

## THIRD DIVISION

**[ G.R. No. 152753, January 13, 2004 ]**

**IGLECERIO MAHINAY, PETITIONER, VS. ATTY. GABINO A. VELASQUEZ, JR., RESPONDENT.**

### DECISION

**CORONA, J.:**

Before us is a petition for review of the decision<sup>[1]</sup> dated December 20, 2001 of the Court of Appeals affirming with modification the "order and resolution" dated October 31, 1977 of the Regional Trial Court, Branch 16, Naval, Biliran in Civil Case No. B-0923, for damages.

The instant case arose from the alleged defamatory remarks of petitioner Iglecerio Mahinay against respondent Gabino A. Velasquez, Jr.

According to Olipio Machete, overseer of respondent, petitioner uttered the following malicious and insulting statement against respondent: "Your master, a candidate for Congressman, Ben Velasquez, is a land grabber." Machete informed respondent of what petitioner said about him. This impelled respondent to file a complaint for damages against petitioner, claiming that his utterances besmirched his and his family's reputation and caused him anxiety, mental anguish and sleepless nights.

As no amicable settlement could be reached by the parties, trial on the merits ensued. The trial court eventually ruled in favor of respondent on the basis of the sole testimony of Machete and awarded to respondent moral damages in the amount of P100,000 and exemplary damages in the amount of P50,000.<sup>[2]</sup> No other evidence was adduced by either party.

Petitioner appealed to the Court of Appeals alleging that the trial court order lacked factual basis. The Court of Appeals, however, modified the award, as follows:

"WHEREFORE, with the MODIFICATION that the award for moral and exemplary damages is hereby reduced to P50,000.00 and P25,000.00, respectively, the decision appealed from is hereby AFFIRMED and this appeal DISMISSED.

SO ORDERED."<sup>[3]</sup>

His motion for reconsideration having been denied, petitioner comes to this Court arguing that the appellate court gravely erred in: (a) affirming the trial court order despite the lack of sufficient factual basis and (b) awarding moral and exemplary damages to respondent despite his failure to take the witness stand.<sup>[4]</sup>

We agree.