RODRIGO CONCEPCION, PETITIONER, VS. COURT OF APPEALS AND SPS. NESTOR NICOLAS AND ALLEM NICOLAS, RESPONDENTS.

G.R. No. 120706. January 31, 2000

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

Petitioner Rodrigo Concepcion assails in this petition for review on certiorari the Decision of the Court of Appeals dated 12 December 1994 which affirmed the decision of the Regional Trial Court of Pasig City ordering him to pay respondent spouses Nestor Nicolas and Allem Nicolas the sums of P50,000.00 for moral damages, P25,000.00 for exemplary damages and P10,000.00 for attorney's fees, plus the costs of suit.[*] Petitioner claims absence of factual and legal basis for the award of damages.

The courts a quo found that sometime in 1985 the spouses Nestor Nicolas and Allem Nicolas resided at No. 51 M. Concepcion St., San Joaquin, Pasig City, in an apartment leased to them by the owner thereof, Florence "Bing" Concepcion, who also resided in the same compound where the apartment was located. Nestor Nicolas was then engaged in the business of supplying government agencies and private entities with office equipment, appliances and other fixtures on a cash purchase or credit basis. Florence Concepcion joined this venture by contributing capital on condition that after her capital investment was returned to her, any profit earned would be divided equally between her and Nestor.

Sometime in the second week of July 1985 Rodrigo Concepcion, brother of the deceased husband of Florence, angrily accosted Nestor at the latter's apartment and accused him of conducting an adulterous relationship with Florence. He shouted, "Hoy Nestor, kabit ka ni Bing! x x x Binigyan ka pa pala ni Bing Concepcion ng P100,000.00 para umakyat ng Baguio. Pagkaakyat mo at ng asawa mo doon ay bababa ka uli para magkasarilinan kayo ni Bing."[1]

To clarify matters, Nestor went with Rodrigo, upon the latter's dare, to see some relatives of the Concepcion family who allegedly knew about the relationship. However, those whom they were able to see denied knowledge of the alleged affair. The same accusation was hurled by Rodrigo against Nestor when the two (2) confronted Florence at the terrace of her residence. Florence denied the imputations and Rodrigo backtracked saying that he just heard the rumor from a relative. Thereafter, however, Rodrigo called Florence over the telephone reiterating his accusation and threatening her that should something happen to his sick mother, in case the latter learned about the affair, he would kill Florence.

As a result of this incident, Nestor Nicolas felt extreme embarrassment and shame to the extent that he could no longer face his neighbors. Florence Concepcion also ceased to do business with him by not contributing capital anymore so much so that the business venture of the Nicolas spouses declined as they could no longer cope with their commitments to their clients and customers. To make matters worse, Allem Nicolas started to doubt Nestor's fidelity resulting in frequent bickerings and quarrels during which Allem even expressed her desire to leave her husband. Consequently, Nestor was forced to write Rodrigo demanding public apology and payment of

damages. Rodrigo pointedly ignored the demand, for which reason the Nicolas spouses filed a civil suit against him for damages.

In his defense, Rodrigo denied that he maligned Nestor by accusing him publicly of being Florence's lover. He reasoned out that he only desired to protect the name and reputation of the Concepcion family which was why he sought an appointment with Nestor through Florence's son Roncali to ventilate his feelings about the matter. Initially, he discussed with Nestor certain aspects of the joint venture in a friendly and amiable manner, and then only casually asked the latter about his rumored affair with his sister-in-law.

In contesting the decision of the appellate court, petitioner Rodrigo Concepcion raises the following issues: (a) whether there is basis in law for the award of damages to private respondents, the Nicolas spouses; and, (b) whether there is basis to review the facts which are of weight and influence but which were overlooked and misapplied by the respondent appellate court.

Petitioner argues that in awarding damages to private respondents, the Court of Appeals was without legal basis to justify its verdict. The alleged act imputed to him by respondent spouses does not fall under Arts. 26[2] and 2219[3] of the Civil Code since it does not constitute libel, slander, or any other form of defamation. Neither does it involve prying into the privacy of another’s residence or meddling with or disturbing the private life or family relation of another. Petitioner also insists that certain facts and circumstances of the case were manifestly overlooked, misunderstood or glossed over by respondent court which, if considered, would change the verdict. Impugning the credibility of the witnesses for private respondents and the manner by which the testimonial evidence was analyzed and evaluated by the trial court, petitioner criticized the appellate court for not taking into account the fact that the trial judge who penned the decision was in no position to observe first-hand the demeanor of the witnesses of respondent spouses as he was not the original judge who heard the case. Thus, his decision rendered was flawed.

The Court has ruled often enough that its jurisdiction in a petition for review on certiorari under Rule 45 of the Revised Rules of Court is limited to reviewing only errors of law, not of fact, unless the factual findings complained of are devoid of support by the evidence on record or the assailed judgment is based on misapprehension of facts.[4] The reason behind this is that the Supreme Court respects the findings of the trial court on the issue of credibility of witnesses, considering that it is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial.[5] Thus it accords the highest respect, even finality, to the evaluation made by the lower court of the testimonies of the witnesses presented before it.

The Court is also aware of the long settled rule that when the issue is on the credibility of witnesses, appellate courts will not generally disturb the findings of the trial court; however, its factual findings may nonetheless be reversed if by the evidence on record or lack of it, it appears that the trial court erred.[6] In this respect, the Court is not generally inclined to review the findings of fact of the Court of Appeals unless its findings are erroneous, absurd, speculative, conjectural, conflicting, tainted with grave abuse of discretion, or contrary to the findings culled by the trial court of origin.[7] This rule of course cannot be unqualifiedly applied to a case where the judge who penned the decision was not the one who heard the case, because not having heard the testimonies himself, the judge would not be in a better position than the appellate courts to make such determination.[8]

However, it is also axiomatic that the fact alone that the judge who heard the evidence was not the one who rendered the judgment but merely relied on the record of the case does not render his judgment erroneous or irregular. This is so even if the judge did not have the fullest opportunity to weigh the testimonies not having heard all the witnesses speak nor observed their deportment and manner of testifying. Thus the Court generally

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will not find any misapprehension of facts as it can be fairly assumed under the principle of regularity of performance of duties of public officers that the transcripts of stenographic notes were thoroughly scrutinized and evaluated by the judge himself.

Has sufficient reason then been laid before us by petitioner to engender doubt as to the factual findings of the court a quo? We find none. A painstaking review of the evidence on record convinces us not to disturb the judgment appealed from. The fact that the case was handled by different judges brooks no consideration at all, for preponderant evidence consistent with their claim for damages has been adduced by private respondents as to foreclose a reversal. Otherwise, everytime a Judge who heard a case, wholly or partially, dies or lives the service, the case cannot be decided and a new trial will have to be conducted. That would be absurb; inconceivable.

According to petitioner, private respondents' evidence is inconsistent as to time, place and persons who heard the alleged defamatory statement. We find this to be a gratuitous observation, for the testimonies of all the witnesses for the respondents are unanimous that the defamatory incident happened in the afternoon at the front door of the apartment of the Nicolas spouses in the presence of some friends and neighbors, and later on, with the accusation being repeated in the presence of Florence, at the terrace of her house. That this finding appears to be in conflict with the allegation in the complaint as to the time of the incident bears no momentous significance since an allegation in a pleading is not evidence; it is a declaration that has to be proved by evidence. If evidence contrary to the allegation is presented, such evidence controls, not the allegation in the pleading itself, although admittedly it may dent the credibility of the witnesses. But not in the instant case.

It is also argued by petitioner that private respondents failed to present as witnesses the persons they named as eyewitnesses to the incident and that they presented instead one Romeo Villaruel who was not named as a possible witness during the pre-trial proceedings. Charging that Villaruel's testimony is not credible and should never have been accorded any weight at all, petitioner capitalizes on the fact that a great distance separates Villaruel's residence and that of private respondents as reflected in their house numbers, the former's number being No. 223 M. Concepcion St., while that of the Nicolas spouses, No. 51 along the same street. This being so, petitioner concludes, Villaruel could not have witnessed the ugly confrontation between Rodrigo and Nestor. It appears however from Villaruel's testimony that at the time of the incident complained of, he was staying in an apartment inside the compound adjacent to that of the Nicolas spouses. Whether his apartment was then numbered 223 is not stated. What is definite and clear is his statement that he and Nestor Nicolas were neighbors on 14 July 1985.

There are other inconsistencies pointed out by petitioner in the testimonial evidence of private respondents but these are not of such significance as to alter the finding of facts of the lower court. Minor inconsistencies even guarantee truthfulness and candor, for they erase any suspicion of a rehearsed testimony.[9] Inconsistencies in the testimonies of witnesses with on minor details and collateral matters do not affect the substance of their testimonies.[10]

All told, these factual findings provide enough basis in law for the award of damages by the Court of Appeals in favor of respondents. We reject petitioner's posture that no legal provision supports such award, the incident complained of neither falling under Art. 2219 nor Art. 26 of the Civil Code. It does not need further elucidation that the incident charged of petitioner was no less than an invasion on the right of respondent Nestor as a person. The philosophy behind Art. 26 underscores the necessity for its inclusion in our civil law. The Code Commission stressed in no uncertain terms that the human personality must be exalted. The sacredness of human personality is a concomitant consideration of every plan for human amelioration. The touchstone of every system of law, of the culture and civilization of every country, is how far it dignifies man. If the statutes insufficiently protect a person from being unjustly humiliated, in short, if human personality is not exalted - then the laws are indeed

defective.[11] Thus, under this article, the rights of persons are amply protected, and damages are provided for violations of a person's dignity, personality, privacy and peace of mind.

It is petitioner's position that the act imputed to him does not constitute any of those enumerated in Arts 26 and 2219. In this respect, the law is clear. The violations mentioned in the codal provisions are not exclusive but are merely examples and do not preclude other similar or analogous acts. Damages therefore are allowable for actions against a person's dignity, such as profane, insulting, humiliating, scandalous or abusive language.[12] Under Art. 2217 of the Civil Code, moral damages which include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury, although incapable of pecuniary computation, may be recovered if they are the proximate result of the defendant's wrongful act or omission.

There is no question that private respondent Nestor Nicolas suffered mental anguish, besmirched reputation, wounded feelings and social humiliation as a proximate result of petitioner's abusive, scandalous and insulting language. Petitioner attempted to exculpate himself by claiming that he made an appointment to see Nestor through a nephew, Roncali, the son of Florence, so he could talk with Nestor to find out the truth about his rumored illicit relationship with Florence. He said that he wanted to protect his nephews and nieces and the name of his late brother (Florence's husband).[13] How he could be convinced by some way other than a denial by Nestor, and how he would protect his nephews and nieces and his family's name if the rumor were true, he did not say. Petitioner admitted that he had already talked with Florence herself over the telephone about the issue, with the latter vehemently denying the alleged immoral relationship. Yet, he could not let the matter rest on the strength of the denial of his sister-in-law. He had to go and confront Nestor, even in public, to the latter's humiliation.

Testifying that until that very afternoon of his meeting with Nestor he never knew respondent, had never seen him before, and was unaware of his business partnership with Florence, his subsequent declarations on the witness stand however belie this lack of knowledge about the business venture for in that alleged encounter he asked Nestor how the business was going, what were the collection problems, and how was the money being spent. He even knew that the name of the business, Floral Enterprises, was coined by combining the first syllables of the name Florence and Allem, the name of Nestor's wife. He said that he casually asked Nestor about the rumor between him and Florence which Nestor denied. Not content with such denial, he dared Nestor to go with him to speak to his relatives who were the source of his information. Nestor went with him and those they were able to talk to denied the rumor.

We cannot help noting this inordinate interest of petitioner to know the truth about the rumor and why he was not satisfied with the separate denials made by Florence and Nestor. He had to confront Nestor face to face, invade the latter's privacy and hurl defamatory words at him in the presence of his wife and children, neighbors and friends, accusing him - a married man - of having an adulterous relationship with Florence. This definitely caused private respondent much shame and embarrassment that he could no longer show himself in his neighborhood without feeling distraught and debased. This brought dissension and distrust in his family where before there was none. This is why a few days after the incident, he communicated with petitioner demanding public apology and payment of damages, which petitioner ignored.

If indeed the confrontation as described by private respondents did not actually happen, then there would have been no cause or motive at all for them to consult with their lawyer, immediately demand an apology, and not obtaining a response from petitioner, file an action for damages against the latter. That they decided to go to court to seek redress bespeaks of the validity of their claim. On the other hand, it is interesting to note that while explaining at great length why Florence Concepcion testified against him, petitioner never advanced any reason

why the Nicolas spouses, persons he never knew and with whom he had no dealings in the past, would sue him for damages. It also has not escaped our attention that, faced with a lawsuit by private respondents, petitioner sent his lawyer, a certain Atty. Causapin, to talk not to the Nicolas spouses but to Florence, asking her not to be involved in the case, otherwise her name would be messily dragged into it. Quite succinctly, Florence told the lawyer that it was not for her to decide and that she could not do anything about it as she was not a party to the court case.

WHEREFORE, in light of the foregoing premises, the assailed Decision of the Court of Appeals affirming the judgment of the Regional Trial Court of Pasig City, Br. 167, holding Rodrigo Concepcion liable to the spouses Nestor Nicolas and Allem Nicolas for P50,000.00 as moral damages, P25,000.00 for exemplary damages, P10,000.00 for attorney's fees, plus costs of suit, is AFFIRMED.

SO ORDERED.

Mendoza, Quisumbing, Buena, and De Leon, Jr., JJ., concur.

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[*] Decision penned by Judge Alfredo C. Flores, RTC-Br. 167, Pasig City.

[1] Translation: " Nestor, you are Bing’s paramour! So she gave you P100,000.00 which you, together with your wife, brought to Baguio and you came back leaving your wife behind so that you and Bing could spend all the time together for your immoral purposes."

[2] Art. 26. - Every person shall respect the dignity, personality, privacy and peace of mind of his neighbors and other persons. The following and similar acts, though they may not constitute a criminal offense, shall produce a cause of action for damages, prevention and other relief: (1) Prying into the privacy of another’s residence; (2) Meddling with or disturbing the private life or family relations of another; (3) Intriguing or humiliating another on account of his religious beliefs, lowly station in life, place of birth, physical defect, or other personal condition.

[3] Art. 2219. – Moral damages may be recovered in the following and analogous cases: (1) A criminal offense resulting in physical injuries; (2) Quasi-delicts causing physical injuries; (3) Seduction, abduction, rape or other lascivious acts; (4) Adultery or concubinage; (5) Illegal or arbitrary detention or arrest; (6) Illegal search; (7) Libel, slander or any other form of defamation; (8) Malicious prosecution; (9) Acts mentioned in Art. 309 (referring to disrespect for the dead or wrongfully interfering in a funeral); (10) Acts or actions referred to in Arts. 21, 26, 27, 28, 29, 30, 32, 34, and 35 x x x x

[4] Congregation of the Religious of the Virgin Mary v. CA, G.R. No. 126363, 26 June 1998, 291 SCRA 385; Sarmiento v. CA, G.R. No. 110871, 2 July 1998, 291 SCRA 656.

[5] People v. Aquino, G. R. No. 125906, 16, January 1998, 284 SCRA 369.

[6] People v. Lagao, G. R. No. 120279, 27 February 1998, 286 SCRA 610.

[7] Ramirez v. Court of Appeals, G. R. No. 96412, 24 August 1998, 294 SCRA 512.

[8] People v. Gecomo, G.R. Nos. 115035-36, 21 February 1996, 254 SCRA 82.

[9] People v. Obello, G. R. No. 108772, 14 January 1998, 284 SCRA 79.

[10] People v. Ebrada, G. R. No. 122774, 25 September 1998, 296 SCRA 353.

[11] Report of the Civil Code Commission, p. 32.

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[12] Caguioa, Eduaro, P., Comments and Cases on Civil Law, Vol. I, 1959 Ed., p.41.

[13] TSN, 4 March 1988, p. 14.

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