

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS. ATTY. RAUL H. SESBRENO, ACCUSED-APPELLEE.

G.R. No. 62449. July 16, 1984

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This appeal from an order quashing an information furnishes occasion to reiterate the ambits of the well-established doctrine of privileged communications. The appeal was certified to us by the Court of Appeals on a finding that it involves a pure question of law.

In an Information filed on March 4, 1981, the City Fiscal's Office of Cebu City accused Atty. Raul H. Sesbreno of the crime of libel based on alleged defamatory statements found in a pleading entitled "PLAINTIFF'S REPLY TO DEFENDANTS OPPOSITION DATED MARCH '9th" dated March 11, 1980 filed in Civil Case No. R-18181 entitled "HEIRS OF ROBERTO CENIZA, ET AL. V. DANIELA CENIZA UROT" now pending litigation before Branch IV of the Court of First Instance of Cebu, 14th Judicial District.

On March 5, 1981, the accused filed a MOTION TO QUASH INFORMATION. The main thrust of the motion is that on the face itself of the information, it is obvious that the allegedly libelous statements imputing that Atty. Ramon B. Ceniza is an irresponsible person, cannot be trusted, like Judas, a liar and irresponsible childish prankster are contained in a pleading filed in court and, therefore, covered by the DOCTRINE OF ABSOLUTELY PRIVILEGED COMMUNICATIONS; hence, no civil or criminal liability can arise therefrom.

A decision was rendered by the court a quo quashing the information and dismissing the case for lack of cause of action. On appeal, the Court of Appeals certified the same to us.

The doctrine of privileged communication that utterances made in the course of judicial proceedings, including all kinds of pleadings, petitions and motions, belong to the class of communications that are absolutely privileged has been expressed in a long line of cases (*Us v. Salera*, 32 Phil. 365; *Us v. Bustos*, 37 Phil. 732; *Giler v. Hilliard*, 43 Phil. 180; *Santiago v. Calvo*, 47 Phil. 919; *People v. Flores*, G. R. No. 7528, Dec. 18, 1957; *Tupas v. Parreño*, 105 Phil. 1304; *Unrep.*, April 30, 1959; *Smith Bell and Co. v. Ellis*, 48 Phil. 475; *People v. Valerio Andres*, 107 Phil. 1046; *Sison v. David*, 1 SCRA 60; *Tolentino v. Baylosis*, 1 SCRA 396; *People v. Aquino*, 18 SCRA 555; *Cuenco v. Cuenco*, 70 SCRA 235; *Elizalde v. Gutierrez*, 76 SCRA 448; *PCIB v. Philnabank Employees' Association*, July 2, 1981, 105 SCRA 314). The doctrine of privileged communication rests upon public policy, which looks to the free and unfettered administration of justice, though, as an incidental result it may in some instances afford an immunity to the evil-disposed and malignant slanderer (*People v. Castelo*, 4 SCRA 947). While the doctrine is liable to be abused, and its abuse may lead to great hardships, yet to give legal action to such libel suits would give rise to greater hardships. (*Tolentino v. Baylosis*, *supra*). The privilege is not intended so much for the protection of those engaged in the public service and in the enactment and administration of law, as for the promotion of the public welfare, the purpose being that members of the legislature, judges of courts, jurors, lawyers, and witnesses may speak their minds freely and exercise their respective functions without incurring the

risk of a criminal prosecution or an action for the recovery of damages (*Deles v. Aragona, Jr.*, 27 SCRA 633). Lawyers, most especially, should be allowed a great latitude of pertinent comment in the furtherance of the causes they uphold, and for the felicity of their clients, they may be pardoned some infelicities of language (*Deles v. Aragona, supra*).

The doctrine of privileged communication, moreover, is explicitly provided for in the Revised Penal Code, as an exception to the general principle that every defamatory imputation is presumed to be malicious, even if it is true, in the absence of "good intention" and "justifiable motive" (*Elizalde v. Gutierrez, supra*).

However, this doctrine is not without qualification. Statements made in the course of judicial proceedings are absolutely privileged -- that is, privileged regardless of defamatory tenor and of the presence of malice -- if the same are relevant, pertinent, or material to the cause in hand or subject of inquiry (*Tolentino v. Baylosis, supra*; *People v. Alvarez*, 14 SCRA 901; *People v. Aquino*, 18 SCRA 555). A pleading must meet the test of relevancy to avoid being considered libelous (*Armovit v. Purisima*, 118 SCRA 247).

As to the degree of relevancy or pertinency necessary to make alleged defamatory matters privileged, the courts are inclined to be liberal (*People v. Alvarez, supra*; *Malit v. People*, 114 SCRA 348). The matter to which the privilege does not extend must be so palpably wanting in relation to the subject matter of the controversy that no reasonable man can doubt its irrelevance and impropriety (*Malit v. People, supra*). In order that a matter alleged in a pleading may be privileged, it need not be in every case material to the issues presented by the pleadings. It must, however, be legitimately related thereto, or so pertinent to the subject of the controversy that it may become the subject of the inquiry in the course of the trial (*Tolentino v. Baylosis, supra*; *People v. Alvarez, supra*).

It appears that in connection with the initial formal hearing of Civil Case No. R-18181 on February 7, 1980, appellant Atty. Ceniza as counsel for the defendant, filed an Urgent Motion to Transfer Hearing, receipt of notice of which was denied by herein appellee Atty. Sesbreno, counsel for the plaintiff. Upon the latter's representation, the court a quo granted the motion for postponement, ordering Atty. Ceniza, however, to reimburse Atty. Sesbreno's clients for expenses incurred in attending the supposed hearing slated that day. A motion for reconsideration was filed by Atty. Ceniza showing evidence of receipt of notice of hearing by Atty. Sesbreno's office. The same was granted. The court ordered Atty. Sesbreno to show cause why he should not be declared in contempt for misrepresentation. Against said order, Atty. Sesbreno filed a motion seeking reconsideration with a counter-motion for contempt against the appellant for reneging on his commitment to reimburse appellee's clients and for resorting to dilatory tactics. To that, Atty. Ceniza, filed his "Opposition to Motion for Reconsideration, Etc." charging Sesbreno with misrepresentation, prevarication, and "telling a barefaced and documented lie." Replying to these remarks, Sesbreno then filed his "REPLY" subject matter of Ceniza's libel suit.

Applying the liberal rule to the case at bar and considering the incidents which preceded it, we find appellee's alleged slanderous statements pertinent to the motion to cite appellant Ceniza in contempt. Although the language used by defendant-appellee in the pleading in question was undoubtedly strong, since it was made in legitimate defense of his own and of his client's interest, such remarks must be deemed absolutely privileged and cannot be the basis of an action for libel (*Tolentino v. Baylosis, supra*).

However, although it is understandable, if not justifiable, that, at times, zeal in the defense of one's client may be carried to the point of undue skepticism and doubts as to the motives of opposing counsel, the spectacle presented by two members of the bar engaged in bickering and recrimination is far from edifying (*Narido v. Linsangan*, 58 SCRA 85). Mutual bickerings and recriminations between brother attorneys detract from the dignity of the legal profession and will not receive any sympathy from this Court (*Javier v. Cornejo*, 63 Phil. 293).

Clients, not lawyers, are the litigants. Whatever may be the ill-feeling existing between clients, it should not be

allowed to influence counsel in their conduct and demeanor toward each other or toward suitors in the case. All personalities between counsel should be scrupulously avoided. In the trial of a case it is indecent to allude to the personal history or the personal peculiarities and idiosyncracies of counsel on the other side. Personal colloquies between counsel which cause delay and promote unseemly wrangling should also be carefully avoided (Canon 17, Canons of Professional Ethics). Lawyers owe respect not only to the courts and their clients, but also to other members of the Bar.

In keeping with the dignity of the legal profession, a lawyer's language should likewise be dignified (In re Climaco, 55 SCRA 107, 121). Choice of language is a very important requirement in the preparation of pleadings (Rule 8, Sec. 1; Rule 9, Sec. 5; Rule 7, Sec. 5, Revised Rules of Court). Appropriately, in the assertion of their client's rights, lawyers -- even those gifted with superior intellect -- are enjoined to rein up their tempers. Greater care and circumspection must be exercised in the preparation of their pleadings and to refrain from using abrasive and offensive language (Yangson v. Saladan, 68 SCRA 42). A becoming modesty is a desirable trait also of practising attorneys (Festin v. Faderanga, 111 SCRA 1).

Time and again we have rebuked and punished lawyers for conduct showing them unfit to practice law. The Supreme Court as guardian of the legal profession has ultimate powers over attorneys. Its authority to discipline lawyers stems from its constitutional prerogative to regulate the practice of law and the admission of the persons to engage therein (Section 5(5), Article X, The 1973 Philippine Constitution; In Re Cunanan, 94 Phil. 534, 1954). Apart from the constitutional mandate, the disciplinary authority of the Supreme Court over attorneys is an inherent power incidental to its proper administration of justice and essential to an orderly discharge of its judicial functions (Tejan v. Cusi, 57 SCRA 154; In Re Almacen, 31 SCRA 562; Hilado v. David, 84 Phil. 573; In the Matter of the IBP Membership Dues Delinquency of Edillon, G.R. No. AC-1928 [IBP Adm. Case No. DD-1] August 3, 1978). Furthermore, attorneys are the court's constituency -- to aid in the administration of justice (Doge S. State, 39 NE 745). A lawyer occupies what may be termed a quasijudicial office since he is in fact an officer of the court, and like the court itself, an instrument or agency to advance the ends of justice (Kerlin v. Culkin, 60 ALR 851). Thus, only those complying with the strict standards of legal practice are maintained in the roll of attorneys and those falling short thereof may be disbarred.

Thus, both attorneys are advised accordingly.

WHEREFORE, the order appealed from is hereby AFFIRMED. Atty. Raul Sesbreno is reprimanded and admonished to refrain from employing language unbecoming of a member of the Bar and to extend courtesy and respect to his brothers in the profession with a warning that any future infraction of a nature similar to that found in this case shall be dealt with more severely. SO ORDERED.

Teehankee, (Chairman), Plana, Relova, and De la Fuente, JJ., concur.

Melencio-Herrera, J., on official leave.

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