

GALILEO A. MAGLASANG, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 248616. January 12, 2021

Ponente: CARANDANG, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-248616/>

CARANDANG, J.:

Before this Court is a Petition for Review on Certiorari[1] filed by petitioner Galileo A. Maglasang (Galileo) assailing the Decision[2] dated December 14, 2018 and the Resolution[3] dated July 17, 2019 of the Court of Appeals (CA) in CA-G.R. CR No. 01649-MIN. The CA affirmed the Judgment[4] dated November 17, 2017 and the Order[5] dated March 22, 2018 of the Regional Trial Court (RTC) of Cagayan de Oro City, Branch 20, in Criminal Case No. 2014-1164. The fallo of the Judgment provides:

WHEREFORE, there being proof beyond reasonable doubt, accused Galileo A. Maglasang is found guilty.

Pursuant to the Supreme Court Administrative Circular No. 08-2008 issued on 25 January 2008, accused is meted to pay a fine of P4,000.00.

SO ORDERED.[6] (Emphasis in the original)

Facts of the Case

Galileo was charged with libel under Article 353 of the Revised Penal Code (RPC) in a Reproduced Information[7] dated February 22, 2016. The Reproduced Information is based on the Resolution[8] dated June 13, 2014 of Assistant City Prosecutor Abol Alam A. Padate. The Reproduced Information states:

That on 30 March 2014, in the City of Cagayan de Oro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, illegally, criminally and with the intention of attacking the honesty, virtue and reputation of offended parties CAPT. RENE A. MAGLASANG and ENGR. NELIA COCOS, who is the newly-elected President of Misamis Institute of Technology (MIT) and Registrar of MIT-Ozamis City, respectively, and for the further purpose of exposing the latter to public hatred, contempt and ridicule, wrote, composed and caused the publication of a LETTER-COMPLAINT, which contains injurious, malicious and defamatory imputations of an alleged illegal act committed by the offended parties, the pertinent provision of said letter reads, thus:

COMMO Ferdinand M. Velasco PCG
Commander
Coast Guard District Northern Mindanao
Corrales Extension, Macabalan,
Cagayan De Oro City

Dear Commander Velasco,

Re: Spurious S.O.'s and CAV's of graduates of the Misamis Institute of Technology CHED Region Office X

xxxx

I write in my capacity as President of the Misamis Institute of Technology, Inc. (hereafter, "MIT"), in relation to the case, entitled MISAMIS INSTITUTE OF TECHNOLOGY, INC versus ZENAIDA GERSANA, CHEDRO X Regional Director, and ROY ROQUE U. AGCORPA, CHEDRO X Chief Administrative Officer, now pending before the Office of the Executive Director of the Commission on Higher Education (hereafter, "CHED").

As a consequence to the above-mentioned case, we uncovered that CHED Region Office X at Cagayan de Oro City had turned over S.O.'s and CAV's to Rene A. Maglasang and to persons associated with him, including Engr. Nelia Cocos, who, in turn, sold said documents to unsuspecting students and graduates of MIT.

Rene A. Maglasang and all persons who take instructions from him, including Engr. Nelia Cocos, have nothing to do with MIT and do not have in their custody the academic records of the students and graduates of MIT to whom these S.O.'s and CAV's pertain.

x x x x

Very Truly Yours,
Sgd. Galileo A. Maglasang

with which statements, the said accused meant and intended to convey, as in fact he did mean and convey false and malicious imputation that the said offended parties were unscrupulous and devious individuals which imputations as he well knew, were false and malicious, offensive and derogatory to the good name, character and reputation of the offended parties and that the said letter was solely written and circulated by the said accused for no other purpose than to impeach and besmirch the good name, character and reputation of the offended parties, in order to expose him, as in fact, he was exposed to dishonor, discredit, public hatred, contempt and ridicule, to their damage and prejudice.

Contrary to law.[9] (Emphasis and italics in the original.)

Galileo was originally scheduled to be arraigned on February 3, 2015. However, a fire destroyed the records of this case on January 30, 2015. Thus, the Office of the City Prosecutor prayed for the reconstitution of the records of the case.[10] This was granted by the RTC in an Order[11] dated November 12, 2015. On June 2, 2016, Galileo was arraigned and pleaded not guilty.[12]

Respondent presented private complainant Rene A. Maglasang (Rene) and Ensign Ronnie Rey de la Vega Pabico (P/Ens Pabico), Community Relations Officer of the Philippine Coast Guard (PCG) in Northern Mindanao, as its witnesses. According to respondent, Engineer Allan A. Maglasang (Engr. Allan), Rene, and Galileo's brother, who is also a part of the PCG, called Rene on March 31, 2014 to inform him that the office of Commodore Ferdinand Velasco (Commo Velasco), Commander of the PCG Region X, Cagayan de Oro City, received a letter dated March 30, 2014 from Galileo.[13] The letter reads:

I write in my capacity as President of the Misamis Institute of Technology, Inc. (hereafter, "MIT"), in relation to the case, entitled MISAMIS INSTITUTE OF TECHNOLOGY, INC. versus ZENAIDA GERSANA, CHEDRO X Regional Director, and ROY ROQUE U. AGCORPA, CHEDRO X Chief Administrative Officer, now pending before the Office of the Executive Director of the Commission on Higher Education (hereafter, "CHED").

As a consequence to the above-mentioned case, we uncovered that CHED Region Office X at Cagayan de Oro City had turned over S.O.'s and CAV's to Rene A. Maglasang and to persons associated with him, including Engr. Nelia Cocos, who, in turn sold said documents to unsuspecting students and graduates of MIT.

Rene A. Maglasang and all persons who take instructions from him, including Engr. Nelia Cocos, have nothing to do with MIT and do not have in their custody the academic records of the students and graduates of MIT to

whom these S.O.'s and CAV's pertain.

In an effort to avert damage the issuance of these spurious S.O.'s and CAV's, the Office of the Executive Director of CHED, in the letter, dated March 6, 2014, machine copy of which attached hereto as Annex A, addressed to me clarified that indeed the issuance of the S.O.'s and the CAV's to persons who do not have custody of the academic records of the students and graduates of MIT to whom the S.O.'s and CAV's pertain is irregular. Consequently, the Office of the Executive Director of CHED, in the Memorandum from the Office of the Executive Director, dated March 27, 2014, machine copy of which attached hereto as Annex B, directed ZENAIDA GERSANA, CHEDRO X Regional Director, to issue the S.O.'s and CAV's in accordance with the proper procedure of CHED.

The Office of the Executive Director of CHED, in both the letter, dated March 6, 2014 (Annex A) and the Memorandum from the Office of the Executive Director, dated March 27, 2014 (Annex B), specifically addressed me, not Rene A. Maglasang, as the President of MIT.

I, therefore, request your good office not to accept the following S.O.'s and CAV's issued by CHEDRO X, to wit: x x x .

The foregoing list may not have been exhaustive. I, therefore, request that any document which appears to be signed by Rene A. Maglasang in which he described himself as the President of MIT, and by Engr. Nelia Cocos, in which she described herself as the Registrar MIT, be referred to the Office of the Executive Director of CHED for authenticity.

Lastly, may I request that your good office verify the foregoing matter with the Office of the Executive Director of CHED.

Thank you for your giving me your precious time and attention.[14] (Emphasis in the original.)

Upon Rene's request, Engr. Allan obtained a copy of the letter and gave it to Rene. Rene, his family, and the staff of the Misamis Institute of Technology, Inc. (MIT) read the letter. Rene felt insulted and maligned by the accusations in the letter. As such, he and Engr. Nelia Cocos (Engr. Cocos; collectively, private complainants) filed a complaint-affidavit for libel against Galileo. Galileo was charged with libel.[15]

Galileo did not present any evidence in his defense[16] but submitted a Memorandum[17] to the RTC. Galileo argued in his Memorandum that the original letter was not presented as evidence. Respondent was unable to prove that the original letter was destroyed or lost. Hence, the case should be dismissed, and Galileo should be acquitted.[18]

Ruling of the Regional Trial Court

In its Judgment[19] dated November 17, 2017, the RTC found Galileo guilty beyond reasonable doubt of the crime of libel and imposed the penalty of a fine of P4,000.00 upon him.[20] The RTC held that all the elements of libel under Article 353 of the RPC were established in this case. The prosecution presented Rene and P/Ens Pabico as its witnesses. P/Ens Pabico testified as to the existence of the letter addressed to Commo Velasco that was on file in their office. First, Galileo's letter destroyed the character of private complainants by imputing that they committed irregularities, specifically selling Special Orders (SOs) and Certification, Authentication, and Verification (CAVs) to students of MIT even though they have nothing to do with MIT and do not have custody of the records of its students and graduates. Second, these imputations were malicious. Galileo did not present evidence to overcome the presumption that every defamatory imputation is malicious, even if it be true, if no good intention and justifiable motive for making it is shown. Third, the imputations made by Galileo were addressed to private complainants who are natural persons. Fourth, the malicious imputations made by Galileo brought dishonor, discredit, or contempt upon private complainants. Fifth, Galileo sent the letter to a third person, namely

Commo Velasco. Rene learned about the letter through Engr. Allan. Hence, the element of publication, which requires the delivery of the libelous matter by mailing it, reading it, or communicating its purpose in any manner to any person other than the one libeled, was satisfied.[21]

Under the RPC, libel is punishable by imprisonment of prison correccional in its minimum and maximum period or a fine ranging from P200.00 to P6,000.00, or both, in addition to the civil action that may be brought by the offended party.[22] Pursuant to this Court's Administrative Circular No. 08-2008[23] issued on January 25, 2008, the RTC considered the following factors in imposing a penalty of a fine alone on Galileo: (1) Rene and Galileo are full-blooded brothers; (2) they are not in good terms because both were claiming to be the President of MIT; (3) this is the first time that Rene sued Galileo for libel; and (4) Engr. Cocos did not testify.[24]

Galileo filed a motion for reconsideration,[25] but it was denied.[26] He then appealed to the CA.[27]

Ruling of the Court of Appeals

On December 14, 2018, the CA rendered its Decision[28] affirming the Judgment of the RTC. The CA held that respondent was able to establish that the original letter was unavailable and cannot be produced in Court. Therefore, the RTC was correct in admitting the photocopy of the letter as evidence pursuant to Section 5, Rule 130 of the Revised Rules on Evidence. The CA gave credence to the testimony of P/Ens Pabico that Commo Velasco's secretary emailed a copy of the letter to him sometime in January or February 2017. The secretary is no longer connected with PCG while Commo Velasco is under investigation and is in a floating status. P/Ens Pabico confirmed that his office received a copy of the letter.[29]

The CA also agreed with the RTC that all the elements of libel are present in the case, namely identifiability, defamatory allegation, and malice. Private complainants were clearly identified in the letter. The statements in the letter are defamatory because it ascribed the commission of irregular transactions against private complainants and their possession of a vice or defect, which tended to dishonor or discredit them and impeached their virtue, credit, and reputation. The malice in the imputations may be inferred from the ongoing legal dispute between Rene and Galileo over the leadership of MIT. And the element of publication was satisfied when Galileo sent the letter to Commo Velasco. Notably, Galileo did not question the presence of the elements of libel in this case.[30]

Galileo filed a Motion for Reconsideration.[31] After it was denied by the CA,[32] he filed a petition for review on certiorari before this Court.

Petitioner's Arguments

Galileo argued that under Best Evidence Rule in Section 3, Rule 130 of the Revised Rules on Evidence, when the subject of the inquiry is the contents of the document, no evidence shall be admissible other than the original document itself, except in cases specified under said rule. Secondary evidence may only be accepted if the following are established: (1) the existence or due execution of the original; (2) loss and destruction of the original or the reason for its non-production in court; and (3) on the part of the offeror, the absence of bad faith to which the unavailability of the original can be attributed. Respondent did not exert any effort to justify the presentation of secondary evidence instead of the original letter. P/Ens Pabico testified that he cannot confirm if the letter was received by the PCG because he was not yet in PCG when the letter was supposedly sent. He does not know Comma Velasco's secretary who supposedly sent the email containing the letter or her location. In addition, the printed copy of the letter brought by P/Ens Pabico bore the marking "Annex A." This was the same marking placed on letter attached to Rene's complaint-affidavit as Annex A. Galileo concluded that the letter brought by P/Ens Pabico was actually given to him by respondent. Further, respondent did not submit evidence that Commo Velasco brought the letter with him after being separated from the PCG. Based on the foregoing, Galileo asserted

that respondent failed to prove that the letter cannot be produced in court.[33]

Respondent's Arguments

Respondent pointed out that Galileo's arguments in his petition are a mere rehash of his arguments in his motions for reconsideration before the RTC and the CA. The courts a quo have already ruled upon these matters. In any case, respondent insisted that it was able to establish that the original letter was not available through P/Ens Pabico's testimony that Commo Velasco was under investigation. Hence, Section 5, Rule 130 of the Revised Rules on Evidence applies and respondent was justified in using copies of the letter from Rene and P/Ens Pabico as evidence.[34]

Respondent also argued that the CA was correct in affirming the RTC that the elements of the crime of libel were established in this case. First, the letter is clearly defamatory because it accused private complainants of misrepresenting themselves as officers of MIT and sold fake and spurious SOs and CAVs to unsuspecting students and graduates of MIT. Second, the imputation in the letter is malicious. Pursuant to Article 354 of the RPC, every defamatory imputation is presumed to be malicious. Galileo did not present evidence to overcome this presumption. He did not show the existence of the exceptions in Article 354, namely: (1) a private communication made by any person to another in the performance of any legal, moral, or social duty; and (2) a fair and true report, made in good faith, without any comments or remarks, of any judicial, legislative or other official proceedings which are not of confidential nature, or of any statement, report or speech delivered in said proceedings, or of any other act performed by public officers in the exercise of their functions. Third, the letter was given publicity when Galileo sent it to Comma Velasco. It was also read by Galileo and Rene's family members and MIT officials. Considering the foregoing, respondent prayed that Galileo's petition be dismissed.[35]

Petitioner's Supplemental Argument

Galileo filed a Supplement to Petition for Review on Certiorari[36] informing the Court that the RTC of Oroquieta City, Branch 14 rendered a Decision[37] dated November 12, 2019 issuing a writ of final injunction against Rene and the members of his group enjoining them from proclaiming in public and in judicial proceedings that: (1) the Decision dated July 29, 2003 of the RTC in Special Civil Action Nos. OC-004 and OC-005, as well as the decision of the CA affirming it, are still subsisting and enforceable; (2) the election held at MIT on April 15, 2007 is null and void; and (3) Rene is still the president of MIT.[38]

Issue

Whether the CA erred in affirming that Galileo is guilty beyond reasonable doubt of libel.

Ruling of the Court

We grant the petition.

Article 353[39] of the Revised Penal Code defines libel as a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead. In order to be held liable for libel, it must be established that: (1) the imputation is defamatory; (2) the imputation is malicious; (3) the imputation was given publicity; and (4) the victim must be identifiable.[40]

The conflict of Rene and Galileo originated from their competing claims over the management of MIT. This allegedly led Galileo to send a letter to Comma Velasco containing malicious imputations against private complainants.[41] Thus, proof of the letter is necessary for the conviction of Galileo.

Section 19,[42] Rule 132 of the Revised Rules of Evidence defines public documents as those: (a) written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country; (b) documents acknowledged before a notary public except last wills and testaments; and (c) public records, kept in the Philippines, of private documents required by law to be entered therein. All other documents are private. Since the letter does not qualify as a public document, it is a private document. Section 20 of Rule 132 states how private documents are proven:

Section 20. Proof of private document. – Before any private document offered as authentic is received in evidence, its due execution and authenticity must be proved either:

- (a) By anyone who saw the document executed or written; or
- (b) By evidence of the genuineness of the signature or handwriting of the maker.

Any other private document need only be identified as that which it is claimed to be.

Pursuant to Section 20, a private document may be authenticated by: the person who executed it, the person before whom its execution was acknowledged, any person who was present and saw it executed, the person who after its execution, saw it and recognized the signature, being familiar thereto or an expert, or the person to whom the parties to the instrument had previously confessed execution thereof.[43] In this case, neither Rene nor P/Ens Pabico saw the execution of the letter. Though Rene claimed that he was personally familiar with Galileo's signature, he did not explain why or how he became familiar with it.[44] As such, We cannot give credence to Rene's claim because it does not have any basis. Aside from Rene and P/Ens Pabico, no other witness attempted to authenticate the letter. Thus, respondent failed to establish the due execution and authenticity of the letter.

Respondent also failed to justify its submission of photocopies of the letter instead of its original. The Best Evidence Rule under Section 3, Rule 130 of the Revised Rules on Evidence provides:

Section 3. Original document must be produced; exceptions. – When the subject of inquiry is the contents of a document, no evidence shall be admissible other than the original document itself, except in the following cases:

- (a) When the original has been lost or destroyed, or cannot be produced in court, without bad faith on the part of the offeror;
- (b) When the original is in the custody or under the control of the party against whom the evidence is offered, and the latter fails to produce it after reasonable notice;
- (c) When the original consists of numerous accounts or other documents which cannot be examined in court without great loss of time and the fact sought to be established from them is only the general result of the whole; and
- (d) When the original is a public record in the custody of a public officer or is recorded in a public office.

Based on Section 3, the original document itself must be presented in court, except in the instances specified in Section 3. With respect to the first exception, Section 5, Rule 130 of the Revised Rules on Evidence states that:

Section 5. When original document is unavailable. - When the original document has been lost or destroyed, or cannot be produced in court, the offeror, upon proof of its execution or existence and the cause of its unavailability without bad faith on his part, may prove its contents by a copy, or by a recital of its contents in some authentic document, or by the testimony of witnesses in the order stated.

To prove that the letter was duly received by the PCG in Northern Mindanao, respondent presented P/Ens Pabico as its witness. According to P/Ens Pabico, he has been the Community Relations Officer in PCG Northern Mindanao since November 2016.[45] After the RTC issued a Subpoena Duces Tecum Ad Testificandum[46] addressed to the Chief or Records Officer of the PCG Northern Mindanao to bring/produce the original letter,

P/Ens Pabico instructed his secretary to obtain a copy of said letter. The secretary of Comma Velasco emailed a copy of the letter to him, through the official email address of their office. During his testimony, P/Ens Pabico said that Comma Velasco was under investigation while his secretary was no longer connected with the PCG.[47]

We find that P/Ens Pabico's testimony failed to establish that the letter was sent by Galileo to Comma Velasco and that it can no longer be presented in court. Notably, P/Ens Pabico is the Community Relations Officer of the PCG Northern Mindanao and not its Records Officer.[48] He did not clarify whether he had custody of the documents of the PCG Northern Mindanao as its Community Relations Officer. More importantly, P/Ens Pabico said that "I am not in the position to say we received a copy because during that time, I was not yet in the Philippine Coast Guard, Sir." [49] When asked why he instructed his secretary to find a copy of the letter after receiving the subpoena, he replied that "I do not know if that certain file exists because during that time I was not the Coast Guard during 2014, I was at training." [50] Clearly, P/Ens Pabico has no personal knowledge of whether the letter was received by Commo Velasco or his office. He likewise has no knowledge of the location of the original letter.

Moreover, P/Ens Pabico does not even know who sent him a copy of the letter. He is unaware of the identity and location of Commo Velasco's secretary.[51] In addition, Galileo duly noted that the copy of the letter submitted by P/Ens Pabico bore the marking "Annex A." [52] This is the same marking placed on the copy of the letter annexed to Rene's complaint-affidavit.[53] If indeed a copy of the letter came from Commo Velasco's secretary, then it is baffling why it had that marking. It is therefore uncertain if Commo Velasco's secretary had the original letter in his or her custody. It is also doubtful that P/Ens Pabico truly received a copy of the letter from Commo Velasco's secretary. Hence, the genuineness of the copy of the letter that P/Ens Pabico brought to court is questionable.

Aside from P/Ens Pabico, respondent did not present any other evidence of the existence and receipt of the letter. Rene himself did not see the original letter. He only received its copy from Engr. Allan, who was likewise merely informed that a letter was supposedly sent by Galileo.[54] Anyone who may have had personal knowledge of the receipt of the letter, such as Commo Velasco, was not presented as a witness. That being the case, the CA erred in ruling that the RTC was correct in admitting the photocopies of the letter presented by respondent. Respondent not only failed to prove the existence of the letter pursuant to Section 20, Rule 132, it also failed to establish the requirements for the presentation of secondary evidence in court under Rule 130 of the Revised Rules on Evidence.

It is true that Galileo did not present evidence in his defense. Nonetheless, he refused to stipulate on the existence of the letter.[55] It is well-settled that the burden rests on the prosecution to prove that the accused is guilty beyond reasonable doubt.[56] No less than Section 14,[57] Article III of the 1987 Constitution states that "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved." Therefore, a finding of guilt must rest on the strength of the prosecution's own evidence, and not on the weakness or absence of evidence for the defense.[58] Galileo's conviction rests on the letter he allegedly sent to Commo Velasco. Without the letter, there is no basis to find him guilty for libel. Respondents failed to prove the existence of the letter and justify its failure to present the original letter in court. The photocopies it submitted are not acceptable. Considering that respondent failed to prove that Galileo sent a letter to Commo Velasco, it is no longer necessary to determine whether the contents of the letter are libelous. Consequently, Galileo must be acquitted of libel.

WHEREFORE, the petition is GRANTED. The Decision dated December 14, 2018 and the Resolution dated July 17, 2019 of the Court of Appeals in CA-G.R. CR No. 01649-MIN are REVERSED and SET ASIDE. Petitioner Galileo A. Maglasang is ACQUITTED of the crime charged against him.

SO ORDERED.

Peralta, C.J., (Chairperson), Zalameda, and Gaerlan, JJ., concur.
Caguioa, J., see concurring opinion.

[1] Rollo, pp. 8-24.

[2] Penned by Associate Justice Walter S. Ong, with the concurrence of Associate Justices Oscar V. Badelles and Evalyn M. Arellano-Morales; id. at 27-40.

[3] Id. at 46-48.

[4] Penned by Acting Presiding Judge Gil G. Bollozos; id. at 100-116.

[5] Id. at 122.

[6] Id. at 116.

[7] Records, pp. 38-39.

[8] Id. at 11-15.

[9] Id. at 38-39.

[10] Records, p. 1.

[11] Id. at 33.

[12] Id. at 61.

[13] Rollo, p. 30.

[14] Records, pp. 8-10.

[15] Rollo, p. 30.

[16] Id. at 31.

[17] Records, pp. 266-270.

[18] Id. at 266-269.

[19] Supra note 4.

[20] Rollo, p. 116.

[21] Id. at 113-115.

[22] Id. at 115.

[23] Guidelines in the Observance of a Rule of Preference in the Imposition of Penalties in Libel Cases.

[24] Rollo, pp. 115-116.

[25] Id. at 117-121.

[26] Id. at 122.

[27] Records, p. 10.

[28] Supra note 2.

[29] Rollo, pp. 34-36.

[30] Id. at 36-39.

[31] Id. at 41-45.

[32] Supra note 3.

[33] Rollo, pp. 15-22.

[34] Id. at 198-200.

[35] Id. at 201-203.

[36] Id. at 210-213.

[37] Penned by Presiding Judge Nora B. Montejo; id. at 217-244.

[38] Id. at 211-212, 243.

[39] Article 353. Definition of Libel. - A libel is 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.

[40] Soriano v. People, G.R. No. 225010, November 21, 2018.

[41] Rollo, pp. 28-30.

[42] Section 19. Classes of documents. - For the purpose of their presentation in evidence, documents are either public or private.

Public documents are:

(a)

The written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;

(b)

Documents acknowledged before a notary public except last wills and testaments; and

(c)

Public records, kept in the Philippines, of private documents required by law to be entered therein.

All other writings are private.

[43] Young Builders Corp. v. Benson Industries, Inc., G.R. No. 198998 (Resolution), June 19, 2019.

[44] Records, p. 141.

[45] TSN dated March 30, 2017, p. 5.

[46] Records, p. 206.

[47] TSN dated March 30, 2017, pp. 7-9.

[48] Id. at 5.

[49] Id. at 7.

[50] Id. at 8.

[51] Id.

[52] Records, p. 212.

[53] Id. at 6.

[54] Id. at 280.

[55] TSN dated March 30, 2017, p. 10.

[56] *Cañal v. People*, 510 Phil. 187, 194 (2005).

[57] Section 14. The State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men.

[58] *Supra* note 57.

CONCURRING OPINION

CAGUIOA, J.:

I concur with the ponencia that the accused Galileo A. Maglasang (Maglasang) should be acquitted on the ground of reasonable doubt.

Maglasang was charged with libel for the alleged letter that he sent to the Commander of the Philippine Coast Guard (PCG) ascribing defamatory imputations against his brother who is also a member of the PCG. The ponencia acquits him on the ground that only a photocopy of the alleged letter was presented in evidence.

I agree.

As early as 1931, in the case of *Provincial Fiscal of Pampanga v. Reyes*,^[1] the Court has already held that the Best Evidence Rule, now Original Document Rule, applies in cases of libel. In the said case, which involved libel arising from an article published in a newspaper, the Court held that "certainly the copies of the weekly where the libelous article was published, and its translation, constitute the best evidence of the libel charged. The newspaper itself is the best evidence of an article published in it."^[2] Applying the same in this case, the letter allegedly received by the Commander of the PCG is the best evidence and should have been the one presented as evidence in accordance with the Original Document Rule.

It is worth emphasizing that the purpose of having a rule that requires the presentation of the original is "to ensure that the exact contents of a writing are brought before the court x x x [in order to] protect against misleading inferences resulting from the intentional or unintentional introduction of selected portions of a larger set of writings."^[3] Particularly, the rule recognizes that:

- (a) the precision in presenting to the court the exact words of the writing is of more than average importance, particularly as respects operative or dispositive instruments, such as deeds, wills and contracts, because a slight variation in words may mean a great difference in rights; (b) there is a substantial hazard of inaccuracy in the human process of making a copy by handwriting or typewriting; and (c) as respects oral testimony purporting

to give from memory the terms of a writing, there is a special risk of error, greater than in the case of attempts at describing other situations generally.[4]

In *Seiler v. Lucasfilm*,^[5] it was explained:

In the days before liberal rules of discovery and modern techniques of electronic copying, the rule guarded against incomplete or fraudulent proof. By requiring the possessor of the original to produce it, the rule prevented the introduction of altered copies and the withholding of originals. The purpose of the rule was thus long thought to be one of fraud prevention, but Wigmore pointed out that the rule operated even in cases where fraud was not at issue, such as where secondary evidence is not admitted even though its proponent acts in utmost good faith. Wigmore also noted that if prevention of fraud were the foundation of the rule, it should apply to objects as well as writings, which it does not. 4 Wigmore, *Evidence* § 1180 (Chadbourn rev. 1972).

The modern justification for the rule has expanded from prevention of fraud to a recognition that writings occupy a central position in the law. When the contents of a writing are at issue, oral testimony as to the terms of the writing is subject to a greater risk of error than oral testimony as to events or other situations. The human memory is not often capable of reciting the precise terms of a writing, and when the terms are in dispute only the writing itself, or a true copy, provides reliable evidence. To summarize then, we observe that the importance of the precise terms of writings in the world of legal relations, the fallibility of the human memory as reliable evidence of the terms, and the hazards of inaccurate or incomplete duplication are the concerns addressed by the best evidence rule. See 5 *Louisell & Mueller, Federal Evidence*, § 550 at 283; *McCormick on Evidence* (3d ed. 1984) § 231 at 704; *Cleary & Strong, The Best Evidence Rule: An Evaluation in Context*, 51 *Iowa L.Rev.* 825, 828 (1966).[6] (Emphasis supplied)

While the Original Document Rule is not absolute and in fact provides for the exceptions on when secondary evidence may be submitted, the Rules on Evidence, as amended, unmistakably maintain their preference for the presentation of the original as they only allow the introduction of secondary evidence upon a showing by the proponent that it is no longer reasonable to require the original under the circumstances. Under the Rules, secondary evidence may only be introduced when:

(a)

When the original is lost or destroyed, or cannot be produced in court, without bad faith on the part of the offeror;

(b)

When the original is in the custody or under the control of the party against whom the evidence is offered, and the latter fails to produce it after reasonable notice, or the original cannot be obtained by local judicial processes or procedures;

(c)

When the original consists of numerous accounts or other documents which cannot be examined in court without great loss of time and the fact sought to be established from them is only the general result of the whole;

(d)

When the original is a public record in the custody of a public officer or is recorded in a public office; and

(e)

When the original is not [closely related] to a controlling issue.[7] (Underscoring omitted)

Only the first exception is applicable in the present case. The second exception clearly does not apply as it is the prosecution's core assertion that Maglasang sent the letter to the Commander of the PCG. The third and fourth exceptions clearly do not apply in this case as the document in question here does not constitute voluminous records which cannot be examined in court without great loss of time, and neither is the document at issue here a public record. The fifth exception also does not apply as the contents of the document are in fact the central issue here as these would be determinative of Maglasang's guilt or innocence.

The Court of Appeals (CA), in ruling for the admissibility of the photocopy, simply stated that it "agrees with the trial court in holding that the prosecution was able to establish the unavailability of the original letter or that it cannot be produced in court,"[8] seemingly advertent to the first exception.

The CA was incorrect and I thus agree with the ponencia's reversal of the said ruling.

For the first exception to apply, the Rules state that the offeror must establish (1) the execution or existence of the original, and (2) the cause of its unavailability without bad faith on his or her part.[9] Specifically, the offeror of the secondary evidence is burdened to prove: (a) the loss or destruction of the original without bad faith on the part of the proponent/offeror which can be shown by circumstantial evidence of routine practices of destruction of documents; (b) the proponent must prove by a fair preponderance of evidence as to raise a reasonable inference of the loss or destruction of the original copy; and (c) it must be shown that a diligent and bona fide but unsuccessful search has been made for the document in the proper place or places.[10]

None of these things were proven by the prosecution. The CA simply justified its resort to the first exception by quoting the following testimony from the transcripts:

Q10.

Mr. Witness, this appears to be a reproduction. Will you please state why this is just a reproduction and does not appear to be original? Will you please explain this?

A10.

Actually, it was just sent to us coming from the office of Commodore Ferdinand M. Velasco.

Q11.

He just sent you that photocopy?

A11.

Actually Sir, his secretary sent me this photocopy thru an electronic mail.

Q12.

That's why you printed it?

A12.

Yes, sir.

Q13.

So, where is now the original of that Letter, or who is in possession of the original of that Letter Mr. Witness?

A13.

Actually Sir, I don't know where is the original document.

Q14.

And who is the Secretary of Commodore Velasco?

A14.

I cannot remember the full name of his secretary because during that time in 2014 I was at training Sir. So, I don't [have knowledge] as to who is the Secretary of Commodore Velasco.

Q15.

Can you recall when did the secretary of Commodore Velasco e-mailed (sic) this photocopy?

A15.

Sometime in January or February.

Q16.

Of this year?

A16.

Yes, Sir.

Q17.

Were you able to talk personally to the secretary of Commodore Velasco?

A17.

No, Sir. I just give instruction to my secretary to find this particular documents (sic) as requested by the court.

Q18.

And where is the secretary now of Commodore Velasco (sic)?

A18.

I have no idea Sir.

Q19.

You mean to say that she is no longer connected there at the Phil. Coast Guard District Office here in Corrales extension?

A19.

Yes, Sir.

Q20.

Where is now Commodore Velasco (sic)?

A20.

Commodore Velasco is under investigation.

Q21.

In other words, he is no longer in that office?

A21.

He is in floating status, Sir.

Q22.

I see. And you affirm and confirm that indeed your office received a copy of this Letter?

A22.

Yes, Sir.[11]

The foregoing testimony does not establish that the original of the letter had either been lost or destroyed. The prosecution witness who was asked to authenticate the photocopy of the letter essentially testified that he does not

know where the original of the letter is, and neither does he know the whereabouts of the person who sent him the photocopy of the said letter.

The foregoing testimony is thus insufficient to justify the introduction of secondary evidence under the first exception. Verily, the offeror of secondary evidence "is not obliged to prove the loss or destruction of the original document beyond all possibility, as it is enough to prove a reasonable probability of such loss." [12] Unfortunately, the above testimony does not even establish a reasonable probability of the loss or destruction of the letter. Most fatal of all, there is a complete absence of any showing of "a bona fide and diligent search, fruitlessly made in places where it is likely to be found." [13]

Considering that the prosecution was not able to justify its resort to the introduction of secondary evidence, the photocopy must thus be held to be inadmissible as evidence. Accordingly, Maglasang is entitled to an acquittal. As aptly stated by the Court in a 1910 case:

x x x Through the lack of the original document containing the memorandum alleged to be false, it is improper to hold, with only a copy of the said original in view, that the crime prosecuted was committed; and although, judging from the testimony of the witnesses who were examined in the two consolidated causes, there is reason to entertain much doubt as to the defendant's innocence, yet, withal, this case does not furnish decisive and conclusive proof of their respective guilt as coprincipals of the crime charged. Defendants in a criminal cause are always presumed to be innocent until their guilt be fully proven, and, in case of reasonable doubt and when their guilt is not satisfactorily shown, they are entitled to a judgment of acquittal. [14] (Emphasis supplied)

Based on these premises, I vote to GRANT the Petition.

[1] 55 Phil. 905 (1931).

[2] *Id.* at 908.

[3] *Heirs of Prodon v. Heirs of Alvarez*, 717 Phil. 54, 66-67 (2013).

[4] *Id.* at 66.

[5] 808 F.2d 1316 (1987).

[6] *Id.* at 1319.

[7] 2019 AMENDMENTS TO THE 1989 REVISED RULES ON EVIDENCE (A.M. NO. 19-08-15-SC), Rule 130, Sec.3. (A.M. No. 19-08-15-SC, October 8, 2019)

[8] *Rollo*, p. 34.

[9] 2019 AMENDMENTS TO THE 1989 REVISED RULES ON EVIDENCE (A.M. NO. 19-08-15-SC), Rule 130, Sec.5. (A.M. No. 19-08-15-SC, October 8, 2019)

[10] *Lee v. People*, 440 SCRA 662, 683. *Italics supplied.*

[11] *Rollo*, pp. 35-36.

[12] *Republic v. Masongsong*, G.R. No. 162846, September 22, 2005, 470 SCRA 574.

[13] *Id.* at 583. *Underscoring supplied.*

[14] *U.S. v. Gregorio*, 17 Phil. 522, 526 (1910).

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.