

JOSE DOMINGDING AND DAVID ARAÑAS, PLAINTIFFS AND APPELLANTS, VS. TRINIDAD NG AND CHEE NG, DEFENDANTS AND APPELLEES.

G.R. No. 10872. February 28, 1958

Ponente: LABRADOR, J.

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LABRADOR, J.:

Appeal from a judgment of the Court of First Instance of Manila certified to this Court by the Court of Appeals for the reason that the amount involved is beyond the latter court's jurisdiction.

On May 25, 1953, Trinidad Ng purchased from plaintiffs some 1950 baskets (kaings) of mangoes for export to Japan. Plaintiffs claim that actually 400 baskets were purchased, but defendants allege that there were only 150, and that these were shipped to Hongkong on the same day as evidenced by bill of lading Exhibit "1". Although an invoice presented by plaintiffs states that the amount delivered is 400 kaings (Exhibit "B"), the invoice, however, does not contain the signature of the purchaser.

The evidence shows that on the evening of that same day, May 25, 1953, Trinidad Ng went again to the place of business of the plaintiffs, looking for her brother-in-law. Plaintiff David Arañas was present at the bodega and having informed Trinidad Ng that her brother-in-law was not in the place, offered to accompany her home in a taxi. Trinidad Ng accepted the invitation, having known Arañas for the past 10 years. So Arañas called a "Golden" taxi at the corner of M. de Santos and Elcano Streets, San Nicolas and both of them embarked therein.

Aranas ordered the driver to proceed to Luneta, but Trinidad objected, telling the driver to bring her to Tennessee, her home, and not to the Luneta. At that instant, Arañas immediately embraced her and after embracing her subjected her to indignities described by Trinidad Ng thus:

"He kissed me and trying to push my panty and held my private parts, and when I was trying to struggle against him I hit him. He embraced my back and kissed me on the neck and also on the breast. When I was fighting with him there in the taxi and at the time when he was able to free my hands I shouted to the driver to stop the taxi. But the taxi did not stop actually but it ran very slowly, and I was able to open the door and jumped out." (p. 6, Transcript of the Testimony for the Defense.)

When the taxi reached the corner of San Fernando and Elcano Streets, Trinidad was able to jump out of the taxi, which had slackened speed. She took a "liberty" taxi and in it drove home, crying. She informed her husband about the incident and her husband decided that a complaint be filed by her the following day in the Office of the City Fiscal. This was not done, however, but three days later.

The complaint was for acts of lasciviousness, but the complaint could not be investigated promptly and on September 28, 1953, the case was dropped.

The present action was brought by Jose Domingding, owner of the mango store and plaintiff Aranas, his manager, to recover from Trinidad Ng and her husband the value of 400 baskets of mangoes claimed to have been delivered

on May 25, 1953. Allegation is made in the complaint that the purchasers had agreed to pay the following day but that they failed to do so. In answer defendants allege that only 150 baskets were taken and that these were to be paid for, according- to the understanding between the parties, when the price of the mangoes exported had been collected. Defendants also put up a counterclaim against David Arañas for the amount of P50,000 as moral damages for the indecent indignities to which Trinidad Ng was subjected by plaintiff Arañas, for P10,000 as exemplary damages, and for P1,000 as attorney's fees. In the judgment rendered, defendants were sentenced to pay the value of 150 baskets of mangoes on plaintiffs' complaint; but, on the other hand, plaintiff Arañas was sentenced to pay to defendant the sum of P50,000 as moral damages, and the further sum of P1,000 as attorney's fees. The owner of the store, Jose Domingding withdrew his appeal, so the present case concerns David Arañas alone.

The law provides that moral damages are to be fixed in the discretion of the judge. Unfortunately, the decision appealed from states no reasons or facts or circumstances why the moral damages had been fixed at P50,000. As the trial judge had opportunity to examine the parties, both offender and offended, it would have been easy for him to have specified such circumstances, such as the bearing, manners, personality, education, and so forth, of the parties-all of which it should have considered in assessing the moral damages of P50,000. But it failed to do so, and this Court feels it difficult to fix the amount of moral damages that should be paid. From the record, however, we note that the offended party is a married woman, a business woman, and so is the offender; the occasion was during nighttime, so the indignities suffered by the offended party could not have been witnessed by many people; the assault on the person's dignity did not last because before covering Elcano Street, where the parties embarked, the offended party was able to get out of the taxi and saved from the indignities being made by the offender; and the only persons that learned of the assault were the two taxi drivers, the offended party's husband and the offender.

In cases like the present, the social and financial standings of the offender and the offended party are additional elements which should be taken into account in the determination of the amount of moral damages. While it is true that social dignity does not depend upon the wealth or poverty of a person, the amount necessary to repair the damage thereto depends upon her own social and financial means. The financial standing and means of the offender is also a convenient gauge for the determination of the amount necessary to repair the injury caused.

"It is clear that because of the fraud perpetrated upon her by the appellee she suffered mental anguish, besmirched reputation, wounded feelings, moral shock and social humiliation, which are the elements upon which recovery for moral damages may be obtained. Article 2217 new Civil Code, There is also enough reason to impose exemplary or corrective damages. Appellant Rustico Victorino is, as already stated, entitled to moral damages, and appellee's act was wanton, fraudulent and oppressive. These elements, therefore, necessary for the imposition of this kind of damages, are present in the instant case. In assessing, however, the amount of these damages the financial standing of the defendant, as disclosed by the evidence, must be considered. 11 C. J. S. 807." (Victorino, et al. vs. Nora, C. A., 52 Off. Gaz., [2], 911.) (Italics supplied)

"* * * While the fundamental rule of the law is to award compensation, yet rules for ascertaining the amount of compensation to be awarded are formed with reference to the just rights of both parties, and the standard fixed for estimating damages ought to be determined, not only what might be right for plaintiff to receive in order to afford just compensation, but also by what is just to compel defendant to pay." (25 C. J. S. 560-561.) (Italics supplied.)

"It is true that petitioner is a mere laborer, while the plaintiff in the Aero Taxicab case was a general utility man, but this difference in their position or earning capacity cannot be considered of significance for the reason that in the determination of moral damages the human value and the dignity of man are of paramount consideration. * * *." (Layda vs. Hon. Court of Appeals, et al., 90 Phil., 724.) (Italics supplied.)

From the record we also understand that the offended party is an exporter of mangoes who, evidently, does, not seem to have much capital because she only pays for the mangoes when the same is sold. Neither does the offender seem or appear to be of much financial consequence because he was only the overseer or manager of a mango store.

With all the above circumstances in mind, the Tribunal believes that the sum of P50,000, assessed by the court a quo, is excessive. P1,000 should be sufficient as moral damages, but the offender should be required to pay punitive damages in the amount of P2,000 because of his act in abusing the confidence of a customer belonging to the weaker sex, which bespeaks of a perverse nature dangerous to the community.

Insofar as the attorney's fees are concerned, the amount fixed seems to be reasonable.

Wherefore, the decision appealed from is hereby modified and the defendants are allowed to recover on their counterclaim against David Arañas the sum of P1,000 as moral damages, the sum of P2,000 as punitive damages and P1,000 as attorney's fees.

Paras, C.J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Concepcion, Reyes, J.B.L., Endencia and Felix, JJ., concur.

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