



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Petitioner,

G.R. No. 196094

- versus -

AMADO "JAKE" P.
MACASAET, ENRIQUE P.
ROMUALDEZ AND JOY P.
DELOS REYES (deceased),
Respondents.

X-----X

AMADO "JAKE" P. G.R. No. 196720
MACASAET, ENRIQUE P.
ROMUALDEZ AND JOY P.
DELOS REYES (deceased),
Petitioners,

- versus -

PEOPLE OF THE PHILIPPINES
AND NARCISO "JUN" Y.
SANTIAGO, JR.,
Respondents.

X-----X

* Amado "Jake" Macasaet passed away on January 7, 2018. See 'They don't make publishers like Jake Macasaet anymore,' by Ellen Tordesillas, January 9, 2018, <<http://www.malaya.com.ph/business-news/business/they-don-t-make-publishers-jake-macasaet-anymore>> (last visited on March 5, 2018).
** Per Resolution dated October 14, 2013, the case was considered closed and terminated as to accused Joy P. Delos Reyes, who died on May 3, 2013 per Notice of Death dated June 17, 2013, pursuant to Article 89 of the Revised Penal Code. The October 14, 2013 Resolution became final and executory on December 13, 2013; *rollo* (G.R. No. 196094), pp. 284-289, 301-302.

**AMADO “JAKE” P. MACASAET,
ENRIQUE P. ROMUALDEZ AND
JOY P. DELOS REYES (deceased),**
Petitioners,

G.R. No. 197324

Present:

CARPIO, J., * Chairperson,
PERALTA,
PERLAS-BERNABE,
CAGUIOA, and
REYES, JR., JJ.

- versus -

**PEOPLE OF THE PHILIPPINES
AND CASIMIRO “ITO” YNARES,**
Respondents.

Promulgated:

05 MAR 2018

[Handwritten Signature]

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DECISION

CAGUIOA, J.:

Before the Court are three consolidated petitions for review on *certiorari*¹ (Petitions) under Rule 45 of the Rules of Court assailing:

1. In G.R. No. 196094, the Decision² dated October 19, 2010 (October 2010 Decision) of the Court of Appeals³ (CA) in CA-G.R. SP No. 113449, granting the petition, nullifying the Orders dated November 3, 2009⁴ and January 29, 2010⁵ of the Regional Trial Court of Manila, Branch 37 (RTC Manila, Br. 37) in Criminal Case No. 08-263273 and dismissing the Information for libel as well as the CA Resolution⁶ dated March 8, 2011 denying the Office of the Solicitor General’s motion for reconsideration;

2. In G.R. No. 196720, the CA⁷ Decision⁸ dated February 10, 2011 (February 2011 Decision) in CA-G.R. SP No. 110224, denying the petition and affirming the Orders dated February 19, 2009⁹ and June 1, 2009¹⁰ of the RTC Manila, Br. 37 in Criminal Case No. 08-263273 as well as the CA Resolution¹¹ dated April 28, 2011 denying the motion for reconsideration; and

* Acting Chief Justice per Special Order No. 2539 dated February 28, 2018.

¹ *Rollo* (G.R. No. 196094), pp. 9-28, excluding Annexes; *rollo* (G.R. No. 196720), pp. 3-37, excluding Annexes; *rollo* (G.R. No. 197324), pp. 3-38, excluding Annexes.

² *Id.* at 29-40. Penned by Associate Justice Mario V. Lopez, with Associate Justices Magdangal M. De Leon and Samuel H. Gaerlan concurring.

³ Special Fifteenth Division.

⁴ *Rollo* (G.R. No. 196094), pp. 65-70. Issued by Presiding Judge Virgilio V. Macaraig.

⁵ *Id.* at 219-220.

⁶ *Id.* at 41-43.

⁷ Special Thirteenth Division.

⁸ *Rollo* (G.R. No. 196720), pp. 39-52. Penned by Associate Justice Antonio L. Villamor, with Associate Justices Jose C. Reyes, Jr. and Franchito N. Diamante concurring.

⁹ *Id.* at 109-112. Issued by Presiding Judge Virgilio V. Macaraig.

¹⁰ *Id.* at 122.

¹¹ *Id.* at 54-56.

[Handwritten Signature]

3. In G.R. No. 197324, the CA¹² Decision¹³ dated January 26, 2011 (January 2011 Decision) in CA-G.R. SP No. 110010, denying the petition and affirming the Orders dated November 20, 2008¹⁴ and May 5, 2009¹⁵ of the Regional Trial Court of Manila, Branch 36 (RTC Manila, Br. 36) in Criminal Case No. 08-263272 as well as the CA Resolution¹⁶ dated June 16, 2011 denying the motion for reconsideration.

The Facts and Antecedent Proceedings

These three consolidated cases originated from complaints for nine counts of libel on account of nine interrelated newspaper articles which appeared in the newspapers *Malaya* and *Abante* where statements allegedly derogatory to then Governor Casimiro “Ito” M. Ynares, Jr. (Ynares) and former Undersecretary of the Department of Interior and Local Government Atty. Narciso “Jun” Y. Santiago, Jr. (Santiago) were written by Amado “Jake” Macasaet (Macasaet). Ynares filed the two counts of libel while Santiago filed the other seven counts of libel.¹⁷

Of the nine counts of libel, probable causes for libel were found in relation to the April 21, 1999 issue of *Malaya* with respect to the article entitled “Santiago’s gambling habits” and the March 1, 1999 issue of *Malaya* regarding the article entitled “NCA-UCAP FEUD: Walang trabaho, personalan lang.” Both articles were written by Macasaet. The libel complaint involving the newspaper *Abante* was dismissed.¹⁸

Thus, separate Informations¹⁹ for the two counts of libel were filed against Macasaet, *Malaya*’s Publisher, Chairman and writer, Enrique P. Romualdez (Romualdez), *Malaya*’s Executive Editor, and Joy P. Delos Reyes (Delos Reyes), *Malaya*’s Editor (collectively, the accused). The present cases revolve around these two libel cases.

Pursuant to the Court’s Resolution²⁰ dated October 14, 2013, the cases were considered closed and terminated as to Delos Reyes who died on May 3, 2013 per Notice of Death²¹ dated June 17, 2013, pursuant to Article 89 of the Revised Penal Code. The October 14, 2013 Resolution became final and executory on December 13, 2013.²²

¹² Fourth Division.

¹³ *Rollo* (G.R. No. 197324), pp. 40-52. Penned by Associate Justice Josefina Guevara-Salonga, with Associate Justices Mariflor P. Punzalan Castillo and Franchito N. Diamante concurring.

¹⁴ *Id.* at 96-97. Issued by Judge Emma S. Young.

¹⁵ *Id.* at 110-112.

¹⁶ *Id.* at 54-55.

¹⁷ Department of Justice (DOJ) Consolidated Resolution dated July 9, 2008, *rollo* (G.R. No. 196720), p. 75.

¹⁸ DOJ Consolidated Resolution, *id.* at 74-84.

¹⁹ Records (Vol. I), pp. 1-3, 104-105.

²⁰ *Rollo* (G.R. No. 196094), pp. 288-289.

²¹ *Id.* at 284-286.

²² *Id.* at 301-302.

According to *Malaya*, “Amado ‘Jake’ P. Macasaet peacefully was brought home by his Creator at 8:35 am, January 7, 2018 surrounded by his family.”²³ To date, however, no notice of his death has been filed with the Court.

The deaths of Delos Reyes and Macasaet notwithstanding, these Petitions have not been mooted because there remains an accused, Romualdez.

G.R. No. 196720 (first petition)

The assailed CA February 2011 Decision in the first petition summarizes the facts as follows:

x x x Macasaet is the Publisher and Chairman of *Malaya*, a newspaper of general circulation while x x x Romualdez and x x x [D]elos Reyes are the Executive Editor and Editor, respectively, of said publication.

On April 27, 1999, x x x Santiago, who was then the Secretary-General of the National Cockers Association (NCA), filed an Affidavit-Complaint against [the accused], accusing them of publishing an allegedly libelous article entitled, “Santiago’s gambling habits.” The relevant portion of the complaint states:

“3. In the April 21, 1999 issue of Malaya, a newspaper of general circulation, [accused], conspiring and confederating with one another, caused to be published a libelous article entitled [‘]Santiago’s gambling habits[’], a photocopy of which is hereto attached as Annex “A”.

4. The above article imputes defamatory statements against me in that I allegedly have a vice or defect, particularly, that I have a serious gambling habit which is widely known. x x x.”

The affidavit-complaint was filed in Pasig City, where the article was allegedly first printed and published. x x x Macasaet filed his counter-affidavit stating, among others, that venue was improperly laid since x x x Santiago was a resident of Quezon City and *Malaya* was published in Manila.

The Office of the Provincial Prosecutor of Rizal issued a Consolidated [Review] Resolution, dated September 28, 2007, ruling in this wise:

“As earlier stated, venue is jurisdictional in criminal actions. Hence, the Provincial Prosecution Office of Rizal does not have jurisdiction to take

²³ ‘They don’t make publishers like Jake Macasaet anymore,’ by Ellen Tordesillas, January 9, 2018, <<http://www.malaya.com.ph/business-news/business/they-don-t-make-publishers-jake-macasaet-anymore>> (last visited on March 5, 2018).



cognizance over all these complaints for libel. This office may assume jurisdiction over a libel case only when the established venue is within the Province of Rizal.

WHEREFORE, for want of jurisdiction by reason of improper venue, we have no authority to resolve these cases on their merits. Consequently, we hereby dismiss the same without prejudice. Therefore, let the records of these cases be forwarded to the Office of the Pasig City Prosecutor for further appropriate action.

SO ORDERED, Pasig City, September 28, 2007.”
(Underscoring supplied)

Sometime in January 2008, [the accused] received a subpoena from the Department of Justice (DOJ), dated January 29, 2008, pertinent to the complaint for libel. Pursuant thereto, [the accused] submitted their Memorandum, dated April 25, 2008, alleging mainly that the subject articles involved matters of public interest and that no malice attended its publication.

On July 9, 2008, the DOJ issue a Consolidated Resolution, the dispositive portion of which reads:

“WHEREFORE, premises considered, we find probable cause for libel covered by I.S. No.s (sic) 99-00959 (07-10-12640); and 99-01511 (07-10-12645) against respondents Amado “Jake” Macasaet, Enrique P. Romualdez and Joy De Los Reyes and the charges for libel covered by I.S. Nos. 99-01412 (07-10-12643); 99-01413 (07-10-12644); 99-00960 (07-10-12641); 99-00960-A; 00-01713 (07-10-12647); 99-01512 (07-10-12646); 99-01081 (07-10-12642) against all respondents be DISMISSED for want of merit.

SO ORDERED. Manila City, July 9, 2008.”

Resultantly, on July 9, 2008,²⁴ an Information for libel was filed against [the accused before the RTC Manila, Br. 37 and was docketed as Criminal Case No. 08-263273], thus:

“That on April 21, 1999, in Manila City, and within the jurisdiction of this Honorable Court, above-named accused, as publisher/writer, executive editor and editor, respectively of Malaya with address at Port Area, Manila City defamed private complainant Narciso Y. Santiago, Jr., did then and there knowingly, willfully, unlawfully and feloniously by writing and publishing an article in the Malaya which states that [‘]Now that Narciso “Jun” Santiago has been appointed undersecretary of local government, it would be interesting to examine his statement of assets and liabilities which is presumed to be joint with that of his wife, Sen. Miriam Defensor Santiago. If Jun continues

²⁴ The Information was filed on August 21, 2008 (rollo [G.R. No. 196094], pp. 44-46) not July 9, 2008, which is the date of the DOJ Consolidated Resolution.

his cockfights- and there is no reason he should not, inspite (sic) of is (sic) being a public official-the public is entitled to know how much money he bets on one rooster. If it turns out that the bet is not in proportion to his net asset, questions should be raised. Of course, Jun can always place his entry in the derby circuit in a friend's name. That way, it will appear he is not betting at all. But who, in cockfighting, was born yesterday as far as Jun Santiago is concerned? Hardly anybody. They all know him['] which is a libelous statement and to the prejudice of private complainant."

CONTRARY TO LAW."

[The accused] subsequently filed before [the RTC Manila, Br. 37] a motion to dismiss, dated November 26, 2008, stating that their right to the speedy disposition of their cases was violated, considering that almost ten years had lapsed without any resolution of their cases under preliminary investigation. The motion was denied in the assailed Order, dated February 19, 2009, thus:

"In any event, accused have voluntarily agreed to be arraigned on January 29, 2009 (Macasaet and Romualdez) and February 17, 2009 (Delos Reyes). Such consent amounts to a waiver of their right to raise the issue of any alleged unreasonable delay in the disposition of their case during the preliminary investigation.

WHEREFORE, for lack of merit, the Motion to Dismiss filed by the accused is DENIED.

SO ORDERED."

[The accused] filed a motion for reconsideration, which was likewise denied for lack of merit in the second assailed Order, dated June 1, 2009.²⁵

The accused filed a petition for *certiorari* under Rule 65 of the Rules of Court before the CA, seeking the annulment of the RTC Manila, Br. 37 Orders dated February 19, 2009 and June 1, 2009. The CA rendered the February 2011 Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the Petition for Certiorari is DENIED. The Orders, dated February 19, 2009 and June 1, 2009, issued by the Regional Trial Court of Manila, Branch 37, in Criminal Case No. 08-263273 are AFFIRMED.

SO ORDERED.²⁶

The accused filed a Motion for Reconsideration,²⁷ which the CA²⁸ denied in its Resolution²⁹ dated April 28, 2011.

²⁵ *Rollo* (G.R. No. 196720), pp. 40-44.

²⁶ *Id.* at 51.

²⁷ *Id.* at 311-324.

²⁸ Former Special Thirteenth Division.

²⁹ *Rollo* (G.R. No. 196720), pp. 54-56.

Hence, the first petition, which was filed on May 19, 2011.

The Office of the Solicitor General (OSG) filed a Comment³⁰ on September 2, 2011. Santiago filed his Comment/Opposition³¹ on August 13, 2013. The accused filed a Reply³² on September 26, 2013.

G.R. No. 196094 (second petition)

The filing of the second petition on May 3, 2011 antedated that of the first petition. However, the second petition arose from an incident before the RTC Manila, Br. 37 that occurred after the incident that precipitated the first petition.

After the denial of the accused's motion to dismiss dated November 26, 2008 based on the ground that the filing of the Information dated July 9, 2008 violated their constitutionally guaranteed right to speedy disposition of their cases, the accused filed before RTC Manila, Br. 37 another Motion to Dismiss³³ dated September 24, 2009 on the ground that the said court has no criminal jurisdiction over the case.

RTC Manila, Br. 37, in denying the Motion to Dismiss for lack of merit, reasoned out in its Order³⁴ dated November 3, 2009 that:

x x x [T]he Information in the case at bar categorically stated the address of Malaya at Port Area, Manila. While it is the position of [the] accused that this allegation is insufficient, it must be stressed that this was followed by the phrase, "did then and there x x x by writing, and publishing an article in the Malaya x x x." This shows that the alleged libelous article was first published in Manila particularly at the address of Malaya stated in the Information.³⁵

The accused filed a Motion for Reconsideration,³⁶ which the RTC denied in the Order³⁷ dated January 29, 2010. The accused filed a Petition for *Certiorari* and Injunction³⁸ before the CA and was docketed as CA-G.R. SP No. 113449. The Office of the Solicitor General (OSG) filed a Comment³⁹ on behalf of the People of the Philippines.

The CA rendered its October 2010 Decision, the dispositive portion of which reads:

FOR THESE REASONS, the petition is GRANTED. The Orders dated November 3, 2009 and January 29, 2010, respectively, of the

³⁰ Id. at 458-475.

³¹ Id. at 519-545.

³² Id. at 554-570.

³³ *Rollo* (G.R. No. 196094), pp. 47-64.

³⁴ Id. at 65-70.

³⁵ Id. at 70.

³⁶ Id. at 71-77.

³⁷ Id. at 219-220.

³⁸ Id. at 78-103, excluding annexes.

³⁹ Id. at 106-119.

Regional Trial Court of Manila are **NULLIFIED** and the Information for libel is **DISMISSED**.

SO ORDERED.⁴⁰

The OSG filed a Motion for Reconsideration,⁴¹ which was denied in the CA⁴² Resolution⁴³ dated March 8, 2011.

Hence, the second petition.

The accused filed their Comment⁴⁴ on August 3, 2011.

G.R. No. 197324 (third petition)

The CA January 2011 Decision summarizes the facts in the third petition in this wise:

x x x Macasaet x x x is the publisher and also a writer of Malaya, a newspaper of general circulation. x x x Romualdez x x x and x x x [D]elos Reyes x x x, on the other hand, are Malaya's Executive Editor and Editor, respectively.

In its 1 March 1999 issue, Malaya caused to be published an article written by Macasaet, entitled "NCA-UCAP Feud: Walang trabaho, personalan lang," which tackled the alleged brewing feud between the National Cockers Association (NCA) and a group organized by its former members, called the United Cockers Association of the Philippines (UCAP). The article depicted x x x Santiago x x x, husband of Senator Miriam Defensor-Santiago, x x x Ynares x x x and Jorge Araneta of the Araneta Coliseum as the key players involved in the dirty campaign to undermine the operations of the UCAP.

Also in said article, Macasaet claimed that Ynares had pressured Pasig Mayor Vicente Eusebio to cancel UCAP's permit to use its Pasig Square Garden for its cock derbies. It was claimed that Ynares had bluntly told said mayor that UCAP's permit should be cancelled; otherwise, the city will not be allowed to dump its garbage in Antipolo. Macasaet further insinuated that Ynares will apply the same threat on all municipalities in Rizal.

Aggrieved by the content of said article, x x x Ynares immediately filed an Affidavit-Complaint dated 16 March 1999 before the Office of the Provincial Prosecutor of Rizal. Nine (9) other criminal complaints were subsequently filed by x x x Ynares and Santiago, all in connection with the series of subsequent articles that was (sic) also written by Macasaet regarding said NCA-UCAP dispute.

In his Counter-Affidavit filed on 12 April 1999, x x x Macasaet argued that the 1 March 1999 Malaya article has been a fair and true report

⁴⁰ Id. at 39-40.

⁴¹ Id. at 121-126.

⁴² Special Former Special Fifteenth Division.

⁴³ *Rollo* (G.R. No. 196094), pp. 41-43.

⁴⁴ Id. at 135-167, exclusive of Annexes.



based not only on the conversations he personally had with the complainant but also on personal verification and interview conducted by him with a reliable source. Claiming that the assailed article is qualifiedly privileged and considering further the absence of malice on his part, the instant libel complaint should be dismissed.

In a Consolidated Review Resolution of 28 September 2007, the instant libel complaint and the other complaints filed by x x x Ynares and Santiago were dismissed by the Provincial Prosecutor, without prejudice, for want of jurisdiction by reason of improper venue.

On 29 January 2008, [the accused] were summoned and required to appear before the [DOJ] in relation to the previously dismissed complaints. As directed, the parties filed their respective Memoranda covering all nine (9) complaints.

On 9 July 2008, the DOJ issued a Consolidated Resolution finding probable cause to indict [the accused] for libel on two (2) out of the nine (9) complaints. Pursuant to said Consolidated Resolution, an Information was filed before the [RTC Manila, Br. 36] against [the accused] for libel committed as follows:

“That on March 1, 1999, in Manila City, and within the jurisdiction of this Honorable Court, above-named accused, as publisher/writer, executive editor and editor, respectively of Malaya with address at Port Area, Manila City defamed private complainant Casimiro A. Ynares, Jr., did then and there, knowingly, willfully, unlawfully and feloniously by writing and publishing an article in the Malaya, which states that [‘]To the surprise and chagrin of UCAP members but to the joy of NCA, it turned out that Rizal Gov. Casimiro “Ito” Ynares, president of the NCA, pressured Eusebio to cancel permit[’] which is a libelous statement and to the prejudice of private complainant.

CONTRARY TO LAW.”

[The case was docketed as Criminal Case No. 08-263272.]

Accordingly, [the accused] were arraigned on 6 October 2008.

On 7 October 2008, [the accused] filed a motion to dismiss on the ground that the filing of the present Information, after the lapse of more than nine (9) years after the filing of the libel complaints, violates their constitutionally guaranteed right to speedy disposition of cases.

In the now assailed Order of 20 November 2008, the [RTC Manila, Br. 36], in denying [the accused’s] motion to dismiss, opined that the [accused] should have moved for the dismissal of the case and espoused violation of their right to speedy disposition of cases when the same was still pending before the Provincial Prosecutor or the DOJ. It was further ruled that said ground should have been raised by petitioners in a motion to quash before arraignment, and not by way of a motion to dismiss.

Dissatisfied by the said pronouncement, [the accused] moved for its reconsideration, which was denied by [RTC Manila, Br. 36] in its Order dated 5 May 2009.

Ascribing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of [RTC Manila, Br. 36] judge, [the accused filed before the CA a petition for certiorari].⁴⁵

The CA rendered the January 2011 Decision, the dispositive portion of which reads as follows:

WHEREFORE, the foregoing considered, the instant petition is hereby **DENIED** and the assailed Orders **AFFIRMED** in toto. No costs.

SO ORDERED.⁴⁶

The accused filed a Motion for Reconsideration,⁴⁷ which the CA denied in its Resolution⁴⁸ dated June 16, 2011.

Hence, the third petition, which was filed on July 7, 2011. Ynares filed a Comment/Opposition⁴⁹ on August 18, 2011. The OSG filed a Comment⁵⁰ on September 19, 2011. The accused filed a Consolidated Reply⁵¹ on November 10, 2011.

Issues

There are two principal issues in the three cases:

- (1) In the second petition (G.R. No. 196094), whether the Information is sufficient in form and substance to charge Macasaet and Romualdez⁵² with the crime of libel; and
- (2) In the first and third petitions (G.R. Nos. 196720 and 197324), whether the cases filed against Macasaet and Romualdez should be dismissed because their right to a speedy disposition of the cases has been violated.

The Court's Ruling

G.R. No. 196094

There is merit in the second petition.

⁴⁵ *Rollo* (G.R. No. 197324), pp. 41-44.

⁴⁶ *Id.* at 52.

⁴⁷ *Id.* at 385-397.

⁴⁸ *Id.* at 54-55.

⁴⁹ *Id.* at 429-464, exclusive of Annex.

⁵⁰ *Id.* at 479-497.

⁵¹ *Id.* at 515-535.

⁵² Delos Reyes is no longer a party by reason of his death.

As to the persons who may be liable for libel and the venue of the libel case, Article 360 of the Revised Penal Code, as amended (RPC), provides:

ART. 360. *Persons responsible.* – Any person who shall publish, exhibit, or cause the publication or exhibition of any defamation in writing or by similar means, shall be responsible for the same.

The author or editor of a book or pamphlet, or the editor or business manager of a daily newspaper, magazine or serial publication, shall be responsible for the defamations contained therein to the same extent as if he were the author thereof.

The criminal and civil action for damages in cases of written defamations as provided for in this chapter, shall be filed simultaneously or separately with the court of first instance of the province or city where the libelous article is printed and first published or where any of the offended parties actually resides at the time of the commission of the offense: *Provided, however,* That where one of the offended parties is a public officer whose office is in the City of Manila at the time of the commission of the offense, the action shall be filed in the Court of First Instance of the City of Manila or of the city or province where the libelous article is printed and first published, and in case such public officer does not hold office in the City of Manila, the action shall be filed in the Court of First Instance of the province or city where he held office at the time of the commission of the offense or where the libelous article is printed and first published and in case one of the offended parties is a private individual, the action shall be filed in the Court of First Instance of the province or city where he actually resides at the time of the commission of the offense or where the libelous matter is printed and first published: *Provided, further,* That the civil action shall be filed in the same court where the criminal action is filed or vice versa: *Provided, furthermore,* That the court where the criminal action or civil action for damages is first filed, shall acquire jurisdiction to the exclusion of other courts: *And provided, finally,* That this amendment shall not apply to cases of written defamations, the civil and/or criminal actions for which have been filed in court at the time of the effectivity of this law.

Preliminary investigation of criminal actions for written defamations as provided for in this chapter shall be conducted by the provincial or city fiscal of the province or city, or by the municipal court of the city or capital of the province where such action may be instituted in accordance with the provisions of this article.

No criminal action for defamation which consists in the imputation of a crime which cannot be prosecuted *de officio* shall be brought except at the instance of and upon complaint expressly filed by the offended party. (*As amended by R.A. No. 1289, June 15, 1955 and R.A. No. 4363, June 19, 1965.*)

In *Agbayani v. Sayo*,⁵³ a case about the venue of a criminal action for written defamation or libel, the amendment of Article 360 of the RPC was explained, *viz.:*

⁵³ 178 Phil. 574 (1979).

Article 360 in its original form provided that the venue of the criminal and civil actions for written defamations is the province wherein the libel was published, displayed or exhibited, regardless of the place where the same was written, printed or composed. Article 360 originally did not specify the public officers and the courts that may conduct the preliminary investigation of complaints for libel.

Before Article 360 was amended, the rule was that a criminal action for libel may be instituted in any jurisdiction where the libelous article was published or circulated, irrespective of where it was written or printed x x x. Under that rule, the criminal action is transitory and the injured party has a choice of venue.

Experience had shown that under that old rule the offended party could harass the accused in a libel case by laying the venue of the criminal action in a remote or distant place.

x x x x

To forestall such harassment, Republic Act No. 4363 was enacted. It lays down specific rules as to the venue of the criminal action so as to prevent the offended party in written defamation cases from inconveniencing the accused by means of out-of-town libel suits, meaning complaints filed in remote municipal courts. (Explanatory Note for the bill which became Republic Act No. 4363, Congressional Record of May 20, 1965, pp. 424-5; x x x).⁵⁴

The rules on venue of criminal actions for libel were also restated in *Agbayani*, thus:

1. Whether the offended party is a public official or a private person, the criminal action may be filed in the Court of First Instance of the province or city where the libelous article is printed and first published.
2. If the offended party is a private individual, the criminal action may also be filed in the Court of First Instance of the province where he actually resided at the time of the commission of the offense.
3. If the offended party is a public officer whose office is in Manila at the time of the commission of the offense, the action may be filed in the Court of First Instance of Manila.
4. If the offended party is a public officer holding office outside of Manila, the action may be filed in the Court of First Instance of the province or city where he held office at the time of the commission of the offense.⁵⁵

In the present case, the venue is apparently the place where the alleged defamatory article in *Malaya* was printed and first published.

⁵⁴ Id. at 579-580.

⁵⁵ Id. at 580.



The CA's ruling that the criminal action for libel was filed with the wrong venue was founded on the following:

Ostensibly, the Information only shows that the article was written and published in Malaya which has an address in Port Area, Manila. There is no allegation of the *situs* where the article was printed and first published. It is fatally defective because it failed to specify whether the address of Malaya, is the same place where the article was printed and first published. We must emphasize that the address of the publisher is not necessarily the place of publication. The address would generally refer to the name or description of a place of residence, business, etc., where a person may be found or communicated with. It may include the business address, billing address, mailing address or the residence address of an entity or establishment. To be sure, it is not identical with the place of publication. While it is possible that the address of Malaya is the same place where it conducts its business of publication, We cannot presume such identity without transgression to the basic principle that penal laws are strictly interpreted against the State and liberally construed in favor of the accused. Presumption will be disfavored when it collides against the constitutional right of the accused to be presumed innocent. Thus, without stating more, We find the allegations in the Information insufficient to confer the RTC of Manila with jurisdiction over the case.⁵⁶

The Court in *Bonifacio v. Regional Trial Court of Makati, Branch 149*⁵⁷ made the following clarification in case the basis of the venue of the libel criminal action is the place where the libel was printed and first published:

If the circumstances as to where the libel was printed and first published are used by the offended party as basis for the venue in the criminal action, the Information must allege with particularity where the defamatory article was printed and first published, **as evidenced or supported by, for instance, the address of their editorial or business offices in the case of newspapers, magazines or serial publications.** This pre-condition becomes necessary in order to forestall any inclination to harass.⁵⁸ (Emphasis supplied)

Admittedly, the Information under scrutiny, without using the phrase "printed and first published," merely states:

That on April 21, 1999, in Manila City, and within the jurisdiction of this Honorable Court, above-named accused, as publisher/writer, executive editor and editor, respectively of Malaya with address at Port Area, Manila City defamed private complainant Narciso Y. Santiago, Jr., did then and there, knowingly, willfully, unlawfully and feloniously by writing and publishing an article in the Malaya x x x.⁵⁹

The Information does not specifically indicate that Port Area, Manila is the editorial or business office of *Malaya*, following the formulation in

⁵⁶ *Rollo* (G.R. No. 196094), pp. 35-36.

⁵⁷ 634 Phil. 348 (2010).

⁵⁸ *Id.* at 362.

⁵⁹ *Rollo* (G.R. No. 196094), p. 44; records (Vol. I), p. 1.

Bonifacio. And, it cannot be presumed as the CA further claims that the “address of *Malaya* is the same place where it conducts its business of publication.”⁶⁰

The Court disagrees with the CA; it finds the Information sufficient.

Paraphrasing the Information, the accused, as publisher/writer, executive editor and editor defamed Santiago on April 21, 1999, in Manila City, by writing and publishing an article in the *Malaya* with address at Port Area, Manila. To the Court, it is clear that Port Area, Manila is where the defamatory article was written and published because that is the address of *Malaya*, an unquestionably printed newspaper, wherein the article appeared. That the Information did not expressly state “first published” is of no moment because the word “published” does not exclude the first publication.

In turn, the accused do not deny that Port Area, Manila is the editorial and business offices of *Malaya* and interestingly, they did not raise the ground of lack of jurisdiction to dismiss Criminal Case No. 08-263272 despite the fact that the Information filed before RTC Manila, Br. 36 is similarly worded as the Information in Criminal Case No. 08-263273 filed before RTC Manila, Br. 37 as to the address of *Malaya* being at Port Area, Manila City and the non-inclusion of the phrase “printed and first published.”

According to *Bonifacio*, “the Information must allege with particularity where the defamatory article was printed and first published, as evidenced or supported by, for instance, the address of their editorial or business offices in the case of newspapers.”⁶¹ The Information in question complies with the *Bonifacio* directive because it alleges with particularity Port Area, Manila as the place where the alleged defamatory article was printed and first published as evidenced or supported by the records of the case.⁶² The Information need not parrot the provisions of Article 360 of the RPC and expressly use the phrase “printed and first published.” If there is no dispute that the place of publication indicated in the Information, which is Manila in the present case, is the place where the alleged defamatory article was “printed and first published,” then the law is substantially complied with. After all, the filing of the Information before an RTC of the City of Manila would, borrowing the phraseology of *Bonifacio*, forestall any inclination to harass the accused. Besides, it is incumbent upon the accused to show that Port Area, Manila is not the business or editorial office of *Malaya* in the face of evidence in the records of the case that it is so.

The DOJ Consolidated Resolution in its summary of the pertinent facts stated that: “Records also show that *Malaya* is published by the

⁶⁰ Id. at 36.

⁶¹ Supra note 57, at 362.

⁶² See Annex “A” of Macasaet’s Counter-Affidavit, *rollo* (G.R. No. 196720), p. 67.

People's Independent Media, Inc., with editorial and business offices at Port Area, Manila x x x.”⁶³ The Consolidated Review Resolution⁶⁴ of the Provincial Prosecutor of Rizal dated September 28, 2007 which initially dismissed the nine libel complaints of Santiago and Ynares for lack of jurisdiction indicated the venue where the complaints should be filed, viz.:

In the case of complainant Santiago, Jr., his libel complaints should be filed either in Manila, where the libelous matters appearing in ABANTE and MALAYA were first printed and published, or in the place where he actually resided at the time of the commission of the alleged offense. However, the records do not show Pasig City as to (sic) the actual residence of complainant Santiago, Jr. at the time of the commission of the offense charged, except to say that he held office at No. 3 West Fourth St., West Triangle, Quezon City. And even if we consider this address as his actual place of residence, or his office address as a public official, which he did not state in his complaints, still, the filing of these complaints before the Provincial Prosecutor's Office of Rizal violates the rule on venue as provided for in Article 360 of the Revised Penal Code.⁶⁵

Thus, the CA erred in dismissing the Information in Criminal Case No. 08-263273 and nullifying the Orders dated November 3, 2009 and January 29, 2010 of the RTC Manila, Br. 37, denying the accused's motion to dismiss.

G.R. Nos. 196720 and 197324

The first and third petitions are also meritorious.

The accused posit that the CA erred in affirming the RTC ruling that, even though the delay was not disputed or the reason for it was not explained by the Prosecution, the accused's right to speedy trial was not violated, and that the accused are deemed to have waived their right to speedy disposition of their cases for failing to plead such defense during the preliminary investigation.

Indeed, the Constitution guarantees in the Bill of Rights, Article III, Section 14(2) that: “In all criminal prosecutions, the accused x x x shall enjoy the right x x x to have a speedy, impartial, and public trial x x x” and in Article III, Section 16 that: “All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.” Congress has also enacted in February 12, 1998 Republic Act No. (RA) 8493, otherwise known as the “Speedy Trial Act of 1998.” For its part, the Court promulgated Circular No. 38-98 on August 11, 1998 for the purpose of implementing the provisions of RA 8493. The provisions of the Circular were adopted in the 2000 Revised Rules of Criminal Procedure.⁶⁶

⁶³ *Rollo* (G.R. No. 196720), p. 75; Records (Vol. I), p. 5.

⁶⁴ Records (Vol. I), pp. 69-72.

⁶⁵ *Id.* at 71.

⁶⁶ See RULES OF COURT, Rule 119.

The right to speedy disposition of the accused's case is explained in *Caballes v. CA*,⁶⁷ thus:

The right of the accused to a speedy trial and to a speedy disposition of the case against him was designed to prevent the oppression of the citizen by holding criminal prosecution suspended over him for an indefinite time, and to prevent delays in the administration of justice by mandating the courts to proceed with reasonable dispatch in the trial of criminal cases. Such right to a speedy trial and a speedy disposition of a case is violated only when the proceeding is attended by vexatious, capricious and oppressive delays. The inquiry as to whether or not an accused has been denied such right is not susceptible by precise qualification. The concept of a speedy disposition is a relative term and must necessarily be a flexible concept.

While justice is administered with dispatch, the essential ingredient is orderly, expeditious and not mere speed. It cannot be definitely said how long is too long in a system where justice is supposed to be swift, but deliberate. It is consistent with delays and depends upon circumstances. It secures rights to the accused, but it does not preclude the rights of public justice. Also, it must be borne in mind that the rights given to the accused by the Constitution and the Rules of Court are shields, not weapons; hence, courts are to give meaning to that intent.

x x x x

A balancing test of applying societal interests and the rights of the accused necessarily compels the court to approach speedy trial cases on an *ad hoc* basis.

In determining whether the accused has been deprived of his right to a speedy disposition of the case and to a speedy trial, four factors must be considered: (a) length of delay; (b) the reason for the delay; (c) the defendant's assertion of his right; and (d) prejudice to the defendant. Prejudice should be assessed in the light of the interest of the defendant that the speedy trial was designed to protect, namely: to prevent oppressive pre-trial incarceration; to minimize anxiety and concerns of the accused to trial; and to limit the [p]ossibility that his defense will be impaired. Of these, the most serious is the last, because the inability of a defendant adequately to prepare his case skews the fairness of the entire system. There is also prejudice if the defense witnesses are unable to recall accurately the events of the distant past. Even if the accused is not imprisoned prior to trial, he is still disadvantaged by restraints on his liberty and by living under a cloud of anxiety, suspicion and often, hostility. His financial resources may be drained, his association is curtailed, and he is subjected to public obloquy.

Delay is a two-edged sword. It is the government that bears the burden of proving its case beyond reasonable doubt. The passage of time may make it difficult or impossible for the government to carry its burden. The Constitution and the Rules do not require impossibilities or extraordinary efforts, diligence or exertion from courts or the prosecutor, nor contemplate that such right shall deprive the State of a reasonable opportunity of fairly prosecuting criminals. As held in *Williams v. United*

⁶⁷ 492 Phil. 410 (2005).

States, for the government to sustain its right to try the accused despite a delay, it must show two things: (a) that the accused suffered no serious prejudice beyond that which ensued from the ordinary and inevitable delay; and (b) that there was no more delay than is reasonably attributable to the ordinary processes of justice.

Closely related to the length of delay is the reason or justification of the State for such delay. Different weights should be assigned to different reasons or justifications invoked by the State. For instance, a deliberate attempt to delay the trial in order to hamper or prejudice the defense should be weighted heavily against the State. Also, it is improper for the prosecutor to intentionally delay to gain some tactical advantage over the defendant or to harass or prejudice him. On the other hand, the heavy case load of the prosecution or a missing witness should be weighted less heavily against the State.⁶⁸

The right to speedy disposition of one's case, similar to the right to speedy trial, may be waived. The Court in *Nepomuceno v. The Secretary of National Defense*⁶⁹ observed that the right to speedy trial as any other constitutionally or statutory conferred right, except when otherwise expressly so provided by law, may be waived. Therefore, it must be asserted.⁷⁰ The assertion of such right is entitled to strong evidentiary weight in determining whether the accused is being deprived thereof such that the failure to claim the right will make it difficult to prove that there was a denial of a speedy trial.⁷¹ The accused's failure to timely question the delay would be an implied acceptance of such delay and a waiver of the right to question the same. Also, his silence may amount to laches.⁷²

To recall, the Affidavit-Complaint which triggered the filing of the Information in the first petition was filed by Santiago on April 27, 1999 before the Provincial Prosecutor of Rizal. Macasaet filed his Counter-Affidavit on May 24, 1999. On the other hand, the Affidavit-Complaint that triggered the filing of the Information in the third petition was filed by Ynares on March 16, 1999. Macasaet filed his Counter-Affidavit on April 12, 1999. The Provincial Prosecutor of Rizal dismissed without prejudice the complaints on September 28, 2007, or ***more than eight years from the filing of the complaints***. On January 29, 2008, the DOJ issued Summons requiring accused to appear before the said office in relation to the complaints for libel. On July 9, 2008, the DOJ issued a Consolidated Resolution finding probable cause for both. On August 21, 2008, two separate Informations for libel were filed against the accused. One was docketed as Criminal Case No. 08-263272 and raffled to RTC Manila, Br. 36. And the other was docketed as Criminal Case No. 08-263273 and raffled to RTC Manila, Br. 37.

⁶⁸ Id. at 428-430, citing *Corpuz v. Sandiganbayan*, 484 Phil. 899, 917-919 (2004).

⁶⁹ 195 Phil. 467 (1981).

⁷⁰ Id. at 473.

⁷¹ *Sps. Uy v. Adriano*, 536 Phil. 475, 504 (2006); citation omitted.

⁷² Id. at 505. See also *Dela Peña v. Sandiganbayan*, 412 Phil. 921, 932 (2001).

In the first criminal case, the accused were arraigned on October 6, 2008 and they filed their motion to dismiss grounded on their right to speedy disposition of their case on October 7, 2008 while in the second criminal case, they filed their motion to dismiss based on same ground on November 26, 2008.

Given such backdrop, in both the CA⁷³ January 2011 Decision (assailed in the third petition) and the CA⁷⁴ February 2011 Decision (assailed in the first petition), the CA uniformly applied the principle of laches or implied acquiescence in construing the silence of the accused or their inaction to object to the delay and/or failure to seasonably raise the right to speedy disposition of their cases as waiver thereof.

The CA invoked *Valencia v. Sandiganbayan*,⁷⁵ which cited the Court's ruling in *Guerrero v. CA*,⁷⁶ in justifying that the failure of the accused to seasonably raise the right to speedy trial precludes them from relying on the alleged violation of such right as a ground to dismiss the case and that by not asserting such right at the earliest possible opportunity they are deemed to have slept on their right. The CA likewise relied on *Dela Peña v. Sandiganbayan*,⁷⁷ cited in *Valencia*, as its justification in construing the silence of the accused and the absence of any signs or overt acts of asserting their right to a speedy disposition of their cases in the nine years from the filing of the complaint to the filing of the Information and their arraignment as waiver of their right, and their inaction on and lack of objection to the delay can be perceived as implied acquiescence by them.

The Court disagrees with the CA. The CA failed to consider the other factors that must be present before the right to speedy case determination may be considered to have been waived. **The CA did not consider the length of delay and the reason for the delay.** The length of delay must be commensurate with the reason thereof. In these cases, it must be recalled that in a Consolidated Review Resolution dated September 28, 2007 of the Rizal Provincial Prosecutor, the complaints filed by Ynares and Santiago were dismissed, without prejudice, for want of jurisdiction by reason of improper venue.⁷⁸ It took the Rizal Provincial Prosecutor **more than eight years** from the filing of the complaints to dismiss without prejudice the complaints. The issue on venue in libel cases is neither a novel nor difficult one. **The more than eight years it took the Rizal Provincial Prosecutor to resolve a rather routine issue is clearly inordinate, unreasonable and unjustified.** Under the circumstances, it cannot be said "that there was no more delay than is reasonably attributable to the ordinary processes of justice."⁷⁹

⁷³ Fourth Division.

⁷⁴ Special Thirteenth Division.

⁷⁵ 510 Phil. 70, 88 (2005).

⁷⁶ 327 Phil. 496 (1996).

⁷⁷ Supra note 72.

⁷⁸ Records (Vol. I), p. 71.

⁷⁹ *Caballes v. CA*, supra note 67, at 430.

Furthermore, the silence of the accused during such period could not be viewed as an unequivocal act of waiver of their right to speedy determination of their cases. That the accused could have filed a motion for early resolution of their cases is immaterial. The more than eight years delay the Rizal Provincial Prosecutor incurred before issuing his resolution of the complaints is an affront to a reasonable dispensation of justice and such delay could only be perpetrated in a vexatious, capricious and oppressive manner.

All told, the CA erroneously denied the accused's petitions questioning the denial by the RTC Manila, Br. 36 and Br. 37 of their motions to dismiss based on their right to speedy disposition of their cases.

Since the dismissal of the complaints against the accused is warranted because of the violation of their right to speedy disposition of their cases, the Court's finding that the second petition has merit is rendered superfluous. The dismissal of the Information for libel by the CA in the second petition is maintained but on a different ground — the denial of the right of the accused to speedy disposition of their case. Thus, the second petition is denied on that ground.

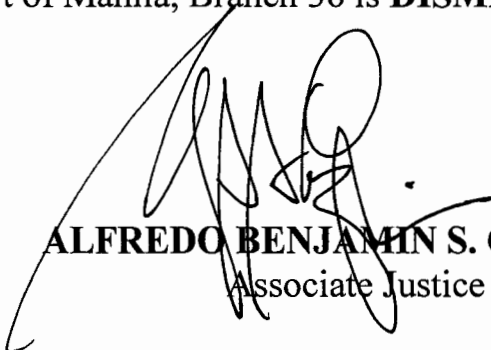
WHEREFORE, premises considered:

(1) the Petition for Review on *Certiorari* in G.R. No. 196094 is hereby **DENIED**, the Court of Appeals' Decision dated October 19, 2010 and Resolution dated March 8, 2011 in CA-G.R. SP No. 113449 are **MODIFIED** insofar as the ground for dismissal of the Information for libel in Criminal Case No. 08-263273 filed before the Regional Trial Court of Manila, Branch 37 is concerned;

(2) the Petition for Review on *Certiorari* in G.R. No. 196720 is hereby **GRANTED**, the Court of Appeals' Decision dated February 10, 2011 and Resolution dated April 28, 2011 in CA-G.R. SP No. 110224 are **REVERSED** and **SET ASIDE**, and Criminal Case No. 08-263273 filed before the Regional Trial Court of Manila, Branch 37 is **DISMISSED**; and

(3) the Petition for Review on *Certiorari* in G.R. No. 197324 is hereby **GRANTED**, the Court of Appeals' Decision dated January 26, 2011 and Resolution dated June 16, 2011 in CA-G.R. SP No. 110010 are hereby **REVERSED** and **SET ASIDE**, and Criminal Case No. 08-263272 filed before the Regional Trial Court of Manila, Branch 36 is **DISMISSED**.

SO ORDERED.


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO

Acting Chief Justice

Chairperson



DIOSDADO M. PERALTA

Associate Justice



ESTELA M. PERLAS-BERNABE

Associate Justice



ANDRES B. REYES, JR.

Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO

Acting Chief Justice