

**JOSE B. LEDESMA, PETITIONER, VS. HON. COURT OF APPEALS,
SPOUSES PACIFICO DELMO AND SANCHA DELMO (AS PRIVATE
RESPONDENTS), RESPONDENTS.**

G.R. No. 54598. April 15, 1988

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This petition seeks to reverse the decision of the respondent Court of Appeals which affirmed the decision of the Court of First Instance of Iloilo, adjudging the petitioner, who was then the President of the West Visayas College, liable for damages under Article 27 of the Civil Code of the Philippines for failure to graduate a student with honors.

The facts are not disputed.

An organization named Student Leadership Club was formed by some students of the West Visayas College. They elected the late Violeta Delmo as the treasurer. In that capacity, Delmo extended loans from the funds of the club to some of the students of the school. The petitioner claims that the said act of extending loans was against school rules and regulations. Thus, the petitioner, as President of the School, sent a letter to Delmo informing her that she was being dropped from the membership of the club and that she would not be a candidate for any award or citation from the school.

Delmo asked for a reconsideration of the decision but the petitioner denied it. Delmo, thus, appealed to the Office of the Director of the Bureau of Public Schools.

The Director, after due investigation, rendered a decision on April 13, 1966 which provided:

"Records of the preliminary investigation conducted by one of the legal officers of this Office disclosed the following: That Violeta Delmo was the treasurer of the Student Leadership Club, an exclusive student organization; that pursuant to Article IX of the Constitution and By-Laws of the club, it passed Resolution No. 2, authorizing the treasurer to disburse funds of the Club to students for financial aid and other humanitarian purposes; that in compliance with said resolution and as treasurer of the Club, Violeta Delmo extended loans to some officers and members of the Club upon proper application duly approved by the majority of the members of the Executive Board; and that upon receiving the report from Mr. Jesse Dagoon, adviser of the funds of the Club, that Office conducted an investigation on the matter and having been convinced of the guilt of Violeta Delmo and the other officers and members of the Club, that Office rendered the order or decision in question. In justifying that Office order or decision, it is contended that approval by that Office of the Constitution and By-Laws of the Club is necessary for its effectivity and validity and since it was never submitted to that Office, the Club had no valid constitution and By-Laws and that as a consequence, Resolution No. 2 which was passed based on the Constitution and By-Laws is without any force and effect and the treasurer, Violeta Delmo, who extended loans to some officers and members of the Club pursuant thereto are illegal (sic), hence, she and the other students involved are deemed guilty of misappropriating the funds of the Club. On the other hand, Raclito Castaneda, Nestor Golez and Violeta Delmo, President, Secretary and Treasurer of the Club,

respectively, testified that the Club had adopted its Constitution and By-Laws in a meeting held last October 3, 1965, and that pursuant to Article I of said Constitution and By-Laws, the majority of the members of the Executive Board passed Resolution No. 2, which resolution became the basis for the extension of loans to some officers and members of the Club, that the Club honestly believed that its Constitution and By-Laws has been approved by the superintendent because the adviser of the Club, Mr. Jesse Dagoon, assured the President of the Club that he will cause the approval of the Constitution and By-Laws by the Superintendent; the officers of the Club have been inducted to office on October 9, 1965 by the Superintendent and that the Club had been likewise allowed to co-sponsor the Education Week Celebration.

"After a careful study of the records, this Office sustains the action taken by the Superintendent in penalizing the adviser of the Club as well as the officers and members thereof by dropping them from membership therein. However, this Office is convinced that Violeta M. Delmo had acted in good faith, in her capacity as Club Treasurer, in extending loans to the officers and members of the Student Leadership Club. Resolution No. 2 authorizing the Club treasurer to discharge funds to students in need of financial assistance and other humanitarian purposes had been approved by the Club adviser, Mr. Jesse Dagoon, with the notation that approval was given in his capacity as adviser of the Club and extension of the Superintendent's personality. Aside from misleading the officers and members of the Club, Mr. Dagoon, had unsatisfactorily explained why he failed to give the Constitution and By-Laws of the Club to the Superintendent for approval despite his assurance to the Club president that he would do so. With this finding of negligence on the part of the Club adviser, not to mention laxity in the performance of his duties as such, this Office considers as too severe and unwarranted that portion of the questioned order stating that Violeta Delmo 'shall not be a candidate for any award or citation from this school or any organization in this school.' Violeta Delmo, it is noted, has been a consistent full scholar of the school and she alone has maintained her scholarship. The decision in question would, therefore, set at naught all her sacrifice and frustrate her dreams of graduating with honor in this year's commencement exercises.

"In view of all the foregoing, this Office believes and so holds and hereby directs that appellant Violeta M. Delmo, and for that matter all other Club members or officers involved in this case, be not deprived of any award, citation or honor from the school, if they are otherwise entitled thereto." (Rollo, pp. 28-30)

On April 27, 1966, the petitioner received by mail the decision of the Director and all the records of the case. On the same day, petitioner received a telegram stating the following:

"AIRMAIL RECORDS DELMO CASE MISSENT THAT OFFICE"

The Director asked for the return only of the records but the petitioner allegedly mistook the telegram as ordering him to also send the decision back. On the same day, he returned by mail all the records plus the decision of the Director to the Bureau of Public Schools.

The next day, the petitioner received another telegram from the Director ordering him to furnish Delmo with a copy of the decision. The petitioner, in turn, sent a night letter to the Director informing the latter that he had sent the decision back and that he had not retained a copy thereof.

On May 3, 1966, the day of the graduation, the petitioner received another telegram from the Director ordering him not to deprive Delmo of any honors due her. As it was impossible by this time to include Delmo's name in the program as one of the honor students, the petitioner let her graduate as a plain student instead of being awarded the Latin honor of Magna Cum Laude.

To delay the matter further, the petitioner on May 5, 1966, wrote the Director asking for a reconsideration of the latter's decision because he believed that Delmo should not be allowed to graduate with honors. The Director denied the petitioner's request.

On July 12, 1966, the petitioner finally instructed the Registrar of the school to enter into the scholastic records of Delmo the honor, "Magna Cum Laude."

On July 30, 1966, Delmo, then a minor, was joined by her parents in filing an action for damages against the petitioner. During the pendency of the action, however, Delmo passed away, and thus, an Amended and Supplemental Complaint was filed by her parents as her sole and only heirs.

The trial court after hearing rendered judgment against the petitioner and in favor of the spouses Delmo. The court said:

"Let us go to specific badges of the defendant's (now petitioner's) bad faith. Per investigation of Violeta Delmo's appeal to Director Vitaliano Bernardino of the Bureau of Public School (Exhibit "L"), it was the defendant who inducted the officers of the Student Leadership Club on October 9, 1965. In fact the Club was allowed to co-sponsor the Education Week Celebration. (Exh. "L"). If the defendant did not approve of the constitution and by-laws of the Club, why did he induct the officers into office and allow the Club to sponsor the Education Week Celebration? It was through his own act that the students were misled to do as they did. Coupled with the defendant's tacit recognition of the Club was the assurance of Mr. Jesse Dagoon, Club Adviser, who made the students believe that he was acting as an extension of Mr. Ledesma's personality. (Exhibit "L").

"Another badge of the defendant's want of good faith is the fact that, although, he knew as early as April 27, 1966 that per decision of Director Bernardino, 'Exhibit "L"', he was directed to give honors to Miss Delmo, he kept said information to himself. He told the Court that he knew that the letter of Director Bernardino directed him not to deprive Miss Delmo the honors due her, but she (sic) says that he has not finished reading the letter-decision, Exhibit "L", of Director Bernardino, directing him to give honors to Miss Delmo. (Tsn, Feb. 5, 1974, testimony of Mr. Ledesma, pp. 33-35). It could not be true that he has not finished reading the letter-decision, Exh. "L", because said letter consisted of only three pages, and the portion which directed that Miss Delmo 'be not deprived of any award, citation or honor from the school, if otherwise entitled thereto' is found at the last paragraph of the same. How did he know the last paragraph if he did not read the letter.

"Defendant's actuations regarding Miss Delmo's case had been one of bias and prejudice. When his action would favor him, he was deliberate and circumspect to the utter prejudice and detriment of Miss Delmo. Thus, although, as early as April 27, 1966, he knew of the exoneration of Miss Delmo by Director Bernardino, he withheld the information from Miss Delmo. This is eloquently dramatized by Exh. "11" and Exh. "13". On April 29, 1966, Director Bernardino cabled him to furnish Violeta Delmo copy of the Decision, Exh. "L", but instead of informing Miss Delmo about the decision, since he said he mailed back the decision on April 28, 1966, he sent a night letter on April 29, 1966, to Director Bernardino, informing the latter that he had returned the decision (Exh. "13"), together with the record. Why a night letter when the matter was of utmost urgency to the parties in the case, because graduation day was only four days ahead? An examination of the telegrams sent by the defendant shows that he had been sending ordinary telegrams and not night letters. (Exh. "5", Exhibit "7"). At least, if the defendant could not furnish a copy of the decision, (Exh. "L"), to Miss Delmo, he should have told her about it or directed that Miss Delmo's honors and citation in the commencement programs be announced or indicated. But Mr. Ledesma is one who cannot admit a mistake. Very ungentlemanly! this is borne out by his own testimony, despite his knowledge that his decision to deprive Miss Delmo of honors due to her was overturned by Director Bernardino, he insisted on his wrong belief. To quote the defendant, 'I believed that she did not deserve those honors. (Tsn. Feb. 5, 1974, p. 43, italics supplied). Despite the telegram of Director Bernardino which the defendant received hours before the commencement exercises on May 3-4, 1966, he did not obey Director Bernardino because he said in his testimony that he would be embarrassed. (Tsn - Feb. 5, 1974, p. 46). Evidently, he knew only his embarrassment and not that of Director Bernardino whose order was being flagrantly and wantonly disregarded by him. And certainly, not the least of Miss Delmo's embarrassment. His acts speak eloquently of his bad faith and unjust frame of mind - warped by his delicate

sensitivity for having been challenged by Miss Delmo, a mere student.

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"Finally, the defendant's behavior relative to Miss Delmo's case smacks of contemptuous arrogance, oppression and abuse of power. Come to think of it. He refused to obey the directive of Director Bernardino and instead, chose to feign ignorance of it." (Record on Appeal, p. 72-76).

The trial court awarded P20,000.00 to the estate of Violeta Delmo and P10,000.00 to her parents for moral damages; P5,000.00 of nominal damages to Violeta's estate; exemplary damages of P10,000.00 and P2,000.00 attorney's fees.

On appeal, the Court of Appeals affirmed the decision. Hence, this petition.

The issues raised in this petition can be reduced to the sole question of whether or not the respondent Court of Appeals erred in affirming the trial court's finding that petitioner is liable for damages under Article 27 of the New Civil Code.

We find no reason why the findings of the trial and appellate courts should be reversed. It cannot be disputed that Violeta Delmo went through a painful ordeal which was brought about by the petitioner's neglect of duty and callousness. Thus, moral damages are but proper. As we have affirmed in the case of *Prudenciado v. Alliance Transport System, Inc.*, 148 SCRA 440, 448):

"There is no argument that moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of defendant's wrongful act or omission." (*People v. Baylon*, 129 SCRA 62 (1984)).

The Solicitor-General tries to cover-up the petitioner's deliberate omission to inform Miss Delmo by stating that it was not the duty of the petitioner to furnish her a Copy of the Director's decision. Granting this to be true, it was nevertheless the petitioner's duty to enforce the said decision. He could have done so considering that he received the decision on April 27, 1966 and even though he sent it back with the records of the case, he undoubtedly read the whole of it which consisted of only three pages. Moreover, the petitioner should have had the decency to meet with Mr. Delmo, the girl's father, and inform the latter, at the very least of the decision. This, the petitioner likewise failed to do, and not without the attendant bad faith which the appellate court correctly pointed out in its decision, to wit:

"Third, assuming that defendant could not furnish Miss Delmo of a copy of the decision, he could have used his discretion and plain common sense by informing her about it or he could have directed the inclusion of Miss Delmo's honor in the printed commencement program or announced it during the commencement exercises.

"Fourth, defendant despite receipt of the telegram of Director Bernardino hours before the commencement exercises on May 3-4, 1966, disobeyed his superior by refusing to give the honors due Miss Delmo with a lame excuse that he would be embarrassed if he did so, to the prejudice of and in complete disregard of Miss Delmo's rights.

"Fifth, defendant did not even extend the courtesy of meeting Mr. Pacifico Delmo, father of Miss Delmo, who tried several times to see defendant in his office thus Mr. Delmo suffered extreme disappointment and humiliation.

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"Defendant, being a public officer should have acted with circumspection and due regard to the rights of Miss Delmo. Inasmuch as he exceeded the scope of his authority by defiantly disobeying the lawful directive of his

superior, Director Bernardino, defendant is liable for damages in his personal capacity. x x x." (Rollo, pp. 57-58)

Based on the undisputed facts, exemplary damages are also in order. In the same case of *Prudencio v. Alliance Transport System, Inc.*, supra., at p. 450, we ruled:

"The rationale behind exemplary or corrective damages is, as the name implies, to provide an example or correction for the public good (*Lopez, et al. v. Pan American World Airways*, 16 SCRA 431)."

However, we do not deem it appropriate to award the spouses Delmo damages in the amount of P10,000.00 in their individual capacity, separately from and in addition to what they are already entitled to as sole heirs of the deceased Violeta Delmo. Thus, the decision is modified insofar as moral damages are awarded to the spouses in their own behalf.

WHEREFORE, the petition is DISMISSED for lack of merit. The decision of the Court of Appeals is AFFIRMED with the slight modification as stated in the preceding paragraph. This decision is immediately executory.

SO ORDERED.

Fernan (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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