

GUILLERMO B. GUEVARA, PLAINTIFF AND APPELLEE, VS. ROSAURO ALMARIO, MARCIANO ALMARIO, LA VANGUARDIA, INC., AND MANUEL V. VILLAREAL, DEFENDANTS. ROSAURO ALMARIO AND MARCIANO ALMAR...

G.R. No. 35357. February 02, 1932

Ponente: MALCOLM, J.

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MALCOLM, J.:

The appeal taken in this case from a judgment of the Court of First Instance of the City of Manila necessitates the scrutiny of the proceedings to determine their legality and a decision as to the amount of the damages which should be allowed the plaintiff.

On March 3, and March 16, 1927, La Vanguardia, a daily newspaper published in the City of Manila, printed two articles which mentioned Guillermo B. Guevara, the Fiscal of the City of Manila. The author of the articles was Rosauro Almario. They were clearly and flagrantly libelous. In addition to casting aspersions on the plaintiff in a manner which need not be described, the articles assailed his official integrity. They passed beyond the bounds of legitimate criticism of a public official to attack the individual and to indulge in personalities.

A criminal action was instituted, and after the evidence for the prosecution had been received, the accused Rosauro Almario was permitted to acknowledge authorship of the defamatory articles and to change a plea of not guilty to a plea of guilty, with certain qualifying explanations on his part. Thereupon, he was sentenced to pay a fine of P400. Subsequently, Guillermo B. Guevara instituted civil proceedings to recover a total of P100,000 by way of damages. Defendant Almario pleaded the truth and justifiable motives.

When the case was called for trial, the plaintiff submitted his evidence Consisting exclusively of the record, exhibits, and judgment in the criminal case. The defendants proeduced no evidence and contented themselves with filing a motion for the dismissal of the case, which was denied.) The trial judge thereafter rendered judgment against Rosauro Almario for P5,000 as general damages and an equal sum of P5,000 as punitive damages. The defendants La Vanguardia Incorporated, Marciano Almario, and Manuel V. Villareal were absolved from the complaint.

Certain minor points can be disposed of quickly. For example, the action of the trial court in refusing to grant Marciano Almario legal costs, and in ordering on its own initiative the amendment of the complaint so that it contained allegations relating to the judgment of conviction in the criminal case, are matters which addressed themselves to the discretion of the trial judge and should not be interfered with here.

A major question has to do with the action of the trial court in admitting evidence, over the objection of the defendants, consisting of proof filed in a previous criminal case. On this point we find in our Code of Civil Procedure, section 298, number 8, the provision that evidence may be received upon a trial of "The testimony of a witness deceased or out of the jurisdiction, or unable to testify, given in a former action between the same parties,

relating to the same matter." We have also the rule sanctioned by authoritative decisions that facts may be established by evidence thereof given on a former trial, provided the court is satisfied: (1) That the party against whom the evidence is offered, or his privy, was a party on the former trial; (2) that the issue is substantially the same in the two cases; (3) that the witness who proposes to testify to the former evidence is able to state it with satisfactory correctness; and (4) that a sufficient reason is shown why the original witness is not produced. In the same connection, it is well settled that a judgment of conviction in a criminal proceeding cannot be admitted in evidence in a civil action. But a record in a criminal case may be admitted by way of inducement, or to show a collateral fact. (Ed. A. Keller & Co. vs. Ellerman & Bucknall Steamship Co. and Collector of Customs [1918], 38 Phil., 514; Chantangco vs. Abaroa [1910], 218 U. S., 476; City of Manila vs. Manila Electric Co. [1928], 52 Phil., 586.) Here, all other considerations to one side, there has not been any sufficient reason, in truth no reason at all, shown why the original witnesses in the criminal case could not be produced in the civil case. A showing of this character is necessary to justify the court in receiving evidence given on a former trial. However, the general rule is qualified, and properly so, by permitting the fact of defendant's conviction to be proved in the civil action. (Tarambulo vs. Manila Electric Company [1930], 55 Phil., 75.) We feel also that there would be no nullification of the rule to permit further the record to disclose the express admission by the defendant in the criminal case of his authorship of the libel.

The controlling facts to be deduced from all the foregoing are that an article which grossly libeled Guillermo B. Guevara, Fiscal of the City of Manila, of which Rosauro Almario was the author, was published in the press; that on the criminal charge Almario pleaded guilty and was sentenced accordingly, and that neither the truth nor justifiable motives were established. But all other portions of the record in the criminal case, including the transcript of the testimony, are inadmissible in the civil record.) Discarding the personal equation, for the plaintiff and the defendant alike are well known to the public, and considering the matter abstractly as we should, what should be the measure of damages?

The Libel Law permits the person libeled to recover the actual pecuniary damages sustained by him, damages for injury to his feelings and reputation, and punitive damages. Otherwise stated, special damages have not been proved. Nominal damages are not generally recognized under the civil law. Punitive damages have been imposed in the criminal action. As to general or actual or substantial damages, as variously described, these arise from legal inferences and need not be proved. So likewise is the good reputation of the plaintiff presumed until the contrary is established by proper evidence.

The authorities offer little aid in solving our problem, except as disclosing a tolerant attitude on the part of the appellate court—more likely to reduce damages for libel than to increase them. The case of Worcester vs. Ocampo [1912], 22 Phil., 42, which was taken as a model by the trial judge is hardly such, considering the marked differences in the two cases and the vast amount of evidence to be found in the Worcester case, which is not to be found in the Guevara case. In other cases offended parties have been allowed all the way from P50 to 5,000. (See Phee vs. La Vanguardia [1923], 45 Phil., 211, P50; Causin vs. Jakosalem [1905], 5 Phil., 155, P100; Montinola vs. Montalvo [1916], 34 Phil., 662, P200; Choa Tek Hee vs. Philippine Publishing Co. [1916], 34 Phil., 447, P300; Jimenez vs. Reyes [1914], 27 Phil., 52, P500; Sotelo Matti vs. Bulletin Publishing Co. [1918], 37 Phil., 562, P500; Oliver and Chamblise Oliver vs. La Vanguardia, Inc. [1925], 48 Phil., 429, P4,000; Perfecto vs. Contreras [1914], 28 Phil., 538, P2,500; Macleod vs. Philippine Publishing Co. [1909], 12 Phil., 427, P5,000.) But for comparative purposes, the decisions are of little value for the specific amount of damages in a libel case must depend upon the facts of the particular case and the sound discretion of the court.

When we come to give direct application to the proven facts and the governing legal principles, we are not surprised to find about as great a variety of opinions as there are members participating in the discussion. The

suggestions regarding the amount of the damages have ranged all the way from P200 proposed by the writer to P6,000 proposed by another member of the court. Eventually, after an exchange of impressions, a majority of the court have reached the conclusion that the plaintiff should be awarded damages in the sum of P1,000.

The various errors assigned will be overruled except as to the first and sixth on the appeal of Rosauo Almario, which will be partially sustained, with the result that the judgment appealed from will be modified by condemning the defendant Rosauo Almario to pay the plaintiff the sum of P1,000 and the costs of both instances.

Avanceña, C. J., Street, Villamor, Ostrand, Villa-Real, and Imperial, JJ., concur.

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