

NEWSWEEK, INC., PETITIONER, VS. THE INTERMEDIATE APPELLATE COURT, AND NATIONAL FEDERATION OF SUGARCANE PLANTERS INC., BINALBAGAN-ISABELA PLANTERS ASSOCIATION, INC., ASOCIACION D...*G.R. No. 63559. May 30, 1986*

Ponente: FERIA, J.

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Petitioner, Newsweek, Inc., a foreign corporation licensed to do business in the Philippines, in this special action for certiorari, prohibition with preliminary injunction, seeks to annul the decision of the Intermediate Appellate Court dated December 17, 1982 sustaining the Order of the then Court of First Instance of Bacolod City which denied petitioner's Motion to Dismiss the complaint for libel filed by private respondents (Civil Case No. 15812), and the Resolution dated March 10, 1983 which denied its Motion for Reconsideration.

It appears that on March 5, 1981, private respondents, incorporated associations of sugarcane planters in Negros Occidental claiming to have 8,500 members and several individual sugar planters, filed Civil Case No. 15812 in their own behalf and/or as a class suit in behalf of all sugarcane planters in the province of Negros Occidental, against petitioner and two of petitioners' non-resident correspondents/reporters Fred Bruning and Barry Came. The complaint alleged that petitioner and the other defendants committed libel against them by the publication of the article "An Island of Fear" in the February 23, 1981 issue of petitioner's weekly news magazine Newsweek. The article supposedly portrayed the island province of Negros Occidental as a place dominated by big landowners or sugarcane planters who not only exploited the impoverished and underpaid sugarcane workers/laborers, but also brutalized and killed them with impunity. Complainants therein alleged that said article, taken as a whole, showed a deliberate and malicious use of falsehood, slanted presentation and/or misrepresentation of facts intended to put them (sugarcane planters) in bad light, expose them to public ridicule, discredit and humiliation here in the Philippines and abroad, and make them objects of hatred, contempt and hostility of their agricultural workers and of the public in general. They prayed that defendants be ordered to pay them P1M as actual and compensatory damages, and such amounts for moral, exemplary and corrective damages as the court may determine, plus expenses of litigation, attorney's fees and costs of suit. A photo copy of the article was attached to the complaint.

On November 5, 1981, petitioner filed a motion to dismiss on the grounds that (1) the printed article sued upon is not actionable in fact and in law; and (2) the complaint is bereft of allegations that state, much less support a cause of action. It pointed out the non-libelous nature of the article and, consequently, the failure of the complaint to state a cause of action. Private respondents filed an Opposition to the motion to dismiss and petitioner filed a reply.

On March 17, 1982, the trial court denied the motion to dismiss, stating that the grounds on which the motion to dismiss are predicated are not indubitable as the complaint on its face states a valid cause of action; and the

question as to whether the printed article sued upon is actionable or not is a matter of evidence. Petitioner's motion for recon-sideration was denied on May 28, 1982.

On June 18, 1982, petitioner filed a petition for certiorari with respondent Court (CA-G.R. No. 14406) seeking the annulment of the aforesaid trial court's Orders for having been issued with such a grave abuse of discretion as amounting to lack of jurisdiction and praying for the dismissal of the complaint for failure to state a cause of action.

As earlier stated, respondent Court affirmed the trial court's Orders in a Decision dated December 17, 1982 and ordered the case to be tried on the merits on the grounds that - (1) the complaint contains allegations of fact which called for the presentation of evidence; and (2) certiorari under Rule 65 cannot be made to substitute for an appeal where an appeal would lie at a proper time. Subsequently, on March 10, 1983, the respondent Court denied petitioner's Motion for Reconsideration of the aforesaid decision, hence this petition.

The proper remedy which petitioner should have taken from the decision of respondent Court is an appeal by certiorari under Rule 45 of the Rules of Court and not the special civil action of certiorari and prohibition under Rule 65 of said Rules. However, since the petition was filed on time within fifteen days from notice of the Resolution denying the motion for reconsideration, we shall treat the same as a petition for review on certiorari.

The two (2) issues raised in the petition are: (1) whether or not the private respondents' complaint failed to state a cause of action; and (2) whether or not the petition for certiorari and prohibition is proper to question the denial of a motion to dismiss for failure to state a cause of action.

First, petitioner argues that private respondents' complaint failed to state a cause of action because the complaint made no allegation that anything contained in the article complained of regarding sugarcane planters referred specifically to any one of the private respondents; that libel can be committed only against individual reputation; and that in cases where libel is claimed to have been directed at a group, there is actionable defamation only if the libel can be said to reach beyond the mere collectivity to do damage to a specific, individual group member's reputation.

We agree with petitioner.

In the case of *Corpus vs. Cuaderno, Sr.* (16 SCRA 807) this Court ruled that "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 (19 A.L.R. 116)." In an earlier case, this Court declared that "x x x defamatory matter which does not reveal the identity of the person upon whom the imputation is cast, affords no ground of action unless it be shown that the readers of the libel could have identified the personality of the individual defamed." (*Kunkle vs. Cablenews-American and Lyons*, 42 Phil. 760).

This principle has been recognized to be of vital importance, especially where a group or class of persons, as in the case at bar, claim to have been defamed, for it is evident that the larger the collectivity, the more difficult it is for the individual member to prove that the defamatory remarks apply to him. (Cf. 70 ALR 2d. 1384).

In the case of *Uy Tioco vs. Yang Shu Wen*, 32 Phil. 624, this Court held as follows:

"Defamatory remarks directed at a class or group of persons in general language only, are not actionable by individuals composing the class or group unless the statements are sweeping; and it is very probable that even then no action would lie where the body is composed of so large a number of persons that common sense would tell those to whom the publication was made that there was room for persons connected with the body to pursue an upright and law abiding course and that it would be unreasonable and absurd to condemn all because of the actions of a part." (*supra*, p. 628).

It is evident from the above ruling that where the defamation is alleged to have been directed at a group or class, it is essential that the statement must be so sweeping or all-embracing as to apply to every individual in that group or class, or sufficiently specific so that each individual in the class or group can prove that the defamatory statement specifically pointed to him, so that he can bring the action separately, if, need be.

We note that private respondents filed a "class suit" in representation of all the 8,500 sugarcane planters of Negros Occidental. Petitioner disagrees and argues that the absence of any actionable basis in the complaint cannot be cured by the filing of a class suit on behalf of the aforesaid sugar planters.

We find petitioner's contention meritorious.

The case at bar is not a class suit. It is not a case where one or more may sue for the benefit of all (*Mathay vs. Consolidated Bank and Trust Company*, 58 SCRA 559) or where the representation of class interest affected by the judgment or decree is indispensable to make each member of the class an actual party (*Borlaza vs. Polistico*, 47 Phil. 348). We have here a case where each of the plaintiffs has a separate and distinct reputation in the community. They do not have a common or general interest in the subject matter of the controversy.

The disputed portion of the article which refers to plaintiff Sola and which was claimed to be libelous never singled out plaintiff Sola as a sugar planter. The news report merely stated that the victim had been arrested by members of a special police unit brought into the area by Pablo Sola, the mayor of Kabankalan. Hence, the report, referring as it does to an official act performed by an elective public official, is within the realm of privilege and protected by the constitutional guarantees of free speech and press.

The article further stated that Sola and the commander of the special police unit were arrested. The Court takes judicial notice of this fact. (*People vs. Sola*, 103 SCRA 393).

The second issue to be resolved here is whether or not the special civil action of certiorari or prohibition is available to petitioner whose motion to dismiss the complaint and subsequent motion for reconsideration were denied.

As a general rule, an order denying a motion to dismiss is merely interlocutory and cannot be subject of appeal until final judgment or order is rendered. (Sec. 2 of Rule 41). The ordinary procedure to be followed in such a case is to file an answer, go to trial and if the decision is adverse, reiterate the issue on appeal from the final judgment. The same rule applies to an order denying a motion to quash, except that instead of filing an answer a plea is entered and no appeal lies from a judgment of acquittal.

This general rule is subject to certain exceptions. If the court, in denying the motion to dismiss or motion to quash, acts without or in excess of jurisdiction or with grave abuse of discretion, then certiorari or prohibition lies. The reason is that it would be unfair to require the defendant or accused to undergo the ordeal and expense of a trial if the court has no jurisdiction over the subject matter or offense, or is not the court of proper venue, or if the denial of the motion to dismiss or motion to quash is made with grave abuse of discretion or a whimsical and capricious exercise of judgment. In such cases, the ordinary remedy of appeal cannot be plain and adequate. The following are a few examples of the exceptions to the general rule.

In *De Jesus vs. Garcia* (19 SCRA 554), upon the denial of a motion to dismiss based on lack of jurisdiction over the subject matter, this Court granted the petition for certiorari and prohibition against the City Court of Manila and directed the respondent court to dismiss the case.

In *Lopez vs. City Judge* (18 SCRA 616), upon the denial of a motion to quash based on lack of jurisdiction over the offense, this Court granted the petition for prohibition and enjoined the respondent court from further

proceeding in the case.

In *Enriquez vs. Macadaeg* (84 Phil. 674), upon the denial of a motion to dismiss based on improper venue, this Court granted the petition for prohibition and enjoined the respondent judge from taking cognizance of the case except to dismiss the same.

In *Manalo vs. Mariano* (69 SCRA 80), upon the denial of a motion to dismiss based on bar by prior judgment, this Court granted the petition for certiorari and directed the respondent judge to dismiss the case.

In *Yuviengco vs. Dacuycuy* (104 SCRA 668), upon the denial of a motion to dismiss based on the Statute of Frauds, this Court granted the petition for certiorari and dismissed the amended complaint.

In *Tacas vs. Carias* (72 SCRA 527), this Court granted the petition for certiorari after the motion to quash based on double jeopardy was denied by respondent judge and ordered him to desist from further action in the criminal case except to dismiss the same.

In *People vs. Ramos* (83 SCRA 11), the order denying the motion to quash based on prescription was set aside on certiorari and the criminal case was dismissed by this Court.

Respondent Court correctly stated the general rule and its exceptions. However, it ruled that none of the exceptions is present in the case at bar and that the case appears complex and complicated, necessitating a full-blown trial to get to the bottom of the controversy.

Petitioner's motion to dismiss is based on the ground that the complaint states no cause of action against it by pointing out the non-libelous nature of the article sued upon. There is no need of a trial in view of the conclusion of this Court that the article in question is not libelous. The specific allegation in the complaint, to the effect that the article attributed to the sugarcane planters the deaths and brutalization of sugarcane workers, is not borne out by a perusal of the actual text.

The complaint contains a recital of the favorable working conditions of the agricultural workers in the sugar industry and the various foundations and programs supported by planters' associations for the benefit of their workers. Undoubtedly, the statements in the article in question are sweeping and exaggerated; but, paraphrasing the ruling in the *Uy Tioco* case above quoted, it would be unreasonable and absurd to condemn the majority of the sugarcane planters, who have at heart the welfare of their workers, because of the actions of a part. Nonetheless, articles such as the one in question may also serve to prick the consciences of those who have but are not doing anything or enough for those who do not have.

On the other hand, petitioner would do well to heed the admonition of the President to media that they should check the sources of their information to ensure the publication of the truth. Freedom of the press, like all freedoms, should be exercised with responsibility.

WHEREFORE, the decision of the Intermediate Appellate Court is reversed and the complaint in Civil Case No. 15812 of the Court of First Instance of Negros Occidental is dismissed, without pronouncement as to costs.

SO ORDERED.

Teehankee, C.J., Abad Santos, Yap, Fernan, Narvasa, Melencio-Herrera, Alampay, Gutierrez, Jr., Cruz, and Paras, JJ., concur.

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