

FRANCISCO A. PERFECTO, PETITIONER-APPELLANT, VS. HON. FELICIANO S. GONZALES, JUDGE OF THE COURT OF FIRST INSTANCE OF CATANDUANES, AND JULIANA C. VISTA AND VICENTE VISTA, RESPOND...

G.R. No. L-35157. April 17, 1984

Ponente: RELOVA, J.

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RELOVA, J.:

Private respondent Juliana C. Vista, a public school teacher of San Andres, Catanduanes was appointed poll clerk by the Commission on Elections in Precinct No. 25 of San Andres in the general elections of November 9, 1965.

Petitioner Francisco A. Perfecto, a retired public service commissioner, was a candidate for congressman of the lone district of Catanduanes. He lost in that election.

In August 1967, petitioner filed with the Commission on Elections an administrative complaint against the members of the board of election inspectors of Precinct No. 25 of San Andres, namely: Roberto Reyes, Chairman; Felicidad Garcia, Nacionalista Party inspector; Jorge Primo, Liberal Party inspector; and herein private respondent Juliana C. Vista, poll clerk of said precinct. The complaint charged that the said members of the board of election inspectors were guilty of non-feasance, malfeasance and misfeasance for wilfull failure to comply with the instructions, orders, decisions and rulings of the Commission in connection with the performance of their duties relative to the conduct of the elections of 1965, committed in the following manner, to wit:

"That during voting time on November 9, 1965, being an election day, in Precinct No. 25 located at the Public School Building in the Barrio of Bislig, Municipality of San Andres, Catanduanes, Philippines, and within the jurisdiction of this Honorable Commission, the above-named respondents conspiring, confederating, collaborating and mutually helping each other did then and there wilfully, criminally, feloniously and unlawfully -

"(a) tolerate, allow and permit numerous registered voters of said precinct to prepare their ballots with the use of carbon paper or means for making copies of the ballots to identify the votes of said voters in violation of Sec. 135 of the Revised Election Code;

"(b) tolerate, allow and permit said voters to cast their unlawfully prepared ballots, and further tolerate, allow and permit said voters to step out of the polling place with the unlawfully made copies of the ballots, in their possession;

"(c) prevent the filing of protests and refuse to give protest forms to in spite of lawful demands by the Nacionalista election watchers who wanted to file their protests, against the manner of voting above-described;

"(d) accept the unlawfully prepared ballots and placed them in the box for valid ballots and later read, counted and credited them in favor of the candidates whose names were written thereon including Jose M. Alberto who was also a candidate for the same position as the complainant;

"(e) falsify the truth by making it appear in their official records that there were no anomalies in the voting and no protests against anomalies;

all of which unlawful acts violated the free and untrammelled expression of the sovereign will of the people and caused damage to the complainant." (pp. 45-46, Rollo)

As a consequence, private respondent Juliana Vista, assisted by her husband Vicente Vista, filed an action for damages alleging that the above charges were false and without basis had been instituted maliciously in order to harass, annoy, demean, degrade and expose her to public ridicule and because of which she suffered "mental torture, anguish, sleepless nights, besmirched reputation, wounded feelings, mental shock and social humiliation which may be assessed as moral damages in the amount of P120,000.00." Further, she "claims the further sum of P15,000.00 as exemplary damages, and P10,000.00 for attorney's fees and expenses in the prosecution of the suit." (p. 46, Rollo)

Answering the complaint for damages, herein petitioner Francisco A. Perfecto avers that the filing of the administrative complaint against private respondent Vista and the members of the board of election inspectors of Precinct No. 25 was done in good faith with the highest motive of bringing to justice persons who have violated the laws of the land; that he never had any personal grudge or ill-feeling against private respondent previously and his only purpose in filing the administrative complaint was to deter the commission of the acts charged for the sake of democracy; that he even asked for the dismissal of all administrative cases he had filed against many teachers in their conduct of the 1965 elections because he had no intention of demeaning and degrading them and because he was satisfied with the action taken by the Commission in connection with the election cases in the provinces of Batanes and Cotabato.

Evidence shows that private respondent Vista was the poll clerk of Precinct No. 25 of San Andres during the elections of 1965. However, it had been shown successfully that she did not act as poll clerk on election day, November 9, 1965 because she was ill and had been running with fever for several days prior to the election. In fact, she was substituted by Nazaria B. Reyes, another public school teacher as poll clerk on that day. The trial court on this point said:

"x x x The best and most reliable proof showing the identities of the officials of Precinct No. 25 who reported for duty on November 9, 1965, is the minutes of voting which is supposed to be the authentic record of the proceedings in the precinct during election day (Exhibit A) and the election return showing the result of the canvass of the votes in the precinct which are all required to be accomplished and signed by the chairman and members of the board of election inspectors including the poll clerk. In both documents it appears that Mrs. Nazaria B. Reyes, the substitute poll clerk, acted as poll clerk on election day in place of the regular poll clerk, the plaintiff, who was absent and did not report for duty." (p. 49, Rollo)

However, the lower court "failed to find sufficient proof to sustain the charge that in filing the administrative complaint with the Commission on Elections the defendant was acting with malice and for the sole purpose of degrading or besmirching the reputation of the plaintiff and exposing her to public ridicule. The very complaint itself shows upon itself that it was not directed solely at the plaintiff but was in fact against all the members of the board of election inspectors of Precinct No. 25 of which the plaintiff was only the poll clerk. In fact it would appear from a fair and impartial appraisal of the charges that the major responsibility is lodged against the chairman and the two other inspectors who by law control the proceedings in the board. The poll clerk is comparatively a minor official in the board and there is nothing in the complaint which will show that it was directed solely for the purpose of harassing and injuring the reputation of the plaintiff. The chairman and the two other election inspectors who were made respondents have not taken offense and their conduct induces the impression that they either did not feel aggrieved or felt that the dismissal of the complaint was enough

vindication of their honor if in one way or another it became involved as a result of the charges. x x x Under the circumstances, the action taken by the defendant can hardly be construed as motivated by malice and intended to harass and injure her reputation." (pp. 50-51, Rollo) Notwithstanding, the lower court rendered judgment ordering herein petitioner to indemnify private respondent the sum of P2,000.00 as compensatory damages.

Hence, the filing of this petition for review by way of certiorari to set aside the order of respondent judge in awarding private respondent compensatory damages in the amount of P2,000.00.

There is merit in the petition. Respondent judge found no basis for actual or compensatory damages and exemplary damages when it said that "to slap a heavy damage upon the defendant would be tantamount to imposing a prohibitive premium upon the filing of complaints against public officials for misconduct in office, a policy that is neither sound nor conducive to a healthy development of civic courage and public interest so necessary and indispensable in the conduct of the affairs of the government (pp. 53-54, Rollo)." Besides, actual or compensatory damages are those recoverable because of pecuniary loss - in business, trade, property, profession, job, or occupation, and the same must be proved, otherwise, if the proof is flimsy and non-substantial, no damages will be given. In the case of *Malonzo vs. Galang*, 109 Phil. 16, the Court, speaking through Justice J. B. L. Reyes, held that with respect to compensatory damages assuming that they are recoverable under the theory that petitioner had filed a clearly unfounded suit against respondent, the same constitutes a tort against the latter that makes the former liable for all damages which are the natural and probable consequences of the act or omissions complained of. These damages, cannot, however, be presumed and must be duly proved (Article 2199, New Civil Code). Well settled is the rule that even if the complaint filed by one against the other is clearly unfounded this does not necessarily mean, in the absence of specific facts proving damages, that said defendant really suffered actual damage over and above attorney's fees and costs. The Court cannot rely on its speculations as to the fact and amount of damages. It must depend on actual proof of the damages alleged to have been suffered.

WHEREFORE, the petition is GRANTED and the order of respondent judge condemning petitioner Francisco A. Perfecto to pay compensatory damages of P2,000.00 is hereby SET ASIDE.

SO ORDERED.

Teehankee, (Chairman), Gutierrez, Jr., and De la Fuente, JJ., concur.

Melencio-Herrera, J., no part.

Plana, J., in the result.

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