

ONG CHIU KWAN, PETITIONER, VS. COURT OF APPEALS, AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 113006. November 23, 2000

Ponente: PARDO, J.

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PARDO, J.:

What is before the Court for consideration is the decision of the Court of Appeals affirming the conviction of accused Ong Chiu Kwan, for unjust vexation.[1]

On January 31, 1991, Assistant City Prosecutor Andres M. Bayona of Bacolod filed with the Municipal Trial Court, Bacolod City an information charging petitioner with unjust vexation for cutting the electric wires, water pipes and telephone lines of "Crazy Feet," a business establishment owned and operated by Mildred Ong.[2]

On April 24, 1990, at around 10:00 in the morning, Ong Chiu Kwan ordered Wilfredo Infante to "relocate" the telephone, electric and water lines of "Crazy Feet," because said lines posed as a disturbance.[3] However, Ong Chiu Kwan failed to present a permit from appropriate authorities allowing him to cut the electric wires, water pipe and telephone lines of the business establishment.[4]

After due trial, on September 1, 1992, the Municipal Trial Court found Ong Chiu Kwan guilty of unjust vexation,[5] and sentenced him to "imprisonment for twenty days." [6] The court also ordered him to pay moral damages, finding that the wrongful act of abruptly cutting off the electric, water pipe and telephone lines of "Crazy Feet" caused the interruption of its business operations during peak hours, to the detriment of its owner, Mildred Ong. The trial court also awarded exemplary damages to complainant "as a deterrent to the accused not to follow similar act in the future and to pay attorney's fees." [7] The trial court disposed of the case as follows:

"IN VIEW THEREOF, this Court finds the accused guilty beyond reasonable doubt of the offense of unjust vexation provided under Article 287 par. 2 of the Revised Penal Code and sentences him to suffer a penalty of imprisonment of twenty (20) days and to pay private complainant the following:

P10,000.00 - moral damages

P 5,000.00 - exemplary damages

P 5,000.00 - attorney's fees and to pay the cost of this suit."

"SO ORDERED.

"Bacolod City, Philippines, September 1, 1992.

"(SGD.) RAFAEL O. PENUELA

Judge"[8]

On appeal to the Regional Trial Court, Bacolod City, the latter court in a decision dated December 8, 1992, simplistically adopted the decision of the lower court in toto, without stating the reasons for doing so.[9]

On April 22, 1993, by petition for review, Ong Chiu Kwan elevated the case to the Court of Appeals.[10] On

August 16, 1993, the Court of Appeals promulgated its decision dismissing the appeal,[11] agreeing with the lower court's finding that petitioner was guilty beyond reasonable doubt of unjust vexation.

Hence, this petition for review.[12]

The Court notes that in the decision of the Regional Trial Court which the Court of Appeals affirmed peremptorily without noticing its nullity, the Regional Trial Court merely quoted the decision of the Municipal Trial Court in full and added two paragraphs, thus:

"This Court, in accordance with the rules, required the parties to submit their corresponding memorandum or brief. The prosecution filed its memorandum, and also with the defense.

"After a careful perusal of the record of the case and evaluating the evidence thereto and exhibits thereof, this Court finds no ground to modify, reverse or alter the above-stated decision and hereby affirms the decision of the lower court in toto."[13]

The Constitution requires that "[N]o decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based."[14] The 1985 Rules of Criminal Procedure, as amended, provides that "[T]he judgment must be written in the official language, personally and directly prepared by the judge and signed by him and shall contain clearly and distinctly a statement of the facts proved or admitted by the accused and the law upon which the judgment is based."[15]

Although a memorandum decision is permitted under certain conditions, it cannot merely refer to the findings of fact and the conclusions of law of the lower court. The court must make a full findings of fact and conclusions of law of its own.[16]

Consequently, the decision of the regional trial court is a nullity. Very recently, speaking of a similarly worded decision of a regional trial court, we said:

"[I]t is starkly hallow, otiosely written, vacuous in its content and trite in its form. It achieved nothing and attempted at nothing, not even at a simple summation of facts which could easily be done. Its inadequacy speaks for itself."[17]

Judges similarly disposed to pay lip service to their work must rethink their place in the judiciary or seriously take refresher courses on decision writing. We warn them of stiff sanctions for such lackadaisical performance.

Consequently, the case may be remanded to the lower court for compliance with the constitutional requirement of contents of a decision. However, considering that this case has been pending for sometime, the ends of justice will be fully served if we review the evidence and decide the case.

Petitioner admitted having ordered the cutting of the electric, water and telephone lines of complainant's business establishment because these lines crossed his property line. He failed, however, to show evidence that he had the necessary permit or authorization to relocate the lines. Also, he timed the interruption of electric, water and telephone services during peak hours of the operation of business of the complainant. Thus, petitioner's act unjustly annoyed or vexed the complainant. Consequently, petitioner Ong Chiu Kwan is liable for unjust vexation.

Regarding damages, we find the award of moral and exemplary damages and attorney's fees to be without basis. Moral damages may be recovered if they were the proximate result of defendant's wrongful act or omission.[18] An award of exemplary damages is justified if the crime was committed with one or more aggravating circumstances.[19] There is no evidence to support such award. Hence, we delete the award of moral damages, exemplary damages, and attorney's fees.

WHEREFORE, the decisions of the lower courts are REVERSED and SET ASIDE. In lieu thereof, accused Ong

Chiu Kwan is hereby sentenced to pay a fine of P200.00, and the costs. The award of moral and exemplary damages and attorney's fees is hereby deleted.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] In CA-G. R. CR No. 14209, promulgated on August 16, 1993, Tayao-Jaguros, J., ponente, de Pano, Jr. and Isnani, JJ., concurring. Rollo, pp. 47-51.

[2] Information, Rollo, p. 113.

[3] Motion for Reconsideration etc., Annex "D", Rollo, pp. 119-128, at p. 122.

[4] Ibid., at p. 127.

[5] In Crim. Case No. 48294, Decision, dated September 1, 1992, Judge Rafael O. Penuela, presiding, Comment, Annex "B", Rollo, pp. 171-178.

[6] The term "imprisonment for twenty days" is wrong. The court must use the terminology of the Revised Penal Code, namely, twenty days of *arresto menor*. (People v. Palomar, 278 SCRA 114, 151-152 [1997]).

[7] Comment, Annex "B", Rollo, at p. 178.

[8] Ibid.

[9] Manifestation, Annex "D", Rollo, pp. 119-128; also Comment, Annex "C", Rollo, pp. 179-190. Judge Emma C. Labayen, presiding.

[10] Docketed as CA-G. R. CR No. 14209.

[11] Petition, Annex "C", Rollo, pp. 47-51.

[12] Petition filed on January 14, 1994, Rollo, pp. 8-40. On March 1, 2000, we gave due course to the petition. Rollo, pp. 392-393.

[13] Rollo, p. 128.

[14] Article VIII, Section 14, 1987 Constitution.

[15] Rule 120, Sec. 2, 1985 Rules on Criminal Procedure, as amended.

[16] Yao v. Court of Appeals, G. R. No. 132428, October 24, 2000; Francisco v. Permskul, 173 SCRA 324, 335 (1989).

[17] Yao v. Court of Appeals, *supra*, Note 16.

[18] Article 2217, Civil Code.

[19] Article 2230, Civil Code.

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