

**MARIA G. FORD, SUBSTITUTED BY PATRICK G. FORD, PETITIONER,
VS. COURT OF APPEALS AND SULPICIA FABRICAR, RESPONDENTS.***G.R. Nos. 51171-72. June 04, 1990*

Ponente: REGALADO, J.

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The generally accepted rule in our jurisprudence is that the findings of fact of a trial court carry great weight since it had the opportunity of observing the demeanor of the witnesses on the stand as a further aid in determining their credibility. The rule, however, admits of exceptions, both in the factual findings of the trial court and the conclusions drawn by it therefrom, and, as respondent court holds, the decision of the court a quo in these cases exemplifies a warranted departure from the aforesaid jurisprudential rule.

These consolidated petitions seek the review of the decision of respondent court[1] in CA-G.R. Nos. 59402-03-R entitled "Sulpicia F. Fabrigar, Plaintiff-Appellant, vs. Vicente F. Uy and Maria G. Ford, Defendants-Appellees," together with its resolution denying petitioners' motions for reconsideration, which reversed the decision of the trial court in Civil Cases Nos. M-282 and M-283 of the then Court of First Instance of Capiz, Mambusao Branch, filed by herein private respondent Sulpicia Fabrigar against spouses Vicente Uy and Paciencia Uy and spouses Thomas J. Ford and Maria G. Ford, respectively.

From the nature of the issues raised in the present appeals, we are constrained to set out and analyze the facts involved which we are told do not sustain the conclusions drawn by the court below. The decision of respondent court presents the two sides of the incident as follows:

"On July 27, 1973, at about 7:00 o'clock in the morning, Sulpicia Fabrigar, being a public school teacher of Barrio Sta. Cruz, Dumalag, Capiz reported to the precinct of her assignment particularly at the Elementary School of Sta. Cruz, Dumalag, Capiz, by reason of the deputization of all public school teachers to assist the COMELEC in the conduct of the National Referendum.

"Between 3:00 and 3:30 P.M. of that day, while she was inside Precinct No. 11-A, she saw Elmo Uy, son of the barrio captain of Sta. Cruz, Vicente Uy, get the remark sheet of voter Regalado Fimalino and began to write on said remark sheet of the latter. She called the attention of the Referendum Committee composed of Leandra Fagtanac, Chairwoman; Concepcion Fale and Benito Facura, Members, to these acts of Elmo Uy but the Committee did not mind her. So, she took the initiative of going to and advising Elmo Uy not to write anything on the remark sheet of the voter Fimalino. Elmo Uy asked Sulpicia what business of hers (sic) in so doing to which she answered that she was merely advising him. Elmo Uy stood up, pulled out his appointment paper as an observer in the referendum and tore it to pieces saying that it was useless and not respected anyway. Thereafter, Elmo Uy went out of the precinct reported the matter to his father, Vicente Uy, the barrio captain of Sta. Cruz. A few minutes later, barrio captain Vicente Uy, father of Elmo, entered Precinct No. 11-A and shouted at Sulpicia Fabrigar, 'Hijo de puta, why do you interfere with what my son is doing? Why are you pretending to be somebody here in Sta. Cruz? You are a no good headteacher. I do not send my children to this school because of your enviousness.' Sulpicia Fabrigar answered that she was merely advising Elmo Uy not to write on the remark sheet of Regalado Fimalino and she did not pretend to be somebody. While Vicente Uy

was leaving the precinct, he further said that he would report Sulpicia Fabrigar to Mrs. Maria Ford.

"Thirty minutes after Vicente Uy had left the precinct, Maria Ford, owner of the Asturias Sugar Central, arrived very angry, saying, 'Where is Suping, where is Suping?' Sulpicia Fabrigar immediately presented herself to Maria Ford, and the latter said, 'Why did you campaign for 'No' according to the barrio captain?' Sulpicia Fabrigar answered, 'I did not campaign for 'No' I even wanted a zero 'No' because you promised to provide electricity in this barrio if nobody votes 'No'.' Elmo Uy then interrupted their conversation and said that Sulpicia Fabrigar really campaigned for 'No' votes. Maria Ford said, 'Its true you campaigned for 'No' and why do you still insist on reasoning?', and then, Maria Ford slapped Sulpicia Fabrigar on the left face. She wanted to retaliate but her sister, Fidelina Frias, held her back and pulled her away. Maria Ford further said, 'I'll have you transferred to a far place. You are ungrateful to me. You are always rebelling against me. Get out and go home.' Afterwards, Sulpicia Fabrigar reported this particular incident to the police authorities of Dumalag, Capiz (Exhibit 'A/' '1'). She also sent telegrams to the President (Exhibits 'T' and 'H'), to the COMELEC (Exhibit 'J') and to the Secretary of National Defense (Exhibit 'L') in connection with this incident.[2]

Respondent court observes that, on his part, Vicente Uy presented his version of the incident thus:

"At about 2 p.m. on referendum day, Benito Facura, upon the request of the chairwoman of the Referendum Committee, Leandra Fagtanac, went to the house of Vicente Uy to inform him that there was trouble in the barrio center. Vicente Uy went to said place and he had a talk with Leandra Fagtanac about what happened thereat. Leandra Fagtanac informed Vicente Uy that Sulpicia Fabrigar shouted at Elmo Uy; that she requested Sulpicia Fabrigar to keep quiet but the latter continued to shout at Elmo Uy that he should not teach the voters because they were more intelligent than him; that when Elmo Uy showed his appointment papers as referendum observer, Sulpicia Fabrigar tore it to pieces and threw it on the floor; and that as a result of the commotion created by the quarrel of Sulpicia Fabrigar and Elmo Uy, the people scattered away from the precinct.

"Upon getting this information from Leandra Fagtanac, Vicente Uy asked her where was Sulpicia Fabrigar and he was told that she had just left the room. When Vicente Uy was about to leave the precinct, Sulpicia Fabrigar came in. Vicente Uy then addressed her, 'Mrs. Fabrigar, what happened here? Can you not settle this since this is our affair?' Sulpicia Fabrigar answered, 'I told Elmo not to teach the voters because they also know what they're doing and why are you inquiring?' Vicente Uy said: 'Why did you humiliate Elmo when we have a chairwoman to refer this matter?' (sic) Sulpicia Fabrigar countered, 'You think you're still a barangay captain inside this precinct. It's the headteacher who is powerful in this building.' Vicente Uy said, 'I'm not trying to be somebody here. If you won't believe me, I'd report this matter at the poblacion.' Sulpicia Fabrigar said, 'I don't care to whom you'd report, I'm not afraid, go ahead.' So, Vicente Uy left with his jeep. The people were no longer voting, and on the way to the poblacion Vicente Uy thought of asking Maria Ford to pacify Sulpicia Fabrigar, to stop her from molesting and disturbing the people so they could vote. Vicente Uy then believed that Maria Ford, being the godmother of Sulpicia Fabrigar, could pacify her.

"Maria Ford asked Vicente Uy how the voting was going along, and the latter told her that Sulpicia Fabrigar was getting uncontrollable in the precinct, that she tore the appointment as observer of his son Elmo, and that the people were not voting anymore. Vicente Uy asked Maria Ford to stop Sulpicia Fabrigar from molesting and disturbing the people. Thereafter, Vicente Uy left to report the matter to the COMELEC Registrar but he did not meet him because he was out. On his way home, he met the Mayor and the Governor and to whom he narrated this incident. The following day, Vicente Uy reported this incident to the police authorities of Dumalag, Capiz and it was entered in the Police Blotter (Exhibit '3'-Uy)."[3]

Said decision continues with an account of the incident this time by Maria Ford:

"At about 1:30 p.m. on referendum day, some people reported to Maria Ford that Sulpicia Fabrigar was screaming at the polling place, and they asked her to stop Sulpicia Fabrigar as she is her (a)hijada and relative

because people were going away and not voting anymore. Then came Vicente Uy, the barrio captain, who also asked Maria Ford to intercede with Sulpicia Fabrigar because she was creating trouble, fighting with his son, and many people were leaving the polling place.

"Maria Ford went to the polling place to find out the truth of the report and also to make the people vote. Upon her arrival at the polling place, Sulpicia Fabrigar immediately shouted, 'Why did you come here, you're helping the barrio captain!' Maria Ford answered, 'I came here because the people and the barrio captain asked me to make you keep quiet and stop this trouble.' Then Sulpicia Fabrigar screamed, 'I'm the headteacher here!' Maria Ford told Sulpicia Fabrigar to keep quiet and go home and not to scream, but she answered that she was the headteacher and she was supposed to be there and she would not go home. Then Maria Ford started to inquire from the people around whether or not Sulpicia Fabrigar has some trouble with Elmo Uy and whether or not she tore his appointment paper as referendum observer. Suddenly, Sulpicia Fabrigar screamed again saying that Elmo Uy was insulting her. Maria Ford told Elmo Uy to go home, and when Elmo Uy passed between her and Sulpicia Fabrigar, the latter continued to scream insulting words at Elmo Uy. Sulpicia Fabrigar even wanted to beat Elmo Uy, and she was trembling. So, laboring under the belief that Sulpicia Fabrigar had already become hysterical, Maria Ford slapped her on the face to calm her down. After this, Sulpicia Fabrigar quieted down momentarily, and then she said to Maria Ford, 'If you're not only old, I'd beat you!' Maria Ford held out her face to Sulpicia Fabrigar and ordered her to hit it, but she did not." [4]

After trial in the Court of First Instance of Capi, Mambusao Branch, presided over by Judge Tomas R. Leonidas, judgment was rendered dismissing Sulpicia Fabrigar's complaint and further ordering her to pay Maria Ford P2,000.00 as moral damages, P2,000.00 as exemplary damages, P1,000.00 for attorney's fees and P5,000.00 for expenses of litigation; and also to pay Vicente Uy P2,000.00 as moral damages, P2,000.00 as exemplary damages, P2,000.00 for attorney's fees and P1,000.00 for expenses of litigation, said amounts to bear interest from the date of judgment. [5]

In dismissing said complaint for damages of herein private respondent, the lower court arrived at the following conclusions:

"According to Sulpicia Fabrigar, upon entering the precinct, Vicente Uy immediately shouted at her, 'Hijo de puta, why do you interfere with what my son is doing here? Why are you pretending to be somebody here in Sta. Cruz? You are a no good headteacher. I do not send my children to this school because of your enviousness.' x x x

"It clearly appears that from among the statements of Vicente Uy, only 'Why are you pretending to be somebody in Sta. Cruz' called for comment or action from Sulpicia Fabrigar which, to the mind of the court, is an innocuous expression or statement merely showing disgust, displeasure or, at its worst, anger, and not to slander. It is of a lesser degree and intensity than the words 'putang ina mo' which the Supreme Court in *Reyes v. People*, L-21528, March 28, 1969, 27 SCRA 686, has stated to be a common expression in the dialect that is often employed not really to slander but rather to express anger or displeasure. With respect to the other statements of Vicente Uy which did not call for any comment from Sulpicia Fabrigar, her silence should be deemed to be an admission of their truth and truth can not hurt or insult. Thus, an act or declaration made in the presence and within the observation of a party who does or says nothing when the act or declaration is such as naturally to call for action or comment if not true, may be given in evidence against him. (Sec. 23, Rule 130 Rules of Court). x x x

x x x

"Maria Ford admitted that she slapped Sulpicia Fabrigar because the latter became hysterical and the former was then laboring under the belief that the only way to stop a hysteric is to slap and jolt him into consciousness. There is speciousness in this assertion. Sulpicia Fabrigar even admitted on the witness stand that Maria Ford slapped her so that she would stop 'talking' with Elmo Uy, but she failed to positively state that

by this one slap she was dishonored, defamed or shamed. She merely felt a deafening sensation, and nothing more. Sulpicia Fabrigar, by her ravings and rantings against Elmo Uy, was already disturbing the peace of mind of the people and scaring them from participating in the referendum process. There was then an emergency, absent any police officer, and as godmother and second cousin by affinity of Sulpicia Fabrigar, Maria Ford thought it her duty to do what she did which nobody would have dared done. In this setting, this court finds that Maria Ford acted within her legal and moral right and duty, for her own peace of mind, to arrest the shameful act of an (a)hijada and relative. To restore peace and order in the polling place and to prevent Sulpicia Fabrigar from further eroding and invading the right of suffrage of others. In so doing, Maria Ford could not have been actuated with malice aforethought of putting Sulpicia Fabrigar into disrepute, but rather to restore her to normal self and bring back order to the referendum process." x x x[6]

Respondent court, however, rejected said conclusions on the following ratiocinations:

"As we appreciate the facts of the case, We believe that Vicente Uy was very much offended by the action of Mrs. Fabrigar in admonishing the former's son, Elmo, who has been shown to have interfered in the voting in Sta. Cruz, Dumalag, Capiz. Unable to swallow the fact that someone has questioned his 'power' as barrio captain, Vicente Uy immediately rushed to the barrio school and there began insulting the lowly school headteacher, Sulpicia Fabrigar.

"We cannot clearly see Our way through when in disregarding the other slanderous remarks of Vicente Uy, the lower court said that 'her silence (to those facts) should be deemed an admission of their truth and truth cannot hurt or insult.' The trial court most certainly is in error in this regard."[7]

x x x

It further observed that --

"x x x It is not for Maria Ford to say whether her acts did or did not place the offended party Sulpicia Fabrigar in contempt of the spectators. The facts obtaining in this case indicate that appellee Ford in performing the act of slapping the school teacher in front of the barrio people was motivated by personal animosity because Maria Ford has been misinformed that Sulpicia Fabrigar has been campaigning for 'No' votes in the National Referendum of July 27, 1973 which was against the wishes of Maria Ford. And taking into account the position held by the victim and the circumstances surrounding the incidents in question, we believe that Maria Ford has by deed slandered plaintiff Sulpicia Fabrigar which would entitle the latter to damages. There can be no circumstance more humiliating for a headteacher of a barrio school than to be seen by the barrio folks being slapped in her face."[8]

Setting aside the decision of the trial court, respondent court ordered Vicente Uy to pay Sulpicia Fabrigar the sum of P5,000.00 as moral damages, P2,000.00 as exemplary damages, and P2,000.00 as attorney's fees; and also ordered Maria Ford to pay Sulpicia Fabrigar the sum of P10,000.00 as moral damages, P2,000.00 as exemplary damages and P2,000.00 as attorney's fees, with costs against both defendants-appellees.

In her petition at bar, the late Maria Ford contends that respondent court erred in holding that she acted with malice and ill will when she slapped private respondent, and in awarding damages and attorney's fees to the latter.[9] Along the same vein, petitioner Uy submits that the Court of Appeals should not have reversed the trial court's decision nor should it have awarded damages, attorney's fees, litigation expenses and costs to private respondent.[10]

Petitioner Ford contends that the act of slapping, standing alone and unexplained, would not speak well of the intent of the actor and that to determine the intent, the surrounding circumstances, particularly those preceding the slapping, should be taken into consideration. It is submitted that this is so since malice, which is an essential element in this type of an offense, is a state of mind and can only be proven by extrinsic evidence. She declares

that her act of slapping Sulpicia Fabrigar was not actuated by malice but engendered by a legitimate motive prompted by her desire to calm down a person who appeared to be hysterical and to stop a goddaughter and relative from further creating a scandal. She also assails as exorbitant the award of moral damages and, for alleged lack of legal basis, the awards of exemplary damages and attorney's fees.[11]

On the other hand, petitioner Uy maintains that he has not slandered Sulpicia Fabrigar; and that the contents of Exhibits "A"/"1" (police blotter of the incident in question), "I" and "K", (telegram of Fabrigar to the President), "J" (telegram of Fabrigar to the Commission on Elections) and "L" (telegram of Fabrigar to the Secretary of National Defense) constitute admissions against Fabrigar's interest under Section 22, Rule 130 and also judicial admissions under Section 2, Rule 129, both of the 1964 Rules of Court, which would have barred respondent court from reversing the lower court's finding that he did not utter the words imputed to him and did not insult Fabrigar.[12]

We find both appeals devoid of merit.

The decision of the trial court proceeds from misapprehensions and patently erroneous conclusions of fact. A slap on the face is an unlawful aggression. The face personifies one's dignity and slapping it is a serious personal affront. It is a physical assault coupled with a willful disregard of the integrity of one's person. This is especially true if the aggrieved party is a school teacher who, in penal law, is a person in authority. Respect for a teacher is required of all, if we are to uphold and enhance the dignity of the teaching profession. The demeaning act of respondent Ford is virtually inexpiable when done, as in this case, in the presence of the public inside a polling precinct during an electoral exercise. This certainly is one of the extreme circumstances under which ridicule, discredit and contempt could be cast upon the aggrieved party in the community where she performs her functions as a mentor of their children.

As discerningly observed by respondent court, considering the position of private respondent, nothing but shame, humiliation and dishonor could have been heaped upon her by the indignities she had to suffer at the hands of petitioner Ford. Furthermore, there is ample reason to believe that said petitioner's displeasure over the rumor that private respondent was campaigning for "No" votes was sufficient motive for her to deliberately confront private respondent and maltreat the latter.

The act of petitioner Ford in slapping private respondent on the face in public is contrary to morals and good customs and under the circumstances, could not but have caused the latter mental anguish, moral shock, wounded feelings and social humiliation.[13] Full responsibility attached to said act of the late petitioner Ford and the corresponding sanctions should be imposed. Her excuse that she was prompted by her desire to calm down private respondent and prevent her from becoming hysterical is too lame a subterfuge upon which to premise a plea for exoneration. We are not persuaded by such pretense. Private respondent was in the performance of her duty when the incident took place and she had every right to stay in her post. On the other hand, petitioner Ford had no legitimate business inside the polling precinct. Definitely, she barged into the premises in response to the report and importuning of petitioner Uy.

The award of moral damages is allowed in cases specified or analogous to those provided in Article 2219 of the Civil Code.[14] Under Article 21 of said Code, in relation to Paragraph (10), Article 2219 thereof, any person who willfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for moral damages. By way of example or correction for the public good, exemplary damages may also be awarded.[15] Attorney's fees are also recoverable.[16]

With respect to petitioner Uy, the gravity of the defamatory words uttered by him depends not only upon their sense and grammatical meaning, judging them separately, but also upon the special circumstances of the case and

the antecedents or relationship between the offended party and the offender which might tend to prove the intention of the offender at the time.[17]

Suffice it to say that the imputations uttered by petitioner Uy against private respondent also cast further dishonor, discredit and contempt on the latter. Petitioner Uy was a barrio captain. His proven actuations do not speak well of a public officer, especially when done in the presence of the public during said referendum.

Petitioner Uy claims that private respondent should be bound by her statement appearing in the police blotter where she made no mention that she was slandered by the former. This is fallacious reasoning. The entry in the police blotter, even if admitted as an exception to the hearsay rule, is not necessarily entitled to full credit as the entrant did not have personal knowledge of the facts stated and the police agent who prepared the same did not testify in court.[18] Admissibility of evidence is one thing; the weight thereof is another. The court below also declared that an entry in the police blotter is an entry in an official record made in the performance of duty by a public officer and, as such, its trustworthiness arises and its correctness cannot be impugned, there being a presumption of regularity in its execution. This is not entirely correct. Entries in official records are only prima facie evidence of the facts therein stated. They are not conclusive.

We are satisfied with private respondent's explanation. Her initiative in promptly instituting her complaint clearly manifests her honest intention to vindicate the wrong committed against her. She explained that shortly after the incident between her and petitioner Uy, petitioner Ford came and slapped her. Thus, when the report was made by private respondent to the police authorities of Dumalag, Capiz, the immediate hurt and humiliation being felt by her was not only the slander committed by petitioner Uy but, primarily and foremost, the slapping by petitioner Ford. Hence, the police report of private respondent which focused on her being slapped by petitioner Ford, although inadvertently omitting the incident with petitioner Uy in view of her emotional state then, should not be construed to mean that private respondent was not slandered by petitioner Uy.

Like an affidavit, a police blotter is taken ex parte hence, in the same manner, it could be just as incomplete and inaccurate, sometimes from either partial suggestions or for want of suggestion or inquiries, without the aid of which the witness may be unable to recall the connected collateral circumstances necessary for the correction of the first suggestion of his memory and for his accurate recollection of all that pertains to the subject.[19] It is understandable that the testimony during the trial would be more lengthy and detailed than the matters stated in the police blotter. Petitioner Uy's disquisition on the omission of his intemperate and slanderous outburst in the entries made in the police blotter, or in the telegrams sent by private respondent, cannot outweigh the evidence on which respondent court based its factual findings and conclusions that he did commit said act. Further, the testimony thereon of private respondent in open court, in our view, has not been successfully rebutted and we have no reason to doubt the veracity thereof.

WHEREFORE, the instant petitions are hereby DENIED for lack of merit. The decision of respondent court is hereby AFFIRMED in toto.

SO ORDERED.

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

* The title of this case has been amended to indicate the substitution of the late Maria G. Ford by the present petitioner as noted in the Court's resolution of October 25, 1989.

[1] Penned by Justice Samuel F. Reyes, with Justices Andres Reyes and Carlos L. Sundiam concurring.

- [2] Rollo, G.R. Nos. 51171-72, 26-28.
- [3] Ibid., id., 28-30.
- [4] Ibid., id., 30-31.
- [5] Ibid., id., 31-32.
- [6] Record on Appeal, CA-G.R. Nos. 59402-03-R, 33-38; Rollo, G.R. Nos. 51171-72, 52.
- [7] Rollo, G.R. Nos. 59402-03-R, 35.
- [8] Ibid., id., 37.
- [9] Ibid., id., 14-23.
- [10] Brief for Petitioner Uy, 1; Rollo, G.R. No. 51273, 72.
- [11] Brief for Petitioner Ford, 17, 21, 28-29; Rollo, G.R. No. 51171-72, 178.
- [12] Brief for Petitioner Uy, 30-34; Rollo, G.R. No. 51273, 72.
- [13] Patricio vs. Leviste, etc., G.R. No. 51832, April 26, 1989.
- [14] Magbanua, et al. vs. Intermediate Appellate Court, et al., 137 SCRA 328.
- [15] Patricio vs. Leviste, etc., supra; Art. 2229, Civil Code.
- [16] Art. 2208(1), id.
- [17] Victorio, et al. vs. Court of Appeals, et al., G.R. Nos. L-32836-37, May 31, 1989, citing Balite vs. People, 18 SCRA 280 (1966).
- [18] See People vs. Golfo, 119 SCRA 424 (1982).
- [19] See People vs. Pasco, et al., G.R. No. 68520, Jan. 22, 1990.

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