

OSCAR MACCAY AND ADELAIDA POTENCIANO, PETITIONERS, VS. SPOUSES PRUDENCIO NOBELA AND SERLINA NOBELA, RESPONDENTS.

G.R. No. 145823. March 31, 2005

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This petition for review^[1] seeks to reverse the Court of Appeals' Decision dated 25 September 2000 and its Resolution dated 7 November 2000 in CA-G.R. CV No. 49822. The Court of Appeals affirmed the Decision of the Regional Trial Court, Pasig, Branch 70 ("trial court"), dated 26 January 1995, dismissing the case for Estafa through Falsification of Public Documents filed by petitioner Oscar Maccay ("Maccay") against respondent spouses Prudencio Nobela ("Prudencio") and Serlina Nobela ("Serlina") in Criminal Case No. 85961.

Antecedent Facts

The facts, as found by the trial court and affirmed by the appellate court, are as follows:

In the first week of May, 1990, Adelaida E. Potenciano went to the public market of Pasig, Metro Manila, to look for a prospective buyer or mortgagee of a parcel of land belonging to Oscar Maccay. She was introduced by a vendor, Lydia Reyes, to the spouses Prudencio and Serlina Nobela who were engaged in lending money to market vendors on a daily basis.

Potenciano introduced herself as Angelita N. Barba, wife of Oscar Maccay, who desired to sell or mortgage any of his two parcels of land, one in Guadalupe and one in Antipolo. She went to the Nobelas' at 145 Buayang Bato at Mandaluyong, Metro Manila. She brought with her many titles. She became friendly with the spouses. Potenciano went on to brag about her connections, that she is related to the late President Ferdinand E. Marcos; and that the PCGG is after her so she has to dispose of her properties.

After two (2) days, she called Oscar Maccay, who came. They comported themselves as husband and wife. Maccay was in uniform. He is a police colonel who had jurisdiction over Mandaluyong, according to Potenciano. The Nobelas were impressed. They were pleased when the couple became very close to them. They confided their family problems. They even went to the office of Maccay in Fort Bonifacio.

In this setting, the relationship flourished. Potenciano persuaded the spouses that they should be the ones to buy the property because it will only cost P300,000.00. They would be able to make a profit because the current price was P1,500.00 per square meter.

Potenciano used to call Maccay to join her in the Nobela residence. They partook of the hospitality of the accused spouses almost two to three times a week. Potenciano was treated like a queen. She was fanned and massaged. She was served her meals in the sala.

After pooling together their savings, the Nobelas decided to purchase the property. They advised Maccay and

Potenciano that they were ready to buy the property.

On May 17, 1990, Potenciano with Serlina went to Barba's lawyer, Atty. Alfonso Jimenez, at Las Piñas where she had the Deed of Sale (Exh. "1") prepared and notarized. She signed it there. They were riding in the jeep of the Nobelas and passed by the office of Maccay ar (sic) Fort Bonifacio. Potenciano went alone to his office and returned with him. They then proceeded to the house of both accused at Buayang Bato, Mandaluyong. Serlina paid the P300,000.00 to the couple and in turn she was given the Deed of Sale, TCT No. 473584, the tax declaration, the tax receipt and other documents. When she offered to take them, they declined saying they were going home to their Magallanes house.

Maccay and Potenciano continued to frequent the house of the accused spouses where they were given VIP treatment. Potenciano slept, bathed and was allowed to use the phone for her transactions and to drive the couple's jeep.

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On June 19, 1990, the taxes to the purchased property had to be paid. The title had not been transferred to the names of the Nobelas. Serlina and Potenciano with the latter driving, rode the Nobela jeep to Antipolo. On the way to town, the jeep broke down. The engine fell off. Potenciano volunteered to go to Antipolo herself, pay the taxes and bring a mechanic to repair the jeep. The taxes had been paid.

The good relationship continued until June 30, 1990, Prudencio Nobela suffered a stroke. He was brought to the Polymedic Hospital. That same afternoon, Potenciano called and talked to Prudencio's doctor. She had Prudencio transferred to a suite and confided to Serlina that she is also known as Adelaida Potenciano; that the owners of the hospital are her mother and father. Serlina need not worry about the bill. Potenciano started sleeping in the hospital.

After one week, Prudencio was to be discharged, Potenciano went to the accounting department. She tried to pay with her dollars and yens but the hospital would not accept. She asked Serlina to go with her to a money changer at Kalentong to change the money to pesos but the foreign exchange dealer refused saying the foreign currency was fake.

Serlina had to go back to the house to borrow from the son of her husband by his first marriage. Maccay drove the sick man and two women home in the Nobela jeep.

At this time, the trust and confidence on the Maccay couple by the Nobelas was beginning to slip off. The Polymedic Hospital incident was a letdown. It was then that Potenciano, who has boasted of being not only wealthy but also influential, invited Serlina to engage in the buy and sell of appliances which she claimed were brought by her nephew from Japan. To Serlina's dismay, she was only brought to a store in the pier where she had to pay for the appliances herself. She had receipts from De Lara Merchandising (Exhs. "15" to "15-C") showing her payments. The last receipt is dated July 29, 1990. Serlina brought the appliances home. Naturally, when Potenciano saw Serlina selling the appliances herself, her pretensions having been exposed, the relationship began to sour.

Before the last purchase of appliances, without the knowledge of the accused couple, Potenciano executed an Affidavit of Loss (Exh. "3-B"). She related that when she went to Antipolo on June 19, 1990 in her stainless steel jeep, the jeep broke down. She got a mechanic and when she returned the jeep was gone or carnapped.

In the meantime, Serlina was beginning to doubt Potenciano. She heard that Potenciano was trying to sell their jeep. She inquired at the NBI and was told that Potenciano had a string of cases against her.

On July 30, 1993, Potenciano went to the Eastern Police District Headquarters and executed an affidavit-complaint (Exh. 4) against the accused spouses before P/Lt. Col. Nestor E. Cruz relating that she was fooled by Prudencio and Serlina Nobela on July 14, 1990. She related how the accused spouses cheated her by

stealing TCT No. 473584 and her appliances. Her affidavit related how she was prayed over and mesmerized by Serlina. She stated that 'ginawa panloloko sa akin at pagnanakaw ng Transfer Certificate of [T]itle' (par. 12, p. 1, Exh. 4) and the TCT ho ay maaring nawala noong pecha 25 ng Hunyo, 1990 natuklasan ko nawala ito noong 27 ng Hunyo, nang itong nasabing TCT, ay aking ipa-seserox' (par. 16, p. 1. Exh. 4).

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In the meantime, Prudencio and Serlina, who had not been able to register the sale to them because of the ailment of Prudencio asked a real estate agent, Anita de la Vega, to help them in the registration of Deed of Sale (Exh. 1, Exh. B.). They knew de la Vega as she used to frequent a real estate agent living in their place. When they were told that for the P300,000.00 consideration, they would need around P20,000.00 to include capital gains taxes, she gave P21,000.00. The mother of de la Vega was supposed to know many people in the Register of Deeds. The new title (Exh. "C") was delivered on August 10, 1990 to Serlina. She had to give an additional "2,000.00 to de la Vega for other expenses.

Prudencio and Serlina Nobela were surprised to receive an invitation from Col. Nestor E. Cruz (Exh. "5") on August 17, 1990, to go to his office regarding the complaint of Potenciano for Estafa and Theft.

When they went to Col. Cruz nothing happened but they were shocked to receive a subpoena from the Fiscal's Office. Maccay was not there and Prudencio was quite sick.

Serlina went to the Register of Deeds of Marikina to find out why they were accused and she was astonished to discover (Exh. "6") as the Deed of Sale registered by de la Vega under the name of Linda Cruz. She also found the payments of the capital gains tax as only P1,000.00 plus. Then she realized the reason for the alleged falsification charge of Potenciano alias Angelita Barba and Oscar Maccay. The deed of sale given to them (Exh. "1") for P300,000.00 which they paid the Maccays was not the one registered but one which obviously was forged by de la Vega and her mother Juanita Magcaling in order to make more money from the registration transaction. They filed a complaint against de la Vega and Juanita Magcaling which is still pending in court at Judge Alfredo Flores' sala.[2]

Petitioner Maccay filed the criminal complaint against respondent spouses for Estafa through Falsification of Public Document before the Office of the Provincial Prosecutor of Rizal. The Provincial Prosecutor of Rizal filed the Information for Estafa with the Regional Trial Court, Pasig, Branch 70, docketed as Criminal Case No. 85961.

After trial, the trial court found respondent spouses innocent and ordered petitioners to reimburse respondent spouses P300,000 and to pay damages and attorney's fees. Petitioners appealed the civil aspect of the case to the Court of Appeals. The appellate court denied petitioners' appeal and affirmed the trial court's Decision. The appellate court also denied petitioners' Motion for Reconsideration.

Hence, this petition.

The Rulings of the Trial and Appellate Courts

The trial court acquitted respondent spouses and found that petitioners swindled respondent spouses. The trial court declared that petitioner Maccay filed the Estafa charge against respondent spouses to turn the tables on respondent spouses, the victims of the swindling. The trial court ordered petitioners to pay respondent spouses P390,000 as damages, to wit:

In view of the foregoing, this court finds that the prosecution has not proven the Accused Prudencio Nobela and Serlina Nobela guilty beyond reasonable doubt of the crime charged and hereby acquits them. The complainants Oscar Maccay and Adelaida E. Potenciano are hereby ordered to reimburse Prudencio Nobela and Serlina Nobela the amount of Three Hundred Thousand Pesos (P300,000.00) paid to them by the accused spouses in the sale of the litigated property. Further the complainants Oscar Maccay and Adelaida Potenciano

are hereby ordered to pay P50,000.00 to Prudencio Nobela and Serlina Nobela as moral damages and P40,000.00 as attorney's fees.

SO ORDERED.[3]

The Court of Appeals upheld the ruling of the trial court. The appellate court reasoned that the award of damages was justified because it was "in the nature of a counterclaim and as the very defense put up by the accused [respondents] in the criminal proceedings x x x"[4]

The Issues

Petitioners seek a reversal and raise the following issues for resolution:

- WHETHER THE TRIAL COURT MAY RULE ON THE CIVIL LIABILITY OF COMPLAINANT IN A CRIMINAL CASE WHERE THE CIVIL ACTION WAS NOT RESERVED OR FILED SEPARATELY;
- WHETHER A WITNESS, WHO IS NOT A PARTY TO THE CASE, MAY BE HELD LIABLE FOR DAMAGES.

The third issue raised by the petitioners, assailing the appellate court's affirmation of the trial court's factual findings, deserves no consideration. A Rule 45 petition is limited to questions of law.[5] Findings of fact are not reviewable, except in clearly meritorious instances.[6] This Court is not a trier of facts.

The Ruling of the Court

We grant the petition.

A court trying a criminal case cannot award damages in favor of the accused. The task of the trial court is limited to determining the guilt of the accused and if proper, to determine his civil liability. A criminal case is not the proper proceedings to determine the private complainant's civil liability, if any.

The trial court erred in ordering complainant petitioner Maccay and prosecution witness Potenciano, as part of the judgment in the criminal case, to reimburse the P300,000 and pay damages to the accused respondent spouses. This Court ruled in *Cabaero v. Hon. Cantos*[7] that a court trying a criminal case should limit itself to the criminal and civil liability of the accused, thus:

[Thus,] the trial court should confine itself to the criminal aspect and the possible civil liability of the accused arising out of the crime. The counterclaim (and cross-claim or third-party complaint, if any) should be set aside or refused cognizance without prejudice to their filing in separate proceedings at the proper time.

The Court recently reiterated this ruling in *Casupanan v. Laroya*[8] and *Republic v. Court of Appeals*.[9]

The appellate court erred in affirming the trial court's award of damages by justifying it as a counterclaim. Nothing in the records shows that respondent spouses filed or attempted to file a counterclaim. The 2000 Rules on Criminal Procedure prohibit counterclaims in criminal cases. Section 1 of Rule 111 provides:

SECTION 1. Institution of criminal and civil actions. —

(a) x x x

No counterclaim, cross-claim or third-party complaint may be filed by the accused in the criminal case, but any cause of action which could have been the subject thereof may be litigated in a separate civil action.

This paragraph addresses the lacuna mentioned in *Cabaero* on the "absence of clear-cut rules governing the prosecution of impliedly instituted civil action and the necessary consequences and implications thereof." In the

present case, the civil liability of petitioners for swindling respondent spouses and for maliciously filing a baseless suit must be litigated in a separate proceeding.

The trial court also erred in holding prosecution witness petitioner Potenciano, together with complainant petitioner Maccay, liable for damages to respondent spouses. A judgment cannot bind persons who are not parties to the action.[10] A decision of a court cannot operate to divest the rights of a person who is not a party to the case.[11] The records clearly show that petitioner Potenciano is not a party to this case. The Information filed by the prosecutor had only petitioner Maccay as its complainant.[12] The Verification attached to the Information had only petitioner Maccay signing as complainant. Nothing in the records shows that petitioner Potenciano played a role other than being a witness for the prosecution. To rule otherwise would violate petitioner Potenciano's constitutional right to due process.

Petitioners admit that title to the lot is now in the name of respondent spouses. Petitioners admit the validity of the cancellation of TCT No. 473584 and the issuance of TCT No. 188289 in favor of respondent spouses. Petitioners argue that since respondent spouses already acquired the lot in exchange for P300,000, there is no basis for the order requiring petitioners to reimburse respondent spouses the P300,000.[13]

However, petitioners also argue that respondent spouses acquired their title through fraud. Petitioners must decide which version they want to advance. Petitioners cannot argue that the title of respondent spouses is valid to avoid reimbursing respondent spouses, at the same time claim that respondent spouses acquired their title through fraud to turn the tables on respondent spouses who might sue petitioners for swindling. Petitioners' inconsistent arguments reveal their dishonesty even to the courts. Petitioners should not forget that the trial and appellate courts found that petitioners perpetrated a vicious scam on respondent spouses who are clearly the hapless victims here.

Respondent spouses have suffered enough. Respondent Prudencio died while trying to defend their property. Respondent Serlina is ailing and suffering from severe complications due to the strain of litigation. While this Court is constrained to grant the instant petition due to the trial court's procedural error, we stress that the trial court adjudicated correctly the substantive matter of the case. Petitioners unconscionably used their intelligence and position to swindle the respondent spouses of their life savings, abusing their hospitality and kindness in the process. Petitioners have the temerity to turn the tables on the poor couple by abusing the legal processes. This Court will not allow the legal processes to serve as tool for swindlers. We promulgate this Decision without prejudice to the filing by respondent Serlina of a claim for damages against petitioners.

WHEREFORE, we GRANT the instant petition. The Decision of the Regional Trial Court, Pasig, Branch 70 dated 26 January 1995 in Criminal Case No. 85961 is AFFIRMED with the following MODIFICATIONS:

- The order to reimburse the P300,000 to respondent spouses Prudencio and Serlina Nobela is deleted;
- The award of P50,000 as moral damages and the award of P40,000 as attorney's fees are likewise deleted.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Ynares-Santiago, and Azcuna, JJ., concur.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Rollo, pp. 26-29.

[3] Records, pp. 416-417.

[4] Rollo, p. 31.

[5] Section 1, Rule 45 of the 1997 Rules on Civil Procedure.

[6] As laid out in *Ramos, et al. v. Pepsi-Cola Bottling Co. of the Phils., et al.*, 125 Phil. 701 (1967):

- When the conclusion is a finding grounded entirely on speculation, surmises or conjectures;
- When the inference made is manifestly mistaken, absurd or impossible;
- Where there is a grave abuse of discretion;
- When the judgment is based on a misapprehension of facts;
- When the findings of fact are conflicting;
- When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee.

[7] 338 Phil. 105 (1997).

[8] 436 Phil. 582 (2002).

[9] G.R. No. 116463, 10 June 2003, 403 SCRA 403.

[10] *Buazon v. Court of Appeals*, G.R. No. 97749, 19 March 1993, 220 SCRA 183.

[11] *St. Dominic Corp. v. Intermediate Appellate Court*, G.R. No. L-70623, 30 June 1987, 151 SCRA 577.

[12] Records, p. 1.

[13] Rollo, p. 81-82.

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