

43 Phil. 225

[G. R. No. 16924. March 23, 1922]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. GREGORIO PERFECTO,
DEFENDANT AND APPELLANT.**

D E C I S I O N

MALCOLM, J.:

La Nacion, a newspaper of Manila, in its issue of July 26, 1919, published under scareheads the following article:

“EMPLOYEES OF BUREAU OF COMMERCE AND INDUSTRY UNJUSTLY EXPLOITED—WAGES APPEARING ON PAY ROLL OF OFFICE NOT WHOLLY PAID TO THEM—FOREMAN JACINTO VICTORIA KEPT P0.50 OF DAILY WAGE OF LABORERS—POOR EXPLOITED LABORERS SUMMARILY AND UNCEREMONIOUSLY DISCHARGED—COMPLAINT TO BUREAU DIRECTOR STILL PENDING.

“Governmental corruption becomes more scandalous day by day.

“The most shameless embezzlements are being committed, yet the authors of the crime not only remain unpunished, but they are sheltered under the egis of official patronage.

“Reliable information as to how the people are defrauded of their money in an important office of the government has reached even to us.

“Eulalio Rodriguez, Macario D. Garcia, Tranquilino Garcia, Felipe Francisco, and Hilario Ramirez had been working until lately in the Bureau of Commerce and Industry as electricians in Engineering Island.

“According to the individuals named, it was some months ago since they began

working with different wages as electricians.

“Some received two pesos P2 a day; others one peso and ninety centavos P1.90; and others one peso and fifty centavos P1.50.

“But the truth is that the said electricians discovered that the real wages assigned to them on the pay roll of the Bureau of Commerce and Industry was much higher than that paid to them, and which they actually received from the foreman of electricians, Jacinto Victoria.

“To the electrician Eulalio Rodriguez was assigned on the pay roll of the Bureau, a daily wage of two pesos and forty centavos, P2.40, but the foreman Jacinto Victoria delivered to him only one peso and ninety centavos, P1.90.

“To Macario D. Garcia was assigned a daily wage of two pesos and fifty centavos, P2.50, but only two pesos, P2 was paid him.

“To Tranquilino Garcia was assigned, at first, a daily wage of two pesos, P2, but he was paid only one peso and fifty centavos, P1.50; and, later, two pesos and fifty centavos, P2.50, was assigned to him, but he actually received only one peso and ninety centavos, P1.90.

“Likewise, the electricians Felipe Francisco and Hilario Ramirez were deprived of fifty centavos, P.50, of their daily wage; fifty centavos P.50 which the foreman Jacinto Victoria pocketed.

“But the latter not only pocketed fifty centavos, P.50 for every workday, but there were times when he managed to pocket as much as one peso (P1), per individual, and this happened when the laborers were obliged to work until late in the night, for which they were paid extra.

“The victims of this criminal extortion drew a petition demanding justice, addressed to the Acting Director of the Bureau of Commerce and Industry, Mr. Fidel A. Reyes, on or about April 4, 1919.

“On April 7, the complainants were called by the Director, Mr. Fidel A. Reyes, to an investigation, during which the petitioners and complainants testified to the truth of the facts denounced by them, and to the exploitation to which, apparently, they were subjected by the foreman Jacinto Victoria.

“A number of days elapsed after the investigation was held by the Director of the Bureau of Commerce and Industry, and on April 13, that is, some six days after the investigation, they were thrown out of the office, without more ado.

“They are still awaiting the decision of the authorities in the Bureau of Commerce and Industry, but they are, it seems, waiting in vain, for they were given the hope that they would once more be called to resume work on Engineer Island.”

Almost immediately thereafter, criminal charges of libel against the editor of *La Nacion*, Gregorio Perfecto, were filed by an assistant fiscal of the city of Manila in the Court of First Instance of that city. At the conclusion of the trial a judgment was rendered by the Judge of First Instance who sat in the case, finding the defendant guilty as charged in the information, and sentencing him to pay a fine of P200, with the corresponding subsidiary imprisonment in case of insolvency, and to pay the costs. From this decision an appeal has been taken to the Supreme Court.

That the article hereinbefore quoted is libelous *per se* and that the defendant Gregorio Perfecto is responsible for its publication, are facts which everyone admits. The issue is thus reduced to a determination of whether or not justifiable motives for making the injurious publication have been shown.

Both under the ancient civil law and the ancient common law, the truth was no defense in a criminal prosecution for libel. This position was defended by the old maxim, the greater the truth the greater the libel. Beginning, however, with Lord Campbell's Act (6 & 7 Viet., chap. 96) in England, truth in criminal actions for libel was allowed in many jurisdictions, as a justification, provided the publication was also made with good motives and for justifiable ends. To this class belongs the Philippines, for in the Libel Law (Act No. 277, section 4), it is provided that “In all criminal prosecutions for libel the truth may be given in evidence to the court, and if it appears to the court that the matter charged as libelous is true and was published with good motives and for justifiable ends, the party shall be acquitted; otherwise he shall be convicted; but to establish this defense, not only must the truth of the matter so charged be proven, but also that it was published with good motives and for justifiable ends.” A few more progressive states have made truth a complete defense in criminal prosecutions regardless of motive or intent.

The motives of the management of *La Nacion* in publishing the article headed, “Employees

of Bureau of Commerce and Industry Unjustly Exploited," have been' explained by counsel in his able brief. He invites attention in the first place to the fact that *La Nacion* is the official organ of the *Partido Democrata*, which is the opposition party in the Philippines. Obviously, one of the plain duties of the minority party is to ferret out corruption in administration and to throw upon it the searchlight of public opinion. It is alleged that the newspaper desired, by publication of the facts connected with the exploitation of laborers in the Bureau of Commerce and Industry, to bring this unsavory situation to the attention of the proper authorities. Moreover, says counsel, for the press to defend the rights of weak and ignorant laborers is the performance of a civic duty.

A reading of the article in question, in connection with the explanation of the same, proffered by the defendant, leads us to conclude that it was published with good motives and for justifiable ends, as these phrases are used in the Libel Law.

The issue is thus "still further reduced to a determination of whether or not the matter charged as libelous is true. After some hesitation, and due consideration, the court finds in the affirmative.

We may recall, in this connection, that each and everyone of the laborers mentioned in the article in question testified both before the investigator of the Bureau of Commerce and Industry and before the Judge of First Instance in the libel case to the certainty of the facts set forth in the article. In opposition to this testimony was that of the alleged corrupt *capataz*, Jacinto Victoria, who was shown to have a criminal record, and Alfredo M. Bayot, superintendent of Engineer Island in the Bureau of Commerce and Industry. We reiterate that in our judgment such justification of the truth of the article has been substantially proved as overcomes the burden of proof and constitutes a complete defense.

In the case of *United States vs. Bustos* ([1918], 37 Phil., 731, 739), it was said, and it is now repeated:

"Freedom of speech as cherished in democratic countries was unknown in the Philippine Islands before 1900. A prime cause for revolt was consequently ready made. Jose Rizal in *Filipinas Despues de Cien Años* (The Philippines a Century Hence, pages 62 et seq.) describing 'the reforms *sine quibus non*' which the Filipinos insist upon, said: 'The minister * * * who wants his reforms to be reforms, must begin by declaring the press in the Philippines free and by instituting Filipino delegates.' The Filipino patriots in Spain, through the columns

of La Solidaridad and by other means invariably in exposing the wants of the Filipino people demanded 'liberty of the press, of cults, and of associations.' (See Mabini, La Revolution Filipina.) The Malolos Constitution, the work of the Revolutionary Congress, in its Bill of Rights, zealously guarded freedom of speech and press and assembly and petition.

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"A reform so sacred to the people of these Islands and won at so dear a cost, should now be protected and carried forward as one would protect and preserve the covenant of liberty itself.

"Next comes the period of American-Filipino cooperative effort. The Constitution of the United States and the State constitutions guarantee the right of freedom of speech and press and the right of assembly and petition. We are therefore, not surprised to find President McKinley in that Magna Charta of Philippine Liberty, the Instructions to the Second Philippine Commission of April 7, 1900, laying down the inviolable rule "That no law shall be passed abridging the freedom of speech or of the press or of the rights of the people to peaceably assemble and petition the Government for a redress of grievances."

"The Philippine Bill, the Act of Congress of July 1, 1902, and the Jones Law, the Act of Congress of August 29, 1916, in the nature of organic acts for the Philippines, continued this guaranty. The words quoted are not unfamiliar to students of Constitutional Law, for they are the counterpart of the first amendment to the Constitution of the United States, which the American people demanded before giving their approval to the Constitution.

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"The interest of society and the maintenance of good government demand a full discussion of public affairs. Complete liberty to comment on the conduct of public men is a scalpel in the case of free speech. The sharp incision of its probe relieves the abscesses of officialdom. Men in public life may suffer under a hostile and an unjust accusation; the wound can be assuaged with the balm of a

clear conscience. A public officer must not be too thin-skinned with reference to comment upon his official acts. Only thus can the intelligence and dignity of the individual be exalted. Of course, criticism does not authorize defamation. Nevertheless, as the individual is less than the State, so must expected criticism be borne for the common good. Rising superior to any official or set of officials, to the Chief Executive, to the Legislature, to the Judiciary—to any or all the agencies of Government—public opinion should be the constant source of liberty and democracy.”

The development of an informed public opinion in the Philippines can certainly not be brought about by the constant prosecution of those citizens who have the courage to denounce the maladministration of public affairs. The time of prosecuting officers could be better served, in bringing to stern account the many who profit by the vices of the country, than by prosecution which amounts to persecution of the few who are helping to make, what the country so much needs, an enlightened public opinion. Accordingly, it is again for the appellate court to vindicate a defendant editor.

Judgment is reversed, and the defendant and appellant is fully absolved from the criminal charges filed against him, with all costs de officio. So ordered.

Araullo, C. J., Avanceña, Villamor, Ostrand, Johns, and Romualdez, JJ., concur.