

MIGUEL TOLENTINO, PLAINTIFF AND APPELLANT, VS. CIRILO P. BAYLOSIS, DEFENDANT AND APPELLEE.*G.R. No. 15742. January 31, 1961*

Ponente: REYES, J.B.L., J.

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By resolution dated April 8, 1959, the Court of Appeals certified to us Case No. CA-G.R. No. 19432-R, an appeal taken to it from the decision of April 19, 1956 of the Court of First Instance of Batangas in its Civil Case No. 67, dismissing plaintiff's complaint for damages, with costs, on the ground that the whole issue therein involved is one of law.

Devoid of unessentials, the records disclose that in Civil Case No. 79 of the Court of First Instance of Batangas entitled Jose Ruiz, et al. vs. Cirilo J. Baylosis, et al., for the annulment of certain certificates of title and recovery of damages, herein appellant Miguel Tolentino appeared as counsel for the plaintiffs, while appellee was the attorney of record for the defendants. In a pleading captioned "Reply to Answer on Counterclaim" and filed in that case, appellee made the following allegations:

"Paragraph 2—

subpar. (b)—That for the death of the said five plaintiffs, defendant has nothing to do nor to answer or account for, but would rather state that the cause of their death may be due to the will of God, or due to the heavy expenses which they may have suffered from their leader and counsel, * * *.

subpar. (c)—That on the basis of Atty. Miguel Tolentino (sic.), a deceased plaintiff is claiming from defendant an amount of P28,591 and giving allowance of another 2 who may die, so he is asking for P200,000.00. This amount is indeed too big and must be a wealth to anyone who has it; that when Atty. Tolentino made this allegation, he must be certainly not of his usual mind, otherwise with his old age, and long practice of law, he would have not dared to make such fictitious and malicious claim, and knowingly that this Honorable Court is not the place for very exaggerated and unreasonable demand in order to give troubles and worries to defendant; subpar. (d), sub-sec. (3)—That the defendant for being the victorious party in the said case and Atty. Miguel Tolentino, one of the losing counsels in said case, must be the one who is still liable for the damages sustained by defendant;

"Paragraph 4—

subpar. (c)—Before the public, attorney Tolentino cannot be judged as a prominent attorney or a bright attorney for his several failures in the bar and his several losses of his cases are not in his favor.

subpar. (d)—Defendant had seen Atty. Tolentino appeared before the Honorable Supreme Court on January 24, 1955 in a certain argument on certiorari case, entitled Luis Baylosis, et al., petitioners, vs. Agapito Alejar, et al., respondents, and in that argument Atty. Tolentino was badly humiliated because of his lack of knowledge of law and unpreparedness. On that same moment he perspired much despite the fact that the chamber was cool because of air conditioning. Again in the hearing of a certain injunction case at Batangas, Batangas, before the Honorable Judge E. Soriano, Atty. Tolentino lost against the fiscal and other lawyers. It is therefore the contention of the defendant, that the caliber and standing of Atty. Miguel Tolentino is not the type of

attorney who can demand a professional service of ten thousand pesos, and in the honest belief of defendant, Atty. Tolentino is a counsel for just five hundred pesos in the event that plaintiff wins this case, and that damages is allowed by the Honorable Court, which of course is believed to be remote to happen before the Court."

Urging that the statements aforequoted are libelous and derogatory to his character and reputation as a known lawyer, as a former high government official and employee, and as a citizen of good standing in the community, appellant initiated these proceedings and seeks to recover from the appellee the sum of P100,000.00 as actual and moral damages.

Appellee does not deny having made the allegations complained of, but advances the defense that said remarks were not libelous, and granting that they were, the same were privileged communications. In fact, appellee asserts a counterclaim for P105,000.00, representing actual damages and attorney's fees allegedly caused to him by appellant's own defamatory statements levelled against his (appellee's) person.

Both complaint and counterclaim were dismissed by the trial court. However, only the plaintiff appealed.

As correctly stated by the Court of Appeals, the decisive issue calls only for a determination of whether or not appellee's statements as above reproduced constitute a valid cause of action for damages. This question was not in our opinion, properly solved in the negative by the trial court.

It is the generally accepted rule that counsel, parties, or witnesses are exempted from liability in libel or slander for words otherwise defamatory published in the course of judicial proceedings, provided that the statements are connected with, or relevant, pertinent or material to the cause in hand or subject of inquiry (see 53 C.J.S. 170-171; *Tupas vs. Parreño, et al.*, G. R. No. L-12545, April 30, 1959, and authorities cited therein). For, as aptly observed in one case,[1] "while the doctrine of privileged communications is liable to be abused, and its abuse may lead to great hardships, yet to give legal sanction to such suits as the present would, we think, give rise to far greater hardships."

And the test of relevancy has been stated thus:

"* * * As to the degree of relevancy or pertinency necessary to make alleged defamatory matters privileged the courts favor a liberal rule. The matter to which the privilege does not extend must be so palpably wanting in relation to the subject matter of the controversy that no reasonable man can doubt its irrelevancy and impropriety. In order that matter alleged in a pleading may be privileged, it need not be in every case material to the issues presented by the pleadings. It must, however, be legitimately related thereto, or so pertinent to the subject of the controversy that it may become the subject of inquiry in the course of the trial. * * *" (Ruling Case Law, vol. 17, p. 336, quoted with approval in *Smith Bell & Co. vs. Ellis*, 48 Phil., 475, 581-582)

"In the earliest of the leading cases on the subject the words used in determining the extent of matter that may be absolutely privileged were 'relevant' or 'pertinent', but these words have in a measure a technical meaning, and perhaps they are not the best words that could be used. So some courts have preferred the use of the words 'have in reference', 'having relation to the cause or subject matter', or 'made with reference'; and strict legal materiality or relevancy is not required to confer the privileges. There is difficulty in determining in some cases what is relevant or pertinent and in deciding the question the courts are liberal, and the privilege embraces anything that may possibly be pertinent or which has enough appearance of connection with the case so that a reasonable man might think it relevant. All doubt should be resolved in favor of its relevancy or pertinency, and for the purposes of relevancy the court will assume the alleged slanderous charges to be true, however, false they may have been in fact." (53 C. J. S., pp. 171-172)

Applying the above rule to the case at bar, there is little doubt but that the alleged defamatory remarks of counsel herein complained of, in paragraph 4 of his reply (already quoted), can not be the basis of an action for damages.

It appears that, among the issues involved in Civil Case No. 79 of the Court of First Instance of Batangas, was the propriety of recovering damages allegedly caused by herein appellee, among others, to the plaintiffs therein, including, but not limited to, herein appellant's claim for attorney's fees. Thus, appellant himself had laid open the pertinency not only of the amount of damages supposedly due to the plaintiffs, but, likewise, appellant's own standing as a lawyer by reason of his claim for attorney's fees in the amount of P10,000.00. Although the language used by the appellee in the paragraph referred to was undoubtedly strong, it was made in legitimate defense of his own and his client's interests, and we can not say that the statements in his pleadings concerning appellant's standing and¹ ability as counsel were irrelevant or impertinent. Hence, such remarks must be deemed absolutely privileged.

However, the relevancy (and, therefore, the privileged character) of appellee's statements made in paragraph 3, sub-paragraphs (b) and (c), of his "Reply to Answer on Counterclaim" is not as apparent as those made by him in paragraph 4, heretofore discussed. The averments in subparagraph (b) that the cause of death of plaintiffs' decedents—

"may be due to the will of God or due to the heavy expenses which they may have suffered from their leader and counsel"

were evidently a conjecture that had no place in a pleading, which is well understood to be limited to statements of fact.

Equally irrelevant are the allegations complained of in subparagraph (c) of paragraph 2 of the reply of appellee, in response to the counterclaim for damages. The averment that attorney Tolentino (appellant) was "not of his usual mind" in making the claim, "otherwise with his old age and long practice of law, he would have not dared to make such fictitious and malicious claim" is certainly not relevant or pertinent to the issue whether the damages asked were true or untrue. These damages were asked for not by the appellant, but by his clients; hence their counsel's state of mind is not, and could not be a proper subject of inquiry.

As pointed out by the Court in *Anonymous vs. Trenkman, et al.*, 48 Fed. (2d) 571, 574—

"The pleadings should contain but the plain and concise statements of the material facts and not the evidence by which they are to be proved. * * * If the pleader goes beyond the requirements of the statute and alleges an irrelevant matter which is libelous, he loses his privilege."

Without this limitation to the immunity enjoyed by pleadings, the same could be easily diverted from their original aim to succinctly inform the court of the issues in litigation, and perverted into a vehicle for airing charges motivated by personal rancour. That such misuse of judicial proceedings must be firmly and resolutely discouraged and curbed by Courts needs no demonstration.

It appears, however, that the appellant herein was libeled by way of retaliation, because three days previously, appellant Tolentino, in a counterclaim filed against appellee Baylosis, had personally attacked the latter in the following passage (Rec. App., p. 46-47)—

"Defendant Baylosis has been the Vice-President of the "Samahang Magbubukid." The prevailing and tempting "motto" of this organization is that the tenant must not leave the lands tilled by them because the same belong to them in their own right. It is highly inconceivable now how could the defendant trample upon the only chance of the plaintiffs to own the lands in question, in gross violation of the "motto" of his own organization on which a Huk or PKM organization at that, according to this Honorable Court in Crim. Case No. 10898, *People vs. Ceferino Inciong, Cirilo P. Baylosis et al.*, for inciting to sedition and in Criminal Case No. 510, *People vs. F. Buhay* for libel."

Considering that it was appellant here who first libeled appellee, although the latter did not appeal the dismissal of his own claim for damages; that appellant, therefore, did not really come to court with clean hands; that no adequate evidence exists that appellant suffered material damage; and that indulging in offensive personalities in the course of judicial proceedings constitutes highly unprofessional conduct subject to disciplinary action, even if the publication thereof be privileged, we find no reversible error in the dismissal of appellant's damage claim by the Court below.

Wherefore, the judgment appealed from is affirmed, with costs against appellant.

Paras, C. J., Bengzon, Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, and Dizon, JJ., concur.

[1] Santiago vs. Calvo, 48 Phil., 919 quoting from Abbot vs. National Bank of Commerce, 175 U.S. 409.

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