

FLORENCIO VILLAVICENCIO, PLAINTIFF AND APPELLEE, VS. TOMAS NONATO ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 8768. January 26, 1915

Ponente: CARSON, J.

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CARSON, J.:

Judgment was rendered in the court below in favor of the plaintiff and against the defendants, both jointly and severally, for the sum of P1,000, by way of damages arising from the malicious publication set forth in the complaint which is as follows:

"1. That the plaintiff and the several defendants above named are all residents of the municipality of Miagao, Province of Iloilo.

"2. That the several defendants, at the time mentioned in the sixth paragraph of this complaint, were all members of the municipal council of the said municipality of Miagao.

"3. That the plaintiff, for many years prior to April 30, 1912, has been a resident of the municipality of Miagao, above mentioned, and during all the time that he has been a resident of the said municipality he has enjoyed a good reputation.

"4. That the plaintiff was, on and before the 30th day of April, 1912, and since then to the present date has been a landowner and agriculturist of the said municipality of Miagao.

"5. That the plaintiff previously held the office of justice of the peace of and for the said municipality and was, at the time hereinbelow mentioned, a candidate for justice of the peace of the said municipality; that he successfully passed the examination prescribed by law for the position of justice of the peace, having obtained the highest average rating among those who took the said examination; and that, therefore, he was entitled to be appointed to the said position.

"6. That on or about the 30th day of April, 1912, the said defendants, and each one of them, did, unlawfully, willfully and maliciously and with the intention of injuring the plaintiff in his reputation and business, and especially in his candidacy for the said office, publish in writing, as a part of a certain resolution passed at a session of the said municipal council and which forms a part of the minutes thereof, the following libelous words relative to the plaintiff:

" 'That it is publicly and well-known in this municipality that the conduct of the said Mr. Florencio Villavicencio is immoral.

" 'That in many cases the said Florencio Villavicencio devotes himself in this municipality to the prosecution of unjust suits, for the purpose of exploiting the peaceable inhabitants of this municipality.' "

"That the libelous words above quoted were incorporated in the said resolution and published as an act of all and each one of the said defendants. An excerpt of the minutes of the said session of the aforementioned municipal council, duly certified by the secretary of the provincial board of the Province of Iloilo, wherein the said resolution appears, is attached hereto, marked as Exhibit A, and forms an integral part of this complaint.

"7. That the words above transcribed were and are completely false and the defendants knew and know that they were and are completely false.

"8. That the said publication did tend and was intended to cast doubt upon the honesty, virtue, and reputation of the plaintiff and to expose him to the hatred, contempt, and ridicule of the public.

"9. That by reason of the said publication and especially by reason of the public and official character of the same, the plaintiff has experienced great mental anguish and humiliation, did not obtain the appointment of justice of the peace of the said municipality, and has suffered losses and damages in his business, reputation, and feelings, to the amount of P10,000.

"Therefore the plaintiff prays for judgment against the defendants and each of them, for the sum of P10,000 and the costs of this suit, together with such punitive (penal) damages as the court may deem a just punishment for each of the defendants and such as may serve as an example for others."

We are all agreed that the evidence of record fully sustains the finding by the trial court that the publication which is the basis of plaintiff's claim of damages was inspired by express malice "actuated by personal spleen towards the plaintiff;" and that defendants failed utterly to sustain the truth of the charges of immorality and official misconduct set forth therein. We agree with the trial judge, furthermore, that the defendants failed not only to establish the truth of these charges, but also to establish that in making public such charges, they were giving expression to an opinion as to their truth which had been "formed with a reasonable degree of care and on reasonable grounds." As the trial judge says, it is perfectly evident that in making these charges the defendants acted on mere rumor and hearsay; and we are satisfied that the defendant Nonato, who was the moving spirit in drawing up and making public these charges of immorality and unfitness for office, seized upon these rumors without making any genuine effort to verify them, merely as a cloak for a malicious assault upon the private and official life of the plaintiff.

In the light of these findings of fact, it is not necessary for us to consider at length the claim of privilege set up by counsel for the defendants, on the ground that the publication was in the nature of fair comment and criticism on the moral fitness of a candidate for public office.

As we said in the case of *U. S. vs. Sedano* (14 Phil. Rep., 341) : "But while it may be admitted that the public acts of public men may lawfully be made the subject of comment and criticism by the public and by the press, and that such criticism, when made in good faith, should be and is privileged; and while it may, perhaps, also be admitted that a somewhat broad license should be allowed to criticisms of and comment on the mental, moral, and physical fitness of candidates for public office, the very fact of candidacy putting these matters in issue, and the public having a right to be informed as to the qualifications of those who seek election, and perhaps appointment to public office, nevertheless it is clear upon general principles as well as under the express provisions of the Libel Law (Act No. 277) that such comment or criticism, if defamatory in its nature, constitutes a criminal libel if it appears that it was actuated by actual or express malice; that from the very nature of the privilege claimed the freedom of such criticism is necessarily limited to fair comment on the matters under discussion, fair comment being comment which is true, or which, if false, expresses the real opinion of the author, such opinion having been formed with a reasonable degree of care and on reasonable grounds (*Steph. Dig. Cr. Law*, art. 274); and that such criticism cannot be permitted to be used as a cloak for malicious assaults on the private life and character of the person criticised."

We find no error in the proceedings prejudicial to the rights of the defendants and appellants, and the judgment entered in the court below should therefore be affirmed, with the costs of this instance in favor of the appellee. So ordered.

Arellano, C. J., Torres, Moreland, Trent, and Araullo, JJ., concur.

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