

JOEDEL ALORA, PLAINTIFF-APPELLANT, VS. FE QUITORIANO AND ELENA ROLDAN, DEFENDANTS-APPELLEES.

Ponente: DE GUIA-SALVADOR, R., J.

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DE GUIA-SALVADOR, R., J.:

Filed pursuant to Rule 41 of the 1997 Rules of Civil Procedure, the instant appeal seeks to reverse and to set aside the Decision[1] dated January 7, 2012 rendered by the Regional Trial Court of Quezon City, Branch 221 (RTC), in Civil Case No. Q-03-49985, the dispositive portion of which reads:

“WHEREFORE, premises considered, DECISION is hereby rendered DISMISSING the complaint for failure of the plaintiff to prove his cause of action against defendants. Defendants having duly proven and established their compulsory counterclaims against the plaintiff, the plaintiff Joedel Alora is hereby ORDERED to pay defendants Fe Quitariano and Elena Roldan the following:

- Php500,000.00 as moral damages;
- Php100,000.00 as exemplary damages;
- Php50,000.00 as attorney's fees and expenses of litigation.

SO ORDERED.”[2]

The Facts

At around 7:00 o'clock in the evening of February 20, 2003, Nilda Alora (Nilda), wife of plaintiff-appellant Joedel Alora (Joedel) called at the 11th floor of the Social Security System (SSS) office to talk to her husband, who was supposedly working on an overtime shift.[3] It was defendant-appellee Elena Roldan (Elena) who answered the phone, but asked her co-defendant-appellee Fe Quitariano (Fe) where Joedel was. With Joedel nowhere in sight, Fe responded “baka nasa boarding house”. Thereafter, Nilda heard defendants and the others present in the room burst into laughter.[4]

Upset, Nilda put the phone down and waited for her husband Joedel. Upon seeing him at the lobby of the SSS building, she furiously confronted him and asked him where he had been.[5] Angered with what his wife relayed to him, he went back to his office and threatened to hit whoever mentioned to his wife that he was at a boarding house.[6]

Joedel felt offended by the words uttered by Elena and Fe. He claimed that the phrase “baka nasa boarding house” was uttered with malicious intent to impute immoral acts against him, as it implied that he was having illicit affairs with other women in some boarding house.[7] This imputation allegedly placed him in public ridicule and contempt, and caused his wife to suspect him of being unfaithful.[8]

Meanwhile, on March 25, 2003, Joedel was terminated from his work at the SSS for conduct unbecoming as well as of violation of personnel policies and the Civil Service Law.[9] On June 4, 2003, he filed a Complaint for reinstatement and backwages before the Labor Arbiter,[10] who ruled in his favor, finding that he was illegally dismissed by the SSS.[11] But, on appeal, the NLRC rendered its Decision[12] dated August 15, 2007, which reversed and set aside the Labor Arbiter's finding.

On July 2, 2003, Joedel filed a Complaint for Damages[13] before the RTC. He insisted that, in addition to being constitutive of malicious gossiping and destructive rumor mongering,[14] Elena and Fe's acts likewise caused the estrangement and alienation of his wife's feelings towards him, which almost led to the break up of their marriage.[15] Their "near separation" and constant quarreling, in turn, affected their three young children.[16] He likewise alleged that it was due to the machinations of Fe that he was terminated from work.[17] In all, Elena and Fe's acts deeply defamed him, besmirched his name and family honor, affected his marriage and disturbed his family's peace and harmony,[18] thereby causing him mental anguish, serious anxiety, deep personal hurt, wounded feelings, moral shock, and social humiliation, for which he sought for the payment of moral damages[19] as well as indemnity for actual damages, exemplary damages, nominal damages and attorney's fees.[20]

On September 8, 2003, Elena and Fe filed their Answer with Compulsory Counterclaim.[21] Elena vehemently denied having told Nilda that Joedel was at a boarding house. Elena asserted that what she said was that Joedel was not in the room, and had not been seen thereat for quite sometime.[22] Fe, on the other hand, admitted that she uttered the phrase "baka nasa boarding house," but denied having uttered it with malice. Instead, it was uttered in good faith based on her honest assumption that Joedel might be at his aunt's residence at the SSS Housing since he was known to be engaged in the sideline of transporting SSS employees residing at the SSS Housing, using his aunt's vehicle.[23] Elena and Fe also denied having laughed boisterously and salaciously after uttering the phrase.[24]

Elena and Fe further asserted that Joedel filed the instant complaint in an attempt to harass and get even with them.[25] They questioned how Joedel could have accurately known what transpired during the telephone call of his wife when he was not at his work station then, but was loitering around, doing unofficial business. In short, his accusations are all clearly based on hearsay.[26] By way of compulsory counterclaim, Elena and Fe sought for the payment of exemplary damages, moral damages, and attorney's fees against Joedel for having filed the instant unfounded complaint for the sole purpose of harassing them.[27]

The RTC Decision

On January 27, 2012, the RTC rendered the appealed decision, dismissing the complaint, on the following findings and conclusion:

xxx xxx xxx

"The crux of the determination of issues of this case is whether or not defendants,xxx engaged in "malicious gossip and destructive rumor mongering" that would impute immoral acts against the plaintiff that he was visiting and having illicit affairs with other women in some "boarding house"xxx

xxx xxx xxx

"Plaintiff was not actually present during the entire series of events when the defendant Elena Roldan answered the phone call of plaintiff's wife who was looking for plaintiff at his workplace, with defendant Fe Quitariano allegedly said that plaintiff was "Baka nasa boarding house" as to his whereabouts that allegedly caused "malicious joy and salacious laughter" that put plaintiff in public ridicule and contempt.xxx

xxx xxx xxx

These words in Exhibit “A” narrated by defendant Fe Quitoriano are clearly not defamatory. “Baka nasa boarding house” does not at all refer to imputing to the plaintiff a vice, crime, or defect. Any person, or even plaintiff being in or going to a boarding house is not doing a crime or engaging in an immoral act. Operating or maintaining a boarding house is in fact a lawful and useful business.

To impute something defamatory and destructive to a person or persons who are laughing (“Nagtatawanan po kami”) would be unfair and unjust, as to prevent the person/s from expressing their collective feeling and emotion of a common experience and perception.”[28] xxx

xxx xxx xxx

On November 26, 2013, Joedel and Fe entered into a Compromise Agreement,²⁹ whereby both parties agreed to settle the case, with Joedel paying Fe the amount of P75,000.00 and issuing a Letter of Apology. Consequently, on December 12, 2013, We issued a Resolution declaring the case “dismissed, closed and terminated” insofar as Joedel and Fe are concerned.[30]

The Issues

Aggrieved by the decision of the RTC, plaintiff-appellant Joedel perfected the appeal at bench thru the timely filing of his Notice of Appeal.[31] Insofar as defendant-appellee Elena is concerned, Joedel seeks the reversal of the appealed decision on the basis of the following errors, to wit:

I. THE COURT A QUO ERRED IN NOT FINDING DEFENDANT-APPELLEE ([ELENA]) TO HAVE ENGAGED IN MALICIOUS GOSSIP AND RUMOR MONGERING.

II. THE COURT A QUO ERRED AND MISAPPRECIATED THE FACTS BEHIND THE NLRC'S REVERSAL OF THE LABOR ARBITER'S DECISION.

III. THE COURT A QUO ERRED IN AWARDING MORAL, EXEMPLARY DAMAGES, AND ATTORNEY'S FEES IN FAVOR OF THE DEFENDANT-APPELLEE [ELENA] WITHOUT EXPLAINING WHY SHE IS ENTITLED TO SUCH RECOMPENSE IN VIOLATION OF THE CONSTITUTION AND THE RULES OF COURT.

IV. THE COURT A QUO ERRED IN GRANTING THE DEFENDANT-APPELLEE [ELENA'S] COUNTERCLAIM.[32]

The Court's Ruling

We find partial merit in the instant appeal.

Elementary in civil law is the rule that “he who alleges the affirmative of the issue has the burden of proof,” and upon him, the burden of proof never parts.[33] Ordinarily, the same burden is in the first instance with the party who initiated the action or proceeding. Accordingly, in a suit for damages, the claimant must prove that he is entitled to recover such recompense,[34] by satisfactorily establishing the existence of the factual basis of the damages and its causal connection to his opponent's acts.[35] Specifically, an award of moral damages is predicated on the supposition that the person seeking such damages suffered mental anguish, serious anxiety or other similar injury.[36] In the same manner, the grant of exemplary damages is dependent on proof that the defendant acted in a wanton, oppressive or malevolent manner,[37] and is allowed only in addition to moral damages, wherein the former cannot be awarded without proof of entitlement to the latter.[38] If the court has no proof or evidence upon which the claim for damages is based, then such indemnity cannot be awarded.[39]

In the case at bench, Joedel's claim for damages is predicated on the alleged injurious effect of the utterance “baka

nasa boarding house” to his personal and family life. He claims that the words were uttered with malicious intent of imputing against him immoral and unchaste acts, and defaming his character, and thereby causing him shame and ridicule, as well as the estrangement of his wife and the disruption of his family's peace and harmony.

We are unswayed by Joedel's contentions.

In defamation cases, courts are guided by the doctrine of ancient respectability that defamatory words will be judged depending not only upon their sense, grammatical significance, and accepted ordinary meaning assessing them separately, but also upon the special circumstances of the case, antecedents or relationship between the offended party and the offender, which might tend to prove the intention of the latter at the time of the utterance.[40]

To Our mind, the phrase “baka nasa boarding house” does not in any sense connote the commission of any crime, vice, defect, or any immoral or illicit act. Ordinarily, “boarding house” refers to a private house that provides lodging for paying guests. No prurient or lascivious meaning is customarily attached to it.

Elena and Fe were Joedel's colleagues at the SSS, and at no instance did he advert to any previous quarrel or misunderstanding with anyone of them that would have provoked them to shame and humiliate him. In fact, the statement that Joedel was in the boarding house was innocuously uttered by Fe in response to Nilda's prodding as to where her husband was. Fe satisfactorily explained that what she meant was that Joedel might be at his aunt's residence at the SSS Housing as he was known to be engaged on the side, in transporting SSS employees residing in the same subdivision, using his aunt's vehicle.[41] One of the witnesses, SSS clerk Candido Lunas (Candido), likewise supported Elena's claim of not attaching any immoral or illicit innuendos in the controversial phrase.[42]

Regarding Elena's participation in the incident, Nilda claims that Elena repeated Fe's statement that Joedel was in the boarding house, loud enough for her to hear.[43] In her Answer, Elena vehemently denied having uttered such phrase to Nilda. In fact, what she told Nilda was that Joedel was not in the room, and had not been seen in the premises for quite sometime.[44] Nilda's bare allegation was not corroborated by any other witness. Moreover, a scrutiny of the records reveals that it was actually Fe who uttered the phrase.

As for Joedel's allegation that the phrase “baka nasa boarding house” was maliciously uttered to defame and humiliate him, in that the utterance was followed by salacious laughter from Elena, Fe, and their colleagues, the same was not sufficiently proven. In fact, Candido, Merlita Semana (Merlita) and Fe, Joedel's colleagues who witnessed the incident, belied the occurrence of any salacious or malicious laughter.[45] Candido denied having heard or witnessed the alleged boisterous and malicious laughter.[46] Merlita's testimony corroborated that of Candido's.[47] That Candido's table was just adjacent to Fe,[48] while Merlita was seated only two tables away from Fe render their testimonies worthy of credence.[49] Fe likewise explained in her judicial affidavit and affirmed on cross-examination, that they merely smiled (ngumiti) upon hearing the phrase “baka nasa boarding house”, pointing out that it was in amusement at the miscommunication between Joedel and Nilda, the latter having called their office thrice to check up on her husband. Admittedly, neither Joedel nor any of his witnesses was present at the time of the incident; nowhere in the premises of the office was any of them present. In short, We find a dearth of evidence to prove that the utterance “baka nasa boarding house” ever drew malicious and salacious laughter from either Fe or Elena.

In assessing a witness' credibility, We are guided by the settled rule that the findings of the trial court respecting their credibility are entitled to great respect and even finality as it had the opportunity to examine their demeanor when they testified. The trial court found that Elena's witnesses testified in a clear, positive, and convincing manner and remained consistent on cross-examination.[50] Significantly, no reason has been shown for Elena's witnesses to lie about the incident. In fact, no ill-motive was imputed against any of them.

Likewise, the phrase “salacious laughter” as used and described by Joedel and his wife Nilda is highly subjective and susceptible of varying interpretations. What may be salacious to one, may be innocuous and innocent to another. In fact, on cross-examination, Nilda described the alleged laughter as “salacious” or “malicious” on the flimsy reason that she was the only one who called up at that time, thus, there was nobody else for them to laugh at but her.[51] Nilda's hasty conclusion is flimsy and unfounded. Besides, she was not even present in the office at the time to have been able to assert with certainty that Joedel's officemates were in fact laughing, or whether such laughter was actually directed at her or Joedel, and also, whether the same indeed sounded malicious.

All told, apart from his bare and unsubstantiated allegations, Joedel failed to prove with clear and sufficient evidence how he suffered damages, how the utterance tarnished his reputation or defamed his character, or how his name was besmirched by the utterance because of his being the nephew of a manager at the SSS.[52] It has been held that an award of moral damages must be anchored on a clear showing that the claimant actually experienced besmirched reputation, mental anguish, sleepless nights, wounded feelings or similar injury.[53] Joedel failed to discharge the burden. We also note a dearth of evidence to prove Joedel's alleged estrangement from his wife. On the contrary, Nilda affirmed in her testimony that despite the incident, she continued to reside in their conjugal dwelling with her husband.[54] From the conduct of the spouses after the incident, it is clear that the utterance “baka nasa boarding house” was not so grave as to disrupt their family's peace and harmony. Neither was the phrase so bitter and caustic as to have defamed Joedel's character; nor was it malicious as to have ruined his marriage and disrupted his family's peace and harmony. The RTC thus correctly denied Joedel's claim for damages.

As for his second error, Joedel claims that the RTC misconstrued the facts behind the NLRC's reversal of the Labor Arbiter's decision. The Labor Arbiter found that Joedel was illegally dismissed,[55] but the same finding was subsequently reversed by the NLRC.[56] Joedel argues that despite such reversal of the Labor Arbiter's decision, the NLRC did not debunk the Labor Arbiter's view that the phrase “baka nasa boarding house” was uttered by Fe with malicious intent, aimed at creating intrigue between the spouses.[57]

The Labor Arbiter's characterization of Fe's acts was a mere obiter dictum — a remark made, or opinion expressed by the arbiter incidentally and/or collaterally in her decision. It was a statement on a point not necessarily involved in the determination of the merits of the case. Being a mere obiter, the Labor Arbiter's statement is not binding as a precedent.[58] Even conceding arguendo that it had any bearing in the case for illegal dismissal, such statement carries no persuasive effect in the instant appeal as it referred to the acts of Fe, against whom the case had already been closed and terminated in light of the Compromise Agreement forged between her and Joedel.

While it correctly dismissed Joedel's complaint for damages for lack of merit, the RTC committed reversible error when it granted Elena and Fe's counterclaim and awarded them the following amounts: (i) P500,000.00 as moral damages; (ii) P100,000.00 as exemplary damages; and (iii) P50,000.00 as attorney's fees and expenses of litigation.[59]

In a counterclaim, the burden of proving by preponderant evidence the existence of the claim lies with the defendant.[60] While Joedel's case concededly lacked merit, an award of moral damages in favor of Elena as the prevailing party is not a legal consequence that automatically follows.[61] A contrary ruling will lead to the absurd situation where moral damages will be awarded all the time in favor of the prevailing defendant against the unsuccessful plaintiff.[62] It bears emphasis that moral damages should only be granted if the basis therefor is clearly established.[63] In the case at bar, Elena failed to sufficiently prove her entitlement to such damages. Never did she take the witness stand to attest to the injuries, sleepless nights, besmirched reputation and/or serious anxiety she allegedly suffered as a consequence of Joedel's filing of the complaint. These damages are inherently personal, and in this case, no other person could have proven them except Elena herself.[64]

On the exemplary damages awarded by the RTC, by way of example to deter the filing of baseless suits,[65] the same must be deleted. A specie of damages that is allowed only in addition to moral damages, no exemplary damages can be awarded in this case due to Elena's failure to establish her clear right to moral damages.[66] Moreover, there is no showing that in filing the complaint for damages, Joedel acted in a wanton, oppressive or malevolent manner.[67] Besides, the law could not have meant to impose a penalty on the right to litigate.[68]

As to the attorney's fees, the general rule is that they cannot be recovered as part of damages because of the public policy that no premium should be placed on the right to litigate.[69] Furthermore, since We have deleted the award of moral and exemplary damages, Article 2208 of the Civil Code dictates that the award of attorney's fees must be correspondingly deleted.[70]

The oft-repeated rule is that "mere allegations do not suffice and claims must be substantiated by clear and convincing proof." [71] In seeking for the award of damages, the claimant, regardless of whether he is the plaintiff in a complaint, or the defendant in a counterclaim, must sufficiently establish his entitlement to indemnity. Joedel and Elena sorely failed in this regard. Hence, their complaint and counterclaim against each other must be denied.

WHEREFORE, with the MODIFICATION deleting the award of moral and exemplary damages as well as attorney's fees and expenses of litigation, the January 7, 2012 Decision of the Regional Trial Court of Quezon, Branch 221, in Civil Case No. Q-03-49985 is AFFIRMED in all other respects.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Garcia, R.R., and Bueser, D.Q., JJ., concur.

[1] Records, pp. 304-321

[2] Id., p. 320.

[3] Id., p. 5.

[4] Id., p. 1.

[5] Id., p. 193.

[6] Id., p. 193; 231. "Kung sino and nagsabi kay Dhang na nasa boarding house ako, sasampalin ko."

[7] Id., p. 2.

[8] Id.

[9] Id., p. 179

[10] Id., p. 239

[11] Id., p. 191

[12] Id., pp. 255-263

[13] Id., pp. 1-3

[14] Supra note 7.

[15] Id.

[16] Id.

[17] Id.

[18] Id.

[19] Id.

[20] Id., p. 3.

[21] Id., pp. 16-21. Filed after a Motion for Extension to file Answer

[22] Id., p. 17. The exact phrase in the vernacular was “wala pa siya sa room at kanina pa wala.”

[23] Id., p. 18

[24] Id., p. 17.

[25] Id., p. 19.

[26] Id., p. 18.

[27] Id., pp. 19-20.

[28] Id., pp. 316-317.

[29] Rollo, p. 50.

[30] Id., p. 52

[31] Supra note 1, pp. 323-324.

[32] Supra note 29, pp. 19-20.

[33] Vitarich Corporation vs. Losin, G.R. No. 181560, November 15, 2010.

[34] University of Santo Tomas vs. Court of Appeals and Canicosa, G.R. No. 124250, October 18, 2004.

[35] Mahinay vs. Velasquez, Jr., G.R. No. 152753, January 13, 2004, citing Keirulf vs. Court of Appeals, 269 SCRA 433 [1997].

[36] Supra note 33.

[37] Supra note 34.

[38] Id.

[39] Id.

[40] Pader vs. People, G.R. No. 139157, February 8, 2000, citing Victorio vs. Court of Appeals, 173 SCRA 645 [1989]; Larobis vs. Court of Appeals, 220 SCRA 639 [1993]; Balite vs. People, 18 SCRA 280 [1966]; Padilla, Ambrosio, Revised Penal Code Annotated, 1990 edition, Vol. 4, pp. 357-358.

[41] Supra note 1, p. 18

[42] See TSN dated December 12, 2008, p. 13

“Q: When Ms. Quitariano said these words which you heard, what in your mind was the meaning that Ms. Quitariano was trying to convey with these words?

A: None sir.”

[43] Supra note 1, p. 193.

[44] Id., p. 17. The exact words in the vernacular were, “wala pa siya sa room at kanina pa wala.”

[45] Supra note 42, p. 13-14.

[46] Id.

[47] See TSN dated April 14, 2009, p. 21

[48] Supra note 42, pp. 13-14.

[49] Supra note 47, pp. 21-23. Merlita described the distance as two tables away or “about 3 to 4 meters away.”

[50] SPO1 Loreto Nerpio vs. People, G.R. No. 155153, July 24, 2007, citing People v. Galido, G.R. Nos. 148689-92, March 30, 2004, ; People v. Penaso, G.R. No. 121980, February 23, 2000.

[51] See TSN dated December 9, 2005, p. 9. “I considered the laughter salacious because I was the only one who called up at that time, so there's nobody else for them to laugh at but me.”

[52] See TSN dated May 29, 2007, p. 11. “The reason why I reacted to the statement given by Fe Quitariano because [sic] I don't want my name besmirched, in the first place my auntie is a Manager in the SSS.” (Emphasis supplied)

[53] Supra note 35.

[54] Supra note 51, pp. 15-16.

[55] Supra note 1, p. 191.

[56] Id., p. 262.

[57] Id., p. 189. The Labor Arbiter opined that, xxx“The remark “Baka nasa boarding house” cannot be downgraded as a simple joke, but a malicious double meaning remark aimed at creating intrigue between complainant and his wife... not to mention that the remark was followed by loud and salacious laughter of all those in the room at the time.xxx”

[58] Landbank of the Philippines vs. Suntay, G.R. No. 188376, December 14, 2011; Villanueva, Jr. vs. Court of Appeals and Villadores, G.R. No. 142947, March 19, 2002, citing Delta Motors Corporation vs. Court of Appeals, 276 SCRA 212, 223 [1997]; Auyong Hian vs. Court of Tax Appeals, 59 SCRA 110, 120 [1974].

[59] Supra note 1, p. 320.

[60] Ogawa vs. Menigishi, G.R. No. 193089, July 9, 2012.

[61] Delos Santos vs. Papa and Mateo, G.R. No. 154427, May 8, 2009.

[62] Id.

[63] Id.

[64] Supra note 35.

[65] Supra note 1, p. 319.

[66] Editha Francisco vs. Roque Co, et al., G.R. No. 151339, January 31, 2006.

[67] Id.

[68] Supra note 61.

[69] Supra note 66.

[70] The court a quo awarded attorney's fees justifying its award pursuant to Article 2208, paragraphs (1), (2), (4) and (11).

[71] Philippine National Bank vs. Court of Appeals, 266 SCRA 136 [1997], cited in Supra note 35.

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