

5 Phil. 155

[G.R. No. 1847. October 22, 1905]

**VIDAL CAUSIN, PLAINTIFF AND APPELLEE, VS. DIONISIO JAKOSALEM,
DEFENDANT AND APPELLANT.**

D E C I S I O N

CARSON, J.:

This is a civil action for damages for libel, under the provisions of Act No. 277 of the Philippine Commission.

It was proven at the trial of the case that the defendant caused to be published the articles set out in the complaint in certain newspapers published and circulated in the municipality and Province of Cebu, and that the alleged defamatory words contained therein referred to the plaintiff, and were so understood by many of those who read them.

Counsel for the defense insists that the plaintiff can have no cause of action against the defendants, because the articles in question do not refer to him by name, and because, as he alleges, they are equally applicable to any one of a number of persons living in Cebu; we are of opinion, however, that when, as in this case, there is an averment in the complaint that the defamatory words refer to the plaintiff, and it is proven that the words do in fact refer to him, and are capable of bearing such special application, an action for libel may be maintained.

“If the words, spoken or written, though plain in themselves, apply equally well to more persons than one, evidence may be given both of the cause and occasion of publication, and of all the surrounding circumstances affecting the relations between the parties, and also to any subsequent articles referring to the former one, or of

any statement or declaration made by the defendant as to the person referred to. The plaintiff may also call at the trial his friends or those acquainted with the circumstances, to state that on reading the libel they at once concluded it was aimed at the plaintiff. (Am. and Eng. Ency. of Law, vol. 18, p. 996, note 2.)

“Whether a man is called by one name or whether he is called by another or whether he is described by a pretended description of a class to which he is known to belong, if those who look on know well who is aimed at, the very same injury is inflicted, the very same thing is done as would be done if his name and Christian name were ten times repeated. (Per Campbell, C. J., in *Le Fanu vs. Malcohusen*, 1 H. L. C, 668.)”

To justify and excuse the publication of the articles in question the defendant offered evidence to prove the truth of the incidents therein related; that they had been published in good faith, believing them to be true; that he had no express malice toward the plaintiff; and that the publication was made in good faith, for the sole purpose of correcting certain abuses by bringing them forcefully to the attention of the public.

We are of opinion that the truth of the incident set out in the first article mentioned in the complaint was sufficiently proven by the evidence adduced at the trial and the admissions of the plaintiff, but we think that the defendant failed to establish the fact that the plaintiff was guilty of the alleged assault upon which the second article is based.

The assault as set out in the article in question was a misdemeanor, punishable by fine or detention, and the publication alleging that the complainant had thus violated the criminal laws of the Islands was a libel for which he is entitled to damages under the provisions of section 11 of Act No. 277.

The trial court gave judgment for 3,000 pesos damages, but this amount is so far in excess of the damages which in our opinion should

be imposed upon the defendant that we are constrained to modify the judgment in this regard.

We do not think that this is a proper case for the imposition of punitive or exemplary damages. We believe that the defendant believed the incidents related in the articles to be true when he caused them to be published; that he had reasonable grounds to believe that the assault mentioned in his second article occurred, although he failed to establish that fact at the trial of the case; and that the comment on the incidents reported, though severe, was in fact directed toward the alleged abuses rather than the person who was charged with committing them.

No actual pecuniary damages were proven, and we are of opinion that 100 pesos, Philippine currency, will be amply sufficient compensation for the damages to the feelings and reputation of the plaintiff, resulting from the unproven publication that he was guilty of the assault mentioned in the second article.

Modified to conform with the views herein expressed, and reducing the damages from 3,000 pesos to 100 pesos, Philippine currency, the judgment of the trial court is affirmed, with the costs of this instance against the appellant. After the expiration of twenty days let judgment be entered in accordance herewith and the cause remanded to the court below. So ordered.

Arellano, C. J., Torres, Mapa, and Johnson, JJ., concur.
