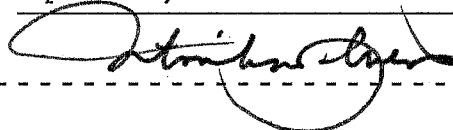


EN BANC

G.R. No. 258524 – BERTENI CATALUÑA CAUSING, Petitioner, v. PEOPLE OF THE PHILIPPINES, REGIONAL TRIAL COURT OF QUEZON CITY, BRANCH 93, OFFICE OF THE CITY PROSECUTOR OF QUEZON CITY, AND THE REPRESENTATIVE OF FERDINAND LEDESMA HERNANDEZ OF THE SECOND DISTRICT OF COTABATO, Respondents.

Promulgated:

April 8, 2026



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CONCURRING OPINION

CAGUIOA, J.:

I concur with the *ponencia* in ruling that the prescriptive period under paragraph 4, Article 90 of the Revised Penal Code applies to libel committed through a computer system. This is consistent with the legislative intent evident from relevant laws and their subsequent amendments, as well as the long-standing legal principle that statutes on prescription of crimes are to be liberally construed in favor of the accused.

Brief Review of the Facts of the Case

Private complainant Ferdinand L. Hernandez (Hernandez) discovered on February 4, 2019 and April 21, 2019, a series of Facebook posts of petitioner Berteni Cataluña Causing (Causing) which made it appear that Hernandez stole public funds intended for Marawi siege victims. Hernandez averred that Causing's Facebook posts maligned and discredited him by portraying him as a thief. After finding probable cause against Causing, two separate Informations were filed with the Regional Trial Court of Quezon City (RTC) charging Causing of cyberlibel.

On June 8, 2021, Causing moved to quash the Informations on the ground of prescription. He claimed the one-year prescriptive period under Article 90 of the Revised Penal Code applies; thus, considering that the complaint was filed only in December 2020, or more than one year from the Facebook posts, then the State's right to prosecute the alleged crimes had already prescribed.



The RTC denied the motion and ruled that the prescriptive period for cyberlibel is 12 years, applying Act No. 3326.¹ The RTC further held that even if the provisions of the Revised Penal Code would apply, the prescriptive period is 15 years because Republic Act No. 10175 or the Cybercrime Prevention Act increased the penalty of libel committed through a computer system.

The RTC denied Causing's motion for reconsideration, prompting him to file a petition for *certiorari* before the Court.

In the assailed Decision, the Court (Third Division) ruled that the one-year prescriptive period under paragraph 3, Article 90 of the Revised Penal Code applies to the crime of cyberlibel.² This period is reckoned from the date the crime is discovered by the offended party, the authorities, or their agents. However, the RTC is correct in denying the motion to quash as Causing failed to present any proof that the charges against him had prescribed.

Hence, the present motions for reconsideration respectively filed by the parties. The Office of the Solicitor General insists on the application of the 15-year prescriptive period to cyberlibel. Causing, on the other hand, assails the reckoning of the prescriptive period. He asserts that the one-year period should be counted from posting and not discovery of the crime.

The *ponencia* denies both motions and reiterates that the prescriptive period for cyberlibel is one year.³

As stated at the outset, I concur with the *ponencia*'s ruling.

The long-standing legislative policy is to exclude libel from the general rule in the determination of the period of prescription of crimes

The crime of libel in Philippine jurisdiction originated from the Old Spanish Penal Code⁴ (Penal Code). Under the Penal Code, a false imputation of a crime expressed publicly in writing was punished "by *prisión correccional* in its minimum and medium degrees and a fine of not less than one thousand two hundred and fifty and not more than twelve thousand five hundred pesetas, if a grave felony be imputed, and by *arresto mayor* and a

¹ An Act to Establish Periods of Prescription for Violations Penalized by Special Acts and Municipal Ordinances and To Provide When Prescription Shall Begin to Run.

² *Ponencia*, p. 2.

³ *Id.* at 27.

⁴ From "The Penal Code of the Philippine Islands (English Translation)" edited by The Attorney-General, Manila: Bureau of Printing, 1911.



fine of not less than six hundred and twenty-five and not more than six thousand two hundred and fifty pesetas, if a less grave felony be imputed.”⁵

As a general rule, the Penal Code based the prescriptive period of an offense on the penalty fixed therefor. Thus, paragraphs 1 to 3 of Article 131 stated: twenty years for felonies punishable by death, fifteen years for crimes with other afflictive penalty, and ten years for crimes with correctional penalty. Even if calumny (including those expressed in writing) was punishable by a correctional penalty, the Penal Code expressly excepted said offense from the general rule and set the prescriptive period to only one year:

ARTICLE 131. Felonies punishable by death or *cadena perpetua* shall prescribe in twenty years.

When the penalty fixed by law is any other afflictive penalty, in fifteen years.

When the penalty is correctional, in ten years.

The offenses of calumny and insults (injurias) are excepted; the former shall prescribe in one year and the latter in six months.

Misdemeanors prescribe in two months.

When the penalty fixed by law is compound the highest penalty shall be made the basis of the application of the rules contained in the first, second, and third paragraphs of this article.

The period of prescription shall commence to run on the day on which the crime is committed; or if not known at the time, from the day of its discovery and the beginning of the judicial proceedings for investigation and punishment.

This prescription shall be interrupted from the commencement of the proceedings against the offender, and the term of prescription shall commence to run again when such proceedings terminate without the accused being convicted, or the proceedings are suspended by reason of some cause other than the default of the defendant.⁶ (Emphasis supplied)

The provisions of the Penal Code on calumny expressed publicly in writing was repealed by Act No. 277⁷ or the Philippine Libel Law.⁸ Act No. 277 defined libel as “a malicious defamation, expressed either in writing, printing, or by signs or pictures, or the like, or public theatrical exhibitions, tending to blacken the memory of one who is dead or to impeach the honesty, virtue, or reputation, or publish the alleged or natural defects of one who is alive, and thereby expose him to public hatred, contempt, or ridicule.” Said law penalized “[e]very person who willfully and with a malicious intent to

⁵ PENAL CODE, art. 453.

⁶ *Id.*

⁷ An Act Defining The Law Of Libel And Threats To Publish A Libel, Making Libel And Threats To Publish A Libel Misdemeanors, Giving A Right Of Civil Action Therefor, And Making Obscene Or Indecent Publications Misdemeanors (1901).

⁸ *People v. Castro*, 43 Phil. 842 (1922) [Per J. Johnson, *En Banc*].

injure another publishes or procures to be published any libel shall be punished by a fine of not exceeding two thousand dollars or imprisonment for not exceeding one year, or both.”⁹

While Act No. 277 did not provide for a period of limitation for prosecuting the crime of libel penalized therein,¹⁰ a subsequent enactment, Act No. 2595¹¹ stated that “[t]he crime of libel as well as the civil action arising therefrom shall prescribe two years after the publication of the libel.”¹²

The Philippine Libel Law was eventually repealed by Act No. 3815,¹³ commonly known as the Revised Penal Code.¹⁴ The Revised Penal Code defines and penalizes the crime of libel as follows:

ARTICLE 353. *Definition of Libel.* — A 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 the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead.

ARTICLE 355. *Libel by Means Writings or Similar Means.* — A libel committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means, shall be **punished by prisión correccional in its minimum and medium periods or a fine ranging from 200 to 6,000 pesos, or both**, in addition to the civil action which may be brought by the offended party.¹⁵ (Emphasis supplied)

Similar to the Penal Code, the prescriptive periods for crimes defined and penalized by the Revised Penal Code are generally based on the penalty provided by the Code. **Again, libel, with other similar offenses, is considered as an exception.** Instead of the 10-year period for offenses with correctional penalties, the two-year prescriptive period under Act. No. 2595 was adopted by the Revised Penal Code, to wit:

ARTICLE 90. *Prescription of Crimes.* — Crimes punishable by death, *reclusión perpetua* or *reclusión temporal* shall prescribe in twenty years.

Crimes punishable by other afflictive penalties shall prescribe in fifteen years.

⁹ *Id.*

¹⁰ See *U.S. v. Serapio*, 23 Phil. 584 (1912) [Per Curiam, First Division].

¹¹ An Act Fixing Two Years As The Term For The Prescription Of The Crime Of Libel And Of A Civil Action Arising Therefrom (1916).

¹² Sec. 1, Act No. 2595.

¹³ An Act Revising the Penal Code and Other Penal Laws (1930).

¹⁴ ARTICLE 367. *Repealing Clause.* — Except as is provided in the next preceding article, the present Penal Code, the Provisional Law for the application of its provisions, and Act Nos. 277, 282, 480, 518, 519, 899, 1121, 1438, 1523, 1559, 1692, 1754, 1955, 1773, 2020, 2036, 2071, 2142, 2212, 2293, 2298, 2300, 2364, 2549, 2557, 2595, 2609, 2718, 3103, 3195, 3244, 3298, 3309, 3313, 3397, 3559, and 3586, are hereby repealed.

¹⁵ *Id.*

Those punishable by a correctional penalty shall prescribe in ten years; with the exception of those punishable by *arresto mayor*, which shall prescribe in five years.

The crime of libel or other similar offenses shall prescribe in two years.

The offenses of oral defamation and slander by deed shall prescribe in six months.

Light offenses prescribe in two months.

When the penalty fixed by law is a compound one the highest penalty shall be made the basis of the application of the rules contained in the first, second and third paragraphs of this article.¹⁶ (Emphasis supplied)

The prescriptive period for libel was further shortened by Congress to one year. Under Republic Act No. 4661,¹⁷ Article 90 was amended to read as follows:

Art. 90. *Prescription of crimes.* — Crimes punishable by death, *reclusión perpetua* or *reclusión temporal* shall prescribe in twenty years.

Crimes punishable by other afflictive penalties shall prescribe in fifteen years.

Those punishable by a correctional penalty shall prescribe in ten years; with the exception of those punishable by *arresto mayor*, which shall prescribe in five years.

The crime of libel or other similar offenses shall prescribe in one year.

The offenses of oral defamation and slander by deed shall prescribe in six months.

Light offenses prescribe in two months.

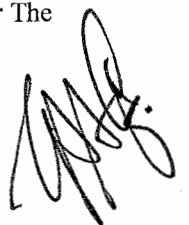
When the penalty fixed by law is a compound one, the highest penalty shall be made the basis of the application of the rules contained in the first, second and third paragraphs of this article.¹⁸ (Emphasis supplied)

Evident from the foregoing enactments is **the consistent legislative policy to exclude the crime of libel from the general rule on the determination of period for prescription of crimes**. Ever since the Penal Code until the Revised Penal Code, the crime of libel has been imposed a correctional penalty—and yet, its prescriptive period has always been fixed at one or two years, and never at 10 or more years.

¹⁶ *Id.*

¹⁷ An Act Shortening The Prescriptive Period For Libel And Other Similar Offenses, Amending For The Purpose Article Ninety Of The Revised Penal Code (1966).

¹⁸ *Id.*



In fact, to this date, no law has been enacted explicitly fixing a different prescriptive period for libel, repealing, or amending Article 90 of the Revised Penal Code.

Republic Act No. 10175¹⁹ or the Cybercrime Prevention Act of 2012 (Cybercrime Act) did not amend or repeal paragraph 4, Article 90 of the Revised Penal Code. As explained by the Court in *Disini, Jr. v. Secretary of Justice*²⁰ (*Disini*), libel under the Cybercrime Act and libel under the Revised Penal Code have the same elements. **The Cybercrime Act did not create a new crime but merely established the computer system as another means of publication.** To be sure, in defining libel, the Cybercrime Act refers to Article 353 of the Revised Penal Code and incorporates provisions of the Revised Penal Code on libel. At most, as pointed out by Justice Kho, what the Cybercrime Act provided is a qualifying circumstance for committing libel, viz:

Sec. 6. All crimes defined and penalized by the Revised Penal Code, as amended, and special laws, if committed by, through and with the use of information and communications technologies shall be covered by the relevant provisions of this Act: *Provided*, That the penalty to be imposed shall be one (1) degree higher than that provided for by the Revised Penal Code, as amended, and special laws, as the case may be.

Section 6 merely makes commission of existing crimes through the Internet a qualifying circumstance. As the Solicitor General points out, there exists a substantial distinction between crimes committed through the use of information and communications technology and similar crimes committed using other means. In using the technology in question, the offender often evades identification and is able to reach far more victims or cause greater harm. The distinction, therefore, creates a basis for higher penalties for cybercrimes.²¹

Indeed, a qualifying circumstance changes the nature of the crime and increases the penalty therefor. As *Disini* explained, the increase in the penalty is necessitated by the pervasiveness of the harm caused in using technology to commit the crime. **This, however, does not automatically mean that the prescriptive period for libel has been amended.**

To be sure, the Cybercrime Act did not repeal, whether expressly or impliedly, Article 90 of the Revised Penal Code. Article 90 or any provision on prescription of crime is never mentioned in the law. Had Congress intended a different prescriptive period for cyberlibel, it could easily have explicitly provided for the same. **The fact that it did not only means that the one-year**

¹⁹ An Act Defining Cybercrime, Providing for The Prevention, Investigation, Suppression and The Imposition of Penalties Therefor and For Other Purposes.

²⁰ 727 Phil. 28 (2014) [Per J. Abad, *En Banc*].

²¹ *Id.*

prescriptive period under paragraph 4 applies even to libel committed under the Cybercrime Act.

In addition, repeal of statutes by implication is never favored. The presumption is against implied repeal because the legislature is presumed to know the existing laws on the subject and not to have enacted inconsistent or conflicting statutes. Thus, before an inference of implied repeal may be drawn, the two laws must be absolutely irreconcilable.²² Here, there is nothing genuinely inconsistent and repugnant between Article 90 of the Revised Penal Code and the libel provisions of the Cybercrime Act. The former deals specifically with the prescriptive period for libel, while the latter pertains to the definition of the crime, particularly as to the mode of committing the same. Both provisions can stand together.

Justice Kho justifies the application of the 15-year period under paragraph 2, Article 90 of the Revised Penal Code for libel committed under the Cybercrime Act by referring to how a qualifying circumstance affects the crime of Frustrated Homicide. He explains that the existence of a qualifying circumstance changes the crime of Frustrated Homicide to Frustrated Murder, increases the penalty of the accused, and consequently the prescriptive period from 15 years to 20 years.

To my mind, this analogy may be true for crimes covered by paragraphs 1 to 3 of Article 90 of the Revised Penal Code. **But this is not true for libel. As elucidated, the legislative policy since the Penal Code until the Revised Penal Code and its subsequent amendments, is to exclude libel from the general rule of prescription of crimes under paragraphs 1 to 3 of Article 90 of the Revised Penal Code.** By consistently providing a specific and separate provision on libel, the legislative intent to set an entirely different period for its prescription is unmistakable. The Court's only duty is to apply what the law provides so as to give life to the spirit that animates it. Without the benefit of legislation, ruling that the prescriptive period for cyberlibel is 10 or 15 years is tantamount to a judicial overreach—a breach of the fundamental principle of separation of powers.

***Laws on prescription of crimes
are construed in favor of the
accused***

A statute providing for prescription of crimes is an act of grace by which the State, after the lapse of a certain period of time, surrenders its sovereign power to prosecute the criminal act. It is an act of liberality on the part of the State in favor of the offender.²³ In the interpretation of laws on

²² See *Hagad v. Gozo-Dadole*, 321 Phil. 604 (1995) [Per J. Vitug, *En Banc*].

²³ See *People v. Duque*, 287 Phil. 669 (1992) [Per J. Feliciano, Third Division]; See also *People v. Reyes*, 256 Phil. 1015 (1989)[Per J. Cortes, Third Division].



prescription, the rule is to adopt that which is most favorable to the accused.²⁴ The case of *People v. Moran*,²⁵ articulated the rationale for this rule:

We should at first observe that a mistake is sometimes made in applying to statutes of limitations in criminal suits the construction that has been given to statutes of limitations in civil suits. The two classes of statutes, however, are essentially different. In civil suits the statute is interposed by the legislature as an impartial arbiter between two contending parties. In the construction of the statute, therefore, there is no intendment to be made in favor of either party. Neither grants the right to the other; there is therefore no grantor against whom the ordinary presumptions of construction are to be made. But it is otherwise when a statute of limitation is granted by the State. Here the State is the grantor, surrendering by act of grace its rights to prosecute, and declaring the offense to be no longer the subject of prosecution. The statute is not a statute of process, to be scantily and grudgingly applied but an amnesty, declaring that after a certain time oblivion shall be cast over the offense; that the offender shall be at liberty to return to his country, and resume his immunities as a citizen; and that from henceforth he may cease to preserve the proofs of his innocence, for the proofs of his guilt are blotted out. Hence it is that statutes of limitation are to be liberally construed in favor of the defendant, not only because such liberty of construction belongs to all acts of amnesty and grace, but because the very existence of the statute is a recognition and notification by the legislature of the fact that time, while it gradually wears out proofs of innocence, has assigned to it fixed and positive periods in which it destroys proofs of guilt. Independently of these views, it must be remembered that delay in instituting prosecutions is not only productive of expense to the State, but of peril to public justice in the attenuation and distortion, even by mere natural lapse of memory, of testimony. It is the policy of the law that prosecutions should be prompt, and that statutes enforcing such promptitude should be vigorously maintained. They are not merely acts of grace, but checks imposed by the State upon itself, to exact vigilant activity from its subalterns, and to secure for criminal trials the best evidence that can be obtained.²⁶ (Emphasis supplied)

There is no reason for the Court to deny Causing the benefit of a liberal construction as regards prescription of crimes. When the Revised Penal Code, as amended, was enacted explicitly providing for a one-year prescriptive period for libel, the State, through an act of liberality and grace, renounced its right to prosecute said crime in favor of the accused. The Court, sitting as one, cannot simply revoke or withdraw such grant. Any diminution of this endowment must be directly and expressly sanctioned by the source itself, the State. Any doubt on this matter must only be resolved in favor of the grantee thereof, the accused.²⁷ Considering that the one-year prescriptive period is more favorable to the accused, paragraph 4, Article 90 of the Revised Penal Code should be applied to libel committed under the Cybercrime Act.

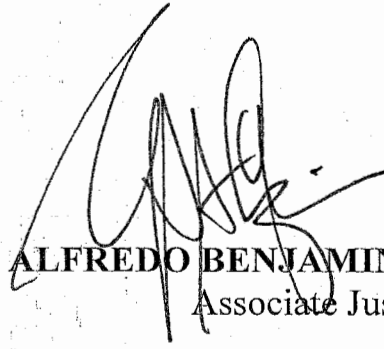
ACCORDINGLY, I vote to DENY the motions for reconsideration.

²⁴ See *Romualdez v. Marcelo*, 529 Phil. 90 [Per J. Ynares-Santiago, Special First Division] (Resolution).

²⁵ 44 Phil. 387 [Per C.J. Araullo, *En Banc*].

²⁶ *Id.*

²⁷ See *Romualdez v. Marcelo*, *supra* note 24.

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ALFREDO BENJAMIN S. CAGUIOA
Associate Justice