

FLORITA T. BAUTISTA, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND GENERA CARDENAS, RESPONDENT.

G.R. No. L-46025. September 02, 1992

Ponente: NOCON, J.

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NOCON, J.:

It is quite pathetic how a petty quarrel between two supposedly well-bred women still had to reach this Court. From an accidental brushing of their elbows, resulting to hair-pulling and kicking, it ended in their accusing each other of committing slight physical injuries against the other.

The case originated from the City Court of San Carlos, Negros Occidental, wherein Florita T. Bautista was convicted in Criminal Case No. 3782 for slight physical injuries upon the complaint of one Genara Cardenas y Buenavista, and sentenced to imprisonment of fifteen (15) days and to pay the costs. She was further sentenced to pay P8,000.00 as moral damages, P1,000.00 as expenses of litigation, P500.00 as medical expenses and to pay the costs.

In Criminal Case No. 3783, accused Genara Cardenas y Buenavista was acquitted of the charge of slight physical injuries and the civil aspect of the case was dismissed.

On appeal to the Court of First Instance of the same Province, the conviction of accused Florita T. Bautista was reversed and the civil aspect of the case dismissed. The CFI gave full faith and credit to the testimony of Mrs. Fe Olladas, the teller of the booth where the incident took place.

Elevating the case to the Court of Appeals in CA--G.R. No. 17652-R said court in turn reversed the decision of the Court of First Instance, the dispositive portion of which reads:

“WHEREFORE, the judgment appealed from is reversed insofar as it reversed the decision of the City Court which awarded damages to the herein appellant, and let another one be entered ordering appellee to pay the same damages and civil indemnities awarded by the City Court, to wit: P8,000.00 as moral damages, P1,000.00 as expenses of litigation, and P500.00 as medical expenses. No special pronouncement as to costs in the present instance.

“SO ORDERED.”[1]

Hence, the Petition for Review on Certiorari by Florita T. Bautista.

The characters in this case are Genara Cardenas y Buenavista, a businesswoman of Canlaon City, Negros Oriental, whom We shall refer to as “Cardenas,” and Florita T. Bautista, a teacher and the wife of then Mayor Isidro Bautista, Jr., also of Canlaon City, whom we shall refer to as “Bautista”. Both parties are complainants and accused in Criminal Cases No. 3782 and 3783 filed in the City Court of San Carlos, Negros Occidental.

Their story dates back to the 28th day of March 1973 at about 11:00 in the morning at the cooperative of San Carlos Milling Co. Cardenas, who was then seated on the sofa at the lobby, saw Bautista enter the building. As the

latter passed her, Cardenas felt that Bautista “intended to hit” her with a bag[2] she was carrying. Bautista did not hit Cardenas, though, as she went ahead to mill with the crowd.

The next scene was at about 12:40 p.m. of the same day inside the Philippine National Bank building, San Carlos City branch, more specifically in front of the cage of bank teller, Mrs. Olladas. Cardenas, while leaning on the panel board before the teller's cage, noticed someone reach for a ball pen inside Mrs. Ollada's cage. While the person was withdrawing her hand, she brushed the arm of Cardenas. The said person happened to be Bautista.

According to Cardenas, she asked Bautista, “Why did you strike me with your elbow?” Bautista answered, “What if I strike you with my elbow? So what?” Then Bautista grabbed her hair, shook her head, shoved her to the floor and kicked her.[3]

On the other hand, Bautista denied Cardenas' version of the incident. While admitting having “slightly touched” the left arm of Cardenas, Bautista claimed having said “I am sorry, excuse me.”[4] Despite that, Cardenas immediately struck her hard with her left elbow, grabbed her right hand, as a result she likewise elbowed Cardenas. As Cardenas was about to bite her, she pulled Cardenas' hair, to parry the bite, but Cardenas grabbed her stomach, so she kicked her on the thigh and chest to loosen her grasp.[5]

Two issues needed to be resolved in this case, namely: 1) who among the two instigated the fight; and 2) whether Bautista is liable for damages.

According to the city court, Bautista was the aggressor who initiated the attack and that if she incurred injuries it was due to Cardenas' futile and feeble attempt at defending herself from the persistent and effective aggression of Bautista. The city court made these conclusions on account of the physical build of both the protagonist -- Bautista being “young and well-built,” while Cardenas is “frail and self-effacing.”[6]

The CFI did not share the city court's findings. It found that the rubbing or touching of the right arm of Bautista against the left arm of Cardenas was accidental or unintentional. The court concluded that the ensuing scuffle and slight physical injuries sustained by both protagonists were the direct and immediate consequences of the act of Cardenas of deliberately elbowing Bautista, in the honest belief that the latter had deliberately touched her left arm and provoked her into a fight.

Siding with the theory of the trial court, the Court of Appeals pointed to Bautista as the one who gave sufficient provocation. If at all, she can only claim incomplete self-defense, and would still be liable to pay damages as a legal consequence thereof. It went on to conclude that Bautista's act of rubbing against Cardenas' side was tainted with malice. The appellate court further said that Bautista manifestly acted offensively in not waiting for Cardenas to leave the counter before inserting her hand to reach for a ballpen inside the teller's cage, thus, hitting or rubbing Cardenas' arm.

The Court of Appeals went further to state that Bautista cannot cite Rule 111, Sec. 3 [now Rule 111, Sec. 2 (b)][7] because:

“In the first place, the judgment appealed from cannot be considered a final judgment within the meaning of the aforequoted provision (cf Soriano vs. Albanog, 98 Phil. 785)[8]. In the second place, the judgment appealed from has not declared that the fact from which the civil action might arise did not exist. The fact from which such action may arise is the injuries inflicted by appellee upon appellant. The judgment appealed from did not state that such injuries did not exist. . .”[9]

We agree with the above pronouncement of the Court of Appeals. It is the fundamental postulate of our law that “every person criminally liable for a felony is also civilly liable.” And even if an accused is acquitted of the crime charged, such will not necessarily extinguish the civil liability, unless the court declares in a final judgment that

the fact from which the civil liability might arise did not exist.[10]

The acquittal of Bautista by the CFI because of the failure of the prosecution to establish her guilt beyond reasonable doubt, does not necessarily mean her exoneration from civil liability for damages, if any, suffered by Cardenas. The question as to civil damages may still be appealed.

However, from Our reading of the records of this case, We note that Cardenas even at the onset appeared to be paranoid of Bautista, particularly when she testified that she felt Bautista intended to hit her with a bag, while they were at the cooperative building. It is therefore not difficult to conclude that when Bautista “accidentally” brushed the elbow of Cardenas, the latter assumed that Bautista was making good her supposed “earlier threat” to inflict physical harm on her.

Assuming arguendo that Bautista intentionally went to the counter where Cardenas was, is that act, sufficient provocation? We think not. The law requires that the provocation be sufficient or proportionate to the act committed and adequate to arouse one to its commission. It is not even enough that the provocative act be unreasonable or annoying. In the present case, Bautista had as much right as Cardenas to be before the same teller's booth, considering that it is the Bank's practice to allow more than one customer to transact business with a teller at any given time.[11] We are even more inclined to believe that it was Cardenas who initiated the aggressive act of intentionally elbowing Bautista. Being the aggressor herself, she cannot claim compensation for the injuries she suffered.

Petitioner also questions the jurisdiction of the Court of Appeals in reviewing and reversing the findings of the CFI citing Sec. 45 of R.A. 269 (Judiciary Act of 1948, as amended) which provides:

“x x x

“In cases falling under the exclusive original jurisdiction of municipal and city courts which are appealed to the courts of first instance, the decision of the latter is final. Provided. That the findings of facts contained in said decision are supported by substantial evidence as basis thereof, and the conclusions are not clearly against the law and jurisprudence x x x.”

Although the above provision is no longer applicable, the same should be interpreted to mean that it is well within the discretion of the Court of appeals to determine whether the findings of the then Court of First Instance are supported by substantial evidence and the conclusions are within the law and jurisprudence.

In a minute resolution dated April 27, 1970[12] the Court held that the Court of Appeals has jurisdiction to consider petitions of cases falling under Sec. 45 of R.A. 296 as amended by R.A. 6031, giving due course thereto or dismissing the same in accordance with the criteria established in the aforequoted provision of the Judiciary Act. As a matter of fact, the Court of Appeals in this case reversed the decision of the CFI. Moreover, petitioner should have assailed the jurisdiction of the Court of Appeals at the first instance. Having participated actively in the proceedings, petitioner can no longer seek protection under the above provision.

As We have earlier stated, the circumstances in this case are quite petty that the parties and their counsels deserve to be admonished for unnecessarily clogging the docket of this court. This case should have been settled once and for all at the earliest stage of the litigation. The Court has far more important legal matters to attend to than to be tasked to assuage the wounded pride of the parties.

WHEREFORE, finding the petition to be meritorious, the judgment appealed from is hereby reversed. Respondent being as much at fault, as the petitioner, is not entitled to any award of damages. Let petitioner and respondent bear their own expenses.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.

Melo, J., no part.

[1] Pacifico P. De Castro, ponente, concurred in by Justices Luis B. Reyes and Vicente G. Ericta., Rollo, pp. 59-66.

[2] TSN, September 12, 1973, p. 7.

[3] Ibid, pp 17-18.

[4] TSN, October 19, 1973, pp. 15.

[5] Ibid, pp. 16-18.

[6] Trial Court's Decision, p. 9; Rollo, p. 22.

[7] Rule 111, Sec 2 (b) reads:

"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."

[8] The correct title of the case is "Testate Estate of Doña Perpetua A. Vda. de Soriano, Albornoz v. Albornoz."

[9] C.A. Decision, p. 7; Rollo, p. 65.

[10] Calalang v. IAC, G.R. No. 74613, 194 SCRA 514 (1991).

[11] TSN, October 19, 1973, pp. 27-28, 50.

[12] R & R Realty Co., Inc. v. Hon. Jose M. Leuterio, etc., et al., UDK-329.

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