

## THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. JOSE TOPACIO AND HUGO SANTIAGO, DEFENDANTS AND APPELLANTS.

*G. R. No. 38021. January 16, 1934*

Ponente: VICKERS, J.

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### VICKERS, J.:

The appellants, Jose Topacio and Hugo Santiago, were charged in the Court of First Instance of Manila with the crime of libel committed as follows:

"That on or about and during the month of November, 1931, in the City of Manila, Philippine Islands, and within the jurisdiction of this court, the said Jose Topacio, conspiring and confederating with Hugo Santiago who was and is the owner and manager of the General Printing Press, a concern doing printing business in said city, and both defendants helping one another, did then and there willfully, unlawfully, feloniously, maliciously and for the purpose of impeaching the reputation, integrity and honesty of Filemon Perez, Secretary of Commerce and Communications of the Philippine Government, both as Government official and as private individual, and with evident intent to expose him to public hatred, contempt and ridicule, write, compose, print, publish, circulate, sell, and cause to be written, composed, printed, published, circulated and sold at P0.20 per copy, a large number of pamphlets titled 'Who is the "Doctor of Graft" Squandering the Gasoline Funds?' presented and distributed as a supplement to Justice, a so-called newspaper published and edited in the English and Spanish languages and circulated from time to time in said City of Manila, copy of which pamphlet is hereto attached marked as Exhibit A and made an integral part of this information; that with the statements, imputations and contents of said pamphlet, the said accused tried to convey to and make believe and did in fact convey to and make believe the public, among other things:

"That the above-named Filemon Perez, as such Secretary of Commerce and Communications, of his own initiative, against the usual practice, without the recommendation of the proper authorities, with damage and embarrassment to the public service and in violation of the terms and spirit of the trust conferred upon him by the Philippine Legislature, had authorized and caused the disbursement of an enormous sum of money out of the gasoline funds of the Government for the construction of a first class road known as the Espana Extension Road and a reinforced concrete bridge which connect the City of Manila with the New Manila Subdivision, merely to increase the selling value of the lots in said subdivision and consequently the profits of the private owners thereof, in consideration of a bribe given by said owners to said Filemon Perez consisting in the free use by the latter and his family of a costly and luxuriously furnished palatial residence located at No. 909 Taft Avenue. the property of the owners of the said subdivision, without paying for its rent and for the water consumed which said accused estimate at not less than P9,000 per annum;

"That said Filemon Perez being the officer called upon by law to approve Government contracts for the purchase of supplies and materials and public constructions representing millions of pesos, must have entered in doubtful and shady contracts or deals which enabled him to make a cash deposit of P24,000 in his bank account, as transactions in cash covering big sums involve, as a general rule, grafts and crimes, as shown in the cases of the former Secretary of Interior Albert Fall of President Harding's cabinet, and of Al Capone, the well

known and notorious gangster;

"That said Filemon Perez, availing himself of his power and influence, taking advantage of his official position, in connivance with the provincial board of Tayabas, his home province, and under the false pretext that the Perez Park at Lucena needed enhancement and widening caused the said board to start condemnation proceedings of 8,653.80 square meters of a land belonging to Simeon Perez, of whom Secretary Perez is the only son and heir, and to pay for said land, assessed at P3,011.47, the alleged exorbitant price of P59,749.64, thereby profiting himself greatly at the expense of the Government whose interest he was called upon to protect;

"That Secretary Filemon Perez, in his effort to win notoriety and idolatry from the people, astonished the Philippine Islands with his noisy investigations, full of bluff and devoid of official ethics, when all he deserved was the diploma of 'Doctor of Graft', and in this connection established a parallel between said Filemon Perez and the famous adventurer and greatest impostor of the 18th century, Cagliostro, and reminded, as a coincidence, the case of Hamilton who, according to said accused, was selling in New York water stock of corporations he had organized while he was preaching about morality and displaying his knowledge of proverbs and parables;

"That in the said pamphlet the said accused Jose Topacio and Hugo Santiago likewise printed and caused to be printed caricatures of the said Filemon Perez and others, depicting in an unequivocal manner the accusations and insinuations just above-mentioned, which accusations and insinuations are entirely false, without foundation of fact and highly libelous and offensive and have been made and published by said accused solely for the purpose of impeaching the honesty, virtue and reputation of said Filemon Perez and for the further purpose of exposing as they did in effect expose, him to public hatred, contempt and ridicule.

"Contrary to law."

The defendants were tried on a plea of not guilty to the information. After considering the evidence, the trial judge, E. P. Revilla, found them guilty of the crime of libel as defined and punished in sections 1 and 2 of Act No. 277, and sentenced Jose Topacio to pay a fine of P1,000 and Hugo Santiago to pay a fine of P300, with the corresponding subsidiary imprisonment in case of insolvency, and each of them to pay one-half of the costs.

Each of the defendants filed a motion for a new trial in the lower court on the ground that the trial judge had committed certain errors, which were specified and discussed in the motions. These motions were denied, and the defendants then appealed to this court.

The attorneys for Jose Topacio make the following assignments of error:

"I. The trial court erred in denying the accused the right conferred upon him by the Organic Law, to obtain, through compulsory process, evidence favorable to him that was essential in this case, to wit: (a) Halim Ysmael's income tax return for the year 1930; (b) Simeon Perez's income tax returns for the years 1929 and 1930, and (c) the report of the Insular Auditor's investigation made in connection with the administrative charges filed by Jose Topacio against Secretary Perez.

"II. The trial court erred in denying the accused herein the due process of law guaranteed to him by the Organic Law, by examining and making appear in the records of the case the contents of certain documents, examined only by the judge and by the prosecuting attorney, denying the herein defendant the right to see the documents in question, as well as his petition to have said documents placed in a sealed envelope in order to give the appellate court the opportunity to examine them.

"III. The trial court erred in refusing to admit evidence regarding certain statements in the pamphlet relative to the investigations made in the Bureau of Posts and the Bureau of Supply.

"IV. The trial court erred in refusing to admit evidence relative to the traffic on the streets adjoining Taft

Avenue, as well as to the rent of houses situated in the same locality and similar to the house of Mrs. Magdalena Hemady occupied by Secretary Perez.

"V. The trial court erred in refusing to admit evidence regarding the squandering of the gasoline funds by applying them to the construction of a portion of O'Donnell Street, within the City of Manila, which leads only to the house of Luis Francisco, Secretary Perez's consulting engineer.

"VI. The trial court erred in denying the defendant's petition that the report of the Constabulary to the effect that Mrs. Magdalena Hemady is paying the gardener of the house occupied by Secretary Perez be attached to the records of the case.

"VII. The trial court erred in declaring that Secretary Perez's good reputation as to his honesty and integrity in general has been proved, and in preventing the defense from cross-examining and presenting evidence having a direct bearing on certain acts which would establish the nonexistence and falsity of such reputation.

"VIII. The trial court erred in prohibiting the defense from proving Secretary Perez's embarrassing financial situation and the dissolute life he lead during the period referred to in the pamphlet.

"IX. The trial court erred in denying the defendant his right to be heard by counsel in support of his motion for a new trial, also in violation of the Organic Law, and in refusing to have such denial appear in the records of the case.

"X. The trial court erred in not finding as true all the facts alleged in the pamphlet, Exhibit A, which the defendant has been permitted to prove, and the trial court erred with respect to those facts which the defendant was not allowed to prove, first, in not admitting the evidence presented in connection therewith, and secondly, in not finding them as true, inasmuch as it is entirely unjust to deny him the opportunity to prove them and then to inform him that they have not been proved by him.

"XI. The trial court erred in not finding that the extension of Espana Street to New Manila was the scheme of Secretary Perez's landlady and was carried out with gasoline funds which he generously released contrary to the prudent and wise recommendation of the Director of Public Works, thus favoring his landlady, benefiting her to the extent" of millions of pesos, and prejudicing thereby other public works previously undertaken of much greater importance.

"XII. The trial court erred in finding that Secretary Perez is paying rent for the house occupied by him, located at 909 Taft Avenue and belonging to the owner of New Manila, and in holding that 'it is of no importance' that the alleged rent therefor is low as compared with the rent of other houses of similar character.

"XIII. The trial court erred (a) in holding that in the pamphlet, Exhibit A, a libelous accusation is made in connection with the amount of P24,000 deposited by Secretary Perez in his current account with the Philippine National Bank on January 10, 1930, and in not holding that the amount of P24,000 in question had, in fact, a questionable source, as proved by the fact that it was surreptitiously returned to the provincial treasury of Tayabas immediately after its withdrawal was denounced; and (b) in holding that in the pamphlet in question, Exhibit A, Secretary Perez was charged with causing unnecessary expropriation proceedings to be instituted with reference to land belonging to his father to widen Perez Park for the purpose of enriching the Perez family, and in not holding that said expropriation was in fact unnecessarily made, as alleged; that there was a complacent official conformity to the exorbitant price paid therefor, and that, in the final analysis, the person benefited thereby was Secretary Perez, of whom the members of the provincial board and of the committee to appraise the property in the expropriation proceedings of Tayabas are mere followers.

"XIV. The trial court erred in holding that there was defamation in the comparisons and cartoons contained in the pamphlet, Exhibit A.

"XV. The trial court erred in holding that the accused was actuated by implied and express malice.

"XVI. The trial court erred in not freely acquitting the accused, with the costs de officio."

Hugo Santiago through his attorney alleges that the trial court committed the following errors:

"I. The trial court erred in not including in its decision a statement of facts with respect to the defendant Hugo Santiago, notwithstanding that he had made a request to that effect.

"II. The trial court further erred in not finding that the defendant Hugo Santiago was not aware of the libelous character of the contents of the pamphlet, Exhibit A, and that said defendant does not even understand the English language, in which it was written by the defendant Jose Topacio.

"III. The trial court likewise erred in applying the old Libel Law as being more favorable to the defendant Santiago in the instant case, instead of the Revised Penal Code, when as a matter of fact the latter, in repealing the former, excludes the mere proprietor of a printing office from those persons responsible for the publication of a libel.

"IV. And, finally, the trial court erred in not absolving the defendant Santiago, with all the pronouncements favorable to him."

The brief filed by the attorneys for Jose Topacio consists of two volumes and contains a total of 943 pages, while the brief of the Solicitor-General contains 190 pages. It was unnecessary to present such prolix written arguments. This case relates to the official conduct of Filemon Perez as Secretary of Commerce and Communications. The gist of the most serious part of the matter complained of as libelous is that Secretary Perez squandered the public funds derived from the tax on gasoline, referred to as the "gasoline funds", in extending Espana Street to the property of Magdalena de Hemady, known as the New Manila Subdivision, in the municipality of San Juan del Monte, Rizal Province, in consideration of a bribe consisting of the free use by Secretary Perez and his family of the house of Mrs. Hemady at 909 Taft Avenue. The other defamatory matter consists of statements and cartoons implying that the cash deposit of P24,000 made by Secretary Perez in the Philippine National Bank on January 10, 1931 was derived from some corrupt transaction, and comparing the conduct of Secretary Perez to that of Ex-Secretary Fall, Al Capone, and Cagliostro.

The accused Jose Topacio was the Director of Posts, or the head of one of the bureaus under the Department of Commerce and Communications. On May 8, 1929, Filemon Perez as Secretary of Commerce and Communications appointed a committee to investigate the Bureau of Posts. This committee found many serious irregularities in the administration of that bureau, and in submitting its report to the Governor-General on January 9, 1930, Perez expressed the opinion that Topacio's usefulness as Director of Posts had terminated.

Administrative charges were filed against Topacio, and a civil action was instituted to recover an alleged shortage in his accounts. His property was attached. The result was that Topacio was forced to resign on March 27, 1930, because he had lost the confidence of his department head and of the Governor-General, but he was absolved from the complaint in the civil suit. The decision in that case did not have the effect, however, of exonerating Topacio from the administrative charges, but merely exempted him from liability for the shortage in question.

Aggrieved at the way in which his administration of the Bureau of Posts had been investigated during his absence and his property attached, and because he had been forced to resign, Topacio sought to retaliate. He prepared certain data to induce some of the members of the Philippine Senate to ask for the investigation of the Department of Commerce and Communications, but failing in this effort he filed charges against Filemon Perez as Secretary of Commerce and Communications with the Governor-General on August 24, 1931. A preliminary investigation of these charges was made for the Governor-General by the Insular Auditor, and the matter was apparently dropped. Topacio then prepared and caused his codefendant to publish the pamphlet now in question, which was widely circulated.

The defamatory statements complained of are libelous per se, and the only defense available to the accused was to prove the truth of the matter charged as libelous, and that it was published with good motives and for justifiable ends, in accordance with section 4 of Act No. 277, which provides that in all criminal prosecutions for libel the truth may be given in evidence to the court, and if it appears to the court that the matter charged as libelous is true and was published with good motives and for justifiable ends, the party shall be acquitted; otherwise he shall be convicted; but to establish this defense, not only must the truth of the matter so charged be proven, but also that it was published with good motives and for justifiable ends.

In the first assignment of error of the appellant Topacio it is contended that the lower court erred in not requiring the production of the income tax returns of Halim Ysmaei and Simeon Perez and the report of the Insular Auditor as to the result of his investigation of the administrative charges of Jose Topacio against Secretary Perez. The court was not authorized by law to require the production of these income tax returns (Act No. 2833, as amended by Act No. 2926, section 14 [6], and sections 11 and 12 of Regulations No. 33 prescribed by the Secretary of Finance). Furthermore, neither Halim Ysmael nor Simeon Perez is involved in this case, and their tax returns were neither relevant nor material. With respect to the preliminary report made by the Insular Auditor to the Governor-General, which the Chief Executive desired to treat as confidential, it is sufficient to say that, apart from the fact this was a confidential report made to the Governor-General, it does not appear that this report was relevant or material or admissible. The accused in a criminal case does not have the unqualified right to a subpoena duces tecum for the production in court of any document that he or his attorney may wish to examine, without any showing as to its relevancy, materiality, and admissibility.

The second assignment of error relates to the refusal of the trial judge to allow the attorneys for Topacio to examine the income tax returns of Felipe Ysmael, Halim Ysmael, M. Hemady, and Juan Ysmael & Co. to verify the statement of the fiscal, who had examined these returns at the instance of the court, that there was no item of P30 for rent in any of them, except in the return of Juan Ysmael & Co. for 1930; and the refusal of the lower court to forward said income tax returns to this court in a sealed envelope. We find no merit in the contention of the appellant. The lower court was not authorized by law to require the production of these income tax returns at the instance of the appellant, and no statement ought to have been made in the record based on their contents; but the fact that the statement complained of was made notwithstanding the objection of the fiscal was not reversible error.

The lower court did not err in refusing to receive evidence as to the statements in the pamphlet regarding the investigation of the Bureau of Posts and the Bureau of Supply, because these statements did not form a part of the matter charged as libelous in the information.

With respect to Topacio's fourth assignment of error, we are of the opinion that the lower court should have admitted the evidence as to the rent of similar houses situated near that of Magdalena de Hemady, which was occupied by Secretary Perez, but this was not reversible error, because the appellant was permitted to present expert testimony tending to show the reasonable rental value of the house in question.

There was no error in excluding evidence as to the traffic on the streets near to Taft Avenue. The evidence as to the traffic on Taft Avenue itself was in our opinion irrelevant and immaterial.

Evidence as to the construction from gasoline funds of a part of Calle O'Donnell in the City of Manila, leading, as claimed by the defense, to the house of Luis Francisco, a consulting engineer of the Department of Commerce and Communications, was properly excluded, because it was irrelevant and immaterial in this case.

The sixth assignment of error relates to the refusal of the court to admit a report of the Constabulary tending to show that Magdalena de Hemady was the person paying the gardener of the house occupied by Secretary Perez.

This report was clearly inadmissible. A court bases its findings on the facts proved at the trial, and not on the statements made in some report. Furthermore, it was admitted by Magdalena de Hemady that she was paying for the services of the gardener and for the water used in the garden. She explained that the house occupied by Secretary Perez, No. 909 Taft Avenue, and the house next door, No. 911, had a garden in common and that there was a separate meter for the water used in the garden.

Under the seventh assignment of error it is alleged that the lower court erred in finding that the good reputation of Secretary Perez was proved, and in refusing to allow the defense to present evidence as to specific acts which would prove the contrary. If it be true that under the circumstances the defense had the right, as contended, to present evidence tending to prove specific instances of misconduct on the part of the offended party, not related to the matter complained of as libelous, it was not reversible error to exclude such evidence, because the good reputation of the offended party was presumed, and it was unnecessary for the prosecution to prove it.

The eighth assignment of error relates to the refusal of the lower court to permit the defense to prove the embarrassing financial situation of Secretary Perez and the dissolute life that he was leading during the period referred to in the pamphlet. Evidence to this effect was irrelevant and immaterial. It was not related to the matter charged as libelous in the information.

There was no reversible error in the refusal of the trial judge to give the attorneys for the appellant an opportunity to argue orally their motion for a new trial, as alleged in the ninth assignment of error, because the reasons therefor were set forth and fully discussed in appellant's motion in writing. Furthermore, the motion was without merit.

The tenth assignment of error, which is stated in very general terms, may be disposed of in a few words. The only question at issue at the trial was the truth of the published matter that was charged to be libelous. The defense had no right to present evidence tending to prove the truth of the statements in the pamphlet that were not referred to in the information. It does not appear that the appellants were deprived of a full and fair opportunity to prove the truth of the libelous statements mentioned in the information.

The eleventh and twelfth assignments of error relate to the construction of the extension of Espana Street to the subdivision known as New Manila belonging to Magdalena de Hemady and the occupation of her house, No. 909 Taft Avenue, by Secretary Perez. Topacio alleged in effect in the pamphlet entitled "Who Is The Doctor Of Graft Squandering The Gasoline Funds", Exhibit A, that Filemon Perez as Secretary of Commerce and Communications, of his own initiative and against the usual practice, and with prejudice to the public service and in violation of the trust reposed in him by the Philippine Legislature, authorized and caused the disbursement of large sums of money out of the gasoline funds of the government for the construction of a first class road and a reinforced concrete bridge connecting the City of Manila with the New Manila Subdivision merely to increase the selling value of the lots in said subdivision and the profits of the owners thereof, in consideration of a "present" given to him by the said owners consisting of the use by him and his family of the costly and luxuriously furnished house at No. 909 Taft Avenue without paying any rent therefor; that he should pay for this house not less than P9,000 a year; that he accepted the "present" by occupying the house in consideration of the allotment of gasoline funds for the benefit of the private interests of New Manila. These statements form the basis of the present criminal action. The truth of them is not proved by the evidence. The plan of extending Calle Espana did not originate with Secretary Perez or Mrs. Hemady, the owner of the New Manila Subdivision. It was contemplated in the Burnham Plan, and the authorities concerned had considered the matter at various times long prior to the appointment of Secretary Perez. Mrs. Hemady was, of course, keenly interested in its construction because it would make her property more accessible, and especially in having the proposed new road pass through her property, and she was the person primarily, if not chiefly, benefited. It was the district engineer of Rizal

Province, and not Secretary Perez, that first proposed to build the new road through the New Manila Subdivision. The first allotment of P15,000 from the gasoline funds on December 29, 1928 was made by Secretary Perez after consultation with the Director of Public Works for the survey and study of the project. The location of the proposed road had not been determined at that time, although it appears that Mrs. Hemady or her agents assumed that it would pass through her property and published advertisement to that effect. Whether or not the proposed road should be built was a matter for the determination of the administrative authorities concerned. Certainly the construction of the road out of the gasoline funds under the control of the Secretary of Commerce and Communications did not under the circumstances constitute any such abuse of discretion as to warrant the inference that it was built solely for the purpose of enriching the owners of the New Manila Subdivision or in consideration of a bribe.

It appears from the evidence that Mrs. Hemady had constructed a residence in New Manila and had vacated her house in Taft Avenue, and that she was willing to rent it to a suitable tenant; that Secretary Perez had to move from the house that he had been occupying in Pennsylvania Street because the owner was returning and wished to occupy it; that Mrs. Perez engaged the house at 909 Taft Avenue about the end of March, 1930 for a rental of P200 a month, and the owner agreed to make certain repairs; that Secretary Perez began to occupy the house in question on June 1, 1930.

It is contended by the appellant that Secretary Perez did not pay any rent for the use of this house, and that if he did pay rent it was less than the reasonable rental value of the property. The evidence shows that Filemon Perez paid rent at the rate of P200 a month. This fact is evidenced not only by the receipts presented in evidence, but also by the testimony of Mr. and Mrs. Hemady and the fact that Filemon Perez claimed the corresponding deduction for rent in his income tax return for 1930, which was filed five or six months before Topacio presented his charges against Perez to the Governor-General. It is a fact that Secretary Perez appears to have been paying less than the reasonable rental value of the house in question, but the Hemadys explained their willingness to accept P200 a month from Secretary Perez because their chief concern was to have the house in good hands. If it be true that the Hemadys were willing to rent the house to Secretary Perez for somewhat less than its market value, whatever may have been their reason for doing so, that fact does not constitute any proof that Secretary Perez had allotted the funds for the construction of the Espana extension in consideration of a bribe. Whether or not under the circumstances he should have leased the house of the owner of the New Manila Subdivision is a question of delicacy. The mere fact that he leased it for P200 a month did not justify the defamatory statements in Exhibit A.

The thirteenth assignment of error relates to a deposit of P24,000 in cash made by Secretary Perez in his current account in the Philippine National Bank on January 10, 1930 and the expropriation by the provincial board of Tayabas of certain land belonging to Simeon Perez, father of the offended party in this case. It is alleged that the lower court erred in finding that there was any defamatory imputation in the pamphlet with respect to this deposit, and in holding that according to said pamphlet the expropriation had been made for the purpose of enriching the Perez family. It is stated in the pamphlet that "transactions in cash in such a big amount mean generally an attempt or endeavor to hide the source of the fund involved therein; that, nowadays, even commercial transactions of small scale are covered by checks, so the deposit in cash made by Secretary Perez may be considered as an attempt to hide the real source of such a deposit of P24,000." The force of the insinuation is not destroyed by the fact that the writer added that he did not mean to say that Secretary Perez got the P24,000 in cash from any contract or any shady deal, because he went on to say that transactions in cash covering big amounts involve as a general rule graft and crimes, as shown by the case of Ex-Secretary Albert Fall, a member of the Harding's Cabinet, and also that of Al Capone, a notorious criminal, whose transactions were all in cash, according to the report of the United States Treasury Department. Following the same tactics, the writer of the pamphlet said that

if it be granted that the case of Secretary Perez was an exception to the rule, he owed it to himself and to the people to explain the real source of such a big deposit in cash, and then attempted to show that Secretary Perez could not have legitimately obtained this sum from any source. The defendant Topacio then compared the conduct of Secretary Perez to that of Ex-Secretary Fall, who was convicted of having accepted a bribe in the guise of a loan. No argument is necessary to show the defamatory nature of these statements and their implications.

We do not express any opinion as to the condemnation proceedings, which apparently are still pending. Suffice it to say that the evidence does not show that Secretary Perez was in any way responsible for the alleged irregularities.

In the fourteenth assignment of error it is alleged that the lower court erred in holding that there was defamation in the comparisons and cartoons contained in the pamphlet, Exhibit A. We have already referred to the comparison drawn between Secretary Perez and Ex-Secretary Fall. In the pamphlet Secretary Perez is compared both in the text and in the cartoon to Cagliostro, "the greatest impostor of the eighteenth century". In another cartoon Secretary Perez is represented as leaning from the window of his house at 909 Taft Avenue and shovelling money from the gasoline funds into the Espana extension road leading to New Manila. This cartoon bears the legend "Very busy granting allotments of gasoline funds to Espana Road". The lower court did not err in finding these comparisons and cartoons to be defamatory.

It is contended that the lower court erred in finding that the accused acted with implied and express malice, and in not freely acquitting the accused, with the costs de oficio. As we have already stated the defamatory statements complained of are libelous per se. In such a case malice is implied. This implied malice or malice in law was not overcome, because the accused did not prove the truth of the libelous matter. Furthermore, the evidence of record shows express malice or malice in fact, because it clearly appears that the accused Topacio was actuated by a desire to impeach the reputation, integrity, and honesty of Secretary Perez as a government official and to force him to resign because of the alleged misfeasance and malfeasance in office.

Coming now to the contentions of the attorney for the appellant Hugo Santiago, we find no error in the decision appealed from. Article 360 of the Revised Penal Code does not, as claimed, exempt the person who prints or publishes a libel from responsibility therefor. The Spanish text of the first two paragraphs of this article reads as follows:

"Personas responsables.—Es responsable de una difamacion por escrito u otros medios analogos el que la publicare o exhibiere o la hiciere publicar o exhibir.

"El autor o editor de un libro o folleto, o el director o editor de un diario, revista o publication por entregas, sera responsable de las difamaciones contenidas en los mismos en igual extension que su autor." One meaning of the Spanish verb "publicar" is: "imprimir o dar a luz cualquier libro, cualquier obra dirigida al publico, para que todo el mundo pueda leerla." It is clear therefore that article 360 includes not only the author or person who causes the libelous matter to be published, but also the person who prints or publishes it. The evidence shows that Hugo Santiago was not only the owner of the printing plant where the libelous matter in question was printed, but that he was the manager thereof, and examined the manuscript of his codefendant. We cannot credit his testimony to the effect that he had no knowledge of the contents of the pamphlet in question, because he did not understand English. The cartoons alone were sufficient to give him an idea as to the contents of the pamphlet. Furthermore, there is prefixed to the pamphlet the following statement: "The responsible for this pamphlet is Jose Topacio, 219 San Andres, Manila." We do not doubt, judging from the form of this statement, that it was inserted by the printer himself.

For the foregoing reasons, the decision appealed from is affirmed, with the costs against the appellants.

Avancena, C. J., Street, Malcolm, Villa-Real, Imperial, and Diaz, JJ., concur.

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