

JOSE ALEMANIA BUATIS, JR., PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES AND ATTY. JOSE J. PIERAZ, RESPONDENTS

G.R. NO. 142509. March 24, 2006

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before us is a petition for review on certiorari filed by Jose Alemania Buatis, Jr. (petitioner) seeking to set aside the Decision[1] dated January 18, 2000 of the Court of Appeals (CA) in CA-G.R. CR. No. 20988 which affirmed the decision of the Regional Trial Court (RTC), Branch 167 of Pasig City, convicting him of the crime of libel. Also assailed is the appellate court's Resolution[2] dated March 13, 2000 denying petitioner's Motion for Reconsideration.

The facts of the case, as summarized by the appellate court, are as follows:

On August 18, 1995, the wife of private-complainant Atty. Jose J. Pieraz (Atty. Pieraz), retrieved a letter from their mailbox addressed to her husband. The letter was open, not contained in an envelope, and Atty. Pieraz' wife put it on her husband's desk. On that same day, Atty. Pieraz came upon the letter and made out its content. It reads:

DON HERMOGENES RODRIGUEZ Y REYES ESTATE
Office of the Asst. Court Administrator
No. 1063 Kamias St., Bgy. Manggahan, Pasig City,
Metro Manila

August 18, 1995

ATTY. JOSE J. PIERAZ
Counsel for Benjamin A. Monroy
#8 Quirino St., Life Homes Subdivision
Rosario, Pasig City, Metro Manila
Subject: Anent your letter dated August 18, 1995

addressed to one Mrs. Teresita Quingco

Atty. Pieraz:

This has reference to your lousy but inutile threatening letter dated August 18, 1995, addressed to our client; using carabao English.

May we remind you that any attempt on your part to continue harassing the person of Mrs. Teresita Quingco of No. 1582 Mngo St., Bgy. Manggahan, Pasig City, Metro Manila—undersigned much to his regrets shall be constrained/compelled to file the necessary complaint for disbarment against you.

You may proceed then with your stupidity and suffer the full consequence of the law. Needless for you to cite specific provisions of the Revised Penal Code, as the same is irrelevant to the present case. As a matter of fact,

the same shall be used by no other than the person of Mrs. Quingco in filing administrative charge against you and all persons behind these nefarious activities.

Finally, it is a welcome opportunity for the undersigned to face you squarely in any courts of justice, so as we can prove "who is who" once and for all.

Trusting that you are properly inform (sic) regarding these matters, I remain.

Yours in Satan name;

(Signed)

JOSE ALEMANIA BUATIS, JR.

Atty-in- Fact of the present

Court Administrator of the entire

Intestate Estate of Don Hermogenes

Rodriguez Y. Reyes.

Copy furnished:

All concerned.

Not personally knowing who the sender was, Atty. Pieraz, nevertheless, responded and sent a communication by registered mail to said Buatis, Jr., accused-appellant. In reply, Buatis, Jr. dispatched a second letter dated August 24, 1995 to Atty. Pieraz.

Reacting to the insulting words used by Buatis, Jr., particularly: "Satan, senile, stupid, [E]nglish carabao," Atty. Pieraz filed a complaint for libel against accused-appellant. Subject letter and its contents came to the knowledge not only of his wife but of his children as well and they all chided him telling him: "Ginagawa ka lang gago dito."

Aside from the monetary expenses he incurred as a result of the filing of the instant case, Atty Pieraz' frail health was likewise affected and aggravated by the letter of accused-appellant.

The defense forwarded by accused-appellant Buatis, Jr. was denial. According to him, it was at the behest of the president of the organization "Nagkakaisang Samahan Ng Mga Taga Manggahan" or NASATAMA, and of a member, Teresita Quingco, that he had dictated to one of his secretaries, a comment to the letter of private-complainant in the second week of August 1995.

Initially during his testimony, Buatis, Jr. could not recall whether he had signed that letter-comment or if it was even addressed to Atty. Pieraz. Neither could he remember if he had made and sent another letter, this time dated August 24, 1995, to Atty. Pieraz. Confronted in court with the counter-affidavit which he filed before the Pasig City Prosecutor's Office, however, Buatis, Jr. could not deny its contents, among which was his admission that indeed, he had sent subject letter of August 18 and the letter dated August 24, 1995 to Atty. Pieraz.[3]

After trial on the merits, the RTC rendered its Decision dated April 30, 1997[4] finding petitioner guilty of the crime of libel, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered finding the accused Jose Alemania Buatis, Jr. GUILTY of the crime of LIBEL defined in Art. 353 and penalized under Art. 355 of the Revised Penal Code and is hereby sentenced to an indeterminate penalty of imprisonment of Four (4) Months and One (1) Day, as minimum, to Two (2) Years, Eleven (11) Months and Ten (10) Days, as maximum; to indemnify the offended party in the amount of P20,000.00, by way of compensatory damages; the amount of P10,000.00, as and for moral damages, and another amount of P10,000.00, for exemplary damages; to suffer all accessory penalties provided for by law; and, to pay the costs. [5]

The trial court ruled that: calling a lawyer "inutil", stupid and capable of using only carabao English, is intended not only for the consumption of respondent but similarly for others as a copy of the libelous letter was furnished all concerned; the letter was prejudicial to the good name of respondent and an affront to his standing as a lawyer, who, at the time the letter was addressed to him, was representing a client in whose favor he sent a demand letter to the person represented by petitioner; the letter is libelous per se since a defect or vice imputed is plainly understood as set against the entire message sought to be conveyed; petitioner failed to reverse the presumption of malice from the defamatory imputation contained in the letter; the letter could have been couched in a civil and respectful manner, as the intention of petitioner was only to advise respondent that demand was not proper and legal but instead petitioner was seething with hate and contempt and even influenced by satanic intention.

The RTC also found that since the letter was made known or brought to the attention and notice of other persons other than the offended party, there was publication; and that the element of identity was also established since the letter was intended for respondent. It rejected petitioner's stance that the libelous letter resulted from mistake or negligence since petitioner boldly admitted that he had to reply to respondent's letter to Mrs. Quingco, it being his duty to do as the latter is a member of petitioner's association.

The RTC found respondent entitled to recover compensatory damages as the immediate tendency of the defamatory imputation was to impair respondent's reputation although no actual pecuniary loss has in fact resulted. It also awarded moral damages as well as exemplary damages since the publication of the libelous letter was made with special ill will, bad faith or in a reckless disregard for the rights of respondent.

Subsequently, petitioner appealed the RTC's decision to the CA which, in a Decision dated January 18, 2000, affirmed in its entirety the decision of the trial court.

The CA found that the words used in the letter are uncalled for and defamatory in character as they impeached the good reputation of respondent as a lawyer and that it is malicious. It rejected petitioner's claim that the letter is a privileged communication which would exculpate him from liability since he failed to come up with a valid explanation as to why he had to resort to name calling and downgrading a lawyer to the extent of ridiculing him when he could have discharged his so called "duty" in a more toned down fashion. It found also that there was publication of the letter, thus, it cannot be classified as privileged.

The CA denied petitioner's motion for reconsideration in a Resolution dated March 13, 2000.

Hence the instant petition for review on certiorari filed by petitioner, raising the following issues:

- CAN THERE BE MALICE IN FACT, AS ONE OF THE ELEMENTS OF LIBEL, ATTRIBUTED TO A RESPONDING URBAN POOR LEADER ACTING AS COUNSEL, DEFENDING A MEMBER OF AN ASSOCIATION UNDER THREAT OF EJECTMENT FROM HER DWELLING PLACE?
- WHETHER OR NOT THE APPELLATE COURT ERRED IN NOT FINDING THE ALLEGED LIBELOUS LETTER AS ONE OF THOSE FALLING UNDER THE PURVIEW OF PRIVILEGE (sic) COMMUNICATION?
- WHETHER OR NOT THE APPELLATE COURT ERRED IN NOT FINDING THAT: THE PETITIONER CAN NOT BE MADE TO ACCEPT FULL RESPONSIBILITY THAT WHAT HE DID IS A CRIME?[6]

The Office of the Solicitor General filed its Comment in behalf of the People and respondent filed his own Comment praying for the affirmance of the CA decision. As required by us, the parties submitted their respective memoranda.

The principal issue for resolution is whether or not petitioner is guilty of the crime of libel.

In his Memorandum, petitioner claims that: the CA failed to apply the ruling in *People v. Velasco*[7] that "if the act/matter charged as libelous is only an incident in [an] act which has another objective, the crime is not libel;" when he made his reply to respondent's letter to Mrs. Quingco making a demand for her to vacate the premises, his objective was to inform respondent that Mrs. Quingco is one of the recognized tenants of the Rodriguez estate which is claiming ownership over the area of Brgy. Manggahan, Pasig City, and petitioner is the attorney-in-fact of the administrator of the Rodriguez estate; communication in whatever language, either verbal or written of a lawyer under obligation to defend a client's cause is but a privileged communication; the instant case is a qualified privileged communication which is lost only by proof of malice, however, respondent failed to present actual proof of malice; the existence of malice in fact may be shown by extrinsic evidence that petitioner bore a grudge against the offended party, or there was ill will or ill feeling between them which existed at the time of the publication of the defamatory imputation which were not at all indicated by respondent in his complaint; contrary to the findings of the CA, there was justifiable motive in sending such a letter which was to defend the vested interest of the estate and to abate any move of respondent to eject Mrs. Quingco.

Petitioner further argues that if the words used in the libelous letter-reply would be fully scrutinized, there is justification for the use of those words, to wit: "lousy but inutile threatening letter....using carabao English" was due to the fact that the demand letter was indeed a threatening letter as it does not serve its purpose as respondent's client has no legal right over the property and respondent did not file the ejectment suit; that respondent is just making a mockery out of Mrs. Quingco, thus he is stupid; that the words "Yours in Satan name" is only a complementary greeting used in an ordinary communication letter, which is reflected to the sender but not to the person being communicated and which is just the reverse of saying "Yours in Christ".

We deny the petition.

Article 353 of the Revised Penal Code defines libel as a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, 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.

For an imputation to be libelous, the following requisites must concur: (a) it must be defamatory; (b) it must be malicious; (c) it must be given publicity; and (d) the victim must be identifiable.[8]

The last two elements have been duly established by the prosecution. There is publication in this case. In libel, publication means making the defamatory matter, after it is written, known to someone other than the person against whom it has been written.[9] Petitioner's subject letter-reply itself states that the same was copy furnished to all concerned. Also, petitioner had dictated the letter to his secretary. It is enough that the author of the libel complained of has communicated it to a third person.[10] Furthermore, the letter, when found in the mailbox, was open, not contained in an envelope thus, open to public.

The victim of the libelous letter was identifiable as the subject letter-reply was addressed to respondent himself.

We shall then resolve the issues raised by petitioner as to whether the imputation is defamatory and malicious.

In determining whether a statement is defamatory, the words used are to be construed in their entirety and should be taken in their plain, natural and ordinary meaning as they would naturally be understood by persons reading them, unless it appears that they were used and understood in another sense.[11]

For the purpose of determining the meaning of any publication alleged to be libelous, we laid down the rule in *Jimenez v. Reyes*,[12] to wit:

In *Tawney vs. Simonson, Whitcomb & Hurley Co.* (109 Minn., 341), the court had the following to say on this point: "In determining whether the specified matter is libelous per se, two rules of construction are

conspicuously applicable: (1) That construction must be adopted which will give to the matter such a meaning as is natural and obvious in the plain and ordinary sense in which the public would naturally understand what was uttered. (2) The published matter alleged to be libelous must be construed as a whole."

In applying these rules to the language of an alleged libel, the court will disregard any subtle or ingenious explanation offered by the publisher on being called to account. The whole question being the effect the publication had upon the minds of the readers, and they not having been assisted by the offered explanation in reading the article, it comes too late to have the effect of removing the sting, if any there be, from the words used in the publication.[13]

Gauging from the above—mentioned tests, the words used in the letter dated August 18, 1995 sent by petitioner to respondent is defamatory. In using words such as "lousy", "inutile", "carabao English", "stupidity", and "satan", the letter, as it was written, casts aspersion on the character, integrity and reputation of respondent as a lawyer which exposed him to ridicule. No evidence aliunde need be adduced to prove it. As the CA said, these very words of petitioner have caused respondent to public ridicule as even his own family have told him: "Ginagawa ka lang gago dito." [14]

Any of the imputations covered by Article 353 is defamatory; and, under the general rule laid down in Article 354, 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. Thus, when the imputation is defamatory, the prosecution need not prove malice on the part of petitioner (malice in fact), for the law already presumes that petitioner's imputation is malicious (malice in law). [15] A reading of petitioner's subject letter-reply showed that he malevolently castigated respondent for writing such a demand letter to Mrs. Quingco. There was nothing in the said letter which showed petitioner's good intention and justifiable motive for writing the same in order to overcome the legal inference of malice.

Petitioner, however, insists that his letter was a private communication made in the performance of his moral and social duty as the attorney-in-fact of the administrator of the Rodriguez estate where Mrs. Quingco is a recognized tenant and to whom respondent had written the demand letter to vacate, thus in the nature of a privileged communication and not libelous.

We are not persuaded.

Article 354 of the Revised Penal Code provides:

Art. 354. Requirement for 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:

- A private communication made by any person to another in the performance of any legal, moral, or social duty; and
- 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.

Clearly, the presumption of malice is done away with when the defamatory imputation is a qualified privileged communication.

In order to prove that a statement falls within the purview of a qualified privileged communication under Article 354, No. 1, as claimed by petitioner, the following requisites must concur: (1) the person who made the communication had a legal, moral, or social duty to make the communication, or at least, had an interest to protect, which interest may either be his own or of the one to whom it is made; (2) the communication is

addressed to an officer or a board, or superior, having some interest or duty in the matter, and who has the power to furnish the protection sought; and (3) the statements in the communication are made in good faith and without malice.[16]

While it would appear that the letter was written by petitioner out of his social duty to a member of the association which he heads, and was written to respondent as a reply to the latter's demand letter sent to a member, however, a reading of the subject letter-reply addressed to respondent does not show any explanation concerning the status of Mrs. Quingco and why she is entitled to the premises as against the claim of respondent's client. The letter merely contained insulting words, i.e., "lousy" and "inutile letter using carabao English", "stupidity", and "satan", which are totally irrelevant to his defense of Mrs. Quingco's right over the premises. The words as written had only the effect of maligning respondent's integrity as a lawyer, a lawyer who had served as legal officer in the Department of Environment and Natural Resources for so many years until his retirement and afterwards as consultant of the same agency and also a notary public. The letter was crafted in an injurious way than what is necessary in answering a demand letter which exposed respondent to public ridicule thus negating good faith and showing malicious intent on petitioner's part.

Moreover, the law requires that for a defamatory imputation made out of a legal, moral or social duty to be privileged, such statement must be communicated only to the person or persons who have some interest or duty in the matter alleged, and who have the power to furnish the protection sought by the author of the statement.[17] A written letter containing libelous matter cannot be classified as privileged when it is published and circulated among the public.[18] In this case, petitioner admitted that he dictated the letter to one of her secretaries who typed the same and made a print out of the computer.[19] While petitioner addressed the reply-letter to respondent, the same letter showed that it was copy furnished to all concerned. His lack of selectivity is indicative of malice and is anathema to his claim of privileged communication.[20] Such publication had already created upon the minds of the readers a circumstance which brought discredit and shame to respondent's reputation.

Since the letter is not a privileged communication, malice is presumed under Article 354 of the Revised Penal Code. The presumption was not successfully rebutted by petitioner as discussed above.

Thus, we find that the CA did not commit any error in affirming the findings of the trial court that petitioner is guilty of the crime of libel.

An appeal in a criminal case throws the entire case for review and it becomes our duty to correct any error, as may be found in the appealed judgment, whether assigned as an error or not.[21] We find that the award of P20,000.00 as compensatory damages should be deleted for lack of factual basis. To be entitled to actual and compensatory damages, there must be competent proof constituting evidence of the actual amount thereof.[22] Respondent had not presented evidence in support thereof.

Article 355 of the Revised Penal Code penalizes libel by means of writings or similar means with prison correccional in its minimum and medium periods or a fine ranging from 200 to 6,000 pesos, or both, in addition to the civil action which may be brought by the offended party.

The courts are given the discretion to choose whether to impose a single penalty or conjunctive penalties; that is, whether to impose a penalty of fine, or a penalty of imprisonment only, or a penalty of both fine and imprisonment.

In *Vaca v. Court of Appeals*,[23] where petitioners therein were convicted of B.P. 22 which provides for alternative penalties of fine or imprisonment or both fine and imprisonment, we deleted the prison sentence imposed upon petitioners and instead ordered them only to pay a fine equivalent to double the amount of the

check. We held:

Petitioners are first-time offenders. They are Filipino entrepreneurs who presumably contribute to the national economy. Apparently, they brought this appeal, believing in all good faith, although mistakenly, that they had not committed a violation of B.P. Blg. 22. Otherwise, they could simply have accepted the judgment of the trial court and applied for probation to evade prison term. It would best serve the ends of criminal justice if in fixing the penalty within the range of discretion allowed by §1, par. 1, the same philosophy underlying the Indeterminate Sentence Law is observed, namely, that of redeeming valuable human material and preventing unnecessary deprivation of personal liberty and economic usefulness with due regard to the protection of the social order.[24]

In the subsequent case of *Lim v. People*,[25] we did the same and deleted the penalty of imprisonment and merely imposed a fine for violation of B.P. 22, concluding that such would best serve the ends of criminal justice.

Adopting these cases, we issued Administrative Circular No. 12-2000. On February 14, 2001, we issued Administrative Circular 13-2001 which modified Administrative Circular No. 12-2000 by stressing that the clear tenor of Administrative Circular No. 12-2000 is not to remove imprisonment as an alternative penalty, but to lay down a rule of preference in the application of the penalties provided for in B.P. 22.

While *Vaca* case is for violation of B.P. 22, we find the reasons behind the imposition of fine instead of imprisonment applicable to petitioner's case of libel. We note that this is petitioner's first offense of this nature. He never knew respondent prior to the demand letter sent by the latter to Mrs. Quingco who then sought his assistance thereto. He appealed from the decision of the RTC and the CA in his belief that he was merely exercising a civil or moral duty in writing the letter to private complainant. In fact, petitioner could have applied for probation to evade prison term but he did not do so believing that he did not commit a crime thus, he appealed his case. We believe that the State is concerned not only in the imperative necessity of protecting the social organization against the criminal acts of destructive individuals but also in redeeming the individual for economic usefulness and other social ends.[26] Consequently, we delete the prison sentence imposed on petitioner and instead impose a fine of six thousand pesos.

This is not the first time that we removed the penalty of imprisonment and imposed a fine instead in the crime of libel. In *Sazon v. Court of Appeals*,[27] petitioner was convicted of libel and was meted a penalty of imprisonment and fine; and upon a petition filed with us, we affirmed the findings of libel but changed the penalty imposed to a mere fine.

WHEREFORE, the decision of the Court of Appeals is hereby AFFIRMED with the MODIFICATIONS that, in lieu of imprisonment, the penalty to be imposed upon the petitioner shall be a fine of Six Thousand (P6,000.00) Pesos with subsidiary imprisonment in case of insolvency. The award of compensatory damages is DELETED.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Penned by Justice Martin S. Villarama, Jr., concurred in by Justices Quirino D. Abad Santos, Jr., and B.A. Adefuin-dela Cruz; rollo, pp. 30-37.

[2] Rollo, p. 26.

[3] Id. at 31-33.

[4] Id. at 41-47; Penned by Judge Alfredo C. Flores.

[5] Id. at 47.

[6] Id. at 17.

[7] G.R. No. 43186, CA, February 19, 1937.

[8] *Alonzo v. Court of Appeals*, 311 Phil. 60, 71 (1995).

[9] *Ledesma v. Court of Appeals*, 344 Phil. 207, 239 (1997).

[10] *Aquino*, *The Revised Penal Code*, 1997 edition, Vol. III, p. 551 citing 36 C.J. 1223; *Adamos*, CA 35 O.G. 496; *Dela Vega-Cayetano*, CA 52 O.G. 240; *Jose Andrada*, CA 37 O.G. 1782.

[11] *Novicio v. Aggabao*, G.R. No. 141332, December 11, 2003, 418 SCRA 138, 143.

[12] 27 Phil. 52 (1914).

[13] Id. at 59-60.

[14] *Rollo*, p. 34.

[15] *Sazon v. Court of Appeals*, 325 Phil. 1053, 1065 (1996).

[16] *Brillante v. Court of Appeals*, G.R. Nos. 118757 & 121571, October 19, 2004, 440 SCRA 541, 569.

[17] Id. at 570-571.

[18] *Daez v. Court of Appeals*, G.R. No. 47971, October 31, 1990, 191 SCRA 61, 69, citing *Lacsa v. Intermediate Appellate Court*, G.R. No. L-74907, May 23, 1988, 161 SCRA 427.

[19] *TSN*, December 12, 1996, p. 4.

[20] *Supra* note 16 at 571.

[21] *Lee v. Court of Appeals*, G.R. No. 145498, January 17, 2005, 448 SCRA 455, 477.

[22] *Cañal v. People*, G.R. No. 163181, October 19, 2005, citing *People v. Agudez*, G.R. Nos. 138386-87, May 20, 2004, 428 SCRA 692.

[23] 359 Phil. 187.

[24] Id. at 195.

[25] 394 Phil. 844, 854 (2000).

[26] *De Joya v. The Jail Warden of Batangas City*, G.R. Nos. 159418-19, December 10, 2003, 417 SCRA 636, 645, citing *People v. Ducosin*, 59 Phil. 109 (1933) .

[27] *Supra* note 15 at 703.

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