

BAGUIO MIDLAND COURIER, REPRESENTED BY ITS PRESIDENT AND GENERAL MANAGER, OSEO HAMADA AND CECILLE AFABLE, EDITOR-IN-CHIEF, PETITIONERS, VS. THE COURT OF APPEALS (FORMER SP, 6TH ...

G.R. No. 107566. November 25, 2004

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This is a petition for review on certiorari seeking to set aside the Decision[1] of the Court of Appeals, dated 07 January 1992, and the Resolution,[2] dated 29 September 1992, reversing the decision of the Regional Trial Court (RTC), dated 14 June 1990, which dismissed herein private respondent's claim for damages.

Culled from the records are the following facts:

During the time material to this case, petitioner Oseo C. Hamada (Hamada) was the president and general manager of the Baguio Printing and Publishing Co., Inc., which publishes the Baguio Midland Courier, a weekly newspaper published and circulated in Baguio City and other provinces within the Cordillera region. He was also, at that time, the business manager of said newsweekly. Petitioner Cecille Afable (Afable) was Baguio Midland Courier's editor-in-chief and one of its columnists who ran the column "In and Out of Baguio."

On the other hand, private respondent Ramon L. Labo, Jr., was among the mayoralty candidates in Baguio City for the 18 January 1988 local elections.[3] Prior to this, in 1984, private respondent had already embarked on a political career by running for a seat in the former Batasang Pambansa during which time he appointed a certain Benedicto Carantes (Carantes) as his campaign manager. It appears that as part of the campaign propaganda for private respondent in the 1984 local elections, political ads appeared in the various issues of Baguio Midland Courier and campaign paraphernalia were printed by Baguio Printing and Publishing Co., Inc., on his behalf.

Apart from his political endeavors, private respondent was also an active member of the civic group Lions Club having been elected governor of said organization in 1984, 1986, and 1988.

Before the 18 January 1988 local elections, petitioner Afable wrote in her column a series of articles dealing with the candidates for the various elective positions in Baguio City. Quoted hereunder are excerpts from said articles, as well as the respective dates when they were published in the Baguio Midland Courier –

January 3, 1988

. . . Of all the candidates for mayor, Labo has the most imponderables about him, people would ask, "Can he read and write?" Why is he always talking about his Japanese father-in-law? Is he really a Japanese Senator or a barrio kapitan? Is it true that he will send P18 million aid to Baguio? Somebody wanted to put an advertisement of Labo in the Midland Courier but was refused because he has not yet paid his account of the last time he was a candidate for Congress. We will accept all advertisements for him if he pays his old accounts first.[4]

January 10, 1988

I heard that the “Dumpty in the egg” is campaigning for Cortes. Not fair. Some real doctors are also busy campaigning against Labo, because he has not also paid their medical services with them. Since he is donating millions he should settle his small debts like the reportedly insignificant amount of P27,000 only. If he wins several teachers were signifying to resign and leave Baguio forever, and Pangasinan will be the franca-liqua of Baguio.[5]

Claiming that the aforequoted portions of petitioner Afable’s column were tainted with malice, private respondent instituted separate criminal and civil actions for libel against herein petitioners. In a resolution, dated 26 December 1988, the Department of Justice dismissed the criminal case due to insufficiency of evidence[6] while the civil suit was raffled off to RTC, Branch 6, Baguio City.

In the complaint for damages, private respondent alleged that in her 03 January 1988 and 10 January 1988 columns, petitioner Afable made it appear that he (private respondent) could not comply with his financial obligations; that Yuko Narukawa Labo (Narukawa Labo), his co-plaintiff in the case before the trial court, was accused of misrepresenting her social status to the general public thereby subjecting her to public ridicule; that the subject articles were written solely for the purpose of destroying his reputation, integrity, and personality as well as that of Ms. Narukawa Labo; and that said articles were false, untrue, libelous, and published with evil intent. Private respondent and Ms. Narukawa Labo, therefore, prayed for moral damages, exemplary damages, litigation expenses, attorney’s fees, and costs of litigation.

Prior to filing their respective answers, petitioners filed separate motions to dismiss[7] upon the ground that there was failure to comply with Section 6 of Presidential Decree (P.D.) No. 1508,[8] otherwise known as the Katarungang Pambarangay Law, which required the referral of certain disputes to the barangay conciliation process before they are filed in court. Petitioner Hamada also claimed that the complaint stated no cause of action.

On 05 April 1988, private respondent and Ms. Narukawa Labo filed a motion with leave of court to amend and admit attached amended complaint.[9] Impleaded in the amended complaint[10] was the Baguio Printing and Publishing Co., Inc., as the publisher of the Baguio Midland Courier.

In its Order, dated 12 April 1988,[11] the trial court denied petitioners’ motions to dismiss. According to the trial court, as one of the parties to this case was a corporation, P.D. No. 1508 was not applicable as said statute pertained only to actions involving natural persons. In the same order, the trial court granted private respondent and Ms. Narukawa Labo’s motion to admit their amended complaint and directed the petitioners to file their answers.

In their answer,[12] petitioners Baguio Midland Courier and Hamada denied that petitioner Afable’s 03 and 10 January 1988 articles were libelous. They also claimed that per their company’s records, private respondent still owed them a certain sum of money for the political ads and campaign paraphernalia printed by Baguio Printing and Publishing Co., Inc., during private respondent’s 1984 campaign, and that the 03 January 1988 column did not accuse Ms. Narukawa Labo of misrepresenting herself before the public. Moreover, they asserted that petitioner Afable’s write-ups were fair comments on facts and reports that were of public interest as private respondent was a mayoralty candidate at that time. Finally, petitioners Baguio Midland Courier and Hamada interposed counterclaims for moral damages, exemplary damages, attorney’s fees, and costs.

In her answer,[13] petitioner Afable also denied that the quoted portions of her 03 and 10 January 1988 column were libelous, insisting that they were devoid of malice and “at most contained valid and timely doubts.”[14] She also contended that the contents of her column were protected by the constitutional guarantees of freedom of speech and of the press and that the same were privileged as they dealt with a public figure. Petitioner Afable

likewise sought counterclaims for moral damages, exemplary damages, and attorney's fees.

During the pre-trial of the case on 31 March 1989, the parties agreed to limit the issues to the following: (1) whether the published items were libelous, false and malicious; (2) whether plaintiffs below were entitled to damages; and (3) whether petitioners (defendants therein) were entitled to damages as claimed in their respective counterclaims.

On 17 July 1989, private respondent's counsel manifested before the trial court that Ms. Narukawa Labo would no longer testify in support of the allegations in the amended complaint as far as they pertain to her.[15] In addition, the 03 January 1988 article was no longer offered in evidence by the private respondent's counsel thus, the trial court interpreted this development to mean that the same ceased to be a part of this suit. The court a quo thereafter proceeded with the trial of the case taking into consideration only the 10 January 1988 column.

In the trial that ensued, private respondent testified that he felt that the phrase "dumpty in the egg" referred to him, interpreting the same to mean someone who is a failure in his business undertakings.[16] Private respondent asserted that such allegation was baseless as he was successful in his various endeavors abroad. With regard to the remainder of the article, private respondent insisted that petitioner Afable made it appear to the public that he owed P27,000 in unpaid medical expenses while in truth, he could not remember having been hospitalized.[17]

Subsequently, private respondent presented Dr. Pedro Rovillos, his fellow Lions Club member, who testified that he understood the term "dumpty in the egg" to mean "a zero or a big lie." [18] He further testified that the 10 January 1988 article painted private respondent as a "balasubas" [19] due to the latter's alleged failure to pay his medical expenses.

On the other hand, the petitioners presented Ms. Sylvia Lambino (Lambino), Baguio Printing and Publishing Co., Inc.'s, bookkeeper and accountant, as their first witness. According to Lambino, Baguio Printing and Publishing Co., Inc., sent several statements of accounts and demand letters to private respondent pertaining to his unpaid obligations amounting to P27,415 which he incurred during his campaign for the Batasang Pambansa in 1984.[20] She further testified that despite the repeated demands to private respondent, the aforementioned obligations remained unpaid.[21]

Thereafter, petitioner Hamada himself took the witness stand. In his testimony, petitioner Hamada stated that as the president and general manager of the Baguio Printing and Publishing Co., Inc., and as the business manager of the Baguio Midland Courier, he only dealt with the business and advertising aspects of their newspaper business and that the contents of the articles appearing in the pages of the Baguio Midland Courier were overseen by the rest of the staff.[22] In addition, petitioner Hamada also corroborated the earlier testimony of Lambino with respect to the outstanding obligations of private respondent.

On 20 December 1989, Carantes took the witness stand for the petitioners. Carantes testified that he was appointed as private respondent's campaign manager when the latter ran for assemblyman in Batasang Pambansa in 1984 and that in his capacity as campaign manager,[23] he hired the services of a certain Noli Balatero to oversee the printing of campaign paraphernalia and publication of political advertisements of private respondent.[24] Carantes further testified that the P27,415 indebtedness to Baguio Printing and Publishing Co., Inc., had remained unpaid because the campaign funds private respondent entrusted to him were already fully exhausted. Besides, according to Carantes, the campaign materials printed by the Baguio Printing and Publishing Co., Inc., and political advertisements published in Baguio Midland Courier were no longer covered by the agreement he had with Balatero. However, these materials were printed and published upon the instructions of one Atty. Conrado Bueno who acted as private respondent's "unofficial campaign manager" during the said election. Carantes thus concluded that private respondent was supposed to pay for these campaign materials and

advertisements before or after the 1984 election.

For her part, petitioner Afable acknowledged having written the 10 January 1988 article but denied that the same was malicious and intended to destroy private respondent's reputation and integrity; that the phrase "dummy in the egg" referred to Horato Aquino who was among the candidates for the 1988 local elections in Baguio City; and that the P27,000 pertained to private respondent's unpaid obligation to Baguio Printing and Publishing Co., Inc., the exact amount of which was P27,415.

In its decision, dated 14 June 1990, the trial court dismissed the complaint for lack of merit. According to the trial court, the article in question was privileged and constituted fair comment on matters of public interest as it dealt with the integrity, reputation, and honesty of private respondent who was a candidate for local elective office at that time.

This decision of the trial court was, however, reversed by the appellate court in a decision, dated 07 January 1992, the dispositive portion of which reads:

Construed in the light of the facts and the principles on the matter, and under the plain language of the applicable law, We hold that the evidence was sufficient to prove by preponderance of evidence that the defendants were GUILTY of committing libel on the person of the complainant Ramon Labo, Jr. and should be liable to pay damages. The decision of the trial court is hereby REVERSED and SET ASIDE and the defendants are hereby ordered to pay the plaintiffs as follows:

1)

The amount of P200,000.00 as moral damages;

2)

The amount of P100,000.00 as exemplary damages;

3)

The amount of P50,000.00 for attorney's fees plus costs of litigation.[25]

In brushing aside the conclusion reached by the trial court, the Court of Appeals noted that private respondent was, at the time the article in question was published, not a public official but a private citizen seeking an elective office and petitioner Afable's article was intended to impeach his honesty, virtue or reputation and to make him appear in the eyes of the public as unfit for public office.

The appellate court also declared that the malicious nature of the article may be deduced from the fact that it was published in the Baguio Midland Courier a few days before the scheduled local elections and from the style and tone of writing employed by petitioner Afable. According to the Court of Appeals, while the entire article was composed of ten paragraphs and referred to several unnamed personalities, it was only in the disputed paragraph where a specific individual was named – herein private respondent. The appellate court therefore concluded that the phrase "dummy in the egg" could only refer to private respondent and the claimed P27,000 indebtedness is imputable solely to him.

Petitioners thereafter filed their respective motions for reconsideration[26] of the aforementioned decision of the Court of Appeals but these were denied through a resolution[27] of the appellate court, dated 29 September 1992. Thus, petitioners now come before us raising the following issues:

I

THE RESPONDENT COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT "THERE IS GOOD

REASON AND REASONABLE GROUND TO ASSUME THAT THE PUBLICATION OF THE LIBELOUS ARTICLES WAS A MANIFESTATION OF THE SPOUSES' (DEFENDANTS OSEO HAMADA and CECILLE AFABLE) THINKING ON THE MERIT OR DEMERIT OF CANDIDATES FOR BAGUIO CITY MAYOR FOR THE JANUARY 18, 1988 ELECTIONS" SINCE THEY ARE NOT SPOUSES NOR RELATED TO ONE ANOTHER.

II

THE RESPONDENT COURT OF APPEALS GRAVELY ERRED IN CONCLUDING THAT PLAINTIFF-APPELLANT RAMON LABO, JR. WAS THE ONE REFERRED TO AS THE "DUMPTY IN THE EGG."

III

THE RESPONDENT COURT OF APPEALS GRAVELY ERRED IN CONCLUDING THAT THE PORTION OF THE SUBJECT ARTICLE WHICH STATES THAT "SINCE HE IS DONATING MILLIONS HE SHOULD SETTLE HIS SMALL DEBTS LIKE THE REPORTEDLY INSIGNIFICANT AMOUNT OF P27,000.00" REFERS TO AN INDEBTEDNESS OF LABO TO THE REAL DOCTORS AND NOT TO THE BAGUIO MIDLAND COURIER.

IV

THE RESPONDENT COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT THERE WAS MALICE WHEN THE DEFENDANT-APPELL(ANT) CECILLE AFABLE INVITED PUBLIC ATTENTION ON LABO'S PRIVATE LIFE BEING A CANDIDATE FOR THE HIGHEST PUBLIC OFFICE IN THE CITY OF BAGUIO OR THAT THE DEFENDANTS "WERE ACTUALLY NOT MOTIVATED BY GOOD AND JUSTIFIABLE ENDS" IN PUBLISHING SAID ARTICLES ABOUT THE PRIVATE RESPONDENT.

V

THE RESPONDENT COURT OF APPEALS GRAVELY ERRED IN REVERSING THE DECISION OF THE TRIAL COURT DISMISSING THE COMPLAINT FOR LACK OF MERIT.[28]

In a manifestation dated 10 November 1993, we were informed of the death of petitioner Hamada. In our resolution of 08 December 1993, we resolved to substitute the estate of Oseo C. Hamada, for the deceased petitioner Hamada.[29]

The Court's Ruling

We shall first address the contention of petitioners with regard to alleged errors of facts committed by the Court of Appeals. While we adhere to the principle that findings of fact of the appellate court are binding and conclusive upon us,[30] such adherence has not prevented this Court from setting aside the findings of fact of the Court of Appeals when circumstances so warrant. In the recent case of *The Insular Life Assurance Company, Ltd. v. Court of Appeals and Sun Brothers & Company*,[31] this Court had the occasion to enumerate the exceptions to the general rule as regards the conclusiveness of the findings of fact of the appellate court, to wit: "(1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of facts are

premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.”[32]

In the case at bar, except for numbers (1), (6), (9), and (10), all of the above exceptions are present.

First. Contrary to the findings of the Court of Appeals that private respondent was the only candidate named in petitioner Afable’s column on 10 January 1988, said article actually dealt with the other named candidates for the 1988 local elections in Baguio City and Benguet. A perusal of said article would likewise reveal that it contained not only the opinion of petitioner Afable regarding private respondent but also her take on the other issues involving the other candidates. It would be grave error to impute malice on the subject article based upon a finding that private respondent was unduly singled out by petitioner Afable in her column. In this regard, we dismiss the following conclusion of the appellate court:

. . . Malice may also be inferred from the style and tone of the publication. The entire column on “In and Out of Baguio” on January 10 was composed of ten paragraphs and each paragraph featured or referred to a single person without knowing the person; however, in the second paragraph which mentions the non-payment of P27,000.00, the complainant [private respondent herein] was specifically mentioned in name; hence, no amount of reasoning would erase the fact that the dumpty in the egg was referring to Labo.[33] (Emphasis supplied)

Second. From the abovequoted portion of the Court of Appeals’ ruling, it is daylight clear that the appellate court assumed that since the name of private respondent and the phrase “dumpty in the egg” appeared in the same paragraph, the epithet referred only to the former. We cannot, however, subscribe to such simplistic deduction. A perusal of the paragraph in question easily reveals that the person alluded to by petitioner Afable in her use of “dumpty in the egg” was someone who was campaigning for a certain Atty. Reynaldo Cortes - one of the mayoralty candidates in Baguio City at that time. If, indeed, “dumpty in the egg” referred to private respondent, it follows that he campaigned for his own opponent during the 1988 local elections. Although such gracious attitude on the part of private respondent towards his political opponent would have been commendable, nevertheless, the same is totally contrary to human experience. On this score, we uphold the following argument of petitioners:

Clearly, the private respondent was hallucinating when he claims himself as the person referred to as the “Dumpty in the egg.” Otherwise, he would be the one making a mockery out of himself for campaigning against himself and in favor of his political opponent. Had he done that, it is doubtful whether he could have won as City Mayor of Baguio in the 1988 elections, which he actually did.[34]

Third. In its assailed decision, the Court of Appeals likewise highlighted the fact that petitioners Hamada and Afable were husband and wife and went on to conclude, albeit erroneously, that “(t)here is good reason and reasonable ground to assume that the publication of the libelous article was a manifestation of the spouses’ thinking on the merit or demerit of candidates for Baguio City mayor for the 18 January 1988 elections.”[35] Again, we disagree in this conclusion of the appellate court. The records of this case clearly establish the fact that petitioners Hamada and Afable were siblings and not spouses in that during his testimony on 19 December 1989, petitioner Hamada referred to petitioner Afable as his sister.[36] The Court of Appeals’ supposition, therefore, that the article subject of this petition reflected the stance of the “husband and wife team” of the petitioners utterly lacks factual support.

Having addressed the factual issues of this case, we shall now proceed to discuss its substantive question of whether the 10 January 1988 article of petitioner Afable was defamatory.

It is a basic precept that in cases involving claims for damages arising out of alleged defamatory articles, it is

essential that the alleged victim be identifiable although it is not necessary that he be named.[37] It is enough if by intrinsic reference the allusion is apparent or if the publication contains matters of descriptions or reference to facts and circumstances from which others reading the article may know the plaintiff was intended, or if extraneous circumstances point to him such that persons knowing him could and did understand that he was the person referred to.[38]

In the case of *Borjal v. Court of Appeals*,[39] this Court declared that “[i]t is also not sufficient that the offended party recognized himself as the person attacked or defamed, but it must be shown that at least a third person could identify him as the object of the libelous publication.”[40] Plainly, private respondent has the bounden duty to present before the court evidence that a third person could easily identify him as the person libeled. In this case, private respondent has utterly failed to dispose of this responsibility.

To be sure, private respondent’s lone witness, Dr. Rovillos, was able to offer his own understanding of what the phrase “dumpty in the egg” meant.[41] However, during his cross-examination, he failed to sufficiently explain before the court a quo how he arrived at the conclusion that the term referred to private respondent, thus:

Q

Now, you said you read this first sentence that says: “I heard that the Dumpty in the egg is campaigning for Cortes.” Then you gave us what you thought was the meaning of “Dumpty in the egg.” You did not tell us, however, whether you thought that was Ramon Labo or somebody else. Could you tell us, Doctor, when you heard that, you understood that to be Ramon Labo?

A

That is what I understand.

Q

You understood that to be Ramon Labo because a dumpty in the egg means a big zero. Why? You consider Labo a big zero that is why you understood him to be referred to when Cecille C. Afable said “dumpty in the egg?”

A

That is what I understand.

Q

You also said a “dumpty in the egg” is a big lie. You consider Ramon Labo a big lie that you also thought he was referred to as “dumpty in the egg?”

A

No, sir.

Q

In fact, Ramon Labo, in your assessment, is the exact opposite of a dumpty [in] the egg?

A

That I cannot answer.

A

So, from your honest perception, some – this this Labo (sic) is a big zero or a big lie that is why you cannot say

he is the exact opposite?

A

Maybe.[42]

This Court finds Dr. Rovillos's proposition as to what "dumpty in the egg" meant is insufficient to support any finding of liability on the part of the petitioners as he was unable to offer an iota of justification for his conclusion that it pertained to private respondent.

The Court of Appeals also maintained that petitioners could not invoke "public interest" in their defense. It ruled that "[a]n abuse of the freedom of speech and the press should not be tolerated and encouraged if the article published transcends the limit of decent, fair and impartial news reporting and instead becomes a bludgeon or a scalpel to brow beat or slice into shreds a private citizen, of his rights to his good name." [43]

We do not agree.

Concededly, private respondent was not yet a public official at the time the 10 January 1988 article was published. Nevertheless, this fact does not remove said article from the mantle of protection guaranteed by the freedom of expression provision of the Constitution. Indeed, as early as 1909, in the case of *United States v. Sedano*, [44] this Court had recognized the public's right to be informed on the mental, moral, and physical fitness of candidates for public office.

Subsequently, in the leading case of *New York Times Co. vs. Sullivan*, [45] the US Supreme Court expounded on this principle, viz:

. . . It is of the utmost consequence that the people should discuss the character and qualifications of candidates for their suffrages. The importance to the state and to society of such discussions is so vast, and the advantages derived are so great, that they more than counterbalance the inconvenience of private persons whose conduct may be involved, and occasional injury to the reputations of individuals must yield to the public welfare, although at times such injury may be great. The public benefit from publicity is so great, and the chance of injury to private character so small, that such discussion must be privileged.

. . .

In such a case the occasion gives rise to a privilege, qualified to this extent: any one claiming to be defamed by the communication must show actual malice or go remediless. The privilege extends to a great variety of subjects, and includes matters of public concern, public men, and candidates for office. [46]

Plainly, the rule only applies to fair comment on matters of public interest, fair comment being that which is true, or which if false, expresses the real opinion of the author based upon reasonable degree of care and on reasonable grounds. [47] The principle, therefore, does not grant an absolute license to authors or writers to destroy the persons of candidates for public office by exposing the latter to public contempt or ridicule by providing the general public with publications tainted with express or actual malice. In the latter case, the remedy of the person allegedly libeled is to show proof that an article was written with the author's knowledge that it was false or with reckless disregard of whether it was false or not. While the law itself creates the presumption that every defamatory imputation is malicious, [48] nevertheless, the privileged character of a communication destroys said presumption. The burden of proving actual malice shall then rest on the plaintiff, private respondent herein. [49]

In the present case, private respondent was unable to prove that petitioner Afable's column was tainted with actual malice. Verily, the records are replete with evidence that, indeed, private respondent incurred an obligation which had remained unpaid until the time the questioned article was published. While counsel for private

respondent persistently harped at the difference between the P27,000 which appeared in petitioner Afable's column and the P27,415 actual indebtedness of private respondent to Baguio Printing and Publishing Co., Inc., the minuscule difference in the amount fails to establish reckless disregard for truth on the part of petitioners. As held by this Court in the Borjal case –

Even assuming that the contents of the articles are false, mere error, inaccuracy or even falsity alone does not prove actual malice. Errors or misstatements are inevitable in any scheme of truly free expression and debate. Consistent with good faith and reasonable care, the press should not be held to account, to a point of suppression, for honest mistakes or imperfections in the choice of language. There must be some room for misstatement of fact as well as for misjudgment. Only by giving them much leeway and tolerance can they courageously and effectively function as critical agencies in our democracy.[50]

Lastly, we hold that petitioner Afable's article constitutes a fair comment on a matter of public interest as it dealt with the character of private respondent who was running for the top elective post in Baguio City at the time. Considering that private respondent assured his would-be constituents that he would be donating millions of his own money, petitioner Afable's column with respect to private respondent's indebtedness provided the public with information as regards his financial status which, in all probability, was still unbeknownst to them at that time. Indeed, the information might have dissuaded some members of the electorate from voting in favor of private respondent but such is the inevitable result of the application of the law. The effect would have been adverse to the private respondent but public interest in this case far outweighs the interest of private respondent.

WHEREFORE, the petition is GRANTED. The Decision of the Court of Appeals, dated 07 January 1992, and its Resolution, dated 29 September 1992, denying reconsideration are REVERSED and SET ASIDE, and the trial court's Decision of 14 June 1990 is AFFIRMED. No costs.

SO ORDERED.

Puno, (Acting C.J.), Austria-Martinez, Callejo, Sr., and Tinga, JJ., concur.

[1] Penned by Associate Justice Jose C. Campos, Jr., with Associate Justices Alicia V. Sempio-Diy and Filemon H. Mendoza, concurring; Rollo, pp. 54-61.

[2] Rollo, p. 81.

[3] Private respondent Ramon L. Labo, Jr., eventually won said election.

[4] Complaint dated 11 January 1988; Rollo, p. 55.

[5] Records, p 139.

[6] Records, pp. 172-176; Exhibit "17" for petitioner Afable.

[7] Records, pp. 9-12; pp. 14-15.

[8] Section 6. Conciliation, pre-condition to filing of complaint. – No complaint, petition, action or proceeding involving any matter within the authority of the Lupon as provided in Section 2 hereof shall be filed or instituted in Court or in any other government office for adjudication unless there has been a confrontation of the parties before the Lupon Chairman or Pangkat and no conciliation or settlement had been reached as certified by the Lupon Secretary or the Pangkat Secretary attested by the Lupon or Pangkat Chairman or unless the settlement has been repudiated.

[9] Records, pp. 29-30.

- [10] Records, pp. 31-37.
- [11] Records, pp. 41-45.
- [12] Rollo, pp. 31-35; Annex “B” of the Petition.
- [13] Rollo, pp. 36-41; Annex “C” of the Petition.
- [14] Id. at 38.
- [15] Rollo, p. 45.
- [16] TSN, 18 July 1989, p. 6.
- [17] Id. at 10.
- [18] TSN, 21 August 1989, p.4.
- [19] Ibid.
- [20] TSN, 10 September 1989, pp. 5-9.
- [21] Id. at 19.
- [22] TSN, 19 December 1989, p. 4.
- [23] TSN, 20 December 1989, p. 15.
- [24] Id. at 15-16.
- [25] Rollo, p. 60.
- [26] Rollo, pp. 62-79; Annexes “G” and “H” of the Petition.
- [27] Rollo, p. 81.
- [28] Rollo, pp. 2-3.
- [29] Rollo, p. 154.
- [30] Austria v. Court of Appeals, G.R. No. 133323, 09 March 2000, 327 SCRA 668; Ladignon v. Court of Appeals, G.R. No. 122973, 18 July 2000, 336 SCRA 42.
- [31] G.R. No. 126850, 28 April 2004.
- [32] Id. at 7-8, citations omitted.
- [33] Rollo, p. 59.
- [34] Rollo, p. 143; Memorandum for Petitioners, p. 12.
- [35] Rollo, p. 59.
- [36] TSN, 19 December 1989, p. 7.
- [37] Newsweek, Inc. v. Intermediate Appellate Court, G.R. No. L-63559, 30 May 1986, 142 SCRA 171.
- [38] Corpus v. Cuaderno, Sr., G.R. No. L-16969, 30 April 1966, 16 SCRA 807.
- [39] G.R. No. 126466, 14 January 1999, 310 SCRA 1.

[40] Id. at 18.

[41] According to Dr. Rovillos, the term meant “a zero or a big lie;” TSN, 21 August 1989, p. 4.

[42] TSN, 21 August 1989, pp. 9-10.

[43] Rollo, p. 60.

[44] 14 Phil. 338 (1909).

[45] 376 US 254.

[46] Id. at 281-282, citing *Coleman v. MacLennan*, 78 Kan. 711, 98 P. 281.

[47] Supra, note 40 at 341-342.

[48] Article 354 of the Revised Penal Code provides: “Every defamatory imputation is presumed to be malicious, even if it be true, if no good intention and justifiable motive for making it is shown, except in the following cases:

- A private communication made by any person to another in the performance of any legal, moral or social duty; and

- 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.”

[49] Supra note 37 at 28.

[50] Supra note 39 at 30 citing the Concurring Opinion of US Supreme Court Justice Rutledge in *Pennekamp v. Florida*, 328 US 331, 371-372.

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