

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS. MARIO M. BUNDALIAN, DEFENDANT-APPELLEE.

G.R. No. L-29985. October 23, 1982

Ponente: VASQUEZ, J.

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VASQUEZ, J.:

On June 11, 1964, Hon. Gaudencio E. Antonino, then a Member of the Philippine Senate, filed a sworn complaint with the Office of the City Fiscal of Manila charging herein defend-ant-appellee with the crime of libel. After the requisite preliminary investigation was conducted, an Information was filed in the Court of First Instance of Manila by then Assistant Fiscal, now Court of Appeals Justice Serafin R. Cuevas, charging herein defendant-appellee with libel reading as follows:

"That on or about the 5th day of June, 1964, in the City of Manila, Philippines, the said accused, with the malicious purpose of impeaching and besmirching the virtue, character and reputation of Senator Gaudencio E. Antonino, both as man and as public official, and with the evident intent of causing him dishonor and exposing him to public hatred, contempt and ridicule, did then and there wilfully, unlawfully and feloniously write, publish and/or distribute or cause to be written, published and/or distributed a memorandum containing statements, in-nuendos and imputations which are highly libelous and defamatory as they maliciously and publicly impute to Senator Gaudencio E. Antonino, some vice or defect, the pertinent portion of said memorandum containing the following:

'x x x questions were raised on the floor by his colleagues as to the objectivity of his so-called answer, and so asinine as to sustain rather than disprove the statements contained in my aforesaid Memorandum, yet I am constrained to debunk the Senator's disparaging statements about me lest they might unjustly arouse in the public mind a misconception of my integrity and true worth especially of those who might be called upon to pass swift judgment, or form a superior conclusion thereupon, as well as those who may be tempted by a silence on my part to accept as sober and hysterical tantrums so gibberishly pronounced.'

xxx xxx xxx

'I can find no justification, and no reason except collapse of sanity, for the demonstrated bitterness of Senator Antonino against me, x x x.'

'As to "pigments of egotistical delusion of a man with ill motives and questionable intention", not only did the Senator fail or forget, to establish any part of his smoke-screening invention but that it would appear from the journals of the Senate that the description Sen. Antonino would apply to me fits him instead.

'For is it not egotism to acknowledge on the floor a fancied appointment to the National Economic Council especially just after a proposal to that effect was overtly withdrawn by the Majority Floor Leader? Is it not delusion to consider himself qualified as minority representative to the NEC when he does not belong to the minority party as pointed out by Sen. Padilla? Is it not ill motive for the Senator to evade availing of the services of an advisor on Public Works, whose competence and technological honesty has been proven time and again

during a performance of some fourteen years of public works consultation and has been used by him on at least two occasions to prepare speeches for him on public works matters, as the records will show? Is it not questionable intention for a Chairman of an important Committee, suffering from a congenital defect, to harness exclusively the untested services of crude, inexperienced technicians of doubtful qualification to prepare a Committee Report of unusual magnitude and delicate impact in preference to the seasoned perception, objectivity, and experience of the Advisor on Public Works who, it must be admitted, had simply refused, on occasions, to lend fawning support to out-landish and demagogic postures?'

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'x x x Besides, I do not accept that I can be exploited like timber in part reservations.' that by said Memorandum the said accused meant and wanted to convey, as in fact he did mean to convey, false, malicious and damaging insinuations against said Senator Gaudencio E. Antonino, which imputations and insinuations, as the said accused well knew were absolutely false and untrue and without any foundation in fact whatsoever, highly libelous, offensive and derogatory to the good name, character and reputation of said Gaudencio E. Antonino and that the said memorandum was falsely prepared, written, published and/or distributed for no other purpose than to impeach and besmirch the good name, character and reputation of the said Senator Gaudencio E. Antonino in order to expose him, as in fact he was so exposed to dishonor, discredit, public hatred, contempt and ridicule.' " (pp. 1-2, Record.)

Senator Gaudencio E. Antonino made no reservation to file an independent civil action nor did he file a separate civil action.

Sometime in November 1967, Senator Antonino died. He died before he testified in the libel case in question.

On September 2, 1968, Bundalian filed a motion to quash alleging two (2) grounds, namely: (a) "The charge of libel does not survive the offended party who is now deceased; and (b) the facts alleged in the information do not constitute a crime of libel, or if they do, it is justified."

In an order dated October 26, 1968, the trial court granted the motion to quash and dismissed the case on the first ground. Hence, this appeal by the People. The only issue raised in this appeal is the legal question of whether or not the death of the offended party in a criminal case for libel or defamation extinguishes the criminal liability of the accused.

We answer this question in the negative and accordingly REVERSE the ruling of the court a quo.

The causes for extinguishment of criminal liability are enumerated in Article 89 of the Revised Penal Code. The death of the offended party is not one of them. Neither is such an event listed among the grounds of a motion to quash a criminal complaint or information as provided in Section 2, Rule 117, of the Rules of Court. No Philippine decision was cited to support the view espoused by the defendant-appellee. It is not even likely that there will be such a jurisprudence, inasmuch as to so hold that the death of the offended party in a libel case will abate the criminal action against the offender would be contrary to the existing statutory dispositions, if not repugnant to the system of criminal procedure applied in this jurisdiction.

The reasons given by the trial judge in dismissing the information for libel on account of the death of the offended party are that the affront suffered by Senator Antonino was personal to him; that Senator Antonino was not able to testify before he died; and that a supposed majority of American jurisprudence supports the view that a case for slander or libel does not survive the death of either the wrongdoer or the person injured. (citing 1 Am. Jur., Sec. 122, p. 87.)

Elaborating on the grounds relied upon by the trial court, defendant-appellee argues in his brief that inasmuch as Senator Antonino died before he was able to testify, the defendant-appellee was denied the right to be confronted at the trial by, and to cross-examine the witnesses against him. (Sec. 1(f), Rule 115, Rules of Court.) He further contends that the right of an offended party to file a complaint does not survive after his death and may not be exercised by his heirs or legal representatives. (citing *Guevarra vs. del Rosario*, 77 Phil. 615.)

We find the arguments adduced by both the court a quo and defendant-appellee to be devoid of merit. It is true that Senator Antonino who was the person supposedly libeled died during the pendency of the libel case filed against the defendant-appellee. This fact, however, does not mean that the death of the victim extinguished the criminal liability for the offense committed against him. If these were so, no one may be prosecuted for homicide or murder, or convicted of any crime wherein the offended party had died at any time before final judgment in the case had been rendered. It is a truism that a criminal offense is prosecuted not because of the injury or harm inflicted on the offended party, but because a crime is supposed to be an outrage to the sovereignty of the State. (*City of Manila vs. Rizal*, 27 Phil. 50.)

It is correct to state that, as a general rule, if the offended party shall die before he was able to file a complaint for the crime committed against him, his heirs or legal representatives do not have the right to file the complaint for the said crime, as was held in the cited case of *Guevarra vs. del Rosario*. However, the complaint in this case was not filed by the heirs or legal representatives of Senator Antonino. As stated earlier, it was Senator Antonino himself who filed the complaint and his death occurred after such filing. No rule or jurisprudence prescribes that the death of the offended party under such a circumstance would invalidate the complaint previously filed by the offended party himself.

The circumstance that the crime charged against defendant-appellee is libel does not create sufficient legal basis to recognize an exception from the general principles as to the effect of the death of the offended party on the criminal liability of the offender. No such exception is prescribed in the applicable provisions, nor justified by logic or reason. Even if Senator Antonino died before he filed the complaint in question, the criminal action is not abated, inasmuch as the libel charged in the information is not one which cannot be "brought except at the instance of and upon complaint filed by the offended party", there being no imputation of an offense which cannot be prosecuted de officio. (Sec. 4, Rule 110, Rules of Court.)

We find no decisive significance in the circumstance that Senator Antonino died before he was able to testify. The right of confrontation and cross-examination as guaranteed by Sec. 1(f), Rule 115, of the Rules of Court and Sec. 19, Article IV, of the Constitution, does not mean that the offended party should testify in the case. Indeed, there is no requirement that the offended party in a criminal case must take the witness stand even if he were not dead. Clearly, neither may such obligation be imposed where the offended party is already dead. The right of confrontation and cross-examination is guaranteed to an accused with respect to any witness who may testify against him, but not in respect of those who are not made to testify. As regards the latter, no harm or prejudice is caused the accused against which he needed to be protected.

The reliance on a passage lifted from American Jurisprudence is misdirected. The view expressed therein, as can be readily seen from the context thereof, is based on the statutes involved in the cases cited in support thereof, which statutes are not even uniform as was expressly indicated therein. As earlier observed, there is no law, rule or jurisprudence in this jurisdiction that prescribes or holds that the death of the offended party in a pending case for libel or defamation shall extinguish the criminal liability of the offender. On the contrary, the existing provisions suggest by clear implication that such an event is no cause to discontinue a pending criminal prosecution for libel or defamation.

WHEREFORE, the order granting the motion to quash is hereby SET ASIDE. The trial court is ordered to try the case on the merits and to render the corresponding judgment thereon. Costs against the defendant-appellee.

SO ORDERED.

Melencio-Herrera, Plana, Relova, and Gutierrez, Jr., JJ., concur.
Teehankee, J., (Chairman), in the result.

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