

**DR. MERLE A. ALONZO, PETITIONER, VS. COURT OF APPEALS,
PEOPLE OF THE PHILIPPINES, JUDGE DAN VELASCO, AND DR.
ANGELES VELASCO, RESPONDENTS.**

G.R. No. 110088. February 01, 1995

Ponente: DAVIDE, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-110088/>

DAVIDE, JR., J.:

This petition for review on certiorari challenges the decision [1] of the Court of Appeals in CA-G.R. CR No. 10504 and its resolution [2] denying the motion for the reconsideration of the decision. The decision affirmed in toto the judgment of the Regional Trial Court, Branch 11, Davao City, in Criminal Case No. 13698 convicting the petitioner of libel.

The antecedent facts are summarized by the Court of Appeals as follows:

"From 1984 to 1986, accused Dra. Merle A. Alonzo was the Field Operations Officer of the Philippine Medical Care Commission (PMCC) for Region XI. On June 13, 1985, accused was directed by Executive Officer of the PMCC, Rossi Castro, to conduct inspections of Medicare-accredited clinics and hospitals (Exhibit 1). The directive was approved by the Chairman of PMCC, Dr. Pacifico Marcos, as Special Order No. 73. Among the Medicare-accredited clinics inspected by accused were the Sto. Niño Medical Clinic in Astorga, Sta. Cruz, Davao del Sur, and Our Lady of Fatima Medical Clinic in Guihing, Hagonoy, Davao del Sur (Exhibits E, E-1, and F). The clinics were owned and managed by complainant Dra. Angeles Velasco, married to Judge Dan Velasco of the MTC-Hagonoy, Davao del Sur. After the inspection, accused submitted her report on her findings to Dr. Jesus Tamesis, PMCC Vice-Chairman. The report reads as follows:

'Dr. Jesus V. Tamesis
Vice Chairman PMCC

S i r:

The folder of the Sto. Nino Medical Clinic and that of Our Lady of Fatima both owned and managed by Dra. Angeles Fe [sic] Velasco is not accompanied by the standard SIR because of time pressure since I inspected it at past four in the afternoon. My purpose was to invite the physicians in the area to the forthcoming July 7 medical meeting. However, after checking the physical plant, I discovered that it was too small for a 50 bed hospital. I therefore proceed[ed] to the actual inspection which revealed the following:

GSIS

-

0

SSS

-

14

Non Medicare

-

1

Total

15

Again almost all of the charts with IVF and parenterals were not noted in the nurses' progress notes as either inserted, refused, deferred or consumed.

- Marcial Emma # 699 admitted June 25, 1985.

- Gelvero, Anita # 690 admitted June 27, 1985.

I therefore attach the written statement of the above 2 female patients. See attached brown paper in Bisaya[n]. There were five other patients who had similar findings but they refused perhaps out of fear. This is the third time I found Dra. Velasco to be practicing this kind of giving Doctors' order and should be stopped thru the following:

- Demand all purchase receipts of IVF and drugs.
- Require that she keep an inventory of all medicines use for medicare patients.
- To modify her charting of medication sheet.
- More intensive inspection especially after 6:00 p.m.
- Monitor all filed claims whether IVF refused or not not [sic] inserted were later on claimed.

The couple is treatening [sic] me with libel according to the Davao del sur PHA grapevine and it puzzles me how and why?

The other folder that of the Sto. Niño has the following violations:

- Classified as Secondary by the MOH which should not be.
- 7 charts are those who were not physically present on inspection.
- The clinic is not manned by a physician at night.

In all, this particular clinic should be closely monitored because, aside from the above mentioned violations, the husband is a judge and it gives them a certain amount of "untouchability". In fact, they make court suits their pasttime.

(SGD.) MERLE A. ALONZO, M.D.
FOO, Region XI'

(Annex C, Exhibit B, Underscoring ours)

On the basis of said report and other documents, Executive Director Rossi Castro, on October 15, 1985, filed a complaint with the PMCC against the Sto. Niño Medical Clinic for 'Misrepresentation by Extending Confinement of Patients, Misrepresentation by Claiming for Non-Existing Patients, Breach of Warranty of Accreditation' (Exhibit B).

On January 6, 1986, complainant Dra. Angeles Velasco received summons from the PMCC, together with attached complaint and annexes, which included the report of accused (Exhibit A). Thereupon, after reading the papers, she went to see her husband, Judge Dan Velasco, at the latter's office at Hagonoy, Davao del Sur, and showed him the same. Finding that the last portions of the report to be libelous, complainant Judge Velasco and complainant Dra. Angeles Velasco went to see their lawyer Atty. David Montaña at the latter's office in Quimpo Building, Rizal St., Davao City. Since Atty. David Montaña was out, the complainants entrusted the summons and the complaint with annexes, contained in a folder with Atty. Paquito Balasabas whose office was adjacent to that of Atty. Montaña, with the request that Atty. Balasabas deliver the folder to Atty. Montaña. Atty. Balasabas examined the documents and read them." [3]

Dr. Velasco and her husband, Judge Dan Velasco, then filed a complaint for libel against the petitioner with the Office of the City Fiscal of Davao City and, after preliminary investigation, Assistant City Fiscal Raul Bendigo filed the corresponding information for libel against the petitioner with the Regional Trial Court, Davao City, which docketed it as Criminal Case No. 13698.

After due trial, the trial court promulgated on 19 November 1990 its decision finding the petitioner "guilty beyond reasonable doubt of two (2) crimes of libel, penalized under Article 355 of the Revised Penal Code, as charged," and sentenced her "to pay a fine of P1,000.00 for each crime; pay Dr. Angeles Te-Velasco and Judge Dan U. Velasco P5,000.00 each for moral damages; and to pay the costs." [4]

The trial court found defamatory the statement in the last paragraph which read: "the husband is a judge and it gives them certain amount of 'untouchability.' In fact, they make court suits their pasttime." The trial court said that this statement "conveys the meaning that Judge Velasco abuses his powers and authority as a judge thus enabling him and his wife to violate the law with impunity and even 'make court suits their pasttime [sic].'" Regarding the requirement of publication, it held that there was sufficient publication of the petitioner's subject report when she sent it to Dr. Tamesis. Thus:

"In the instant case, although the letter was contained in a closed envelope, the accused sent it to Dr. Jesus V. Tamesis, a person other than the complainants (Dr. Angeles Te Velasco and Judge Dan U. Velasco), thus parting with its possession with the intention that it be read, as it was read, by Dr. Tamesis. There was, therefore, sufficient publication."

The trial court rejected the petitioner's defense that her report was a privileged communication and that she could not be held liable for libel because "[t]here is evidence on record that she begrudged and bore the complainants ill-will for not extending to her a loan of P1,500.00 and for refusing to bear the vacation expenses of her children at the Davao Insular Hotel, the most expensive hostelry in Davao City."

Unable to accept the judgment and insisting upon her innocence, the petitioner appealed from the judgment to the Court of Appeals which docketed the case as CA-G.R. CR No. 10504.

In its decision of 29 January 1993 affirming the trial court's judgment, the Court of Appeals conceded that the subject report of the petitioner was a "qualified privileged communication" under the first paragraph of Article 354 of the Revised Penal Code but held that the privilege was lost because of proof of actual malice.

"In the report, when appellant made the derogatory imputations, the same conveyed the clear meaning that Judge Velasco, husband of Dra. Angeles Velasco, abuses his power and authority as judge, thus enabling him and his wife to violate the law with impunity and even make court suits their pasttime. The derogatory remarks were obviously made out of ill-will or revenge, in view of the rumored threat of libel from the complainants according to the Davao del Sur PHA grapevine. Thus, malice in fact is present, as there is intent to injure the good name of persons without justifiable motive, making the communication actionable."

The petitioner's claim that her report was necessary as she was required to submit the same after inspection and that "her intention was to convey the possible consequences she may suffer due to the said investigation as well as any difficulties the Commissioner may encounter in pursuing legal action against the erring clinics and its owners" was rejected by the trial court.

"There could be no question that the reporting of the irregularities was in pursuance to a legal duty, for which appellant could not be held liable. But the report was not confined to such reporting called for by duty; it included derogatory imputations against complainants which are absolutely without relevancy and pertinency to the subject matter of the investigation and report as directed in Special Order 73. The report even went to the extent of maligning the judge who had nothing to do with the operation of the clinic.

...

Any alleged difficulty that the Commission may encounter in the pursuit of its legal action against the erring clinic, is purely conjectural and speculative; and if at all there be such difficulty, it is not appellant's business to deal with but the Commission's exclusive affair."

Her motion for reconsideration having been denied, the petitioner filed the instant petition and in seeking a reversal of the challenged decision, she claims that the Court of Appeals:

"I. X X X ERRED IN CONCLUDING THAT ON THE BASIS OF ITS FINDING, THERE WAS PUBLICATION OF THE SUPPOSED DEROGATORY REMARKS.

II. X X X ERRED IN DEEMING THE REMARKS IN QUESTION TO BE DEROGATORY.

III. X X X MISAPPLIED THE LAW IN JUDGING THAT THE PRIVILEGED NATURE OF THE REPORT HAS BEEN LOST BY PROOF OF ACTUAL MALICE; THE PUBLIC RESPONDENT'S FINDING OF ACTUAL MALICE IS NOT SUPPORTED BY THE EVIDENCE."

Put more simply, the primordial issue raised in this petition is whether the questioned report of the petitioner to Dr. Tamesis is libelous.

Libel is defined in Article 353 of the Revised Penal Code as follows:

"ART. 353. Definition of libel. -- A libel is a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act or omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead."

For an imputation then to be libelous, the following requisites must concur:

"(a) It must be defamatory;

- (b) It must be malicious;
- (c) It must be given publicity; and
- (d) the victim must be identifiable." [5]

Any of the imputations covered by Article 353 is defamatory and, under the general rule laid down in Article 354, 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. There is malice when the author of the imputation is prompted by personal ill-will or spite and speaks not in response to duty but merely to injure the reputation of the person who claims to have been defamed. [6] Truth then is not a defense, unless it is shown that the matter charged as libelous was made with good motives and for justifiable ends. Article 361 of the Revised Penal Code provides, in part, as follows:

"ART. 361. Proof of truth. — In every criminal prosecution for libel, the truth may be given in evidence to the court and if it appears that the matter charged as libelous is true, and, moreover, that it was published with good motives and for justifiable ends, the defendant shall be acquitted."

However, malice is not presumed and must, therefore, be proved, under the following exceptions provided for in Article 354, viz.:

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

The privileged character of these communications is not absolute, but merely qualified since they could still be shown to be malicious by proof of actual malice or malice in fact. [7] The burden of proof in this regard is on the plaintiff or the prosecution. [8]

Publication means "to make public; to make known to people in general; to bring before the public." [9] Specifically put, publication in the law of libel means the making known of the defamatory matter, after it has been written, to some person other than the person of whom it is written. If the statement is sent straight to a person of whom it is written there is no publication of it. [10] The reason for this is that [a] communication of the defamatory matter to the person defamed cannot injure his reputation though it may wound his self-esteem. A man's reputation is not the good opinion he has of himself, but the estimation in which others hold him. [11]

It is undisputed that the petitioner, as Field Operations Officer for Region XI of the PMCC, is a public officer and that she submitted the questioned report after she had conducted the inspection of the two clinics of Dr. Velasco pursuant to and by virtue of the directive of the Executive Officer, Atty. Rossi Castro, which was duly approved by the Chairman of the PMCC, Dr. Pacifico Marcos, as Special Order No. 73 [12] under which she was to submit a report. Her authority to conduct the inspection and to submit the corresponding report were not questioned by the private respondents. In her direct examination, Dr. Velasco categorically admitted this official authority and duty of the petitioner. Thus:

"ATTY. MONTANA:

x x x

Q

You mentioned that at the time she was one of the inspectors, inspector of what?

A

Philippine Medical Care Commission.

Q

As such, therefore, she has the right and duty to inspect medical clinics?

A

She was assigned to inspect my clinic and as a matter of fact all clinics in Davao del Sur and Region XI.

COURT:

Q

And also in Region 10?

A

Yes, Sir.

ATTY. MONTANA:

Q

When you were referring to Dra. Merle Alonzo, the accused in this case, having authority to inspect all medical clinics in Davao del Sur, you are referring to medical clinics accredited with the Philippine Medical Care Commission?

A

Yes, Sir.

Q

Now, will you please tell the Honorable Court the procedure of the Philippine Medical Care Commission regarding matters over which it exercises its jurisdiction on inspections? In other words, why it be inspected by the Philippine Medical Care Commission?

A

These field inspectors are assigned to inspect clinics in order to see to it that clinics are properly following rules and regulations of the Philippine Medical Care Commission." [13]

It is precisely because of such authority that the Court of Appeals conceded that her questioned report was a qualified privileged communication under the first paragraph of Article 354 of the Revised Penal Code. There can then be no doubt that the petitioner made her report in the exercise of her official duty or function. She rendered it in due course to her superior who had a duty to perform with respect to its subject matter and which the latter faithfully did by filing the appropriate complaint against Dr. Velasco after an evaluation of the report.

In *Deaño vs.. Godinez*, [14] we held:

"Indeed, the communication now denounced by plaintiff as defamatory is one sent by defendant to his immediate superior in the performance of a legal duty, or in the nature of a report submitted in the exercise of

an official function. He sent it as an explanation of a matter contained in an indorsement sent to him by his superior officer. It is a report submitted in obedience to a lawful duty, though in doing so defendant employed a language somewhat harsh and uncalled for. But such is excusable in the interest of public policy."

In the said case, we affirmed the dismissal by the trial court of a complaint for damages arising from an allegedly libelous indorsement sent by Godinez, a district supervisor, to the Division Superintendent of Schools, his immediate superior, by way of an explanation of an alleged confusion concerning a dental-medical report wherein Godinez stated that Deaño, the school dentist, "is a carping critic, a fault-finder and suspects every teacher or school official to be potential grafters and swindlers of the medical-dental funds," and that "she did more harm than good to the teeth of the patients she treated."

We thus fully agree with the Court of Appeals that the report falls within the first paragraph of Article 354 of the Revised Penal Code. Consequently, the presumption of malice or malice in law was negated by the privileged character of the report. The privilege may only be lost by proof of malice in fact. It is, nevertheless, settled that "[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 communications. The ultimate test is that of bona fides." [15]

Tested under these principle, we disagree with the conclusion of the trial court that malice in fact was duly proved in this case since the petitioner "was moved by ill-will" because Dr. Velasco did not grant her "a loan of P1,500.00" and refused "to bear the vacation expenses of her children at the Davao Insular Hotel, the most expensive hostelry in Davao City." This conclusion is purely conjectural for, as a matter of fact, Dr. Velasco herself was uncertain if these incidents indeed incited the petitioner. Thus, in answer to her counsel's question as to the possible motive why the petitioner submitted an "untruthful" report to the PMCC, Dr. Velasco candidly declared:

"Perhaps Dra. Alonzo was angry because I was not able to give what she demanded first, when she wanted her children to be taken to Davao for a vacation and secondly, when she asked P1,500.00 and I was only able to produce P500.00. So maybe that was the cause why she was mad at me and she made that report." [16]

Dr. Velasco's deliberate use of the words perhaps and maybe clearly conveyed her incertitude. It must also be stressed that her aforesaid testimony regarding the petitioner's motive was not directed on the portions of the report which the trial court considered derogatory as earlier adverted to, but on the "untruthful" report of violations. The specific question to which the above answer of Dr. Velasco was made reads as follows:

"ATTY. MONTANA:

Q

You claimed before this Honorable Court that the facts contained in the charges against your medical clinic, the Sto. Niño Medical Clinic, contained in Exhibit "B" which was duly served to you by way of summons also identified as Exhibit A are not true, the basis precisely, after reading this complaint, seems to hinge on the report of the accused to the Medical Care Commission for certain violations, enumerated in Exhibit C. Will you please tell the Honorable Court, since these are not true, what motivated, to your way of understanding, what motivated the accused to make this, according to you, untruthful report to the Commission?" [17]

Moreover, the petitioner denied the factual basis for the speculation of Dr. Velasco. Thus:

"ATTY. ALDEVERA:

Q

Dr. Alonzo, the complainant Dr. Te-Velasco also testified that you borrowed P500.00 from her, is that true?

A

That is not true.

ATTY. ALDEVERA:

We reform.

Q

According to complainant you borrowed the amount of P1,000.00 and you received only P500.00 is that true?

A

Not true.

Q

What does this amount represent?

A

For the payment of the dress she got from me.

Q

When Dr. Te-Velasco testified here in Court she said that you requested her that your children stay at the Davao Insular Hotel, what do you say to this testimony of Dr. Velasco?

A

Not true.” [18]

She also denied that she purposely accompanied the private respondents to Manila to help them secure the accreditation of their clinic in Guihing, Hagonoy, Davao del Sur, and that she stayed with them at the Camelot Hotel in Quezon City. According to her, she has her own rented house in Quezon City. [19]

Nor can we agree with the differing conclusion of the Court of Appeals that "the derogatory remarks were obviously made out of ill-will or revenge, in view of the rumored threat of libel from the complainants according to the Davao del Sur PHA grapevine." For one, this only shows that both the trial court and the Court of Appeals could not agree on what the basis for the motive of the petitioner should be. For another, as indicated above, the private respondents themselves focused their minds and hearts on the untruthfulness of the violations indicated in the petitioner's report. Finally, the statement on the threat of a libel charge was evidently based on a rumor (from the grapevine) which we, nevertheless, find to be relevant to the report since it serves to forewarn the petitioner's superiors of the risks she and they might meet as a consequence of her report on the violations and to emphasize the need for PMCC's firmness and courage to pursue the appropriate charges as may be warranted in the premises.

All told then, the prosecution in this case was unable to prove malice in fact.

Finally there was, in law, no publication of the questioned report. The rule is settled that a communication made by a public officer in the discharge of his official duties to another or to a body of officers having a duty to perform with respect to the subject matter of the communication does not amount to a publication within the meaning of the law on defamation. [20]

There was also no publication when Atty. Balasabas, a third person, read the complaint against Dr. Velasco and the report of the petitioner attached thereto. The private respondents entrusted these documents to Atty. Balasabas with the request that he give them to their counsel, Atty. David Montaña. Where the plaintiff himself communicated or by his acts caused the communication of the libelous matter to a third person, there was no actionable publication. [21]

WHEREFORE, the instant petition is GRANTED. The assailed decision of the Court of Appeals in CA-G.R. CR No. 10504 is hereby REVERSED and petitioner DR. MERLE A. ALONZO is hereby ACQUITTED of the crime charged.

No pronouncement as to costs.

SO ORDERED.

Padilla, (Chairman), Bellosillo, Quaison, and Kapunan, JJ., concur.

[1] Annex "A" of Petition; Rollo, 27. Per Associate Justice Jaime M. Lantin, concurred in by Associate Justices Lorna S. Lombos-De la Fuente and Cancio C. Garcia.

[2] Annex "B," Id.; Id., 38.

[3] Rollo, 29-31.

[4] OR, Criminal Case No. 13698, 134; OR, CA-G.R. CR No. 10504, 6. Per Judge Nicasio O. de los Reyes.

[5] People vs.. Monton, 6 SCRA 801 [1962].

[6] RAMON C. AQUINO, The Revised Penal Code, vol. III 1988 ed., 531.

[7] AQUINO, op. cit., 540; AMBROSIO PADILLA, Criminal Law (Revised Penal Code), vol. III, 1977 ed., 672.

[8] U.S. vs.. Bustos, 37 Phil. 731, 743 [1918]; U.S. vs.. Cañete, 38 Phil. 253 [1918]; People vs.. Monton, supra at note 5; Lu Chu Sing vs.. Lu Tiong Gui, 76 Phil. 669 [1946].

[9] Black's Law Dictionary, Fifth ed., 1105.

[10] Per Lord Esher M.R. in Pullman vs.. Hill [1902].

[11] Sheffil vs.. Van Deusen (1859) 79 Mass. R. at 305, cited in R.C. McEWEN, et al., op. cit.

[12] Exhibit "1," Folder of Exhibits, 17.

[13] TSN, 2 March 1989, 18-19.

[14] 12 SCRA 483, 487 [1964].

[15] U.S. vs.. Bustos, supra note 8.

[16] TSN, 2 March 1989, 25 (emphases supplied).

[17] Id., 24 (emphasis supplied).

[18] TSN, 20 March 1989, 20-21.

[19] Id.

[20] 53 C.J.S. Libel and Slander § 81 (1948).

[21] Id., § 80.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.