

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. JULIANA UBA AND CALIXTA UBA, ET AL., DEFENDANTS AND APPELLEES.*G. R. No. 13106. October 16, 1959*

Ponente: MONTEMAYOR, J.

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The Government is appealing the decision of the Court of First Instance of Misamis Occidental, dismissing the complaint for serious oral defamation against Juliana Uba and Calixta Uba on the ground of prescription.

On August 1, 1952, Demetria Somod-ong filed a complaint in the justice of the Peace Court of Oroquieta, Misamis Occidental, charging¹ the accused Juliana and Calixta, both surnamed Uba, with the crime of serious oral defamation said to have been committed against her on or before July 25, 1952 (Criminal Case No. 3415). Finding probable cause in the investigation conducted by it, the court elevated the case to the Court of First Instance where the Provincial Fiscal filed the corresponding information. However, by mistake, Pastora Somod-ong was designated the offended party, instead of Demetria. Because of this, the trial court dismissed the case. The Government appealed the order of dismissal to the Supreme Court (*People vs. Juliana Uba and Calixta Uba*, 99 Phil., 134; 52 Off. Gaz., [6] 3041). On May 18, 1956, this Tribunal promulgated a decision affirming the order of dismissal, holding that the trial court "did not err in dismissing the case for variance between the allegations in the complaint and the proof". At the same time, we held that the evidence showed that the accused were guilty of another act, that of insulting Demetria Somod-ong, and that the trial court should have, therefore, ordered the Fiscal to file another information with Demetria Somod-ong as the offended party and held the accused in custody to answer the new charge. The Provincial Fiscal was ordered by us to file a new information, charging the same defendants with the offense of serious oral defamation committed against Demetria Somod-ong.

Pursuant to said directive, the Provincial Fiscal on June 12, 1956, filed another complaint against Juliana Uba and Calixta Uba, charging them with the crime of serious oral defamation committed against Demetria Somod-ong (Criminal Case No. 4239). Counsel for the defense promptly moved for dismissal of the complaint on the ground that the accused would be placed twice in jeopardy and on the ground of prescription. Without deciding the question of double jeopardy, the trial court dismissed the complaint on September 5, 1957, holding that under Article 90 of the Revised Penal Code, the crime of serious oral defamation, prescribed in six months; and since the crime was said to have been committed on or about July 25, 1952, and the information was filed only on June 12, 1956, involving a period of more than four years, then the crime charged had already prescribed.

The trial court evidently overlooked the provision of Article 91 of the Revised Penal Code, which reads as follows:

"ARTICLE 91. Computation of prescription of offenses.—The period of prescription shall commence to run from the day of which the crime is discovered by the offended party, the authorities, or their agents, and shall

be interrupted by the filing of the complaint or information, and shall commence to run again when such proceedings terminate without the accused being convicted or acquitted or are unjustifiably stopped for any reason not imputable to him.

"The term of prescription shall not run when the offender is absent from the Philippine Archipelago."

From July 25, 1952, when the crime was committed, until August 1, 1952, when the complaint was filed in the Justice of the Peace Court, only seven days had elapsed for the purpose of computing the period of prescription. The filing of the complaint on the latter date suspended the running of the prescriptive period. Said period commenced to run again at most from May 18, 1956, the date of our decision, when the proceedings may be said to have been terminated. From that date until June 12, 1956, when the second information was filed by the Fiscal, less than a month had elapsed. Adding this period to the seven days which had already run from the date of the commission of the crime until the first complaint was filed, we have only about a month, which is certainly much less than the six month prescriptive period provided for the crime of serious oral defamation. It is, therefore, clear that the trial court erred in dismissing the second information on the ground of prescription.

Reversing the appealed decision of dismissal, this case is hereby ordered remanded to the trial court for further proceedings, with costs against the appellee.

Paras, C.J., Bengzon, Padilla, Bautista Angelo, Labrador, Concepcion Endencia, Barrera and Gutierrez David, JJ., concur.

[1] People vs. Aquino, 68 Phil., 590.

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