



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **June 20, 2022** which reads as follows:*

“**G.R. No. 232732 (Joselito V. De Vera v. People of the Philippines)**. – This Court resolves a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court filed by petitioner Joselito V. De Vera (*Joselito*), assailing the Decision² dated March 31, 2017 and the Resolution³ dated June 30, 2017 rendered by the Court of Appeals (CA) in CA-G.R. CR No. 36948. The CA earlier affirmed the Decision⁴ of the Regional Trial Court, Branch 90, Quezon City (RTC) in Criminal Case No. R-QZN-14-00949-CR.

The Antecedents

Joselito was charged with slight physical injuries in a November 2, 2010 Information,⁵ which reads:

That on or about the 4th day of August, 2010, in Quezon City, Philippines, the said accused, did then and there willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one ETHEL DE VERA, by then and there punching her on the left side of her head, thereby inflicting upon her physical injuries which have required medical attendance for a period less than nine days and incapacitated said offended party from her customary labor for the same period of time, to the damage and prejudice of the offended party.

CONTRARY TO LAW.⁶

According to the prosecution, at around 11:00 o'clock in the morning on August 4, 2010, Joselito went to the residence of his relative, private complainant Ethel De Vera (*Ethel*), in Galas, Quezon City to take a bath. At that time, Ethel was entertaining a guest, Jocelyn F. Maurillo (*Jocelyn*), who went out of the house to chase Ethel's dog and nephew. When Jocelyn

¹ Rollo, pp. 13-21.

² Penned by Associate Justice Stephen C. Cruz, with Associate Justices Florito S. Macalino and Nina G. Antonio-Valenzuela, concurring; *id.* at 97-104.

³ *Id.* at 117-118.

⁴ Penned by Presiding Judge Reynaldo B. Daway; *id.* at 59-63.

⁵ Records, p. 1.

⁶ *Id.*

returned, she knocked on the gate and rang the doorbell. Joselito ignored Jocelyn and did not open the gate. After Ethel opened the gate, she asked Joselito why he did not do it. Joselito allegedly replied, “*Eh, ano ang pakialam ko, bisita mo yan.*” He also allegedly uttered the following: “*Pakialamera ka, wala kang trabaho, maghanap ka nga ng trabaho!*”; “*Putang ina ka!*”; and “*Gusto mo suntukin kita para tumahimik ka?*” Thereafter, he allegedly punched Ethel on the left side of her head. She felt dizziness and pain. She claimed that she got scared because he kept on charging until other people intervened. During the commotion, Jasper, the child of Joselito, was accidentally hurt. Despite this, Joselito allegedly continued with his outburst and even repeatedly kicked the gate.⁷

In his defense, Joselito explained that he had an argument with Ethel, who raised her voice and threw invectives at him for not opening the gate for Jocelyn. Ethel allegedly told him “*Ano ka ba naman, nakikita mo nang may nagdodoor-bell, akala mo kung sino kayo dito!*” During the argument, she moved forward and so Joselito thought that she was going to slap him. Consequently, he accidentally hit his two-year old son who fell down and hit the pavement. At that moment, he got angry and grabbed the hand of Ethel, and shoved it away. Joselito insisted that Ethel and her family had been living in the house of his grandfather, and that she and her aunt had been trying to deny him his right to the property despite the fact that his father was a compulsory heir of their grandfather.⁸

The medico-legal slip⁹ of Ethel stated that she suffered a concussion on the temporal area.¹⁰ The employer of Ethel, Buenviaje Tour Facilitators, issued a certification,¹¹ confirming that she was not able to report for work as a senior tour facilitator on August 6 to 8, 2010, where she would have earned ₱1,700.00 per day, and on August 10 to 12, 2010, where she would have earned ₱1,300.00 per day.¹²

On September 20, 2013, the Metropolitan Trial Court, Branch 37, Quezon City (*MeTC*) rendered its Decision,¹³ the dispositive portion of which states:

The forgoing manifests that the accused committed the crime charged against him beyond reasonable doubt.

He is hereby imposed a penalty of maximum of *arresto menor*, which is an imprisonment of thirty (30) days.

⁷ Records, pp. 17, 19; TSN, February 9, 2012, pp. 4-5.

⁸ Records, pp. 114-115.

⁹ *Id.* at 16.

¹⁰ *Id.*

¹¹ *Id.* at 51.

¹² *Id.*

¹³ Penned by Presiding Judge Augustus C. Diaz; *rollo*, pp. 27-30.

He is further advised to pay [P]9,300.00 to the complainant, representing lost income due to her failure to report for work due to the incident that she complained of.

The complainant was legally assisted and represented during the hearings of this case by a Private Prosecutor. The accused is hereby ordered to pay to the complainant; Attorney's fee, per appearance fee[,] and the other incidental costs of suit.

SO ORDERED.¹⁴

Joselito, thereafter, filed an appeal.

On August 6, 2014, the RTC issued a Decision¹⁵ dismissing the appeal after finding no reversible error. The RTC adopted the findings of the MeTC and affirmed Joselito's conviction.¹⁶ This prompted Joselito to appeal his case.

In a Decision¹⁷ dated March 31, 2017, the CA dismissed Joselito's appeal.¹⁸ The CA held that the appeal he filed is procedurally unsound as it violates Section 1, Rule 42 in relation to Section 2(b) of Rule 122.¹⁹ For the CA, the case should have been elevated through a petition for review under Rule 42, not by mere notice of appeal.²⁰ The CA stressed that this procedural error was fatal and should have resulted in the outright dismissal of an appeal pursuant to Section 2, Rule 50.²¹ Nonetheless, the CA took cognizance of the appeal and ruled on its merits.²²

In affirming the conviction of Joselito, the CA ruled that all the elements of the crime were established beyond reasonable doubt, including Ethel's incapacity to report for work due to the injury she sustained.²³ The CA held that while the prosecution failed to present the physician who issued the medico-legal slip, the fact that she was incapacitated to work was proven by her own testimony.²⁴ The CA also emphasized that nowhere in the law does it specifically require hospitalization.²⁵ The CA, then, also sustained the award of attorney's fees and costs of suit.²⁶

¹⁴ *Id.* at 29-30.

¹⁵ *Id.* at 59-63.

¹⁶ *Id.* at 60-63.

¹⁷ *Id.* at 97-104.

¹⁸ *Id.* at 140.

¹⁹ *Id.* at 100.

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at 100-101.

²³ *Id.* at 101.

²⁴ *Id.* at 102-103.

²⁵ *Id.* at 103.

²⁶ *Id.*

Subsequently, Joselito moved for reconsideration, but the same was denied by the CA in its Resolution²⁷ dated June 30, 2017.

Hence, this present petition.²⁸

In assailing the CA ruling, Joselito argues that the prosecution's failure to present the attending physician who prepared the medico-legal slip rendered it hearsay and cannot serve as proof of the crime of slight physical injuries. He points out that though Ethel alleged that she was required to rest for eight days, the medico-legal slip made no mention of such instruction.²⁹ He adds that the prosecution failed to present proof of hospital confinement, medical bills, doctor's prescription, and receipts of other medical expenses that would prove that she required medical attendance for eight days.³⁰ He also argues that it is unjust to pay for attorney's fees, appearance fees, and other incidental costs when Ethel pursued the case upon the prodding of her relatives abroad.³¹

Meanwhile, respondent People of the Philippines, through the Office of the Solicitor General (*OSG*), maintains that there was no reason to disturb the findings of the MeTC, as upheld by the RTC and the CA, as these were consistent with the applicable law, jurisprudence, and evidence on record.³² The OSG posits that even if the lower courts did not positively rule on the admissibility of the medico-legal slip, any individual present at the time of execution of a document could testify to its due execution.³³ The OSG also insists that the court has discretion in awarding attorney's fees pursuant to Article 2208 of the Civil Code.³⁴

Issues

I.

Whether the guilt of Joselito was proven beyond reasonable doubt.

II.

Whether the award of attorney's fees is justified.

²⁷ Penned by Associate Justice Stephen C. Cruz, with Associate Justices Florito S. Macalino and Nina G. Antonio-Valenzuela, concurring; *id.* at 117-118.

²⁸ *Id.* at 13-21.

²⁹ *Id.* at 18-19.

³⁰ *Id.* at 19.

³¹ *Id.* at 19-20.

³² *Id.* at 129-133.

³³ *Id.* at 133.

³⁴ *Id.* at 134.

Our Ruling

The guilt of petitioner was proven beyond reasonable doubt.

The trial court's findings, when adopted and confirmed by the CA, are binding and conclusive on this Court. Here, the issues on which the petition is hinged are purely factual and not appropriate in a petition for *certiorari* under Rule 45.

Slight physical injuries is defined and punished under Article 266 of the Revised Penal Code (*RPC*), to wit:

ARTICLE 266. *Slight physical injuries and maltreatment.* — The crime of slight physical injuries shall be punished:

1. **By *arresto menor* when the offender has inflicted physical injuries which shall incapacitate the offended party for labor from one to nine days, or shall require medical attendance during the same period.**
2. By *arresto menor* or a fine not exceeding 20 pesos and censure when the offender has caused physical injuries which do not prevent the offended party from engaging in his habitual work nor require medical assistance.
3. By *arresto menor* in its minimum period or a fine not exceeding 50 pesos when the offender shall ill-treat another by deed without causing any injury.³⁵

To classify as slight physical injuries under paragraph 1, Article 266 of the *RPC*, the duration of the incapacity or medical attendance must be supported with evidence. The use of the disjunctive conjunction "or" implies that either of the two circumstances may separately constitute the crime. The cited provision requires that: (a) the offended party be incapacitated from labor from one to nine days, or (b) the offended party requires medical attendance during the same period.

As correctly determined by the courts before Us, the elements of slight physical injuries were established beyond reasonable doubt. Petitioner hit Ethel, which caused her to sustain a concussion on the temporal area. As confirmed by her employer's certificate, the injury she sustained prevented her from reporting to work for six days. Therefore, petitioner is guilty of slight physical injuries punished under Article 266 of the *RPC*.

³⁵ Emphasis supplied, italics in the original.

It also bears pointing out that Republic Act (R.A.) No. 11362, known as the Community Service Act, allows the rendition of community service in lieu of imprisonment in the service of penalty for *arresto menor* and *arresto mayor*. Section 3 of the law states:

SECTION 3. *Community Service*. – Article 88a of Act No. 3815 is hereby inserted to read as follows:

ARTICLE. 88a. *Community Service*. – The court in its discretion may, in lieu of service in jail, require that the penalties of *arresto menor* and *arresto mayor* be served by the defendant by rendering community service in the place where the crime was committed, under such terms as the court shall determine, taking into consideration the gravity of the offense and the circumstances of the case, which shall be under the supervision of a probation officer: *Provided*, That the court will prepare an order imposing the community service, specifying the number of hours to be worked and the period within which to complete the service. The order is then referred to the assigned probation officer who shall have responsibility of the defendant.

The defendant shall likewise be required to undergo rehabilitative counseling under the social welfare and development officer of the city or municipality concerned with the assistance of the Department of Social Welfare and Development (DSWD). In requiring community service, the court shall consider the welfare of the society and the reasonable probability that the person sentenced shall not violate the law while rendering the service.

Community service shall consist of any actual physical activity which inculcates civic consciousness, and is intended towards the improvement of a public work or promotion of a public service.

If the defendant violates the terms of the community service, the court shall order his/her re-arrest and the defendant shall serve the full term of the penalty, as the case may be, in jail, or in the house of the defendant as provided under Article 88. However, if the defendant has fully complied with the terms of the community service, the court shall order the release of the defendant unless detained for some other offense.

The privilege of rendering community service in lieu of service in jail shall be availed of only once.

Petitioner may avail of the privilege under this Act, if eligible. “Considering that the accused must first apply for community service in the court of origin, this Court retains the imposable penalty of *arresto menor*, pending such application.”³⁶

Furthermore, the ruling of the RTC ordering petitioner to pay Ethel ₱9,300.00 as lost income when she could not report to work on August 6 to 8, 2010 and August 10 to 12, 2010 should be modified. A review of the computation stated in the certification of her employer reveals that Ethel’s

³⁶ *Ruego v. People*, G.R. No. 226745, May 3, 2021.

lost income is ₱9,000.00, not ₱9,300.00 as illustrated in the computation below:

August 6, 2010	₱1,700.00
August 7, 2010	1,700.00
August 8, 2010	1,700.00
August 10, 2010	1,300.00
August 11, 2010	1,300.00
August 12, 2010	<u>1,300.00</u>
Total	<u>₱9,000.00</u>

The award of attorney's fees is justified.

Article 2208 of the Civil Code enumerates the instances when attorney's fees may be awarded as follows:

ARTICLE 2208. *In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:*

x x x x.

(2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;

x x x.

(11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable.³⁷

The RTC and the CA were correct in awarding attorney's fees because Ethel was compelled to pursue a criminal case against petitioner for the injury he inflicted on her. Though the relatives of Ethel encouraged her to pursue the case, such fact does not prevent this Court from awarding reasonable attorney's fees as permitted by Article 2208 of the Civil Code. This Court notes that the RTC and CA ordered the payment of undetermined amount of attorney's fees. In the interest of judicial economy and expediency, this Court deems it proper to award ₱20,000.00 as attorney's fees.

³⁷ CIVIL CODE OF THE PHILIPPINES, Art. 2208.

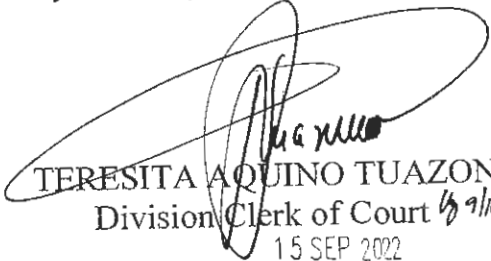
Lastly, in line with this Court's ruling in *Nacar v. Gallery Frames*,³⁸ an interest at the rate of six percent (6%) *per annum* shall be imposed on the monetary award from the date of finality of this Resolution until fully paid.

FOR THESE REASONS, the Decision dated March 31, 2017 and the Resolution dated June 30, 2017 of the Court of Appeals in CA-G.R. CR No. 36948 are **MODIFIED**. Petitioner Joselito De Vera is found **GUILTY** of slight physical injuries under Article 266(1) of the Revised Penal Code. He is sentenced to suffer the penalty of imprisonment of Thirty (30) days of *arresto menor*, without prejudice to the trial court's subsequent application of Republic Act No. 11362 and A.M. No 20-06-14-SC.

Petitioner Joselito De Vera is **ORDERED** to **PAY** the private complainant Ethel De Vera ₱9,000.00 as actual damages and ₱20,000.00 as attorney's fees, plus interest of six percent (6%) *per annum* on the monetary award from the date of finality of this Resolution until full payment.

SO ORDERED."

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *by 9/15*
15 SEP 2022

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(Crim. Case No. R-QZN-14-00949-CR)

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³⁸ 716 Phil. 267 (2013).