

JUDGE MARTIN A. OCAMPO, PETITIONER, VS. SUN-STAR PUBLISHING, INC., RESPONDENT.

G.R. No. 133575. December 15, 2000

Ponente: YNARES-SANTIAGO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-133575/>

YNARES-SANTIAGO, J.:

Before this Court is a Petition for Review on Certiorari seeking to set aside the April 20, 1998 Decision[1] of the Regional Trial Court of Cebu City, Branch 57, which dismissed petitioner's Complaint for Libel.

Petitioner is the presiding judge of the Regional Trial Court of Cebu City, Branch 7. He filed a Complaint[2] for Libel on account of two articles which appeared in the August 28, 1997 and August 30, 1997 issues of Sun-Star Daily, a provincial newspaper published and circulated by respondent in Cebu.

The August 28, 1997 article, which appeared on pages two (2) and twenty two (22) of the aforesaid newspaper, reads in full as follows -

"Judge Ocampo facing graft raps at Ombud

"BRANCH 7 Judge Martin Ocampo of the Regional Trial Court (RTC) faces graft charges before the Office of the Ombudsman for the Visayas.

Lawyer Elias Tan who also accused Ocampo of conduct unbecoming a judge asked the Supreme Court to bar Ocampo's retirement pending an investigation and deny the retirement benefits due him should he be convicted by final judgment.

Tan said Ocampo violated the provisions of judicial canons when he granted petition for relief from judgment on a dismissed case against the Millenium Industrial Commercial Corp. (MICC).

MICC, chaired by Tan, was sued for foreclosure of mortgage by Jackson Tan, a stockholder. The case, according to Tan, was already dismissed by Ocampo on July 12, 1996.

However, Tan added in his affidavit, Ocampo granted Jackson's petition for relief which alleged a "mistake" in that he has not received the certificate of stock worth P10 million from defendant MICC.

MICC counsel Romeo Tagra said: "The circumstances which plaintiff referred to as either fraud or mistake were already known and existing long before he filed the instant petition."

Ocampo, in an interview yesterday, down-played the filing of the case saying it is "natural" for the losing party to "hate" the judge.

He considers the case as "pure harassment."

"It's part of the professional hazards of a judge. Naturally, a losing party gets mad at the judge," he said.

He said he is just waiting for the time the anti-graft office asks him to comment on the complaint. "That's the time to really give my explanations on this harassment."

Tagra said of the grounds on the petition for relief: "The fraud under Rule 38, Sec. 2 (of the Rules of Court) contemplates an extrinsic fraud to be a ground to annul a final judgment; and mistake under the rules and jurisprudence cited does not contemplate a mistake committed by judicial error of law which may arise in the trial of the case. But a mistake of the party."

Tan added Ocampo set the hearing on the petition for relief on April 8, 1997, "However, during the scheduled date no actual hearing was conducted and MICC was not allowed to present its witness."

Instead, Tan said, Judge Ocampo adjudged counsel Tagra guilty of direct contempt on May 9, 1997 for filing a motion for reconsideration to the order granting the relief.

Tagra was also fined P10,000 and ordered imprisoned for five days.

On May 22, Tagra filed his motion for reconsideration citing that the "power to punish for contempt should be exercised on the preservative and not on the vindictive principle."

On July 21, Ocampo issued his decision on the case in favor of the plaintiff Jackson Tan and filed before the Supreme Court an administrative complaint against Tagra and his law firm, A.S. Dy and Associates.

On the same date, the Court of Appeals (CA) issued a temporary restraining order on a petition for certiorari filed by MICC enjoining Ocampo from further proceeding with the case and for Jackson Tan to explain why a writ of preliminary injunction should not be issued.

On August 15 this year, MICC filed a supplemental petition before the CA, "for notwithstanding the TRO issued by the CA, Judge Ocampo on July 21 issued a declaration of default and judgment by default despite MICC's manifestation and motion informing Ocampo that a petition for certiorari will be filed with the CA."

The August 30, 1997 article, appearing on pages two (2) and twenty six (26) of the paper, reads -

"No jurisdiction, says
Judge on Ombudsman

However, Ombudsman's office says it will raffle
Complaint filed by lawyer against judge

JUDGE Martin Ocampo of the Cebu Regional Trial Court (RTC) yesterday fumed over a news report about a complaint filed against him by a losing litigant, lawyer Elias Tan.

He said the Visayas Ombudsman's Office "has no jurisdiction whatsoever to investigate graft charges against judges for alleged `violations of judicial canons'."

The complaint, however, will take the normal route of being raffled to a graft investigator for evaluation, according to Ombudsman Director Virginia Santiago.

If there is administrative liability involved, she told Sun-Star Daily, the results will be sent to the Supreme Court. If the investigator finds a criminal case, the anti-graft office will proceed to investigate, review and possibly prosecute it, depending on the approval of Ombudsman Aniano Desierto.

"It will be evaluated first to determine if it is to be docketed as an administrative case or a criminal case, or both," Santiago said.

Judge Ocampo, in a letter to Sun-Star Daily, complained that the news report was "libelous" and damaging to his reputation.

He said the paper should have known better that the Ombudsman has no jurisdiction to investigate the case, only the Supreme Court.

The complaint on which the news report was based was filed with the Visayas Ombudsman's Office by Tan, a 64-year-old lawyer.

Sun-Star Daily delayed publication for one day to get the judge's comment. He was quoted in the report as describing the case as "pure harassment" and "part of the professional hazards of a judge."

"Naturally, a losing party gets mad at the judge, " Martin earlier said in an interview.

Tan, the complainant, is president of Millennium Industrial Commercial Corp., which was sued for foreclosure of mortgage by a stockholder.

The case was dismissed on July 12, 1996, but Judge Ocampo later granted a petition for relief from judgment when the stockholder, Jackson Tan, pointed to a "mistake" in that he had not received the certificate of stock worth P10 million from the company.

Elias Tan hit back by filing a complaint against the judge for violation of the Anti-Graft and Corrupt Practices Act, as amended, and for "conduct unbecoming of a judge."

Tan cited Sec. 3(e) - "Causing any undue injury to any party, or giving any private party, any unwarranted benefits, advantage, or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence.

On the matter of turf, Santiago affirmed that the anti-graft office has jurisdiction over the lawyer's complaint under Republic Act 6770 or the Ombudsman Act of 1989.

"It's not true (that we can't entertain complaints against judges). We can act on any complaints against all government officials even impeachment proceedings," she said.

Santiago added that the office recently recommended the filing of a criminal case against a judge. She gave no details but said the resolution is still with Ombudsman Desierto for approval."

Following the filing by respondent of its Answer to the Complaint as well as its Answer to Written Interrogatories posed by petitioner, the latter filed a Motion for Summary Judgment on October 22, 1997. During the hearing thereon, the parties agreed that the only issue for adjudication was whether or not the subject articles were attended by malice. They also agreed to submit their respective memoranda on the issue instead of going to trial. Accordingly, after the parties submitted their respective Memoranda, the case was deemed submitted for resolution. On April 20, 1998, the trial court dismissed petitioner's Complaint, finding that there was no malice on the part of respondent in publishing the subject articles.

Hence, the instant Petition for Review on the sole issue of - "(W)hether or not - on the basis of the facts admitted in the pleadings and Respondent's affidavits submitted to the Court a quo - Petitioner is entitled to a judgment for civil libel as a matter of law considering that only a preponderance of evidence is required to prove Respondent's liability." [3]

We find no merit in the instant Petition.

While the law presumes every defamatory imputation to be malicious, there are exceptions to this general rule, set forth in Article 354 of the Revised Penal Code, to wit -

"ART. 354. Requirement of publicity. - 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:

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."

We agree with the lower court that the subject articles fall under the second exception for the following reasons:

First, the articles complained of are fair and true reports of a judicial/administrative proceeding, which is not confidential in nature. They quote directly from the affidavit-complaint filed before the Ombudsman. Indeed, a perusal of the first article would readily show that it merely reported the filing of graft charges against petitioner before the Office of the Ombudsman for the Visayas. In so reporting, the article quoted from the affidavit-complaint filed by the complainant lawyer, Elias Tan, and narrated the antecedent facts leading to the filing of the graft charges. On the other hand, the second article presented petitioner's own reactions against the graft charges filed against him; with explanatory statements from Office of the Ombudsman Director Virginia Santiago refuting petitioner's claims that the said office had no jurisdiction over graft charges against judges for alleged violations of judicial canons.

Second, there were no comments or remarks made by the reporter of private respondent in both instances. The articles were pure reports of the graft charges filed against petitioner.

Third, they were both fair reports. The fairness and balance exercised by private respondent is evident in the fact that petitioner was given a chance to air his side on the graft charges filed against him. In fact, before the first article was published, private respondent's reporter took pains to interview petitioner on the matter; and his reactions were equally published in both articles.

Finally, the reports were also true accounts of a newsworthy event, the filing of graft charges against a local judge. It cannot be denied that petitioner did face "graft raps" at the Ombudsman as the complaint filed against him was for violation of Section 3(e) of the Anti-Graft and Corrupt Practices Act.[4] Neither can the narration in the articles be denied as these were merely culled from the subject affidavit-complaint.

Petitioner cannot insist that the case against him is confidential in nature because it has already been ruled that complaints are public records which may be published as such unless the Court directs otherwise in the interest of morality or decency.[5] Neither should the case of *In Re: Abistado*, [6] relied upon by petitioner, be applied to the instant case since, unlike *In Re: Abistado* where the proceedings were on charges of malpractice against a lawyer which are confidential in nature, the charge filed before the Ombudsman against petitioner is not administrative in nature, such as to fall under the confidentiality rule of the Rules of Court, but criminal in nature, being a graft charge under Republic Act No. 3019. Unlike the proceedings in this Court, which expressly mandates that its disciplinary proceedings for lawyers and judges are confidential in nature, the Office of the Ombudsman has no such confidentiality rule.

On the other hand, the Rules of Procedure of the Ombudsman allows the Office of the Ombudsman to publicize in a fair and balanced manner the filing of a complaint before it, among others.[7]

While the administrative nature of proceedings before us allows the protection of the personal and professional reputation of our colleagues in the profession of law and justice against baseless charges of disgruntled, vindictive and irresponsible clients and litigants, the criminal nature of the Anti-Graft and Corrupt Practices Act does not allow the same protection to our brethren in the judiciary, who are placed on the same level, without distinction, as other government employees. Violations of this law partake of an infinitely more serious nature, touching as it does on what has been perceived to be an endemic social cancer eroding our system of government. It cannot be denied that this is a matter in which the public has a legitimate interest and as such, media must be free to report thereon.[8]

We take judicial notice of the fact that petitioner Judge Martin A. Ocampo had already died. This, however, does not affect our decision to dismiss the instant Petition.

WHEREFORE, for the reasons aforestated, the Petition is hereby DISMISSED.

SO ORDERED.

Puno, Kapunan, and Pardo, JJ., concur.

Davide, Jr., C.J., (Chairman), I vote to dismiss the petition because of the death of petitioner.

[1] In Civil Case No. CEB-20841, penned by Judge Victorino U. Montecillo; Rollo, pp. 51-61.

[2] Rollo, pp. 7-41.

[3] Petition, p. 4; Rollo, p. 5.

[4] Republic Act No. 3019.

[5] Santos v. Court of Appeals, G.R. No. 45031, 203 SCRA 110 [1991].

[6] 57 Phil. 668, December 10, 1932.

[7] Sec. 2, Rule V of Administrative Order No. 7; Re: Rules of Procedure of the Office of the Ombudsman provides, to wit:

Sec. 2. Public Disclosure; Exemption. - When circumstances so warrant and with the due prudence, the Office of the Ombudsman may publicize in a fair and balanced manner the filing of a complaint, grievance or request for assistance, and the final resolution, decision or action taken thereon; Provided, however, that prior to such final action, no publicity shall be made of matters which may adversely affect national security or public interest, prejudice the safety of witnesses or the disposition of the case, or unduly expose the persons complained against to ridicule or public censure.

[8] Bulletin Publishing Corporation v. Noel, G.R. No. L-76565, 167 SCRA 255 [1988].

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.