

PEDRO S. LACSA, PETITIONER, VS. HONORABLE INTERMEDIATE APPELLATE COURT AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 74907. May 23, 1988

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

Convicted on July 9, 1982 by the Court of First Instance of Manila of the crime of libel and sentenced to pay a fine of Two Thousand (P2.000.00) Pesos,[1] the accused-petitioner, Pedro S. Lacsas, appealed to the former Intermediate Appellate Court. The respondent appellate court, however in its decision[2] dated March 12, 1986, affirmed in toto the judgement of the trial court. Still unsatisfied, the petitioner is now before us through a petition for review on certiorari, seeking the reversal and setting aside of the respondent court's decision and his acquittal from the crime charged.

We deny the petition.

The undisputed facts of this case are as follows:

The petitioner is a Certified Public Accountant by profession. Being a representative of an institutional member of the Philippine Columbian Association and as a former member of the latter's Board of Directors, the petitioner volunteered to act as auditor and offered his services free in connection with the association's move to offer pre-emptive rights to its member. In his capacity as auditor, the petitioner had access to the record of the association's members including the personal folder of the private complainant, Ponciano C. Marquez, who was then the President. According to the petitioner, he discovered in the course of his work that Marquez was a mere associate member of the association. As such, the petitioner questioned the qualification of Marquez to hold the presidency of the association inasmuch as only proprietary members thereof can be voted to the said position. Thus purporting to espouse the interest and welfare of the association and its members, the petitioner, on December 21, 1978, wrote a letter to the Board of Directors impugning the status of Marquez as a proprietary member and as president of the association. In that letter, the petitioner contended that the issuance of Certificate NO. D-44 (for proprietary membership) to Marquez, without the prior knowledge and authority of the association's Board of Directors, was erroneous. On January 2, 1979, the petitioner likewise sent a letter to the private complainant asking the latter to yield the presidency for having failed to show that he was entitled to a proprietary certificate membership which is one of the qualifications for the position. The petitioner, through his letter, likewise branded the private complainant as a "de facto president." The letter, which the petitioner eventually caused to be published and circulated among the members of the association, reads:

January 2, 1979

Mr. Ponciano C. Marquez
Philippine Columbian Association
350 Taft Avenue, Manila

Subject: Erroneous issuance of Membership

Certificate No. D-44 in your name.

Dear Sir:

In connection with my 21 December 1978 letter to the PCA Board of Director, I strongly urge you to yield the Presidency. This has become necessary in view of the following: (1) your associate membership status has been definitely established, (2) with more than enough time, you failed to show that you are entitled to a proprietary certificate, (3) only proprietary member can hold and occupy the position you have been holding and occupying for three years (as de facto president), and (4) to afford the Board a chance to decide the manner of rectifying the unauthorized and erroneous issuance of Membership Certificate No. D-44 in your name.

Your cooperation on this matter will go a long way towards the attainment of true camaraderie and understanding among members of the Club.

Very truly yours,

(Sgd.) PEDRO S. LACSA

PSL/egl

cc: Dr. Jose N. Villanueva, Jr.

Atty. Antonio de las Alas, Jr.

Atty. Alfonso C. Roldan

Justice Claudio Teehankee

Director Victor Buencamino, Jr.

Director Oscar J. Hilado

Dr. Vicente D. Limoso

Director Angel Dayao

Don Carlos T. Fernandez

Mr. Baldomero T. Olivero

Mr. Ramon Ordoveza

Mr. Jorge Vargas

Atty. Lino Patajo

Dr. Jose M. Barcelona

Prof. Renato Constantino"[3]

Not content with what he had already done, the petitioner, on January 9, 1978, again caused the publication in a newsletter circulated to the association's members, of an item entitled "Doubt As To The Legitimacy Of The Incumbent President."

Due to these imputations of the petitioner, the private complainant, Ponciano C. Marquez, instituted separate criminal complaint and civil action against the former. Marquez claimed that he was maligned, defamed, and exposed to public ridicule by the petitioner's actions.

The basic question to be answered is whether or not, under the circumstances related, the petitioner, is guilty of the crime of libel.

The petitioner insists that the term "de facto president," which he used to describe the private complainant, is not libelous per se. The petitioner asserts that even assuming that the said term is indeed libelous, the letter and newsletter in which it appeared nevertheless constitute privileged communication and cannot give rise to a libel

conviction. Besides, he claims that the letter and newsletter which caused the present discord were written by him pursuant to his moral, social, and legal responsibility as a member of the Philippine Columbian Association. These being so, the petitioner argues, he should be exonerated from the criminal charge.

We disagree.

Six decades ago, in the case of *U.S. vs. O'Connell* the Court laid down the test for libelous meaning:

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Defendant has imputed nothing wrong to the complaints in certain and express terms. But this is not necessary. Words calculated to induce suspicion are sometimes more effective to destroy reputation than false charges directly made. Ironical and metaphorical language is a favored vehicle for slander. A charge is sufficient if the words are calculated to induce the hearers to suppose and understand that the person or persons against whom they were uttered were guilty of certain offenses, or are sufficient to impeach their honesty, virtue, or reputation, or to hold the person or persons up to public ridicule. Said Chief Justice Shaw of the Supreme Court of Massachusetts: "The rule is a sound one that the law cannot shut its eyes to what all the rest of the world can see; and let the slanderer disguise his language, and wrap up his meaning in ambiguous givings out, as he will, and it shall not avail him, because courts will understand language, in whatever form it is used, as all mankind understands it." (*Cartel, vs. Andrews* [1834], 16 Pick. [Mass.], 1.)

Said another court much more recently:

"The test of libelous meanings is not the analysis of a sentence into component phrases with the meticulous care of the grammarian or stylist, but the import conveyed by the entirety, of the language to the ordinary reader." (*Miller vs. O'Connell, City Ct.*, 57 L. J., 1768, Sept. 12, 1917.)[4]

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The rule was further elucidated in *U.S. vs. Sotto* where we stated:

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In the case of *Jimenez vs. Reyes* (27 Phil. Rep., 52). at page 59, Justice Trent, writing the opinion of the court, laid down the rule that for the purpose of determining the meaning of any publication alleged to be libelous "that construction must be adopted which will give to the matter such a meaning as is natural and obvious in the plain and ordinary sense in which the public would naturally understand what was uttered. The published matter alleged to be libelous must be construed as a whole. In applying these rules the language of an alleged libel, the court will disregard any subtle or ingenious explanation offered by the publisher on being called account. The whole question being the effect the publication had upon the minds of the readers, and they not having been assisted by the offered explanation in reading the article, it comes too late to have the effect of removing the sting, if any there be, from the word used in the publication."[5]

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Considering that there are two classes of membership in the Philippine Columbian Association -- associate and proprietary -- and, it is only those of the latter who are qualified to be voted as president of the association, the act of the petitioner in branding complainant Marquez as a mere de facto president and insinuating imperfection in the latter's status as a proprietary member, most certainly exposed Marquez to public contempt and ridicule. No amount of subtlety designed to camouflage the ill-effect of the petitioner's misdeed would erase the impression already created in the minds of the readers of the libelous materials. The Solicitor General is correct in stating that calling Marquez a de facto president "is equivalent to saying that he is a pretender, a fraud, and impostor and he is arrogating unto himself certain powers, rights, and privileges to which he is not entitled."[6]

We cannot likewise subscribe to the assertion of the petitioner that the letter and newsletter article complained of partake of privileged communication. To be classified as a privileged communication, the disputed letter and article must be absolutely free from any taint of malice which, unfortunately, is not the case here.

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x x x. Granting that, under section 9, private communication is made and published, in good faith, with the sole purpose of the protection mentioned in said section, but is false and malicious is it entitled to the privilege mentioned in said section, and is the party relieved from liability when the communication was made "with good motives" and "for justifiable ends" or "with justifiable motives?" Malicious motives are inconsistent with "good motives" for "justifiable ends" and "with justifiable motives." It was not the intention of the Legislature to make the "privileged communication" in section 9 absolutely privileged. Such communication must also be free from malice.[7]

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The petitioner, even before he embarked on his crusade against Marquez, knew that the latter was already a proprietary member of the association. He (the petitioner) had personal knowledge of the issuance and existence of Certificate of Membership, Series B. No. 44, for proprietary membership in the name of Marquez. This fact finds support in the respondent court's decision:

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x x x And to show further that the accused had knowledge of the conversion of the associate membership of Ponciano Marquez into proprietary as contained in the minutes of April 22, 1968. Exh. A-6, the prosecution called attention to the fact that the accused placed his initials "PSL" and dated "9/28/78" on the left hand bottom corner of said Exhibit "A16" and marked the pages on which the said document may be found with encircled number "63". The accused admits that the initials and dates and the paging were made by him when he examined said document, but claims that said document is not an authentic document, because it is unsigned and he did not bother to inquire from Atty. Reynoso about it because it was unsigned. However, Atty. Reynoso, who had been the secretary of the club from 1941 to 1942 and from 1951 to 1971, testified that the minutes were prepared under his instruction and supervision at the club office, the original was contained in book form but was lost at the office sometime in 1975-76. The accused, therefore, should have inquired from Mr. Reynoso as to the authenticity of said copy of the minutes before making his claim that there is doubt as to the legitimacy of the presidency. Apparently, Justice Lino Patajo, in stating that the minutes were still in the club custody until April 10, 1980, was referring to the copy of the minutes and not the original minutes which were lost sometime in 1975 or 1976. There was, therefore, no sufficient ground to Claim that there was no basis for the conversion of the associate membership of Ponciano Marquez into proprietary membership.[8]

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In any case, even assuming ex gratia argumenti, that the petitioner's letter dated January 2, 1979 is privileged communication, it lost its character as such when the matter was published in the newsletter and circulated among the general membership of the Philippine Columbian Association. When he undertook to be the auditor of the association, the petitioner was under the obligation to keep his findings in strict confidence between him and the association's Board of Directors. The fact that the petitioner rendered his services gratis can not justify the violation of that confidence. His contention that he reviewed the records of the association exercising his right as a member thereof and thus not bound by any confidentiality is untenable. He stated in his petition that he undertook the job as a service to the association. For this reason, he was duty bound to report his discoveries first to the Board of Directors which represents the association and is the only body that can make the necessary correction in case there was really a mistake in the membership records. The petitioner's precipitate act of

immediately going public with his alleged findings is unpardonable.

The petitioner further contests the authenticity and propriety of the unsigned minutes the meeting of the association's Board of Directors which showed the approval of the private complainant's application for conversion of membership status from associate to proprietary. Upon review of the records of this case, we however find the said minutes to be proper evidence. Their authenticity has been sufficiently established by the testimony[9] of the association's former secretary, Atty. Jose Reinoso.

Another circumstance which militates against the Petitioner's pretensions of good faith and performance of a moral and social duty was his irresponsible act of letter writing to expose his alleged discovery of what he perceived to be an anomaly. When he saw the unsigned minutes of the association's Board of Directors, he immediately sent out the assailed letters eventually culminating in the publication of the subject newsletter sans the verification which ordinary prudence demands.

Finally, the petitioner maintains that the actions against him are pure harassment. This accusation finds no support in the records of this case. On the other hand, we accept the finding of the respondent court that the motive of the petitioner in maligning the reputation of the Marquez has been amply established. Said that court:

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x x x It is apparent from the circumstances brought out in the case that because the accused was not extended appointment to his position as member of the steering committee of the club, which committee is very important because it was created to implement the terms and conditions of their memorandum of agreement with Permaline Inc. for the construction of the Philippine Columbian Sports Complex which, at that time, is worth P30,000,000.00 but merely to the chairmanship of the finance committee which Mr. Lacsá rejected and which rejection Mr. Marquez accepted, the accused felt aggrieved and then began taking steps to find cause, criticizing Marquez' actuations as president of the association.[10]

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WHEREFORE, the petition is hereby DENIED; and the decision of the Intermediate Appellate Court is hereby AFFIRMED. Costs against the petitioner.

SO ORDERED.

Yap, C.J., Melencio-Herrera, Paras, and Padilla, JJ., concur.

[1] Penned by then Judge Bienvenido Ejercito (now Court of Appeals Justice).

[2] Lising, E.M., J. Nocon, R.A. and Alfonso, Jr., F.B., JJ.

[3] Rollo, 44-45.

[4] 37 Phil. 767, 772-773 (1918).

[5] 38 Phil. 666, 672-673 (1918).

[6] Rollo, id., 111.

[7] U.S. vs. Bustos, 13 Phil. 690, 699 (1909).

[8] Rollo, id., 49-50.

[9] Rollo, id., 115-117.

[10] Rollo, 50.

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