

**CONRADO BUNAG, JR., PETITIONER, VS. HON. COURT OF APPEALS,
FIRST DIVISION, AND ZENaida B. CIRILO, RESPONDENTS.***G.R. No. 101749. July 10, 1992*

Ponente: REGALADO, J.

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Petitioner appeals for the reversal of the decision[1] of respondent Court of Appeals promulgated on May 17, 1991 in CA-G.R. CV No. 07054, entitled "Zenaida B. Cirilo vs. Conrado Bunag, Sr. and Conrado Bunag, Jr.," which affirmed in toto the decision of the Regional Trial Court, Branch XI at Bacoor, Cavite, and, implicitly, respondent court's resolution of September 3, 1991[2] denying petitioner's motion for reconsideration.

Respondent court having assiduously discussed the salient antecedents of this case, vis-a-vis the factual findings of the court below, the evidence of record and the contentions of the parties, it is appropriate that its findings, which we approve and adopt, be extensively reproduced hereunder:

"Based on the evidence on record, the following facts are considered indisputable. On the afternoon of September 8, 1973, defendant-appellant Bunag, Jr. brought plaintiff-appellant to a motel or hotel where they had sexual intercourse. Later that evening, said defendant-appellant brought plaintiff-appellant to the house of his grandmother Juana de Leon in Pamplona, Las Piñas, Metro Manila, where they lived together as husband and wife for 21 days, or until September 29, 1973. On September 10, 1973, defendant-appellant Bunag, Jr. and plaintiff-appellant filed their respective applications for a marriage license with the Office of the Local Civil Registrar of Bacoor, Cavite. On October 1, 1973, after leaving plaintiff-appellant, defendant-appellant Bunag, Jr. filed an affidavit withdrawing his application for a marriage license.

"Plaintiff-appellant contends that on the afternoon of September 8, 1973, defendant-appellant Bunag, Jr., together with an unidentified male companion, abducted her in the vicinity of the San Juan de Dios Hospital in Pasay City and brought her to a motel where she was raped. The court a quo, which adopted her evidence, summarized the same which we paraphrased as follows:

"Plaintiff was 26 years old on November 5, 1974 when she testified, single and had finished a college course in Commerce (t.s.n., p. 4, Nov. 5, 1974). It appears that on September 8, 1973, at about 4:00 o'clock in the afternoon, while she was walking along Figueras Street, Pasay City on her way to the San Juan de Dios Canteen to take her snack, defendant, Conrado Bunag, Jr., came riding in a car driven by a male companion. Plaintiff and defendant Bunag, Jr. were sweethearts, but two weeks before September 8, 1973, they had a quarrel, and Bunag, Jr., wanted to talk matters over with plaintiff, so that he invited her to take their merienda at the Aristocrat Restaurant in Manila instead of at the San Juan de Dios Canteen, to which plaintiff obliged, as she believed in his sincerity (t.s.n., pp. 8-10, Nov. 5, 1974).

'Plaintiff rode in the car and took the front seat beside the driver while Bunag, Jr. seated himself by her right side. The car travelled north on its way to the Aristocrat Restaurant but upon reaching San Juan Street in Pasay City, it turned abruptly to the right, to which plaintiff protested, but which the duo ignored and instead threatened her not to make any noise as they were ready to die and would bump the car against the post if she persisted. Frightened

and silenced, the car travelled its course thru F.B. Harrison Boulevard until they reached a motel. Plaintiff was then pulled and dragged from the car against her will, and amidst her cries and pleas. In spite of her struggle she was no match to the joint strength of the two male combatants because of her natural weakness being a woman and her small stature. Eventually, she was brought inside the hotel where the defendant Bunag, Jr. deflowered her against her will and consent. She could not fight back and repel the attack because after Bunag, Jr. had forced her to lie down and embraced her, his companion held her two feet, removed her panty, after which he left. Bunag, Jr. threatened her that he would ask his companion to come back and hold her feet if she did not surrender her womanhood to him, thus he succeeded in feasting on her virginity. Plaintiff described the pains she felt and how blood came out of her private parts after her vagina was penetrated by the penis of the defendant Bunag, Jr. (t.s.n. pp. 17-24, Nov. 5, 1974).

'After that outrage on her virginity, plaintiff asked Bunag, Jr. once more to allow her to go home but the latter would not consent and stated that he would only let her go after they were married as he intended to marry her, so much so that she promised not to make any scandal and to marry him. Thereafter, they took a taxi together after the car that they used had already gone, and proceeded to the house of Juana de Leon, Bunag, Jr.'s grandmother in Pamplona, Las Piñas, Metro Manila where they arrived at 9:30 o'clock in the evening (t.s.n., p. 26, Nov. 5, 1974). At about ten (10) o'clock that same evening, defendant Conrado Bunag, Sr., father of Bunag, Jr. arrived and assured plaintiff that the following day which was a Monday, she and Bunag, Jr. would go to Bacoor, to apply for a marriage license, which they did. They filed their applications for marriage license (Exhibits 'A' and 'C') and after that plaintiff and defendant Bunag, Jr. returned to the house of Juana de Leon and lived there as husband and wife from September 8, 1973 to September 29, 1973.

'On September 29, 1973 defendant Bunag, Jr. left and never returned, humiliating plaintiff and compelled her to go back to her parents on October 3, 1973. Plaintiff was ashamed when she went home and could not sleep and eat because of the deception done against her by defendants-appellants (t.s.n., p. 35, Nov. 5, 1974).

'The testimony of plaintiff was corroborated in toto by her uncle, Vivencio Bansagan who declared that on September 8, 1973 when plaintiff failed to arrive home at 9:00 o'clock in the evening, his sister who is the mother of plaintiff asked him to look for her but his efforts proved futile, and he told his sister that plaintiff might have married (baka nag-asawa, t.s.n., pp. 5-6, March 18, 1976). However, in the afternoon of the next day (Sunday), his sister told him that Francisco Cabrera, accompanied by barrio captain Jacinto Manalili of Ligas, Bacoor, Cavite, informed her that plaintiff and Bunag, Jr. were in Cabrera's house, so that her sister requested him to go and see the plaintiff, which he did, and at the house of Mrs. Juana de Leon in Pamplona, Las Piñas, Metro Manila he met defendant Conrado Bunag, Sr., who told him, 'Pare, the children are here already. Let us settle the matter and have them married'.

'He conferred with plaintiff who told him that as she had already lost her honor, she would bear her sufferings as Boy Bunag, Jr. and his father promised they would be married.'

"Defendants-appellants, on the other hand, deny that defendant-appellant Conrado Bunag, Jr. abducted and raped plaintiff-appellant on September 8, 1973. On the contrary, plaintiff-appellant and defendant-appellant Bunag, Jr. eloped on that date because of the opposition of the latter's father to their relationship.

"Defendants-appellants claim that defendant-appellant Bunag, Jr. and plaintiff-appellant had earlier made plans to elope and get married, and this fact was known to their friends, among them, Architect Chito Rodriguez. The couple made good their plans to elope on the afternoon of September 8, 1973, when defendants-appellant Bunag, Jr., accompanied by his friend Guillermo Ramos, Jr., met plaintiff-appellant and her officemate named Lydia in the vicinity of the San Juan de Dios Hospital. The foursome then proceeded to (the) aforesaid hospital's canteen where they had some snacks. Later, Guillermo Ramos, Jr. took Lydia to Quirino Avenue

where she could get a ride home, thereby leaving the defendant-appellant Bunag, Jr. and plaintiff-appellant alone. According to defendant-appellant Bunag, Jr., after Guillermo Ramos, Jr., and Lydia left, he and plaintiff-appellant took a taxi to the Golden Gate and Flamingo Hotels where they tried to get a room, but these were full. They finally got a room at the Holiday Hotel, where defendant-appellant registered using his real name and residence certificate number. Three hours later, the couple checked out of the hotel and proceeded to the house of Juana de Leon at Pamplona, Las Piñas, where they stayed until September 19, 1973. Defendant-appellant claims that bitter disagreements with plaintiff-appellant over money and the threats made to his life prompted him to break off their plan to get married.

"During this period, defendant-appellant Bunag, Sr. denied having gone to the house of Juan de Leon and telling plaintiff-appellant that she would be wed to defendant-appellant Bunag, Jr. In fact, he phoned Atty. Conrado Adreneda, member of the board of directors of Mandala Corporation, defendant-appellant Bunag, Jr.'s employer, three times between the evening of September 8, 1973 and September 9, 1973 inquiring as to the whereabouts of his son. He came to know about his son's whereabouts when he was told of the couple's elopement late in the afternoon of September 9, 1973 by his mother Candida Gawaran. He likewise denied having met relatives and emissaries of plaintiff-appellant and agreeing to her marriage to his son.[3]

A complaint for damages for alleged breach of promise to marry was filed by herein private respondent Zenaida B. Cirilo against petitioner Conrado Bunag, Jr. and his father, Conrado Bunag, Sr., as Civil Case No. N-2028 of the Regional Trial Court, Branch XIX at Bacoor, Cavite. On August 20, 1983, on a finding, inter alia, that petitioner had forcibly abducted and raped private respondent, the trial court rendered a decision[4] ordering petitioner Bunag, Jr. to pay private respondent P80,000.00 as moral damages, P20,000.00 as exemplary damages, P20,000.00 by way of temperate damages, and P10,000.00 for and as attorney's fees, as well as the costs of suit. Defendant Conrado Bunag, Sr. was absolved from any and all liability.

Private respondent appealed that portion of the lower court's decision disculpating Conrado Bunag, Sr. from civil liability in this case. On the other hand, the Bunags, as defendants-appellants, assigned in their appeal several errors allegedly committed by the trial court, which were summarized by respondent court as follows: (1) in finding that defendant-appellant Conrado Bunag, Jr. forcibly abducted and raped plaintiff-appellant; (2) in finding that defendants-appellants promised plaintiff-appellant that she would be wed to defendant-appellant Conrado Bunag, Jr.; and (3) in awarding plaintiff-appellant damages for the breach of defendants-appellants' promise of marriage.[5]

As stated at the outset, on May 17, 1991 respondent Court of Appeals rendered judgment dismissing both appeals and affirming in toto the decision of the trial court. His motion for reconsideration having been denied, petitioner Bunag, Jr. is before us on a petition for review, contending that (1) respondent court failed to consider vital exhibits, testimonies and incidents for petitioner's defense, resulting in the misapprehension of facts and violative of the law on preparation of judgments; and (2) it erred in the application of the proper law and jurisprudence by holding that there was forcible abduction with rape, not just a simple elopement and an agreement to marry, and in the award of excessive damages.[6]

Petitioner Bunag, Jr. first contends that both the trial and appellate courts failed to take into consideration the alleged fact that he and private respondent had agreed to marry, and that there was no case of forcible abduction with rape, but one of simple elopement and agreement to marry. It is averred that the agreement to marry has been sufficiently proven by the testimonies of the witnesses for both parties and the exhibits presented in court.

This submission, therefore, clearly hinges on the credibility of the witnesses and evidence presented by the parties and the weight accorded thereto in the factual findings of the trial court and the Court of Appeals. In effect, what petitioner would want this Court to do is to evaluate and analyze anew the evidence, both testimonial and documentary, presented before and calibrated by the trial court, and as further meticulously reviewed and

discussed by respondent court.

The issue raised primarily and ineluctably involves questions of fact. We are, therefore, once again constrained to stress the well-entrenched statutory and jurisprudential mandate that findings of fact of the Court of Appeals are, as a rule, conclusive upon this Court. Only questions of law, distinctly set forth, may be raised in a petition for review on certiorari under Rule 45 of the Rules of Court, subject to clearly settled exceptions in case law.

Our jurisdiction in cases brought to us from the Court of Appeals is limited to reviewing and revising the errors of law imputed to the latter, its findings of fact being conclusive. This Court has emphatically declared that it is not its function to analyze or weigh such evidence all over again, its jurisdiction being limited to reviewing errors of law that might have been committed by the lower court. Barring, therefore, a showing that the findings complained of are totally devoid of support in the record, or that they are so glaringly erroneous as to constitute serious abuse of discretion, such findings must stand, for this Court is not expected or required to examine or contrast the oral and documentary evidence submitted by the parties.[7] Neither does the instant case reveal any feature falling within any of the exceptions which under our decisional rules may warrant a review of the factual findings of the Court of Appeals. On the foregoing considerations and our review of the records, we sustain the holding of respondent court in favor of private respondent.

Petitioner likewise asserts that since the action involves a breach of promise to marry, the trial court erred in awarding damages.

It is true that in this jurisdiction, we adhere to the time-honored rule that an action for breach of promise to marry has no standing in the civil law, apart from the right to recover money or property advanced by the plaintiff upon the faith of such promise.[8] Generally, therefore, a breach of promise to marry per se is not actionable, except where the plaintiff has actually incurred expenses for the wedding and the necessary incidents thereof.

However, the award of moral damages is allowed in cases specified in or analogous to those provided in Article 2219 of the Civil Code. Correlatively, under Article 21 of said Code, in relation to paragraph 10 of said Article 2219, any person who wilfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for moral damages.[9] Article 21 was adopted to remedy the countless gaps in the statutes which leave so many victims of moral wrongs helpless even though they have actually suffered material and moral injury, and is intended to vouchsafe adequate legal remedy for that untold number of moral wrongs which is impossible for human foresight to specifically provide for in the statutes.[10]

Under the circumstances obtaining in the case at bar, the acts of petitioner in forcibly abducting private respondent and having carnal knowledge with her against her will, and thereafter promising to marry her in order to escape criminal liability, only to thereafter renege on such promise after cohabiting with her for twenty-one days, irremissibly constitute acts contrary to morals and good customs. These are grossly insensate and reprehensible transgressions which indisputably warrant and abundantly justify the award of moral and exemplary damages, pursuant to Article 21 in relation to paragraphs 3 and 10, Article 2219, and Articles 2229 and 2234 of the Civil Code.

Petitioner would, however, belabor the fact that said damages were awarded by the trial court on the basis of a finding that he is guilty of forcible abduction with rape, despite the prior dismissal of the complaint therefor filed by private respondent with the Pasay City Fiscal's Office.

Generally, the basis of civil liability from crime is the fundamental postulate of our law that every person criminally liable for a felony is also civilly liable. In other words, criminal liability will give rise to civil liability ex delicto only if the same felonious act or omission results in damage or injury to another and is the direct and

proximate cause thereof.[11] Hence, extinction of the penal action does not carry with it the extinction of civil liability unless the extinction proceeds from a declaration in a final judgment that the fact from which the civil might arise did not exist.[12]

In the instant case, the dismissal of the complaint for forcible abduction with rape was by mere resolution of the fiscal at the preliminary investigation stage. There is no declaration in a final judgment that the fact from which the civil case might arise did not exist. Consequently, the dismissal did not in any way affect the right of herein private respondent to institute a civil action arising from the offense because such preliminary dismissal of the penal action did not carry with it the extinction of the civil action.

The reason most often given for this holding is that the two proceedings involved are not between the same parties. Furthermore, it has long been emphasized, with continuing validity up to now, that there are different rules as to the competency of witnesses and the quantum of evidence in criminal and civil proceedings. In a criminal action, the State must prove its case by evidence which shows the guilt of the accused beyond reasonable doubt, while in a civil action it is sufficient for the plaintiff to sustain his cause by preponderance of evidence only.[13] Thus, in *Rillon, et al. vs. Rillon*,^[14] we stressed that it is not now necessary that a criminal prosecution for rape be first instituted and prosecuted to final judgment before a civil action based on said offense in favor of the offended woman can likewise be instituted and prosecuted to final judgment.

WHEREFORE, the petition is hereby DENIED for lack of merit, and the assailed judgment and resolution are hereby AFFIRMED.

SO ORDERED.

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

Nocon, J., no part.

[1] Penned by Presiding Justice Rodolfo A. Nocon, with Associate Justices Antonio M. Martinez and Asaali S. Isnani, concurring; Annex A, Petition; Rollo, 14.

[2] Rollo, 24-26.

[3] *Ibid.*, 15-19.

[4] *Ibid.*, 27-57; Annex C, Petition; per Executive Judge Ildefonso M. Bleza.

[5] *Ibid.*, 15.

[6] *Ibid.*, 7.

[7] *Morales vs. Court of Appeals, et al.*, 197 SCRA 391 (1991).

[8] *De Jesus, et al. vs. Syquia*, 58 Phil. 866 (1933).

[9] *Ford vs. Court of Appeals, et al.*, 186 SCRA 21 (1990).

[10] *Globe Mackay Cable and Radio Corp., et al. vs. Court of Appeals, et al.*, 176 SCRA 778 (1989).

[11] *Calalang, et al. vs. Intermediate Appellate Court, et al.*, 194 SCRA 514 (1991).

[12] Sec. 2(b), Rule 111, 1985 Rules of Criminal Procedure; *Faraon, et al. vs. Prieta*, 24 SCRA 582 (1968).

[13] *Ocampo, et al. vs. Jenkins, et al.*, 14 Phil. 681 (1909).

[14] 107 Phil. 783 (1960).

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