ALICIA VDA. DE ABAPO, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT.

Ponente: AZCARRAGA-JACOB, J.

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AZCARRAGA-JACOB, J.:

This is a petition for review[1] of the Decision[2] dated 21 July 2009 of the Regional Trial Court (RTC), Branch 61, Bogo, Cebu, rendered in the exercise of its appellate jurisdiction,[3] affirming in toto the Decision[4] dated 8 July 2008 of the 3[rd] Municipal Circuit Trial Court (MCTC) of Daanbantayan-Medellin, finding accused Alicia Vda. de Abapo (petitioner) guilty of the crime of Grave Oral Defamation committed against Praxidio Trangia, Sr. (private complainant).

The Antecedent Facts

On 04 February 2002, at around 9:00 o'clock in the morning, private complainant, along with some companions, went to his shop at Barangay Agujo, Daanbantayan, Cebu. When they arrived at the place, private complainant and his companions saw petitioner Abapo, together with several persons, destroying the wall of private complainant's shop. Immediately, private complainant told petitioner to stop, but the latter got angry. To prevent any untoward incident, private complainant went to the Office of the Barangay Captain of Agujo to seek for assistance. In response, Punong Barangay Gerry Agang-ang escorted private complainant to the police station. Moments later, the police authorities arrived at the shop of private complainant. Consequently, petitioner was restrained from making further destruction on private complainant's shop.

The next day, 05 February 2002, private complainant, together with the same individuals who accompanied him the day before, went back to Barangay Agujo to check his shop. Upon their arrival, private respondent and his companions again saw petitioner destroying private complainant's shop with the help of several persons. Private complainant immediately approached petitioner and confronted him. Instead of explicating herself, petitioner pointed her finger at private complainant, while simultaneously uttering the following words: "Buang! Ignorante! Ayaw pagbuot! Kiha bisan asa! Kaliwat ka'g buang!" which means: Insane! Ignorant! Don't interfere! File your complaint anywhere! You come from a family of insane persons! These remarks were heard by the other four companions of private complainant and several other persons.

Seventeen (17) days later, on 22 February 2005, private complainant and petitioner formally met up at the Office of the Barangay Captain of Agujo for a conciliation meeting. During the proceedings, petitioner repeatedly shouted at private complainant the same defamatory words she uttered days ealier, "Buang! Ignorante! Ayaw pagbuot! Kiha bisan asa! Kaliwat ka'g buang!" in the presence of several other people in the barangay.

As expected, private complainant and petitioner failed to reach a settlement, thus prompting the former to file with the MCTC a case for grave oral defamation against the latter.

The Proceedings Before the Lower Courts

In due time, the MCTC convicted petitioner of the crime charged. The punitive fallo of its decision[5] reads:

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> WHEREFORE, premises considered, accused ALICIA VDA. DE ABAPO is found guilty of the crime charged and is hereby sentenced to suffer an imprisonment of arresto mayor in its maximum period to prision correccional in its minimum period which is four (4) months and one (1) day to two (2) years and four (4) months.
>
> Due to plaintiff's besmirched reputation, sleepless nights, anxiety, wounded feelings, mental and physical stress, moral damages is hereby awarded in the amount of Ten Thousand Pesos (Php10,000.00); the claim of blackened reputation not [being] substantially proven is hereby denied. Other claims unsupported with sufficient evidences are likewise denied.
>
> SO ORDERED.

Perturbed, petitioner appealed[6] to the RTC, which dismissed the appeal and affirmed the MCTC decision,[7] thus--

> WHEREFORE, premises considered, accused-appellant's appeal is hereby DISMISSED, and the Decision of this Court [sic] dated July 8, 2008 of the 3[rd] Municipal Circuit Trial Court, Daanbantayan-Medellin, in Criminal Case No. 6276-D, entitled "PEOPLE OF THE PHILIPPINES, Plaintiff, versus ALICIA VDA. DE ABAPO, Accused," for Grave Oral Defamation, is hereby AFFIRMED EN TOTO.
>
> SO ORDERED.

The Sole Issue

In this petition for review, petitioner solely claims that the criminal proceedings against her should have been dismissed because the barangay certification to file the complaint for grave oral defamation against her, as provided under Sections 412[8] and 515[9] of Republic Act (R.A.) No. 7160, known as the Local Government Code of 1991, was falsified, specifically the signature of Barangay Chairman Gerry Agang-ang of Agujo, Daanbantayan, Cebu. In short, petitioner argues that since the criminal prosecution against her stemmed from a fake barangay certification, the whole criminal proceedings must necessarily be voided.

The Ruling of this Court

The petition is bereft of merit.

Record shows that petitioner failed to present evidence to support her claim that the Barangay Certification to File Action dated 22 February 2002 was falsified. Petitioner did not even submit the affidavit of Barangay Chairman Agang-ang to prove that the latter's signature reflected on the barangay certification was forged. Contrary to the claim of petitioner that Mr. Agang-ang testified in court where he, allegedly, declared that the certification to file action is falsified, and the signature therein is forged, there was never an instance when Mr. Agang-ang took the witness stand in the court a quo to disprove the purported forgery and falsification.

As clearly disclosed by both decisions of MCTC and RTC, Mr. Agang-ang had neither testified in court nor his affidavit offered in evidence or even became part of the records of the case.

For clarity, We quote a portion of the MCTC decision on this specific issue:

> The defense presented the accused but her testimony failed to overcome testimonies of the prosecution witnesses. Their [sic] argument and testimonies [sic] mainly dwell on the issuance of the Certification to File Action. There was no corroboration on the lone testimony of accused. Accused also failed to rebut the prosecution witnesses. xxx (Emphasis supplied).[10]

As it was categorically stated in the MCTC decision that only the petitioner testified in her defense, it is perplexing why she continually insists that Mr. Agang-ang testified in court. If indeed Mr. Agang-ang testified,

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there would have been a record of his testimony. Yet petitioner omitted to produce proof thereof.

Except for her bare allegation casting doubt on the authenticity of the barangay certification in question, petitioner failed miserably to rebut the presumption in law that the questioned document was regularly issued by the officer concerned in the performance of official duty.[11] Mere suspicion on the authenticity and due execution on such barangay certification, which is a public document, will not stand against the presumption of regularity and legality in its favor absent evidence that is clear, convincing, and more than merely preponderant.[12]

Notwithstanding the foregoing discussion, We find petitioner's reliance on the purported falsity of the Certification to File Action to support her efforts to extricate herself from criminal liability, to be legally and procedurally askew because whether the barangay certification presented by private complainant in court is spurious or not is not the issue that matters. Private complainant need not have undergone the barangay conciliation process because the penalty of imprisonment for the offense of grave oral defamation for which petitioner has been charged, exceeds a period of one (1) year, a circumstance that activates the exception provided for in paragraph (c), Section 408 of R.A. 7160, viz.:

> ...Subject Matter for Amicable Settlement; Exception Thereto. – The lupon of each barangay shall have authority to bring together the parties actually residing in the same city of municipality for amicable settlement of all disputes except:
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> x x x x x x x x x
>
> (c) Offenses punishable by imprisonment exceeding one (1) year or a fine exceeding Five Thousand Pesos (P5,000.00);
>
> x x x

Corollarily, Article 358 of the Revised Penal Code (R.P.C.) punishes the crime of grave oral defamation to an imprisonment of arresto mayor in its maximum period (which is 4 months and 1 day to 6 months) to prision correccional in its minimum period (which is 6 months and 1 day to 2 years and 4 months), viz.:

> ...Slander. – Oral defamation shall be punished by arresto mayor in its maximum period to prision correccional in its minimum period, if it is of a serious and insulting nature; xxx

In Garcia v. De la Peña,[13] which applies here by analogy, it was held that the certification to file an action under Presidential Decree No. 1508 (now R.A. 7160) is not necessary in the prosecution for grave oral defamation as it is beyond the ambit of the Katarungang Pambarangay Law (now the Revised Katarungang Pambarangay Law).[14]

We deem it apt to iterate that petitioner does not question both the factual and legal conclusions of the MCTC in convicting her of the crime charged. Neither did she raise any factual or legal issue on the decision of the RTC in affirming in toto that of the MCTC. Failing on this, petitioner is deemed to have admitted the correctness of both courts' assessment and evaluation of the parties and their respective witnesses, including the evidence presented and offered.

Still, this Court reviewed the records and the pertinent pleadings available in this case, and found that the findings of fact and conclusions of the MCTC and the RTC are well premised by the evidence on record. To be sure, the prosecution has adduced more than sufficient evidence to prove that petitioner called private complainant "Buang! Ignorante! Ayaw pagbuot! Kiha bisan asa! Kaliwat ka'g buang!" on two separate occasions in the presence of other persons, including the latter's relatives, and other members of the community who knew them.

The MCTC's findings, which was correctly affirmed by the RTC, explained fully well its factual and legal bases

in imposing guilty verdict on petitioner, thus—

> Based upon the evidences presented by the prosecution and the defense it was established that complainant, Praxidio Trangia, Sr. in a complaint of Grave Oral Defamation against accused Alicia Vda. De Abapo showed that the accused uttered defamatory words on two occasions: first, on Febuary 5, 2002, when he tried to stop accused from destroying his shop, and second, during the barangay confrontation on February 22, 2002 by uttering, "you're crazy and ignorant, don't dictate, sue anywhere, you came from a crazy family."
>
> Prosecution presented witnesses to establish the allegations in the complaint and positively identified the accused who uttered the defamatory words in the presence of many people.
>
> The defense presented the accused but her testimony failed to overcome testimonies of prosecution witnesses mainly dwell on the issuance of the Certification to File Action. There was no corroboration on the lone testimony of accused. Accused also failed to rebut the prosecution's witnesses. Positive and forthright declarations of the prosecution witnesses are more worthy of credit than the mere uncorroborated and self-serving denials of the accused.
>
> Prosecution witnesses in their testimonies were able to establish that accused uttered defamatory words against private complainant on two occasions narrating clearly the place and surrounding circumstances in a straightforward manner. Testimonies given in simple, straightforward manner, giving details of the incident that could have been merely concocted, indicate sincerity in the narration of events of the incident and truth as to what actually happened.[15]

As regards the penalty meted on petitioner, which is arresto mayor in its maximum period to prision correccional in its minimum period, the Court finds the same erroneous because it did not properly conform to the Indeterminate Sentence Law (ISL).

Under the ISL, the minimum period is determined by going one degree lower from arresto mayor maximum to arresto mayor medium or an imprisonment of two (2) months and one (1) day to four (4) months.[16]

In the imposition of the maximum term of the penalty, the number of days included in the penalty prescribed for the crime is to be divided by three (3) as the said penalty is composed only of two periods, i.e., arresto mayor maximum and prision correccional minimum.[17]

Thus, dividing the penalty for grave oral defamation into three periods will produce the following results:

> Minimum : Four (4) months and one (1) day to one (1) year;
>
> Medium : One (1) year and one (1) day to one (1) year and eight (8) months; and
>
> Maximum: One (1) year, eight (8) months and one (1) day to two (2) years and four (4) months.[18]

Here, since there is neither mitigating nor aggravating circumstances, the maximum term of the penalty should be imposed in its medium period, i.e., within the range of one (1) year and one (1) day to one (1) year and eight (8) months.[19]

Applying the ISL, the minimum penalty imposable on petitioner shall be within the range of arresto mayor in its minimum and medium periods, while the maximum penalty shall be taken within the range of 1 year and 1 day to 1 year and 8 months. Consquently, We find it reasonable to impose on petitioner an indeterminate prison term of three (3) months of arresto mayor as minimum, to one (1) year and eight (8) months of prision correccional as

maximum.

WHEREFORE, the Decision dated 8 July 2008 of the 3[rd] Municipal Circuit Trial Court of Daanbantayan-Medellin, and the Decision dated 21 July 2009 of the Regional Trial Court (RTC), Branch 61, Bogo, Cebu, are hereby AFFIRMED with the MODIFICATION that the petitioner is sentenced to an indeterminate penalty of imprisonment of three (3) months of arresto mayor to one (1) year and eight (8) months of prision correccional.

SO ORDERED.

Hernando, and Quijano-Padilla, JJ., concur.

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[1] Under Rule 122, in relation to Rule 42 of the Rules of Court.

[2] Penned by Judge Antonio D. Marigomen; Annex “E”, Petition; Rollo, pp. 32-38.
[3] Docketed as Criminal Case No. B-04235 (6276-D).

[4] Penned by Judge Cornelio T. Jaca; Annex “A”, Petition; Rollo, pp. 9-12.

[5] See Note 4.

[6] See Appeal Brief dated 24 January 2009; Annex “C”, Petition; Rollo, pp. 14-17.
[7] See Note 2.
[8] Section 412. Conciliation. – (a) Pre-condition to Filing of Complaint in Court. – No complaint, petition, action, or proceeding involving any matter within the authority of the lupon shall be filed or instituted directly in court or any other government office for adjudication, unless there has been a confrontation between the parties before the lupon chairman or the pangkat, and that no conciliation or settlement has been reached as certified by the lupon secretary or pangkat secretary as attested to by the lupon or pangkat chairman xxxx

[9] Section 515. Refusal or Failure of Any Party or Witness to Appear before the Lupon or Pangkat. – xxx Such refusal or willful failure to appear, shall be reflected in the records of the lupon secretary or in the minutes of the pangkat secretary and shall bar the complainant who fails to appear, from seeking judicial recourse for the same cause of action, and the respondent who refuses to appear, from filing any counterclaim arising out of, or necessarily connected with the complaint..

[10] MCTC Decision, p. 3; Rollo, p. 11.

[11] See Rule 131, Section 2(m) of the Revised Rules on Evidence.

[12] Tolentino v. Catoy, L-2503, 82 Phil. 300 (1948); Empaynado v. Court of Appeals, G.R. No. 91606, 17 December 1991.

[13] A.M. No. MTJ-92-687, 9 February 1994, 229 SCRA 766.

[14] See Uy v. Contreras (G.R. Nos. 111416-17, 26 September 1994) where it was held that “[w]hile P.D. No. 1508 has been repealed by the Local Government Code of 1991, the jurisprudence built thereon regarding prior referral to the lupon as a pre-condition to the filing of an action in court remains applicable because its provisions on prior referral were substantially reproduced in the Code.”

[15] Citations omitted.

[16] People v. Gonzales, 73 Phil. 549 (1942).

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[17] Article 65 of the R.P.C. provides:

...Rule in cases in which the penalty is not composed of three periods. – In cases in which the penalty prescribed by law is not composed of three periods, the courts shall apply the rules contained in the foregoing articles, dividing into three equal portions the time included in the penalty prescribed, and forming one period of each of the three portions.

[18] See Larobis v. Court of Appeals, G.R. No. 104189, 30 March 1993, citing II Reyes, The Revised Penal Code, 12th ed., 1006.

[19] See Article 64 (1), R.P.C.

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