

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, RAMON A. GONZALES, OFFENDED PARTY AND APPELLANT, VS. RICARDO ALVAREZ, DEFENDANT AND APPELLEE.

G.R. No. L-19072. August 14, 1965

Ponente: REGALA, J.

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REGALA, J.:

This is an appeal from an order of the Court of First Instance of Iloilo dismissing the information for libel in Criminal Case No. 8551.

The main facts are not disputed. It appears that Ramon A. Gonzales, appellant herein, is defense counsel in Criminal Case No. 7925 in Branch V of said court, entitled *People vs. Paciente*, for robbery in band with homicide, while Ricardo Alvarez, the appellee, is special counsel in the office of the Provincial Fiscal of Iloilo who filed Criminal Case 7925.

The appellant Gonzales filed a motion to quash the information in said criminal case and one of the grounds interposed by him was that Alvarez has no authority to file the information as he is occupying the position of chief clerk in the office of the provincial fiscal (classified position) and cannot be appointed special counsel (unclassified position), such arrangement being prohibited by section 684 of the Revised Administrative Code.

The appellee herein, in turn, filed an opposition to the motion to quash and therein made some statements which the appellant Gonzales thinks are derogatory to him and libelous.

As an offshoot of the above, and on complaint of the herein appellant Gonzales, the City Fiscal of Iloilo filed Criminal Case 8551, for libel, pertinent portions of which read:

"That on or about the 9th day of September, 1960 in this City of Iloilo, Philippines, and within the jurisdiction of this Court, said accused with deliberate intent, without any justifiable motive and with purpose of impeaching the reputation, virtue and credit of Ramon A. Gonzales, a lawyer by profession and duly elected councilor of the Municipality of Lambunao, a person of good standing in the community, did then and there willfully and criminally cast dishonor, contempt, discredit and ridicule upon the person of said Ramon A. Gonzales and with malicious intent of exposing said Ramon A. Gonzales to public hatred, contempt, ridicule, dishonor and discredit, filed an 'Opposition to the Motion to Quash' with Branch V, Court of First Instance of Iloilo, in connection with Criminal Case No. 7925, entitled '*The People of the Philippines vs. Claro Paciente, et al.*' for robbery in band with frustrated homicide, wherein the said Ramon A. Gonzales appears as counsel for the accused, the context of which is hereinbelow quoted:

x x x x x x x x x

"that the said Opposition to the motion to quash contains false, malicious and defamatory allegations tending to impute and impeach the honesty, virtue, honor, reputation and integrity of the undersigned) to wit:

x x x x x x x x x

"but just so the undersigned could expose to the court the hypocrisy, dishonesty and unfair practices of the movant, further explanations here have become a necessity.

"Mr. Gonzales says that there is no law authorizing the employment of Special Counsel, and yet in his very Annex 'B' to his motion to quash even his sick eyesight could see and read that that law is Sec 1686 of the Revised Administrative Code. He dangles the law before the eyes of this Court and at the same time tells the Court that there is no such law. Ethical lawyers would never stoop to such base chicanery and double talk, bound as they are by their oath of doing no falsehood and by their dealings with their fellow lawyers and with the court."

x x x x x x x x x

"As the court will notice, this is the second time in his motion to quash that Mr. Gonzales has resorted to perversion and falsehood. Who is Mr. Gonzales trying to fool anyway?"

x x x x x x x x x

when in truth and in fact the above quoted allegations are false, untrue and malicious?

The appellee filed a motion to quash the said information on the sole ground that the facts charged do not constitute an offense. Over the objection of the appellant, the lower court granted the motion on the theory that the alleged libelous statements are privileged. Dissatisfied, the offended party and the government have interposed the present appeal.

The lone error assigned by appellant Gonzales is the holding of the lower court that the statements under question are relevant and pertinent to the resolution of the motion to quash, hence, absolutely privileged. The Solicitor General, in his brief, discusses the case in the same vein.

Article 354 of the Revised Penal Code classifies as privileged communications—

"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 not 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."

Applying this provision in the case of *Sison vs. David*, 110 Phil. 662, this Court there stated that utterances made in the course of judicial proceedings, including all kinds of pleadings, petitions and motions, belong to the class of communications that are absolutely privileged.^[1]

Newell, in his work "The Law of Slander and Libel," describe absolute privilege thus—

"In this class of cases it is considered in the interest of public welfare that all persons should be allowed to express their sentiments and speak their minds fully and fearlessly upon all questions and subjects; and all actions for good work so spoken are absolutely forbidden, even if it be alleged and proved that the words were spoken falsely, knowingly, and with express malice. See 350, pp. 387-388" (quoted in *Sison vs. David*, supra.)

It does not matter, therefore, whether or not there was malice on the part of the herein appellee in making the statements complained of, since said statements are contained in a judicial pleading and protected by the mantle of privileged communication. But in further interpreting the above-quoted provision of the Revised Penal Code, this Court in the case of *Tolentino vs. Baylosis*, 110 Phil. 1010, held that counsels, parties, or witnesses are exempted from liability in libel or slander for words otherwise defamatory published in the course of judicial proceedings, provided that the statements are connected with, or relevant, pertinent or material to, the cause in hand or subject of injury.

The test of relevancy has been discussed in the afore-cited case of *Tolentino vs. Baylosis*, supra, to wit:

"x x x As to the degree of relevancy or pertinency necessary to make alleged defamatory matters privileged the courts favor a liberal rule. The matter to which the privilege does not extend must be so palpably wanting in relation to the subject matter of the controversy that no reasonable man can doubt its irrelevancy and impropriety. In order that matter alleged in a pleading may be privileged, it need not be in every case material to the issues presented by the pleadings. It must, however, be legitimately related thereto, or so pertinent to the subject of the controversy that it may become the subject of inquiry in the course of the trial x x x. (Ruling Case Law, Vol. 17, p. 366; quoted with approval in *Smith Bell & Co. vs. Ellis*, 48 Phil. 475, 481- 482)" (Italics supplied)

The issue in the original criminal case, at its stage when the alleged libelous statements were made was the propriety or correctness of the motion to quash filed by the herein appellant Gonzales. The herein appellee, in his opposition to that motion to quash merely challenged the question on his authority to file the information for the reason that there is no law authorizing an employee in the classified civil service to be appointed special counsel without the approval of the Commissioner of Civil Service, and the other ground raised by the appellant that the information did not mention the name of the offended party. There seems to be some reason for the appellee to believe that the appellant Gonzales was quite unfair and deliberate in stating that there is no law authorizing his appointment as special counsel, for section 1686 of the Revised Administrative Code, as amended by Republic Act 1277, expressly grants authority to the Secretary of Justice to appoint any lawyer in the government service to temporarily assist a fiscal or prosecuting attorney in the discharge of his duties. And, furthermore, according to the appellee, contrary to what is claimed in the motion to dismiss, the information specifically mentions the names of the offended parties. At any rate, whether appellee's assumption of the impropriety of appellants motion is meritorious, in using the words complained of, his (appellee's) aim was merely to denounce what he considered unethical and dishonest practices on the part of the opposing counsel, and to point out that the latter was without sincerity in filing the questioned motion. While the language, it is true, may be a little too strong and vociferous, it is nevertheless in relation and pertinent to the cause for which it was written because it was to stress appellee's point in opposing what he thought would otherwise mislead the trial court. Note that the words complained of would mean practically just that the movant was dishonest, unethical and insincere because he tried to mislead the court. As heretofore stated, this Court has adopted a liberal attitude in favor of the writer in matters of the relevancy of allegedly libelous statements in judicial pleadings. In *U.S. vs. Bustos, et al.*, 37 Phil. 731, this Court found occasion to express its opinion on privileged communications, to wit:

"x x x A privileged communication should not be subjected to microscopic examination to discover grounds of malice or falsity. Such excessive scrutiny would defeat the protection which the law throws over privileged communication. x x x."

It is worthy to mention here that in the information for libel, there is no allegation of the irrelevancy or impertinency of the questioned statements to the cause.

Considering the above, We are of the opinion and so hold that no error was committed by the lower court in considering the questioned remarks of the appellee as privileged and in consequently dismissing the information for lack of cause of action.

Wherefore, the order appealed from is hereby affirmed with costs against the appellant Ramon Gonzales.

Bengzon, C. J., Bautista Angelo, Concepcion, Paredes, Dizon, Makalintal, Bengzon, and Zaldivar, JJ., concur.

REYES, J. B. L., concurring:

I concur, but can not help expressing stern disapproval that appellee should have stooped to unseemly personalities against a brother attorney, perhaps in the mistaken belief, altogether too common, that insults can

strengthen a weak argument, which, of course, they never do.

[1] Citing Newell on the Law of Slander and Libel, 4th ed., pp. 388, 391-392; 53 C.J.S. 165-167; 33 Am. Jur. 142-143, 144-145, 147; *Tupas vs. Parreño*, L-12545, April 30, 1959.

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