

**FRANCISCO I. CHAVEZ AND PEOPLE OF THE PHILIPPINES,
PETITIONERS, VS. COURT OF APPEALS, RAFAEL BASKIÑAS AND
RICARDO MANAPAT, RESPONDENTS.**

G.R. No. 125813. February 06, 2007

Ponente: TINGA, J.

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TINGA, J.:

An Information for Libel dated 26 June 1995 was filed before the Regional Trial Court (RTC) of Manila against private respondents Rafael Baskinas and Ricardo Manapat, with petitioner Francisco Chavez as the complainant. The Information reads in part:

"That on or about March 1995, in the City of Manila, Philippines, the said accused [Baskinas and Manapat] conspiring and confederating with others whose true names, real identities and present whereabouts are still unknown and helping one another, with malicious intent of impeaching the honesty, virtue, character and reputation of one FRANCISCO I. CHAVEZ, former Solicitor General of the Philippines, and with the evident purpose of injuring and exposing him to public ridicule, hatred and contempt, did then and there willfully, unlawfully and maliciously cause to be published in "Smart File," a magazine of general circulation in Manila, and in their respective capacity as Editor-in-Chief and Author-Reporter, the following, to wit:

x x x x

with which published articles, the said accused meant and intended to convey, as in fact they did mean and convey false and malicious imputations of a defect, vice and crime, which insinuations and imputations as the accused well knew are entirely false and untrue and without the foundation in fact whatsoever, and tend to impeach, besmirch and destroy the good name, character and reputation of said FRANCISCO I. CHAVEZ, as in fact, he was exposed to dishonor, discredit, public hatred, contempt and ridicule.

CONTRARY TO LAW.[1]

Private respondents moved to quash the Information, as well as the corresponding warrants of arrest subsequently issued. However, these motions were denied by the RTC of Manila, Branch 16, in an Order dated 31 August 1995.[2] Private respondents then filed a Petition for Certiorari with the Court of Appeals, assailing the 31 August 1995 Order. The petition was granted in a Decision dated 21 December 1995, hence the present petition.

The crux of the matter revolves around whether the above-quoted Information is sufficient to sustain a charge for libel, considering the following requirement imposed by Article 360 of the Revised Penal Code, as amended by Rep. Act No. 4363:

Article 360. Persons responsible.-Any person who shall publish, exhibit or cause the publication or exhibition of any defamation in writing or by similar means, shall be responsible for the same.

The author or editor of a book or pamphlet, or the editor or business manager of a daily newspaper, magazine or serial publication, shall be responsible for the defamations contained therein to the same extent as if he were

the author thereof.

The criminal action and civil action for damages in cases of written defamations, as provided for in this chapter shall be filed simultaneously or separately with the court of first instance of the province or city where the libelous article is printed and first published or where any of the offended parties actually resides at the time of the commission of the offense: Provided, however, That where one of the offended parties is a public officer whose office is in the City of Manila at the time of the commission of the offense, the action shall be filed in the Court of First Instance of the City of Manila or of the city or province where the libelous article is printed and first published, and in case such public officer does not hold office in the City of Manila, the action shall be filed in the Court of First Instance of the province or city where he held office at the time of the commission of the offense or where the libelous article is printed and first published and in case one of the offended parties is a private individual, the action shall be filed in the Court of First Instance of the province or city where he actually resides at the time of the commission of the offense or where the libelous matter is printed and first published x x x. (Emphasis supplied.)

Referring to the fact that the Information against private respondents states that the libelous matter was "caused to be published in Smart File, a magazine of general circulation in Manila," the Court of Appeals deemed the cases of *Agbayani v. Sayo*[3] and *Soriano v. LAC*[4] as controlling. Based on the doctrines pronounced in said cases, the appellate court held that the Information failed to allege where the written defamation was "printed and first published," an allegation sine qua non "if the circumstances as to where the libel was printed and first published is used as the basis of the venue of the publication." [5] It was observed that "venue of libel cases where the complainant is a private person is either in any of only two places, namely: (1) where the subject article was printed and first published; and (2) where complainant of the commission actually resides at the time of the commission of the offense." The Information, it was noted, did not indicate that the libelous articles were printed or first published in Manila, or that petitioner resided in Manila at the time of the publication of the articles.

The Court of Appeals further observed that even during the preliminary investigation, private respondents had already interposed that Smart File was actually printed and first published in the City of Makati, and that the address of the publisher Animal Farms Publication as indicated in the editorial page of the publication itself was a post office box with the Makati Central Post Office. Even as this observation was disputed by petitioner, who insisted the place of private respondent's printing and publishing business was actually in Manila, the Court of Appeals noted that he should have been alerted enough by private respondents' adverse insistence and that a due investigation would have inevitably revealed that private respondents had transferred from their previous Manila address to Makati by the time the subject articles were published. [6]

Before this Court, petitioner attacks the reliance placed on *Agbayani* and *Soriano*, primarily by pointing out that in both cases, the complainants were public officers, and not private officials. Petitioner submits that the 1965 amendments to Article 360 of the Revised Penal Code which imposed the present venue requisites were introduced in order to preclude the harassment of members of the press through libel suits filed in remote and distant places by public officers. Petitioner also assails the conclusion of the Court of Appeals that the place of printing and first publication of Smart File was in Makati, saying that this was derived out of hearsay evidence.

Does the subject information sufficiently vest jurisdiction in the Manila trial courts to hear the libel charge, in consonance with Article 360 of the Revised Penal Code? Jurisprudence applying the provision has established that it does not.

Agbayani supplies a comprehensive restatement of the rules of venue in actions for criminal libel, following the amendment by Rep. Act No. 4363 of the Revised Penal Code:

Article 360 in its original form provided that the venue of the criminal and civil actions for written defamations

is the province wherein the libel was published, displayed or exhibited, regardless of the place where the same was written, printed or composed. Article 360 originally did not specify the public officers and the courts that may conduct the preliminary investigation of complaints for libel.

Before article 360 was amended, the rule was that a criminal action for libel may be instituted in any jurisdiction where the libelous article was published or circulated, irrespective of where it was written or printed (*People v. Borja*, 43 Phil. 618). Under that rule, the criminal action is transitory and the injured party has a choice of venue.

Experience had shown that under that old rule the offended party could harass the accused in a libel case by laying the venue of the criminal action in a remote or distant place.

Thus, in connection with an article published in the *Daily Mirror* and the *Philippine Free Press*, Pio Pedrosa, Manuel V. Villareal and Joaquin Roces were charged with libel in the justice of the peace court of San Fabian, Pangasinan (*Amansec v. De Guzman*, 93 Phil. 933).

To forestall such harassment, Republic Act No. 4363 was enacted. It lays down specific rules as to the venue of the criminal action so as to prevent the offended party in written defamation cases from inconveniencing the accused by means of out-of-town libel suits, meaning complaints filed in remote municipal courts (Explanatory Note for the bill which became Republic Act No. 4363, Congressional Record of May 20, 1965, pp. 424-5; *Time, Inc. v. Reyes*, L-28882, May 31, 1971, 39 SCRA 303, 311).

The rules on venue in article 360 may be restated thus:

- Whether the offended party is a public official or a private person, the criminal action may be filed in the Court of First Instance of the province or city where the libelous article is printed and first published.
- If the offended party is a private individual, the criminal action may also be filed in the Court of First Instance of the province where he actually resided at the time of the commission of the offense.
- If the offended party is a public officer whose office is in Manila at the time of the commission of the offense, the action may be filed in the Court of First Instance of Manila.
- If the offended party is a public officer holding office outside of Manila, the action may be filed in the Court of First Instance of the province or city where he held office at the time of the commission of the offense.[7] (Emphasis supplied.)

The rules, as restated in *Agbayani*, do not lay a distinction that only those actions for criminal libel lodged by public officers need be filed in the place of printing and first publication. In fact, the rule is quite clear that such place of printing and first publication stands as one of only two venues where a private person may file the complaint for libel, the other venue being the place of residence of the offended party at the time the offense was committed. The very language itself of Article 360, as amended, does not support petitioner's thesis that where the complainant is a private person, a more liberal interpretation of the phrase "printed and first published" is warranted than when a public officer is the offended party. To wit:

Article 360. Persons responsible.x x x The criminal and civil action for damages in cases of written defamations as provided for in this chapter, shall be filed simultaneously or separately with the Court of First Instance of the province or city where the libelous article is printed and first published or where any of the offended parties actually resides at the time of the commission of the offense. x x x

Where the law does not distinguish, we should not distinguish.[8]

Petitioner faults the Court of Appeals for relying on *Agbayani* and *Soriano*, two cases wherein the complainant was a public officer. Yet the Court has since had the opportunity to reiterate the *Agbayani* doctrine even in cases

where the complainants were private persons.

Most telling of the recent precedents is *Agustin v. Pamintuan*,^[9] which involved a criminal action for libel filed by a private person, the acting general manager of the Baguio Country Club, with the RTC of Baguio City. The relevant portion of the Information is quoted below:

That on or about the 17th day of March 2000, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent and malicious intent and evil motive of attacking, injuring and impeaching the character, honesty, integrity, virtue and reputation of one Anthony De Leon the acting general manager of the Baguio Country Club, and as a private citizen of good standing and reputation in the community and with malicious intent of exposing the (sic) Anthony De Leon to public hatred, contempt, ridicule, discredit and dishonor, without any justifiable motive, did then and there willfully, maliciously and criminally prepare or cause to prepare, write in his column "Cocktails" and publish in the Philippine Daily Inquirer, a newspaper of general circulation in the City of Baguio and in the entire Philippines x x x.^[10] (Emphasis supplied.)

The phrase "the Philippine Daily Inquirer, a newspaper of general circulation in the City of Baguio and in the entire Philippines" bears obvious similarity to the reference in the Information in this case to the publication involved as "'Smart File,' a magazine of general circulation in Manila," and both private complainants in *Agustin* and the case at bar were private citizens at the time of the filing of the complaint. Yet the Court in *Agustin* ruled that the failure to allege that Baguio was the venue of printing and first publication, or that the complainant therein was a resident of Baguio, constituted a substantial defect that could not even be cured by mere amendment. The rules on venue as laid down in *Agbayani* were restated in *Agustin*,^[11] retaining no distinction as to venue whether the offended party is a public official or a private person. In fact, the Court considered the phrase "a newspaper of general circulation in the city of Baguio" as so utterly incapable of establishing Baguio as venue that the bulk of the discussion instead centered on whether the allegation that the complainant was the acting general manager of the Baguio Country Club sufficiently established that he was a resident of Baguio City. On that point, the Court ruled that it did not.

In *Macasaet v. People*,^[12] the complainant was again a private person.^[13] The Information for libel against a gossip columnist and the editors of the tabloid which published the column was filed with the RTC of Quezon City, but it failed to state at all where the tabloid was printed and first published, or where the complainant resided. Even as evidence was presented during trial that complainant was a resident of Quezon City, the Court ultimately held that the allegations contained in the Information "[were] utterly insufficient to vest jurisdiction on the RTC of Quezon City."^[14] Again, the rules laid down in *Agbayani* were cited as controlling.^[15] The Court further held that the evidence establishing the complainant's place of residence as Quezon City could not cure the defect of the Information, noting that "it is settled that jurisdiction of a court over a criminal case is determined by the allegations of the complaint or information."^[16]

Macasaet resolutely stated that since the place of printing and first publication or the place of residence at the time are "matters deal[ing] with the fundamental issue of the court's jurisdiction, Article 360 of the Revised Penal Code, as amended, mandates that either one of these statements must be alleged in the information itself and the absence of both from the very face of the information renders the latter fatally defective."^[17] We affirm that proposition, which is fatal to this petition. There is no question that the Information fails to allege that the City of Manila was the place where the offending articles were printed and first published, or that petitioner was a resident of Manila at the time the articles were published.

Petitioner does submit that there is no need to employ the clause "printed and first published" in indicating where the crime of libel was committed, as the term "publish" is "generic and within the general context of the term

'print' in so far as the latter term is utilized to refer to the physical act of producing the publication." [18] Certainly, that argument flies in the face of our holding in *Agustin*, which involved a similarly worded Information, and which stands as a precedent we have no inclination to disturb. Still, a perusal of the Information in this case reveals that the word "published" is utilized in the precise context of noting that the defendants "cause[d] to be published in 'Smart File', a magazine of general circulation in Manila." The Information states that the libelous articles were published in Smart File, and not that they were published in Manila. The place "Manila" is in turn employed to situate where Smart File was in general circulation, and not where the libel was published or first printed. The fact that Smart File was in general circulation in Manila does not necessarily establish that it was published and first printed in Manila, in the same way that while leading national dailies such as the *Philippine Daily Inquirer* or the *Philippine Star* are in general circulation in Cebu, it does not mean that these newspapers are published and first printed in Cebu.

Indeed, if we hold that the Information at hand sufficiently vests jurisdiction in Manila courts since the publication is in general circulation in Manila, there would be no impediment to the filing of the libel action in other locations where Smart File is in general circulation. Using the example of the *Inquirer* or the *Star*, the granting of this petition would allow a resident of Aparri to file a criminal case for libel against a reporter or editor in Jolo, simply because these newspapers are in general circulation in Jolo. Such a consequence is precisely what Rep. Act No. 4363 sought to avoid.

Our ruling in *Banal III v. Panganiban* [19] might tend to support petitioner's argument that the phrase "printed and first published" need not be necessarily employed in the Information. The Information in that case filed by private persons before the Makati City RTC read that the libelous matter was found in a newspaper column "of the *Philippine Daily Inquirer* which is published in English in the City of Makati, Metro Manila, Philippines and of general circulation in the Philippines and abroad x x x x." [20] The Court did observe that this information was "sufficient in form" [21] as it clearly stated "that the newspaper is published in Makati City but circulated throughout the country, which allegation accordingly vests jurisdiction over the offense charged in the RTC of Makati City." [22] Yet even notwithstanding the fact that the information in *Banal III* did not use the phrase "printed and first published," it still categorically stated, at the very least, that the libelous matter was "published in English in the City of Makati." In contrast, what the Information at bar categorically states is that the libelous matter was "published in Smart File," not "published in Manila." [23] The fact that the present Information further alleges that Smart File was "of general circulation in Manila" does not necessarily mean that the magazine was printed and first published in Manila. In any event, as the language in the present information hews closer to that in *Agustin* rather than *Banal III*, we find the former as the appropriate precedent to apply in this case.

For us to grant the present petition, it would be necessary to abandon the *Agbayani* rule providing that a private person must file the complaint for libel either in the place of printing and first publication, or at the complainant's place of residence. We would also have to abandon the subsequent cases that reiterate this rule in *Agbayani*, such as *Soriano*, *Agustin*, and *Macasaet*. There is no convincing reason to resort to such a radical action. These limitations imposed on libel actions filed by private persons are hardly onerous, especially as they still allow such persons to file the civil or criminal complaint in their respective places of residence, in which situation there is no need to embark on a quest to determine with precision where the libelous matter was printed and first published.

If this disquisition impresses an unduly formalistic reading of the Information at hand, it should be reiterated that the flaws in the Information strike at the very heart of the jurisdiction of the Manila RTC. It is settled that jurisdiction of a court over a criminal case is determined by the allegations of the complaint or information, [24] and the offense must have been committed or any one of its essential ingredients took place within the territorial jurisdiction of the court. [25] Article 360 states, in as unequivocal a manner as possible, that the criminal and civil

action for libel shall be filed with the court of the province or city "where the libelous article is printed and first published, or where any of the offended parties actually resides at the time of the commission of the offense." If the Information for libel does not establish with particularity any of these two venue requirements, the trial court would have no jurisdiction to hear the criminal case.

Another point bears to be added. We are unable to share petitioner's insistence that since the protection of members of the mass media from frivolous libel suits filed by public officers in far-flung places appears to have been a motivating force behind the amendments to Article 360, a more liberal interpretation of the provision should obtain if the complainant is a private person. Without the venue requirements under Article 360, a private person induced by a motive to harass could, similarly as a public officer, coerce a journalist to defend against a libel suit filed in the most remote of places. While Rep. Act No. 4363 does attribute value to the right to comment on the performance of public officials of their duties, it actually extends its protection to the right of any person to free expression, by assuring a reasonable venue requirement even if the subject of comment is not a public officer. Libel stands as an exception to one of the most cherished constitutional rights, that of free expression. While libel laws ensure a modicum of responsibility in one's own speech or expression, a prescribed legal standard that conveniences the easy proliferation of libel suits fosters an atmosphere that inhibits the right to speak freely. When such a prescribed standard is submitted for affirmation before this Court, as is done in this petition, it must receive the highest possible scrutiny, as it may interfere with the most basic of democratic rights.

Finally, we decline to resolve the other issues raised in the petition, as the Information by itself is defective on its face, for the reasons we have stated, that there is no need to evaluate whether Smart File was actually printed and first published in Manila or Makati City. The plain fact is that the Information failed to make the sufficient allegation in that regard, and even any ascertainment that the articles were printed and first published in Manila does not cure the jurisdictional defect of the Information.

WHEREFORE, the petition is DENIED.

SO ORDERED.

Quisumbing, (Chairperson), Carpio-Morales, and Velasco, Jr., JJ., concur.
Carpio, J., no part, close relation to respondent.

[1] Rollo, p. 36-37.

[2] Order penned by Judge Ramon O. Santiago. Id. at 425-426.

[3] No. L-47880, 30 April 1979, 89 SCRA 699.

[4] No. L-72383, 9 November 1988, 167 SCRA 222.

[5] Id. at 42; citing *Agbayani v. Sayo*, 89 SCRA 699.

[6] Rollo, pp. 10-11.

[7] *Agbayani v. Sayo*, supra note 3 at 704-705.

[8] See e.g., *People v. Hon. Chaves*, 445 Phil. 227, 237 (2003).

[9] G.R. No. 164938, 22 August 2005, 467 SCRA 604.

[10] Id. at 604.

[11]Id. at 610.

[12] G.R. No. 156747, 23 February 2005, 452 SCRA 255.

[13] Id. at 273.

[14]Id.

[15] Id. at 272.

[16]Id. at 274.

[17]Id. at 273.

[18] Rollo, p. 16.

[19] G.R. No. 167474, 15 November 2005, 475 SCRA 164.

[20] Id. at 168.

[21]Id. at 174.

[22]Id. at 172.

[23]Supra note 1.

[24] See e.g., *Macasaet v. People*, supra note 12 at 274.

[25] See *Agustin v. Pamintuan*, supra note 9, at 609; citing *Uy v. Court of Appeals*, G.R. No. 119000, 28 July 1997, 276 SCRA 367.

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