

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS.
VENANCIO H. AQUINO, DEFENDANT-APPELLEE, THOMAS M.
GONZALES, INTERVENOR.**

G. R. No. L-23908. October 29, 1966

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

Stating that it involves questions purely of law, the Court of Appeals certified this appeal to Us.

The prosecution at bar is for libel. An information, dated March 29, 1963, was filed in the Court of First Instance of Cagayan against Venancio H. Aquino, alleging:

"That on or about July 27, 1960, in the Municipality of Camalaniugan, Province of Cagayan, and within the jurisdiction of this Court, the said accused Venancio H. Aquino, being the counsel for Demetrio B. Encarnacion in Civil Case No. [N-] 151, for 'Damages for Libel' in the Court of First Instance of Cavite, 7th Judicial District, Branch III, did then and there wilfully, unlawfully and feloniously and with malicious intent of impeaching the personal worth, integrity, honor and reputation of the complaining witness Thomas M. Gonzales, circulate and publish and/or caused to be circulated and published his 'Reply and Answer to Counterclaim' a copy of which was furnished and received by the counsel of the complaining witness Thomas M. Gonzales at Camalaniugan, Cagayan, on July 27, 1960, which the accused wrote, prepared and mailed and/or caused to be written, prepared and mailed, containing highly libelous, derogatory and scurrilous words and expressions among which are the following:

"To this, our applicable reply are the very words of the Honorable Supreme Court to a party for shamelessly making untrue, libelous statements, to wit: '(This party) appears to belong to the-class of individuals who have no compunction to resort to falsehood or falsehoods, x x x as part of their systematic campaign of falsehoods, and slanders directed against us, is an imposture that only ignorants, blackhands and other mental pachyderms (like him) can swallow.'" 'x x x

Defendant was the impertinent assaulter of plaintiff's reputation, the malefactor who concocted the preposterous and malicious insinuations against the plaintiff, so that, defendant has no feelings, if at all, to be wounded;'

knowing fully well that the aforesaid words and phrases to be inapplicable to and inappropriate for the pleading of which they are made integral parts, and knowing likewise the same to be immaterial, impertinent and irrelevant to the issues involved in the aforementioned civil case, thus publicly and maliciously exposing the complaining witness Thomas M. Gonzales to public ridicule, derision, mockery, scorn and contempt to the irreparable damage and prejudice of the said complaining witness Thomas M. Gonzales whom the aforequoted words and phrases were applied and referred to."

Aquino filed a motion to quash or amend the information, upon the ground that it was not sufficiently intelligible. Said motion was denied by the court.

Subsequently, however, on September 28, 1963, Aquino filed a second motion to quash, claiming that (1) the

statements referred to are not defamatory; and (2) the statements, even if defamatory, are absolutely privileged. Annexed thereto were copies of the Complaint, Answer with Counterclaim, and the Reply and Answer to the Counterclaim, in Civil Case No. N-151 of the Court of First Instance of Cavite.

After the Assistant Fiscal filed an answer to the motion, the court a quo, on October 15, 1963, dismissed the case, upon the second ground of the motion to quash. Thus it ruled that the statements of the accused in the "Reply and Answer to the Counterclaim" filed in Civil Case No. N-151 constituted absolutely privileged matters, having been made in the course of judicial proceedings and being relevant to the issues that arose in that afore-stated case.

From the order of dismissal - there was yet no arraignment and plea - the prosecution has appealed.

Appellant, through the Solicitor General, recognized the rule, as laid down in several decisions of this Court, that statements made in the course of judicial proceedings are absolutely privileged - that is, privileged regardless of defamatory tenor and of the presence of malice - if the same are relevant, pertinent or material to the cause in hand or subject of the inquiry. And that, in view of this, the person who makes them - such as a judge, lawyer or witness - does not thereby incur the risk of being found liable thereon in a criminal prosecution or an action for the recovery of damages.[[*]] At issue here is the application of said rule, or whether the statements of Aquino, quoted in the information, fall within the scope of this privilege.

As shown in the records before Us, the suit known as Civil Case No. N-151 was filed by Ex-Judge Demetrio Encarnacion against Thomas Gonzales, to recover damages for allegedly false, malicious and libelous statements contained in the defendant's letter to his (defendant's) sister, dated September 3, 1958, shown and given to plaintiff in July of 1959, imputing that plaintiff had been "separated from the position of Judge of the Court of First Instance by reason of his supposedly dirty and indecent ways of dispensing human justice and of his (plaintiff's) having been leading an immoral life." (Plaintiff's Complaint, par. 3, Annex A to Second Motion to Quash.)

To plaintiff's Complaint alleging the above matters, Thomas Gonzales filed an Answer with Counterclaim, putting up the defense that the letter referred to "was addressed to defendant's sister, Mrs. Magdalena G. Manikan, mailed in a sealed envelope to her, and written with the sincere desire to comply with an obligation, social and moral, and with the honest belief in the truthfulness of the statements contained therein"; and that "reference to the complainant, if any, was merely incidental, devoid of any intent to libel". Thus, defendant further asked for P25,000 in moral damages, alleging that "by the unwarranted filing by the plaintiff, in bad faith, of the aforesaid malicious and unfounded charges against the defendant, the latter suffered mental anguish, serious anxiety, wounded feelings and moral shock". (Defendant's Answer with Counterclaim, pp. 1-2, Annex B to Second Motion to Quash.)

Then followed plaintiff's Reply and Answer to the Counterclaim, filed through counsel Venancio H. Aquino, containing among others, the allegations subject matter of the present criminal action. For convenience, said allegations are hereunder again quoted:

"To this, our applicable Reply are the very words of our Honorable Supreme Court to a party for shamelessly making untrue, libelous statements, to wit: '(This party) appears to belong to the class of individuals who have no compunction to resort to falsehood or falsehoods x x x as part of their systematic campaign of falsehood, and slanders directed against us, is an imposture that only ignorants, blackhands and other mental pachyderms (like him) can swallow.' "x x x

defendant was the impertinent assaulter of plaintiff's reputation, the malefactor who concocted the preposterous and malicious insinuations against the plaintiff, so that, defendant has no feelings, if at all, to be wounded;"

From the pleadings thus filed in Civil Case No. N-151, the subject of inquiry readily discernible is whether the defendant acted out of sheer malice with intent to cast dishonor upon the plaintiff; or in good faith, pursuing a sense of social or moral duty. Since the plaintiff asserted the first proposition, the allegations in his Reply and Answer to Counterclaim to the effect that defendant's posture of innocence was a shameless pretense - strongly or offensively worded though it may be - are pertinent and related to the subject of inquiry. Thus, in quoting from the opinion of Justice Perfecto in the Sotto case,[[*]] said pleading may indeed have thereby called the defendant "an imposture that only ignorant, blackhands and other mental pachyderms (like him) can swallow." Yet this was responsive to defendant's allegations to the contrary, and pertained to the subject of inquiry. The same is true with the assertion that defendant "was the impertinent assaulter of plaintiff's reputation, the malefactor who concocted the preposterous and malicious insinuations against the plaintiff, so that, defendant has no feelings, if at all, to be wounded."

Appellant's brief would however dissect the quotation and separately analyze such terms as "blackhands" and "pachyderms". It is argued that these are words having no bearing to the cause; that "black hand" according to Webster's New International Dictionary means "a lawless secret society practising terrorism, extortion or other crimes" and "pachyderm" means "thick-skinned"; and that appellant cannot conceive of any situation whereby during the trial of the civil case the defendant might be proved to be a "pachyderm" or a "blackhand" or even an "imposture" or "ignorant" as these terms are used in the expressions in question.

First of all, in this regard it is the rule that what is relevant or pertinent should be liberally considered to favor the writer, and the words are not to be scrutinized with microscopic intensity. [[*]] Secondly, there is no such word as "blackhand"; Webster's New International Dictionary gives "Black Hand" meaning, what the Solicitor General gave to "blackhand," that is, a lawless secret society whose members engage in extortion, terrorism, and other crimes. A person belonging to or associated with said society is not called "blackhand" - as stated, there is no such term - but "blackhander" (See, Webster, New International Dictionary, 2nd Ed., p. 280; Eric Partridge, A Dictionary of the Underworld, [1950] p. 44.)

Now, We discussed this here because there was an obvious clerical error in the pleading in quoting from Justice Perfecto, who used not "blackhand" but "blockhead" in the portion quoted. Since there is no such word as "blackhand" (referring to an individual), and since reference to the quotation from Justice Perfecto is made, the term used must be deemed, for our purposes, "blockhead". And "blockhead" means "a person deficient in understanding" (Webster, Ibid., p. 290).

As to the word "pachyderm," the same was qualified by the word "mental" so that it does not refer to thickness of the physical skin. As appellee's brief points out, "mental pachyderm" refers to a "distorted mind, a mind that is insensible, unfeeling, senseless, hardened, callous (Thesaurus of Words and Phrases, par. 376, p. 121, copyright 1947)."[*]

It will thus be seen that whether or not the defendant is so deficient in knowledge ("ignorant") and understanding ("blockhead") and possessed of an insensible, unfeeling and hardened mind, as to indulge in a pretense of the kind that he is alleged to have made in his Answer with Counterclaim, is a question that reasonably pertains to the subject of inquiry in the civil case, namely, whether his claim of good faith in mentioning things defamatory to plaintiff is an imposture or a truth.

As such, the allegations complained of herein cannot give rise to criminal or civil liability against the advocate who made them. As this Court observed in *Sison v. David*, L-11268, January 28, 1961: "x x x

The privilege is not intended so much for the protection of those engaged in the public service and in the enactment and administration of law, as for the promotion of the public welfare, the purpose being that members

of the legislature, judges of courts, jurors, lawyers, and witnesses may speak their minds freely and exercise their respective functions without incurring the risk of a criminal prosecution or an action for the recovery of damages. (33 Am. Jur., 123-124.)"

Stated otherwise, the privilege is granted in aid and for the advantage of the administration of justice. Since it appears from the information that the allegations complained of herein are contained in an appropriate pleading, and since they pass the test of relevancy, it was no error for the court *ji quo* to sustain the privilege and to quash the information upon defendant's motion (People v. Andres, G.R. No. L-14548, April 29, 1960).

WHEREFORE, the order appealed from quashing the information in this case is hereby affirmed, with costs de oficio.

SO ORDERED.

Concepcion, C.J., Dizon, Regala, Makalintal, Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

Reyes, J., reserves his vote.

Barrera, J., on leave.

[*] U.S. v. Bustos, 37 Phil. 743; Tupas v. Parreño, G.R. No. L-12545, April 30, 1959; People v. Andres, L-14548, April 29, 1960; Sison v. David, G.R. No. L-11268, January 28, 1961; Tolentino v. Baylosis, G.R. No. L-15742, January 31, 1961; Gonzales v. Alvarez, G.R. No. L-19072, August 14, 1965.

[*] 82 Phil. 595, 607, 618.

[*] U.S. v. Bustos, 37 Phil. 731, 743; Smith Bell & Co. v. Ellis, 48 Phil. 475, 482.

[*] Appellee's brief, p. 27.

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