

ALLEN A. MACASAET, NICOLAS V. QUIJANO, JR., AND ALFIE LORENZO, PETITIONERS, VS. THE PEOPLE OF THE PHILIPPINES AND JOSELITO TRINIDAD, RESPONDENTS.

G.R. NO. 156747. February 23, 2005

Ponente: CHICO-NAZARIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-156747/>

CHICO-NAZARIO, J.:

Before Us is a Petition for Review on Certiorari under Rule 45 of the Revised Rules of Court of the Decision^[1] dated 22 March 2002 and Resolution dated 6 January 2003 of the Court of Appeals in CA-G.R. CR No. 22067 entitled, “People of the Philippines v. Alfie Lorenzo, et al.”

The factual antecedents are as follows:

In an Information dated 10 July 1997, Alfie Lorenzo, Allen Macasaet, Nicolas Quijano, Jr., and Roger Parajes, columnist, publisher, managing editor, and editor, respectively of the newspaper “Abante” were charged before the Regional Trial Court (RTC) of Quezon City, with the crime of libel. The information, which was raffled off to Branch 93 of said court, reads:

The undersigned accuses ALFIE LORENZO, ALLEN MACASAET, NICOLAS QUIJANO JR., ROGER B. PARAJES and JORDAN CASTILLO, of the crime of LIBEL, committed as follows:

That on or about the 13th day of July, 1996 in Quezon City, Philippines, the said accused ALFIE LORENZO, columnist, ALLEN MACASAET, publisher, NICOLAS QUIJANO JR., managing editor, ROGER B. PARAJES, editor, respectively of “Abante” a newspaper of general circulation in the Philippines, and JORDAN CASTILLO, conspiring, confederating together and mutually helping one another, with evident intent of exposing JOSELITO MAGALLANES TRINIDAD, a.k.a. JOEY TRINIDAD a.k.a. TOTO TRINIDAD to public hatred, dishonor, discredit and contempt and ridicule, did, then and there willfully, unlawfully and feloniously and maliciously write, publish, exhibit and circulate and/or cause to be written, published, exhibited and circulated in the aforesaid newspaper, in its issue of July 13, 1996 an article which reads as follows:

“Humarap sa ilang reporters si Jordan Castillo hindi para magkaroon ng writeups kundi para ituwid lang ang ilang bagay na baluktot at binaluktot pang lalo ng isang Toto Trinidad.

Hindi namin naging barkada si Joey Trinidad. Bah, Toto na pala siya ngayon. Anong palagay niya sa sarili niya, si Direk Toto Natividad siya? Nakikibuhay lang talaga yang taong ‘yan sa amin sa Liberty Ave. noon. Ni hindi nga pinapansin ni Tito Alfie ‘yan dahil nga sa amoy-pawis siya pagkatapos mag-barbell. Kami naka-shower na, si Joey punas lang nang punas sa katawan niya ng T-shirt niyang siya ring isusuot niya pagkatapos na gawing pamunas!

Madalas ngang makikain sa amin yan noon. Galit na galit nga ang mayordoma naming si Manang Hilda noon dahil nagkukulang ang rasyon namin dahil dagdag pakainin nga yang si Joey. Tamang-tama nga lang sa amin ang kanin at ulam, pero sinusugod pa niya ang kaldero para magkayod ng natitirang tutong sa kaldero. Naaawa nga ako madalas diyan kaya sineshare ko na lang ang pagkain ko sa kanya.

Ewan ko kung anong naisipan ng taong ‘yan at pagsasalitaan pa niya ng masama si Tito Alfie. Hindi man lang siya tumanaw ng utang na loob na kahit konti at kahit na sandali ay naitawid ng gutom niya. Hindi ko alam kung may kunsenya pa ang gangyang klaseng tao, pero sana naman ay makunsensya ka, Pare!

Madalas nga itinatago ka na nga namin ni Tito Alfie para hindi mahighblood sa iyo, ganyan pa ang gagawin mo. Napupuyat nga si Manang Hilda sa pagbabantay sa iyo at hindi makatulog ang matanda hangga’t hindi ka pa umuuwi, magsasalita ka pa ng mga inimbento mo. Pati nga si Eruel ay madalas mabanas sa iyo, natatandaan mo pa ba, dahil sa kakulitan mo! Pilit mo kaming binubuyo na sabihin kay Tito Alfie na tulungan ka rin tulad ng tulong na ibinibigay ni Tito Alfie na pag-aalaga sa amin. Pero hate na hate ka nga ni Tito Alfie dahil sa masamang ugali, natatandaan mo pa ba yun? Kaya tiyak ko na imbento mo lang ang lahat ng pinagsasabi mo para makaganti ka kay Tito Alfie,” ani Jordan sa mga nag-interbyu sa kanyang legitimate writers.

Hindi na siguro namin kailangan pang dagdagan ang mga sinabi ng sinasabi ni Toto Trinidad na mga barkada niya at kapwa niya kuno Liberty Boys!”

thereby publicly imputing a crime, vice or defect, real or imaginary or an act, omission, condition, status or circumstance and causing in view of their publication, discredit and contempt upon the person of said JOSELITO MAGALLANES TRINIDAD a.k.a. JOEY TRINIDAD a.k.a. TOTO TRINIDAD, to his damage and prejudice.[2]

In an Order dated 16 July 1997, Judge Apolinario D. Bruselas, Jr., presiding judge of RTC, Branch 93, Quezon City, set the arraignment of the petitioners on 27 August 1997.[3]

On 22 August 1997, petitioners filed before the court a quo an Urgent Motion to Suspend Arraignment and/or Defer Proceedings dated 21 August 1997 claiming that they intended to elevate the adverse Resolution of the Office of the City Prosecutor of Quezon City to the Department of Justice (DOJ) for review. Despite this motion, the scheduled arraignment of petitioners pushed through on 27 August 1997. During said proceeding, petitioners Lorenzo and Quijano, Jr., together with their co-accused Parajes and Castillo, refused to enter any plea and so the trial court ordered that a plea of not guilty be entered into the records on their behalf.[4] As for petitioner Macasaet, his arraignment was rescheduled to 20 October 1997 due to his failure to attend the previously calendared arraignment.

On 12 September 1997, petitioners filed a Motion to Dismiss the libel case on the ground that the trial court did not have jurisdiction over the offense charged. According to petitioners, as the information discloses that the residence of private respondent was in Marikina, the RTC of Quezon City did not have jurisdiction over the case pursuant to Article 360 of the Revised Penal Code, to wit:

The criminal and civil action for damages in cases of written defamations as provided for in this chapter, shall be filed simultaneously or separately with the Court of First Instance of the province or city where the libelous article is printed and first published or where any of the offended parties actually resides at the time of the commission of the offense...[5] (Emphasis supplied.)

Subsequently, on 23 September 1997, the trial court received by way of registered mail, petitioners’ Motion for Reconsideration and to Withdraw Plea dated 3 September 1997.[6] Petitioners argued therein that the trial court committed grave error when it denied the petitioners’ Urgent Motion to Suspend Arraignment and/or Defer Proceedings and continued with the scheduled arraignment on 27 August 1997. According to petitioners and their co-accused, by the trial judge’s denial of their Urgent Motion to Defer Arraignment and/or Defer Proceedings, he had effectively denied them their right to obtain relief from the Department of Justice. Moreover, banking on the case of *Roberts, et al. v. Court of Appeals*, [7] the petitioners and their fellow accused contended that since they had already manifested their intention to file a petition for review of the Resolution of the city prosecutor of Quezon City before the DOJ, it was premature for the trial court to deny their urgent motion of 21 August 1997. Finally, petitioners and their co-accused claimed that regardless of the outcome of their petition for review before

the DOJ, the withdrawal of their “not guilty” pleas is in order as they planned to move for the quashal of the information against them.

In an Order dated 26 September 1997,[8] Judge Bruselas, Jr., ruled that “with the filing of the ‘Motion to Dismiss,’ the court considers the accused to have abandoned their ‘Motion for Reconsideration and to Withdraw Plea’ and sees no further need to act on the same.”

In his Opposition to the Motion to Dismiss dated 23 September 1997,[9] the public prosecutor argued that the RTC, Quezon City, had jurisdiction over the case. He maintained that during the time material to this case, private respondent (private complainant below) was a resident of both 28-D Matino St. corner Malumanay St., Sikatuna Village, Quezon City and Karen St., Paliparan, Sto. Niño, Marikina, Metro Manila, as shown in his Reply-Affidavit of 11 October 1996 filed during the preliminary investigation of the case.

For their part, the petitioners and their co-accused countered that it was incorrect for the public prosecutor to refer to the affidavit purportedly executed by private respondent as it is “axiomatic that the resolution of a motion to quash is limited to a consideration of the information as filed with the court, and no other.” Further, as both the complaint-affidavit executed by private respondent and the information filed before the court state that private respondent’s residence is in Marikina City, the dismissal of the case is warranted for the rule is that jurisdiction is determined solely by the allegations contained in the complaint or information.[10]

On 16 October 1997, petitioners and their fellow accused filed a Supplemental Reply[11] attaching thereto certifications issued by Jimmy Ong and Pablito C. Antonio, barangay captains of Barangay Malaya, Quezon City and Barangay Sto. Niño, Marikina City, respectively. The pertinent portion of the barangay certification[12] issued by Barangay Captain Ong states:

This is to certify that this office has no record on file nor with the list of registered voters of this barangay regarding a certain person by the name of one MR. JOSELITO TRINIDAD.

This further certifies that our BSDO’s (have) been looking for said person seeking information regarding his whereabouts but to no avail.

On the other hand, the certification[13] issued by Barangay Captain Antonio, reads in part:

This is to certify that JOSELITO TRINIDAD of legal age, single/married/separate/widow/widower, a resident of Karen Street, Sto. Niño, Marikina City is a bonafide member of this barangay.

...

This is being issued upon request of the above-named person for “IDENTIFICATION.”

During the hearing on 20 October 1997, the trial court received and marked in evidence the two barangay certifications. Also marked for evidence were page 4 of the information stating the address of private respondent to be in Marikina City and the editorial box appearing in page 18 of Abante indicating that the tabloid maintains its editorial and business offices at Rm. 301/305, 3/F BF Condominium Bldg., Solana cor. A. Soriano Sts., Intramuros, Manila. The prosecution was then given five (5) days within which to submit its comment to the evidence submitted by the petitioners and their fellow accused.

In his Rejoinder to Supplemental Reply,[14] private respondent contended that the certification issued by the barangay captain of Barangay Malaya was issued after he had already moved out of the apartment unit he was renting in Sikatuna Village, Quezon City; that owners of residential houses do not usually declare they rent out rooms to boarders in order to avoid payment of local taxes; and that there is no showing that a census was conducted among the residents of Barangay Malaya during the time he resided therein.

As regards the certification issued by the barangay chairman of Sto. Niño, Marikina City, private respondent argued that it is of judicial notice that barangay and city records are not regularly updated to reflect the transfer of residence of their constituents and that a perusal of said certification reveals that the barangay captain did not personally know him (private respondent). Finally, private respondent claimed that his receipt of the copy of petitioners' Appeal to the DOJ, which was sent to his alleged address in Sikatuna Village, Quezon City, proved that he did, in fact, reside at said place.

On 24 November 1997, the trial court rendered an Order dismissing the case due to lack of jurisdiction.[15] The court a quo noted that although the information alleged the venue of this case falls within the jurisdiction of Quezon City, the evidence submitted for its consideration indicated otherwise. First, the editorial box of Abante clearly indicated that the purported libelous article was printed and first published in the City of Manila. In addition, the trial court relied on the following matters to support its conclusion that, indeed, jurisdiction was improperly laid in this case: a) on page 4 of the information, the address of private respondent appeared to be the one in Marikina City although right below it was a handwritten notation stating "131 Sgt. Lozano St., Barangay Sacred Heart, QC"; b) the two barangay certifications submitted by the petitioners; and c) the Memorandum for Preliminary Investigation and Affidavit-Complaint attached to the information wherein the given address of private respondent was Marikina City.

On 03 December 1997, private respondent filed a motion for reconsideration[16] insisting that at the time the alleged libelous article was published, he was actually residing in Quezon City. According to him, he mistakenly stated that he was a resident of Marikina City at the time of publication of the claimed defamatory article because he understood the term "address" to mean the place where he originally came from. Nevertheless, the error was rectified by his supplemental affidavit which indicated Quezon City as his actual residence at the time of publication of the 13 July 1996 issue of Abante.

On 22 January 1998, private respondent filed a supplemental motion for reconsideration to which he attached an affidavit executed by a certain Cristina B. Del Rosario, allegedly the owner of the house and lot in Sikatuna Village, Quezon City, where private respondent supposedly lived from July 1996 until May 1997. She also stated in her affidavit that she was not aware of any inquiry conducted by the barangay officials of Barangay Malaya regarding the residency of private respondent in their locality.

Through an Order dated 12 February 1998, the trial court denied private respondent's motion for reconsideration, ruling thus:

[Del Rosario's] affidavit appears to have been executed only on 19 January 1998 to which fact the court can only chuckle and observe that evidently said affidavit is in the nature of a curative evidence, the weight and sufficiency of which is highly suspect.[17]

Undaunted, the public and the private prosecutors filed a notice of appeal before the court a quo.[18] In the Decision now assailed before us, the Court of Appeals reversed and set aside the trial court's conclusion and ordered the remand of the case to the court a quo for further proceedings. The dispositive portion of the appellate court's decision reads:

WHEREFORE, in view of the foregoing, the Order dated November 24, 1997 of the Regional Trial Court, Branch 93, Quezon City, in Criminal Case No. Q-97-71903, dismissing the case filed against herein accused-appellees on the ground of lack of jurisdiction, is hereby REVERSED and SET ASIDE, and a new one entered remanding the case to the court a quo for further proceedings.[19]

The Court of Appeals held that jurisprudentially, it is settled that the "residence of a person must be his personal, actual or physical habitation or his actual residence or abode" and for the purpose of determining venue, actual

residence is a person's place of abode and not necessarily his legal residence or domicile.[20] In this case, the defect appearing on the original complaint wherein the residence of private respondent was indicated to be Marikina City was subsequently cured by his supplemental-affidavit submitted during the preliminary investigation of the case. Moreover, as the amendment was made during the preliminary investigation phase of this case, the same could be done as a matter of right pursuant to the Revised Rules of Court.[21]

As for the barangay certifications issued by the barangay chairmen of Barangay Malaya and Barangay Sto. Niño, the Court of Appeals ruled that they had no probative value ratiocinating in the following manner:

. . . With respect to the requirement of residence in the place where one is to vote, residence can mean either domicile or temporary residence (Bernas, *The 1987 Constitution A Primer*, 3[rd] Ed., p. 209). Therefore, one who is a resident of Quezon City can be a voter of Marikina if the latter is his domicile. Conversely, a person domiciled in Marikina can vote in Quezon City if he resides in the latter. It is just a matter of choice on the part of the voter. Thus, logic does not support the supposition that one who is not a registered voter of a place is also not a resident thereof. Furthermore, the right to vote has the corollary right of not exercising it. Therefore, one need not even be a registered voter at all. The same principle applies to the certification issued by the barangay in Marikina.[22]

The appellate court likewise gave weight to the affidavit executed by Del Rosario and observed that petitioners failed to controvert the same.

The petitioners thereafter filed a motion for reconsideration which was denied by the Court of Appeals in a Resolution promulgated on 6 January 2003.[23]

Hence, this petition raising the following issues:

I

THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN RULING THAT THE REGIONAL TRIAL COURT OF QUEZON CITY HAS TERRITORIAL JURISDICTION OVER THE CRIME CHARGED.

II

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN ADMITTING THE AFFIDAVIT OF CRISTINA B. DEL ROSARIO.

III

THE COURT OF APPEALS ERRED IN SUSTAINING RESPONDENT TRINIDAD'S PERSONALITY TO APPEAL A CRIMINAL CASE.[24]

Petitioners insist that the evidence presented before the trial court irrefutably established the fact that private respondent was not a resident of Quezon City at the time the alleged libelous publication saw print. According to them, the information dated 10 July 1997 filed before the RTC of Quezon City indicated private respondent's address to be in Karen St., Paliparan, Sto. Niño, Marikina City. Further supporting this claim were the affidavit-complaint[25] and the memorandum for preliminary investigation[26] where references were explicitly made to said address. Thus, petitioners are of the view that the Court of Appeals erred in relying on the supplemental affidavit executed by private respondent claiming that its execution amounted to nothing more than a mere afterthought.

In addition, petitioners argue that the appellate court erred when it took into account the affidavit executed by Del Rosario. They insist that its belated submission before the trial court and the prosecution's failure to present the

affiant to testify as regards the veracity of her statements undermined the evidentiary value of her affidavit. More, as the affidavit was not formally offered as evidence, it was only proper that the trial court disregarded the same in dismissing the case.

Finally, petitioners contend that private respondent did not have the requisite personality to appeal from the decision of the trial court as it is only the Office of the Solicitor General (OSG) which is authorized by law to institute appeal of criminal cases. Thus, the Court of Appeals made a mistake in holding that -

... While it is true that only the OSG can file an appeal representing the government in a criminal proceeding, the private complainant nevertheless may appeal the civil aspect of the criminal case. The case at bar was dismissed due to the alleged improper laying of venue resulting in the alleged lack of jurisdiction of the trial court and not based on the merits of the case. It cannot therefore be argued that private complainant's appeal pertains to the merits of the criminal case as what happened in accused-appellees' cited case in the motion to strike, *VicentePalu-ay vs. Court of Appeals* (GR No. 112995, July 30, 1998). Needless to say, the private complainant has an interest in the civil aspect of the dismissed criminal case which he had the right to protect. In the interest of justice and fair play, therefore, the Brief filed by private complainant in the present case should be treated as pertaining only to the civil aspect of the case.[27]

In his Comment/Opposition dated 25 April 2003,[28] private respondent reiterated his position that the RTC of Quezon City had jurisdiction over this libel case. According to him, the affidavit executed by Del Rosario, the alleged owner of the house he leased in Sikatuna Village, Quezon City, established, beyond doubt, that he resided in said place during the time the claimed defamatory article appeared on the pages of *Abante*. In addition, he draws attention to the fact that petitioners and their co-accused furnished him a copy of the petition for review, filed before the DOJ, at the aforementioned address in Quezon City.

Anent the affidavit of Del Rosario, private respondent maintains that the prosecution exerted efforts to present the affiant before the trial court. Unfortunately, Del Rosario was out of town when she was supposed to be presented and so the public and the private prosecutors decided to submit for resolution their motion for reconsideration sans the affiant's testimony. Citing the case of *Joseph Helmuth, Jr. v. People of the Philippines, et al.*,[29] private respondent avers that this Court had previously admitted the affidavits of witnesses who were not presented during the trial phase of a case.

As regards the petitioners' contention that he (private respondent) did not have the personality to bring this case to the appellate level, private respondent contends that the proper party to file the Notice of Appeal before the trial court is the public prosecutor as what happened in this case.

On its part, the OSG filed its Comment dated 07 July 2003[30] wherein it prayed for the dismissal of this petition based on the following: First, as the petition is concerned with the determination of the residence of private respondent at the time of the publication of the alleged libelous article, Rule 45 should be unavailing to the petitioners because this remedy only deals with questions of law.

Second, venue was properly laid in this case as private respondent's residency in Quezon City during the time material to this case was sufficiently established. The OSG claims that the errors appearing in the memorandum for preliminary investigation and in the affidavit complaint with regard to private respondent's residence were corrected through the supplemental affidavit private respondent executed during the preliminary investigation before the Quezon City prosecutor's office.

Third, the OSG takes the view that the public prosecutor was the proper party to file the notice of appeal before the trial court since its (OSG's) office is only "authorized to bring or defend actions on appeal on behalf of the People or the Republic of the Philippines once the case is brought before this Honorable Court of the Court of

Appeals.

We find merit in the petition and therefore grant the same.

Jurisdiction has been defined as “the power conferred by law upon a judge or court to try a case the cognizance of which belongs to them exclusively”[31] and it constitutes the basic foundation of judicial proceedings.[32] The term derives its origin from two Latin words – “jus” meaning law and the other, “dicere” meaning to declare.[33] The term has also been variably explained to be “the power of a court to hear and determine a cause of action presented to it, the power of a court to adjudicate the kind of case before it, the power of a court to adjudicate a case when the proper parties are before it, and the power of a court to make the particular decision it is asked to render.”[34]

In criminal actions, it is a fundamental rule that venue is jurisdictional. Thus, the place where the crime was committed determines not only the venue of the action but is an essential element of jurisdiction.[35] In the case of *Uy v. Court of Appeals and People of the Philippines*,[36] this Court had the occasion to expound on this principle, thus:

It is a fundamental rule that for jurisdiction to be acquired by courts in criminal cases the offense should have been committed or any one of its essential ingredients took place within the territorial jurisdiction of the court. Territorial jurisdiction in criminal cases is the territory where the court has jurisdiction to take cognizance or to try the offense allegedly committed therein by the accused. Thus, it cannot take jurisdiction over a person charged with an offense allegedly committed outside of that limited territory. Furthermore, the jurisdiction of a court over the criminal case is determined by the allegations in the complaint or information. And once it is so shown, the court may validly take cognizance of the case. However, if the evidence adduced during the trial show that the offense was committed somewhere else, the court should dismiss the action for want of jurisdiction.[37]

The law, however, is more particular in libel cases. The possible venues for the institution of the criminal and the civil aspects of said case are concisely outlined in Article 360 of the Revised Penal Code, as amended by Republic Act No. 4363. It provides:

Art. 360. Persons responsible. - . . .

The criminal action and civil action for damages in cases of written defamations as provided for in this chapter, shall be filed simultaneously or separately with the Court of First Instance of the province or city where the libelous article is printed and first published or where any of the offended parties actually resides at the time of the commission of the offense: Provided, however, That where one of the offended parties is a public officer whose office is in the City of Manila at the time of the commission of the offense, the action shall be filed in the Court of First Instance of the City of Manila or of the city or province where the libelous article is printed and first published, and in case such public officer does not hold office in the City of Manila, the action shall be filed in the Court of First Instance of the province or city where he held office at the time of the commission of the offense or where the libelous article is printed and first published and in case one of the offended parties is a private individual, the action shall be filed in the Court of First Instance of the province or city where he actually resides at the time of the commission of the offense or where the libelous matter is printed and first published.

In *Agbayani v. Sayo*,[38] we summarized the foregoing rule in the following manner:

- Whether the offended party is a public official or a private person, the criminal action may be filed in the Court of First Instance of the province or city where the libelous article is printed and first published.

- If the offended party is a private individual, the criminal action may also be filed in the Court of First Instance of the province where he actually resided at the time of the commission of the offense.

- If the offended party is a public officer whose office is in Manila at the time of the commission of the offense, the action may be filed in the Court of First Instance of Manila.

- If the offended party is a public officer holding office outside of Manila, the action may be filed in the Court of First Instance of the province or city where he held office at the time of the commission of the offense.[39]

In the case at bar, private respondent was a private citizen at the time of the publication of the alleged libelous article, hence, he could only file his libel suit in the City of Manila where Abante was first published or in the province or city where he actually resided at the time the purported libelous article was printed.

A perusal, however, of the information involved in this case easily reveals that the allegations contained therein are utterly insufficient to vest jurisdiction on the RTC of Quezon City. Other than perfunctorily stating “Quezon City” at the beginning of the information, the assistant city prosecutor who prepared the information did not bother to indicate whether the jurisdiction of RTC Quezon City was invoked either because Abante was printed in that place or private respondent was a resident of said city at the time the claimed libelous article came out. As these matters deal with the fundamental issue of the court’s jurisdiction, Article 360 of the Revised Penal Code, as amended, mandates that either one of these statements must be alleged in the information itself and the absence of both from the very face of the information renders the latter fatally defective. Sadly for private respondent, the information filed before the trial court falls way short of this requirement. The assistant city prosecutor’s failure to properly lay the basis for invoking the jurisdiction of the RTC, Quezon City, effectively denied said court of the power to take cognizance of this case.

For the guidance, therefore, of both the bench and the bar, this Court finds it appropriate to reiterate our earlier pronouncement in the case of Agbayani, to wit:

In order to obviate controversies as to the venue of the criminal action for written defamation, the complaint or information should contain allegations as to whether, at the time the offense was committed, the offended party was a public officer or a private individual and where he was actually residing at that time. Whenever possible, the place where the written defamation was printed and first published should likewise be alleged. That allegation would be a sine qua non if the circumstance as to where the libel was printed and first published is used as the basis of the venue of the action.[40]

Anent private respondent and OSG’s contention that the supplemental affidavit submitted during the preliminary investigation of this libel suit cured the defect of the information, we find the same to be without merit. It is jurisprudentially settled that jurisdiction of a court over a criminal case is determined by the allegations of the complaint or information.[41] In resolving a motion to dismiss based on lack of jurisdiction, the general rule is that the facts contained in the complaint or information should be taken as they are.[42] The exception to this rule is where the Rules of Court allow the investigation of facts alleged in a motion to quash[43] such as when the ground invoked is the extinction of criminal liability, prescriptions, double jeopardy, or insanity of the accused.[44] In these instances, it is incumbent upon the trial court to conduct a preliminary trial to determine the merit of the motion to dismiss. As the present case obviously does not fall within any of the recognized exceptions, the trial court correctly dismissed this action.

In the assailed decision, the Court of Appeals likewise put premium on the affidavit executed by Del Rosario which was attached to private respondent’s supplemental motion for reconsideration. According to the appellate

court, said document “supports private (respondent’s) claim that indeed, he was a resident of Quezon City at the time the alleged libelous article was published.”[45] The pertinent provision of the Rules of Court, under Rule 10, Section 6 thereof, states:

Sec. 6. Supplemental Pleadings. - Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit him to serve a supplemental pleading setting forth transactions, occurrences or events which have happened since the date of the pleading sought to be supplemented. The adverse party may plead thereto within ten (10) days from notice of the order admitting the supplemental pleading.

By the very nature of a supplemental pleading, it only seeks to reinforce and augment the allegations contained in the principal pleading. It does not serve to supplant that which it merely supplements; rather, it ought to co-exist with the latter. Further, the admission of a supplemental pleading is not something that parties may impose upon the court for we have consistently held that its admittance is something which is addressed to the discretion of the court.[46]

Explicit in the aforequoted provision of the Rules of Court is the requirement that the contents of a supplemental pleading should deal with transactions, occurrences or events which took place after the date of the pleading it seeks to supplement. A reading of the supplemental motion for reconsideration filed by private respondent discloses no additional or new matters which transpired after he filed his original motion for reconsideration. The fact that he attached thereto the affidavit of his alleged lessor fails to persuade us into giving to said supplemental motion the same evidentiary value as did the Court of Appeals. For one, private respondent did not even bother to explain the reason behind the belated submission of Del Rosario’s affidavit nor did he claim that he exerted earnest efforts to file it much earlier in the proceedings. He must, therefore, bear the consequences of his own lethargy.

Finally, we come to the issue of whether the private prosecutor and the public prosecutor had the personality to file the notice of appeal before the trial court. Petitioners insist that the OSG should have been the one to file said notice in its capacity as the “sole representative of the [g]overnment in the Court of Appeals in criminal cases.”[47]

Under Presidential Decree No. 478, among the specific powers and functions of the OSG was to “represent the government in the Supreme Court and the Court of Appeals in all criminal proceedings.” This provision has been carried over to the Revised Administrative Code particularly in Book IV, Title III, Chapter 12 thereof. Without doubt, the OSG is the appellate counsel of the People of the Philippines in all criminal cases. In such capacity, it only takes over a criminal case after the same has reached the appellate courts.[48]

The next question should then be: when does the jurisdiction of the trial court end and that of the Court of Appeals commence? Happily, the Revised Rules of Court is clear on this point. Rule 41, Section 9 of the Rules states that “(i)n appeals by notice of appeal, the court loses jurisdiction over the case upon the perfection of the appeals filed in due time and the expiration of the time to appeal of the other parties.”[49] When a party files a notice of appeal, the trial court’s jurisdiction over the case does not cease as a matter of course; its only effect is that the appeal is deemed perfected as to him.[50] As explained by our former colleague, Justice Florenz Regalado –

. . . [I]n the meantime, the trial court still retains jurisdiction over the case. However, where all the parties have either thus perfected their appeals, by filing their notices of appeal in due time and the period to file such notice of appeal has lapsed for those who did not do so, then the trial court loses jurisdiction over the case as of the filing of the last notice of appeal or the expiration of the period to do so for all the parties.[51]

Applied to the case at bar, we deem it proper that the notice of appeal was filed by the private and the public

prosecutors before the trial court. The Rules cannot be any clearer: until the filing of the last notice of appeal and the expiration of the period to perfect an appeal by all the parties, the lower court still has jurisdiction over the case. It is only after the occurrence of these two incidents when the jurisdiction of the Court of Appeals begins and at which time the OSG is supposed to take charge of the case on behalf of the government.

WHEREFORE, the petition is GRANTED. The Decision dated 22 March 2002 and Resolution dated 6 January 2003 of the Court of Appeals are hereby REVERSED and SET ASIDE and the 24 November 1997 Decision of the Regional Trial Court, Branch 93, Quezon City, dismissing Criminal Case No. Q-97-71903 is hereby REINSTATED. No costs.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Tinga, JJ., concur.

[1] Penned by Associate Justice Sergio L. Pestaño, with Associate Justices Conchita Carpio-Morales (now a member of this Court) and Martin S. Villarama, Jr., concurring.

[2] Records, pp. 1-3.

[3] Records, pp. 54, 58, 62, 66, and 70.

[4] Records, p. 77.

[5] Rollo, p. 68.

[6] Records, pp. 98-101.

[7] G.R. No. 113930, 05 March 1996, 254 SCRA 307.

[8] Records, p. 105.

[9] Records, p. 106.

[10] Reply to Opposition dated 8 October 1997; Records, p. 114.

[11] Records, pp. 109-111.

[12] Annex “A” of the Supplemental Reply; Records, p. 112.

[13] Annex “B” of the Supplemental Reply; Records, p. 113.

[14] Dated 25 October 1997; Records, pp. 121-123.

[15] Records, pp. 147-149.

[16] Records, pp. 152-157.

[17] Records, p. 214.

[18] Records, pp. 201-202.

[19] Rollo, p. 60.

[20] Rollo, p. 58; citing *Jose Baritua v. Court of Appeals, et al.*, G.R. No. 100748, 03 February 1997, 267 SCRA 331.

[21] Rule 110, Section 14 of the Revised Rules of Court provides: “Amendment. - The information or complaint may be amended, in substance or form, without leave of court, at any time before the accused pleads; and thereafter and during the trial as to all matters of form, by leave and at the discretion of the court, when the same can be done without prejudice to the rights of the accused.”

[22] Rollo, p. 59.

[23] Rollo, p. 63.

[24] Rollo, p. 35.

[25] Records, p. 15.

[26] Records, p. 14.

[27] Rollo, pp. 59-60.

[28] Rollo, pp. 308-318.

[29] G.R. No. L-57068, 15 March 1982, 112 SCRA 573.

[30] Rollo, pp. 337-352.

[31] *United States v. Pagdayuman, et al.*, No. 2008, 11 November 1905, 5 Phil. 265.

[32] *People v. Mariano, et al.*, G.R. No. L-40527, 30 June 1976, 71 SCRA 600.

[33] *I Bouvier’s Law Dictionary*, p. 1760 (3rd Revision).

[34] 20 Am Jur 2d §55.

[35] *Lopez, et al. v. The City Judge, et al.*, G.R. No. L-25795, 29 October 1966, 18 SCRA 616.

[36] G.R. No. 119000, 28 July 1997, 276 SCRA 367.

[37] *Id.* at 374-375.

[38] G.R. No. L-47880, 30 April 1979, 89 SCRA 699.

[39] *Id.* at 705.

[40] *Supra*, note 38 at 706.

[41] *Supra*, note 36 at 374.

[42] *People v. Alagao, et al.*, G.R. No. L-20721, 30 April 1966, 16 SCRA 879.

[43] *People v. Cadabis*, G.R. No. L-7713, 31 October 1955, 97 Phil. 829.

[44] *Ibid.*; See *People v. Alagao, et al.*, *supra*, note 42 at 883 and *Lopez, et al. v. The City Judge*, *supra*, note 35 at 621.

[45] Rollo, p. 59.

[46] *British Traders’ Insurance Co., Ltd. v. Commissioner of Internal Revenue*, G.R. No. L-20501, 30 April 1965, 13 SCRA 719; reiterated in *Caoili v. Court of Appeals*, G.R. No. 128325, 14 September 1999, 314 SCRA 345.

[47] Rollo, p. 48.

[48] *Urbano v. Chavez*, G.R. No. 87977, 19 March 1990, 183 SCRA 347; emphasis supplied.

[49] Emphasis supplied.

[50] Rule 41, Section 9, par. 1, Revised Rules of Court.

[51] I Florenz Regalado, *Remedial Law Compendium*, p. 508 (6th Revised Edition); emphasis supplied.

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.