

THIRD DIVISION

[G.R. No. 179337, April 30, 2008]

**JOSEPH SALUDAGA, Petitioner, vs. FAR EASTERN UNIVERSITY
and EDILBERTO C. DE JESUS in his capacity as President of FEU,
Respondents.**

D E C I S I O N

YNARES-SATIAGO, J.:

This Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court assails the June 29, 2007 Decision^[2] of the Court of Appeals in CA-G.R. CV No. 87050, nullifying and setting aside the November 10, 2004 Decision^[3] of the Regional Trial Court of Manila, Branch 2, in Civil Case No. 98-89483 and dismissing the complaint filed by petitioner; as well as its August 23, 2007 Resolution^[4] denying the Motion for Reconsideration.^[5]

The antecedent facts are as follows:

Petitioner Joseph Saludaga was a sophomore law student of respondent Far Eastern University (FEU) when he was shot by Alejandro Rosete (Rosete), one of the security guards on duty at the school premises on August 18, 1996. Petitioner was rushed to FEU-Dr. Nicanor Reyes Medical Foundation (FEU-NRMF) due to the wound he sustained.^[6] Meanwhile, Rosete was brought to the police station where he explained that the shooting was accidental. He was eventually released considering that no formal complaint was filed against him.

Petitioner thereafter filed a complaint for damages against respondents on the ground that they breached their obligation to provide students with a safe and secure environment and an atmosphere conducive to learning. Respondents, in turn, filed a Third-Party Complaint^[7] against Galaxy Development and Management Corporation (Galaxy), the agency contracted by respondent FEU to provide security services within its premises and Mariano D. Imperial (Imperial), Galaxy's President, to indemnify them for whatever would be adjudged in favor of petitioner, if any; and to pay attorney's fees and cost of the suit. On the other hand, Galaxy and Imperial filed a Fourth-Party Complaint against AFP General Insurance.^[8]

On November 10, 2004, the trial court rendered a decision in favor of petitioner, the dispositive portion of which reads:

WHEREFORE, from the foregoing, judgment is hereby rendered ordering:

1. FEU and Edilberto de Jesus, in his capacity as president of FEU to pay jointly and severally Joseph Saludaga the amount of P35,298.25 for actual damages with 12% interest per annum from

the filing of the complaint until fully paid; moral damages of P300,000.00, exemplary damages of P500,000.00, attorney's fees of P100,000.00 and cost of the suit;

2. Galaxy Management and Development Corp. and its president, Col. Mariano Imperial to indemnify jointly and severally 3rd party plaintiffs (FEU and Edilberto de Jesus in his capacity as President of FEU) for the above-mentioned amounts;

3. And the 4th party complaint is dismissed for lack of cause of action. No pronouncement as to costs.

SO ORDERED.^[9]

Respondents appealed to the Court of Appeals which rendered the assailed Decision, the decretal portion of which provides, *viz*:

WHEREFORE, the appeal is hereby GRANTED. The Decision dated November 10, 2004 is hereby REVERSED and SET ASIDE. The complaint filed by Joseph Saludaga against appellant Far Eastern University and its President in Civil Case No. 98-89483 is DISMISSED.

SO ORDERED.^[10]

Petitioner filed a Motion for Reconsideration which was denied; hence, the instant petition based on the following grounds:

THE COURT OF APPEALS SERIOUSLY ERRED IN MANNER CONTRARY TO LAW AND JURISPRUDENCE IN RULING THAT:

5.1. THE SHOOTING INCIDENT IS A FORTUITOUS EVENT;

5.2. RESPONDENTS ARE NOT LIABLE FOR DAMAGES FOR THE INJURY RESULTING FROM A GUNSHOT WOUND SUFFERED BY THE PETITIONER FROM THE HANDS OF NO LESS THAN THEIR OWN SECURITY GUARD IN VIOLATION OF THEIR BUILT-IN CONTRACTUAL OBLIGATION TO PETITIONER, BEING THEIR LAW STUDENT AT THAT TIME, TO PROVIDE HIM WITH A SAFE AND SECURE EDUCATIONAL ENVIRONMENT;

5.3. SECURITY GAURD, ALEJANDRO ROSETE, WHO SHOT PETITIONER WHILE HE WAS WALKING ON HIS WAY TO THE LAW LIBRARY OF RESPONDENT FEU IS NOT THEIR EMPLOYEE BY VIRTUE OF THE CONTRACT FOR SECURITY SERVICES BETWEEN GALAXY AND FEU NOTWITHSTANDING THE FACT THAT PETITIONER, NOT BEING A PARTY TO IT, IS NOT BOUND BY THE SAME UNDER THE PRINCIPLE OF RELATIVITY OF CONTRACTS; and

5.4. RESPONDENT EXERCISED DUE DILIGENCE IN SELECTING GALAXY AS THE AGENCY WHICH WOULD PROVIDE SECURITY SERVICES WITHIN THE PREMISES OF RESPONDENT FEU.^[11]

Petitioner is suing respondents for damages based on the alleged breach of student-school contract for a safe learning environment. The pertinent portions of

petitioner's Complaint read:

6.0. At the time of plaintiff's confinement, the defendants or any of their representative did not bother to visit and inquire about his condition. This abject indifference on the part of the defendants continued even after plaintiff was discharged from the hospital when not even a word of consolation was heard from them. Plaintiff waited for more than one (1) year for the defendants to perform their moral obligation but the wait was fruitless. This indifference and total lack of concern of defendants served to exacerbate plaintiff's miserable condition.

x x x x

11.0. Defendants are responsible for ensuring the safety of its students while the latter are within the University premises. And that should anything untoward happens to any of its students while they are within the University's premises shall be the responsibility of the defendants. In this case, defendants, despite being legally and morally bound, miserably failed to protect plaintiff from injury and thereafter, to mitigate and compensate plaintiff for said injury;

12.0. When plaintiff enrolled with defendant FEU, a contract was entered into between them. Under this contract, defendants are supposed to ensure that adequate steps are taken to provide an atmosphere conducive to study and ensure the safety of the plaintiff while inside defendant FEU's premises. In the instant case, the latter breached this contract when defendant allowed harm to befall upon the plaintiff when he was shot at by, of all people, their security guard who was tasked to maintain peace inside the campus.^[12]

In *Philippine School of Business Administration v. Court of Appeals*,^[13] we held that:

When an academic institution accepts students for enrollment, there is established a contract between them, resulting in bilateral obligations which both parties are bound to comply with. For its part, the school undertakes to provide the student with an education that would presumably suffice to equip him with the necessary tools and skills to pursue higher education or a profession. On the other hand, the student covenants to abide by the school's academic requirements and observe its rules and regulations.

Institutions of learning must also meet the implicit or "built-in" obligation of providing their students with an atmosphere that promotes or assists in attaining its primary undertaking of imparting knowledge. Certainly, no student can absorb the intricacies of physics or higher mathematics or explore the realm of the arts and other sciences when bullets are flying or grenades exploding in the air or where there looms around the school premises a constant threat to life and limb. Necessarily, the school must ensure that adequate steps are taken to maintain peace and order within the campus premises and to prevent the breakdown thereof.^[14]

It is undisputed that petitioner was enrolled as a sophomore law student in respondent FEU. As such, there was created a contractual obligation between the two parties. On petitioner's part, he was obliged to comply with the rules and regulations of the school. On the other hand, respondent FEU, as a learning institution is mandated to impart knowledge and equip its students with the necessary skills to pursue higher education or a profession. At the same time, it is obliged to ensure and take adequate steps to maintain peace and order within the campus.

It is settled that in culpa contractual, the mere proof of the existence of the contract and the failure of its compliance justify, prima facie, a corresponding right of relief.

[15] In the instant case, we find that, when petitioner was shot inside the campus by no less the security guard who was hired to maintain peace and secure the premises, there is a prima facie showing that respondents failed to comply with its obligation to provide a safe and secure environment to its students.

In order to avoid liability, however, respondents aver that the shooting incident was a fortuitous event because they could not have reasonably foreseen nor avoided the accident caused by Rosete as he was not their employee; [16] and that they complied with their obligation to ensure a safe learning environment for their students by having exercised due diligence in selecting the security services of Galaxy.

After a thorough review of the records, we find that respondents failed to discharge the burden of proving that they exercised due diligence in providing a safe learning environment for their students. They failed to prove that they ensured that the guards assigned in the campus met the requirements stipulated in the Security Service Agreement. Indeed, certain documents about Galaxy were presented during trial; however, no evidence as to the qualifications of Rosete as a security guard for the university was offered.

Respondents also failed to show that they undertook steps to ascertain and confirm that the security guards assigned to them actually possess the qualifications required in the Security Service Agreement. It was not proven that they examined the clearances, psychiatric test results, 201 files, and other vital documents enumerated in its contract with Galaxy. Total reliance on the security agency about these matters or failure to check the papers stating the qualifications of the guards is negligence on the part of respondents. A learning institution should not be allowed to completely relinquish or abdicate security matters in its premises to the security agency it hired. To do so would result to contracting away its inherent obligation to ensure a safe learning environment for its students.

Consequently, respondents' defense of *force majeure* must fail. In order for *force majeure* to be considered, respondents must show that no negligence or misconduct was committed that may have occasioned the loss. An act of God cannot be invoked to protect a person who has failed to take steps to forestall the possible adverse consequences of such a loss. One's negligence may have concurred with an act of God in producing damage and injury to another; nonetheless, showing that the immediate or proximate cause of the damage or injury was a fortuitous event would not exempt one from liability. When the effect is found to be partly the result of a person's participation - whether by active intervention, neglect or failure to act - the whole occurrence is humanized and removed from the rules applicable to acts of

God.^[17]

Article 1170 of the Civil Code provides that those who are negligent in the performance of their obligations are liable for damages. Accordingly, for breach of contract due to negligence in providing a safe learning environment, respondent FEU is liable to petitioner for damages. 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.^[18]

In the instant case, it was established that petitioner spent P35,298.25 for his hospitalization and other medical expenses.^[19] While the trial court correctly imposed interest on said amount, however, the case at bar involves an obligation arising from a contract and not a loan or forbearance of money. As such, the proper rate of legal interest is six percent (6%) per annum of the amount demanded. Such interest shall continue to run from the filing of the complaint until the finality of this Decision.^[20] After this Decision becomes final and executory, the applicable rate shall be twelve percent (12%) per annum until its satisfaction.

The other expenses being claimed by petitioner, such as transportation expenses and those incurred in hiring a personal assistant while recuperating were however not duly supported by receipts.^[21] In the absence thereof, no actual damages may be awarded. Nonetheless, temperate damages under Art. 2224 of the Civil Code may be recovered where it has been shown that the claimant suffered some pecuniary loss but the amount thereof cannot be proved with certainty. Hence, the amount of P20,000.00 as temperate damages is awarded to petitioner.

As regards the award of moral damages, 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.^[22] The testimony of petitioner about his physical suffering, mental anguish, fright, serious anxiety, and moral shock resulting from the shooting incident^[23] justify the award of moral damages. However, moral damages are in the category of an award designed to compensate the claimant for actual injury suffered and not to impose a penalty on the wrongdoer. The award is not meant to enrich the complainant at the expense of the defendant, but to enable the injured party to obtain means, diversion, or amusements that will serve to obviate the moral suffering he has undergone. It is aimed at the restoration, within the limits of the possible, of the spiritual status quo ante, and should be proportionate to the suffering inflicted. Trial courts must then guard against the award of exorbitant damages; they should exercise balanced restrained and measured objectivity to avoid suspicion that it was due to passion, prejudice, or corruption on the part of the trial court.^[24] We deem it just and reasonable under the circumstances to award petitioner moral damages in the amount of P100,000.00.

Likewise, attorney's fees and litigation expenses in the amount of P50,000.00 as part of damages is reasonable in view of Article 2208 of the Civil Code.^[25] However, the award of exemplary damages is deleted considering the absence of proof that respondents acted in a wanton, fraudulent, reckless, oppressive, or malevolent manner.