

PURISIMA GESTOSO CRUZ, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. Nos. 56224-26. November 25, 1982

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Appeal by Certiorari from the Decision, dated May 30, 1980, of the Court of Appeals in CA-G.R. Nos. 22837-39-CR, entitled People of the Philippines vs. Purisima Gestoso Cruz, affirming the judgment of conviction rendered by the lower Court.

On March 14, 1978, petitioner Purisima Gestoso Cruz, an optometrist, was convicted by the Court of First Instance of Iloilo of three separate offenses of Grave Oral Defamation (Criminal Cases Nos. 6877, 6878 and 6879) and sentenced, in each case, to suffer one year of prision correccional, with all the accessory penalties provided by law. The crimes, allegedly, were respectively committed on August 5, 6, and 8, 1976.

Petitioner appealed to the Court of Appeals, which, in a Decision, dated May 30, 1980, affirmed the verdicts of conviction.[1]

Upon the denial of her Motion for New Trial by the Appellate Court, petitioner filed the instant Petition for Review on Certiorari, seeking a reversal. We initially denied the Petition for lack of merit in a Resolution dated August 26, 1981 but, upon re-consideration sought by petitioner, we resolved to give due course on October 21, 1981.

Following is a Statement of the Case and Facts as synthesized by the Solicitor General:

"Prior to the commission of the instant crimes, petitioner, Purisima Gestoso Cruz, and Santiago Gayomali were next-door neighbors, being residents of houses standing on adjacent lots at Rizal Street, Guimbal, Iloilo. The house and lot on which petitioner lived was owned by her mother, Leonor Vda. de Gestoso.

On January 7, 1976, Leonor Vda. de Gestoso filed against Santiago Gayomali in the Court of First Instance of Iloilo a complaint for Recovery of Possession, Ownership, Enforcement of Legal Easement and Abatement of Nuisance (Civil Case No. 10457), alleging that Gayomali encroached on her land, that his house was constructed less than two (2) meters from the boundary line with windows affording a direct view on her property in violation of Article 670 of the Civil Code of the Philippines, and that he made an opening on the concrete wall dividing their lots causing rain water, animal manure, garbage and organic matter to be deposited on her lot (Exhibits 2, 3, and 4; tsn., pp. 43-44, March 7, 1978).

At about 9:00 a.m. on August 5, 1976, while Severina Gayomali, wife of Santiago Gayomali, was at the ground floor of their house at Rizal, Street, Guimbal, Iloilo (which ground floor was also used as a store) she saw petitioner and heard her utter the following words from a distance of about five meters:

' x x x Usurper of land. They are shameless. They go to church but they are shameless; they steal the land of others. They ride in an automobile and when they walk on the road they are as if somebody but they are shameless. The land in Igccolo would better be surveyed and given to Santiago Gayomali'.

Santiago Gayomali was at that time at Igbaras, Iloilo, being the Muni-cipal Judge of that town. But the utterances of petitioner were heard by other people who were outside of the store, one of which was Pedro Eumag, the other being children. The sales ladies of the store also heard peti-tioner's utterances (tsn., pp. 6-9, 18-21, March 14, 1977; Exhibits A to A-3).

The next day, August 6, 1976, at about 6:30 p.m. Santiago Gayomali was at the store at the ground floor of his residence at Rizal Street, Guimbal, Iloilo. With him were his wife, Seve-rina, and their maid. At that time, petitioner, who stood on the boundary of the lot of her mother and that of San-tiago Gayomali, and while facing the store of the latter from a distance of about five meters, uttered the following words:

'x x x Judge who is a thief. Santiago is a land usurper. Che. Punyeta, a lawyer who is a thief. Thunder, if I only know that to be a lawyer is a good course, I would have taken it. Because if you are an attorney, you just have the land of others surveyed, it becomes yours, the genital or-gan of Severina is dilated in smile and the penis of Santiago is in erection in stealing the land of others', and other similar words of import.'

Aside from Santiago Gayomali, his wife Severina, and their maid, petitioner's utterances were also heard by certain peo-ple who were outside the store, among them Agrifina Gendrala, and a teacher of the Central School of Guimbal by the name of Gejano, and one Carmen Dingcong (tsn., pp. 34-37, January 25, 1978; pp. 18-22, December 22, 1977; Exhibits B-2 to C).

And on August 8, 1976, at about 7:00 a.m., while Santiago Gayomali, his wife Severina, and their daughter Norma, were on their way to church to attend mass, passing by the house of petitioner, the latter, who was standing just outside the door of her house and pointing her finger at Santiago Gayomali, uttered the following statements:

'x x x Hey, usurper. He is the Judge of Igbaras but he is usurper of land', and other similar words of import.'

Present at the scene of the incident at the time of those utterances were Leoncio Cavan, Jr., an unnamed umbrella repairer, Mary Gestoso Militar (peti-tioner's sister), Esteban Cawili, and other residents of Guimbal known to Mrs. Gayomali only by face (tsn., pp. 34-36, January 25, 1978; p. 2, June 21, 1977; Exhibits C-2 to C-2-c).

On September 6, 1976, Santiago Gayomali filed against petitioner in the Court of First Instance of Iloilo Civil Case No. 10768, to recover damages for the utterances she made against him on August 5, 6, and 8, 1976 (Petition, Annex C, p. 7).

On October 27, 1976, he filed three (3) criminal complaints for grave oral defamation against petitioner in the fiscal's office for the said inci-dents of August 5, 6, and 8, 1976. The delay in the filing of those complaints as allegedly caused by the pressure of his work as a judge (Exhibits A-3, B, and C; tsn., pp. 39-40, January 25, 1978)."[2] (Note: Actually, the utterances were in the Visayan dialect. What appear above are only the English translations).

Petitioner's submission hinges on the alleged non-credibility of prosecution witnesses and upon the contention that the offense committed by her, having been preceded by some provocation on com-plainant's part and made in the heat of anger, is not Grave Oral Defamation but Slight Oral Defamation.

The first ground relied upon is devoid of merit. The settled rule is that the assessment of the cre-dibility of witnesses is best left to the Trial Court in view of its opportunity to observe the demeanor and conduct of the witnesses on the stand. We find none of the exceptions to that rule present in this case.

The second ground is meritorious. Petitioner re-sented the practice of complainants of throwing garbage and animal excrement into petitioner's premises. Additionally, there was a boundary dispute between petitioner's mother and complainant, which was the subject of a civil suit for "Recovery of Possession, Ownership, Enforcement of Legal Easement and Abatement of Nuisance" filed on January 7, 1976 (Civil Case No. 10457)[3] by the mother before the Court of First Instance of Iloilo against complainant Municipal Judge Gayomali. Petitioner's mother had also instituted on April 4, 1977 an administrative complaint (AM No. 1625-MJ) against Judge Gayomali before the Supreme Court, but the same was dismissed on January 6, 1978. And so it was that by reason of this series of developments, bad blood existed between the two families. There was a pent-up feeling of being aggrieved, resentment, anger, and vexation on petitioner's part, culminating in her outbursts against complainants. Although uttered on three different occasions, they originated from the same antecedents, and were fomented by the same basic dispute. Fanning fire to the situation was a feeling of desperation and anxiety over the final consequences because of the position and alleged influence of complainant Judge Gayomali. As concluded by the Court of Appeals, the "alleged actuation of the Gayomalis more than suffices to provoke the appellant to vent her anger on the complainant by calling him "land grabber", "shameless" and "hypocrite".

That the animosity between the contending parties was not a figment of the imagination is shown by the Decision of the Trial Court in the civil suit (Civil Case No. 10457) filed by petitioner's mother against Judge Gayomali, decided on April 20, 1981[4], which decreed:

"FOR ALL OF THE FOREGOING, the Court finds preponderance of evidence in favor of the plaintiff.

WHEREFORE, judgment is rendered:

- a. declaring the plaintiff lawful owner and possessor of the thirty one (31) square meters in question as indicated on the relocation plan Psu-232134, Exhibit B;
- b. Ordering defendant to remove his hollow block fence inasmuch as it encroached upon the property of the plaintiff by thirty one (31) square meters; c. Ordering defendant to desist from allowing his drainage to flow through the property of the plaintiff, which is her residence;
- d. Ordering defendant to desist from using the residential place of the plaintiff as outlet for his chicken and pig manure; and
- e. Ordering defendant to pay the costs of suit."

Although the abusive remarks may ordinarily be considered as serious defamation, under the environmental circumstances of the case, there having been provocation on complainant's part, and the utterances complained of having been made in the heat of unrestrained anger and obfuscation, petitioner is liable only for the crime of Slight Oral Defamation.[6]

Article 358 of the Revised Penal Code penalizes Slight Oral Defamation with arresto menor or a fine not exceeding P200.00.

WHEREFORE, modifying the judgment under review, petitioner is hereby found guilty beyond reasonable doubt of the crime of Slight Oral Defamation and hereby sentences her to pay a fine of P200.00 in each of the criminal cases (Nos. 6877, 6878 and 6879), with subsidiary imprisonment in case of insolvency, and to pay the costs.

SO ORDERED.

Teehankee, (Chairman), Plana, Vasquez, Relova, and Gutierrez, Jr., JJ., concur.

[1] Former Seventh Division composed of Justices Venicio Escolin, ponente, Guillermo P. Villasor and Onofre A. Villaluz.

[2] pp. 46-50, Rollo.

[3] pp. 27 & 46, *ibid*.

[4] Annex "A", Reply, pp. 70-72, *ibid*.

[5] p. 67, *ibid*.

[6] *U.S. vs. Ganzon*, 30 Phil. 1 (1915); *People vs. De Modesto*, 40 O.G. Supp. 15, 128 (1940); *People vs. Doronila*, 40 O.G. Supp. 15, 232 (1940).

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