.

[2] *Id.* at 71.

[3] *Id.* at 72.

[4] *Ibid.*

[5] *Ibid.*

[6] *Id.* at 73.

[7] *Ibid.*

[8] *Id.* at 124.

[9] Records, p. 12.

[10] *Id.* at 30.

[11] *Id.* at 23.

[12] *Id.* at 1.

[13] Rollo, pp. 68-88.

[14] *Id.* at 87-88.

[15] *Id.* at 47-48.

[16] *Id.* at 20.

[17] G.R. No. 120915, April 3, 1998, 288 SCRA 626.

[18] Rules of Court, Rule 126, Sec.13. Search incident to lawful arrest. – A person lawfully arrested may be searched for dangerous weapons or anything which may have been used or constitute proof in the commission of an offense without a search warrant.

[19] Rollo, p. 22.

[20] *Id.* at 23.

[21] *Id.* at 24.

[22] *Id.* at 25.

[23] *Id.* at 26.

[24] Report, Code Commission, 31 (January 26, 1948).

[25] I Tolentino, Civil Code of the Philippines, 1990 at 129-130. See *Lim v. Ponce de Leon*, No. L-22554 August 29, 1975, 66 SCRA 299, 309.

[26] G.R. No. 86720, September 2, 1994, 236 SCRA 227, 233. Vide *People v. Aruta*, *supra* Note 17.

[27] 47 Am Jur. 508, cited in *Lim v. Ponce de Leon*, No. L-22554, August 29, 1975, 66 SCRA 299, 308.

[28] *Pasion Vda. de Garcia v. Locsin*, 65 Phil. 689, 695 (1938); *People vs. Aruta*, *Supra* Note 17, p. 648.

[29] Records, pp. 1-11.

[30] *Aberca v. Ver*, No. L-69866, April 15, 1988, 160 SCRA, 590, 606.

[31] G.R. No. 81561, January 18, 1991, 193 SCRA 57.

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