

[G. R. No. L-9194. April 25, 1957]

CO TAO, PETITIONER, VS. THE COURT OP APPEALS AND LUCITA VALLEJO, FOR HERSELF AND AS MOTHER AND NATURAL GUARDIAN OF MANUEL CO, RESPONDENTS.

D E C I S I O N

PADILLA, J.:

Appeal by certiorari under Rule 46 from a judgment of the Court of Appeals which affirms that of the Court of First Instance of Manila—

(1) Declarando que el niio Manuel Co, hijo natural de la de-mandante Lucita Yallejo, es hijo ilegitimo del demandado Co Tao habido con ella;

(2) Condenando al demandado Co Tao a pagar a la demandante Lueita Vallejo;

(a) La cantidad de P320, por la manutencion de su hijo Manuel Co desde el mes de Mayo de 1951, en que se presento la demands, hasta el Diciembre de 1953, a razon de P10 mensuales; y mensualmente la cantidad de P10 para la manutencion de dicho Manuel Co, a partir desde el mes de Enero de 1954 hasta que el mismo llegue a su mayoria de edad;

(b) La cantidad de P200, por las deudas que ella habia con-traido;

(c) La cantidad de P500, como danos morales;

(d) La cantidad de P200, para honorarios de abogado; y

(e) Las costas del juicio. (civil.case No. 13738.)

The first, second, third, fourth and fifth errors claimed to have been committed by the Court of Appeals involve the credibility of witnesses, and in effect dispute the findings of fact of the Court of Appeals. This Court cannot review such findings in this proceedings. The Court of Appeals found—

It appears that in January, 1947, plaintiff Lucita Vallejo, a young girl of 18, native of Camiling, Tarlac, entered the services, as maid and laundress, with a monthly salary of P30, of one Co Bun Kim, who resided in house No. 733, Teodora Alonzo Street, Manila. There lived also defendant Co Tao *alias* Jose Co, a cousin and trusted employee of Co Bun Kim in a store and Chinese pharmacy under the same house. Defendant was then receiving a monthly salary of P40 and his wife and three children were then out of the Islands. Defendant Co Tao courted Lucita Vallejo and promised to marry her. And believing that he was single, Lucita accepted him and in no time they were having carnal relations in the said house almost every day, as must be expected, she became pregnant. To avoid scandal, the defendant brought her to the house of her uncle, Candido Vallejo, at No. 389, Prudencia street, Tondo, Manila, requesting said uncle to permit Lucita to stay in the said house until she delivered and promising to pay the rentals thereof. -At 3:00 o'clock in the morning of August 13, 1948, assisted by a midwife, Felisa Galang, who was summoned by Candido Vallejo, Lucita Vallejo gave birth to a baby boy. At 8:00 o'clock, same morning Candido accompanied Felisa to the pharmacy of Co Bun Kim to inform the defendant Co Tao of the advent of his offspring. Defendant gave Felisa the sum of P20 for the delivery and asked her what would she charge if she continued rendering service as midwife for 20 days more, to which Felisa fixed the amount of P50 for the whole service. The defendant, in the last day of her service, paid Felisa, through Lucita, the balance of P30. It further appears that after the parturition, everytime he (Co Tao) went out of the store to deposit Co Bun Kim's money in the bank, the defendant asked the driver, Jose. Nabong, of Co Bun Kim, to pass by Candido's house to see Lucita and his child. On October 24, 1948, the child was baptized with the name of Manuel' Co, in the Catholic church of Espiritu Santo, Rizal Avenue, Manila, acting as sponsors thereof, upon the request of defendant himself, the driver Jose Nabong and his wife (Exhibit C). After the baptism, Lucita continued living in his uncle's house where defendant continued also visiting her and his child, sleeping with her every night, having marital life with her throughout, and providing her with money and food. In October, 1949, however, the child fell sick, and upon

suggestion of defendant Co Tao, Lucita and her child went to live with her parents in Camiling. Defendant's wife and children had arrived in the meanwhile, and defendant did not write or send money to the plaintiff anymore. So plaintiff was forced to work, washing clothes and planting palay for others.

Plaintiff became also ill and she had been borrowing- money from friends, until she decided to come to Manila and see defendant Co Tao who refused to give her any help. Plaintiff engaged the services of a lawyer to file the present action.

Defendant Co Tao's defense followed the usual pattern of irresponsible men of passing the buck. He claims that under the service of Co Bun Kim, there were other men such as Jose Nabong (the driver), a certain Filipino and Chua Chiam with whom the plaintiff, Lucita Vallejo, used to go out, after her working hours; and that Lucita was also visited often times by other Filipinos who used to wait for her and with whom she also went out, and such suspicious conduct of the plaintiff' was even protested to by her master, Co Bun Kim. Defendant admitted, however, that she had carnal relations with Lucita for three times only and for such acts she often approached him for money; that after the lapse of months, he found that she had already received from him the sum of P1,400.00 besides some pieces of jewelries, consisting of a ring and a watch. He alleged finally that either for Lucita's frequent outings with several men, or for her carnal relations with him (defendant), she found herself in the family way and in June, 1948, she quit her work, and went to live with her uncle; that during the christening in the Espiritu Santo Church, he was not present; that plaintiff filed a complaint for rape in the City Fiscal's Office of Manila, but the same was dismissed for lack of evidence.

Upon the petition of the defendant, the trial court ordered the experts of the National Bureau of Investigation (NBI) to test the blood of the defendant Co Tao and the child Manuel Co, in order to determine whether the former could be the father of the latter. On October 18, 1951, the NBI expert rendered a report of the analysis made, with the following findings: "From their blood groups and types, the defendant, Co Tao, is a possible father of the child" (Exhibit B).

In upholding the cause for the plaintiff-appellee, the trial court declared that the minor Manuel Co is the illegitimate child of the defendant Co Tao, and gave much weight to the testimony of Jose K. Obando, Chemist of the NEI and awarded the damages and - attorney's fees mentioned heretofore. After a careful survey of the evidence of record, We hold that the

judgment appealed from should be sustained. As far as credibility of the witnesses is concerned, We find no reason at all for disturbing¹ the findings of the trial court to the effect that the testimony of the plaintiff-appellee and her witnesses deserves more credence than that of the defendant-appellant. The following disquisitions of the trial court are fully supported by the facts of record:

“No solo el inforrae del experto de la NBI convence al Juzgado que el demandado Co Tao ee el padre del nino Manuel Co, hijo de Lucita Vallejo si no ademas la misma conducta observada por dicho .demandado y los actos ejccutados por el mismo antes, durante y despues del alumbramiento de Lucita, demuestran a todas luces que el mismo demandado estaba eonvencido que el hijo que Lucita Vallejo trajo el mundo era suyo, fruto de vida marital que habia llevado con ella. Cuando Lucita entro servicio de Co Bun Kim, ella no contaba mas que unos 18 anos de edad, y como era una campcsina que nacio y crecio en la sementera, era humildc y. timida por natu-valeza. A esa edad y con tal caracter, mas su estado de simple criada, Lucita era una facil presa del demandado, un hombre ducho, y se puede decir, experto en lances amorosos, pues ya tenia enton-ces 39 anos encima, mas de doble de la edad de Lucita, sobre quien ejercia cierto grado de influencia moral, por ser el primo y empleado de confianza del amo deaquella. Este heeho, unido a lacircunstancia de que la esposa e liijos del demandado se encontraban en China a la sason, circunstancia completamente vedada a Lucita, reavivo los planes de conqmsta del demandado y precipito la caida de Lucita. La solicitud con que Co Tao demostro al pedir a Candido Vallejo, a quien el llamaba entoncea tio, que perrnitiera a Lucita trasladarse a su casa, pagando el los alquileres de la misma, por ser dicha casa mas fresca que la. de Co Bun Kim; el hecho de haber el mismo Co Tao pagado los servicios de la comadrona que asistio a Lucita en el parto y atendio el cuidado de la misma y de su hijo por cierto periodo; el hecho de haber el mismo Co Tao solicitado a Jose Nabong y a su esposa para ser los padrinos de bautismo del hijo de Lucita y a quines el llego a llamar compadres; el hecho de haber el mismo demandado estado sosteniendo y sufragando los gustos de subsistencia y alojamiento de Lucita y de su hijo durante la estancia dc cstos en la casa de Candido; el heclio do haber el misrao demandado instado a Lucita que tomara vacacion en .Camiling cuando su hijo se cayo enfermo en dicha casa de Candido; el hecho admitido por el mismo demandado, dc haber el, por las tres unicas veces en que en gozo de aquella mujer cl primer de su juventud, dado a ella mas de P 1,400, mas las joyas y

prendas que habia regalado, a saber: una camisa de P70 y una lina para de P25; todos estos hechos demuestran que el mismo demandado creia que la mujer humilde y timida que habia caido en sus brazos en momentos de debilidad, valia algo mas que lo que vale una mujer, impudica que vende su carino, su cuerpo y alma al primero que se presente.

La conclusion, por tanto, del Juegado es que cuando el demandado Co Tao se unio maritalmente con Lucita Vallejo, ella era una joven soltera y doncella, y, como fruto de aquellas relaciones, nacio un niño que fue bautizado con el nombre de Manuel Co, que es hijo ilegítimo de Co Tao, por estar este casado con otra mujer, cuando aquel fue concebido por su madre,”

The appellant alleges that the plaintiff had been having carnal knowledge with him for 3 times, by selling herself; that she had been outing with different men, mentioning even his *compadre* Jose Nabong, among them; that Manuel Co must have been another's child because the expert of the NBI was only able to say that he (appellant) is a "possible father" of the child; that he could not have been his father, because everytime he had carnal act with the plaintiff, he used a strong french umbrella; and that the plaintiff had even accused him with rape at the fiscal's office but the complaint was dismissed;—thereby concluding that the idea of rape is incompatible with the concept of love. We find these allegations to be flimsy and shallow subterfuges of an irresponsible father. For obvious reasons, the NBI expert cannot give assurance that the appellant was the father of the child; he can only give his opinion that he is a "possible father". This possibility, coupled with the other facts and circumstances brought out during the trial, tends to definitely establish that appellant Co Tao is the father of the child Manuel. While it is admitted that the complaint for rape filed by the appellee was dismissed by the Fiscal, this fact alone should not deprive the appellee of the right which she seeks to be protected in the instant case. With the attitude of the appellant who, after satiating his lustful desires and begetting a child from her, and after abandoning them completely, the appellee must have become desperate and went to a lawyer who tried to enlist the aid of the Fiscal's Office. This notwithstanding, as a whole, the story given by the plaintiff-appellee and her witnesses is deserving of credence and belief.

The fact that the Judge who heard the evidence is not the one who rendered the judgment and that for that reason the latter did not have the opportunity to observe the demeanor of the witnesses during the trial but merely relied on the records of the case does not render the judgment erroneous.

The sixth error assigned raises a question of law. Petitioner contends that as the acts alleged in the complaint filed on May 2, 1951 took place in 1947 and 1948 and the new Civil Code took effect on 30 August 1950, article 2217 thereof, which provides for moral damages, should not have been applied retroactively. The Court of Appeals held—

* * * The right of action for support as embodied in Article 298 of the new Civil Code accrues or becomes demandable from the time the person who has a right to receive the same needs it for maintenance, but it shall not be paid except from the date it is extra-judicially demanded. In the case at bar, therefore, the action for support accrued from the filing of the complaint, which was May 2, 1951: long after the new Civil Code was in force and effect. Even granting for the purpose of argument that the moral damages as contemplated by the new Civil Code, did not exist at the time the action accrued in this case, still we believe and so hold, that these provisions of the said Code may have a retroactive effect, because such provisions do not prejudice or impair any vested or acquired right of the appellant in accordance with the old legislation (Art. 2252, New Civil Code). Moreover, "if a right should be declared for the first time in this Code, it shall be effective at once, even though the act or event which gives rise thereto may have been done or may have occurred under the prior legislation, provided said new right does not impair or prejudice any vested or acquired right, of the same origin" (Art. 2253, New Civil Code).¹ Evidently, appellant did not have a vested right or acquired right not to be held liable or responsible for moral damages, either by judicial pronouncements or by provision of law. By the same token, therefore, defendant-appellant is also liable to plaintiff-appellee for attorney's fees, under paragraphs (1), (2), (5), (6) and (11), Article 2208 of the New Civil Code. The damages fixed by the trial court are reasonable and conscionable.

The judgment under review is affirmed, with costs against the petitioner.

Bengzon, Montemayor, Reyes, Labrador, Conception, Reyes, J. B. L., Endencia and Felix, JJ., concur.

¹ *Ayson vs. Arambulo*, G. R. Nos. L-6501 and L-6509, 31 May 1966; *Velayo vs. Shell Co. of the Phil. Islands*, 100 Phil., 186, 64 Off. Gaz., 68. •

Date created: October 13, 2014