

**REYNALDO PASCO, ASSISTED BY HIS FATHER PEDRO PASCO,
PETITIONER, VS. COURT OF FIRST INSTANCE OF BULACAN, BRANCH
V, STA. MARIA AND ARANETA UNIVERSITY, RESPONDENTS.**

G.R. No. 54357. April 25, 1988

Ponente: PARAS, J.

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PARAS, J.:

The sole question of law raised by petitioner in this case is whether the provision of the penultimate paragraph of Article 2180 of the Civil Code which states:

"Lastly, teachers or heads of establishments of arts and trades shall be liable for damages caused by their pupils and students or apprentices, so long as they remain in their custody."

is equally applicable to academic institutions.

The facts of this case are as follows:

On August 24, 1979 at about 5:00 o'clock in the afternoon, petitioner, together with two companions, while walking inside the campus of the private respondent Araneta University, after attending classes in said university, was accosted and mauled by a group of Muslim students led by Abdul Karim Madidis alias "Teng". Said Muslim group were also students of the Araneta University. Petitioner was subsequently stabbed by Abdul and as a consequence he was hospitalized at the Manila Central University (MCU) Hospital where he underwent surgery to save his life.

On October 5, 1979, petitioner, assisted by his father Pedro Pasco, filed a complaint for damages against Abdul Karim Madidis and herein private respondent Gregorio Araneta University which was docketed as Civil Case No. SM-1027. Said school was impleaded as a party defendant based on the aforementioned provision of the Civil Code.

On October 26, 1979, respondent school filed a Motion to Dismiss on the following grounds:

"a. The penultimate paragraph of Article 2180 of the New Civil Code under which it was sued applies only to vocational schools and not to academic institutions;

"b. That every person criminally liable for a felony is also civilly liable under Article 100 of the Revised Penal Code. Hence, the civil liability in this case arises from a criminal action which the defendant university has not committed;

"c. Since this is a civil case, a demand should have been made by the plaintiff, hence, it would be premature to bring an action for damages against defendant University." (Rollo, p. 96)

On May 12, 1980, respondent court issued an Order[**] granting said Motion to Dismiss. Petitioner moved to reconsider the Order of Dismissal but the motion was likewise denied on the ground that there is no sufficient justification to disturb its ruling. Hence, this instant Petition for Certiorari under Republic Act No. 5440, praying

that judgment be rendered setting aside the questioned order of May 12, 1980 dismissing the complaint as against respondent school and the order of July 17, 1980 denying the reconsideration of the questioned order of dismissal, with costs against respondent school.

We find no necessity of discussing the applicability of the Article to educational institutions (which are not schools of arts and trades) for the issue in this petition is actually whether or not, under the article, the school or the university itself (as distinguished from the teachers or heads) is liable. We find the answer in the negative, for surely the provision concerned speaks only of "teachers or heads."

WHEREFORE, this Petition is DISMISSED for lack of merit.

SO ORDERED.

Yap, C.J., and Padilla, JJ., concur.

Melencio-Herrera, J., joins J. Sarmiento in his dissent.

See attached.

Sarmiento, J., I dissent. Paragraph 5 of Art. 2180 may be construed as the basis for the liability of the school as the employer for the failure of its teachers or school heads to perform their mandatory legal duties as substitute parents. Herrera, J. concurring (Amadora et al. vs Court of Appeals, et al., G.R. No. L-47745, citing Sangco, Philippine Law on Torts & Damages, 1978 ed., p. 20).

[**] Penned by Judge Jesus Elbinias (now Justice of the Court of Appeals).

DISSENTING OPINION

MELENCIO-HERRERA, J.:

I join Justice Sarmiento in his dissent.

As stated by him, my view is that while the educational institution is not directly liable, yet the school, as the employer, may be held liable for the failure of its teachers or school heads to perform their mandatory legal duties as substitute parents (Article 2180, Civil Code). The school, however, may exculpate itself from liability by proving that it had exercised the diligence of a good father of the family.

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