

RUDOLFO S. MAGAT AND MINERVA F. MAGAT, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES AND COURT OF APPEALS, RESPONDENTS.

G.R. No. 92201. August 21, 1991

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

The petitioners state that the respondent court instead of dismissing their petition and thereby affirming a judgment of conviction should have ordered the complaint dismissed on the ground of prescription or acquitted them for failure to prove guilt beyond reasonable doubt.

On October 14, 1985, the petitioners were charged before the Metropolitan Trial Court of Pasay City under a complaint filed by Ma. Luisa F. Domocmat for serious slander allegedly committed on May 12, 1985 in Room 335 of the Manila Sanitarium and Hospital in Pasay City.

The alleged defamatory words are:

"By Rudolfo S. Magat:

'Ikaw tarantada kang babae. Kung ilang beses kitang kinantot. Yang asawa mo sira. Kayong lahat kayang-kaya ko.'

By Minerva F. Magat:

'Putang babae ka. Malandi ka. Palibhasa hindi ka na naka-kantot ng asawa ko. Ikaw Clarie yong asawa mo naman ang lalandian niya palibhasa hindi na siya naka-kantot ng asawa ko.'" (Rollo, p. 61)

The petitioners are spouses working for the Manila Sanitarium and Hospital. Rudolfo is a practising physician in the hospital while Minerva is the secretary-receptionist in the Radiology Department of the same institution.

After trial, the Metropolitan Trial Court of Pasay convicted the accused spouses of light slander. The dispositive portion of the decision rendered on January 19, 1989 reads:

"IN THE LIGHT OF THE FOREGOING CONSIDERATION, this Court candidly feels morally convinced that the crime of light slander only, instead of serious slander, with the mitigating circumstance of provocation was committed by both accused and on the basis of the pertinent allegations in the complaint under which both accused had been charged and prosecuted, proved and established beyond reasonable doubt as required by law, convicts them therefore for such crime and sentences both of them accordingly pursuant to law to each pay the amount of P150.00 as fine, P5,000.00 each as moral damages and P3,000.00 as attorney's fees and also to pay the costs of suit.

En Fin, this Court finds it fitting to close this verdict not only by reiterating its deep regret at having been commissioned to make the foregoing pronouncement long after the trial of the case had been terminated in the sala of another judge who could have been in a better position to dispense justice to the parties, but also by

admonishing all the parties in this case who, the records show, belong to one Christian faith to conduct a candid self-examination and soul-searching reassessment of their relationship with our Saviour who upon leaving this terrestrial sphere left these comforting words 'My peace, my peace I leave you. Lo! I'll be with you unto the end of the world.' x x x." (Rollo, p. 69)

The second paragraph of the decision's dispositive portion in this otherwise simple and inelaborate case is better understood in the light of the petitioner's contention that pressures from "the powers-that-be" were exerted on the trial judges. (Petition for Review, Court of Appeals Records, pp. 1-2; Rollo, pp. 33-34)

On appeal, the Regional Trial Court modified the decision and found the appellants guilty of the original charge of serious slander. The dispositive portion of the decision rendered on July 11, 1989 reads:

"WHEREFORE, the decision dated January 19, 1989 of Branch 47 of the Metropolitan Trial Court of Pasay City is modified in the sense that accused Rudolfo S. Magat and Minerva F. Magat are found guilty of serious slander as charged in the aforequoted Information; and in line with the Indeterminate Sentence Law, there being no mitigating or aggravating circumstance which attended the commission of the crime, they are each sentenced to suffer an indeterminate penalty of imprisonment from three (3) months of arresto mayor, as minimum, to one (1) year and one (1) day of prision correctional, as maximum.

The appealed decision is affirmed insofar as it awards to complainant Domocmat the sum of P5,000.00 as moral damages and the amount of P3,000.00 as attorney's fees, and as it requires the accused to pay the costs of the suit." (Rollo, p. 57)

The defense appears to have been characterized by negligent or poor handling. The petition for review filed with the Court of Appeals was not verified and was not accompanied by certified true copies of the questioned decision. The respondent court promptly denied due course for failure to comply with the Rules.

When the petitioners came to this Court, their counsel forgot to submit proofs of service of the petition to the respondent court and the adverse party.

After deliberating on the preliminary issues, we decided to overlook the otherwise fatal procedural lapses in the interest of justice and gave due course to the petition. Strict adherence to long standing rules is rigidly enforced not only in the interest of orderly procedure but also to assist the courts in the speedy adjudication of controversies through timely filing of petitions and payment of fees, carefully drafted and legible pleadings, notice to the respondent Tribunal and the adverse parties, and such faithful compliance with fixed requirements as will show thorough preparation of a case and a sincere willingness to assist the court in the expeditious and fair dispensation of justice.

In exceptional cases, however, where through negligence or ignorance of counsel, the properties, lives and future of accused persons may unjustly be prejudiced as when an innocent person may be railroaded to prison or proof beyond reasonable doubt was not adduced, we have waived the technical rules under our equity jurisdiction and in the interest of substantive justice. This, we have done in this case.

During the pre-trial proceedings, the results of which are stated in the April 4, 1986 order of the Metropolitan Trial Court, the following stipulations of facts and issues were made:

"That on May 12, 1985, spouses Dr. Rudolfo S. Magat and Minerva F. Magat were at Room 335 Manila Sanitarium and Hospital at about 10:00 to 10:30 o'clock, in the morning thereof;

That private complainant Ma. Luisa F. Domocmat was at Room 335 Manila Sanitarium and Hospital on May 12, 1985 at about 10:00 to 10:30 o'clock in the morning thereof;

That Dr. Rudolfo S. Magat was the wedding sponsor in the civil marriage between Ma. Luisa F. Domocmat

and Dr. Jeremias Domocmat;

That Ma. Luisa F. Domocmat is married to Dr. Jeremias Domocmat;

That the defense admits that Exhibits A, A-1, A-2, A-3 and A-4 are the very documents filed by Ma. Luisa Domocmat with the Office of the City Fiscal of Pasay City copy of which were furnished the defense;

That the defense admits that Exhibits B, B-1, and B-2 are the affidavits and Annexes thereto of Dr. Clarita Garcia filed with the Office of the City Fiscal of Pasay City and copy of which were served upon the respondent-spouses;

That the defense, admits that on May 12, 1985, Dr. Clarita Garcia was confined at Room 335 Manila Sanitarium and Hospital, (Pre-Trial, Order, pp. 1-2):

That the prosecution admits the execution of Exhibits 1 to 1-E and admits that it is the six-paged sworn statement of Dr. Rudolfo S. Magat filed with the Office of the City Fiscal of Pasay City;

That the prosecution admits the existence, due execution and genuineness of defense Exhibits 2 as the suspension letter dated June 12, 1985 issued by the Manila Sanitarium and Hospital suspending the accused Rudolfo S. Magat for a period of twelve (12) months or one (1) year effective from receipt thereof; (Pre-Trial Order, pp. 2-3).

That the prosecution admits the genuineness and due execution of Exhibits 4 and 4-A which is the writ of injunction issued by the Honorable Fermin A. Martin, Jr., Presiding Judge of Branch CXIV of the Regional Trial Court of Pasay City in Civil Case No. 2999-P entitled Dr. Rudolfo S. Magat plaintiff versus North Philippine Union Mission of Seventh-Day Adventists, et al., Defendants dated August 1, 1985 which writ enjoins the respondents and its agents from prohibiting the plaintiff from exercising his profession and privileges as an accredited doctor of the Manila Sanitarium and Hospital and from barring the entry of plaintiff's patients as well as their confinement at the said Hospital. The prosecution reserves the right to object to the admission of Exhibits 4 and 4-A on the ground of immateriality;

x x x x x x x x

That the defense marked in evidence as Exhibit 7 the Biodata of accused Rudolfo S. Magat issued by Mrs. Charita C. Serafica, Personnel Directress of the Manila Sanitarium and Hospital dated May 6, 1982. The prosecution reserves the right to question the authenticity and materiality of this Exhibit;' (Pre-Trial Order, pp. 3-6).

That during the incident which is the subject matter of this case which occurred on May 12, 1985 at Room 335 Manila Sanitarium and Hospital at about 10:00 to 10:30 in the morning, only the accused Rudolfo S. Magat, accused Minerva F. Magat, private complainant Ma. Luisa Domocmat and Dr. Clarita Garcia were present and attendant;' (Pre-Trial Order, p. 5)." (Rollo, pp. 35-37)

The parties to the incident — Dr. Rudolfo S. Magat, Mrs. Minerva F. Magat, Mrs. Ma. Luisa Domocmat, and Dr. Clarita Garcia were former friends and acquaintances connected with the Manila Sanitarium and Hospital. The complainant and the accused all belong to the Seventh-Day Adventists' Church which operates the hospital. Somehow, there was a parting of ways between the Magats on one hand and Mrs. Domocmat and Dr. Garcia on the other.

The facts for the prosecution are stated by the trial court as follows:

"Culled from the voluminous records of the case are the following: that on May 12, 1985, one Dr. Clarita F. Garcia was confined at Room 335 of the Manila Sanitarium and Hospital located at Donada Street, Pasay City, due to a surgical operation; that in the morning of said date, between 10:00 and 10:30, private complainant Ma.

Luisa Domocmat arrived at said room where Dr. Garcia was confined bringing with her a basket of fruits; that shortly thereafter, accused Dr. Rudolfo Magat and his wife, Minerva Magat, entered the same room where Dr. Garcia and Ma. Luisa Domocmat were present, whereupon both accused one after the other, immediately and in loud tones uttered the above slanderous words to the complainant Domocmat; that Dr. Garcia heard the same offensive words directed at the complainant; that when Dr. Garcia tried to pacify them she (Dr. Garcia) was likewise shouted at by both accused, all defamatory words uttered by both accused at her and complainant which tended to cast dishonor and shame on them and their families; that accused Minerva Magat later directly and specifically told Dr. Garcia: 'Ikaw Clarie, yong asawa mo naman ang lalandian niya, palibhasa hindi na nakakantot ng asawa ko, kasi nililigawan ng asawa mo', while Dr. Magat told his wife Minerva referring to Dr. Clarie Garcia: 'Huwag mong pansinin iyan, kilala ko ang pamilya niya, mga sira ang ulo niyan, mukhang mangkukulam'; that both accused hurriedly left the room when they noticed complainant Domocmat calling by phone Dr. Nehemias Garcia, husband of Dr. Clarita Garcia; that it is a stipulated fact as contained in the Pre-Trial Order that when the alleged defamatory and slanderous words were allegedly uttered by both accused against complainant in the private hospital room, the only persons present were complainant Ma. Luisa Domocmat, Dr. Clarita Garcia and accused-spouses Dr. Rudolfo Magat and his wife Minerva." (Rollo, pp. 61-62)

On the other hand, the version of the petitioners is:

"In the morning of the said date at the lobby of the Manila Sanitarium and Hospital, Mrs. Minerva F. Magat met Mrs. Ma. Luisa Domocmat and the latter uttered 'Hi, Quintin. Hi Quintin. Kumusta ka Quintin (Quintin was a former boyfriend of Mrs. Magat prior to her marriage)?' Mrs. Magat retorted, 'Ay ang kati. Ay ang kati.'

Immediately thereafter, Dr. Magat met Mrs. Magat. She then reported to her husband the incident at the lobby. In an attempt to clear the air as to the actuations of Mrs. Domocmat, both decided to look for her at a place they knew she would be at that time.

Upon reaching Room 335 at about 10:00 o'clock in the morning, Dr. Magat knocked at the door, finding it open, they entered and saw Mrs. Domocmat and Dra. Clarita Garcia, a patient confined at the same room. Addressing Mrs. Domocmat after closing the door, Dr. Magat said 'Baby, bakit hanggang ngayon ay ginaganoon mo pa si Miner, wala naman siyang ginagawa sa iyo.' Mrs. Domocmat answered, 'Bakit ka ba galit na galit, Palibhasa'y hindi ka na nakakakantot.' Dr. Magat retorted, 'napakasama naman ng bibig mo' and told his wife, 'Mommy, halika na, umalis na tayo tatal sira na naman sa atin ang mga iyan.' On their way out, Mrs. Domocmat followed them and said 'hayop, mga aso, mga putik.'" (Rollo, p. 106)

The issues raised in this petition for review are:

"1.

WHETHER OR NOT RESPONDENT COURT OF APPEALS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN DISMISSING THE PETITION FOR REVIEW OF THE DECISION RENDERED BY THE LOWER COURT WITHOUT JURISDICTION;

2.

WHETHER OR NOT THE CRIME OF WHICH BOTH PETITIONERS WERE CONVICTED HAD ALREADY PRESCRIBED;

3.

WHETHER OR NOT THE DECISION OF THE TRIAL COURT IS VALID IN THE LIGHT OF THE

RELUCTANCE OF THE JUDGE WHO RENDERED THE SAME SINCE HE WAS NOT THE ONE WHO HEARD THE CASE; AND

4.

WHETHER OR NOT THE LOWER COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN CONVICTING PETITIONERS SOLELY ON THE BASIS OF THE TESTIMONY OF WITNESSES WHOSE CREDIBILITY WAS NOT SUFFICIENTLY ESTABLISHED;

5.

GRANTING WITHOUT ADMITTING THAT THE STATEMENTS IMPUTED TO PETITIONERS WERE MADE, WHETHER OR NOT THE CRIME OF SLANDER WAS ACTUALLY COMMITTED IN THE ABSENCE OF PUBLICATION OF THE SLANDEROUS STATEMENTS." (Rollo, p. 207)

The office of the Solicitor General limited itself to discussing the procedural issues insisting that the Court of Appeals properly dismissed the case and that we should not have given due course to the petition.

Mention was also made of the issue on prescription but none as regards the other basic issues. The public respondents stated:

"Petitioners' belated claim in their Motion for Reconsideration of this Honorable Court's Resolution of May 9, 1990 which denied the instant Petition that the Metropolitan Trial Court of Pasay City was allegedly bereft of jurisdiction to convict them of the crime of Light Slander because the same had already prescribed at the time of the filing of the Complaint against them, is destitute of merit and deserves only scant disquisition herein.

Suffice it to emphasize that the Complaint lodged against petitioners with said court was for the crime of Serious or Grave Slander and not for the light or minor offense of Light Slander and that after being adjudged guilty for the latter offense and without complaining about the court's alleged lack of jurisdiction to do so, they appealed the Decision to the Regional Trial Court of Pasay City because of their alleged innocence of said crime. Inasmuch as the facts and the evidence on record patently revealed that petitioners were actually liable for the offense of Serious Slander as charged in the Complaint and not merely of Light Slander, it modified the verdict of the Metropolitan Trial Court and held them guilty beyond peradventure of doubt of Serious Slander." (Rollo, pp. 191--192)

There are circumstances gleaned from the records which lead us to conclude that a miscarriage of justice may be perpetrated unless we look deeper into the basic merits of this case.

As earlier stated, Metropolitan Trial Court Judge Oscar R. Reyes included a strange obiter in the dispositive portion of his decision. He expressed deep regret at having been commissioned to pronounce judgment in the case stating that the Judge who heard the case but who inhibited himself from writing the decision would have been "in a better position to dispense justice to the parties." He then urged both complainant and defendants "to conduct a candid self-examination and soul-searching reassessment of their relationship with our Saviour x x x."

In their petition for review filed with the Court of Appeals, the petitioners stated:

"What happened here is so distasteful and disgusting that it may be considered as one of the most unique and intriguing incidents in the annals of the judicial firmament. The MTC Judge who entirely heard this case that an almost one-foot thick records was amassed refused to hand down a decision because he, the complainant, the accused and the witnesses are all members of the Seventh Day Adventist Church and that the Judge was

being pressured one way or the other to come up with a verdict, thus, the Judge rendered an Order of inhibition. If this were to be believed in, why did not the Judge disqualify himself from the outset rather than heard this case from the beginning to the end? Or, is it because he could not stand an even greater pressure from the powers-that-be that the accused be convicted by all means that he had to insist in his disqualification despite an Order to the contrary from the RTC Executive Judge?

Another MTC Judge, a sickly one, and who has a son in the payroll of the local Government took over. He tried to disqualify himself reasoning that his own wife is also a Seventh Day Adventist and that it would be unfair to decide a case with a voluminous records he never heard. The RTC Executive Judge denied his request for disqualification and re-raffle of the case, so that, he took over reluctantly.

During the period that this MTC Judge was supposed to be reading and studying the almost one-foot thick records, he became very sick that he had to take a leave. With an obvious physical disability, the Judge returned to work. Under the circumstances, a persistent doubt occurred that the Judge could not have read and studied the whole records of the case. Incidentally, one morning, he invited your undersigned counsel to his Chamber. There, and worse, he disclosed that he had two decisions, one for exoneration, and the other for conviction of the accused. He advised your counsel to convince his clients, the accused, to accept his verdict of fine only and not to appeal any more. To this, your counsel retorted, that he can never accept a conviction of an innocent man and as a matter of principle, he has to appeal his decision and thereafter left his chamber.

Thus, convicted with a fine, the accused appealed the MTC Decision to the Regional Trial Court. While this case was pending in said Court, the powers-that-be installed air conditioners inside the room of the court personnel and inside the hearing room. This may be coincidental, but why is this not done in the rooms of the RTC Executive Judge who has been presiding his sala much earlier with integrity than this RTC Judge who came much later? And, as expected, this Judge convicted the accused with imprisonment despite the fact that he could not have observed the demeanor of the witnesses who testified for the prosecution and the failure of the latter to submit any memorandum supporting its case against the accused. The hereunder would show the glaring deficiencies committed by the trial courts — a travesty of justice.

It is not our intention to influence one way or the other this Hon. Court in disclosing all the foregoing. We still have that abiding faith in the judicial system that somewhere and somehow justice can be obtained by the herein accused. FOR IT CAN BE SAID THAT NO AMOUNT OF SACRIFICE IS ENOUGH IN THE QUEST FOR TRUTH AND JUSTICE EVEN IN THESE HARD TIMES." (Rollo, pp. 15-16)

The trial of this case took almost three (3) years before Judge Enrique A. Lanzanas of the Pasay Metropolitan Trial Court. The case was an extremely simple one. The disputed utterances are short. The recollection by the four persons inside the room of the disputed statements was exact to the point of being verbatim and unambiguous. There was no reason for the voluminous transcripts of stenographic notes, the referrals to the Ministry of Justice, the many side issues like a hold departure order and the relevance of administrative proceedings, the counter charges for libel and perjury filed against Mrs. Domocmat, and other matters which unnecessarily added to the burdens of our judicial system. There was likewise the aversion of the trial Judge to firmly control the progress of the proceedings and arrive at a decision either convicting or acquitting the accused. The inhibition was for no valid reason. Being a member of a religious denomination to which all parties also belong should have made it easier to decide the case objectively and purely on its merits as no bias or partiality arising from religious persuasion could have been raised.

We find merit in the petition.

The quarrel in Room 335 of the Manila Sanitarium and Hospital took place on May 12, 1985 at about 10:00 to 10:30 o'clock in the morning. The complaint of Mrs. Domocmat with the complaint-affidavit of Dr. Clarita Garcia was filed on September 17, 1985 or 132 days later. The sworn complaint was actually filed in the trial court on

October 14, 1985.

When the trial court rendered its decision on January 19, 1989 and found the petitioners guilty of light slander, it had no jurisdiction to sentence them to a P150.00 fine with moral damages, attorney's fees, and costs. The offense ascertained from the evidence adduced during trial was a light offense and under Article 90 of the Revised Penal Code, light offenses prescribe in two (2) months. Article 89(5) of the Revised Penal Code expressly provides:

"Criminal liability is totally extinguished

x x x x x x x x

5. By prescription of the crime;

x x x x x x x x

(Italics supplied)

We ruled in *Francisco v. Court of Appeals* (122 SCRA 538 [1983]):

"Where an accused has been found to have committed a lesser offense includible within the offense charged, he cannot be convicted of the lesser offense, if it has already prescribed. To hold otherwise would be to sanction the circumvention of the law on prescription by the simple expedient of accusing the defendant of the graver offense. The principle has the support of overwhelming authorities in American jurisprudence: 'The general rule, as stated in 22 CJS, Criminal Law, sec. 225b, is 'as a general rule, one indicted for an offense not barred by limitation, but convicted of a lesser included offense which is so barred, is entitled to discharge', and in 15 Am. Jur., Criminal Law, Sec. 343; 'It frequently happens that a change of felony includes an offense of a lower grade with a different period of limitation, so that, while the felony is not barred, the statute has run as to the lesser offense. In this situation, the rule is that if the statute has not run against the felony, while the lesser offense is barred, the bar cannot be evaded by indicting the defendant for the felony and convicting him of the lesser offense.' (State v. King, 84 SE 2d 313; 47 ALR 2d 878)" (at pp. 545-546)

In a more recent case, we ruled that the rule on waiver to objections which are grounds of a motion to quash does not apply when prescription becomes a defense and extinguishes criminal liability.

We stated:

"In the case of *Francisco v. Court of Appeals*, (122 SCRA 538 [1983]) the Court held that where an accused has been found to have committed a lesser offense includible within the graver offense charged, he cannot be convicted of the lesser offense if it has already prescribed. To hold otherwise, according to the Court, would be to sanction a circumvention of the law on prescription by the simple expedient of accusing the defendant of the graver offense.

Incidentally, in the case of *Felino Reyes v. Hon. Intermediate Appellate Court and People of the Philippines*, (G.R. No. 69867, 7 July 1987) a Memorandum prepared by this ponente for the court, entitled 'An Examination of the Rule Which Holds That One Cannot be Convicted Of A Lesser Offense Includible Within a Greater Offense, Where Prosecution For The Latter Was Commenced After Expiration Of Limitations Applicable To The Lesser Offense,' discusses a possible attempt to depart from the rule laid down in *Francisco v. CA*, (*Francisco v. CA*, supra) by invoking the principle of presumption of regularity in the performance of official acts and duties, and by interpreting the phrase 'prescription of a crime or offense' as merely 'a bar to the commencement of a criminal action.' (Memorandum, pp. 2 and 10)

However, Philippine jurisprudence considers prescription of a crime or offense as a loss or waiver by the State of its right to prosecute an act prohibited and punished by law. (*People v. Moran*, 44 Phil. 387, 433; *Santos v. Superintendent*, 55 Phil. 345) Hence, while it is the rule that an accused who fails to move to quash before

pleading, is deemed to waive all objections which are grounds of a motion to quash, yet, this rule cannot apply to the defense of prescription, which under Art. 69 of the Revised Penal Code extinguishes criminal liability. To apply the suggestion in the aforesaid memorandum could contravene said Article 89, which is a part of substantive law. (Page 694, Vol. I, The Revised Penal Code, by Ramon C. Aquino) This position is further strengthened by Sec. 8, Rule 117, 1985 Rules on Criminal Procedure, which added extinction of offense as one of the exceptions to the general rule regarding the effects of a failure to assert a ground of a motion to quash." (Damasco v. Laqui, 166 SCRA 214; 217-218 [1988])

It is, therefore, evident that the trial court committed reversible error in convicting the petitioners of a crime that had already been extinguished through prescription. It was likewise error for the Regional Trial Court to try to correct the error by simply convicting the petitioners of the higher offense.

Our review of the records also indicates the presence of reasonable doubt as to what words were really spoken during the incident.

There were only four persons present inside the hospital room. It is the word of the petitioners against that of the complainant and her friend. In cases where the exact words spoken form the basis for conviction or acquittal, the credibility of the witnesses, their demeanor and candidness while testifying become all - important. Unfortunately, the usual respect we accord to factual findings of the trial court is non-availing in this case. The trial Judge who heard the testimony of the witnesses backed out of the case shortly before decision writing time.

To make matters worse, the Judge who succeeded him also tried to inhibit himself and when he was prevented by then Executive Judge Cesar Francisco (now a Justice of the Court of Appeals) from doing so, he formally regretted having to decide the case and confessed that the other Judge was in a better position to dispense justice to the parties.

The doubts of Judge Oscar R. Reyes are further reflected on the second page of his decision where, after reciting his attempts to inhibit himself from the case, the fear of pressures being exerted, and his hospitalization for a grave illness, he stated:

"Be that as it may, this Presiding Judge holds no rancor in his heart and like a good soldier will proceed as directed albeit with deep regret, repeat very deep regret, with the resolution of this case, which found its way into his Court after the trial of this case had been consummated, thereby depriving him of his indispensable presence during the crucial period of trial when not only he could have had intently observed the presentation of evidence, both oral and documentary, especially the witnesses' testimony, but also could have had the opportunity, borrowing the beautiful language of Judge Vasquez, 'to determine the candidness, reliability and demeanor of the witnesses presented which are the necessary criteria in deciding questions of credibility of witnesses in Court.' Denied of participation in said case's trialzone of action, this Court has nothing to rely upon in rendering this Decision except the mute records of the case but is emboldened nonetheless to proceed with faith of being accorded, after invocation of Divine Providence's intercession, the Beacon of wisdom and guidance from above." (Rollo, p. 60)

There is reasonable doubt because it is implausible that the words constituting the slander were actually uttered as charged.

There is no reason appearing in the records why Dr. Magat should use recollections of sexual acts to taunt Mrs. Domocmat in the heat of anger. There is nothing to suggest that the two ever had any immoral, illicit, or sexual relations. Mrs. Domocmat denied their having any single sexual encounter, not even a platonic relationship. Dr. Magat could have slandered her in some other way but reference to non-existent immoral relations is difficult to believe.

The implausibility is increased by the fact that Mrs. Magat was present. Why should a husband mock a woman with whom he had no relations using sexually explicit words in the presence of his wife? And it is equally difficult to believe that the wife would join in the name-calling and declare, "Putang babae ka. Malandi ka. Palibhasa hindi ka na nakakantot ng asawa ko." (Italics supplied)

As stated by the petitioners:

"6.3 In the case at bar, the credibility of the prosecution's evidence is readily put into question by the very nature of the alleged defamatory statements imputed to Petitioners. No man in his right senses would ever admit his carnal and amorous relations with another woman and utter scandalous, indecent and lascivious language in the presence not only of his wife but also of the very woman he had sexual trysts with. For a man to do that would be reflective of one's moral depravity bordering on insanity which deserve's his commitment in a hospital or institution but definitely not incarceration for his criminal acts;

6.4 Likewise, it is unbelievable for a wife, after hearing his husband publicly admit his infidelity to her right in the presence of the other woman, would utter words of similar import as those imputed to her husband, approving of and condoning, in no uncertain terms, the immoral and illicit relations between them;

6.5 It is unfortunate, however, that the trial court unduly gave greater weight to the testimony of the prosecution witnesses purportedly substantiating the highly incredible theory it proffered than those of Petitioners who were better known for their being morally upright, professional integrity and the more credible defense they raised as extensively testified to by an equally reliable witness;" (Rollo, pp. 220-221)

Evidence to be believed must not only come from a credible source, which in this case is difficult to ascertain, but should also be credible in itself. (See *People v. Aldana*, 175 SCRA 635 [1989]; *People v. Patog*, 144 SCRA 429 [1986]; and *People v. Lim*, 190 SCRA 706 [1990])

There is no evidence in the record that Dr. and Mrs. Magat on one hand and Mrs. Domocmat on the other belong to a group of liberated or "swinging" couples in whose married life, sexual liaisons are not shocking or opprobrious and can, therefore, be bandied around in spontaneous utterances.

On the other hand, there is testimony and at least twelve (12) testimonials showing good moral character. (TSN, June 26, 1987, pp. 2-57; Original records, pp. 1102 to 1154 and Testimonials of Minister Gregorio S. Cendana and 11 other persons, Original Records, pp. 75-87). Dr. Magat started at the bottom rank of physicians at the Manila Sanitarium and Hospital and through his performance reached the highest rank available to a practitioner. He was also elevated to the highest positions open to laymen, namely deacon and elder, of the Seventh Day Adventist Church. Mrs. Magat is a prominent member of the same church and worked for the hospital for more than 20 years with no derogatory records. Doubts are, therefore, engendered as to why a church elder and his wife should resort to gutter language. Unless a person habitually uses uncouth and vulgar terms in his association with people in everyday life, he may use biting terms in anger but not the kind alleged in this case. If we have to sustain bizarre or strange behaviour, independent testimony should come from credible witnesses who are unfortunately missing in this case.

And finally, the only "disinterested" person in this case may not even be considered a third party for the element of publication of slanderous remarks to apply. Dr. Clarita Garcia is not exactly a disinterested person because her husband, Dr. Nehemias Garcia was suspended for three months as a result of an incident with Dr. Magat in the hospital's parking lot on May 12, 1985. (Rollo, p. 43) She had cause for anger against the petitioners. The fact that the heated exchange of words was between all four persons inside the room with nobody else present makes it rather doubtful that the sole presence of Dr. Garcia results in the imputations having been publicly made.

In the light of the foregoing, the case should have been dismissed by the Metropolitan Trial Court as the light

offense for which the petitioners were found guilty had already prescribed when the complaint was filed. However, since either inadvertence, neglect, or a desire to be vindicated led the petitioners to appeal a case where under Article 89 of the Revised Penal Code, criminal liability had already been totally extinguished, we dismiss the complaint on grounds of reasonable doubt.

WHEREFORE, the petition is hereby GRANTED. The judgment of the Regional Trial Court, Branch 116, Pasay City is REVERSED and SET ASIDE. The petitioners are ACQUITTED on grounds of reasonable doubt.

SO ORDERED.

Fernan, C.J., (Chairman), Feliciano, Bidin, and Davide, Jr., JJ., concur.

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