

CHRISTINA MARIE DEMPSEY, A MINOR AND REPRESENTED BY HER MOTHER, JANALITA RAPADA, AND THE PEOPLE OF THE PHILIPPINES, PETITIONERS, VS. REGIONAL TRIAL COURT, BRANCH LXXV, THIRD JUD...

G.R. Nos. 77737-38. August 15, 1988

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition denominated as one for review on certiorari and/or a special civil action for certiorari from the decision rendered by the respondent court on November 28, 1986 in Criminal Cases Nos. 460-36 and 461-B6, entitled "The People of the Philippines v. Joel Dempsey."

On January 30, 1986, two separate informations were filed against respondent Joel Dempsey before the Municipal Trial Court, Branch II, Olongapo City charging him with violation of Article 59 (par. 2) of P.D. 603 and Article 46, par. 8 of P.D. 603. The Informations reads:

Criminal Case No. 68-86

"That on or about and during the period from December 1985 to the present, in the City of Olongapo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there wilfully, unlawfully and feloniously leave their conjugal dwelling at No. 15 Ohio Street, Upper Kalaklan, Olongapo City and abandon his child Christina R. Dempsey and deprive him (sic) of his love, care and protection she from the accused (sic) since then, by continuously failing and refusing to give adequate support to the said minor child and, despite pleas, the accused without lawful justification, failed, disregarded and still continues to fail and disregard to perform his obligations to his said minor child Christina R. Dempsey, to the damage and prejudice of the said child.

"CONTRARY TO LAW.

Criminal Case No. 69-86

"That on or about and during the period from December 1985 to the present, in the City of Olongapo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and criminally fail and refuse to provide his child Christina R. Dempsey with adequate

support, as defined in Article 290 of the Civil Code, despite the fact that he is capable of supporting his child, and despite pleas, the accused without lawful justification, failed and refused and still fails and refuses to provide his child with adequate support, to the damage and prejudice of the said child.

"CONTRARY TO LAW." (Rollo, pp. 18-19)

The facts of the case are summarized by the Trial Court as follows:

xxx xxx xxx

"The testimony of complainant Janalita Rapada purports to show .that in her cohabitation with the accused, without the benefit of marriage, Christina Marie was born on October 01, 1984, at the St. Jude's Family Clinic, Olongapo City where she delivered the child. Her birth certificate, Exhibit "A" bears an entry of the name of the accused as the father and Exhibit "A-1" the Affidavit of the Acknowledgment duly signed by him.

"At the present, the child receives a monthly support from the accused in the sum of \$150.00 thru the child's mother, Janalita Rapada. Aside from this monthly support, Janalita Rapada obtained a promise from the accused to declare Christina Marie as his (dependent and also a commitment to declare the child after his citizenship. This will entitle the child for all the benefits and privileges extended to dependents of American US Navy servicemen like free medical check-up. Efforts were made with the Naval Legal Service Office, US Naval Facilities, Subic Bay, Philippines to compel the accused to fulfill these commitments but to no avail. To seek redress thru the Court, she engaged the services of Atty. Estanislao L. Cesa, Jr., offering P5,000.00 as Attorney's fee payable after the cases are decided.

xxx xxx xxx

"At the Naval Legal Service Office, someone entertained her demand for the accused to declare Christina Marie as his dependent and after his American citizenship. She was of the belief that these, could be done not knowing that the American who entertained her demands had no authority to effect the same." (Rollo, pp. 21-22)

Upon arraignment, the private respondent freely, voluntarily, and spontaneously entered a plea of guilty to the offense charged in the Information.

On August 26, 3 1986, the Trial Court rendered a decision, the dispositive portion of which reads:

"WHEREFORE, finding the accused guilty beyond reasonable doubt of the charges against him, considering the mitigating circumstances of his voluntary plea of guilty, this Court sentences him to a prison term of Three (3) Months and Eleven (11) days to Four (4) Months of Arresto Mayor, medium period and fine of Three Hundred (P300.00) Pesos for each of the cases and to pay the costs.

"For the civil liability, judgment is rendered against accused Joel Dempsey confirming the payment of US \$150.00 monthly support to Christina Marie and to continue payment thru Janalita Rapada, to be used solely for the needs of the child until she reaches the age of majority; to recognize the child Christina Marie as his natural child; to pay Christina Marie thru Janalita Rapada the sum of P10,000.00 as exemplary damage; and to pay the sum of P5,000.00 as attorney's fee to Atty. Manuel Rosapapan as Chairman of the Committee on Legal Aid of the IBP Chapter of Zambales-Olongapo City and the same to form part of the legal aid fund.

"SO ORDERED." (Rollo, pp. 23-24)

The private respondent appealed the municipal trial court's decision to the regional trial court and prayed that the award on civil liability be set aside and the penalty of imprisonment be reduced to a penalty of fine only.

In a decision rendered on November 28, 1986, the respondent regional trial court reversed the municipal trial court's decision on the following grounds:

1. Parental authority to which certain parental obligations are attached pertains only to legitimate and adopted children unlike petitioner who is an acknowledged illegitimate minor child of private respondent; that in cases of abandonment of minors, the proper forum is the Department of Social Welfare where the person to whom the minor has been left must report immediately (Art. 161, P.D. 603).
2. A person cannot be held criminally liable for failure to support a minor child.
3. The Municipal Trial Court had determined a matter not within its competence and authority.

Hence, the present petition on pure questions of law.

The petitioner maintains that the penalty of imprisonment and fine in both cases is sanctioned by the law and jurisprudence and that the award of civil liability is justified.

We find merit in the instant petition.

The respondent court committed reversible error when it failed to take into account that the decision of the municipal trial court was based on the private respondent's plea of guilty. Respondent Joel Dempsey did not and does not challenge the validity of Presidential Decree No. 603, Articles 46 and 59 on certain obligations of parents to their children and Articles 60 and 210 penalizing violations of mandatory provisions. As a matter of fact, respondent Dempsey's appeal impliedly recognizes the validity of the judgment of conviction court's decision was void or that he be acquitted.

There can be no question about the trial court's Jurisdiction over the criminal prosecutions. Article 69 of P.D. 603 penalizes abandonment of a minor child by its parent, as provided in Article 99, with imprisonment from two to six months or a fine not exceeding five hundred pesos or both. Article 210 penalizes a violation of the obligation to give adequate support found in Article 46 with imprisonment not exceeding one month or a fine not exceeding two hundred pesos or both, unless a higher penalty is provided for in the Revised Penal Code or special laws.

The respondent court erred in its ruling that the trial court determined a matter not within its competence and authority. There is likewise no basis for its gratuitous finding that a parent cannot be held criminally liable under P.D. 603 for withholding support from his minor child. There is absolutely no discussion on this ruling. The records show, however, that Joel Dempsey's plea of guilt to the charge of withholding support from his minor daughter was made without a full understanding of that particular charge. Janalita Rapada herself testified that she is receiving \$150.00 a month for the support of the minor Christina Marie Dempsey. The amount of P3,000.00 monthly appears to fulfill the requirement of "adequate support" found in Par. 8, Art. 46 of P.D. No. 603. What

Rapada wants is a judicial declaration for this support to continue. This cannot be the basis of a criminal conviction.

As to the information charging abandonment, the private respondent entered his plea of guilt with full knowledge of the consequences and meaning of his act and with the assistance of his counsel. The reversal of conviction based on a plea of guilty is an act which is not at all explained by the respondent court and, therefore, in excess of its jurisdiction. It is well-settled as a general rule that a plea of guilt is sufficient to sustain conviction without introduction of further evidence (*People v. Formentera*, 130 SCRA 114; *People v. Balisacan*, 17 SCRA 119; *People v. Gravino, et al.*, 122 SCRA 123; *People v. Pajarillo*, 94 SCRA 828). Only in such exceptional cases as capital offenses is evidence still required.

The respondent court further ruled that Christina Dempsey is not entitled to the rights arising from the parental responsibility of her father, she being an illegitimate child. Reliance was made on Art. 17 of P.D. 603 which defines the joint parental authority of parents over their legitimate or adopted children. The respondent court's observations are wrong because the law itself protects even illegitimate children. Illegitimate children have rights to the same nature as legitimate and adopted children. This is enunciated in Art. 3, P.D. 603 which provides that "all children shall be entitled to the rights herein set forth without distinction as to legitimacy or illegitimacy, sex, social status, political antecedents, and other factors." Rights must be enforced or protected to the extent that it is possible to do so.

The Solicitor General points out that the new Family Code promulgated an Executive Order No. 209, July 17, 1987 erases any distinction between legitimate or adopted children on one hand and acknowledged illegitimate children on the other, insofar as joint parental authority is concerned. Article 211 of the Family Code, whose date of effectivity is approaching, merely formalizes into statute the practice on parental authority.

The respondent court would shift jurisdiction over the case from the municipal trial court to the Department of Social Services and Development. It is readily apparent that the DSSD cannot take cognizance of and enforce the criminal sanctions of P.D. 603. Besides, Christina Marie Dempsey is not an abandoned child in the strict sense of the word as she is still in the custody and care of her mother. Art. 141 of P.D. 603 defines an abandoned child as follows: "xxx An abandoned child is one who has no parental care or guardianship or whose parents or guardians have deserted him for a period of at least six continuous months xxx." Article 161 cannot, therefore, be applied to the case at bar. Thus, it is not the Department of Social Services and Development which has no jurisdiction but the Municipal Trial Court.

There is one other point which has to be corrected. As part of the civil liability in its judgment, the trial court required the accused to recognize Christina Marie as his natural child. This should not have been done. The recognition of a child by her father is provided for in the Civil Code and now in the new Family Code. In this criminal prosecution, where the accused pleaded guilty to criminal charges and the issue of recognition was not specifically and fully heard and tried, the trial court committed reversible error when it ordered recognition of a natural child as part of the civil liability in the criminal case.

We also agree with the respondent regional trial court that the penalty imposed is erroneous. The award of exemplary damages and attorney's fees is improper. Although fathers like Joel Dempsey should be deterred from committing similar acts of irresponsibility, the law does not allow us to affirm the grant of exemplary damages only on the basis of the facts herein presented. Exemplary damages cannot be awarded inasmuch as there is not one more aggravating circumstances (Art. 2230, Civil Code).

As to the penalties, we agree with the Solicitor General that these should be modified accordingly. And finally, it should be noted that the Regional Trial Court after declaring that the Municipal Trial Court acted outside of its

competence merely set aside the appealed decision. Instead of acquitting the accused, it suggested the filing of necessary pleadings before the proper court.

WHEREFORE, the questioned decision of the Regional Trial Court of Olongapo City, Branch 75 of the Third Judicial Region is hereby REVERSED and SET ASIDE. The decision of Branch II of the Municipal Trial Court of Olongapo City is REINSTATED with the modification that in Criminal Case No. 63-86, Joel Dempsey is sentenced to imprisonment of One (1) month and to pay a fine of Three Hundred Pesos (P300.00) while in Criminal Case No. 69-86 he is ACQUITTED.

SO ORDERED.

Fernan, C.J., Feliciano, Bidin, and Cortes, JJ., concur.

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