



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

**NOVA COMMUNICATIONS,
 INC., ANGELINA G. GOLOY,
 YEN MAKABENTA and MA.
 SOCORRO NAGUIT,**

Petitioners,

G.R. No. 193276

Present:

BERSAMIN, C.J.,
Chairperson,
DEL CASTILLO,
JARDELEZA,*
GESMUNDO, and
CARANDANG, JJ.

- versus -

**ATTY. REUBEN R. CANOY and
 SOLONA T. CANOY,**
 Respondents.

Promulgated:

JUN 26 2019

x-----

DECISION

CARANDANG, J.:

Before Us is a Petition for Review on *Certiorari* filed by petitioners Nova Communications Inc., (Nova Communications), Angelina G. Goloy (Goloy), Yen Makabenta (Makabenta) and Ma. Socorro Naguit (Naguit), collectively referred to as petitioners, assailing the Decision¹ dated January 28, 2010 of the Court of Appeals (CA) in CA-G.R. CV No. 00552 which affirmed with modification the Decision² dated March 8, 2005 of the Regional Trial Court (RTC) in Civil Case No. 91-003, finding herein petitioners liable for damages in connection with a publication containing defamatory remarks against Atty. Reuben R. Canoy (Atty. Canoy). The other defendants of the case in the trial court, namely Teodoro Locsin, Jr. (Locsin, Jr.), Teodoro M. Locsin (Teodoro Locsin), Enrique L. Locsin (Enrique Locsin), Esmeraldo Z. Izon (Izon), Louise Molina (Molina), Ruben

* On official leave.

¹ Penned by Associate Justice Leoncia R. Dimagiba, with Associate Justices Rodrigo F. Lim, Jr., and Angelita A. Gacutan, concurring; *rollo*, pp. 30-45.

² Penned by Judge Noli T. Catli; *id.* at 48-61.

R. Lampa (Lampa), Benjamin C. Ramos (Ramos) and LR Publications Inc., (LR Publications) opted not to join the petitioners in the instant Petition.

The Facts of the Case

In 1990, Col. Alexander Noble (Col. Noble), a Philippine Military Academy graduate and former Presidential Security Guard of the late President Corazon Aquino led a rebellion in Mindanao.³ Atty. Canoy was suspected⁴ to be one of Col. Noble's supporters because of his involvement with the Independent Mindanao Movement which espoused the view of an independent Mindanao.⁵

On October 1990, a series of articles were written by Locsin, Jr. and Molina that were printed in the Philippine Free Press issue of October 13, 1990 published by LR Publications and Philippine Daily Globe issues of October 7, 1990, October 9, 1990 and October 11, 1990 published by Nova Communications.⁶ Herein petitioners Goloy, Makabenta and Naguit were the News Editor, Associate Publisher and Editor-in-Chief, and Associate Editor, respectively.⁷

The excerpts of the subject articles are quoted by the trial court as follows:

I

x x x His revolt was doomed not least because he teamed up with a veritable mental asylum patient, Reuben Canoy and adopted as his own Canoy's ludicrous federalism/secessionist movement[.] (p. 13 under the editorial entitled, 'Lunatic Rebellion', x x x).

x x x [A]long the way, he was joined by Reuben Canoy, a madman with about 10,000 deranged followers. Canoy has been preaching the establishment of a separate Mindanao Republic, with him as the head naturally. x x x[.] (p. 13, under the cover of 'War in Mindanao' by Louise Molina, x x x).

II

x x x He and a composite force of rebel soldiers, tribesmen and a large slice of the lunatic federalist fringe of Mindanao led by Reuben Canoy had received a rapturous welcome from the AFP in every camp he and his ragged band pass from Butuan to Cagayan x x x[.] (2nd sentence, 2nd paragraph, Daily Globe).

x x x He walked into Camp Evangelista at the head of a motley crowd (sic); a composite force of renegade AFP, tribesmen and a large slice of the lunatic federalist fringe in Mindanao led by radio commentator Reuben Canoy x x x[.] (2nd sentence, 2nd paragraph, Free Press x x x).

³ Id. at 31.

⁴ Id. at 54.

⁵ Id.

⁶ Id. at 48.

⁷ Id. at 51.

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III

x x x He delivered his side of the bargain. Every camp and outpost he passed cheered him on his way from Butuan to Cagayan de Oro. But the RAM let him down and later, even the lunatic Canoy. No wonder, he thought surrendering at once x x x. (middle of the 5th paragraph, Daily Globe x x x, reproduced verbatim in the Free Press) x x x.

IV

x x x Something was going wrong. He was being cheered but not joined except by a certified lunatic Reuben Canoy, who was clamoring for the very thing that soldiers like himself, has fought to stop the dismemberment of the republic. He joined his shout[s] to Canoy's – but his had no conviction for an independent Mindanao – what choice did he have, Canoy was the only one in the pier when he arrived x x x. (2nd half of paragraph 11, under Opinion of the Daily Globe, x x x, reprinted verbatim as page 16 of the Free Press) x x x.⁸

Because of the subject articles, Atty. Canoy and his wife, Solona T. Canoy (Mrs. Canoy), filed a civil case for damages for the libelous articles.

Atty. Canoy claimed that the articles were designed to malign, embarrass, humiliate and ridicule him and Mrs. Canoy.⁹

LRP Publications maintained that the articles in question were made without malice and without any intention to cast dishonor, discredit, contempt or ridicule upon Atty. Canoy and his wife; that the same were made in good faith and for a justifiable reason, that is, pursuant to its duty to protect the government from threats of rebellion of Col. Noble. Further, Atty. Canoy is a national and political figure, as such, he has effectively placed himself under public scrutiny.¹⁰

Nova Communications, on the other hand, claimed that Atty. Canoy was merely tangentially mentioned in the subject articles with no intention to cast dishonour, discredit, contempt or ridicule upon his person. Also, as a public figure, Atty. Canoy's activities are matters imbued with public interest. Further, Nova Communications maintained that Mrs. Canoy has not been mentioned in any of the subject articles, hence, she has no cause of action whatsoever. Likewise, since the subject articles were opinion write-ups, no cause of action accrues against Makabenta, Goloy and Naguit.¹¹

During the trial, Locsin, Jr., testified stating that the articles were made in good faith, for justifiable reasons and as part of his moral commitment to defend the government from threats of rebellion and insurrection and to defeat any attempt to destabilize the government. He also

⁸ Id. at 48-49.

⁹ Id. at 49.

¹⁰ Id. at 50.

¹¹ Id. at 50-51.

claimed that the articles were written to emphasize his strong opposition to Atty. Canoy's political beliefs to remove Mindanao from the government.¹²

In a deposition, the late President Corazon Aquino and General Voltaire Gazmin, testified as to the existence of intelligence reports identifying Atty. Canoy as part of the civilian component of Col. Noble's rebellion.¹³

In a Decision¹⁴ dated March 8, 2005, the RTC ruled in favor of Atty. Canoy and ordered petitioners, as well as the other defendants before the trial court namely, Locsin, Jr., Teodoro Locsin, Enrique Locsin, Izon, Molina, Lampa, and LR Publications, except Benjamin Ramos, to pay Atty. Canoy and Mrs. Canoy ₱50,000.00 as litigation expenses, ₱500,000.00 as moral damages, ₱100,000.00 as exemplary damages and ₱300,000.00 as attorney's fees.¹⁵

Aggrieved, the petitioners filed an appeal to the CA raising the same arguments they alleged before the trial court. In a Decision¹⁶ dated January 28, 2010, the CA reduced the amount of damages awarded to Atty. Canoy from ₱500,000.00 moral damages and ₱100,000.00 exemplary damages to ₱300,000.00 and ₱50,000.00, respectively. Further, the award of ₱300,000.00 attorney's fees and ₱50,000.00 litigation expenses were reduced to ₱100,000.00 and ₱20,000.00, respectively.¹⁷

Hence, this petition.

Petitioners' arguments

Petitioners alleged that the libelous words in the subject articles were not directed on the person and the mental condition of Atty. Canoy, but on his proven identification with and involvement in the Noble rebellion. There was an actual threat to the security of the state and an attack on its sovereignty, thus, the said articles should be viewed in the context of the gravity of the event. The said words should be understood as descriptive of an act which had sinister consequences on the security of the state.¹⁸

Petitioners further claimed that the said articles are covered by the doctrine of qualifiedly privileged communication. Such articles were written in good faith on a subject matter in which the writer has a duty, as a member of the press, to inform the public.¹⁹ Viewed from another perspective,

¹² Id. at 53-54.

¹³ Id. at 54.

¹⁴ Id. at 48-61.

¹⁵ Id. at 60-61.

¹⁶ Id. at 30-45.

¹⁷ Id. at 44-45.

¹⁸ Id. at 16-17.

¹⁹ Id. at 17.

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petitioners claim that the subject articles constitute fair commentaries on matters of public interest, hence, are not actionable.²⁰

Petitioners also alleged that actual malice was not proved by Atty. Canoy. Further, the fact that malice is presumed in defamatory words does not relieve Atty. Canoy of his burden to prove actual malice on the part of the petitioners.²¹

Also, the petitioners maintain that the subject articles should be protected since the same is covered by the freedom of the press. To hold otherwise would be to curtail the exercise of the freedom of the press protected by the Constitution.²²

Respondents' arguments

Atty. Canoy argued that calling, describing, singling out and naming a person as veritable mental asylum patient, madman and certified lunatic is libelous *per se*. Those words were repeatedly published in two newspapers on different dates and were intended to discredit, dishonor and defame him under the guise of fair comment. Further, Atty. Canoy claimed that those words refer not to the act of the person but to the person himself. Attacking his person, name and character is not a response to a social duty. It was not their duty to defame him and claim it as social responsibility so it may be protected under the mantle of a qualified privileged communication.²³

Issues

1. Whether the subject articles are libelous.
2. Whether the subject articles are covered by the doctrine of qualifiedly privileged communication, hence, not actionable.
3. Whether actual malice was established.

Ruling of the Court

The petition is denied.

Libel is a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status or circumstance tending to cause dishonor, discredit or contempt of a natural or juridical person, or to blacken the memory of one who is dead.²⁴ Thus, it is an offense of injuring a person's character or reputation through false and malicious statements.²⁵ In *Manila Bulletin Publishing Corporation v. Domingo*,²⁶ the Court said that:

²⁰ Id. at 19.

²¹ Id. at 21.

²² Id. at 24.

²³ Id. at 86-89.

²⁴ Revised Penal Code, Article 353.

²⁵ *Yuchengco v. The Manila Chronicle Publishing Corp., et. al.*, 620 Phil. 697, 716 (2009).

²⁶ G.R. No. 170341, July 5, 2017, 830 SCRA 40.

In determining whether a statement is *defamatory*, the words used are to be construed in their entirety and should be taken in their plain, natural, and ordinary meaning as they would naturally be understood by persons reading them, unless it appears that they were used and understood in another sense. x x x.²⁷ (Citations omitted)

Despite being included as a crime under the Revised Penal Code (RPC), a civil action²⁸ for damages may be instituted by the injured party, which shall proceed independently of any criminal action for the libelous article and which shall require only a preponderance of evidence, as what Atty. Canoy did in this case.

Beyond question, the words imputed to Atty. Canoy as a veritable mental asylum patient, a madman and a lunatic, in its plain and ordinary meaning, are conditions or circumstances tending to dishonor or discredit him. As such, these are defamatory or libelous *per se*.

Under Article 354 of the RPC, it is provided that every defamatory imputation is presumed to be with malice, even if the same is true, unless it is shown that it was made with good intention and justifiable motive, except in the following circumstances:

1. A private communication made by any person to another in the performance of any legal, moral or social duty; and
2. A fair and true report, made in good faith, without any comments or remarks, of any judicial, legislative or other official proceedings which are not of confidential nature, or of any statement, report or speech delivered in said proceedings, or of any other act performed by public officers in the exercise of their functions.

A privileged communication may be classified as either absolutely privileged or qualifiedly privileged. The absolutely privileged communication are not actionable even if the same was made with malice, such as the statements made by members of Congress in the discharge of their duties for any speech or debate during their session or in any committee thereof,²⁹ official communications made by public officers in the performance of their duties, allegations or statements made by the parties or their counsel in their pleadings or during the hearing, as well as the answers of the witnesses to questions propounded to them.³⁰



²⁷ Id. at 61.

²⁸ Article 33 of the New Civil Code.

In cases of defamation, fraud, and physical injuries, a civil action for damages, entirely separate and distinct from the criminal action, may be brought by the injured party. Such civil action shall proceed independently of the criminal prosecution, and shall require only preponderance of evidence.

²⁹ *Borjal v. CA*, 361 Phil. 1, 18 (1999).

³⁰ *Manila Bulletin Publishing Corporation v. Domingo*, supra note 26, at 69.

The qualifiedly privileged communications are those which contain defamatory imputations but which are not actionable unless found to have been made without good intention or justifiable motive, and to which “private communications” and “fair and true report without any comments or remarks” belong.³¹

Indubitably, the defamatory words imputed to Atty. Canoy cannot be considered as “private communication” made by one person to another in the performance of any legal, moral or social duty. Neither is it a fair and true report without any comments or remarks. However, in the case of *Borjal v. CA*,³² fair commentaries on matters of public interest is provided as another exception by this Court, thus:

To be sure, the enumeration under Art. 354 is not an exclusive list of qualifiedly privileged communications since fair commentaries on matters of public interest are likewise privileged. The rule on privileged communications had its genesis not in the nation's penal code but in the Bill of Rights of the Constitution guaranteeing freedom of speech and of the press. As early as 1918, in *United States v. Cañete*, this Court ruled that publications which are privileged for reasons of public policy are protected by the constitutional guaranty of freedom of speech. This constitutional right cannot be abolished by the mere failure of the legislature to give it express recognition in the statute punishing libels.

x x x x

To reiterate, fair commentaries on matters of public interest are privileged and constitute a valid defense in an action for libel or slander. The doctrine of fair comment means that while in general every discreditable imputation publicly made is deemed false, because every man is presumed innocent until his guilt is judicially proved, and every false imputation is deemed malicious, nevertheless, when the discreditable imputation is directed against a public person in his public capacity, it is not necessarily actionable. In order that such discreditable imputation to a public official may be actionable, it must either be a false allegation of fact or a comment based on a false supposition. If the comment is an expression of opinion, based on established facts, then it is immaterial that the opinion happens to be mistaken, as long as it might reasonably be inferred from the facts.³³ (Citations omitted)

In this case, the defamatory words imputed to Atty. Canoy cannot be said to be fair commentaries on matters of public interest. To be sure, informing the public as to the rebellion of Col. Noble is a matter of public interest. However, calling Atty. Canoy as a veritable mental asylum patient, a madman and a lunatic is not in furtherance of the public interest. The defamatory words are irrelevant to the alleged participation of Atty. Canoy in the rebellion staged by Col. Noble.



³¹ Id.
³² 361 Phil. 1 (1999).
³³ Id. at 18-20.

Locsin, Jr., alleged that he only made those utterances to show his strong opposition to the political beliefs of Atty. Canoy to remove Mindanao from the government based on the alleged intelligence reports identifying Atty. Canoy as part of the civilian component of Col. Noble's rebellion.

As found by both the RTC and the CA, the said intelligence reports are neither proved nor established by the petitioners. As such, the intelligence reports are unconfirmed. As such, the said defamatory remarks cannot be considered as an expression of opinion based on established facts nor can it reasonably be inferred from established facts. Nevertheless, even if the supposed intelligence reports were verified and Atty. Canoy supported Col. Noble's rebellion, the defamatory remarks are not related to the alleged participation of Atty. Canoy in the rebellion, but directed as to his mental condition. Further no evidence was presented to support that Atty. Canoy was indeed a mental asylum patient or a lunatic. As such, the petitioners made those defamatory remarks without any regard as to the truth or falsity of the same.

As alleged by the petitioners, the subject articles were centered in the rebellion of Col. Noble, and Atty. Canoy was merely mentioned incidentally. This allegation does not help the position of the petitioners. Rather, it even weakens their cause, as it further established the existence of malice in causing dishonor, discredit or put in contempt the person of Atty. Canoy.

It is true that every defamatory remark directed against a public person in his public capacity is not necessarily actionable³⁴ but if the utterances are false, malicious, or unrelated to a public officer's performance of his duties or irrelevant to matters of public interest involving public figures, the same may be actionable.³⁵

Examination of the defamatory remarks reveals that the same pertain to Atty. Canoy's mental capacity and not to his alleged participation with Col. Noble's rebellion, and neither does it pertain to Atty. Canoy's duties and responsibilities as a radio broadcaster. While Atty. Canoy is a public figure, the subject articles comment on the mental condition of the latter, thus, the defamatory utterances are directed to Atty. Canoy as a private individual, and not in his public capacity. As such, the petitioners' allegation that the subject articles are fair commentaries on matters of public interest are unavailing. As stated in *Gertz v. Robert Welch, Inc.*,³⁶ a newspaper or broadcaster publishing defamatory falsehoods about an individual who is neither a public official nor a public figure may not claim a constitutional privilege against liability for injury inflicted, even if the falsehood arose in a discussion of public interest. The mere fact that Atty. Canoy is a public figure does not automatically mean that every defamation against him is not

³⁴ *Tulfo v. People, et al.*, 587 Phil. 64, 85-86 (2008).

³⁵ *Manila Bulletin Publishing Corporation v. Domingo, et al.*, supra note 26, at 71.

³⁶ 418 U.S. 323 (1974), as cited in *Philippine Journalists Inc. (People's Journal) v. Thoenen*, 513 Phil. 607 (2005).

actionable. In *Yuchengco v. The Manila Chronicle Publishing Corp., et al.*,³⁷ the Court stated that:

A topic or story should not be considered a matter of public interest by the mere fact that the person involved is a public officer, unless the said topic or story relates to his functions as such. Assuming a public office is not tantamount to completely abdicating one's right to privacy. x x x.³⁸

Having established that the defamatory remarks are not privileged, the law provides that malice is presumed.³⁹ Petitioners claimed that the defamatory remarks are privileged since Atty. Canoy failed to prove actual malice on their part. We disagree.

Generally, malice is presumed in every defamatory remark. What destroys this presumption is the finding that the said defamatory remark is classified as a privileged communication. In such case, the *onus* of proving actual malice is on the part of the plaintiff.⁴⁰ In this case, however, the petitioners were not able to establish that the defamatory remarks are privileged, as such, the presumption of malice stands and need not be established separate from the existence of the defamatory remarks.⁴¹

Petitioners claimed that Mrs. Canoy has no cause of action against them since she has not been mentioned in the articles. We agree.

Rule 2, Section 2 of the Rules of Court states that a cause of action is the act or omission by which a party violates a right of another. In this case, no right of Mrs. Canoy was violated. As held, the reputation of a person is personal, separate and distinct from another.⁴² The reputation of Atty. Canoy that has been dishonored and discredited by the subject articles is not the same from the reputation of Mrs. Canoy. As such, no cause of action for damages is present in favor of the latter.

Under Article 2219(7) of the Civil Code, moral damages may be recovered in cases of libel, slander or any other form of defamation. Further, Article 2229 of the Civil Code states that exemplary damages are imposed by way of example or correction for the public good. Article 2208 of the same Code provides, among others, that attorney's fees and expenses of litigation may be recovered in cases when exemplary damages are awarded and where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.⁴³

³⁷ 620 Phil. 697 (2009).

³⁸ Id. at 733-734.

³⁹ Article 354 of the Revised Penal Code.

⁴⁰ *Borjal v. CA, et. al.*, supra note 32, at 24.

⁴¹ *Brillante v. Court of Appeals*, 483 Phil. 568, 591 (2004).

⁴² *MVRS Pub. Inc. v. Islamic Da'wah Council of the Phils., Inc.*, 444 Phil. 230, 243 (2003).

⁴³ *Yuchengco v. Manila Chronicle Publishing Corp., et al.*, 677 Phil. 422, 436 (2011).



In this case, We hold that the award of moral damages of ₱300,000.00, exemplary damages of ₱50,000.00, attorney's fees of ₱100,000.00 and litigation expenses of ₱20,000.00 is deemed just and equitable.

WHEREFORE, the premises considered, the instant Petition is **DENIED**. The Decision dated January 28, 2010 of the Court of Appeals in CA-G.R. CV No. 00552 is **AFFIRMED** *in toto*.

SO ORDERED.

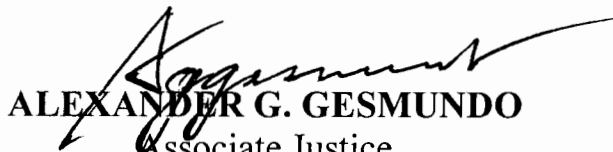

ROSMARID D. CARANDANG
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice

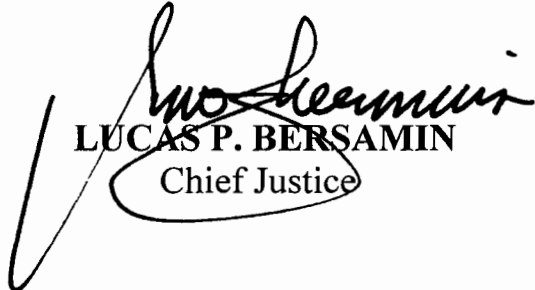

MARIANO C. DEL CASTILLO
Associate Justice

(on official leave)
FRANCIS H. JARDELEZA
Associate Justice


ALEXANDER G. GESMUNDO
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.



LUCAS P. BERSAMIN
Chief Justice