

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. R. MCCULLOUGH DICK, DEFENDANT AND APPELLANT.

G.R. No. 10215. March 13, 1915

Ponente: TRENT, J.

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TRENT, J.:

An appeal from a judgment condemning the defendant, R. McCullough Dick, for the crime of libel.

The complaining party is C. Regidor, manager of Luis R. Yangco. The headlines of the article complained of, which are in large type, read: "The Oxypathor—The Tin-Can 'Anting-Anting.' Firm of Luis R. Yangco still selling the fraud—Times and Bulletin refuse advertisement, but Cablenews-American don't mind buncoing the public." And that part of the article which refers to the complainant reads:

"Last week the Free Press believed the firm of Luis R. Yangco, through its manager, C. Regidor, was acting in good faith; but, in the face of the article published in last week's Free Press, and which Mr. Regidor read, as the announcement shows, such belief is no longer possible. Probably the attitude of the firm can be best understood when it is stated that it has on hand or due very soon a consignment of the oxypathor valued at about P6,000. The question presented to the firm was whether it should do the honorable thing and sacrifice the money or to continue to foist that 'box of bunco' on the public. And the firm of Luis R. Yangco, through its manager, C. Regidor, couldn't stand up under the strain. The temptation of making a few thousand pesos was too much for it.

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"Of course in the face of Doctor Wylie, and Collier's Weekly, and the bureau of health of the State of Vermont, and the prohibition of the advertisement of the oxypathor in a number of States in America, C. Regidor, Dominador Gomez, and Mr. McDonnell, will still foist or aid in foisting the fraud upon the public, and there are enough deluded souls in this world to continue to purchase it. However, they will not be able to purchase it very long, or at least not through means of such advertisements as are being published now. July 1 is the date the new law goes into effect. We shall then see how genuine is the oxypathor and how sincere is the manager of the firm of Luis R. Yangco in palming off that tin-can 'anting-anting' on the public."

At the trial the defendant made the following admissions:

"That Mr. McCullough Dick is the editor and proprietor of the periodical Free Press, and assumes all responsibility, and wrote the article which appears on pages 6 and 13 of the edition of the Free Press published on March 28, 1914, under the caption 'The Oxypathor—The Tin-Can "Anting-Anting," ' and also the article on the same subject which appears in the same periodical on pages 26 and 36; that the said periodical, Free Press, has a large circulation in the Philippine Islands; that the article in question has been read by many persons, and this was the intention of Mr. McCullough Dick; and that the translation in Spanish of the said article is a literal copy of the English."

The defendant made no attempt whatever to justify the publication of the article complained of by proving that the allegations made therein are true.

It is urged (1) that that part of the article above quoted is not libelous; (2) that the article taken as a whole refers to the firm of Luis R. Yangco and only mentions C. Regidor incidentally as manager of that firm; and (3) that the defendant in publishing the article was actuated by a general good purpose, a real and sincere desire to protect the public by showing that the oxypathor is a fraud, a tin-can anting-anting.

A libel is a malicious defamation, tending to impeach the honesty or reputation of a person (sec. 1, Act No. 277). In the first paragraph of the above quotation there is a charge of bad faith on the part of the firm of Luis R. Yangco, through its manager, C. Regidor, and in the second paragraph a direct charge that C. Regidor and others were still foisting, or aiding in foisting, the fraud upon the public. No one can doubt for a moment that these charges tended to impeach the honesty and reputation of C. Regidor. The language used is therefore libelous per se and falls within section 1 of the Libel Law.

It is true that the article, taken as a whole, refers principally to the firm of Luis R. Yangco and charges that firm with practicing a fraud upon the innocent public. But this fraud was committed, according to the article, by the firm through its manager, C. Regidor, who, it is charged, took an active and direct part in the transactions by means of which the public was taken into the "confidence game." The article refers several times to the complainant by name. A libel published of three or four, or any one or two persons, is punishable at the complaint of one or more, or all of them. (State vs. Brady, 44 Kan., 435, citing Holt on Libel, 247.) Under section 3 of Act No. 277 an injurious publication is presumed to have been malicious if no justifiable motive for making it is shown. Section 4 provides for a complete defense to a criminal prosecution for libel by proving the truth of the matter charged and that the same was published with good motives and for justifiable ends. As we have indicated, the defendant made no attempt whatever to prove the truth of the charges complained of.

It is not necessary, to render a defamation actionable, that the publisher be actuated by a feeling of hatred or ill-will toward the complaining party, or that he entertain or pursue any general bad purpose or design. On the contrary, he may be actuated by a general good purpose and have a real and sincere design to benefit the public; but in pursuing that design if he willfully inflicts a wrong upon others, which is not warranted by law, he must suffer the consequences.

The want of actual intent to vilify is no excuse for a libel; and if a man deems that to be right which the law pronounces wrong, the mistake does not free him from guilt. (1 Bishop, Criminal Law, sec. 309; Reynolds vs. U. S., 98 U. S., 145.)

We have no judicial knowledge as to the merits or demerits, uses, or component parts of the oxypathor. And it must be distinctly understood that we are not holding that the oxypathor has any virtue whatever. If the defendant had shown that the oxypathor was a fake or fraud the result might have been different.

For the foregoing reasons the judgment appealed from is affirmed, with costs against the defendant. So ordered.

Arellano, C. J., Torres, Carson, Moreland, and Araullo, JJ., concur.

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