

FIRST DIVISION

[G.R. No. 113006, November 23, 2000]

**ONG CHIU KWAN, PETITIONER, VS. COURT OF APPEALS, AND
THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

D E C I S I O N

PARDO, J.:

What is before the Court for consideration is the decision of the Court of Appeals affirming the conviction of accused Ong Chiu Kwan, for unjust vexation.^[1]

On January 31, 1991, Assistant City Prosecutor Andres M. Bayona of Bacolod filed with the Municipal Trial Court, Bacolod City an information charging petitioner with unjust vexation for cutting the electric wires, water pipes and telephone lines of "Crazy Feet," a business establishment owned and operated by Mildred Ong.^[2]

On April 24, 1990, at around 10:00 in the morning, Ong Chiu Kwan ordered Wilfredo Infante to "relocate" the telephone, electric and water lines of "Crazy Feet," because said lines posed as a disturbance.^[3] However, Ong Chiu Kwan failed to present a permit from appropriate authorities allowing him to cut the electric wires, water pipe and telephone lines of the business establishment.^[4]

After due trial, on September 1, 1992, the Municipal Trial Court found Ong Chiu Kwan guilty of unjust vexation,^[5] and sentenced him to "imprisonment for twenty days."^[6] The court also ordered him to pay moral damages, finding that the wrongful act of abruptly cutting off the electric, water pipe and telephone lines of "Crazy Feet" caused the interruption of its business operations during peak hours, to the detriment of its owner, Mildred Ong. The trial court also awarded exemplary damages to complainant "as a deterrent to the accused not to follow similar act in the future and to pay attorney's fees."^[7] The trial court disposed of the case as follows:

"IN VIEW THEREOF, this Court finds the accused guilty beyond reasonable doubt of the offense of unjust vexation provided under Article 287 par. 2 of the Revised Penal Code and sentences him to suffer a penalty of imprisonment of twenty (20) days and to pay private complainant the following:

P10,000.00 - moral damages

P 5,000.00 - exemplary damages

P 5,000.00 - attorney's fees and to pay the cost of this suit."

"SO ORDERED.

"Bacolod City, Philippines, September 1, 1992.

"(SGD.) RAFAEL O. PENUELA
Judge"[8]

On appeal to the Regional Trial Court, Bacolod City, the latter court in a decision dated December 8, 1992, simplistically adopted the decision of the lower court *in toto*, without stating the reasons for doing so.[9]

On April 22, 1993, by petition for review, Ong Chiu Kwan elevated the case to the Court of Appeals.[10] On August 16, 1993, the Court of Appeals promulgated its decision dismissing the appeal,[11] agreeing with the lower court's finding that petitioner was guilty beyond reasonable doubt of unjust vexation.

Hence, this petition for review.[12]

The Court notes that in the decision of the Regional Trial Court which the Court of Appeals affirmed peremptorily without noticing its nullity, the Regional Trial Court merely quoted the decision of the Municipal Trial Court in full and added two paragraphs, thus:

"This Court, in accordance with the rules, required the parties to submit their corresponding memorandum or brief. The prosecution filed its memorandum, and also with the defense.

"After a careful perusal of the record of the case and evaluating the evidence thereto and exhibits thereof, this Court finds no ground to modify, reverse or alter the above-stated decision and hereby affirms the decision of the lower court *in toto*." [13]

The Constitution requires that "[N]o decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based." [14] The 1985 Rules of Criminal Procedure, as amended, provides that "[T]he judgment must be written in the official language, personally and directly prepared by the judge and signed by him and shall contain clearly and distinctly a statement of the facts proved or admitted by the accused and the law upon which the judgment is based." [15]

Although a memorandum decision is permitted under certain conditions, it cannot merely refer to the findings of fact and the conclusions of law of the lower court. The court must make a full findings of fact and conclusions of law of its own. [16]

Consequently, the decision of the regional trial court is a nullity. Very recently, speaking of a similarly worded decision of a regional trial court, we said: