

BONIFACIO L. CAÑAL, SR., PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. NO. 163181. October 19, 2005

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before the Court is a petition for review on certiorari of the Decision[1] of the Court of Appeals (CA) in CA-G.R. CR No. 24496 as well as its Resolution[2] denying the motion for reconsideration thereof.

The Antecedents

Upon complaint of Daylinda P. Cañal, Bonifacio L. Cañal, Sr. was charged with Grave Oral Defamation in an indictment filed by the Chief of Police, Hinatuan, Surigao del Sur in the 7[th] Municipal Circuit Trial Court (MCTC) of Hinatuan-Tagbina, Surigao del Sur. The Information reads:

That on or about 8:30 o'clock in the morning of July 25, 1996, at the Municipal Circuit Trial Court Hall, Hinatuan, Surigao del Sur, Philippines and within the jurisdiction of this Honorable Court, the above- named accused with deliberate intent of bringing one Daylinda Cañal, into discredit, disrepute and contempt, did then and there willfully, unlawfully and feloniously and publicly speak and utter against said Daylinda Cañal the following insulting words and expressions, to wit: "AYAW MO KAHADLOK SA TESTIGOS NI DAYLINDA KAY WALAY BANCA-AGAN, NAHADLOK KAW KANG DAYLINDA, NABUHI ITON SA PANGAWAT, NABUHI ITON SA PANGAWAT" which if translated in English language will mean (You afraid to the witness of Daylinda who had no how, why you afraid to Daylinda, she live from stealing, she is a long time thieves) and other words of similar imports and as a result said defamatory utterance and expressions caused mental anguish, serious anxiety, social humiliation, and besmirched reputation, thereby giving rise to a moral damage in the amount of P10,000.00.

CONTRARY TO LAW: under Article 358 of the Revised Penal Code.[3]

Upon his arraignment on November 20, 1997, with the assistance of Atty. Elias C. Irizari, as counsel de parte, Bonifacio pleaded not guilty to the charge against him.[4] The trial court thereafter set and conducted the trial of the case on the merits.

To prove Bonifacio's guilt, the prosecution presented two (2) witnesses, namely, Daylinda and Emelinda A. Kimilat.

Emelinda declared that at around 8:30 a.m. of July 25, 1996, while she was outside the courthouse of the 7[th] MCTC of Hinatuan-Tagbina, Surigao del Sur, she saw Bonifacio and clearly overheard him say in Filipino: "Why should you be afraid of Daylinda's witnesses, they are all nincompoops. Daylinda is a thief! She has been long eking out a living as a thief." A number of persons outside the courthouse also heard the utterances of Bonifacio.[5]

For her part, Daylinda recalled that upon hearing Bonifacio's offensive remarks, she felt utterly embarrassed and

downright humiliated. She went inside the courtroom and simply cried her heart out.[6]

After the prosecution had rested its case, Bonifacio, through his new counsel, Atty. Remedios R. Alvizo, manifested that he would be filing a demurrer to evidence within 15 days. None was, however, filed.

The trial court then set the reception of the evidence for the defense on November 12, 1998. On the said date, the trial was postponed as the witness for the defense, Carmelita Salas, was absent.[7] The trial was reset to December 4, 1998. On the latter date, Bonifacio's counsel asked for a postponement and since the fiscal was also absent, the trial was reset once more to January 29, 1999.[8]

At the scheduled hearing on January 29, 1999, Atty. Alvizo was again nowhere in sight, prompting the prosecution to orally move that the case be submitted for decision on the ground that the defense was deemed to have waived its right to present evidence. The trial court granted the motion over Bonifacio's objection.[9] However, Bonifacio failed to file any motion for the reconsideration of the said Order.

The MCTC thereafter rendered judgment on July 2, 1999, the decretal portion of which reads:

IN VIEW OF THIS CIRCUMSTANCE, this court found the accused to be guilty beyond reasonable doubt of the crime of Grave Oral Defamation and he is hereby sentenced to suffer the penalty of six (6) months and one (1) day to two (2) years and four (4) months and one (1) day, and to pay moral damages in the amount of P5,000.00, compensatory damages in the amount of P2,000.00 and to pay the costs.

The accused is hereby ordered to suffer the penalty of imprisonment he having sentenced by this court in the previous case but he had filed a petition for probation.

SO ORDERED.[10]

Bonifacio did not file any motion for the reconsideration of the decision, and instead appealed such ruling to the Regional Trial Court (RTC). On August 3, 2000, the RTC rendered judgment affirming the decision of the MCTC. The decretal portion reads:

After careful review of the record of this case, the trial court was right in declaring accused to have waived their (sic) right to present evidence after giving said accused several settings for the presentation of evidence. The court is convinced that the aforesaid penalty was properly imposed especially because the accused has been previously convicted.

SO ORDERED.[11]

The case was elevated to the CA via petition for review, and the appellate court affirmed in toto the RTC's decision. The fallo of the CA decision reads:

WHEREFORE, the Petition is DENIED. The Decision of the Regional Trial Court, Branch 29 of Bislig, Surigao del Sur is AFFIRMED. Costs against accused-petitioner.

SO ORDERED.[12]

Bonifacio's motion for reconsideration of the decision was denied by the CA.

The petitioner is now before this Court, alleging that he was deprived of his right to due process, and pleads that the decision under review be vacated and the case remanded to the MCTC for reception of his evidence.

The Court initially denied the petition in a Resolution[13] dated June 16, 2004, but upon motion for reconsideration of the petitioner, the petition was reinstated on September 27, 2004.[14]

The petitioner alleges that the CA gravely erred in sustaining his conviction. He insists that he was unjustly

deprived of his right to adduce evidence in his behalf due to the failings of his counsel, Atty. Alvizo, who was always absent. He argues that at the MCTC, he was invariably present and ready to present his evidence; it was his counsel that did him in and he should not be made to suffer for that. He further alleges that the appellate court failed to appreciate the true facts of his case.

The petition is denied for lack of merit.

The Court has laid down the criterion to determine whether an accused in a criminal case has been properly accorded due process of law in *Siquian v. People*:^[15]

" [I]f an accused has been heard in a court of competent jurisdiction and proceeded against under the orderly processes of law, and only punished after inquiry and investigation, upon notice to him, with an opportunity to be heard, and a judgment awarded within the authority of a constitutional law, then he has had due process of law. "

In the present case, the petitioner was afforded the chance to adduce evidence in his behalf, but due to the unjustifiable failure of his witness or/and counsel to appear at the hearings, the trial court declared that the case was deemed submitted for decision and considered only the evidence presented by the prosecution. The petitioner even failed to file any motion for the reconsideration of the said Order. The petitioner's mere physical presence during the scheduled hearings was not enough. What is equally important is his readiness to present his evidence, lest he will be deemed to have waived his right to adduce the same.

Contrary to the allegations of the petitioner, he was fully accorded the opportunity to present his evidence first, on November 12, 1998; second, on December 4, 1998; and then on January 29, 1999. Thus, his claim that he was denied due process is belied by the records, which granted him continuances for the first two hearing dates due to the absence of either his witness and/or counsel. In all the three scheduled hearings and despite due notice he failed to present any contrary evidence to controvert that of the prosecution.

The petitioner's attempt to shift the blame to his counsel is futile. The rule in this jurisdiction is that the client is bound by the negligence or failings of his counsel.^[16] A client is bound by the action of his counsel in the conduct of a case and cannot be heard to complain that the result might have been different had such counsel proceeded differently.^[17] If the lawyer's mistake and negligence were to be admitted as reasons for reopening cases, there would never be an end to a suit so long as new counsel could be employed who could allege and show that prior counsel had not been sufficiently diligent or experienced or learned.^[18] While this rule admits of exceptions, the petitioner's sweeping justification failed to make out a case of excusable negligence for his counsel's non-appearance at the January 29, 1999 hearing. The Court notes further that the petitioner could have dispensed with the services of his counsel de parte and engaged the services of another or new counsel to represent him. He did not.

The Court likewise rejects the petitioner's contention that the respondent failed to prove his guilt for the crime charged beyond reasonable doubt. It is axiomatic that in criminal cases, the prosecution has to prove the guilt of the accused beyond reasonable doubt. Indeed, by constitutional fiat, the burden of proof falls on the prosecution. Thus, a finding of guilt must rest on the strength of the prosecution's own evidence, and not on the weakness or absence of evidence for the defense.^[19]

Emelinda A. Kimilat, who was present during the incident, identified the petitioner and gave a blow-by-blow account of what happened. She testified that petitioner called Daylinda a thief before a crowd:

Q While you were at the outside (sic) of Hintuan Municipal Circuit Trial Court, was there any unusual incident that happened during that time 8:30 o'clock in the morning?

A There was.

Q Tell us what was that?

A Bonifacio Cañal uttered and said, why are you afraid of the witnesses of Daylinda Cañal where in fact they are ignorant and they have no knowledge.

Q Was there any utterances made by Cañal aside from that?

A There was also.

Q What were those utterances?

A Are you afraid of Daylinda she had been living ever since of stealing, she is really a thief.[20]

To say that Daylinda is a thief is irrefragably grave oral defamation. This imputes to her a crime that is dishonorable or contemptuous.

However, the Court finds that the penalty imposed on the petitioner is erroneous. The penalty imposed by Article 358 of the Revised Penal Code, as amended, for grave oral defamation is arresto mayor in its maximum period to prision correccional in its minimum period which has a duration of from four (4) months and one (1) day to two (2) years and four (4) months.

In order to fix the minimum term of the penalty required by the Indeterminate Sentence Law,[21] the imposable penalty should be reduced by one degree - arresto mayor, in its medium and minimum period, which has a range of from one (1) month and one (1) day to four (4) months. The maximum of the penalty imposed on the accused is to be taken from the penalty imposed by the law taking into account the modifying circumstances attending the commission of the offense for which the accused is convicted.

In this case, the petitioner was sentenced to an indeterminate penalty of from six (6) months and one (1) day as minimum to two (2) years and four (4) months and one (1) day, on the trial court's premise that the petitioner had been convicted for another crime for which he filed a petition for probation. However, we have reviewed the records of the CA inclusive of the decision of the MCTC, and there is no such allegation in the Information, nor is there any showing that the respondent adduced in evidence any decision convicting the petitioner by final judgment of any other crime, or that he filed a petition for probation therein. Thus, we find and so hold that the petitioner should be sentenced to suffer a straight penalty of six (6) months.

The award of P2,000.00 as compensatory damages should be deleted for lack of factual basis. To be entitled to actual and compensatory damages, there must be competent proof constituting evidence of the actual amount thereof.[22]

The Court affirms the trial court's award of moral damages in favor of the private complainant. Article 2219(7) of the New Civil Code allows the recovery of moral damages in case of libel, slander or any other form of defamation. This provision establishes the right of an offended party in a case for oral defamation to recover from the guilty party damages for injury to his feelings and reputation.[23]

It must be remembered that every defamatory imputation is presumed to be malicious, even if it be true, if no good intention and justifiable motive for making it is shown. And malice may be inferred from the style and tone of publication subject to certain exceptions which are not present in the case at bar.[24] Indeed, calling Daylinda a thief is defamation against her character and reputation sufficient to cause her embarrassment and social humiliation. Daylinda testified to the feelings of shame and humiliation she suffered as a result of the incident complained of.[25]

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. CR No. 24496 is AFFIRMED WITH the MODIFICATION that petitioner Bonifacio L. Cañal, Sr. is SENTENCED to a straight penalty of six (6) months of imprisonment. He is ORDERED to pay Daylinda P. Cañal P5,000.00 as moral damages. The award of compensatory damages is DELETED.

Costs against the petitioner.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Tinga, and Chico-Nazario, JJ., concur.

[1] Penned by Associate Justice Regalado E. Maambong, with Associate Justices Eugenio S. Labitoria and Andres B. Reyes, Jr., concurring, Rollo, pp. 20-31

[2] Rollo, p. 18.

[3] Rollo, p. 38.

[4] Id. at 5.

[5] Rollo, p. 39.

[6] Id. at 40.

[7] Id. at 32.

[8] Id. at 33.

[9] Rollo, pp. 35-37.

[10] Id. at 41-42.

[11] Id. at 25.

[12] Rollo, p. 30.

[13] Id. at 44.

[14] Id. at 54.

[15] G.R. No. 82197, 13 March 1989, 171 SCRA 223.

[16] Republic v. Arro, G.R. No. L-48241, 11 June 1987, 150 SCRA 625.

[17] People v. Salido, G.R. No. 116208, 5 July 1996, 258 SCRA 291.

[18] Ibid.

[19] People v. Batidor, G.R. No. 126027, 18 February 1999, 303 SCRA 335.

[20] Rollo, pp. 21-22.

[21] Act No. 4103, as amended.

[22] People v. Agudez, G.R. Nos. 138386-87, 20 May 2004, 428 SCRA 692.

[23] Occena v. Icamina, G.R. No. 82146, 22 January 1990, 181 SCRA 328.

[24] Id. at 334.

[25] Q How did you feel when this accused uttered those defamatory statement against you?

A After hearing those defamatory words I went inside and cried because I was ashamed of what he uttered against me.

Q The accused utter against you is (sic) when he told and stated that you are a thief, are you a thief?

A "Dili", No sir, I am not a thief (Rollo, p. 22).

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