

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS.
SYLVIA ABONITALLA DE RAVIDAS, DEFENDANT-APPELLEE.***G.R. No. L-20374. April 28, 1969*

Ponente: TEEHANKEE, J.

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Defendant-appellee, Sylvia Abonitalla de Ravidas, was charged on July 8, 1961 with grave oral defamation in Criminal Case No. 6621 of the Municipal Court of the City of Cagayan de Oro upon a sworn complaint signed by the offended party, Generosa Cariaga. After the accused had pleaded not guilty, the case went to trial and both prosecution and defense presented their respective evidence. The lower court thereafter rendered judgment on June 30, 1962 ordering the dismissal of the case "for lack of personality on the part of the complainant Generosa Cariaga to sign the complaint." [1]

Hence, this appeal by the City Attorney of Cagayan de Oro City through the Solicitor-General on behalf of the State.

The lower Court ordered the dismissal of the case citing Article 7, section 24, paragraph (f) of Republic Act No. 521 (the City Charter), providing that the City Attorney shall "investigate all charges of crimes, misdemeanors, and violation of laws and city ordinances and prepare the necessary information or make the necessary complaints against the person accused. "It deduced therefrom "that it is mandatory on the part of the City Attorney to prepare the necessary information for all violations of laws and city ordinances that can be prosecuted de oficio or prepare the necessary complaint for those offenses that cannot be prosecuted otherwise." [2] It therefore held that since the crime imputed by the accused to the complainant, which imputation gave rise to the filing of the complaint for grave oral defamation, is not one of those private crimes that cannot be prosecuted de oficio as provided for in the last paragraph of Article 360 of the Revised Penal Code, the charge could not be prosecuted, except by an information signed by the City Attorney or his Assistants and that the complainant had no legal personality to stand before the Court on the complaint signed by her.

The record shows that upon the filing of the complaint, the lower Court issued the warrant for the arrest of the accused, fixing bail at P1, 000. 00, which was posted by the accused; and that at no time during the arraignment or the ensuing trial, which was prosecuted by an assistant of the City Attorney, did the accused ever raise any objection to the sufficiency or legality of the complaint against her. Any such technical objection should have there-fore been deemed waived and the lower Court should have rendered judgment on the merits instead of motu proprio dismissing the case, on the ground of lack of personality on the part of the complainant to sign the complaint. [3]

As may be gleaned from the lower court's decision, it dismissed the case, in order to be consistent with an identical ruling it had made in an earlier case also for Grave Oral Defamation, namely, Criminal Case No. 6612, entitled "People vs. Damaso Atienza", wherein its order of dismissal, founded on the same ground of a complainant's lack of personality to sign the complaint, had likewise been appealed to this Court. The appeal in

that case was docketed as Case G. R. No. L-19857 of the Court and was resolved by the Court last year.[4] In setting aside the dismissal order of the lower Court in that case, this Court, speaking through Mr. Justice Makalintal pointed out that neither the charter of Ca-gayan de Oro City nor the last paragraph of Article 360 of the Revised Penal Code prohibits or restricts the commencement of an action for defamation imputing a public crime or one which may be prosecuted de oficio upon a written complaint of the offended party. This Court thus ruled:

"x x x The provision of the charter of the City of Cagayan de Oro aforecited is not restrictive in character. While it imposes upon the City attorney the duty to investigate offenses and to sign the corresponding informations or complaints, it does not say that the victim of the offense may not himself file a complaint. The law of more immediate relevancy is Article 360 of the Revised Penal Code, which states: 'No criminal action for defamation which consists in the imputation of a crime which cannot be prosecuted de oficio shall be brought except at the instance of and upon complaint expressly filed by the offended party. ' As construed by the lower court, invoking *People vs. Martinez*, L-50, April 30, 1946, the foregoing provision setups a prohibition against the prosecution of a charge of defamation upon complaint by the offended party when the defamation consists of the imputation of a crime which may be prosecuted de oficio. The decision in *People vs. Martinez* does not support this conclusion. It simply underlines the indispensability of such a complaint when the crime imputed cannot be prosecuted de oficio such as adultery, concubinage, rape, seduction, abduction, or acts of lasciviousness. x x x"[5]

This Court's ruling in that case is fully applicable to the present case and is decisive of the same legal issue presented in both cases. It need only be added that the written complaint for grave oral defamation filed by the offended party and its prosecution by the City Attorney's office fully conform with the procedure provided in Rule 110 of the Rules of Court,[6] particularly Section 1, which provides for the commencement of all criminal actions either by complaint or information in the name of the People of the Philippines and Section 4, which provides that "(A)ll criminal actions either commenced by complaint or information shall be prosecuted under the direction and control of the fiscal."

We therefore hold that the lower court should have proceeded to render its decision on the merits, instead of dismissing the complaint of the offended party.

ACCORDINGLY, the judgment of dismissal appealed from is hereby set aside, and the case is remanded for further proceedings in accordance herewith. With costs against defendant-appellee.

Reyes, J.B.L., Acting C.J., Dizon, Makalintal, Zaldivar, Sanchez, Fernando, and Barredo, JJ., concur.
Capistrano, J., did not take part.

Concepcion, C.J., voted for the setting aside of the judgment appealed from and the remand of the case for further proceedings in accordance with the decision.

Castro, J., is on leave from the Court.

[1] Record, p. 99.

[2] Record, p. 98.

[3] *People vs. Damaso Atienza*, L-19857, Oct. 26, 1968; *Garcia Valdez vs. Dir. of Prisons*, 38 Phil. 596.

[4] See footnote 3.

[5] Emphasis supplied.

[6] Formerly Rule 196 of the old Rules.

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