

[G. R. No. 18020. September 28, 1922]

**THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS.
IGNACIO CASTRO, DEFENDANT AND APPELLANT.**

D E C I S I O N

JOHNSON, J.:

It appears from the record that on the 25th day of June, 1921, Vicente Ramos presented a complaint in the court of the justice of the peace of the municipality of Cadiz of the Province of Occidental Negros, against the defendant, charging him with the crime of *injurias graves*. Upon that complaint the defendant was arrested and given a preliminary examination by said justice of the peace, at the close of which it was found that there was probable cause for believing that the defendant was guilty of the crime charged, and he was held for trial in the Court of First Instance.

Later, and on the 16th day of July, 1921, the prosecuting attorney of the Province of Occidental Negros presented a complaint in the Court of First Instance, again charging the defendant with the crime of *injurias graves*. The complaint alleged:

“That on or about the 22d of February, 1921, in the municipality of Cadiz, Province of Occidental Negros, P. L, and within the jurisdiction of this court, the above-named accused, with the manifest intent of impeaching the reputation and credit of Vicente Ramos as a public officer, to wit, as health officer of the said town of Cadiz on the occasion of the performance of his official duties as such officer, did willfully, unlawfully, and criminally insult him, uttering, among others, the following words: ‘Uala sing huya,’ ‘Naca dum dum ca mag bayo-bayo sa pagca sanidad de leche,’ ‘Macauat ca sang cuarta sang banua, naga sueldo sa imo ang banua nga uala mag tuman sang catungdanan ;’ which translated into English read: ‘You shameless fellow !’ ‘Now you put on that d . . . health service uniform!’ ‘You are stealing the people’s money!’ ‘The people pay you without

receiving services from you!' 'Shameful!,' which words and phrases were written in a letter addressed to said Vicente Ramos, and by their nature, impeach considerably his dignity, and bring him into public contempt. Contrary to law."

Upon that complaint the defendant was duly arraigned, pleaded not guilty, was tried, found guilty of the crime charged in the complaint, and sentenced by the Honorable Antonio Villa-Real, judge, to be banished from the municipality of Cadiz for a distance of 50 kilometers, for a period of two years, four months, and one day, and to pay a fine of P265, and in case of insolvency to suffer subsidiary banishment in accordance with the provisions of the law, and to pay the costs. From that sentence the defendant appealed. In this court the appellant contends:

(a) That the trial court erred in finding that the accused and appellant is the author of the anonymous letter, Exhibit D;

(b) That the trial court erred in holding that the facts alleged in the complaint constitute "grave insults," and the appellant punishable therefor, instead of holding that said facts constitute a libel and that the case should be decided under the Libel Law; and

(c) That the trial court erred in not holding that in the instant case the Penal Code, in its part relating to grave insults, has been repealed by the Libel Law, because the facts constitute a libel and are therefore triable under the said Libel Law, and the accused should be acquitted.

The questions presented by the appellant here were very ably presented in the court below by Emilio Y. Hilado, his attorney. The appellant contends (a) that the evidence adduced during the trial of the cause did not show that he was guilty of the crime of *injurias graves* as defined under the Penal Code, and (b) that even though the evidence did show that he had violated the provisions of the Penal Code providing a punishment for *injurias graves*, yet he could not be punished, for the reason that said provisions of the Penal Code had been repealed by the Libel Law (Act No. 277).

From an examination of the Penal Code we find that Title X (articles 452-467) contains provisions punishing "crimes against honor," and that said title is divided into two chapters. The first chapter punishes calumny, and the second insults. Each of said crimes or offenses may be committed in spoken words or in writing. When the calumny or insult is committed by spoken words, one punishment is inflicted and when said offenses are committed by

writing, then another penalty is imposed. Articles 453 and 458 in relation with 457, and 462 in relation with 461, 463, 464, and 466, provide for a punishment for calumny and insult when the same are committed in writing. Each of said articles provides a punishment when the calumny or insults is in writing and constitutes a crime against the honor of an individual.

Calumny, as defined by the Penal Code, is the false imputation of a crime against the person upon which a prosecution might be instituted by the Government. In other words, any false imputation against a person of a crime which is punishable under the Penal Code, constitutes the crime of calumny. An insult may be defined to include any statement or act on the part of an individual, which tends to bring another person into disrepute, discredit, or contempt, and for which statement or act the Government may or may not institute a criminal action.

From the definitions of calumny and insult, it will be seen that they both tend to bring the person against whom the imputation is made into disrepute, discredit, or contempt, and tend to dishonor or to blacken the memory of said person.

Said Act No. 277 defines the crime of libel and provides for both a criminal and civil action. It defines libel as a malicious defamation, expressed either in writing, printing, or by signs or pictures or the like, or public theatrical exhibitions, tending to blacken the memory of one who is dead or to impeach the honesty, virtue, or reputation or publish the alleged or actual defects of one who is alive, and thereby expose him to public hatred, contempt, or ridicule. It will be noted from said definition of libel that three things are necessary: (a) It must be a malicious defamation; (b) it must be expressed in writing or in some form other than mere spoken words; and (c) it must blacken the memory of one who is dead, or impeach the honesty, virtue, or reputation of one who is alive and thereby expose him to public hatred, contempt, or ridicule.

While the definitions of calumny and insults are not so specifically given as the crime of libel, yet a careful reading of the conditions under which a person may be punished for either of said offenses, in cases like the present, will show that it is necessary that said crimes be expressed in writing and bring or tend to bring another person into disrepute, discredit, or contempt. A careful reading of the provisions of the Penal Code punishing the crimes of calumny and insults, when the imputations, or statements, or acts are expressed in writing and tend to bring the person with reference to whom they are made, into disrepute, discredit, or contempt, will clearly show that all of said imputations, statements,

etc., are included within the definition of libel as given in said Act No. 277; and if both provisions of the Penal Code and the Libel Law (Act No. 277) are in force, then we will have two laws punishing the same offense, a condition which should not be permitted to exist.

Under the foregoing statements, the question presents itself whether or not the Libel Law has not repealed the provisions of the Penal Code providing a punishment for calumny and insults when those crimes are expressed publicly in writing (articles 453 and 458, Penal Code).

A penal law may, like any other statute, be repealed either expressly or by necessary implication; and such statute is repealed by implication if the later statute is so repugnant to the earlier one that the two cannot stand together or if the whole subject of the earlier statute is covered by the latter one having the same object, and which was clearly intended to prescribe the only rule applicable to the subject. In order, however, that two penal statutes may be repugnant, they must relate to the same subject; in other words, where each statute is directed against a distinct offense, there can be no repugnancy and no repeal. Furthermore, it is necessary to the implication of a repeal that the objects of the two statutes be the same, and if the objects are not the same both statutes will stand, although they may refer to the same subject. (16 Corpus Juris, p. 69; U. S. vs. Clafin, 97 U. S., 546.)

If a criminal law deals with the same subject as a prior law and is inconsistent with and repugnant to the prior law, the former is thereby repealed. Thus, where a later statute defines an offense that is described in an earlier statute, the earlier statute is repealed. (25 Ruling Case Law, p. 930; Johns vs. State, 78 Ind., 332; 41 Am. Rep., 577.)

Subsequent legislation repeals previous inconsistent legislation whether it expressly declares such repeal or not. In the nature of things it would be so, not only on the theory of intention, but because contradictions cannot stand together. The intention to repeal, however, will not be presumed, nor the effect of repeal admitted, unless the inconsistency is unavoidable, and only to the extent of the repugnance. (Sutherland Stat. Constr., 461-464.)

A statute may be repealed by implication as well as in direct terms; and it is well settled, that where a subsequent act is repugnant to a prior one, the last operates, without any repealing clause, as a repeal of the first; and where two acts, passed at different times, are not in terms repugnant, yet if it is clearly evident that the last was intended as a revision or substitute of the first, it will repeal the first to the extent in which its provisions are revised or substituted. (Pierpont vs. Crouch, 10 Cal., 315.)

Where the later or revising statute clearly covers the whole subject-matter of antecedent acts, and it plainly appears to have been the purpose of the legislature to give expression in it to the whole law on the subject, the latter is held to be repealed by necessary implication. (Sutherland Stat. Constr., 465.)

From what has been said above it is clear that the Libel Law (Act No. 277) defines and punishes the offenses of the Penal Code which are known as calumny and insults, when those crimes are expressed publicly in writing. Under the common law there existed two crimes known as libel and slander, the difference being in the fact that the former was expressed in writing while the latter was expressed in words verbally spoken. Under the Penal Code, calumny and insults, when expressed publicly in writing, constitute the crime of libel, while the same acts constitute slander when expressed in words verbally spoken.

After a careful examination of the provisions of the Penal Code relating to calumny and insults when expressed publicly in writing, in relation with the provisions of Act No. 277, we are convinced that the Legislature intended to repeal the former by the latter; and, in view of that conclusion, we are of the opinion and so declare, that article 453, the first paragraph of article 458, the first paragraph of article 459, articles 462, 463, 464, that part of article 465 which may refer to calumny and insults when expressed publicly in writing, and 466 of the Penal Code, have been repealed by the provisions of Act No. 277. Said provisions of the Penal Code on one hand and the provisions of the Libel Law on the other, cannot stand together in full force. Section 13 of Act No. 277 expressly provides that all laws or parts of laws now in force which may be in conflict herewith, are hereby repealed.

In our opinion there is an irreconcilable conflict between the provisions of the Penal Code above referred to and the provisions of the Libel Law, and that it was the intention of the Legislature to repeal said provisions when it adopted Act No. 277.

For all of the foregoing reasons, the sentence of the lower court is hereby revoked, and it is hereby ordered and decreed that the complaint be dismissed and the defendant discharged from the custody of the law, with costs *de officio*. So ordered.

Street, Avanceña, Villamor, Johns, and Romualdez, JJ., concur.

DISSENTING

ARAULLO, C. J.,

Article 458 of the Penal Code which punishes grave insult, such as the one under consideration in the present case, contains two paragraphs. The first one punishes said grave insult with the penalty of banishment from the medium, to the maximum, degree, and fine of from 625 to 6,250 *pesetas* when committed in writing and with publication. The second punishes it with the penalty of banishment from the minimum, to the medium, degree, and fine of from 325 to 3,250 *pesetas* when said insult is committed without the concurrence of said circumstances. So that the said article makes a distinction between grave insult committed in writing and with publication and that committed either verbally, or in writing, but without publication.

I concur with the majority in that the provisions of the Penal Code defining and penalizing calumny and insult, when such crimes are committed with publication and in writing, are repealed by Act No. 277 (Libel Law) and I also concur in that, as stated in the course of the foregoing decision, after a careful examination of the provisions of the Penal Code relative to calumny and insult committed in writing and with publication, in connection with the provisions of the said Libel Law, the Legislature intended to repeal the former by the latter, and more than that, I also concur with the majority in view of said conclusion, in that article 453, the first paragraph of article 458, the first paragraph of article 459 and others of the Penal Code, relating to insult and calumny have been repealed by the aforementioned Act No. 277, in so far as they refer to insult and calumny committed in writing and with publication.

But precisely because the majority have so held in the said decision, and because among the articles repealed by the Libel Law they do not include the two paragraphs of article 458 but only the first which, as above stated, penalizes the crime of grave insult committed in writing and with publication, it cannot be maintained that the second paragraph of said article, which penalizes the crime of grave insult committed in writing and without publication for which crime the accused has been tried and convicted, is also repealed.

On the contrary, what the majority have in effect held in the said decision by including

among the articles of the Penal Code relating to insult and calumny which they consider repealed by the Libel Law, only the first paragraph of article 458, without making mention of the second paragraph, is that the provision contained in this second paragraph of said article 458 of the Penal Code subsists, notwithstanding the Libel Law, for the simple reason that under the premises established in the same decision, when the crimes of insult and calumny are committed publicly and in writing the Libel Law is applicable. And it is evident that said crime should not be left unpunished when there exists a legal provision, such as that of the aforesaid paragraph 2 of article 458 which prohibits, and punishes, the same.

Therefore, taking into account that the accused was the author of the letter addressed to Dr. Ramos as it was proven, and found so by the lower court in the appealed judgment, I am of the opinion, with due respect to that of the majority, that said judgment should be affirmed with costs to the appellant.

DISSENTING

MALCOLM, and OSTRAND, JJ.,

Ignacio Castro was charged in an information filed in the Court of First Instance of Occidental Negros, with the crime of grave insults. It was alleged in the information that Castro had written Dr. Vicente Ramos a letter in which the following scurrilous phrases appeared: "You shameless fellow! Now you put on that d . . . health service uniform! You are stealing the people's money! The people pay you without receiving services from you! Shameful!" The trial judge found as a fact that Castro was the author of the letter and, consequently, imposed the appropriate penalty for the crime of grave insults.

We accept this finding of the trial judge as warranted by the proof, and are further of the opinion that no mistake was made in finding the defendant guilty of the offense charged.

It has previously been held by this court that the sending of a defamatory letter in a sealed

envelope to the offended party does not constitute libel because the element of publicity is lacking. (Lopez vs. Delgado [1907], 8 Phil., 26; U. S. vs. Ramos [1914], 28 Phil., 219.) On the other hand, it has been held by the supreme court of Spain that such an act constitutes the crime of insults as defined by article 456 of the Penal Code. (Dec. Sup. Ct. Spain, Dec. 9, 1881.) Accepting the law laid down by the decisions cited as correct, it would seem that Title X, Book II of the Penal Code relating to crimes against honor, in relation to Act No. 277, the Libel Law, contains practically complete provisions on this subject. Only to the extent to which the implied repeal by the Libel Law has diminished the provisions of the Penal Code must criminal charges be eliminated as not falling under the appropriate articles of the Penal Code. In this connection it should be recalled that according to article 456 of the Penal Code, "The offense of insult consists of any statement or act which tends to bring another person into disrepute, discredit, or contempt." On the assumption that statements expressed publicly in writing which tend to bring another person into disrepute, discredit, or contempt, fall under the Libel Law, yet there remain statements and acts where the element of publicity is lacking, which still constitute the crime of insults.

We are of opinion, therefore, that the judgment appealed from should be affirmed. If a resolution of the question which is discussed in the majority decision was necessary, we would agree that the Libel Law has had the effect of repealing certain provisions of the Penal Code providing a punishment for insults.

Judgment reversed; defendant acquitted.