563 Phil. 355

# THIRD DIVISION

# [ G.R. No. 155604, November 22, 2007 ]

## COLLEGE ASSURANCE PLAN AND COMPREHENSIVE ANNUITY PLAN AND PENSION CORPORATION, PETITIONERS, VS. BELFRANLT DEVELOPMENT INC., RESPONDENT.

## D E C I S I O N

**AUSTRIA-MARTINEZ, J.:**

Before this Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, assailing the February 28, 2002 Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 63283, which modified the April 14, 1999 Decision[2] of the Regional Trial Court (Branch 221), Quezon City (RTC) in Civil Case No. Q-95-23118.

The antecedent facts are as summarized by the RTC.

Belfranlt Development, Inc. (respondent) is the owner of Belfranlt Building in Angeles City, Pampanga. It leased to petitioners College Assurance Plan Phil., Inc. (CAP) and Comprehensive Annuity Plans and Pension Corporation (CAPP) several units on the second and third floors of the building.[3]

On October 8, 1994, fire destroyed portions of the building, including the third floor units being occupied by petitioners. An October 20, 1994 field investigation report by an unnamed arson investigator assigned to the case disclosed:

> 0.5 Origin of Fire: Store room occupied by CAP, located at the 3rd floor of the bldg.
> 0.6 Cause of Fire: Accidental (overheated coffee percolator). [4]

These findings are reiterated in the October 21, 1994 certification which the BFP City Fire Marshal, Insp. Teodoro D. del Rosario issued to petitioners as supporting document for the latter's insurance claim.[5]

Citing the foregoing findings, respondent sent petitioners on November 3, 1994 a notice to vacate the leased premises to make way for repairs, and to pay reparation estimated at P1.5 million.

On November 11, 1994, petitioners vacated the leased premises, including the units on the second floor,[6] but they did not act on the demand for reparation.

Respondent wrote petitioners another letter, reiterating its claim for reparation, this time estimated by professionals to be no less than P2 million.[7] It also clarified that, as the leased units on the second floor were not affected by the fire,

petitioners had no reason to vacate the same; hence, their lease on said units is deemed still subsisting, along with their obligation to pay for the rent.[8]

In reply, petitioners explained that they could no longer re-occupy the units on the second floor of the building for they had already moved to a new location and entered into a binding contract with a new lessor. Petitioners also disclaimed liability for reparation, pointing out that the fire was a fortuitous event for which they could not be held responsible.[9]

After its third demand[10] went unheeded, respondent filed with the RTC a complaint against petitioners for damages. The RTC rendered a Decision dated April 14, 1999, the dispositive portion of which reads:

> WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff [respondent] and against the herein defendants [petitioners]. Defendants are ordered to pay the plaintiff joint[sic] and severally the following amounts:
>
> 1) P2.2 Million Pesos cost of rehabilitation (repairs, replacements and renovations) of the Belfranlt building by way of Actual and Compensatory damages;
> 2) P14,000.00 per month of unpaid rentals on the third floor of the Belfranlt building for the period from October 1994 until the end of the two year lease contract on May 10, 1996 by way of Actual and Compensatory damages;
> 3) P18,000.00 per month of unpaid rentals on the second floor of the Belfanlt building for the period from October 1994 until the end of the two year lease contract on May 10, 1996 by way of Actual or Compensatory damages;
> 4) P8,400.00 per month as reimbursement of unpaid rentals on the other leased areas occupied by other tenants for the period from October 1994 until the time the vacated leased areas were occupied by new tenants;
> 5) P200,000.00 as moral damages;
> 6) P200,000.00 as exemplary damages;
> 7) P50,000.00 plus 20% of Actual damages awarded as reasonable Attorney's fees; and
> 8) Costs of suit.
>
> SO ORDERED.[11]

Petitioners appealed to the CA which, in its February 28, 2002 Decision, modified the RTC Decision, thus:

> WHEREFORE, the appealed decision is MODIFIED in that the award of (i) actual and compensatory damages in the amounts of P2.2 Million as cost of rehabilitation of Belfranlt Building and P8,400.00 per month as reimbursement of unpaid rentals on the areas leased by other tenants, (ii) moral damages, (iii) exemplary damages and (iv) attorney's fees is DELETED, while defendants-appellants are ordered to pay to plaintiff-

appellee, jointly and severally, the amount of P500,000.00 as temperate damages. The appealed judgment is AFFIRMED in all other respects.

SO ORDERED.[12]

Respondent did not appeal from the CA decision.[13]

Petitioners filed the present petition, questioning the CA decision on the following grounds:

I

The honorable Court of Appeals erred in not holding that the fire that partially burned respondent's building was a fortuitous event.

II

The honorable Court of Appeals erred in holding that petitioner failed to observe the due diligence of a good father of a family.

III

The honorable Court of Appeals erred in holding petitioners liable for certain actual damages despite plaintiffs' failure to prove the damage as alleged.

IV

The honorable Court of Appeals erred in holding petitioners liable for temperate damages.[14]

The petition lacks merit.

Article 1667 of the Civil Code, which provides:

The lessee is responsible for the deterioration or loss of the thing leased, unless he proves that it took place without his fault. This burden of proof on the lessee does not apply when the destruction is due to earthquake, flood, storm or other natural calamity.

creates the presumption that the lessee is liable for the deterioration or loss of a thing leased. To overcome such legal presumption, the lessee must prove that the deterioration or loss was due to a fortuitous event which took place without his fault or negligence.[15]

Article 1174 of the Civil Code defines a fortuitous event as that which could not be foreseen, or which, though foreseen, was inevitable. Whether an act of god[16] or an act of man,[17] to constitute a fortuitous event, it must be shown that: a) the cause of the unforeseen and unexpected occurrence or of the failure of the obligor to comply with its obligations was independent of human will; b) it was impossible to foresee the event or, if it could have been foreseen, to avoid it; c) the occurrence rendered it impossible for the obligor to fulfill its obligations in a normal manner;

and d) said obligor was free from any participation in the aggravation of the injury or loss.[18] If the negligence or fault of the obligor coincided with the occurrence of the fortuitous event, and caused the loss or damage or the aggravation thereof, the fortuitous event cannot shield the obligor from liability for his negligence.[19]

In the present case, it was fire that caused the damage to the units being occupied by petitioners. The legal presumption therefore is that petitioners were responsible for the damage. Petitioners insist, however, that they are exempt from liability for the fire was a fortuitous event that took place without their fault or negligence.[20]

The RTC saw differently, holding that the proximate cause of the fire was the fault and negligence of petitioners in using a coffee percolator in the office stockroom on the third floor of the building and in allowing the electrical device to overheat:

> Plaintiff has presented credible and preponderant evidence that the fire was not due to a fortuitous event but rather was due to an overheated coffee percolator found in the leased premises occupied by the defendants. The certification issued by the Bureau of Fire Protection Region 3 dated October 21, 1994 clearly indicated that the cause of the fire was an overheated coffee percolator. This documentary evidence is credible because it was issued by a government office which conducted an investigation of the cause and circumstances surrounding the fire of October 8, 1994. Under Section 4, Rule 131 of the Revised Rules of Court, there is a legal presumption that official duty has been regularly performed. The defendants have failed to present countervailing evidence to rebut or dispute this presumption. The defendants did not present any credible evidence to impute any wrongdoing or false motives on the part of Fire Department Officials and Arson investigators in the preparation and finalization of this certification. This Court is convinced that the Certification is genuine, authentic, valid and issued in the proper exercise and regular performance of the issuing authority's official duties. The written certification cannot be considered self-serving to the plaintiff because as clearly indicated on its face the same was issued not to the plaintiff but to the defendant's representative Mr. Jesus V. Roig for purposes of filing their insurance claim. This certification was issued by a government office upon the request of the defendant's authorized representative. The plaintiff also presented preponderant evidence that the fire was caused by an overheated coffee percolator when plaintiff submitted in evidence not only photographs of the remnants of a coffee percolator found in the burned premises but the object evidence itself. Defendants did not dispute the authenticity or veracity of these evidence. Defendants merely presented negative evidence in the form of denials that defendants maintained a coffee percolator in the premises testified to by employees of defendants who cannot be considered totally disinterested.[21] (Citations omitted)

The CA concurred with the RTC and noted additional evidence of the negligence of petitioners:

> The records disclose that the metal base of a heating device which the lower court found to be the base of a coffee percolator, was retrieved from the stockroom where the fire originated. The metal base contains