

RADIO COMMUNICATIONS OF THE PHILS., INC. (RCPI), PETITIONER, VS. COURT OF APPEALS AND LORETO DIONELA, RESPONDENTS.

G.R. No. L-44748. August 29, 1986

Ponente: PARAS, J.

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PARAS, J.:

Before Us, is a Petition for Review by certiorari of the decision of the Court of Appeals, modifying the decision of the trial court in a civil case for recovery of damages against petitioner corporation by reducing the award to private respondent Loreto Dionela of moral damages from P40,000 to P15,000, and attorney's fees from P3,000 to P2,000.

The basis of the complaint against the defendant corporation is a telegram sent through its Manila Office to the offended party, Loreto Dionela, reading as follows:

"176 AS JR 1215PM 9PAID
MANDALUYONG JUL 22-66
LORETO DIONELA
CABANGAN LEGASPI CITY

WIRE ARRIVAL OF CHECK
FER

LORETO DIONELA-CABANGAN - WIRE ARRIVAL
OF CHECK-PER

115 PM

SA IYO WALANG PAKINABANG DUMATING-KA DIYAN-WALA KANG PADALA DITO-KAHIT BULBUL MO" (p. 19, Annex "A")

Plaintiff-respondent Loreto Dionela alleges that the defamatory words on the telegram sent to him not only wounded his feelings but also caused him undue embarrassment and affected adversely his business as well because other people have come to know of said defamatory words. Defendant-corporation as a defense, alleges that the additional words in Tagalog was a private joke between the sending and receiving operators and that they were not addressed to or intended for plaintiff and therefore did not form part of the telegram and that the Tagalog words are not defamatory. The telegram sent through its facilities was received in its station at Legaspi City. Nobody other than the operator manned the teletype machine which automatically receives telegrams being transmitted. The said telegram was detached from the machine and placed inside a sealed envelope and delivered to plaintiff, obviously as is. The additional words in Tagalog were never noticed and were included in the telegram when delivered.

The trial court in finding for the plaintiff ruled as follows:

"There is no question that the additional words in Tagalog are libelous. They clearly impute a vice or defect of the plaintiff. Whether or not they were intended for the plaintiff, the effect on the plaintiff is the same. Any person reading the additional words in Tagalog will naturally think that they refer to the addressee, the plaintiff. There is no indication from the face of the telegram that the additional words in Tagalog were sent as a private joke between the operators of the defendant.

"The defendant is sued directly - not as an employer. The business of the defendant is to transmit telegrams. It will open the door to frauds and allow the defendant to act with impunity if it can escape liability by the simple expedient of showing that its employees acted beyond the scope of their assigned tasks.

"The liability of the defendant is predicated not only on Article 33 of the Civil Code of the Philippines but on the following articles of said Code:

"ART. 19. - Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

"ART. 20. - Every person who, contrary to law, wilfully or negligently causes damage to another, shall indemnify the latter for the same."

"There is sufficient publication of the libelous Tagalog words. The office file of the defendant containing copies of telegrams received are open and held together only by a metal fastener. Moreover, they are open to view and inspection by third parties.

"It follows that the plaintiff is entitled to damages and attorney's fees. The plaintiff is a businessman. The libelous Tagalog words must have affected his business and social standing in the community. The Court fixes the amount of P40,000.00 as the reasonable amount of moral damages and the amount of P3,000.00 as attorney's fees which the defendant should pay the plaintiff." (pp. 15-16, Record on Appeal)

The respondent appellate court in its assailed decision confirming the foregoing findings of the lower court stated:

"The proximate cause, therefore, resulting in injury to appellee, was the failure of the appellant to take the necessary or precautionary steps to avoid the occurrence of the humiliating incident now complained of. The company had not imposed any safeguard against such eventualities and this void in its operating procedure does not speak well of its concern for their clientele's interests. Negligence here is very patent. This negligence is imputable to appellant and not to its employees.

"The claim that there was no publication of the libelous words in Tagalog is also without merit. The fact that a carbon copy of the telegram was filed among other telegrams and left to hang for the public to see, open for inspection by a third party is sufficient publication. It would have been otherwise perhaps had the telegram been placed and kept in a secured place where no one may have had a chance to read it without appellee's permission.

"The additional Tagalog words at the bottom of the telegram are, as correctly found by the lower court, libelous per se, and from which malice may be presumed in the absence of any showing of good intention and justifiable motive on the part of the appellant. The law implies damages in this instance (*Quemel vs. Court of Appeals*, L-22794, January 16, 1968; 22 SCRA 44). The award of P40,000.00 as moral damages is hereby reduced to P15,000.00 and for attorney's fees the amount of P2,000.00 is awarded." (pp. 22-23, record)

After a motion for reconsideration was denied by the appellate court, petitioner came to Us with the following:

ASSIGNMENT OF ERRORS

I

The Honorable Court of Appeals erred in holding that Petitioner-employer should answer directly and primarily for the civil liability arising from the criminal act of its employee.

II

The Honorable Court of Appeals erred in holding that there was sufficient publication of the alleged libelous telegram in question, as contemplated by law on libel.

III

The Honorable Court of Appeals erred in holding that the liability of petitioner-company-employer is predicated on Articles 19 and 20 of the Civil Code, Articles on Human Relations.

IV

The Honorable Court of Appeals erred in awarding Atty's fees. (p. 4, Record)

Petitioner's contentions do not merit our consideration. The action for damages was filed in the lower court directly against respondent corporation not as an employer subsidiarily liable under the provisions of Article 1161 of the New Civil Code in relation to Art. 103 of the Revised Penal Code. The cause of action of the private respondent is based on Arts. 19 and 20 of the New Civil Code (supra). As well as on respondent's breach of contract thru the negligence of its own employees.[1]

Petitioner is a domestic corporation engaged in the business of receiving and transmitting messages. Everytime a person transmits a message through the facilities of the petitioner, a contract is entered into. Upon receipt of the rate or fee fixed, the petitioner undertakes to transmit the message accurately. There is no question that in the case at bar, libelous matters were included in the message transmitted, without the consent or knowledge of the sender. There is a clear case of breach of contract by the petitioner in adding extraneous and libelous matters in the message sent to the private respondent. As a corporation, the petitioner can act only through its employees. Hence the acts of its employees in receiving and transmitting messages are the acts of the petitioner. To hold that the petitioner is not liable directly for the acts of its employees in the pursuit of petitioner's business is to deprive the general public availing of the services of the petitioner of an effective and adequate remedy. In most cases, negligence must be proved in order that plaintiff may recover. However, since negligence may be hard to substantiate in some cases, we may apply the doctrine of RES IPSA LOQUITUR (the thing speaks for itself), by considering the presence of facts or circumstances surround-ing the injury.

WHEREFORE, premises considered, the judgment of the appel-late court is hereby AFFIRMED.

SO ORDERED.

Feria, (Chairman), Fernan, Alampay, and Gutierrez, Jr., JJ., concur.

[1] In contracts the negligence of the employee (servant) is the negligence of the employer (master). This is the master and servant rule.

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