

RAFAEL PATRICIO, PETITIONER, VS. THE HONORABLE OSCAR LEVISTE, JUDGE, CFI CAPIZ, BRANCH II, AND BIENVENIDO BACALOCOS, RESPONDENTS.

G.R. No. 51832. April 26, 1989

Ponente: PADILLA, J.

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PADILLA, J.:

Petition for review on certiorari of the Order[1] of the Court of First Instance of Capiz, Branch II, on the motion for reconsideration filed by private respondent Bienvenido Bacalocos, dismissing the complaint for damages against the latter, docketed as Civil Case No. V-3937.

Petitioner Rafael Patricio an ordained Catholic priest, and actively engaged in social and civic affairs in Pilar, Capiz, where he is residing, was appointed Director General of the 1976 Religious and Municipal Town Fiesta of Pilar, Capiz.

On 16 May 1976 at about 10:00 o'clock in the evening, while a benefit dance was on-going in connection with the celebration of the town fiesta, petitioner together with two (2) policemen were posted near the gate of the public auditorium to check on the assigned watchers of the gate. Private respondent Bienvenido Bacalocos, President of the Association of Barangay Captains of Pilar, Capiz and a member of the Sangguniang Bayan, who was in a state of drunkenness and standing near the same gate together with his companions, struck a bottle of beer on the table causing an injury on his hand which started to bleed. Then, he approached petitioner in a hostile manner and asked the latter if he had seen his wounded hand, and before petitioner could respond, private respondent, without provocation, hit petitioner's face with his bloodied hand. As a consequence, a commotion ensued and private respondent was brought by the policemen to the municipal building.[2]

As a result of the incident, a criminal complaint for "Slander by Deed" was filed by petitioner with the Municipal Trial Court of Pilar, Capiz, docketed as Criminal Case No. 2228, but the same was dismissed.[3] Subsequently, a complaint for damages was filed by petitioner with the court a quo. In a decision,[4] dated 18 April 1978, the court ruled in favor of herein petitioner (as complainant), holding private respondent liable to the former for moral damages as a result of the physical suffering, moral shock and social humiliation caused by private respondent's act of hitting petitioner on the face in public. The dispositive part of the decision reads as follows:

"WHEREFORE, the Court orders defendant to pay plaintiff the damages as follows:

- a) Moral damages of P10,000.00
- b) Exemplary damages, P1,000.00 and
- c) Attorney's fees, P2,000.00.

SO ORDERED."[5]

On 9 June 1978, petitioner filed a motion for execution of judgment, alleging that the 18 April 1978 decision had

become final and executory after the lapse of thirty (30) days from receipt thereof by private respondent, without any motion for reconsideration or appeal having been filed.[6] However, said motion was denied by the court a quo on the ground that there was a pending motion for reconsideration filed by private respondent.[7] Subsequently, private respondent filed a supplemental motion for reconsideration[8] and the court ordered petitioner to file a reply (opposition) thereto.[9] In compliance, petitioner filed a reply (opposition) to the motion for reconsideration, alleging that the filing of said motion and supplement thereto was without notice to the adverse party and proof of service, hence, the decision sought to be reconsidered had already become final and unappealable.[10]

Private respondent filed a rejoinder (reply) and a manifestation stating that petitioner was duly served with a copy of said motion for reconsideration by ordinary mail, attaching thereto the affidavit of Godofredo Almazol who stated that he mailed the envelope to counsel for herein petitioner.[11] The court a quo then scheduled the motion for oral argument and the parties were allowed to extensively argue their respective causes.

On 3 August 1979, an order[12] of dismissal of the petitioner's complaint was issued by the trial court, thus -

"O R D E R

This is a motion for reconsideration of the decision of this Court dated April 18, 1978, filed by counsel for defendant on May 18, 1978.

In view of the recent trend in the Supreme Court to liberally construe the Rules, and in view of Section 2, Rule 1, the Court resolves to give due course to the motion.

Upon review of the facts of the case, it appears and the Court finds merit in the motion for reconsideration, particularly noting that there is indeed no showing of compensatory damages being proved.

WHEREFORE, this Court reconsiders its decision to conform to the facts and the law, namely, that moral and exemplary damages, in order to merit, the plaintiff ought to have proven actual or compensatory damages.

WHEREFORE, this case is ordered dismissed.

SO ORDERED."

Not satisfied with said order, petitioner filed the petition at bar contending that no copy of the Motion for Reconsideration was served upon petitioner and no proof of service as well as notice of hearing were attached to said motion when filed with the court a quo; thus, the motion for reconsideration did not interrupt the running of the period to appeal. The alleged mailing of a copy of said motion by ordinary mail did not, according to petitioner, cure the defect. Petitioner further argues that respondent's admission that he slapped herein petitioner in public causing him physical suffering and social humiliation, entitles the latter to moral damages. Actual and compensatory damages need not be proven before an award of moral damages can be granted, so petitioner contends.

On the other hand, private respondent claims that the order of the court a quo apprising petitioner of the motion for reconsideration filed by private respondent and requiring the former to file a reply (opposition) thereto, had cured the defect of lack of proof of service and notice of hearing of said motion for reconsideration: and that the award of moral damages to petitioner is without basis for lack of proof of bad faith on the part of private respondent.

With respect to the alleged lack of service on petitioner of a copy of the motion and notice of hearing and failure to attach to the motion proof of service thereof, the general rule is that notice of motion is required where a party has a right to resist the relief sought by the motion and principles of natural justice demand that his rights be not

affected without an opportunity to be heard.[13]

In the case at bar, a copy of the motion for reconsideration was served upon petitioner, although service was effected through ordinary mail and not by registered mail as required by the rules. But, petitioner was duly given the full opportunity to be heard and to argue his case when the court a quo required him to file a reply (opposition) to the motion for reconsideration and subsequently set the motion for oral argument.

What the law really eschews is not the lack of previous notice of hearing but the lack of opportunity to be heard. It has been held that parties should not rely on mere technicalities which, in the interest of justice, may be relaxed.[14] The rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must be avoided.[15] Moreover, the case should, as much as possible, be decided on the merits and not merely on technicalities.

As to the petitioner's claim for moral damages, we find the same to be meritorious. There is no question that moral damages may be recovered in cases where a defendant's wrongful act or omission has caused the complainant physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation and similar injury.[16] An award of moral damages is allowed in cases specified or analogous to those provided in Article 2219 of the Civil Code to wit:

"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 article 309;
- (10) Acts and actions referred to in articles 21, 26, 27, 28, 29, 30, 32, 34, and 35.

x x x x x x x x"

Private respondent's contention that there was no bad faith on his part in slapping petitioner on the face and that the incident was merely accidental is not tenable. It was established before the court a quo that there was an existing feud between the families of both petitioner and private respondent and that private respondent slapped the petitioner without provocation in the presence of several persons.

The act of private respondent in hitting petitioner on the face is contrary to morals and good customs and caused the petitioner mental anguish, moral shock wounded feelings and social humiliation. Private respondent has to take full responsibility for his act and his claim that he was unaware of what he had done to petitioner because of drunkenness is definitely no excuse and does not relieve him of his liability to the latter.

Pursuant to Art. 21 of the Civil Code in relation to par. (10) of Art. 2219 of the same Code, "any person who

wilfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage."

The fact that no actual or compensatory damage was proven before the trial court, does not adversely affect petitioner's right to recover moral damages. Moral damages may be awarded in appropriate cases referred to in the chapter on human relations of the Civil Code (Articles 19 to 36), without need of proof that the wrongful act complained of had caused any physical injury upon the complainant.[17] It is clear from the report of the Code Commission that the reason underlying an award of damages under Art. 21 of the Civil Code is to compensate the injured party for the moral injury caused upon his person, thus -

"x x x. Fully sensible that there are countless gaps in the statutes, which leave so many victims of moral wrongs helpless, even though they have actually suffered material and moral injury, the Commission has deemed it necessary, in the interest of justice, to incorporate in the proposed Civil Code the following rule:

'ART. 23. Any person who wilfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage.'

x x x x x x x x."[18]

In addition to the award of moral damages, exemplary or corrective damages may be imposed upon herein private respondent by way of example or correction for the public good.[19] Exemplary damages are required by public policy to suppress the wanton acts of the offender. They are an antidote so that the poison of wickedness may not run through the body politic.[20] The amount of exemplary damages need not be proved where it is shown that plaintiff is entitled to either moral, temperate or compensatory damages, as the case may be,[21] although such award cannot be recovered as a matter of right.[22]

In cases where exemplary damages are awarded to the injured party, attorney's fees are also recoverable.[23]

WHEREFORE, the petition is GRANTED. The order appealed from, dated 3 August 1979, is REVERSED and the decision of the court a quo dated 18 April 1978 is hereby REINSTATED. With costs against private respondent.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Sarmiento and Regalado, JJ., concur.

[1] Penned by Judge Oscar Leviste, dated 3 August 1979, Rollo, p. 46

[2] Rollo, p. 22

[3] Memorandum for private respondent, Rollo, p. 80

[4] Penned by Judge Oscar Leviste, CFI of Capiz, Branch II, Rollo, pp. 13-26

[5] Rollo, p. 26

[6] Ibid., p. 31

[7] Order dated 16 June 1978, Rollo p. 33

[8] Rollo, p. 34

[9] Ibid., p. 36

- [10] Rollo, pp. 37-39
- [11] Ibid., pp. 40-43
- [12] Ibid., p. 46
- [13] Amante v. Sunga, G.R. No. L-40491, 28 May 1975, 64 SCRA 192
- [14] Un Giok vs. Matusa, 101 Phil., 272, G.R. No. L-10304, 31 May 1957
- [15] Aznar III vs. Bernad, G.R. No. 81190, 9 May 1988
- [16] Art. 2217, Civil Code
- [17] Malonzo v. Galang, G.R. No. L-13851, 27 July 1960, 109 Phil. 16.
- [18] Report of the Code Commission, pp. 39-40
- [19] Art. 2229, Civil Code
- [20] Report of the Code Commission, pp. 75-76
- [21] Art. 2234, Civil Code
- [22] Art. 2233, Ibid.
- [23] Tan Kapoe v. Masa, G.R. No. L-50473, 21 Jan. 1985, 134 SCRA 231

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