

FIRST DIVISION

[G.R. No. 134141, August 13, 2002]

**LEODY MANUEL, PETITIONER, VS. JOSE AND DAISY ESCALANTE,
RESPONDENTS.**

D E C I S I O N

YNARES-SANTIAGO, J.:

This is a petition for review of the decision dated January 22, 1998^[1] and the resolution dated May 29, 1998^[2] of the Court of Appeals in CA-G.R. CV No. 48659.

Respondent Daisy Escalante was the lessee of a room on the second floor of the house owned by Triumfo Garces, located in No. 1603 Indiana St. Malate, Manila. The lease was on a monthly basis. On August 13, 1984, Garces filed a complaint for unlawful detainer, docketed as Civil Case No. 102100-CV, with the Metropolitan Trial Court (MTC) of Manila, Branch XIII, against respondent on the ground of expiration of the lease contract and violation of the lease when she subleased the room to boarders.

On August 30, 1985, the MTC rendered a decision in favor of Triumfo Garces, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendant, ordering the latter:

(a) and all other persons claiming rights under her to vacate the premises known as Room B of a residential house designated as no. 1603 Indiana St. Malate, Manila:

(b) to pay the plaintiff the sum of P3,000.00 as and for attorney's fees:
and

(c) to pay the costs of the suit.

For lack of utter merit defendant's answer with counterclaim is hereby dismissed.

SO ORDERED.^[3]

Respondent filed a Notice of Appeal but failed to pay the requisite appeal fee. Hence, plaintiff filed a motion for the immediate execution of the decision of the MTC. The motion was granted and a writ of execution was issued.

At 8:30 in the morning of October 2, 1985, petitioner Manuel Leody, the Supervising Sheriff in the Office of the City Sheriff of Manila, accompanied by Triumfo Garces and the latter's sons, Florence, Rocky and Rey, went to the room occupied by respondents Daisy and Jose Escalante and served on them a copy of the writ of execution. He demanded that respondents immediately vacate the room.

Respondents pleaded with petitioner to postpone the enforcement of the writ to 2:00 in the afternoon so that she can consult her lawyer and ascertain whether an appeal had been filed from the decision of the MTC, or to file a motion for a temporary restraining order to suspend the execution of the writ. Petitioner agreed to defer the implementation of the writ but only up to 10:00 that morning.

Respondent failed to see her lawyer but was able to engage a new counsel, who forthwith filed an Urgent Motion to stay the enforcement of the writ of execution. Respondent thereafter asked petitioner for further deferment pending the resolution of the Urgent Motion, but Garces refused. With the help of four laborers, petitioner hauled all of respondents' personal belongings out of the room and dumped them on the sidewalk. By 12:00 noon, respondents turned over the premises to petitioner, who then turned it over to Garces.

Meanwhile, respondents left their possessions on the sidewalk. At 5:00 that afternoon, there was a heavy downpour and all of respondents' belongings were soaked. Subsequently, the MTC denied respondents' Urgent Motion on the ground that they failed to perfect their appeal from said decision when they failed to pay the requisite docket fee and to post a supersedeas bond.^[4]

Respondents then wrote a letter to Garces and petitioner demanding payment of the amount of P747,600.00 broken down as follows:

Salary of the guards watching the personal belongings of

8 persons . . . P1,200.00 daily including meals times

12 days P 14,400.00

Value of 50 pieces of jewelry lost 64,000.00

Loss of daily earning, expenses for traveling to look for a place to live in Manila City and incidental expenses P1,600.00 daily times 12 days 19,200.00

Loss of the right to appeal 500,000.00

Moral damages suffered by the whole family 150,000.00

T O T A L P747,600.00^[5]

When petitioner and Garces refused to comply, respondents instituted a complaint against them for damages before the Regional Trial Court of Manila, Branch 33, docketed as Civil Case No. 85-33241. Respondents averred that their eviction was done through intimidation, threats and coercion, and prayed that judgment be rendered ordering defendants to:

1) Pay the plaintiffs the total amount of P 1,479,080.00;

2) Pay the plaintiffs P 20,000.00 as and for attorney's fees for having been constrained to employ legal services of counsel to protect their rights and interests;

3) Pay the legal interest on the amount of P 1,479,080.00 from the filing of this complaint up to the time the obligation shall have been fully paid pursuant to the decision;^[6]

In their answer, petitioner and Garces argued that the writ of execution was implemented pursuant to law and the Rules of Court and that whatever damages were sustained by the respondents were due to their own negligence.

On May 4, 1994, the Regional Trial Court dismissed the complaint and rendered judgment as follows:

WHEREFORE, premises considered, the present complaint is hereby ordered dismissed.

As plaintiffs were not motivated by malice or ill will in filing the present complaint, defendants' counterclaim is likewise dismissed.^[7]

Respondents appealed to the Court of Appeals raising the following issues:

(1) Whether or not the enforcement of the writ of execution was in accordance with the Rules of Court and case law;

(2) Whether or not petitioner and Garces are liable for damages to the respondents;

(3) If so, whether the respondents adduced sufficient evidence to prove their claims for damages and attorney's fees.

On January 22, 1998, the Court of Appeals rendered the assailed decision, the dispositive portion of which reads:

In the light of all the foregoing, the Decision of the Court *a quo* dismissing the complaint as against Appellee Manuel Leody is hereby **REVERSED**. Appellee Manuel Leody is hereby ordered to pay to Appellant Daisy Escalante the amounts of P20,000.00 by way of moral damages, P10,000.00 by way of exemplary damages and P5,000.00 by way of attorney's fees. The Decision of the Court *a quo* is hereby **AFFIRMED** in all other respects. No pronouncement as to costs.

SO ORDERED.^[8]

The Court of Appeals ruled that the sheriff, following "usual procedure," should have apprised the defendant of the issuance by the court of a writ of execution and demanded that the defendant vacate the premises voluntarily.^[9] For failing to do so, petitioner was held liable for moral and exemplary damages, but only to respondent Daisy Escalante, since respondent Jose Escalante failed to testify before the Regional Trial Court.^[10] The Court of Appeals denied respondents' claim for actual damages because they were not able to prove and properly particularize the same.^[11] Garces, on the other hand, was absolved from liability.