

95 Phil. 770

**[ G.R. No. L-6312. September 09, 1954 ]**

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. W.D. CHAPMAN, DEFENDANT AND APPELLANT.**

**D E C I S I O N**

**REYES, J.B.L., J.:**

Francisco Deriada, Antonio Giron, Jose Parreno and William Chapman were convicted by the Court of First Instance of Samar of the crime of libel. Deriada was sentenced to pay a fine of P500; and his co-accused, including appellant Chapman, were fined P200 each. All four were ordered to suffer subsidiary imprisonment in ease of insolvency and to pay the costs proportionately.

The appeal of Chapman was originally docketed in the Court of Appeals; but as the only error assigned was the trial Court's refusal to dismiss the case for lack of jurisdiction, the Court of Appeals certified the case to this court.

1 The facts are as follows: The four accused were officers and directors of the Leyte Rifle and Pistol Association Inc., a Philippine non-stock corporation domiciled in Tacloban, Leyte. Deriada was the president; Parreno being the Secretary, Giron the Acting Treasurer, and Chapman the Range Officer. The offended party, Gregorio A. Conde, was the Vice-President; and he and Deriada had been formerly associated in the business of selling firearms. On October 21, 1948, Conde separated from Deriada in order to serve as branch Manager of the Philippine Trading Co., a competing firm, and relations between the two gradually became strained. On November 20, 1948, a special meeting of the Board of Directors of the Leyte Rifle & Pistol Association Inc., was

held, attended by the four accused, and the following resolution was passed:

“On motion presented by Director W. D. Chapman and seconded by Director-Treasurer Antonio Giron, the following resolution was unanimously approved;

### **RESOLUTION**

‘Whereas, this governing- body of the Leyte Rifle & Pistol ASSOCIATION, Inc., now assembled found sufficient documentary proofs against Mr. Gregorio A. Conde for having used the name of the association without proper authority to collect monies from the members which up to the moment of this assembly said Mr. Gregorio A. Conde intentionally fail to account for the collections as claimed by members in writing;

Whereas, the good name and integrity of the Leyte Rifle & Pistol Association, Inc., is at stake and will be ruined and exposed to mockery and contempt by all members and the public;

‘Be It Resolved, therefore, as we hereby resolve that the President of the Association be given our sanction to take up the matter with the Provincial Fiscal for proper action, and that said Mr. Gregorio A. Conde be temporarily suspended as Vice-President and Manager pending the result of any action taken by the Provincial Fiscal; Be It Resolved Further that copies of this resolution be sent to the Chief, Philippine Constabulary, Camp Crame Quezon City, to the Provincial Commander, PC, at Tacloban, Leyte and to the press for circulation.

‘Unanimously approved’.

I hereby  
certify that the foregoing is true and correct, and the above quoted

resolution has been duly acted upon and approved unanimously by the members of the Board of Directors, who were present.

‘(Sgd.) JOSE P. PARRENO  
Acting Secretary

Attested By:

(Sgd.) FRANCISCO B. DERIADA  
*President*

Concurrently Confirmed By:

(Sgd.) ANTONIO G. GIRON  
*Acting Treasurer*

(Sgd.) W. D. CHAPMAN  
*Range Officer*

(Pages 4-5, Annex “A”, Appelants’ brief).

Mimeographed copies of the resolution were sent to all the members of the Association residing in Leyte; to one Pedro Mancebo, residing in Catbalogan, Samar, also a member; to the Philippine Constabulary authorities in Tacloban and Quezon City; and to the Philippine Trading Co., (the principal of complainant Gregorio A. Conde) in Manila. No copies were released to the press.

Based on the foregoing events, this case for libel was filed and prosecuted in the Court of First Instance of Catbalogan, Samar, with appellant Chapman being accorded trial separately from his co-accused. In its decision, the trial court stated:

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But can the publication made of Exhibit ‘A’ be considered a private communication made by any person to another in the performance of any legal, moral or social duty? The publication of

Exhibit 'A' by furnishing the members with the mimeograph copies thereof falls under this exemption of the law as it should be considered done in the performance of a legal duty. (A communication made in good faith upon any subject matter in which the party making the communication has an interest or concerning which he has a duty is privileged if made to a person having a corresponding interest or duty, although it contains incriminatory or derogatory matter which without the privilege would be libelous and actionable (U. S. vs. Canete, 38 Phil., 253). The communication to Pedro Mancebo of Gatbalogan, Samar should fall under the same qualified privilege, inasmuch as Mancebo is a member of the Leyte Rifle and Pistol Association, Inc.

Was the publication by sending copies of Exhibit 'A' to the Headquarters of the Philippine Constabulary at Manila, the Provincial Commander of the Constabulary at Tacloban, the Manager of the Philippine Trading Co., at Manila in performance of legal, moral or social duty that it may be considered a qualified privilege? Our answer is in the negative. The defense did not prove that it was any legal, moral or social duty on the part of the accused."

Consequently, the Court convicted the accused as aforesaid, declaring the resolution to be libelous and without justifiable motives; wherefore the accused Chapman interposed the present appeal.

The issue now before us is whether the Court of First Instance of Samar had jurisdiction to convict appellant Chapman of the crime of libel, considering the facts shown in evidence and appearing in the decision appealed from. The question must be answered in the negative.

In *People vs. Borja*, 43 Phil., 618, this Court ruled that a criminal prosecution for libel may be instituted in any jurisdiction where the libelous article was published or circulated, irrespective of where it was written or printed. Since there is no question that the libelous resolution was adopted and copies thereof mimeographed in Leyte, and not in Samar; and since the only copy sent to Pedro Mancebo in Samar

was expressly found and declared by the appealed decision to be privileged, because Mancebo was a member of the Rifle and Pistol Association, Inc. and was interested in its affairs; and there being no finding of any other publication in the Province of Samar, the resolution, allegedly libelous, was neither published nor circulated in said province and the Court of First Instance there had no jurisdiction to take cognizance of the crime alleged in the information. In effect, as pointed out by the appellant and concurred in by the Solicitor General, the decision appealed from has convicted the appellant for a crime of libel committed either in the City of Manila or in the municipality of Tacloban, Leyte. That the Court of Samar had no jurisdiction to take cognizance of a crime committed in other jurisdictions, but not in its own, needs no stressing.

The decision appealed from is reversed and the case ordered dismissed, because of the lack of jurisdiction. *Costs de oficio*.

*Paras, C.J., Pablo, Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo and Concepcion JJ., concur.*

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