

NANERICO D. SANTOS, PETITIONER, VS. THE COURT OF APPEALS AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. L-45031. October 21, 1991

Ponente: FERNAN, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/db4ec0a6bc35/>

FERNAN, C.J.:

Petition for review of the decision of the Court of Appeals promulgated on August 25, 1976 which affirmed the judgment of the then Court of First Instance of Rizal, Branch VIII (Pasig) convicting Nanerico D. Santos of the crime of libel and sentencing him to pay a fine of P6,000.00 with subsidiary imprisonment in case of insolvency, to indemnify the private offended parties Carlos Moran Sison and Luis F. Sison in the amount of P50,000.00 by way of actual, consequential and exemplary damages and costs.[1]

The instant petition raises the ultimate issue of whether or not the publication of a complaint filed with the Securities and Exchange Commission before any judicial action is taken thereon is privileged as a report of a judicial proceeding.

On February 23, 1970, petitioner Nanerico D. Santos as a columnist of the then Manila Daily Bulletin wrote and published in his weekly column an article entitled "Charges Against CMS Stock Brokerage, Inc." which article was quoted verbatim from an unverified complaint filed with the Securities and Exchange Commission on February 13, 1970 by Rosario Sison Sandejas and her daughters charging CMS Stock Brokerage Inc., particularly its board chairman and controlling stockholder Carlos Moran Sison and its president-general manager Luis F. Sison, of engaging in fraudulent practices in the stock market.

On the very day that the news item appeared, Carlos Moran Sison sought a meeting with petitioner Santos so that he could submit to the columnist his reply which he wanted published "the very next day" and in the same column. They met at about 6:15 in the evening at the Andres Soriano Executive Center in Makati, Rizal where petitioner promised Sison that he would have the reply published, not on the next day, but in the February 25, 1970 issue of the Manila Daily Bulletin because "it was already past the deadline for the next day's issue."

The reply was not published on February 25, 1970 as petitioner had promised and so Carlos Moran Sison called petitioner by phone to tell him not to publish the reply anymore as it would only rekindle the talks. Sison also informed petitioner that he would be sued for libel, to which statement petitioner retorted: "Well, sue me for libel." [2]

About a week later when Carlos Moran Sison chanced upon petitioner at the Hotel Intercontinental lobby, the latter asked Sison: "When will you sue me?" Petitioner received his answer on March 4, 1970 when the appropriate complaint for libel was lodged against him by Carlos Moran Sison and Luis F. Sison before the Office of the Provincial Fiscal of Rizal. Charged together with petitioner were Mariano B. Quimson, Jr., Hans M. Menzi, M.M. de los Reyes, Felix G. Gonzales and Ben Rodriguez, also of the Manila Daily Bulletin. Subsequently, the corresponding information was filed before the Court of First Instance of Rizal (Pasig) on November 16, 1970.[3] 'It is interesting to note that a few weeks following the publication of the complaint, Santos' weekly column was

stopped, ostensibly to cut down on overhead expenses brought about by the adoption of the floating rate in foreign exchange.[4]

On January 26, 1971, upon motion of the trial fiscal and with the conformity of the offended parties, the lower court dismissed the case against all the accused, with the exception of petitioner Nanerico D. Santos.

In due time, the trial court rendered its judgment of conviction. In affirming the decision, respondent Appellate Court declared:

"The article in question is not a privileged communication. At the time the complaint filed with the Securities and Exchange Commission was published in the column of the accused there was as yet no proceeding at which both parties had an opportunity to be present and to be heard. (Barretto vs. Philippine Publishing Co., 30 Phil. 88). Publishing an article based upon a complaint filed in a Court of First Instance before any judicial action is taken thereon is not privileged as a report of a judicial proceeding. (Choa Tek Hee vs. Philippine Publishing Co., 34 Phil. 447).

"The article in question is libelous. It imputes a crime to the private offended parties, that of 'willful violation of the provisions of the Securities Act and the implementing Rules and Regulations issued by the commission' which is penalized by imprisonment or fine or both and said published article of the accused imputes to the private offended parties, as stockbrokers, fraudulent acts and illegal purchases/sales and manipulations of securities to the prejudice of their customers and the general investing public, which acts actually caused the dishonor, discredit or contempt of the private offended parties." (Annex "D", Rollo, pp. 6-7).

The case is now before us for resolution.

The applicable provision of law is Article 354 of the Revised Penal Code which states as follows:

"Article 354. Requirement for publicity. - Every defamatory imputation is presumed to be malicious, even if it be true, if no good intention and justifiable motive for making it is shown, except in the follow-ing cases:

"1. A private communication made by any person to another in the performance of any legal, moral or social duty; and

"2. A fair and true report, made in good faith, without any comments or remarks, of any judicial, legislative or other official proceedings which are of confidential nature, or of any statement, report or speech delivered in said proceedings, or of any other act performed by public officers in the exercise of their functions."

Generally, malice is presumed (malice in law) in every defamatory imputation. This presumption, however, does not arise if the communication is privileged under Article 354.

Paragraphs 1 and 2 of Article 354 refer to qualifiedly privileged communications.[5] The character of the privilege is a matter of defense which may be lost by positive proof of express malice. In other words, the onus of proving actual malice is placed on the plaintiff who must then convince the court that the offender was prompted by malice or ill will. Once this is accomplished, the defense of privilege is unavailing. Thus, under Article 362 of the Revised Penal Code, it is provided that:

"Art. 362. Libelous remarks. - Libelous remarks or comments connected with the matter privileged under the provisions of article 354, if made with malice, shall not exempt the author nor the editor or managing editor of a newspaper from criminal liability." (Emphasis supplied)

Petitioner now insists that the published article is privileged, being a fair and true report of a judicial proceeding, without comments or remarks, and therefore not punishable. He maintains that the alleged libelous news report which came out in the Manila Daily Bulletin was merely lifted from a complaint word for word, except for the last innocuous paragraph which he added to the effect that "(i)nvestors and Sison's fellow brokers are eagerly

awaiting developments on these charges". Moreover, he contends that the cited rulings in the cases of Barretto vs. Philippine Publishing Co., 30 Phil. 88 and Choa Tek Hee vs. Publishing Co., 34 Phil. 447, are no longer valid. Petitioner's arguments are well-taken.

It must be recalled that in holding petitioner liable for libel, both the trial court and the Appellate Court applied the doctrine established in the aforementioned 1915-1916 cases. Briefly:

"An answer to a complaint filed in court, containing libelous matter, is not privileged so as to exempt a newspaper from prosecution under the Libel Act for a publication thereof, no action having been taken by the court thereon." (Barretto vs. Philippine Publishing Co., supra).

"Publishing an article based upon a complaint filed in a Court of First Instance before any judicial action is taken thereon is not privileged as a report of a judicial proceeding." (Choa Tek Hee vs. Philippine Publishing Co., supra).

The Court, through Justice Moreland, gave the rationale:

"The foundation of the right of the public to know what is going on in the courts is not the fact that the public, or a portion of it, is curious, or that what goes on in the court is news, or would be interesting, or would furnish topics of conversation; but is simply that it has a right to know whether a public officer is properly performing his duty. In other words, the right of the public to be informed of the proceedings in court is not founded in the desire or necessity of people to know about the doings of others, but in the necessity of knowing whether its servant, the judge, is properly performing his duty. Only clear provisions of law can justify a newspaper, or an individual, in spreading baseless charges of fraud or corruption made by one man against another, wherever such charges may be found. The fact that such charges are contained in a paper filed in court gives no inherent right to an individual to peddle its contents from door to door or spread them broadcast; and a newspaper has no more privileges than an individual. Between the newspaper and the individual there is no difference of right. The real difference between them lies in the ability of the one to spread the publication more quickly, more extensively, and more thoroughly than the other. Unless, therefore, the statute plainly confers that right, the publication of such charges is actionable unless justified. x x x.

"It is generally agreed that the privilege, the right to publish without liability for damages, does not extend to mere pleadings filed in court, as, for example, bills in equity, upon which there has been no action. (Cited cases). The reason for this rule is thus stated in Park vs. Detroit Free Press Co.: 'There is no rule of law which authorizes any but the parties interested to handle the files or publish the contents of their matters in litigation. The parties, and none but the parties, control them. One of the reasons why parties are privileged from suit for accusations made in their pleadings is that the pleadings are addressed to courts where the facts can be fairly tried, and to no other readers. If pleadings and the documents can be published to the world by any one who gets access to them, no more effectual way of doing malicious mischief with impunity could be devised than filing papers containing false and scurrilous charges, and getting these printed as news. x x x.'" (Barretto vs. Philippine Publishing Co., supra, pp. 92-93, 105-106).

However, it would seem that the passage of time has worked to petitioner's great advantage. In 1976, the doctrine so fervently and eloquently espoused by Justice Moreland in the Barretto case was overturned by this Court through Justice Esguerra in Cuenco vs. Cuenco, No. L-29560, March 31, 1976, 70 SCRA 212, 234-235. Thus:

"The reason for the rule that pleadings in judicial proceedings are considered privileged is not only because said pleadings have become part of public record open to the public to scrutinize, but also due to the undeniable fact that said pleadings are presumed to contain allegations and assertions lawful and legal in nature, appropriate to the disposition of issues ventilated before the courts for the proper administration of justice and, therefore, of general public concern. Moreover, pleadings are presumed to contain allegations substantially true because they can be supported by evidence presented in good faith, the contents of which

would be under the scrutiny of courts, and therefore, subject to be purged of all improprieties and illegal statements contained therein.

"We are firmly convinced that the correct rule on the matter should be that a fair and true report of a complaint filed in court without remarks nor comments even before an answer is filed or a decision promulgated should be covered by the privilege."

In *Manuel vs. Pano*, supra, the Court, speaking through Justice Cruz, categorically stated that the publication of a complaint, being a true and fair report of a judicial proceeding, made in good faith and without comments or remarks, is privileged and comes under Item 2 of Article 354. It is no longer correct to state that Article 354 is not applicable because the published complaint as filed would not by itself constitute a judicial proceeding, as the issues have not as yet been joined. That doctrine established in the *Barretto* and *Choa Tek Hee* cases is no longer controlling and has been superseded by the *Cuenco* case. Moreover, it could also be argued that the complaint, by itself, is a public record and may be published as such under Rule 135, Section 2 of the Rules of Court unless the court directs other-wise in the interest of morality or decency.

We now come to the all-important consideration of whether the prosecution, in an effort to remove the protection of privilege, was able to establish that the columnist charged with libel was in fact motivated by malice.

It is plainly evident from a reading of the published article itself that it is but a faithful reproduction of a pleading filed before a quasi-judicial body. There are no embellishments, wild imputations, distortions or defamatory comments calculated to damage the reputation of the offended parties and expose them to public contempt. What petitioner has done was to simply furnish the readers with the information that a complaint has been filed against a brokerage firm. Then he proceeded to reproduce that pleading verbatim in his column. Now this is decidedly part and parcel of petitioner's job as a columnist whose "beat" happens to be the stock market. He is obligated to keep the public abreast of the current news in that particular field. On this crucial point, the Court is inclined to resolve all doubts in favor of petitioner and declare that there is no libel. It may be well for us to keep in mind that the rule on privileged communications in defamation cases developed because "public policy, the welfare of society and the orderly administration of justice" have demanded protection for public opinion. Therefore, they should not be subjected to microscopic examination to discover grounds of malice and falsehood. Such excessive scrutiny would defeat the protection which the law throws over privileged communications.[6]

The controversial publication being a fair and true report of a judicial proceeding and made without malice, we find the author entitled to the protection and immunity of the rule on privileged matters under Article 354 (2). It follows that he cannot be held criminally liable for libel.

WHEREFORE, the conviction of petitioner Nanerico D. Santos is SET ASIDE and he is hereby ACQUITTED of the crime of libel. No costs.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin, and Davide, Jr., JJ., concur.

[1] Criminal Case No. 1643, Annex "C", Rollo, p. 78.

[2] TSN, February 16, 1971, p. 40.

[3] Original Records, pp. 1-2.

[4] TSN, March 8, 1971, p. 26.

[5] Manuel v. Pano, No. L-46079, April 17, 1989, 172 SCRA 225; Ubarra v. Biscom, No. L-25332, October 14, 1968, 25 SCRA 498.

[6] US v. Felipe Bustos, 37 Phil. 731; 743; with cited cases.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.