

G. JESUS B. RUIZ, PETITIONER, VS. ENCARNACION UCOL AND THE COURT OF APPEALS, RESPONDENTS.

G.R. No. L-45404. August 07, 1987

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the order of the Court of First Instance of Ilocos Norte dismissing the plaintiff- appellant's complaint for damages against defendant-appellee on the ground of *res judicata*. The issue involved being a pure question of law, the appellate court certified the appeal to us for decision on the merits.

The facts are not disputed. Agustina Tagaca, laundrywoman for plaintiff-appellant Atty. Jesus B. Ruiz filed an administrative charge against defendant-appellee Encarnacion Ucol, a midwife in the health center of Sarrat, Ilocos Norte. In her answer to the charges, Ucol alleged that Tagaca was merely used as a tool by Atty. Ruiz who wanted to get back at the Ucol's because of a case filed by Encarnacion Ucol's husband against Ruiz. She was also alleged to have made remarks that Atty. Ruiz instigated the complaint and fabricated the charges.

The administrative case was dismissed. Ruiz decided to file his own criminal complaint for libel against Ucol based on the alleged libelous portion of Ucol's answer.

Upon arraignment, Ucol entered a plea of not guilty. During the proceedings in the libel case, complainant Atty. Ruiz entered his appearance and participated as private prosecutor. After trial, the lower court rendered judgment acquitting Ucol on the ground that her guilt was not established beyond reasonable doubt. No pronouncement was made by the trial court as to the civil liability of the accused.

Instead of appealing the civil aspects of the case, Ruiz filed a separate complaint for damages based on the same facts upon which the libel case was founded.

Ucol filed a motion to dismiss stating that the action had prescribed and that the cause of action was barred by the decision in the criminal case for libel.

The trial court granted the motion to dismiss on the ground of *res judicata*. As earlier stated, on appeal, the Court of Appeals certified the case to us, the only issue being whether or not the civil action for damages was already barred by the criminal case of libel.

Before going into the merit of this appeal, it is noteworthy to mention that there are actually two cases now before us involving the contending parties. Defendant-appellee Ucol filed an "appeal by certiorari" before this Court questioning the dissenting opinion of the Court of Appeals.

Ucol prays for a ruling "that the respondent Court of Appeals committed a grave abuse of discretion in not dismissing the present case but instead in ordering the same remanded to the lower court for further proceedings x x x."

Any ordinary student in law school should readily know that what comprises a decision which can be the subject

of an appeal or a special civil action is the majority opinion of the members of the court, but never the dissenting opinion. Moreover, no decision on appeal has as yet been rendered in this case. The act of the defendant-appellee's counsel in filing such a petition defies logic or reason. It is totally in-explicable how a member of the bar could be so careless or, if the act was deliberate, could have the courage to come before this Court asking us to review a dissenting opinion. Counsel is warned that we do not find his mistake in the slightest bit amusing.

Turning now to the present appeal, plaintiff--appellant Ruiz contends that there can be no res judicata since nowhere in its decision did the trial court pass upon the civil aspect of the criminal case nor did it make any express declaration that the fact on which said case was predicated did not exist. He cites the pertinent provisions of Article 29 of the Civil Code and Rule III, Section 3 subsection (c) of the Rules of Court which respectively provide:

"ART. 29. When the accused in a criminal prosecution is acquitted on the ground that his guilt has not been proved beyond reasonable doubt, a civil action for damages for the same act or omission may be instituted. x x.

xxx xxx xxx

RULE III, Sec. 3(c) -

"Extinction of the penal action does not carry with it extinction of the civil, unless the extinction proceeds from a declaration in a final judgment that the fact from which the civil might arise did not exist. x x x"

We may also mention Article 33 of the Civil Code which gives an offended party in cases of defamation, among others, the right to file a civil action separate and distinct from the criminal proceedings whether or not a reservation was made to that effect.

The plaintiff-appellant's contentions have no merit. The right of the plaintiff-appellant under the above provisions to file the civil action for damages based on the same facts upon which he instituted the libel case is not without limitation.

We find the appeal of G. Jesus B. Ruiz without merit. We see no advantage or benefit in adding to the clogged dockets of our trial courts what plainly appears from the records to be a harassment suit.

In acquitting Encarnacion Ucol of the libel charge, the trial court made these factual findings:

"Clearly then, Atty. Ruiz filed the instant Criminal Case against Encarnacion Ucol as retaliation for what he believed was an act of ingratitude to him on the part of her husband. The precipitate haste with which the administrative complaint was filed shows that he was the one personally interested in the matter. All that Agustina Tagaca told him was double hearsay. The incident, if there was, happened between the accused and Ceferino in the absence of Agustina; so that, all that Ceferino allegedly told her, and she in turn told Atty. Ruiz, was undoubtedly double deck hearsay; and Atty. Ruiz should therefore check the facts with Ceferino, but he did not do that, and he did not even present Ceferino as a witness. For these reasons, accused has every reason to believe that Atty. Ruiz was the author who concocted the charges in the administrative complaint and had his laundrywoman, complainant Agustina Tagaca, sign it. Agustina has very little education and could hardly speak English, yet the administrative complaint was written in polished English, and who else but Atty. Ruiz could have authored those phrases in the complaint: 'The retention of Mrs. Ucol in this government service is inimical to the good intentions of the Department to serve humanity and a disgrace and liability to present administration.' As will be shown later on, it appears that it is this complaint signed by Agustina, but authored by Atty. Ruiz, that is libelous and not the respondent's answer; and even, assuming that the administrative complaint may not have been impelled by actual malice, the charge(s) were certainly reckless in the face of proven facts and circumstances. Court actions are not established for parties to give bent to their prejudice. The

poor and the humble are, as a general rule, grateful to a fault, that intrigues and ingratitude are what they abhor." (Amended Record on Appeal, pp. 8-10).

The findings in the criminal case, therefore, show a pattern of harassment. First, petitioner Ruiz had something to do with the administrative complaint. The complaint was dismissed. Second, he filed a criminal case for libel based on portions of Mrs. Ucol's answer in the administrative case. Third, he acted as private prosecutor in the criminal case actively handling as a lawyer the very case where he was the complainant. And fourth, after the accused was acquitted on the basis of the facts stated above, Atty. Ruiz pursued his anger at the Ucols with implacability by filing a civil action for damages. As stated by the trial judge, "court actions are not established for parties to give bent to their prejudice." This doubly true when the party incessantly filing cases is a member of the bar. He should set an example in sobriety and in trying to prevent false and groundless suits.

In *Roa v. de la Cruz, et al.* (107, Phil. 10) this Court ruled:

"Under the above provisions (Art. 33 of the Civil Code), independently of a criminal action for defamation, a civil suit for the recovery of damages arising therefrom may be brought by the injured party. It is apparent, however, from the use of the words 'may be', that the institution of such suit is optional. (An Outline of Philippine Civil Law by J.B.L. Reyes and R.C. Puno, Vol. I, p. 54) In other words, the civil liability arising from the crime charged may still be determined in the criminal proceedings if the offended party does not waive to have it adjudged, or does not reserve his right to institute a separate civil action against the defendant. (The case of *Reyes v. de la Rosa* (52 Off. Gaz., [15] 6548; 99 Phil., 1013) cited by plaintiff in support of her contention that under Art. 33 of the New Civil Code the injured party is not required to reserve her right to institute the civil action, is not applicable to the present case. There was no showing in that case that the offended party intervened in the prosecution of the offense, and the amount of damages sought to be recovered was beyond the jurisdiction of the criminal court so that a reservation of the civil action was useless or unnecessary.) (*Dionisio v. Alvendia*, 102 Phil., 443; 55 Off. Gaz., [25] 4633.)

"In the instant case, it is not disputed that plaintiff Maria C. Roa - upon whose initiative the criminal action for defamation against the defendant Segunda de la Cruz was filed - did not reserve her right to institute it, subject, always to the direction and control of the prosecuting fiscal. (Section 15 in connection with section 4 of Rule 106, Rules of Court; *Lim Tek Goan v. Yatco*, 94 Phil., 197). The reason of the law in not permitting the offended party to intervene in the prosecution of the offense if he had waived or reserved his right to institute the civil action is that by such action her interest in the criminal case has disappeared. Its prosecution becomes the sole function of the public prosecutor. (*Gorospe, et al. v. Gatmaitan, et al.*, 98 Phil., 600; 52 Off. Gaz., [15] 2526). The rule, therefore, is that the right of intervention reserved to the injured party is for the sole purpose of enforcing the civil liability born of the criminal act and not of demanding punishment of the accused. (*People v. Orais*, 65 Phil., 744; *People v. Velez*, 77 Phil., 1026; *People v. Flores, et al.*, G.R. No. L-7528, December 18, 1957; see also *U.S. v. Malabon*, 1 Phil., 731; *U.S. v. Heery*, 25 Phil., 600).

"Plaintiff having elected to claim damages arising from the offense charged in the criminal case through her appearance or intervention as private prosecutor we hold that the final judgment rendered therein constitutes a bar to the present civil action for damages based upon the same cause. (See *Tan v. Standard Vacuum Oil Co., et al.*, 91 Phil., 672; 48 Off. Gaz., [7] 2745.)."

We are, therefore, constrained to dismiss the present appeal. Atty. Ruiz has more than had his day in court. The then court of first instance acquitted Mrs. Ucol and stated in the dispositive portion of its decision that her guilt was not established beyond reasonable doubt. A review of the court's findings, however, indicates that the disputed Answer of Mrs. Ucol in the administrative case contains no libel. As stated by the trial court, "As will be shown later, it appears that it is this complaint signed by Agustina, but authored by Atty. Ruiz, that is libelous and not the respondent's answer." (Emphasis supplied). The court found the charges against Ucol, if not malicious, at least reckless in the face of proven facts and circumstances.

The trial court stated.

"Analyzing defendant's answer Exh. '5', even with meticulous care, the Court did not find any defamatory imputation which causes dishonor or discredit to the complainant. She was the victim of an unprovoked, unjustified and libelous attack against her honor, honesty, character and reputation; she has a right to self defense, which she did in her answer, to protect her honesty and integrity and the very job upon which her family depend for their livelihood. Every sentence in her answer (Exh. "5") is relevant, and constitutes privileged matter. She did not go further than her interest or duties require. She did not go beyond explaining what was said of her in the complaint for the purpose of repairing if not entirely removing the effects of the charge against her. She had absolutely no motive to libel Atty. Ruiz who, by the way, cast the first stone. xxx" (Amended Record on Appeal, pp. 10-11).

WHEREFORE, the appeal filed by appellant Jesus B. Ruiz is DISMISSED for lack of merit. The petition filed by petitioner Encarnacion Ucol is likewise DISMISSED for patent lack of merit.

SO ORDERED.

Teehankee, C.J., Yap, Fernan, Narvasa, Cruz, Paras, Feliciano, Padilla, Bidin, Sarmiento, and Cortes, JJ., concur.
Melencio-Herrera, J., on leave.

Gancayco, J., no part having participated in the resolution of the case in CA.

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