

SOCORRO D. RAMIREZ, PETITIONER, VS. HONORABLE COURT OF APPEALS, AND ESTER S. GARCIA, RESPONDENTS.

G.R. No. 93833. September 28, 1995

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

civil case for damages was filed by petitioner Socorro D. Ramirez in the Regional Trial Court of Quezon City alleging that the private respondent, Ester S. Garcia, in a confrontation in the latter's office, allegedly vexed, insulted and humiliated her in a "hostile and furious mood" and in a manner offensive to petitioner's dignity and personality," contrary to morals, good customs and public policy.[1]

In support of her claim, petitioner produced a verbatim transcript of the event and sought moral damages, attorney's fees and other expenses of litigation in the amount of P610,000.00, in addition to costs, interests and other reliefs awardable at the trial court's discretion. The transcript on which the civil case was based was culled from a tape recording of the confrontation made by petitioner.[2] The transcript reads as follows:

Plaintiff Socorro D. Ramirez (Chuchi) - Good afternoon M'am.

Defendant Ester S. Garcia (ESG) - Ano ba ang nangyari sa 'yo, nakalimot ka na kung paano ka napunta rito, porke member ka na, magsumbong ka kung ano ang gagawin ko sa 'yo.

CHUCHI - Kasi, naka duty ako noon.

ESG - Tapos iniwan no. (Sic)

CHUCHI - Hindi m'am, pero ilan beses na nila akong binalikan, sabing ganoon -

ESG - Ito and (sic) masasabi ko sa 'yo, ayaw kung (sic) mag explain ka, kasi hanggang 10:00 p.m., kinabukasan hindi ka na pumasok. Ngayon ako ang babalik sa 'yo, nag-aapply ka sa States, nag-aapply ka sa review mo, kung kakailanganin ang certification mo, kalimutan mo na kasi hindi ka sa akin makakahingi.

CHUCHI - Hindi M'am kasi ang ano ko talaga noon i-cocontinue ko up to 10:00 p.m.

ESG - Bastos ka, nakalimutan mo na kung paano ka pumasok dito sa hotel. Magsumbong ka sa Union kung gusto mo. Nakalimutan mo na kung paano ka nakapasok dito "Do you think that on your own makakapasok ka kung hindi ako. Panunumbvoyan na kita (Sinusumbatan na kita).

CHUCHI - Itutuloy ko na M'am sana ang duty ko.

ESG - Kaso ilang beses na akong binabalikan doon ng mga no (sic) ko.

ESG - Nakalimutan mo na ba kung paano ka pumasok sa hotel, kung on your own merit alam ko naman kung gaano ka "ka bobo" mo. Marami ang nag-aapply alam kong hindi ka papasa.

CHUCHI - Kumuha kami ng exam noon.

ESG - Oo, pero hindi ka papasa.

CHUCHI - Eh, bakit ako ang nakuha ni Dr. Tamayo

ESG - Kukunin ka kasi ako.

CHUCHI - Eh, di sana —

ESG - Huwag mong ipagmalaki na may utak ka kasi wala kang utak. Akala mo ba makukuha ka dito kung hindi ako.

CHUCHI - Mag-eexplain ako.

ESG - Huwag na, hindi ako mag-papa-explain sa 'yo, makaalala ka kung paano ka puma-rito. "Putang ina" sasabi-sabihin mo kamag-anak ng nanay at tatay mo ang mga magulang ko.

ESG - Wala na akong pakialam, dahil nandito ka sa loob, nasa labas ka puwede ka ng hindi pumasok, okey yan nasaloob ka umalis ka doon.

CHUCHI - Kasi M'am, binalikan ako ng mga taga Union.

ESG - Nandiyan na rin ako, pero huwag mong kalimutan na hindi ka makakapasok kung hindi ako. Kung hindi mo kinikilala yan okey lang sa akin, dahil tapos ka na.

CHUCHI - Ina-ano ko m'am na utang na loob.

ESG - Huwag na lang, hindi mo utang na loob, kasi kung baga sa no, nilapastanganan mo ako.

CHUCHI - Paano kita nilapastanganan?

ESG - Mabuti pa lumabas ka na. Hindi na ako makikipagusap sa 'yo. Lumabas ka na. Magsumbong ka.[3]

As a result of petitioner's recording of the event and alleging that the said act of secretly taping the confrontation was illegal, private respondent filed a criminal case before the Regional Trial Court of Pasay City for violation of Republic Act 4200, entitled "An Act to prohibit and penalize wire tapping and other related violations of private communication, and other purposes." An information charging petitioner of violation of the said Act, dated October 6, 1988 is quoted herewith:

INFORMATION

The Undersigned Assistant City Fiscal Accuses Socorro D. Ramirez of Violation of Republic Act No. 4200, committed as follows:

That on or about the 22nd day of February 1988, in Pasay City Metro Manila Philippines, and within the jurisdiction of this honorable court, the above-named accused, Socorro D. Ramirez not being authorized by Ester S. Garcia to record the latter's conversation with said accused, did then and there wilfully, unlawfully and feloniously, with the use of a tape recorder secretly record the said conversation and thereafter communicate in writing the contents of the said recording to other person.

Contrary to law.

Pasay City, Metro Manila, September 16, 1988.

MARIANO M. CUNETTA
Asst. City Fiscal

Upon arraignment, in lieu of a plea, petitioner filed a Motion to Quash the Information on the ground that the facts charged do not constitute an offense, particularly a violation of R.A. 4200. In an order dated May 3, 1989, the trial court granted the Motion to Quash, agreeing with petitioner that 1) the facts charged do not constitute an offense under R.A. 4200; and that 2) the violation punished by R.A. 4200 refers to the taping of a communication by a person other than a participant to the communication.[4]

From the trial court's Order, the private respondent filed a Petition for Review on Certiorari with this Court, which forthwith referred the case to the Court of Appeals in a Resolution (by the First Division) of June 19, 1989.

On February 9, 1990, respondent Court of Appeals promulgated its assailed Decision declaring the trial court's order of May 3, 1989 null and void, and holding that:

"[T]he allegations sufficiently constitute an offense punishable under Section 1 of R.A. 4200. In thus quashing the information based on the ground that the facts alleged do not constitute an offense, the respondent judge acted in grave abuse of discretion correctible by certiorari." [5]

Consequently, on February 21, 1990, petitioner filed a Motion for Reconsideration which respondent Court of Appeals denied in its Resolution[6] dated June 19, 1990. Hence, the instant petition.

Petitioner vigorously argues, as her "main and principal issue"[7] that the applicable provision of Republic Act 4200 does not apply to the taping of a private conversation by one of the parties to the conversation. She contends that the provision merely refers to the unauthorized taping of a private conversation by a party other than those involved in the communication.[8] In relation to this, petitioner avers that the substance or content of the conversation must be alleged in the Information, otherwise the facts charged would not constitute a violation of R.A. 4200.[9] Finally, petitioner argues that R.A. 4200 penalizes the taping of a "private communication," not a "private conversation" and that consequently, her act of secretly taping her conversation with private respondent was not illegal under the said act.[10]

We disagree.

First, legislative intent is determined principally from the language of a statute. Where the language of a statute is clear and unambiguous, the law is applied according to its express terms, and interpretation would be resorted to only where a literal interpretation would be either impossible[11] or absurd or would lead to an injustice[12].

Section 1 of R.A. 4200 entitled, "An Act to Prohibit and Penalize Wire Tapping and Other Related Violations of Private Communication and Other Purposes," provides:

Section I. It shall be unlawful for any person, not being authorized by all the parties to any private communication or spoken word, to tap any wire or cable, or by using any other device or arrangement, to secretly overhear, intercept, or record such communication or spoken word by using a device commonly known as a dictaphone or dictagraph or detectaphone or walkie-talkie or tape recorder, or however otherwise described.

The aforesaid provision clearly and unequivocally makes it illegal for any person, not authorized by all the parties to any private communication to secretly record such communication by means of a tape recorder. The law makes no distinction as to whether the party sought to be penalized by the statute ought to be a party other than or different from those involved in the private communication. The statute's intent to penalize all persons unauthorized to make such recording is underscored by the use of the qualifier "any". Consequently, as respondent Court of Appeals correctly concluded, "even a (person) privy to a communication who records his private conversation with another without the knowledge of the latter (will) qualify as a violator"[13] under this provision of R.A. 4200.

A perusal of the Senate Congressional Records, moreover, supports the respondent court's conclusion that in enacting R.A. 4200 our lawmakers indeed contemplated to make illegal, unauthorized tape recording of private conversations or communications taken either by the parties themselves or by third persons. Thus:

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Senator Tanada: That qualified only 'overhear'.

Senator Padilla: So that when it is intercepted or recorded, the element of secrecy would not appear to be material. Now, suppose, Your Honor, the recording is not made by all the parties but by some parties and involved not criminal cases that would be mentioned under section 3 but would cover, for example civil cases or special proceedings whereby a recording is made not necessarily by all the parties but perhaps by some in an effort to show the intent of the parties because the actuation of the parties prior, simultaneous even subsequent to the contract or the act may be indicative of their intention. Suppose there is such a recording, would you say, Your Honor, that the intention is to cover it within the purview of this bill or outside?

Senator Tanada: That is covered by the purview of this bill, Your Honor.

Senator Padilla: Even if the record should be used not in the prosecution of offense but as evidence to be used in Civil Cases or special proceedings?

Senator Tanada: That is right. This is a complete ban on tape recorded conversations taken without the authorization of all the parties.

Senator Padilla: Now, would that be reasonable, Your Honor?

Senator Tanada: I believe it is reasonable because it is not sporting to record the observation of one without his knowing it and then using it against him. It is not fair, it is not sportsmanlike. If the purpose; Your honor, is to record the intention of the parties. I believe that all the parties should know that the observations are being recorded.

Senator Padilla: This might reduce the utility of recorders.

Senator Tanada: Well no. For example, I was to say that in meetings of the board of directors where a tape recording is taken, there is no objection to this if all the parties know. It is but fair that the people whose remarks and observations are being made should know that these are being recorded.

Senator Padilla: Now, I can understand.

Senator Tanada: That is why when we take statements of persons, we say: "Please be informed that whatever you say here may be used against you." That is fairness and that is what we demand. Now, in spite of that warning, he makes damaging statements against his own interest, well, he cannot complain any more. But if you are going to take a recording of the observations and remarks of a person without him knowing that it is being taped or recorded, without him knowing that what is being recorded may be used against him, I think it is unfair.

X X X X X X X X

(Congressional Record, Vol. III, No. 31, p. 584, March 12, 1964)

Senator Diokno: Do you understand, Mr. Senator, that under Section I of the bill as now worded, if a party secretly records a public speech, he would be penalized under Section I? Because the speech is public, but the recording is done secretly.

Senator TANADA: Well, that particular aspect is not contemplated by the bill. It is the communication between one person and another person - not between a speaker and a public.

X X X X X X X X

(Congressional Record, Vol. III, No. 33, p. 626, March 12, 1964)

X X X X X X X X

The unambiguity of the express words of the provision, taken together with the above-quoted deliberations from the Congressional Record, therefore plainly supports the view held by the respondent court that the provision seeks to penalize even those privy to the private communications. Where the law makes no distinctions, one does not distinguish.

Second, the nature of the conversation is immaterial to a violation of the statute. The substance of the same need not be specifically alleged in the information. What R.A. 4200 penalizes are the acts of secretly overhearing, intercepting or recording private communications by means of the devices enumerated therein. The mere allegation that an individual made a secret recording of a private communication by means of a tape recorder would suffice to constitute an offense under Section 1 of R.A. 4200. As the Solicitor General pointed out in his COMMENT before the respondent court: "Nowhere (in the said law) is it required that before one can be regarded as a violator, the nature of the conversation, as well as its communication to a third person should be professed." [14]

Finally, petitioner's contention that the phrase "private communication" in Section 1 of R.A. 4200 does not include "private conversations" narrows the ordinary meaning of the word "communication" to a point of absurdity. The word communicate comes from the latin word *communicare*, meaning "to share or to impart." In its ordinary signification, communication connotes the act of sharing or imparting, as in a conversation, [15] or signifies the "process by which meanings or thoughts are shared between individuals through a common system of symbols (as language signs or gestures)" [16] These definitions are broad enough to include verbal or non-verbal, written or expressive communications of "meanings or thoughts" which are likely to include the emotionally - charged exchange, on February 22, 1988, between petitioner and private respondent, in the privacy of the latter's office. Any doubts about the legislative body's meaning of the phrase "private communication" are, furthermore, put to rest by the fact that the terms "conversation" and "communication" were interchangeably used by Senator Tanada in his Explanatory Note to the bill, quoted below:

"It has been said that innocent people have nothing to fear from their conversations being overheard. But this statement ignores the usual nature of conversations as well as the undeniable fact that most, if not all, civilized people have some aspects of their lives they do not wish to expose. Free conversations are often characterized by exaggerations, obscenity, agreeable falsehoods, and the expression of anti-social desires of views not intended to be taken seriously. The right to the privacy of communication, among others, has expressly been assured by our Constitution. Needless to state here, the framers of our Constitution must have recognized the nature of conversations between individuals and the significance of man's spiritual nature, of his feelings and of his intellect. They must have known that part of the pleasures and satisfactions of life are to be found in the unaided, and free exchange of communication between individuals — free from every unjustifiable intrusion by whatever means." [17]

In *Gaanan vs Intermediate Appellate Court* [18] a case which dealt with the issue of telephone wiretapping, we held that the use of a telephone extension for the purpose of overhearing a private conversation without authorization did not violate R.A. 4200 because a telephone extension device was neither among those devices enumerated in Section 1 of the law nor was it similar to those "device(s) or arrangement(s)" enumerated therein, [19] following the principle that "penal statutes must be construed strictly in favor of the accused." [20] The instant case turns on a different note, because the applicable facts and circumstances pointing to a violation of R.A. 4200 suffer from no ambiguity, and the statute itself explicitly mentions the unauthorized "recording" of

private communications with the use of tape-recorders as among the acts punishable.

WHEREFORE, because the law, as applied to the case at bench is clear and unambiguous and leaves us with no discretion, the instant petition is hereby DENIED. The decision appealed from is AFFIRMED. Costs against petitioner.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., and Bellosillo, JJ., concur.
Hermosisima, Jr., J., on leave.

[1] Docketed as Civil Case No. 88-403, Regional Trial Court, Makati, Branch 64.

[2] Rollo, p. 48.

[3] Rollo, pp. 47-48.

[4] Rollo, p. 9.

[5] Rollo, p. 37.

[6] Rollo, p. 99, Annex "H."

[7] Rollo, p. 13.

[8] Id.

[9] Rollo, p. 14.

[10] Rollo, pp. 14-15.

[11] Pacific Oxygen and Acetylene Co. Vs. Central Bank 37 SCRA 685 (1971).

[12] Casela v. Court of Appeals, 35 SCRA 279 (1970).

[13] Rollo, p. 33.

[14] Rollo, p. 67.

[15] WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 460 (1976).

[16] Id.

[17] CONGRESSIONAL RECORD, Vol. III, No. 31, at 573 (March 10, 1964).

[18] 145 SCRA 112 (1986). See also, Salcedo-Ortanez v. CA 235 SCRA 111 (1994).

[19] Id., at 120.

[20] Id., at 121.

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