

DELIA MANUEL, PETITIONER, VS. JUDGE DAVID ALFECHE, JR., IN HIS CAPACITY AS THEN PRESIDING JUDGE OF RTC, REGION SIX, BRANCH 15, ROXAS CITY, FELIPE CELINO, DANNY FAJARDO AND LEMUE...

G.R. No. 115683. July 26, 1996

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

In criminal prosecutions, the civil action is deemed impliedly instituted unless the complainant waives it, or reserves the right to institute it separately or files it prior to the criminal. Where the trial court renders a judgment finding the accused guilty of libel, but *motu proprio* dismisses complainant's claims for, *inter alia*, moral and exemplary damages on the ground of complainant's failure to pay the filing fees therefor, may the complainant raise the matter via a petition for review on certiorari directly before this Court, while the judgment of conviction is on appeal before the Court of Appeals? This is the main question brought before this Court in this petition to set aside a portion of the Decision[1] of the respondent judge dated April 21, 1994 in Criminal Case No. 3539 as well as the Order[2] of the same court dated May 27, 1994 denying the motion for reconsideration.

The Facts

On January 9, 1992, the City Prosecutor of the City of Roxas filed with the Regional Trial Court, 6th Judicial Region, Branch 15, Roxas City an Information[3] for libel worded as follows:

"That on or about the period September 20-22, 1991, in the City of Roxas, Philippines, and within the jurisdiction of this Honorable Court, the said accused, FELIPE CELINO, being then the writer/author; DANNY FAJARDO, Editor-in-Chief, LEMUEL T. FERNANDEZ, Associate Editor; and JOHN PAUL TIA, Assistant Editor of a regional newspaper known as "Panay News" which has considerable circulation in Panay Island and throughout Western Visayas, including Roxas City and Capiiz Province, conspiring, confederating together and mutually helping one another, did then and there, willfully, unlawfully and feloniously, and with malicious intent of impeaching the integrity, credibility, honor, and reputation of DELIA MANUEL, and with the further malicious intent (to expose) DELIA MANUEL to public hatred, contempt, disrespect and ridicule, prepare, write, arrange, and publish, or cause to be prepared, written, arranged and published in the regular issue of the said Panay News for the period September 20-22, 1991, as Article in the front page and/or headline entitled "LOCAL SHABU PEDDLER NOW A MILLIONAIRE" the text of which is quoted hereunder:

"LOCAL SHABU PEDDLER NOW A MILLIONAIRE"

BY: FELIPE V. CELINO

ROXAS CITY - A middle-aged woman here has joined the ranks of millionaires after several years of selling shabu in the island of Panay.

Named by Narcom agents as "Delia" this woman is the alleged "shabu Queen" in Western Visayas and has been (raking) in millions of pesos since she started peddling shabu, marijuana and other prohibited drugs in this part of the country.

According to reliable sources, Delia has been transporting about 750 grams of shabu weekly from Manila to Panay. A gram of this poor man's Cocaine has a street value of P1,000 more or less.

What makes her business prosper almost unscathed and very productive is the protection provided her by a top ranking military officer in Manila, they said.

At present, the (sources) said, the shabu Queen is residing near one of the private schools in this City. She has three brand new cars. Her house's outside walls are made of bamboo but it is fully air-conditioned and complete with luxurious household appliances, PN sources added.

In Iloilo, Delia is known as "Madam-Ex". She doesn't deal with small time users. "She specializes in deals with scions of rich businessmen and even local politicians."

The Narcom has allegedly been monitoring the activities of the shabu queen but has not nailed her down yet because of lack of cooperation from the public.

which newspaper issues containing the abovequoted article were sent and circulated to, or caused to be sent or circulated to, and actually read by subscribers and other readers, especially those in the City of Roxas and Province of Capiz.

That said accused intended to convey, as in fact (have) actually conveyed in said article, false imputations and malicious insinuations against the said DELIA MANUEL, that is, that said Delia Manuel is the alleged "SHABU QUEEN" in Western Visayas and has been raking in millions of pesos since she started peddling shabu, marijuana and other prohibited drugs in this part of the country, with no good intention or justifiable motives, thereby (unjustly) and unlawfully besmirching the good name, character, and reputation of said Delia Manuel as a private person and as a businesswoman.

That as a direct consequence of the publication of the said article, said Delia Manuel suffered actual, moral and exemplary damages in the amount of TEN MILLION PESOS (P10, 000,000.00)." (Italics supplied)

After trial, the respondent judge rendered the assailed Decision finding three of the accused guilty and acquitting a fourth. However, "(t)he civil indemnity by way of moral damages (was) dismissed for lack of jurisdiction" on the ground that petitioner did not pay the filing fees therefor. In the words of the respondent court:

"x x x, close scrutiny of the record disclose that while the offended party seeks to enforce civil liability against the accused by way of moral damages in the amount of P10,000,000.00 which is alleged in the information, there was no payment of the filing fees corresponding thereto at the time of the filing of the information on January 9, 1992. For failing on this requisite, the court did not acquire jurisdiction on the civil indemnity thus claimed. Hence, the claim for recovery of moral damages by the offended party is dismissed."

The respondent court cited *General vs. Claravall*[4] in support of its action.

Reconsideration having been denied, petitioner sought to overturn the above dismissal via the instant petition for review on certiorari under Rule 45.

The Issues

Petitioner argues that "under the new Rules on Criminal Procedure x x x the filing fees, when moral, nominal, temperate or exemplary damages are claimed in the criminal case, shall constitute a first lien in the judgment, and thus need not be paid upon the filing of the information, (and therefore) the filing fees herein was (sic) not assessed by the Clerk of Court, nor paid by herein petitioner at the time of the filing of the information." Petitioner further insists that "it is only when the amount of damages other than actual, has been specified in the information that the filing fees is (sic) required to be paid upon the filing of the information, x x x and that since in (this) case the amount of damages stated in the information partakes firstly of actual damages and is not

entirely other than actual, then this case does not fall under the last par. of Sec. 1, Rule 111" of the 1988 Rules on Criminal Procedure.

In their comment and subsequently in their memorandum, private respondents counter that the present petition is erroneously filed. As the questioned Decision is a final judgment, the appropriate remedy would have been ordinary appeal, not appeal by certiorari. They also argue that "(t)he present petition is pre-mature because the questioned decision is pending appeal with the Honorable Court of Appeals. x x x (I)f the questioned decision be reversed ahead by the Court of Appeals x x x (there) would then be no more basis for the present petition." The accused - herein private respondents - had gone to the Court of Appeals seeking a reversal of the judgment of conviction.

The Court's Ruling

The petition is devoid of merit.

While petitioner may be correct in asserting that a direct petition may, under appropriate circumstances, be taken to this Court from the final judgment of the Regional Trial Court on pure questions of law in the form and manner provided for in the Revised Rules of Court,[5] nevertheless, in view of the factual environment of this case, particularly that private respondents herein had already taken an appeal to the Court of Appeals to question the trial court's judgment of conviction, the proper remedy for petitioner is simply ordinary appeal to the said tribunal.

This is so because the award of moral and exemplary damages by the trial court is inextricably linked to and necessarily dependent upon the factual finding of basis therefor, viz., the existence of the crime of libel. Inasmuch as the very same Decision herein assailed is already pending review by the Court of Appeals, there is a distinct possibility that said court may, if the facts and the law warrant, reverse the trial court and acquit the accused. In such event, the appellate court's action could collide with a ruling finding merit in petitioner's contentions before this Court. Such a situation would lead to absurdity and confusion in the ultimate disposition of the case. Obviously, this possibility must be avoided at all cost. This is (at least partly) the *raison d'être* for the rule against forum-shopping.[6] Clearly, then, petitioner ought to have brought her challenge in the Court of Appeals.

In connection with the foregoing discussion, we note petitioner's vehement insistence that Art. 33 of the Civil Code allows an independent civil action for damages in cases of defamation, fraud, and physical injuries to be instituted separately and independently from the criminal. She then concludes that the civil aspect of the case is not dependent on the criminal, but rather, may proceed independently thereof, and that therefore, the review of the civil aspect by this Court may take place simultaneously with and separately from the review of the criminal aspect by the Court of Appeals.

Such reasoning is misplaced. Sec. 1 of Rule 111 provides that the civil action for recovery of civil liability is impliedly instituted with the criminal action unless the offended party waives the civil action prior to the criminal action. In the present case, the civil action had been actually (not just impliedly) instituted with the criminal prosecution, as shown by the fact that petitioner took an active part in the prosecution of the criminal case. As admitted in the petition, "the private prosecutor, counsel for x x x the petitioner herein" was allowed "upon prior authority and under the supervision of the City Prosecutor, to handle the prosecution, by presenting all the prosecution's evidence" and even filing the Prosecution's Memorandum. Obviously then, there can no longer be any independent civil action to speak of, as the civil aspect had previously been included in the criminal. And petitioner, by attempting to have recourse to this Court with the criminal aspect still pending with the Court of Appeals, was effectively trying to split a single cause of action. This we cannot allow.

Petitioner also posits the non-necessity of paying the filing and docket fees by reason of the non-specification of the amounts of moral and exemplary damages being claimed by her, purportedly on the authority of this Court's

ruling in *General vs. Claravall* (supra). For the sake of clarity, we quote from *General*:

"This Court's plain intent - to make the Manchester doctrine, requiring payment of filing fees at the time of the commencement of an action applicable to impliedly instituted civil actions under Section 1, Rule 111 only when 'the amount of damages, other than actual, is alleged in the complaint or information' - has thus been made manifest by the language of the amendatory provisions (adopted by this Court with effect on October 1, 1988).

In any event, the Court now makes that intent plainer, and in the interests of clarity and certainty, categorically declares for the guidance of all concerned that when a civil action is deemed impliedly instituted with the criminal in accordance with Section 1, Rule 111 of the Rules of Court - because the offended party has NOT waived the civil action, or reserved the right to institute it separately, or instituted the civil action prior to the criminal action -the rule is as follows:

1) when the 'amount of damages, other than actual, is alleged in the complaint or information' filed in court, then 'the corresponding filing fees shall be paid by the offended party upon the filing thereof in Court for trial;'

2) in any other case, however - i.e., when the amount of damages is not so alleged in the complaint or information filed in court, the corresponding filing fees need not be paid and shall simply 'constitute a first lien on the judgment, except in an award for actual damages.'"

We hold that said *General* ruling, especially the last subparagraph above-quoted, was actually intended to apply to a situation wherein either (i) the judgment awards a claim not specified in the pleading, or (ii) the complainant expressly claims moral, exemplary, temperate and/or nominal damages but has not specified ANY amount at all, leaving the quantification thereof entirely to the trial court's discretion,[7] and NOT to a situation where the litigant specifies some amounts or parameters for the awards being sought, even though the different types of damages sought be not separately or individually quantified. Were we to hold otherwise, the result would be to permit litigants to continue availing of one more loophole in the rule on payment of filing fees, and would not serve to attain the purpose of the revised Sec. 1 of Rule 111, which is "to discourage the 'gimmick of libel complainants of using the fiscal's office to include in the criminal information their claim for astronomical damages in multiple millions of pesos without paying any filing fees.'"[8]

WHEREFORE, for utter lack of merit, the instant petition is DISMISSED.

SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., Melo, and Francisco, JJ., concur.

[1] Rollo, pp. 19-30.

[2] Rollo, pp. 32-33.

[3] Rollo, pp. 19-21.

[4] 195 SCRA 623 (March 22, 1991).

[5] *Southern Negros Development Bank, Inc. vs. Court of Appeals*, 233 SCRA 460 (June 27, 1994).

[6] Cf. *First Phil. International Bank vs. Court of Appeals*, G.R. No. 115849, January 24, 1996, citing inter alia, *Buna vs. Lopez*, 145 SCRA 34 (October 13, 1986).

[7] Cf. *Sun Insurance Office, Ltd., (SIOL) vs. Asuncion*, 170 SCRA 274, 285 (February 13, 1989), quoted in *Pantranco North Express, Inc. vs. Court of Appeals*, 224 SCRA 477, 487-488 (July 5, 1993).

[8] General vs. Claravall, *supra*, at p. 627.

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