

IGLECERIO MAHINAY, PETITIONER, VS. ATTY. GABINO A. VELASQUEZ, JR., RESPONDENT.

G.R. No. 152753. January 13, 2004

Ponente: CORONA, J.

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CORONA, J.:

Before us is a petition for review of the decision[1] dated December 20, 2001 of the Court of Appeals affirming with modification the “order and resolution” dated October 31, 1977 of the Regional Trial Court, Branch 16, Naval, Biliran in Civil Case No. B-0923, for damages.

The instant case arose from the alleged defamatory remarks of petitioner Iglecerio Mahinay against respondent Gabino A. Velasquez, Jr.

According to Olipio Machete, overseer of respondent, petitioner uttered the following malicious and insulting statement against respondent: “Your master, a candidate for Congressman, Ben Velasquez, is a land grabber.” Machete informed respondent of what petitioner said about him. This impelled respondent to file a complaint for damages against petitioner, claiming that his utterances besmirched his and his family’s reputation and caused him anxiety, mental anguish and sleepless nights.

As no amicable settlement could be reached by the parties, trial on the merits ensued. The trial court eventually ruled in favor of respondent on the basis of the sole testimony of Machete and awarded to respondent moral damages in the amount of P100,000 and exemplary damages in the amount of P50,000.[2] No other evidence was adduced by either party.

Petitioner appealed to the Court of Appeals alleging that the trial court order lacked factual basis. The Court of Appeals, however, modified the award, as follows:

“WHEREFORE, with the MODIFICATION that the award for moral and exemplary damages is hereby reduced to P50,000.00 and P25,000.00, respectively, the decision appealed from is hereby AFFIRMED and this appeal DISMISSED.

SO ORDERED.”[3]

His motion for reconsideration having been denied, petitioner comes to this Court arguing that the appellate court gravely erred in: (a) affirming the trial court order despite the lack of sufficient factual basis and (b) awarding moral and exemplary damages to respondent despite his failure to take the witness stand.[4]

We agree.

In order that moral damages may be awarded, there must be pleading and proof of moral suffering, mental anguish, fright and the like.[5] While respondent alleged in his complaint that he suffered mental anguish, serious anxiety, wounded feelings and moral shock, he failed to prove them during the trial. Indeed, respondent should have taken the witness stand and should have testified on the mental anguish, serious anxiety, wounded feelings

and other emotional and mental suffering he purportedly suffered to sustain his claim for moral damages. Mere allegations do not suffice; they must be substantiated by clear and convincing proof.[6] No other person could have proven such damages except the respondent himself as they were extremely personal to him.

In *Keirulf vs. Court of Appeals*,[7] we held:

“While no proof of pecuniary loss is necessary in order that moral damages may be awarded, the amount of indemnity being left to the discretion of the court, it is nevertheless essential that the claimant should satisfactorily show the existence of the factual basis of damages and its causal connection to defendant’s acts. This is so because moral damages, though incapable of pecuniary estimation, are in the category of an award designed to compensate the claimant for actual injury suffered and not to impose a penalty on the wrongdoer. In *Francisco vs. GSIS*, the Court held that there must be clear testimony on the anguish and other forms of mental suffering. Thus, if the plaintiff fails to take the witness stand and testify as to his/her social humiliation, wounded feelings and anxiety, moral damages cannot be awarded. In *Cocoland Development Corporation vs. National Labor Relations Commission*, the Court held that “additional facts must be pleaded and proven to warrant the grant of moral damages under the Civil Code, these being, x x x social humiliation, wounded feelings, grave anxiety, etc. that resulted therefrom.”

The testimony of Machete was not enough evidence of the moral damages that the respondent supposedly suffered. Machete may have clearly testified on the specific words uttered by petitioner against respondent but he could not have testified on the wounded feelings respondent allegedly went through by reason of petitioner’s slanderous remark. The award of moral damages must be anchored to a clear showing that respondent actually experienced mental anguish, besmirched reputation, sleepless nights, wounded feelings or similar injury. There was no better witness to this experience than respondent himself. Since respondent failed to testify on the witness stand, the trial court did not have any factual basis to award moral damages to him.

Neither is respondent entitled to exemplary damages. “If the court has no proof or evidence upon which the claim for moral damages could be based, such indemnity could not be outrightly awarded. The same holds true with respect to the award of exemplary damages where it must be shown that the party acted in a wanton, oppressive or malevolent manner.”[8] Furthermore, this specie of damages is allowed only in addition to moral damages such that no exemplary damages can be awarded unless the claimant first establishes his clear right to moral damages.

The affirmance of the Court of Appeals of the ruling of the trial court is therefore not in order as it lacked sufficient factual basis.

WHEREFORE, the decision of the Court of Appeals is hereby REVERSED and SET ASIDE. The complaint for damages in Civil Case No. B-0923 against herein petitioner is hereby DISMISSED. No costs.

SO ORDERED.

Vitug, (Chairman), Sandoval-Gutierrez, and Carpio-Morales, JJ., concur.

[1] Penned by Associate Justice (now Presiding Justice) Cancio C. Garcia and concurred in by Associate Justices Roberto A. Barrios and Bienvenido L. Reyes.

[2] Rollo, pp. 15-16.

[3] Rollo, p. 20.

[4] Rollo, p. 9.

[5] San Miguel Brewery, Inc. vs. Magno, 21 SCRA 292 [1967].

[6] Philippine National Bank vs. Court of Appeals, 266 SCRA 136 [1997].

[7] 269 SCRA 433 [1997].

[8] Philippine Airlines, Inc. vs. National Labor Relations Commission, 259 SCRA 459 [1996].

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