

Razoumovitch v. 726 Hudson Ave., LLC

(2023) 91 Cal.App.5th 547

Court of Appeal, Second District, Division 7, California

California law imposes a duty on everyone, including landlords, to exercise reasonable care, and Defendants failed to show public policy considerations to justify departing from that general duty; and causation, as it is in most cases, is a factual issue.

FACTS/PROCEDURE

Plaintiff, Arkadi Razoumovitch, lived in a unit with a balcony on the top floor of a four-story apartment building. Upon returning from a night out at the bar, Plaintiff and one of his roommates returned to their apartment and discovered they had locked their keys inside. After repeatedly trying to reach the offsite building manager and their roommate, the two went to the roof of the building to attempt to enter their apartment through the balcony. Plaintiff lowered himself over the roof to hang from the edge with his feet dangling in the air. After inching along a “roof outcropping,” Plaintiff attempted to drop onto the balcony’s brick masonry wall. On landing there, however, he lost his balance and fell. When asked if an emergency required him to get to his apartment, Plaintiff answered, “Well, it was just needing to be home and, you know, have a place to sleep.”

Plaintiff filed a negligence and premises liability action against the entities and individuals who owned and managed the apartment building. Plaintiff alleged that Defendants were responsible for creating the dangerous condition and failed to warn him of the risks of accessing the roof. Defendants moved for summary judgment, arguing that Plaintiff could not establish that they owed him a duty of care or that their alleged breach of that duty caused his injuries. The trial court agreed with them on both issues and granted summary judgment in favor of Defendant. Plaintiff appealed this decision.

HOLDING/DISCUSSION

The Second Appellate District held that California law imposes a duty on everyone, including landlords, to exercise reasonable care, and Defendants failed to show public policy considerations to justify departure from that general duty. In reaching this conclusion, the court criticized Defendant’s failure to acknowledge the general rule that a landlord owes a duty of care to provide and maintain safe conditions for their tenants. The court stated that the proper inquiry begins by assuming a duty under that general rule, not by asking, as Defendants ask, whether Plaintiff s’s injuries were foreseeable. Further, the court criticized Defendant’s contention that *Rowland v. Christian* (1968) 69 Cal.2d 108 factors should be applied to the specific facts of this case instead of at the appropriate relatively broad level of factual generality. The court noted that this misapplication in focusing on the circumstances that led to Plaintiff’s fall failed to establish

that this case fell into “an entire category of cases” warranting a departure from the general duty rule and, more importantly, failed to identify any such category.

Additionally, the court further held that Plaintiff created a triable issue of material fact on causation by stating in his declaration that, had Defendants not breached their duty of care to him by, for example, not having an on-site property manager or an alarm on the roof access door – he would not have gone onto the roof on the night of his injury. Therefore, as in most cases, the court determined the issue of causation to be a factual issue to be determined by a jury. As such, the court reversed the judgment and directed the trial court to vacate its order granting the motion and to enter a new order denying it.