

CRISTINELLI S. FERMIN, PETITIONER, V.S. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. NO. 157643. March 28, 2008

Ponente: NACHURA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-157643/>

NACHURA, J.:

Before us is a petition[1] for review on certiorari, under Rule 45 of the Rules of Court, of the Decision[2] dated September 3, 2002 and the Resolution[3] dated March 24, 2003 of the Court of Appeals (CA) in CA-G.R. CR No. 20890 entitled "People of the Philippines v. Cristenelli S. Fermin and Bogs C. Tugas."

On complaint of spouses Annabelle Rama Gutierrez and Eduardo (Eddie) Gutierrez, two (2) criminal informations for libel[4] were filed against Cristinelli[5] S. Fermin and Bogs C. Tugas before the Regional Trial Court (RTC) of Quezon City, Branch 218. Except for the name of the complainant,[6]the informations uniformly read -

That on or about the 14[th] day of June, 1995 in Quezon City, Philippines, the above-named accused CRISTENELLI SALAZAR FERMIN, publisher, and BOGS C. TUGAS, Editor-in-Chief of Gossip Tabloid with offices located at 68-A Magnolia Tulip St., Roxas District, Quezon City, and circulated in Quezon City and other parts of Metro Manila and the whole country, conspiring together, confederating with and mutually helping each other, publicly and acting with malice, did then and there willfully, unlawfully and feloniously print and circulate in the headline and lead story of the said GOSSIP TABLOID issue of June 14, 1995 the following material, to wit:

"MAS MALAKING HALAGA ANG NADISPALCO NILA SA STATES, MAY MGA NAIWAN DING ASUNTO DOON SI ANNABELLE"

"IMPOSIBLENG NASA AMERIKA NGAYON SI ANNABELLE DAHIL SA KALAT DIN ANG ASUNTO NILA DU'N, BUKOD PA SA NAPAKARAMING PINOY NA HUMAHANTING SA KANILA MAS MALAKING PROBLEMA ANG KAILANGAN NIYANG HARAPIN SA STATES DAHIL SA PERANG NADISPALCO NILA, NAGHAHANAP LANG NG SAKIT NG KATAWAN SI ANNABELLE KUNG SA STATES NGA NIYA MAIISIPANG PUMUNTA NGAYON PARA LANG TAKASAN NIYA SI LIGAYA SANTOS AT ANG SENTENSIYA SA KANYA"

when in truth and in fact, the accused very well knew that the same are entirely false and untrue but were publicly made for no other purpose than to expose said ANNABELLE RAMA GUTIERREZ to humiliation and disgrace, as it depicts her to be a fugitive from justice and a swindler, thereby causing dishonor, discredit and contempt upon the person of the offended party, to the damage and prejudice of the said ANNABELLE RAMA GUTIERREZ.

CONTRARY TO LAW.[7]

Upon arraignment, petitioner and co-accused Bogs C. Tugas (Tugas) both pleaded "not guilty." Thereafter, a joint trial ensued.

After trial on the merits, the RTC of Quezon City, Branch 218, in its Joint Decision [8] dated January 27, 1997, found petitioner and Tugas guilty of libel. The dispositive portion of the Joint Decision reads -

WHEREFORE, prosecution having established the guilt of the accused, judgment is hereby rendered finding CRISTENELLI S. FERMIN and BOGS C. TUGAS GUILTY beyond reasonable doubt, of libel, punishable under Art. 355 of the Revised Penal Code and sentences them to an indeterminate penalty of three (3) months and eleven (11) days of arresto mayor, as minimum, to one (1) year, eight (8) months and twenty-one (21) days of prision correccional, as maximum, for each case.

Likewise, accused Cristenelli S. Fermin and Bogs Tugas are sentenced to pay jointly and solidarily:

a)

moral damages of:

1.

P500,000.00 to Annabelle Rama in Criminal Case No. Q-95-62823; and

2

. P500,000.00 to Eddie Gutierrez in Criminal Case No. Q-95-62824;

b)

attorney's fees of P50,000.00.

SO ORDERED.[9]

Aggrieved, petitioner and Tugas appealed to the CA. The appellate court, in its Decision dated September 3, 2002, affirmed the conviction of petitioner, but acquitted Tugas on account of non-participation in the publication of the libelous article. The fallo of the Decision reads -

WHEREFORE, judgment is hereby rendered as follows:

1.

The appealed decision as against the accused-appellant BOGS C. TUGAS is REVERSED and SET ASIDE, and another is entered ACQUITTING him of the crime charged and ABSOLVING him from any civil liability; and

2.

The same appealed decision as against accused-appellant CRISTENELLI S. FERMIN is AFFIRMED, with the MODIFICATION that the award of moral damages is REDUCED to P300,000.00 for EACH offended party, and the award of attorney's fees is DELETED.

Costs against the appellant FERMIN.

SO ORDERED.[10]

The CA denied petitioner's motion for reconsideration for lack of merit in the Resolution dated March 24, 2003.

Hence, this petition, raising the following arguments:

I.

THE RULING IN U.S. VS. TAYLOR, PEOPLE VS. TOPACIO AND SANTIAGO, U.S. VS. MADRIGAL AND U.S. VS. SANTOS AND THE HOLDING IN U.S. VS. OCAMPO AS CLARIFIED BY THE COURT OF APPEALS IN PEOPLE VS. BELTRAN AND SOLIVEN REQUIRING KNOWLEDGE, PARTICIPATION AND COMPLICITY BY THE PUBLISHER IN THE PREPARATION AND APPROVAL OF THE LIBELOUS ARTICLE TO SUSTAIN THE LATTER'S CONVICTION FOR LIBEL ARE APPLICABLE IN THE PRESENT CASE.

II.

ART. 360 OF THE REVISED PENAL CODE WHICH MAKES A PUBLISHER LIABLE FOR LIBEL TO THE SAME EXTENT AS IF HE WERE THE AUTHOR THEREOF MERELY CREATES A DISPUTABLE PRESUMPTION WHICH MAY BE REBUTTED BY CONTRARY EVIDENCE.

III.

THE QUESTIONED ARTICLE IS NOT LIBELOUS.

IV.

THE QUESTIONED ARTICLE IS PROTECTED BY THE MANTLE OF THE FREEDOM OF THE PRESS AND IS WITHIN THE REALM OF FAIR AND HONEST COMMENT.[11]

Being interrelated, we shall discuss the first and the second issues jointly, then the third and the fourth issues together.

Petitioner posits that, to sustain a conviction for libel under Article 360 of the Revised Penal Code, it is mandatory that the publisher knowingly participated in or consented to the preparation and publication of the libelous article. This principle is, allegedly, based on our ruling in U.S. v. Taylor,[12] People v. Topacio and Santiago,[13] U.S. v. Madrigal,[14] U.S. v. Abad Santos,[15] and U.S. v. Ocampo,[16] as purportedly clarified in People v. Beltran and Soliven.[17] She submits that these cases were applied by the CA in acquitting her co-accused Tugas, and being similarly situated with him, she is also entitled to an acquittal. She claims that she had adduced ample evidence to show that she had no hand in the preparation and publication of the offending article, nor in the review, editing, examination, and approval of the articles published in Gossip Tabloid.

The arguments are too simplistic and the cited jurisprudence are either misplaced or, in fact, damning.

Foremost, U.S. v. Madrigal and U.S. v. Abad Santos are not applicable to the present case. U.S. v. Madrigal pertains to a criminal prosecution under Section 30 of Act No. 1519 for fraudulently representing the weight or measure of anything to be greater or less than it is, whereas U.S. v. Abad Santos refers to criminal responsibility under the Internal Revenue Law (Act. No. 2339).

The other cases are more in point, but they serve to reinforce the conviction of, rather than absolve, petitioner.

In U.S. v. Taylor, the accused was indicted under Section 6 of Act No. 277 which provides that: "Every author, editor or proprietor of any book, newspaper, or serial publication is chargeable with the publication of any words contained in any part of said book or number of each newspaper or serial as fully as if he were the author of the same." However, proof adduced during the trial showed that accused was the manager of the publication without the corresponding evidence that, as such, he was directly responsible for the writing, editing, or publishing of the matter contained in the said libelous article.[18]

In *People v. Topacio and Santiago*, reference was made to the Spanish text of Article 360 of the Revised Penal Code which includes the verb "publicar." Thus, it was held that Article 360 includes not only the author or the person who causes the libelous matter to be published, but also the person who prints or publishes it.

Based on these cases, therefore, proof of knowledge of and participation in the publication of the offending article is not required, if the accused has been specifically identified as "author, editor, or proprietor" or "printer/publisher" of the publication, as petitioner and Tugas are in this case.

The rationale for the criminal culpability of those persons enumerated in Article 360 of the Revised Penal Code[19] was enunciated in *U.S. v. Ocampo*,[20] to wit:

"According to the legal doctrines and jurisprudence of the United States, the printer of a publication containing libelous matter is liable for the same by reason of his direct connection therewith and his cognizance of the contents thereof. With regard to a publication in which a libel is printed, not only is the publisher but also all other persons who in any way participate in or have any connection with its publication are liable as publishers."

x x x x

In the case of *State vs. Mason* (26 L.R.A., 779; 26 Oreg., 273, 46 Am. St. Rep., 629), the question of the responsibility of the manager or proprietor of a newspaper was discussed. The court said, among other things (pp. 782, 783):

"The question then recurs as to whether the manager or proprietor of a newspaper can escape criminal responsibility solely on the ground that the libelous article was published without his knowledge or consent. When a libel is published in a newspaper, such fact alone is sufficient evidence prima facie to charge the manager or proprietor with the guilt of its publication.

"The manager and proprietor of a newspaper, we think ought to be held prima facie criminally for whatever appears in his paper; and it should be no defense that the publication was made without his knowledge or consent, x x x

"One who furnishes the means for carrying on the publication of a newspaper and entrusts its management to servants or employees whom he selects and controls may be said to cause to be published what actually appears, and should be held responsible therefore, whether he was individually concerned in the publication or not, x x x. Criminal responsibility for the acts of an agent or servant in the course of his employment necessarily implies some degree of guilt or delinquency on the part of the publisher; x x x.

"We think, therefore, the mere fact that the libelous article was published in the newspaper without the knowledge or consent of its proprietor or manager is no defense to a criminal prosecution against such proprietor or manager."

In the case of *Commonwealth vs. Morgan* (107 Mass., 197), this same question was considered and the court held that in the criminal prosecution of a publisher of a newspaper in which a libel appears, he is prima facie presumed to have published the libel, and that the exclusion of an offer by the defendant to prove that he never saw the libel and was not aware of its publication until it was pointed out to him and that an apology and retraction were afterwards published in the same paper, gave him no ground for exception. In this same case, Mr. Justice Colt, speaking for the court, said:

"It is the duty of the proprietor of a public paper, which may be used for the publication of improper communications, to use reasonable caution in the conduct of his business that no libels be published." (Wharton's Criminal Law, secs. 1627, 1649; 1 Bishop's Criminal Law, secs. 219, 221; *People vs. Wilson*, 64 Ill., 195; *Commonwealth vs. Damon*, 136 Mass., 441.)

The above doctrine is also the doctrine established by the English courts. In the case of *Rex vs. Walter* (3 Esp., 21) Lord Kenyon said that he was "clearly of the opinion that the proprietor of a newspaper was answerable criminally as well as civilly for the acts of his servants or agents for misconduct in the management of the paper."

This was also the opinion of Lord Hale, Mr. Justice Powell, and Mr. Justice Foster.

Lofft, an English author, in his work on Libel and Slander, said:

"An information for libel will lie against the publisher of a paper, although he did not know of its being put into the paper and stopped the sale as soon as he discovered it."

In the case of *People vs. Clay* (86 Ill., 147) the court held that -

"A person who makes a defamatory statement to the agent of a newspaper for publication, is liable both civilly and criminally, and his liability is shared by the agent and all others who aid in publishing it."

It is worthy to note that petitioner was not only the "publisher," as shown by the editorial box of *Gossip Tabloid*,^[21] but also its "president" and "chairperson" as she herself admitted on the witness stand.^[22] She also testified that she handled the business aspect of the publication, and assigns editors to take charge of everything.^[23] Obviously, petitioner had full control over the publication of articles in the said tabloid. Her excuse of lack of knowledge, consent, or participation in the release of the libelous article fails to persuade. Following our ruling in *Ocampo*, petitioner's criminal guilt should be affirmed, whether or not she had actual knowledge and participation, having furnished the means of carrying on the publication of the article purportedly prepared by the members of the *Gossip Reportorial Team*, who were employees under her control and supervision.

Petitioner argues that *Ocampo* has been clarified by the CA in *People v. Beltran and Soliven* such that *Maximo V. Soliven*, as publisher of *The Philippine Star*, was acquitted by the appellate court in view of the lack of evidence that he knew and approved the article written by *Luis D. Beltran* about then President *Corazon C. Aquino* in the newspaper's October 12, 1987 issue. Petitioner submits that *People v. Beltran and Soliven* serves as a guide to this Court regarding the criminal liability of the publisher of the newspaper where a libelous article is published. Put differently, it appears that petitioner wants this Court to follow the CA decision and adopt it as judicial precedent under the principle of *stare decisis*.

The doctrine of *stare decisis*, embodied in Article 8^[24] of the Civil Code, is enunciated, thus:

The doctrine of *stare decisis* enjoins adherence to judicial precedents. It requires courts in a country to follow the rule established in a decision of the Supreme Court thereof. That decision becomes a judicial precedent to be followed in subsequent cases by all courts in the land. The doctrine of *stare decisis* is based on the principle that once a question of law has been examined and decided, it should be deemed settled and closed to further argument.^[25] (Emphasis supplied)

Unfortunately, the *Beltran* decision attained finality at the level of the CA. Thus, if the CA seemingly made a new pronouncement regarding the criminal liability of a publisher under Article 360 of the Revised Penal Code, that ruling cannot bind this Court unless we purposely adopt the same. Be that as it may, we find no compelling reason to revisit *U.S. v. Ocampo*; to modify it would amount to judicial legislation. Article 360 is clear and unambiguous, and to apply *People v. Beltran and Soliven*, which requires specific knowledge, participation, and approval on the part of the publisher to be liable for the publication of a libelous article, would be reading into the law an additional requirement that was not intended by it.

In the same vein, we note that the CA erred in acquitting *Tugas*. *Tugas* cannot feign lack of participation in the

publication of the questioned article as was evident from his and petitioner's Joint Counter-Affidavit,[26]and as gleaned from his testimony before the trial court, to wit:

WITNESS:

As editor-in-chief, I have no participation in the writing of the questioned article and my only participation in the publication is the handling of the physical lay-outing, indication and allocation of type-size of the body of the article, before the same was printed and published in GOSSIP Tabloid.

Q:

You do not deny the statements in this publication as executed by you in the counter-affidavit and sworn in before the City Prosecutor, is this correct?

A:

Yes, that is correct.

ATTY. ALENTAJAN:

That is all for the witness, your Honor.

COURT:

Do we get it right from you, if you were acting as you were, you will not allow the said publication of this same article or same stories?

A:

If I were, if I was physically present, honestly I will because if you can see the article, your Honor, it is according to our source, it is not a direct comment.

COURT:

So whether you are there or not, [the] same article leading to them (sic) will still find its way to come out?

A:

Yes, your honor.[27]

Tugas' testimony, in fact, confirms his actual participation in the preparation and publication of the controversial article and his approval thereof as it was written. Moreover, his alibi, which was considered meritorious by the CA, that he was confined at the Mother of Perpetual Help Clinic in Angeles City, is unavailing, in view of the testimony of his attending physician that Tugas' medical condition did not prevent him from performing his work, thus -

Q:

How would you describe the condition of the patient on June 13, 1995?

A:

He is in stable condition.

Q:

You said he was in severe pain, from your opinion, was that condition sufficient to enable him to work?

A:

Yes, in my opinion.[28]

Q:

You said your impression of the patient was urethral colic and this was caused by spasm?

A:

Yes, sir.

Q:

When you say spasm, it is not sustained, it comes every now and then and [intermittently], it is not sustained?

A:

Yes, sir.

Q:

Now you said he was in stable condition?

A:

Yes, sir.

Q:

That means that his ailment is not life-threatening?

A:

Correct.

Q:

In fact, visitors were allowed to see him?

A:

Yes, sir.

Q:

He can also write?

A:

Yes, sir.

Q:

He was allowed to [receive] friends?

A:

Yes, sir.

Q:

According to you, he was able to work also, he is not totally incapacitated in performing certain chores in the hospital room?

A:

No, sir.

Q:

Now, prior to 7:10 o'clock in the morning of June 13, 1995, you did not see Mr. Bogs Tugas?

A:

I saw him, he was admitted at 7:00 o'clock but I saw him before.

Q:

How long before 7:10 were you able to see him?

A:

That is about 2 hours.

Q:

About 5:00 o'clock in the morning?

A:

Yes, sir.

Q:

Who was his companion when you saw him?

A:

He was boarding in my place.

Q:

So, you brought him to the hospital?

A:

Both of us went to the hospital.

Q:

Which boarding house are you referring [to]? In Angeles City?

A:

Yes, sir.

Q:

Do you know that Mr. Bogs Tugas works here in Quezon City as editor-in-chief of a newspaper tabloid?

A:

Yes, sir.

Q:

And some of his work is done in your boarding house?

A:

I do not know about it.

Q:

How did you know that he is working on his paper works in Quezon City? Did you see him do that?

A:

I only know he goes to Manila everyday.

Q:

In your boarding house, you saw him read and write?

A:

Probably yes.[29]

But, of course, we cannot reinstate the ruling of the trial court convicting Bogs Tugas because with his acquittal by the CA, we would run afoul of his constitutional right against double jeopardy.

Anent the third and fourth issues, petitioner argues that the subject article in the June 14, 1995 issue of Gossip Tabloid is not libelous, is covered by the mantle of press freedom, and is merely in the nature of a fair and honest comment. We disagree.

The banner headlines of the offending article read:

KUNG TOTOONG NAKATAKAS NA SI ANNABELLE RAMA, IMPOSIBLENG SA STATES SIYA NAGPUNTA!

MAS MALAKING HALAGA ANG NADISPALKO NILA SA STATES, MAY MGA NAIWAN DING ASUNTO DU'N SI ANNABELLE!

On the first page of the same issue of Gossip Tabloid, written in smaller but bold letters, are:

HINDI SIYA MAKAKAPUNTA SA AMERIKA DAHIL NAPAKARAMI RIN NIYANG ASUNTONG

INIWAN DU'N NOON PA, NAKAPAG-ABROAD MAN SIYA, E, PIHADONG HINDI SIYA SA AMERIKA NAGTULOY, SA AMERIKA PA KAYA SIYA MAGTATAGO, E, ILANG TAON NA RIN SIYANG INAABANGAN DU'N NG MGA KABABAYAN NATING NILOKO NIYA, IN ONE WAY OR ANOTHER?... NAAALALA PA BA NINYO `YUNG MGA MAMAHALING KALDERO NA IBINEBENTA NILA NOON SA AMERIKA, DU'N SILA NAGKAPROBLEMA, MILYON-MILYON ANG INVOLVED, KAYA KINAILANGAN NILANG UMUWI SA PILIPINAS NOON!

The rest of the article, which continued to the entire second page of the tabloid, follows -

Mainit na pinag-uusapan ngayon ang iba't ibang posibilidad na maaaring gawin ni Annabelle Rama Gutierrez para lang hindi matuloy ang pag-aresto at pagkukulong sa kanya ng mga awtoridad kaugnay ng sintensiyang ipinapataw sa kanya ni Manila-RTC Judge Rodolfo Palattao.

Mula noong June 8, nabatid ng Gossip Tabloid, ay wala pang sinumang nakapagtuturo kung saan talaga naroon ang ina ni Ruffa Gutierrez na hindi pinayagang makapagpiyansa ng Branch 33 para sa pansamantala niyang kalayaan.

May mga nagpapalagay na sa pamamagitan ng tinatawag na back-door exit, ang pag-alis ng bansa sa paraang hindi na kailangan pang dumaan sa NAIA, ay nakaalis na si Annabelle noon pang nakaraang Biyernes, June 9, patungong Amerika.

Pero isang mapagkakatiwalaang source ng Gossip Tabloid ang nagsabing napaka- imposibleng sa Amerika nagtungo si Annabelle dahil doon man ay may mga nakahanda nang awtoridad na handang magkulong kay Annabelle, sakaling mapatunayang naroon nga siya.

"Hindi siya makapupunta sa Amerika dahil napakarami rin niyang asuntong iniwan doon noon pa!

"Nag-abroad man siya, e pihadong hindi siya sa Amerika nagtuloy dahil nakaabang na rin ang sangkatutak niyang maniningil du'n ngayon!

"Sa Amerika pa kaya siya magtatago, samantalang ilang taon na rin siyang inaabangan du'n ng mga kababayan nating niloko niya, in one way or another?" simula ng source ng Gossip Tabloid.

Niliwanag ng naturang source na ang dahilan ng biglaang pag-uwi ng pamilya Gutierrez sa bansa ilang taon na ang nakararaan ay may kinalaman sa malaking halagang hindi nabayaran nina Eddie at Annabelle sa ilang kababayan natin sa Amerika.

"Naaalala pa ba ninyo `yung mga kalderong ibinebenta noon nina Eddie at Annabelle sa States?

"Mga mamahaling kaldero `yun, hindi basta-basta kaldero ang ibinebenta nila du'n, kaya talagang ang ganda-ganda na sana ng buhay nilang mag-anak du'n hanggang sa dumating `yung point na sinisingil na sila nu'ng mismong kompanya ng kaldero!

"Malaki ang halagang involved, milyon-milyon, kaya nu'ng kinasuhan na sila, e kinailangan nilang umalis sa Amerika para bumalik na dito.

"Isa si Bert Leroy, Jr. sa mga Pilipinong nagkaroon ng malaking problema kina Eddie at Annabelle, alam ba n'yo yun?

"Ang ganda-ganda ng samahan nila nu'ng una sa Amerika, yumaman sila nang dahil sa mga mamahaling kaldero na ibinebenta nila, kaso, sumabit sina Eddie at Annabelle du'n sa mismong company na pinagkukunan nila ng produkto!

"Bukod sa napakarami na nilang isinabit na Pinoy sa Amerika dahil sa mga kalderong `yun, e sumabit pa sila nang malaking halaga sa mismong manufacturer nu'ng mga ibinebenta nilang mamahaling kaldero!

"Yun ang dahilan kung bakit bigla-biglang umuwi sa Pilipinas ang pamilya ni Eddie!

"Ang ikinakatwiran nilang mag-asawa noon, e gusto raw kasi nilang lumaking Pilipinong- Pilipino ang kanilang mga anak, pero ang totoo, e, napakalaki ng problemang iniwan nila sa Amerika!" mahabang simula ng source ng Gossip Tabloid.

Masamang-masama diumano ang loob ng mga Pilipinong kinatalo roon nina Eddie at Annabelle, lalo na si Annabelle, na bukod sa mataray na ay may kayabangan pa.

"Dati nang ganyan si Annabelle! Mataray siya na wala sa lugar. Nu'ng nasa Amerika pa silang mag-anak, e, `yun din ang madalas nilang pag-awayan du'n ni Eddie!

"Madalas silang magkagalit, kaya si Eddie, para lang makapagpalipas ng mga sama niya ng loob, e, du'n nag-i-stay sa bahay ng mga kaibigan niyang Pinoy!

"Grabe ang naging problema nila du'n, kaya wala silang choice that time kung di ang umuwi na lang sa Pilipinas!

"Ang halagang involved sa pagbebenta nila ng kaldero, e, hindi basta-basta, milyunan `yon!

"Kaso `yung pinagbebentahan nila, `yung halagang dapat sana, e, ibigay nila sa kompanya dahil porsiyentuhan lang naman sila du'n, nagastos nila!

"Nawala ang pera, at ang balita nga sa States, e, si Annabelle ang dahilan kung bakit nalubog sila noon sa utang sa States!

"Nag-casino pala si Annabelle! Grabe raw kung magpatalo siya, kaya pati `yung kinita nila sa pagbebenta ng mamahaling kaldero, e, natunaw!" sabi uli ng source ng Gossip Tabloid.

Maraming Pilipino ang sinabitan doon ng mag-asawa, ayon pa sa source ng Gossip Tabloid, kaya ngayong may asunto naman si Annabelle dito sa Pilipinas ay napaka- imposibleng sa Amerika pa rin siya tatakbo.

"Paano siya magpupunta du'n para tuluyan nang manirahan, e, ang dami-dami ring Pinoy na naghihintay sa kanya du'n para maningil sa kanya?

"Alam n'yo ba, bukod sa galit na galit na sa kanila ang mga Pinoy na nandu'n, e, may mga nakaabang na ring asunto para kay Annabelle.

"So, malabong sa Amerika pa siya tumuloy ngayong napapabalitang nasa abroad siya dahil sa mga naghihintay na kaso sa kanya du'n.

"Ang alam namin, e, sa Europe nagbabalak pumunta ang pamilya ni Eddie.

"Di ba't ilang beses nang nagpapabalik-balik du'n sina Ruffa. Noon pa, e, pinag-aralan na nina Eddie at Annabelle ang posibilidad ng mga gagawin nila!

"Alam nila na hindi sila puwedeng mag-stay sa States dahil kalat din ang asunto nila du'n, bukod pa sa napakaraming Pinoy na huma-hunting sa kanila!

"Kaya kung totoong nakalusot na nga si Annabelle ngayon para makatakas siya sa pagkakulong, imposibleng sa States siya nagpunta!

"Mas malaking problema ang kailangan niyang harapin sa States dahil sa perang nadispalko nila, bukod pa sa asuntong iniwan nilang nakatiwangwang du'n!

"Naghahanap ng sakit ng katawan si Annabelle kung sa States nga niya maisipang pumunta ngayon para lang malusutan si Ligaya Santos at ang sintensiya sa kanya ni Judge Palattao!" madiin pang pahayag ng

mapagkakatiwalaang source ng Gossip Tabloid. [30]

A libel is defined 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.[31] In determining whether a statement is defamatory, the words used are to be construed in their entirety and should be taken in their plain 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.[32]

To say that the article, in its entirety, is not libelous disturbs one's sensibilities; it would certainly prick one's conscience. There is evident imputation of the crime of malversation (that the complainants converted for their personal use the money paid to them by fellow Filipinos in America in their business of distributing high-end cookware); of vices or defects for being fugitives from the law (that complainants and their family returned to the Philippines to evade prosecution in America); and of being a wastrel (that Annabelle Rama Gutierrez lost the earnings from their business through irresponsible gambling in casinos). The attribution was made publicly, considering that Gossip Tabloid had a nationwide circulation. The victims were identified and identifiable. More importantly, the article reeks of malice, as it tends to cause the dishonor, discredit, or contempt of the complainants.

Petitioner claims that there was no malice on her part because, allegedly, the article was merely a fair and honest comment on the fact that Annabelle Rama Gutierrez was issued a warrant of arrest for her conviction for estafa before then Judge Palattao's court. She even cited as proof of her lack of malice the purported absence of any ill will against complainants, as shown by the article she wrote about complainants' daughter Sharmaine Ruffa Gutierrez in the June 15, 1995 issue of the same tabloid where she expressed her sympathy and admiration for the latter.

Notably, however, the complainants successfully refuted the imputations during the trial. Complainants proved that they could return anytime to the United States of America after the publication of the article,[33] and that they remained on good terms with the manufacturing company of the cookware.[34] To the contrary, both petitioner and Tugas failed to adduce evidence to show the truth of the allegations in the article despite the opportunity to do so.

Further worthy of mention is the admission of petitioner before the trial court that she had very close association with then Congressman Golez and mayoralty candidate Joey Marquez, and that she would use her skills as a writer to campaign for them. Complainant Eddie Gutierrez ran against then incumbent Golez for the congressional seat in Parañaque City. Petitioner testified in this wise -

Q:

When you acted as writer during the campaign, as you said, for Joey Marquez and Golez, of course you did not give your services for free to these candidates, were you paid?

A:

I was not paid, Sir.

Q:

You just wanted to help them, am I correct?

A:

Yes, because they are my friends, Sir.

Q:

And you wanted them to win the election, thru your being a writer, is that correct?

A:

Yes, Sir.

Q:

You were campaigning hard for Golez and Marquez, right?

A:

Right, Sir.

Q:

When you say hard, you wanted your candidates to win, is it not?

A:

Yes, Sir.

Q:

Who was the opponent of Joey Marquez at that time?

A:

The former Mayor Olivares, Sir.

Q:

How about the opponent of Congressman Golez?

A:

One of them is Eddie Gutierrez, Sir.

Q:

And the tandem of Marquez and Golez versus the tandem of Olivares and Eddie Gutierrez, am I correct?

A:

Actually, that was the situation at that time, Sir.

Q:

As a hard campaigner, you wanted your team to win over the other, is this correct?

A:

Yes, Sir.

Q:

Of course you understand what PRO work is, it includes propaganda, is that correct?

A:

I am sorry I don't accept PR work, Sir.

Q:

Do you understand PRO work?

A:

Yes, Sir, I know.

Q:

In propaganda, for your side, you promote it as against the other, right?

A:

Yes, Sir.[35]

It can be gleaned from her testimony that petitioner had the motive to make defamatory imputations against complainants. Thus, petitioner cannot, by simply making a general denial, convince us that there was no malice on her part. Verily, not only was there malice in law, the article being malicious in itself, but there was also malice in fact, as there was motive to talk ill against complainants during the electoral campaign.

Neither can petitioner take refuge in the constitutional guarantee of freedom of speech and of the press. Although a wide latitude is given to critical utterances made against public officials in the performance of their official duties, or against public figures on matters of public interest, such criticism does not automatically fall within the ambit of constitutionally protected speech. If the utterances are false, malicious or unrelated to a public officer's performance of his duties or irrelevant to matters of public interest involving public figures, the same may give rise to criminal and civil liability.[36] While complainants are considered public figures for being personalities in the entertainment business, media people, including gossip and intrigue writers and commentators such as petitioner, do not have the unbridled license to malign their honor and dignity by indiscriminately airing fabricated and malicious comments, whether in broadcast media or in print, about their personal lives.[37]

We must however take this opportunity to likewise remind media practitioners of the high ethical standards attached to and demanded by their noble profession. The danger of an unbridled irrational exercise of the right of free speech and press, that is, in utter contempt of the rights of others and in willful disregard of the cumbrous responsibilities inherent in it, is the eventual self-destruction of the right and the regression of human society into a veritable Hobbesian state of nature where life is short, nasty and brutish. Therefore, to recognize that there can be no absolute "unrestraint" in speech is to truly comprehend the quintessence of freedom in the marketplace of social thought and action, genuine freedom being that which is limned by the freedom of others. If there is freedom of the press, ought there not also be freedom from the press? It is in this sense that self-regulation as distinguished from self-censorship becomes the ideal mean for, as Mr. Justice Frankfurter has warned, "[W]ithout x x x a lively sense of responsibility, a free press may readily become a powerful instrument of injustice.

Lest we be misconstrued, this is not to diminish nor constrict that space in which expression freely flourishes and operates. For we have always strongly maintained, as we do now, that freedom of expression is man's birthright - constitutionally protected and guaranteed, and that it has become the singular role of the press to act as its "defensor fidei" in a democratic society such as ours. But it is also worth keeping in mind that the press is the servant, not the master, of the citizenry, and its freedom does not carry with it an unrestricted hunting license to prey on the ordinary citizen.[38]

In view of the foregoing disquisitions, the conviction of petitioner for libel should be upheld.

With respect to the penalty to be imposed for this conviction, we note that on January 25, 2008, the Court issued Administrative Circular No. 08-2008, entitled Guidelines in the Observance of a Rule of Preference in the Imposition of Penalties in Libel Cases. The Circular expresses a preference for the imposition of a fine rather than imprisonment, given the circumstances attendant in the cases[39] cited therein in which only a fine was imposed by this Court on those convicted of libel. It also states that, if the penalty imposed is merely a fine but the convict is unable to pay the same, the Revised Penal Code provisions on subsidiary imprisonment should apply.

However, the Circular likewise allows the court, in the exercise of sound discretion, the option to impose imprisonment as penalty, whenever the imposition of a fine alone would depreciate the seriousness of the offense, work violence on the social order, or otherwise be contrary to the imperatives of justice.

In the case at bench, the Court considers the public's speculations as to the whereabouts of Annabelle Rama Gutierrez with the issuance of the warrant of arrest after her initial conviction for estafa. Petitioner fueled these speculations through her article. However, her article went overboard and exceeded the bounds of fair comment. This warrants her conviction. Nonetheless, in light of the relatively wide latitude given to utterances against public figures such as private complainants, and consonant with Administrative Circular No. 08-2008, the Court deems it proper to modify the penalty of imprisonment to a fine in the amount of P6,000.00, with subsidiary imprisonment in case of insolvency, in each case. But the award of moral damages for each of the private complainants in the amount of P500,000.00, as ordered by the trial court, should be restored on account of the serious anxiety and the wounded feelings suffered by complainants from the libelous article, particularly taking into account the fact that petitioner and the private complainants were on relatively good terms with each other, and complainants gave no cause or offense which could have provoked the malicious publication.

WHEREFORE, the Decision dated September 3, 2002 of the Court of Appeals in CA-G.R. CR No. 20890 is AFFIRMED with the MODIFICATION that in lieu of imprisonment, petitioner Cristinelli S. Fermin is sentenced to pay a fine in the amount of P6,000.00, with subsidiary imprisonment in case of insolvency, in each case. The award of moral damages, in the amount of P300,000.00 each in favor of complainants Annabelle Rama Gutierrez and Eduardo Gutierrez, is increased to P500,000.00. Costs against petitioner.

SO ORDERED.

Austria-Martinez, (acting chairperson), Tinga, Chico-Nazario, and Reyes., JJ., concur.

*In lieu of Associate Justice Consuelo Ynares-Santiago per Special Order No. 497, dated March 14, 2008.

[1] Rollo, pp. 3-43.

[2] Penned by Associate Justice Salvador J. Valdez, Jr., with Associate Justices Mercedes Gozo-Dadole and Amelita G. Tolentino, concurring; id. at 45-60.

[3]Id. at 62-67.

[4]Both entitled "People of the Philippines v. Cristenelli S. Fermin and Bogs C. Tugas" and docketed as Criminal Cases Nos. Q-95-62823 and Q-95-62824.

[5]Also referred in the records as Cristenelli.

[6]Annabelle Rama Gutierrez in one, and Eduardo (Eddie) Gutierrez in the other.

[7]Records, pp. 2-3.

[8]Id. at 181-194.

[9]Id. at 193-194.

[10]Rollo, pp. 59-60.

[11]Id. at 7-8.

[12]28 Phil. 599 (1914).

[13]59 Phil. 356 (1934).

[14]27 Phil. 347 (1914).

[15]36 Phil. 243 (1917).

[16]18 Phil. 1 (1910).

[17]CA-G.R. CR No. 13561, November 6, 1995.

[18]Supra note 12, at 604-605. (Emphasis supplied.)

[19]Art. 360. Persons responsible. - Any person who shall publish, exhibit, or cause the publication or exhibition of any defamation in writing or by similar means, shall be responsible for the same.

The author or editor of a book or pamphlet, or the editor or business manager of a daily newspaper, magazine or serial publication, shall be responsible for the defamations contained therein to the same extent as if he were the author thereof. x x x (Emphasis supplied)

[20]Supra note 16, at 50-52.

[21]Exhibit "A-8;" records, p. 60.

[22]TSN, May 2, 1996, p. 61.

[23]Id. at 29.

[24]"Judicial decisions applying or interpreting the laws or the constitution shall form part of the legal system of the Philippines."

[25]Castillo v. Sandiganbayan, 427 Phil. 785, 793 (2002).

[26]Records, p. 17.

[27]Cross-examination of Bogs Tugas; TSN, March 11, 1996, pp. 36-37.

[28]Direct examination of Dr. Richard U. Velez; TSN, March 19, 1996, pp. 7-8.

[29]Cross-examination of Bogs Tugas; TSN, March 19, 1996, pp. 15-18.

[30]Records, p. 59.

[31]REVISED PENAL CODE, Art. 353.

[32]Novicio v. Aggabao, 463 Phil. 510, 516 (2003).

[33]Exhibits "E-4" to "E-8"; records, pp. 75-76.

[34]Testimony of Eddie Gutierrez; TSN, January 15, 1996, pp. 66-68, 85-87.

[35]Cross-examination of Cristinelli Fermin; TSN, May 2, 1996, pp. 54-59.

[36]Brillante v. Court of Appeals, G.R. Nos. 118757 121571, October 19, 2004, 440 SCRA 541, 574.

[37]Soriano v. Intermediate Appellate Court, No. L-72383, November 9, 1988, 167 SCRA 222, 231 (1988).

[38]Borjal v. Court of Appeals, 361 Phil. 1, 28 (1999).

[39]"In Sazon v. Court of Appeals (325 Phil. 1053, 1068 [1996]), the Court modified the penalty imposed upon petitioner, an officer of a homeowners' association, for the crime of libel from imprisonment and fine in the amount of P200.00, to fine only of P3,000.00, with subsidiary imprisonment in case of insolvency, for the reason that he wrote the libelous article merely to defend his honor against the malicious messages that earlier circulated around the subdivision, which he thought was the handiwork of the private complainant.

In Mari v. Court of Appeals (388 Phil. 269, 279 [2000]), in which the crime involved is slander by deed, the Court modified the penalty imposed on petitioner, an ordinary government employee, from imprisonment to a fine of P1,000.00, with subsidiary imprisonment in case of insolvency, on the ground that the latter committed the offense in the heat of anger and in reaction to a perceived provocation.

In Brillante v. Court of Appeals (G.R. Nos. 118757 121571, November 11, 2005, 474 SCRA 480, 484), the Court deleted the penalty of imprisonment imposed upon petitioner, a local politician, but maintained the penalty of fine of P4,000.00, with subsidiary imprisonment in case of insolvency, in each of the five (5) cases of libel, on the ground that the intensely feverish passions evoked during the election period in 1988 must have agitated petitioner into writing his open letter, and that incomplete privileged communication should be appreciated in favor of petitioner, especially considering the wide latitude traditionally given to defamatory utterances against public officials in connection with or relevant to their performance of official duties or against public figures in relation to matters of public interest involving them.

In Buatis, Jr. v. People (G.R No. 142509, March 24, 2006, 485 SCRA 275, 292), the Court opted to impose upon petitioner, a lawyer, the penalty of fine only for the crime of libel considering that it was his first offense and he was motivated purely by his belief that he was merely exercising a civic or moral duty to his client when he wrote the defamatory letter to private complainant.

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.