

FILIPINAS BROADCASTING NETWORK, INC., PETITIONER, VS. AGO MEDICAL AND EDUCATIONAL CENTER-BICOL CHRISTIAN COLLEGE OF MEDICINE, (AMEC-BCCM) AND ANGELITA F. AGO, RESPONDENTS.

G.R. NO. 141994. January 17, 2005

Ponente: CARPIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-141994/>

CARPIO, J.:

The Case

This petition for review[1] assails the 4 January 1999 Decision[2] and 26 January 2000 Resolution of the Court of Appeals in CA-G.R. CV No. 40151. The Court of Appeals affirmed with modification the 14 December 1992 Decision[3] of the Regional Trial Court of Legazpi City, Branch 10, in Civil Case No. 8236. The Court of Appeals held Filipinas Broadcasting Network, Inc. and its broadcasters Hermogenes Alegre and Carmelo Rima liable for libel and ordered them to solidarily pay Ago Medical and Educational Center-Bicol Christian College of Medicine moral damages, attorney's fees and costs of suit.

The Antecedents

"Exposé" is a radio documentary[4] program hosted by Carmelo 'Mel' Rima ("Rima") and Hermogenes 'Jun' Alegre ("Alegre").[5] Exposé is aired every morning over DZRC-AM which is owned by Filipinas Broadcasting Network, Inc. ("FBNI"). "Exposé" is heard over Legazpi City, the Albay municipalities and other Bicol areas.[6]

In the morning of 14 and 15 December 1989, Rima and Alegre exposed various alleged complaints from students, teachers and parents against Ago Medical and Educational Center-Bicol Christian College of Medicine ("AMEC") and its administrators. Claiming that the broadcasts were defamatory, AMEC and Angelita Ago ("Ago"), as Dean of AMEC's College of Medicine, filed a complaint for damages[7] against FBNI, Rima and Alegre on 27 February 1990. Quoted are portions of the allegedly libelous broadcasts:

JUN ALEGRE:

Let us begin with the less burdensome: if you have children taking medical course at AMEC-BCCM, advise them to pass all subjects because if they fail in any subject they will repeat their year level, taking up all subjects including those they have passed already. Several students had approached me stating that they had consulted with the DECS which told them that there is no such regulation. If [there] is no such regulation why is AMEC doing the same?

xxx

Second: Earlier AMEC students in Physical Therapy had complained that the course is not recognized by DECS. xxx

Third: Students are required to take and pay for the subject even if the subject does not have an instructor - such greed for money on the part of AMEC's administration. Take the subject Anatomy: students would pay

for the subject upon enrolment because it is offered by the school. However there would be no instructor for such subject. Students would be informed that course would be moved to a later date because the school is still searching for the appropriate instructor.

xxx

It is a public knowledge that the Ago Medical and Educational Center has survived and has been surviving for the past few years since its inception because of funds support from foreign foundations. If you will take a look at the AMEC premises you'll find out that the names of the buildings there are foreign soundings. There is a McDonald Hall. Why not Jose Rizal or Bonifacio Hall? That is a very concrete and undeniable evidence that the support of foreign foundations for AMEC is substantial, isn't it? With the report which is the basis of the expose in DZRC today, it would be very easy for detractors and enemies of the Ago family to stop the flow of support of foreign foundations who assist the medical school on the basis of the latter's purpose. But if the purpose of the institution (AMEC) is to deceive students at cross purpose with its reason for being it is possible for these foreign foundations to lift or suspend their donations temporarily.[8]

xxx

On the other hand, the administrators of AMEC-BCCM, AMEC Science High School and the AMEC-Institute of Mass Communication in their effort to minimize expenses in terms of salary are absorbing or continues to accept "rejects". For example how many teachers in AMEC are former teachers of Aquinas University but were removed because of immorality? Does it mean that the present administration of AMEC have the total definite moral foundation from catholic administrator of Aquinas University. I will prove to you my friends, that AMEC is a dumping ground, garbage, not merely of moral and physical misfits. Probably they only qualify in terms of intellect. The Dean of Student Affairs of AMEC is Justita Lola, as the family name implies. She is too old to work, being an old woman. Is the AMEC administration exploiting the very [e]nterprising or compromising and undemanding Lola? Could it be that AMEC is just patiently making use of Dean Justita Lola were if she is very old. As in atmospheric situation – zero visibility – the plane cannot land, meaning she is very old, low pay follows. By the way, Dean Justita Lola is also the chairman of the committee on scholarship in AMEC. She had retired from Bicol University a long time ago but AMEC has patiently made use of her.

xxx

MEL RIMA:

xxx My friends based on the expose, AMEC is a dumping ground for moral and physically misfit people. What does this mean? Immoral and physically misfits as teachers.

May I say I'm sorry to Dean Justita Lola. But this is the truth. The truth is this, that your are no longer fit to teach. You are too old. As an aviation, your case is zero visibility. Don't insist.

xxx Why did AMEC still absorb her as a teacher, a dean, and chairman of the scholarship committee at that. The reason is practical cost saving in salaries, because an old person is not fastidious, so long as she has money to buy the ingredient of beetle juice. The elderly can get by – that's why she (Lola) was taken in as Dean.

xxx

xxx On our end our task is to attend to the interests of students. It is likely that the students would be influenced by evil. When they become members of society outside of campus will be liabilities rather than assets. What do you expect from a doctor who while studying at AMEC is so much burdened with unreasonable imposition? What do you expect from a student who aside from peculiar problems – because not all students are rich – in their struggle to improve their social status are even more burdened with false regulations. xxx[9] (Emphasis supplied)

The complaint further alleged that AMEC is a reputable learning institution. With the supposed exposés, FBNI, Rima and Alegre “transmitted malicious imputations, and as such, destroyed plaintiffs’ (AMEC and Ago) reputation.” AMEC and Ago included FBNI as defendant for allegedly failing to exercise due diligence in the selection and supervision of its employees, particularly Rima and Alegre.

On 18 June 1990, FBNI, Rima and Alegre, through Atty. Rozil Lozares, filed an Answer[10] alleging that the broadcasts against AMEC were fair and true. FBNI, Rima and Alegre claimed that they were plainly impelled by a sense of public duty to report the “goings-on in AMEC, [which is] an institution imbued with public interest.”

Thereafter, trial ensued. During the presentation of the evidence for the defense, Atty. Edmundo Cea, collaborating counsel of Atty. Lozares, filed a Motion to Dismiss[11] on FBNI’s behalf. The trial court denied the motion to dismiss. Consequently, FBNI filed a separate Answer claiming that it exercised due diligence in the selection and supervision of Rima and Alegre. FBNI claimed that before hiring a broadcaster, the broadcaster should (1) file an application; (2) be interviewed; and (3) undergo an apprenticeship and training program after passing the interview. FBNI likewise claimed that it always reminds its broadcasters to “observe truth, fairness and objectivity in their broadcasts and to refrain from using libelous and indecent language.” Moreover, FBNI requires all broadcasters to pass the Kapisanan ng mga Brodkaster sa Pilipinas (“KBP”) accreditation test and to secure a KBP permit.

On 14 December 1992, the trial court rendered a Decision[12] finding FBNI and Alegre liable for libel except Rima. The trial court held that the broadcasts are libelous per se. The trial court rejected the broadcasters’ claim that their utterances were the result of straight reporting because it had no factual basis. The broadcasters did not even verify their reports before airing them to show good faith. In holding FBNI liable for libel, the trial court found that FBNI failed to exercise diligence in the selection and supervision of its employees.

In absolving Rima from the charge, the trial court ruled that Rima’s only participation was when he agreed with Alegre’s exposé. The trial court found Rima’s statement within the “bounds of freedom of speech, expression, and of the press.” The dispositive portion of the decision reads:

WHEREFORE, premises considered, this court finds for the plaintiff. Considering the degree of damages caused by the controversial utterances, which are not found by this court to be really very serious and damaging, and there being no showing that indeed the enrollment of plaintiff school dropped, defendants Hermogenes “Jun” Alegre, Jr. and Filipinas Broadcasting Network (owner of the radio station DZRC), are hereby jointly and severally ordered to pay plaintiff Ago Medical and Educational Center-Bicol Christian College of Medicine (AMEC-BCCM) the amount of P300,000.00 moral damages, plus P30,000.00 reimbursement of attorney’s fees, and to pay the costs of suit.

SO ORDERED. [13] (Emphasis supplied)

Both parties, namely, FBNI, Rima and Alegre, on one hand, and AMEC and Ago, on the other, appealed the decision to the Court of Appeals. The Court of Appeals affirmed the trial court’s judgment with modification. The appellate court made Rima solidarily liable with FBNI and Alegre. The appellate court denied Ago’s claim for damages and attorney’s fees because the broadcasts were directed against AMEC, and not against her. The dispositive portion of the Court of Appeals’ decision reads:

WHEREFORE, the decision appealed from is hereby AFFIRMED, subject to the modification that broadcaster Mel Rima is SOLIDARILY ADJUDGED liable with FBN[I] and Hermo[g]enes Alegre.

SO ORDERED.[14]

FBNI, Rima and Alegre filed a motion for reconsideration which the Court of Appeals denied in its 26 January

2000 Resolution.

Hence, FBNI filed this petition.[15]

The Ruling of the Court of Appeals

The Court of Appeals upheld the trial court's ruling that the questioned broadcasts are libelous per se and that FBNI, Rima and Alegre failed to overcome the legal presumption of malice. The Court of Appeals found Rima and Alegre's claim that they were actuated by their moral and social duty to inform the public of the students' gripes as insufficient to justify the utterance of the defamatory remarks.

Finding no factual basis for the imputations against AMEC's administrators, the Court of Appeals ruled that the broadcasts were made "with reckless disregard as to whether they were true or false." The appellate court pointed out that FBNI, Rima and Alegre failed to present in court any of the students who allegedly complained against AMEC. Rima and Alegre merely gave a single name when asked to identify the students. According to the Court of Appeals, these circumstances cast doubt on the veracity of the broadcasters' claim that they were "impelled by their moral and social duty to inform the public about the students' gripes."

The Court of Appeals found Rima also liable for libel since he remarked that "(1) AMEC-BCCM is a dumping ground for morally and physically misfit teachers; (2) AMEC obtained the services of Dean Justita Lola to minimize expenses on its employees' salaries; and (3) AMEC burdened the students with unreasonable imposition and false regulations." [16]

The Court of Appeals held that FBNI failed to exercise due diligence in the selection and supervision of its employees for allowing Rima and Alegre to make the radio broadcasts without the proper KBP accreditation. The Court of Appeals denied Ago's claim for damages and attorney's fees because the libelous remarks were directed against AMEC, and not against her. The Court of Appeals adjudged FBNI, Rima and Alegre solidarily liable to pay AMEC moral damages, attorney's fees and costs of suit.

Issues

FBNI raises the following issues for resolution:

- WHETHER THE BROADCASTS ARE LIBELOUS;
- WHETHER AMEC IS ENTITLED TO MORAL DAMAGES;
- WHETHER THE AWARD OF ATTORNEY'S FEES IS PROPER; and
- WHETHER FBNI IS SOLIDARILY LIABLE WITH RIMA AND ALEGRE FOR PAYMENT OF MORAL DAMAGES, ATTORNEY'S FEES AND COSTS OF SUIT.

The Court's Ruling

We deny the petition.

This is a civil action for damages as a result of the allegedly defamatory remarks of Rima and Alegre against AMEC.[17] While AMEC did not point out clearly the legal basis for its complaint, a reading of the complaint reveals that AMEC's cause of action is based on Articles 30 and 33 of the Civil Code. Article 30[18] authorizes a separate civil action to recover civil liability arising from a criminal offense. On the other hand, Article 33[19] particularly provides that the injured party may bring a separate civil action for damages in cases of defamation, fraud, and physical injuries. AMEC also invokes Article 19[20] of the Civil Code to justify its claim for damages. AMEC cites Articles 2176[21] and 2180[22] of the Civil Code to hold FBNI solidarily liable with Rima and

Alegre.

I. Whether the broadcasts are libelous

A libel[23] 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.[24]

There is no question that the broadcasts were made public and imputed to AMEC defects or circumstances tending to cause it dishonor, discredit and contempt. Rima and Alegre's remarks such as "greed for money on the part of AMEC's administrators"; "AMEC is a dumping ground, garbage of xxx moral and physical misfits"; and AMEC students who graduate "will be liabilities rather than assets" of the society are libelous per se. Taken as a whole, the broadcasts suggest that AMEC is a money-making institution where physically and morally unfit teachers abound.

However, FBNI contends that the broadcasts are not malicious. FBNI claims that Rima and Alegre were plainly impelled by their civic duty to air the students' gripes. FBNI alleges that there is no evidence that ill will or spite motivated Rima and Alegre in making the broadcasts. FBNI further points out that Rima and Alegre exerted efforts to obtain AMEC's side and gave Ago the opportunity to defend AMEC and its administrators. FBNI concludes that since there is no malice, there is no libel.

FBNI's contentions are untenable.

Every defamatory imputation is presumed malicious.[25] Rima and Alegre failed to show adequately their good intention and justifiable motive in airing the supposed gripes of the students. As hosts of a documentary or public affairs program, Rima and Alegre should have presented the public issues "free from inaccurate and misleading information." [26] Hearing the students' alleged complaints a month before the exposé,[27] they had sufficient time to verify their sources and information. However, Rima and Alegre hardly made a thorough investigation of the students' alleged gripes. Neither did they inquire about nor confirm the purported irregularities in AMEC from the Department of Education, Culture and Sports. Alegre testified that he merely went to AMEC to verify his report from an alleged AMEC official who refused to disclose any information. Alegre simply relied on the words of the students "because they were many and not because there is proof that what they are saying is true." [28] This plainly shows Rima and Alegre's reckless disregard of whether their report was true or not.

Contrary to FBNI's claim, the broadcasts were not "the result of straight reporting." Significantly, some courts in the United States apply the privilege of "neutral reportage" in libel cases involving matters of public interest or public figures. Under this privilege, a republisher who accurately and disinterestedly reports certain defamatory statements made against public figures is shielded from liability, regardless of the republisher's subjective awareness of the truth or falsity of the accusation.[29] Rima and Alegre cannot invoke the privilege of neutral reportage because unfounded comments abound in the broadcasts. Moreover, there is no existing controversy involving AMEC when the broadcasts were made. The privilege of neutral reportage applies where the defamed person is a public figure who is involved in an existing controversy, and a party to that controversy makes the defamatory statement.[30]

However, FBNI argues vigorously that malice in law does not apply to this case. Citing *Borjal v. Court of Appeals*,[31] FBNI contends that the broadcasts "fall within the coverage of qualifiedly privileged communications" for being commentaries on matters of public interest. Such being the case, AMEC should prove malice in fact or actual malice. Since AMEC allegedly failed to prove actual malice, there is no libel.

FBNI's reliance on *Borjal* is misplaced. In *Borjal*, the Court elucidated on the "doctrine of fair comment," thus:

[F]air commentaries on matters of public interest are privileged and constitute a valid defense in an action for libel or slander. The doctrine of fair comment means that while in general every discreditable imputation publicly made is deemed false, because every man is presumed innocent until his guilt is judicially proved, and every false imputation is deemed malicious, nevertheless, when the discreditable imputation is directed against a public person in his public capacity, it is not necessarily actionable. In order that such discreditable imputation to a public official may be actionable, it must either be a false allegation of fact or a comment based on a false supposition. If the comment is an expression of opinion, based on established facts, then it is immaterial that the opinion happens to be mistaken, as long as it might reasonably be inferred from the facts.[32] (Emphasis supplied)

True, AMEC is a private learning institution whose business of educating students is “genuinely imbued with public interest.” The welfare of the youth in general and AMEC’s students in particular is a matter which the public has the right to know. Thus, similar to the newspaper articles in *Borjal*, the subject broadcasts dealt with matters of public interest. However, unlike in *Borjal*, the questioned broadcasts are not based on established facts. The record supports the following findings of the trial court:

xxx Although defendants claim that they were motivated by consistent reports of students and parents against plaintiff, yet, defendants have not presented in court, nor even gave name of a single student who made the complaint to them, much less present written complaint or petition to that effect. To accept this defense of defendants is too dangerous because it could easily give license to the media to malign people and establishments based on flimsy excuses that there were reports to them although they could not satisfactorily establish it. Such laxity would encourage careless and irresponsible broadcasting which is inimical to public interests.

Secondly, there is reason to believe that defendant radio broadcasters, contrary to the mandates of their duties, did not verify and analyze the truth of the reports before they aired it, in order to prove that they are in good faith.

Alegre contended that plaintiff school had no permit and is not accredited to offer Physical Therapy courses. Yet, plaintiff produced a certificate coming from DECS that as of Sept. 22, 1987 or more than 2 years before the controversial broadcast, accreditation to offer Physical Therapy course had already been given the plaintiff, which certificate is signed by no less than the Secretary of Education and Culture herself, Lourdes R. Quisumbing (Exh. C-rebuttal). Defendants could have easily known this were they careful enough to verify. And yet, defendants were very categorical and sounded too positive when they made the erroneous report that plaintiff had no permit to offer Physical Therapy courses which they were offering.

The allegation that plaintiff was getting tremendous aids from foreign foundations like McDonald Foundation prove not to be true also. The truth is there is no McDonald Foundation existing. Although a big building of plaintiff school was given the name McDonald building, that was only in order to honor the first missionary in Bicol of plaintiffs’ religion, as explained by Dr. Lita Ago. Contrary to the claim of defendants over the air, not a single centavo appears to be received by plaintiff school from the aforementioned McDonald Foundation which does not exist.

Defendants did not even also bother to prove their claim, though denied by Dra. Ago, that when medical students fail in one subject, they are made to repeat all the other subject[s], even those they have already passed, nor their claim that the school charges laboratory fees even if there are no laboratories in the school. No evidence was presented to prove the bases for these claims, at least in order to give semblance of good faith.

As for the allegation that plaintiff is the dumping ground for misfits, and immoral teachers, defendant[s] singled out Dean Justita Lola who is said to be so old, with zero visibility already. Dean Lola testified in court last Jan. 21, 1991, and was found to be 75 years old. xxx Even older people prove to be effective teachers like

Supreme Court Justices who are still very much in demand as law professors in their late years. Counsel for defendants is past 75 but is found by this court to be still very sharp and effective. So is plaintiffs' counsel.

Dr. Lola was observed by this court not to be physically decrepit yet, nor mentally infirmed, but is still alert and docile.

The contention that plaintiffs' graduates become liabilities rather than assets of our society is a mere conclusion. Being from the place himself, this court is aware that majority of the medical graduates of plaintiffs pass the board examination easily and become prosperous and responsible professionals.[33]

Had the comments been an expression of opinion based on established facts, it is immaterial that the opinion happens to be mistaken, as long as it might reasonably be inferred from the facts.[34] However, the comments of Rima and Alegre were not backed up by facts. Therefore, the broadcasts are not privileged and remain libelous per se.

The broadcasts also violate the Radio Code[35] of the Kapisanan ng mga Brodkaster sa Pilipinas, Ink. ("Radio Code"). Item I(B) of the Radio Code provides:

B. PUBLIC AFFAIRS, PUBLIC ISSUES AND COMMENTARIES

1. x x x

4. Public affairs program shall present public issues free from personal bias, prejudice and inaccurate and misleading information. x x x Furthermore, the station shall strive to present balanced discussion of issues. x x x.

x x x

7. The station shall be responsible at all times in the supervision of public affairs, public issues and commentary programs so that they conform to the provisions and standards of this code.

8. It shall be the responsibility of the newscaster, commentator, host and announcer to protect public interest, general welfare and good order in the presentation of public affairs and public issues.[36] (Emphasis supplied)

The broadcasts fail to meet the standards prescribed in the Radio Code, which lays down the code of ethical conduct governing practitioners in the radio broadcast industry. The Radio Code is a voluntary code of conduct imposed by the radio broadcast industry on its own members. The Radio Code is a public warranty by the radio broadcast industry that radio broadcast practitioners are subject to a code by which their conduct are measured for lapses, liability and sanctions.

The public has a right to expect and demand that radio broadcast practitioners live up to the code of conduct of their profession, just like other professionals. A professional code of conduct provides the standards for determining whether a person has acted justly, honestly and with good faith in the exercise of his rights and performance of his duties as required by Article 19[37] of the Civil Code. A professional code of conduct also provides the standards for determining whether a person who willfully causes loss or injury to another has acted in a manner contrary to morals or good customs under Article 21[38] of the Civil Code.

II. Whether AMEC is entitled to moral damages

FBNI contends that AMEC is not entitled to moral damages because it is a corporation.[39]

A juridical person is generally not entitled to moral damages because, unlike a natural person, it cannot experience physical suffering or such sentiments as wounded feelings, serious anxiety, mental anguish or moral shock.[40] The Court of Appeals cites *Mambulao Lumber Co. v. PNB, et al.*[41] to justify the award of moral damages. However, the Court's statement in *Mambulao* that "a corporation may have a good reputation which, if

besmirched, may also be a ground for the award of moral damages” is an obiter dictum.[42]

Nevertheless, AMEC’s claim for moral damages falls under item 7 of Article 2219[43] of the Civil Code. This provision expressly authorizes the recovery of moral damages in cases of libel, slander or any other form of defamation. Article 2219(7) does not qualify whether the plaintiff is a natural or juridical person. Therefore, a juridical person such as a corporation can validly complain for libel or any other form of defamation and claim for moral damages.[44]

Moreover, where the broadcast is libelous per se, the law implies damages.[45] In such a case, evidence of an honest mistake or the want of character or reputation of the party libeled goes only in mitigation of damages.[46] Neither in such a case is the plaintiff required to introduce evidence of actual damages as a condition precedent to the recovery of some damages.[47] In this case, the broadcasts are libelous per se. Thus, AMEC is entitled to moral damages.

However, we find the award of P300,000 moral damages unreasonable. The record shows that even though the broadcasts were libelous per se, AMEC has not suffered any substantial or material damage to its reputation. Therefore, we reduce the award of moral damages from P300,000 to P150,000.

III. Whether the award of attorney’s fees is proper

FBNI contends that since AMEC is not entitled to moral damages, there is no basis for the award of attorney’s fees. FBNI adds that the instant case does not fall under the enumeration in Article 2208[48] of the Civil Code.

The award of attorney’s fees is not proper because AMEC failed to justify satisfactorily its claim for attorney’s fees. AMEC did not adduce evidence to warrant the award of attorney’s fees. Moreover, both the trial and appellate courts failed to explicitly state in their respective decisions the rationale for the award of attorney’s fees.[49] In *Inter-Asia Investment Industries, Inc. v. Court of Appeals*,[50] we held that:

[I]t is an accepted doctrine that the award thereof as an item of damages is the exception rather than the rule, and counsel’s fees are not to be awarded every time a party wins a suit. The power of the court to award attorney’s fees under Article 2208 of the Civil Code demands factual, legal and equitable justification, without which the award is a conclusion without a premise, its basis being improperly left to speculation and conjecture. In all events, the court must explicitly state in the text of the decision, and not only in the decretal portion thereof, the legal reason for the award of attorney’s fees.[51] (Emphasis supplied)

While it mentioned about the award of attorney’s fees by stating that it “lies within the discretion of the court and depends upon the circumstances of each case,” the Court of Appeals failed to point out any circumstance to justify the award.

IV. Whether FBNI is solidarily liable with Rima and Alegre for moral damages, attorney’s fees and costs of suit

FBNI contends that it is not solidarily liable with Rima and Alegre for the payment of damages and attorney’s fees because it exercised due diligence in the selection and supervision of its employees, particularly Rima and Alegre. FBNI maintains that its broadcasters, including Rima and Alegre, undergo a “very regimented process” before they are allowed to go on air. “Those who apply for broadcaster are subjected to interviews, examinations and an apprenticeship program.”

FBNI further argues that Alegre’s age and lack of training are irrelevant to his competence as a broadcaster. FBNI points out that the “minor deficiencies in the KBP accreditation of Rima and Alegre do not in any way prove that FBNI did not exercise the diligence of a good father of a family in selecting and supervising them.” Rima’s accreditation lapsed due to his non-payment of the KBP annual fees while Alegre’s accreditation card

was delayed allegedly for reasons attributable to the KBP Manila Office. FBNI claims that membership in the KBP is merely voluntary and not required by any law or government regulation.

FBNI's arguments do not persuade us.

The basis of the present action is a tort. Joint tortfeasors are jointly and severally liable for the tort which they commit.[52] Joint tortfeasors are all the persons who command, instigate, promote, encourage, advise, countenance, cooperate in, aid or abet the commission of a tort, or who approve of it after it is done, if done for their benefit.[53] Thus, AMEC correctly anchored its cause of action against FBNI on Articles 2176 and 2180 of the Civil Code.

As operator of DZRC-AM and employer of Rima and Alegre, FBNI is solidarily liable to pay for damages arising from the libelous broadcasts. As stated by the Court of Appeals, "recovery for defamatory statements published by radio or television may be had from the owner of the station, a licensee, the operator of the station, or a person who procures, or participates in, the making of the defamatory statements." [54] An employer and employee are solidarily liable for a defamatory statement by the employee within the course and scope of his or her employment, at least when the employer authorizes or ratifies the defamation.[55] In this case, Rima and Alegre were clearly performing their official duties as hosts of FBNI's radio program *Exposé* when they aired the broadcasts. FBNI neither alleged nor proved that Rima and Alegre went beyond the scope of their work at that time. There was likewise no showing that FBNI did not authorize and ratify the defamatory broadcasts.

Moreover, there is insufficient evidence on record that FBNI exercised due diligence in the selection and supervision of its employees, particularly Rima and Alegre. FBNI merely showed that it exercised diligence in the selection of its broadcasters without introducing any evidence to prove that it observed the same diligence in the supervision of Rima and Alegre. FBNI did not show how it exercised diligence in supervising its broadcasters. FBNI's alleged constant reminder to its broadcasters to "observe truth, fairness and objectivity and to refrain from using libelous and indecent language" is not enough to prove due diligence in the supervision of its broadcasters. Adequate training of the broadcasters on the industry's code of conduct, sufficient information on libel laws, and continuous evaluation of the broadcasters' performance are but a few of the many ways of showing diligence in the supervision of broadcasters.

FBNI claims that it "has taken all the precaution in the selection of Rima and Alegre as broadcasters, bearing in mind their qualifications." However, no clear and convincing evidence shows that Rima and Alegre underwent FBNI's "regimented process" of application. Furthermore, FBNI admits that Rima and Alegre had deficiencies in their KBP accreditation,[56] which is one of FBNI's requirements before it hires a broadcaster. Significantly, membership in the KBP, while voluntary, indicates the broadcaster's strong commitment to observe the broadcast industry's rules and regulations. Clearly, these circumstances show FBNI's lack of diligence in selecting and supervising Rima and Alegre. Hence, FBNI is solidarily liable to pay damages together with Rima and Alegre.

WHEREFORE, we DENY the instant petition. We AFFIRM the Decision of 4 January 1999 and Resolution of 26 January 2000 of the Court of Appeals in CA-G.R. CV No. 40151 with the MODIFICATION that the award of moral damages is reduced from P300,000 to P150,000 and the award of attorney's fees is deleted. Costs against petitioner.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Ynares-Santiago, and Azcuna, JJ., concur.

- [1] Under Rule 45 of the 1997 Rules of Civil Procedure.
- [2] Penned by Associate Justice Oswaldo D. Agcaoili, with Associate Justices Corona Ibay-Somera and Mariano M. Umali concurring.
- [3] Penned by Judge Antonio A. Arcangel.
- [4] As AMEC and Ago alleged in their Memorandum in the trial court. Records, p. 243.
- [5] Alegre substituted Larry (Plaridel) Brocales who was absent then.
- [6] Records, p. 2.
- [7] Docketed as Civil Case No. 8236.
- [8] Exhibit “A-2,” Exhibits Folder, pp. 21-22.
- [9] Exhibit “A-3,” Exhibits Folder, pp. 23-25.
- [10] Records, pp. 28-30.
- [11] Ibid., pp. 147-155.
- [12] Rollo, pp. 52-68.
- [13] Ibid., pp. 67-68.
- [14] Ibid., p. 48.
- [15] Rima and Alegre did not join the instant petition.
- [16] Rollo, p. 45.
- [17] In *Lopez, etc., et al. v. CA, et al.*, 145 Phil. 219 (1970), the Court stated the following:
- It was held in *Lu Chu Sing v. Lu Tiong Gui*, that “the repeal of the old Libel Law (Act No. 277) did not abolish the civil action for libel.” A libel was defined in that Act as a “malicious defamation, expressed either in writing, printing, or by signs or pictures, or the like, ***, tending to blacken the memory of one who is dead or to impeach the honesty, virtue, or reputation, or publish the alleged or natural defects of one who is alive, and thereby expose him to public hatred, contempt, or ridicule.” There was an express provision in such legislation for a tort or quasi-delict action arising from libel. There is reinforcement to such a view in the new Civil Code providing for the recovery of moral damages for libel, slander or any other form of defamation. (Emphasis supplied)
- [18] Art. 30. When a separate civil action is brought to demand civil liability arising from a criminal offense, and no criminal proceedings are instituted during the pendency of the civil case, a preponderance of evidence shall likewise be sufficient to prove the act complained of.
- [19] Art. 33. In cases of defamation, fraud, and physical injuries, a civil action for damages, entirely separate and distinct from the criminal action, may be brought by the injured party. Such civil action shall proceed independently of the criminal prosecution, and shall require only a preponderance of evidence.
- [20] Art. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.
- [21] Art. 2176. Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence, if there is no pre-existing contractual relation between the

parties, is called a quasi-delict and is governed by the provisions of this Chapter.

[22] Art. 2180. The obligation imposed by article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.

xxx

The owners and managers of an establishment or enterprise are likewise responsible for damages caused by their employees in the service of the branches in which the latter are employed or on the occasion of their functions.

Employers shall be liable for the damages caused by their employees and household helpers acting within the scope of their assigned tasks, even though the former are not engaged in any business or industry.

xxx

[23] Should be difamacion as stated in *Lu Chu Sing and Lu Tian Chiong v. Lu Tiong Gui*, 76 Phil. 669 (1946).

[24] Article 353 of the Revised Penal Code.

[25] Article 354 of the Revised Penal Code provides:

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.

[26] Radio Code of the Kapisanan ng mga Brodkaster sa Pilipinas, Ink., Exhibit "4."

[27] TSN, 22 April 1991, pp. 15, 18-19. Rima, however, testified that he and Alegre made the exposés after three or four days from the time the students approached them. (TSN, 26 September 1992, pp. 47-48).

[28] TSN, 22 April 1991, p. 18.

[29] 50 Am Jur. 2d, Libel and Slander § 313.

[30] Ibid.

[31] 361 Phil. 1 (1999).

[32] Ibid.

[33] Rollo, pp. 65-67.

[34] *Borjal v. Court of Appeals*, supra note 31.

[35] 1989 Revised Edition, Exhibit "4."

[36] Ibid.

[37] Supra note 20.

[38] Article 21 of the Civil Code provides: "Any person who wilfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage."

[39] Rollo, p. 28.

[40] *People v. Manero, Jr.*, G.R. Nos. 86883-85, 29 January 1993, 218 SCRA 85.

[41] 130 Phil. 366 (1968). See also *People v. Manero, Jr.*, G.R. Nos. 86883-85, 29 January 1993, 218 SCRA 85.

[42] *ABS-CBN Broadcasting Corp. v. CA*, 361 Phil. 499 (1999).

[43] Article 2219(7) of the Civil Code provides: "Moral damages may be recovered in the following and analogous cases: x x x (7) Libel, slander or any other form of defamation; x x x."

[44] See *Yap, et al. v. Carreon*, 121 Phil. 883 (1965), where the appellants included Philippine Harvardian College which was an educational institution.

[45] See *Phee v. La Vanguardia*, 45 Phil. 211 (1923). See also *Jimenez v. Reyes*, 27 Phil. 52 (1914).

[46] *Phee v. La Vanguardia*, 45 Phil. 211 (1923).

[47] *Ibid.* Article 2216 of the Civil Code also provides that "No proof of pecuniary loss is necessary in order that moral, xxx damages may be adjudicated. The assessment of such damages, except liquidated ones, is left to the discretion of the court, according to the circumstances of each case."

[48] Art. 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

- (1) When exemplary damages are awarded;
- (2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;
- (3) In criminal cases of malicious prosecution against the plaintiff;
- (4) In case of a clearly unfounded civil action or proceeding against the plaintiff;
- (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;
- (6) In actions for legal support;
- (7) In actions for the recovery of wages of household helpers, laborers and skilled workers;
- (8) In actions for indemnity under workmen's compensation and employer's liability laws;
- (9) In a separate civil action to recover civil liability arising from a crime;
- (10) When at least double judicial costs are awarded;
- (11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable.

[49] *Koa v. Court of Appeals*, G.R. No. 84847, 5 March 1993, 219 SCRA 541 citing *Central Azucarera de Bais v. Court of Appeals*, G.R. No. 87597, 3 August 1990, 188 SCRA 328. See also *Abrogar v. Intermediate Appellate Court*, No. L-67970, 15 January 1988, 157 SCRA 57.

[50] G.R. No. 125778, 10 June 2003, 403 SCRA 452.

[51] Ibid. See *PNB v. CA*, 326 Phil. 504 (1996). See also *ABS-CBN Broadcasting Corp. v. CA*, 361 Phil. 499 (1999).

[52] *Worcester v. Ocampo*, 22 Phil. 42 (1912).

[53] Ibid.

[54] 50 Am. Jur. 2d, Libel and Slander § 370.

[55] Ibid., § 358.

[56] Rollo, p. 31.

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.