

THIRD DIVISION

[G.R. No. 139272, December 05, 2000]

FLORENTINA D. DAVID, PETITIONER, VS. MANILA BULLETIN PUBLISHING COMPANY, INC., RESPONDENT.

DECISION

PANGANIBAN, J.:

The factual findings of a trial court, when affirmed by the Court of Appeals, are accorded respect and finality, unless tainted with arbitrariness or palpable error. Petitioner has not been able to demonstrate why her case should be exempted from this well-settled jurisprudence.

The Case

Before the Court is a Petition for Review on *Certiorari* of the June 30, 1999 Decision^[1] of the Court of Appeals (CA)^[2] in CA-GR CV No. 44953. Affirming the Regional Trial Court of Manila, which had dismissed petitioner's Complaint for Damages, the CA disposed as follows:

"WHEREFORE, premises considered, the decision of the Regional Trial Court, Branch 51 of Manila is hereby AFFIRMED *in toto*."^[3]

The Facts

The CA quoted the trial court's summary of the facts, as follows:^[4]

"This is an action for damages filed by [Petitioner] Florentina David against [Respondent] Manila Bulletin Publishing Corporation.

"Issues having been joined, this case was set for pre-trial. The parties having failed to reach an amicable settlement, the pre-trial was terminated. Thereafter, hearing on the merits was conducted wherein the parties presented their testimonial and documentary evidence.

"[Petitioner] adduced that in the issue of November 2, 1989 of the Manila Bulletin, it did not carry the notice [of] the second death anniversary of Pascual Abella David which [Petitioner] Florentina David caused to be published in the obituary section of the said newspaper per Official Receipt No. 239041 issued to [petitioner] by the [respondent] in the amount of P1,912.50; that early preparations were made for daylong fetes to be catered in their residences in Navotas, Metro Manila and in

Baguio City for people who [would] come over after the scheduled masses and for those who [would] just [be] reminded of the anniversary through the newspaper publication; that nobody attended the scheduled masses because nobody knew about them, while only a handful of persons took their chances and proceeded to the two residences; that henceforth, preparations for the masses, food and everything else went to waste; that the [respondent] breached its contractual obligation as a publisher; and that [petitioner] suffered physical [and] mental anguish, serious anxiety, wounded feelings, moral shock and social humiliation and therefore should be compensated for actual, moral and exemplary damages..

"[Respondent]'s theory is that the [petitioner] has no cause of action; that the said notice did not appear on the issue of November 2, 1989 because the [petitioner]'s secretary failed to comply with the proper procedure for a notice or display advertisement to be considered as having placed for publication purposes; that [petitioner] failed to submit the advertising material to the ad[-]taker concerned so much so that [respondent] had nothing in its possession to typeset and publish in its issue of November 2, 1989; and that [respondent] has several warning signs at the Display Advertising counter.

"As defined in the Pre-trial Order dated September 25, 1990, the only issue to be resolved here is whether or not [respondent] is liable for damages to [petitioner]."

The CA Ruling

The CA agreed with the trial court that respondent was not legally responsible for the non-publication of the notice of the second death anniversary of petitioner's husband. It likewise attributed the incident to the failure of petitioner's secretary to follow the proper procedure for ad placements.

Hence, this recourse.^[5]

Issues

In her Memorandum, petitioner presents the following issues for our consideration:
^[6]

"I

Whether or not there is basis in the finding of the Honorable Court of Appeals that it was the negligence of the petitioner which caused the non-publication of the notice of the second death anniversary of the

petitioner's husband at the obituary section of the respondent.

"II

Whether or not ample evidence was adduced to show that petitioner paid for and submitted the advertising material with the insertion order for publication of the respondent and therefore the non-publication [was] a breach of contract entitling petitioner to indemnity payment for damages.

"III

Whether or not the Court of Appeals erred in not awarding damages to petitioner."

In fine, the main issue is whether the CA erred in its factual finding that the cause of the non-publication is attributable to petitioner's fault.

The Court's Ruling

The Petition has no merit.

Main Issue: **Cause of Non-Publication**

Petitioner vigorously asserts that the non-publication of the notice of her husband's second death anniversary was due to respondent's negligence. She contends that both the trial and the appellate courts erred in giving more credence and weight to the testimonies of respondent's witnesses.

Under Rule 45 of the Rules of Court, only questions of law, not of fact, may be raised in a petition for review before this Court.^[7] Petitioner, however, raises factual questions because she assails mainly the two lower courts' findings on the cause of the non-publication of the death anniversary notice in respondent's newspaper.

Petitioner insists that the present case falls under the exception to the aforecited rule,^[8] allegedly because the findings are not supported by the evidence on record, but are based on a misapprehension of facts.

We do not agree. Petitioner has not given us sufficient reasons to reject the findings of the trial and the appellate courts that the non-publication of the subject notice was caused by the negligence of Rosa Besmanos, who had been tasked by petitioner to place the ad in respondent's newspaper. They found that Besmanos failed to return the insertion order slip to the ad-taker, contrary to the procedure visibly posted in respondent's office. We agree with the following disquisition of the CA: