

R. MARINO CORPUS, PLAINTIFF AND APPELLANT, VS. MIGUEL CUADERNO, SR., DEFENDANT AND APPELLEE.*G.R. No. 16969. April 30, 1966*

Ponente: MAKALINTAL, J.

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This is a suit for damages commenced in the Court of First Instance of Manila, where plaintiff asked for half a million pesos and defendant, on his counterclaim, for one and a half million. After trial the court dismissed the complaint and awarded 11,000.00 to defendant. Plaintiff appealed directly to Us in view of the amount claimed by him.

During the time pertinent to this case defendant was Governor of the Central Bank of the Philippines. On January 13, 1949 Corpus was appointed Economist in the Department of Economic Research of said bank. Thereafter he received promotions in position and salary. By 1954 he was Director of the Department of Loans and Credit and Rural Banks Administration. On December 15, 1954 a number of employees of the Bank tiled an administrative complaint against him. Upon their petition he was suspended from office on February 8, 1955. After investigation he was found guilty on five counts and upon recommendation of the Governor was penalized with suspension without pay from February 8, 1955 to August 30, 1955, the date the Monetary Board of the Bank rendered its decision.

On August 31, 1955 Corpus received a letter from Cuaderno informing him that he had been "reinstated in the service of the bank" with the designation of "Technical Assistant to the Governor." On January 17, 1956 he was appointed Special Assistant to the Governor, in charge of the Export Department.

On March 7, 1958 several of his co-employees in the same department filed an administrative complaint against him, alleging a number of acts of misfeasance. The Monetary Board, upon recommendation of the Governor, suspended him on March 18.

On March 25, 1958 Corpus instituted the present action, alleging that his suspension was unwarranted and had been brought about by Cuaderno's malicious machinations. The latter's counterclaim, after the denials and special defenses in his answer, alleged that the complaint had been riled maliciously and that plaintiff had committed libel against him.

On May 5, 1959, while this case was still pending in the lower court, the three-man committee created to investigate the 1958 administrative charges against plaintiff reported to the Monetary Board that it found no basis to recommend disciplinary action against him and therefore urged that he be reinstated. But on July 20, 1959 the Monetary Board resolved that:

"After an exhaustive and mature deliberation on the report of the aforesaid fact-finding committee, and representations of both complainants and respondent, through their respective counsel; and, further, after a thorough review of the service record of the respondent, particularly the various cases presented against him, object of Monetary Board Resolution No. 1527 dated August 30, 1955, which all involve fitness, discipline,

etc. of respondent; and moreover, upon formal statement of the Governor that he has lost confidence in the respondent as Special Assistant to the Governor and in charge of the Export Department (such position being primarily confidential and highly technical in nature), the Monetary Board finds that the continuance of the respondent in the service of the Central Bank would be prejudicial to the best interest of the Central Bank and, therefore, in accordance with the provisions of Section 14 of the Bank Charter, considers the respondent, Mr. R. Marino Corpus, resigned as of the date of his suspension."

On March 22, 1960, the lower court rendered the decision appealed from, absolving Cuaderno from liability but ordering Corpus to pay damages, as aforesaid, the allegation of libel having been duly proven.

Appellant now avers that the lower court erred in holding (1) that appellee is not liable for damages for illegally causing his suspension and eventual removal; and (2) that appellant had committed libel against appellee.

In connection with the first issue it is pertinent to state that the question of legality of appellant's removal by resolution of the Monetary Board of July 20, 1959 has been decided by Us in another case (G. R. No. L-23721, March 31, 1965). We found there that he had been removed not for any of the charges in the administrative complaint against him in 1958—charges as to which no specific findings were made by the Monetary Board—but by reason of loss of confidence by the Governor of the Bank; and held that loss of confidence alone is not a sufficient and legitimate cause for removal even if the position involved, as in appellant's case, belongs to the category of policy-determining, primarily confidential or highly technical positions referred to in the Constitution. In that case, therefore, We ordered appellant's reinstatement in the service.

The question here now is whether appellant's removal was the result of malicious machinations on the part of appellee, as alleged in the complaint. Appellant starts by saying that Cuaderno harbored a feeling of professional jealousy against him because he was a much solicited guest speaker on economic matters—a subject appellee considered his forte; and that on one occasion, during a hearing in Congress, appellant gave testimony contrary to that which appellee had given, thus putting the latter in a bad light. Resentment according to appellant was followed by overt acts, thus: Appellee induced a number of bank employees to file the administrative complaints of 1955 and 1958. The 1955 complaint was dated January 20, but as early as January 11 appellee saw to it that an investigating committee was created by the Monetary Board. And before appellant was given a chance to explain his side he was suspended, upon appellee's recommendation, on February 8, 1955. Appellant was not given a chance to read the charges against him except during the trial of the instant case. After the investigation appellant received a letter from appellee, informing him of his reinstatement, but without mentioning the fact that he had been found guilty and given the penalty of suspension without pay. Appellee even congratulated him on his exoneration. To completely convince appellant of this, appellee ordered the preparation of the "back salary" check corresponding to appellant's period of suspension, only to have the check cancelled later on. After the second administrative complaint was filed in 1958 appellee hastily convened an extraordinary meeting of the Monetary Board in order to magnify the false charges against appellant although appellee knew that the meeting was violative of the Central Bank charter, because the object of the meeting, as aforesaid, was not stated in the call, and the object actually stated did not justify an extraordinary meeting at all. To lull appellant into a false sense of security, appellee simply notified him, by letters, to prepare comments on the administrative charges, leading him to believe that he had all the time to do so, but afterwards appellee suddenly changed his tactics and directed the secretary of the Monetary Board to demand that appellant answer the charges as soon as possible. And on March 18, 1958 appellee informed appellant that he had been suspended effective that day. The corresponding letters and notices were delivered to appellant at his house by the bank's security guards, who were in uniform and fully armed—a manner of delivery that proved humiliating to appellant.

We first take up the question of appellant's removal from office as a result of the administrative complaint filed

against him in 1958. The removal was embodied in a resolution of the Monetary Board, upon appellee's recommendation as Governor of the Bank. The procedure adopted was in accordance with the provision of the bank charter that the Monetary Board shall "on the recommendation of the Governor, appoint, fix the remunerations, and remove all officers and employees of the Central Bank." (Section 14, R.A. 265). Under this provision the Board has the power to adopt or reject the recommendation. The decisive action belonged to the Board, not to appellee. In speaking of the action of the Board, this Court said in G.R. No. L-23721, *supra*: "we do not believe that in opining that the position of Corpus was one dependent on confidence, the defendant Monetary Board necessarily acted with vindictiveness or wantonness, and not in the exercise of honest judgment."

The record does not show that it was appellee who instigated either or both of the administrative cases against appellant. The 1955 complaint was filed by ten bank employees, while the one in 1958 was filed by eighteen of appellant's subordinates in his department—persons who would naturally be expected to reel greater loyalty to appellant, their immediate superior, than to appellee. None of the complainants in the first group were in the second group. No acts are attributed to appellee from which it may be inferred that he convinced all or a large number of them to file the charges.

Appellant stresses the fact that in the first administrative case, even before the complainants tiled their complaint of January 20, 1955 the Monetary Board had already created an investigating committee, cased on "papers presented by the Governor." The resolution to that effect was passed January 11, 1955. The evidence shows, however, that the complainants charged appellant as early as December 15, 1954, reiterated their complaint on the following December 26 and again on January 3, 1955. The complaint of January 20, 1955 was only a more formal and detailed narration of the charges.

In any event, some of the charges were substantiated. True, appellant was absolved of negligence in the performance of official duties and dishonesty, but he was found guilty on live other counts, namely: (1) physical maltreatment of a co-employee; (2) use of insulting language; (3) oppressive treatment of subordinates; (4) promulgation of unreasonable office regulations; and (5) defiance to the Monetary Board. Under the circumstances, malice can hardly be imputed to anybody in the formulation of those charges.

Appellant says it was only during the trial of the present case that he read a copy of the 1955 administrative complaint against him. We are hard put to believe this. One who is thus charged, and suspended by reason thereof, would lose no time finding out what the charges are. And after the administrative investigations had been terminated and appellant received a letter informing him of his restoration to office, he would want to know whether he had been exonerated or not. The fact is that he requested appellee to intercede for him in convincing the members of the Monetary Board to amend the resolution imposing upon him the penalty of suspension without pay—a fact which certainly does not jibe with his alleged ignorance of the charges or which he had been round guilty.

Contrary to appellant's claim, it was not appellee who was responsible for the cancellation of the check covering the period of his suspension. In fact appellee was the one who had the check prepared on September 6, 1955, just before he left on a trip to Istanbul; out as appellant himself stated in a letter-complaint he sent to the Presidential Complaints and Action Committee the check "was subsequently cancelled upon orders of Acting Deputy Governor Castillo on the strength of the Monetary Board resolution which was prepared after Governor Cuaderno's departure on September 6th." This is confirmed by appellant's witness, Jose Carmona, who was Chief Accountant of the Central Bank at the time.

Neither was appellee responsible for appellant's preventive suspension in connection with the two administrative cases against him. The pertinent resolution of the Monetary Board shows that it suspended appellant (in 1955)

"after being appraised (sic) of the findings and observations of the Committee created on January 11, 1955 on the matter at its present stage." The Board was then acting on complainants' petition dated January 3, 1955, precisely urging appellant's suspension. Likewise it appears that in the 1958 administrative case the complainants riled, on March 12 of that year, a motion for the immediate suspension or relief from office of appellant; and (to quote from the corresponding resolution) "after a lengthy and mature deliberation on the matter and upon the recommendation of the Governor, the Board, by unanimous vote, decided to suspend from office effective today, March 18, 1958, Mr. R. Marino Corpus." Both acts of suspension were by the Monetary Board, not by appellee. If appellee recommended suspension, he did so in the performance of his duty as he saw it and not in pursuance of an insidious scheme against appellant.

Concerning the alleged humiliating manner in which the communications from the Monetary Board were served upon appellant, we fail to see how appellee may be held responsible. The bank's security guards who delivered them may have been in uniform and armed at the time, but it does not appear that they did anything to call the public's attention to the import of the messages they were carrying. If they acted in an oppressive and high-handed manner, it is they and not appellee who should be made to answer.

Appellant says that after appellee had lulled him into a false sense of security in connection with the 1958 case, the latter suddenly pressed him to rile his answer without first furnishing him a copy or the complaint. The record fails to substantiate this grievance. The complaint was filed on March 7, 1958. Appellant received a letter from Deputy Governor Castillo asking him to appear at the Central Bank at 9 in the evening or March 10, 1958, to furnish the Monetary Board with certain information. According to appellant, when he went to the meeting hall as directed he found nobody there except the Board secretary, Attorney Filomeno Sta. Ana. In the afternoon of March 14, 1958 appellant received a letter from Sta. Ana asking him to answer the charges. Appellant apparently did not reply to the letter. Then on March 17, 1958 Sta. Ana, upon appellee's instructions, again sent appellant a memorandum asking him to submit his answer without delay. Instead of answering the charges, or asking for a copy thereof if he did not have a copy, as he now claims, appellant had his subordinate, Orlando Villanueva, write a letter on March 18, 1958, telling Sta. Ana that "Mr. Corpus has instructed me to inform you that his lawyer, Atty. Rosauro Alvarez (Roseller Lim and Rosauro Alvarez Law Offices) is now sick with flu and is asking for time." Considering that appellant had engaged a lawyer to defend him, his allegation of ignorance or the charges deserves scant credit.

All that may be said about appellee's actuations is that he lost confidence in appellant in view of the charges filed against him in 1958; and although they were not substantiated, appellee believed in good faith that such loss of confidence was sufficient reason to recommend appellant's removal.

We come now to the question of libel, which is the subject of appellee's counterclaim. The statements for which appellee seeks damages from appellant appeared in the March 21, 1958 issue of The Manila Chronicle, as follows:

"CORPUS TALKS OF 'INTRIGUER'"

"A suspended Central Bank official yesterday said that a high-ranking CB official, who was dismissed for malversation from the Philippine National Bank before the war, intrigued and instigated the filing of charges against him.

"In an interview, R. Mariano Corpus, who was suspended the other day as special assistant to the CB governor and head of the CB export department asserted that the 'intriguer' was 'dismissed from the PNB when my father, Judge Rafael Corpus, was president of the bank.'

"Corpus was suspended on the basis of an administrative complaint filed by 18 of the 78 employees of the CB

export department.

"In a previous interview, Corpus preferred not to comment on his suspension beyond saying that 'time will tell who instigated the charges, and why.'

"Yesterday, Corpus called for the ouster of the CB official he was referring to, averring that this official was automatically disqualified by the CB charter from holding a position in the bank which calls for 'high moral integrity.'

"When this story hits the streets, the CB official who will be cussing me and will be pushing hard to have me disqualified from the CB will be the one who instigated the charges against me,' Corpus added. 'He will stop at nothing to run me down, because now that he is exposed, he is automatically disqualified by the charter of the bank from holding a position which calls for high moral integrity.'

"Recalling how this CB official was dismissed from the PNB before the war, Corpus said the man was discovered 'milking' a sugar central.

"The suspended CB official added that President Quezon ordered this official's dismissal because he felt that the moment he (Mr. Quezon) was convinced a government official holding a position of trust was unfit to remain in public service, out he would go.

"ASK THEM"

"Pressed for the identification of the official he was referring to, Corpus said the following would be in a position to reveal who the person was; CB Governor Miguel Cuaderno, who was assistant general manager of the PNB then; CB legal counsel Natalio Balboa, who was in the PNB legal department; CB chief accountant Jose Carmona, who was also in the PNB accounting department, and others like Primitivo Lovina, president of the Chamber of Commerce of the Philippines; PNB President Arsenio Jison, Manuel Marquez, president of the Commercial Bank and Trust Company, and Alfonso Calalang, President of the Bankers Association of the Philippines."

In disclaiming liability, appellant points out that in the aforequoted news item it does not appear that he was speaking of appellee.

In order to maintain a libel suit it is essential that the victim be identifiable (*People vs. Monton*, L-16772, November 30, 1962), although it is not necessary that he be named (91 A.L.R. 1161). It is enough by intrinsic reference the allusion is apparent or if the publication contains matters of description or reference to facts and circumstances from which others reading the article may know the plaintiff was intended, or if he is pointed out by extraneous circumstances so that persons knowing him could and did understand that he was the person referred to.

While no name is mentioned in appellant's defamatory statements, the following circumstances mentioned therein make the object ascertainable: (1) the person in question was a high ranking Central Bank official; (2) he was formerly an official of the Philippine National Bank, and at the time had something to do with sugar centrals; (3) his identity is known by the persons named therein; and (4) he was the one who instigated the aforementioned charges against appellant.

All these circumstances point to appellee. It is established by the evidence that at least two other persons who read the article readily realized that it referred to appellee. Asked how he immediately arrived at such a conclusion, Manuel Marquez explained that "there is a paragraph in the article which says that this CB official was dismissed from the PNB before the war, Corpus said the man was discovered milking a sugar central;" and that "the only official who is at present in the Central Bank and who was with the Philippine National Bank prior to the

establishment of the Central Bank, who, to my knowledge, was in some way or another connected with the Sugar Central was Governor Miguel Cuaderno." Aside from appellee, two Central Bank officials who were also with the Philippine National Bank were Natalio Balboa, who was in the legal department thereof, and Jose Carmona, who was in the auditing department. Balboa testified that he knew the article was about appellee for the following reasons:

"Because, as I said, the first paragraph of the article it refers to 'Intriguer' and I know no other, Mr. Corpus is referring to 'intriguer' to Mr. Cuaderno, because I know that he was trying to prevail on Mr. Cuaderno to stop the administrative investigation against Mr. Corpus, when he failed to prevail on Mr. Cuaderno because the other employees are pressing the complaint and the complaint was submitted to the Monetary Board, and he made the conclusion that it was Mr. Cuaderno as the intriguer, that; is the first part of it. The second part of it is that he was dismissed from the Philippine National Bank by President Quezon. President Quezon will not dismiss any official of the Philippine National Bank other than the President, Vice-President, General Manager, and Assistant Manager. He would not dismiss the other executive officials or the legal counsel or others, it must be the Philippine National Bank Board of Directors. The third of it is that milking a sugar central, there is no other person connected with the sugar central but Mr. Cuaderno, with the Bataan Sugar Central. I was connected as Secretary of the Ma-ao Sugar Central and there was no complaint and we only met once a month, so, all those there and my opinion was not based on one single item of the article, it was all those three and the rest of the article may be."

Appellant pointed particularly to Marquez and Balboa as among the persons who could identify the Central Bank official he was speaking of, and both declared that the article referred to appellee. Furthermore, five days after he gave the press interview, appellant instituted the present action wherein he accused appellee of having instigated the administrative charges against him—a fact which obviously proves that he was speaking of appellee when he made the derogatory statements complained of.

In view of the evidence just considered, we can apply here the rule in *Kunkle vs. Cablenews-American*, 42 Phil. 757, relied upon by appellant, that the publication of a matter of a defamatory nature in a newspaper, without naming or accurately describing the person to whom the reprobated acts are attributed, will not give rise to a civil action for damages at the instance of a person claiming to be the injured party, unless it appears that the description of the person referred to in the defamatory publication was sufficiently clear that at least one third person would have understood the description as relating to him. Here, more than one third person identified appellee as the object of the libel.

Appellee has not appealed from the decision of the lower court and therefore his prayer that the amount of damages awarded to him be increased must be denied.

The judgment appealed from is affirmed, with costs against plaintiff-appellant.

Reyes, J.B.L., Barrera, Regala, Bengzon, J.P., Zaldivar, and Sanchez, JJ., concur.

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