

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. G. U. LIONG SIN, DEFENDANT AND APPELLANT.

G.R. No. 13784. January 06, 1919

Ponente: MALCOLM, J.

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MALCOLM, J.:

On November 14, 1916, there was published in the "Kong Li Po," a Chinese newspaper of the city of Manila, an article, which, in translation, reads as follows:

"Vice-diplomatic official disgraces his country. P500 a month for his expenses. All is Chinese people's money. Sent here to encourage gambling and disgrace country. We hope all Chinese residents rise and attack him.

"These few days what the press has reported, which is particularly welcomed as well as unlimitedly lamented by our Chinese residents, is about a certain club's gambling case. "The trouble is caused by well-known merchants, but what makes men hate the most is the encouragement strenuously exerted by a certain vice-official. The result is that today gambling dens have sprung up like trees and that countless merchants have been rendered bankrupt. Others gamble for pastime, but this vice-official makes money from it.

"We remember that last year as soon as the vice-official removed to a house near the Grand Opera House, a gambling den was set up. Every night the telephones of all big merchants ring when the vice-official calls for his gambling comrades. The vice-official is short and small, but very wise. He does not enter the game but sits beside it just counting chips for others. He gets a 10 per cent of the winnings. When there are no servants around he himself serves others tobacco and water. This is no exaggeration. All having been there remember it. Alas, a country's representative has thus become a slave! His house is surrounded by shady and thick trees and is a gambling resort. But things often happen beyond expectation, and the vice-official's nightly income averaging at P50 is cut off. For a certain wealthy man was one of the patrons and his motive was for something else. His eyes often peeped in the dark. The drunkard's object, was not gambling. Later the vice-official's wife knowing thoroughly the principles of virtue, demanded the stoppage of the business, threatening divorce. The vice-official obeyed with painful reluctance. Since then there has been no gambling in his house and he has never visited any other gambling den, for he is not fond, of gambling but of being a gambling host to be sure to make money.

"When the certain club was organized the vice-official was one of the organizers. He strongly advocates big games. Those a little known in gambling places are each night visited by messengers who say that the club was organized by the vice-official, is detective-proof, and is safer than a place insured against harm. So the business of other gambling dens is badly affected, and their owners have informed the secret service that the club really has come to be a gambling den.

"That night the vice-official was there counting chips for others. Had he actually been at the game we are afraid the merciless detectives must have ordered a special car to welcome him away and would surely not protect the honor of China's dignity. Alas, our nation yearly spends several thousand gold dollars to post such a gambling advocating official to disgrace the country Even if such an official system were suddenly abolished we think it would make no difference.

"Chinese residents! Chinese residents! Should we tolerate any longer such a degraded being."

The editor and proprietor of the "Kong Li Po" on this date was G. U. Liongsin, now become the defendant and appellant. His responsibility for the alleged libelous matter is not disputed. Neither was there any question that the article referred to the then Chinese Vice-consul in the city of Manila, whose name was Ling Pao Heng, alias, Paul H. Linn.

Because of these facts, G. U. Liongsin was prosecuted for the crime of libel, and on his failure, in the judgment of the trial court, to prove the truth of the article in question, and to establish good motives and justifiable ends, was found guilty and sentenced to two months imprisonment and to pay a fine of P200, with subsidiary imprisonment in case of insolvency, and the costs.

The numerous assignments of error by appellant present two principal questions: 1. Was the article published by defendant libelous per se; 2. Has the defense proved that the charges contained in the article were true and that they were published with good motives and for justifiable ends.

The first question offers no difficulty. The article was a vicious attack on the good name of the Chinese Vice-consul. It was more than mere criticism; it was scathing denunciation of that official's alleged wrongdoings, which put him in a bad light in the eyes of his countrymen, and which would be especially injurious to the career of one associated with the consular service. The newspaper editor pictures the Vice-consul, in a satirical vein, as having promoted the vice of gambling among the Chinese, as even having set up a gambling den in his own house, from which he was accustomed to collect a percentage, and as a slave doing menial work through his lust for gain. Insinuations as to the private life of the offended party are also made. The article ends by calling the consul a "degraded being."

This, within the meaning of our Libel Law, is a malicious defamation. It is clearly a libel.

The article in question being libelous per se., a complete defense could only consist of proof of the truth of the matter charged as libelous, and that it was published with good motives and for justifiable ends.

The lower court held that the defense had failed either to establish or to justify the charges. With this finding of the trial court we also agree. Thus, the defense, by witnesses, and the complainant, by admissions, showed that the consul had on different occasions engaged in a friendly game of machock with prominent Chinese visitors at his house. The judge who saw the game of machock played in court pronounced it to be a game of skill and not of chance. The further testimony of the witnesses for the accused, attempting to show that the offended party retained a certain percentage from the game and that he fomented the gambling evil among the Chinese community in the city of Manila, was discredited in the view of the lower court. Such, again, was the result of the effort of the defense to assail the morality of the Consul. To repeat, the defense has not by evidence, which is believable, justified the libelous article.

The motive, which actuated the defendant in publishing the article complained of, was apparently to call the attention of his countrymen to facts in relation to their consular representative at Manila, and which he believed to be true, with the view of changing the conditions, or of procuring the Consul's removal. The defendant declared upon the witness-stand as follows:

"I published this article because I had heard that many Chinamen were being ruined by the vice of gambling. I know of many cases in which the players had lost much money and some had become crazy. In another case, the most important because it was in relation to a Chinaman who had lost his fortune in gambling and afterward committed suicide by jumping into the river. Due to gambling many merchants ruin themselves and have been declared insolvent. Many others were arrested for gambling, some were dismissed and others went to jail. I have letters in which I am told to go myself to these places and obtain the news and I have also learned

the same from rumors. I have information in respect to him (meaning the vice-consul), and his general reputation that he gambled in his own house, the same as at a club, and because he is vice-consul of China in the Philippine Islands, and as such is considered as the second person among the Chinese in Manila, he has no right to gamble; and naturally if all the Chinese were to follow his example all would gamble, and that is the reason why I published the article in the belief that all Chinamen would stop gambling."

Such was, indeed, a laudable purpose. Unfortunately, however, the purpose merely veils what appears to be a mean desire of obtaining a redress of personal grievances. Unfortunately, again, the mere fact that defendant believed the charges to be true, or that at the time of publication the defamatory matter was the subject of general rumor or report, is no justification. Even goodness of intention is not always sufficient to warrant the giving of publicity to an injurious allegation of an untruth.

With this result, the trial court, apparently having in mind malice and bad faith on the part of the defendant, and the high standing of the offended party as a representative of the Republic of China, departed from his usual practice to impose a prison sentence. On a full consideration of all the facts of record, we agree with the decision of the trial court, except that we do not consider this such an aggravated case as would merit imprisonment. Accordingly, judgment is modified to the end that the defendant and appellant shall be sentenced to pay a fine of P500, or to suffer subsidiary imprisonment in case of insolvency, and to pay the costs of both instances. So ordered.

Arellano, C.J., Torres, Carson, Araullo, Street, Avanceña, and Moir, JJ., concur.

Johnson, J., reserves his vote.

Judgment modified.

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