

RAYMUNDO A. ARMOVIT, ROBERTO L. BAUTISTA, OSCAR S. ATENCIO, AND POLICARPIO MAPUA, PETITIONERS, VS. THE HONORABLE AMANTE P. PURISIMA, PRESIDING JUDGE, BRANCH VII, COURT OF FIRST ...

G.R. No. L-39258. November 15, 1982

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

The invocation of the constitutional right to freedom of expression^[1] in a motion to dismiss an action for damages filed by petitioners as defendants failed to obtain an affirmative response from respondent Judge Amante P. Purisima. Hence this certiorari, prohibition and mandamus proceeding, assailing on jurisdictional grounds the order denying such motion. The alleged grievance of private respondents^[2] as plaintiffs in a case then pending before respondent Judge^[3] arose from the first two paragraphs of the answer of petitioners^[4] as defendants, worded as follows: "[Defendant], through counsel, by way of answer to the complaint, respectfully represents: 1. The averments of plaintiff's alleged due organization and existence (par. 1, Complaint) is denied - it falsifies the fact of its creation and operation as an instrument and front for illegal and oppressive usurious loan transactions; the averments on defendant's personal circumstances (supra) are admitted, with the qualification that his dealings with plaintiff were based on good faith and reliance on his part, but taken advantage of by scheming plaintiff. 2. That averments on the alleged loan Secured on 3 December 1971 in the sum of P7,270.00 and accessory sums thereon, the supposed demands for payment and requests for extensions, the alleged failure of defendant to pay (pars. 2, 3, 4, 5 and 6, supra), are specifically denied as fraudulent distortions of the facts and apparent disguises to confuse and conceal the true agreements between the parties,"^[5] after which came the affirmative defenses. The privileged character of such words employed in a pleading on a matter impressed with relevance, usury being the defense, is not difficult to discern, if, as should be the case, there be recognition of the basic constitutional right of free expression. So it would be in accordance with an unbroken line of decisions of this Tribunal. It does appear, therefore, that petitioners are entitled to the remedies prayed for.

The facts are undisputed. This litigation had its origin in a suit for collection filed by plaintiff Adez Realty, Inc., now one of the private respondents, seeking the payment of P7,270.00 with 12% interest and 25% of such amount as liquidated damages.^[6] The principal allegation was that plaintiff, now respondent, Adez Realty, Inc. agreed to extend to the defendant, now petitioner, Policarpio Mapua and did deliver to him a loan in the amount of P7,270.00 on the condition that failure to liquidate such loan on the date due would result in paying not only the principal with interest but the equivalent to 25% as liquidated damages.^[7] It was then stated that defendant Mapua had not paid such overdue debt, hence the filing of this case for collection.^[8] The answer was filed with the alleged offending paragraphs thereof as duly noted at the outset of this opinion.^[9] Moreover, the affirmative defenses contained the following allegations: "3. The transactions between plaintiff and defendant are in reality a loan of P5,000.00 secured way back in 1969 earning usurious interest at the rate of 5% monthly, or 60% per annum, to the extent that defendant was unable to pay said usurious interest and at the same time liquidate the

principal amount of P5,000.00 by December 3, 1971, such that 4. On 3 December 1971, plaintiff's jargon and double-talk caused defendant to sign the alleged promissory note - Annex A, Complaint, which plaintiff managed to face-lift and veneer as a lawful deed and agreement, but stripped of its gloss, it is null and void, for being contrary to the laws policy against usury. 5. Considering the payments by defendant of 5% interest monthly on the principal since 1969, or P250.00 monthly, until 3 December 1971, defendant had fully paid the principal indebtedness." [10] The language employed in such answer resulted, as had been stated, in a complaint for damages filed with the Court of First Instance of Manila before respondent Judge. [11] Then came the motion to dismiss, which as set forth, was predicated on the matter complained of being absolutely privileged. [12] When after an opposition to such motion [13] and a reply to such opposition [14] were submitted, the lower court issued the order denying the motion to dismiss, [15] this petition was filed with this Court, a motion for reconsideration having proved futile. [16]

To repeat, the petition is impressed with merit.

1. "The prevailing rule," according to Justice Malcolm in the leading case of *Santiago v. Calvo*, [17] "is that parties, counsel, and witnesses are exempted from liability in libel or slander for words otherwise defamatory published in the course of judicial proceedings, provided the statements are pertinent or relevant to the case." [18] Such doctrine was foreshadowed in the earlier case of *Zurbito v. Bayot*, [19] decided in 1911. In the language of Justice Johnson: "If the persons presenting the claim are, in the opinion of those opposing it, attempt-ing to have a claim allowed which should not be allowed, they have a right to state their reasons therefor, even though such opposition may inciden-tally reflect upon the honor and credit of the person presenting the claim." [20] A year after the *Santiago* ruling, a similar pronouncement came from the pen of another eminent jurist, Justice Street in *Baron v. David*. [21] Thus: "It is clear that with respect to these damages the cross-action cannot be maintained, for the reason that the affidavit in question was used in course of a legal proceeding for the purpose of obtaining a legal remedy, and it is, therefore, privileged." [22] The then Justice, now retired Chief Justice Concepcion in the leading case of *Sison v. David* [23] restated the principle, "It is, thus, clear that utterances made in the course of judicial proceed-ings, including all kinds of pleadings, petitions and motions, belong to the class of communications that are already absolutely privileged." [24] As so emphatically stressed by the late Chief Justice Castro in *Deles v. Aragona*: [25] "The doctrine of privileged communication is not an idle and empty principle. It has been distilled from wisdom and experience." [26]

2. It is undoubted likewise, as held in *Tolentino v. Baylosis*, Justice J.B.L. Reyes being the ponente, [27] that as to the degree of relevancy or pertinency necessary for the invo-cation of this absolute privilege, "the courts favor a liberal rule." [28] He added: "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 reaso-nable man can doubt its irrelevancy and im-propriety. 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." [29] He likewise quoted from the aforesaid *Santrigo v. Calvo* decision: "For, as aptly observed in one case, 'while the doctrine of privileged communi-cations is liable to be abused, and its abuse may lead to great hardships, yet to give legal sanction to such suits as the present would, we think, give rise to far greater hardships.'" [30] The language of the then Justice, later Chief Justice, Bengzon in *Dorado v. Pilar* [31] is apropos: "Undoubtedly, lawyers should be allowed some latitude of remark or comment in the furtherance of causes they uphold. For the felicity of their clients they may be pardoned some infelicities of phrase." [32] It bears mentioning that in *Deles*, [33] such sentiment was paraphrased by Chief Justice Castro in this wise: "Lawyers, most especially, should be allowed a great latitude of pertinent comment in the furtherance of the causes they uphold, and for felicity of their clients, they may be pardoned some infelicities of language." [34]

3. The language of this Court on the question of what pleadings enjoy absolute immunity is not swathed in obscurity. Nor has there been only change of mind - far from it. This Court has consistently adhered to what it had stated with clarity as far as 1911. If at all, the later decisions had been even more emphatic to dissipate any lurking doubt that the rule of liberality so unequivocally set forth must be upheld. The principle that calls for application is crystal-clear. The immunity parties and counsel enjoy is absolute -- as long as the test of relevance is met. There is need, it would seem, to keep in mind that as Hokfeld pointed out, the correlative of immunity is disability. Respondent Judge failed to heed such an imperative. It ought to have granted the motion to dismiss. Petitioners, to repeat, are entitled to the remedies sought. So this Court has ruled in the aforecited cases of Zurbito and Baylosis as well as *People v. Andres*.^[35]

WHEREFORE, certiorari is granted and the assailed order denying the motion to dismiss is annulled. Respondent Judge or whoever may be acting in his stead is prohibited from taking any further action in Civil Case No. 94551 except to dismiss the same. To that extent, mandamus lies. No costs.

Makasiar, Aquino, Concepcion, Jr., Abad Santos, and De Castro, JJ., concur.

Escolin, J., He concurs. The alleged defamatory statements in defendant's answer easily meet the test of relevance.

Guerrero, J., on leave.

[1] According to Article IV, Sec. 9 of the Constitution: "No law shall be passed abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and petition the Government for redress of grievances."

[2] The private respondents are: Adez Realty, Inc., Pilar I. Vda. de Zuzuarregui, Pacita Javier, Antonio Zuzuarregui, Jr., Enrique de Zuzuar-regui and Victorino Gaskell.

[3] Civil Case No. 94551.

[4] Petitioners Raymundo A. Armovit, Roberto L. Bautista and Oscar A. Atencio were the counsel and Policarpio Mapua was the defendant in the above case.

[5] Answer, 1, Annex B to Petition.

[6] Petition, Annex A. The other private respondents appear to be the incorporators of Adez Realty, Inc.

[7] *Ibid*, par. 3.

[8] *Ibid*, pars. 5-6.

[9] *Ibid*, Annex B.

[10] *Ibid*, Annex F.

[11] *Ibid*, Annex C.

[12] *Ibid*, Annex D.

[13] *Ibid*, Annex E.

[14] *Ibid*, Annex F.

[15] *Ibid*, Annex G.

[16] Ibid, Annex J.

[17] 48 Phil. 919 (1926).

[18] Ibid, 923.

[19] 20 Phil. 219.

[20] Ibid, 221.

[21] 51 Phil. 1 (1927).

[22] Ibid, 11.

[23] 110 Phil. 662 (1961).

[24] Ibid, 674. To support such formulation, he cited Newell on The Law of Slander and Libel, 4th ed., pp. 388, 391-392, 407 and Tupas v. Parreño, 105 Phil. 1304.

[25] Adm. Case No. 598, March 28, 1969, 27 SCRA 633.

[26] Ibid, 643.

[27] 110 Phil. 1010 (1961).

[28] Ibid, 1313.

[29] Ibid.

[30] Ibid.

[31] 104 Phil. 743 (1958).

[32] Ibid, 748.

[33] 27 SCRA 633.

[34] Ibid, 643.

[35] 107 Phil. 1046 (1960)

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