


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 REPRESENTATIVE FERDINAND LEDESMA HENANDEZ OF THE SECOND DISTRICT OF SOUTH COTABATO, Respondent.

Promulgated:

April 8, 2026

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CONCURRING AND DISSENTING
OPINION

KHO, JR., J.:

I concur insofar as the majority held that unsigned resolutions such as *Tolentino v. People*¹ have no doctrinal value. However, I respectfully register my dissent as to the ruling that the prescriptive period for cyber libel is only one year from discovery of the defamatory remark.

I.

As aptly pointed out by the majority, *Tolentino* was adjudicated by way of an unsigned resolution. Notably, Rule 13, Section 6 of the Internal Rules of the Supreme Court provides for the manner of adjudication of cases by the Court, to wit:

SEC. 6. *Manner of adjudication.* – The Court shall adjudicate cases as follows:

(a) By *decision*, when the Court disposes of the case on its merits and its rulings have significant doctrinal values; resolve novel issues; or impact on the social, political, and economic life of the nation. The decision shall state clearly and distinctly the facts and the law on which it is based. It shall bear the signatures of the Members who took part in the deliberation.

(b) By *signed resolution*, when the Court comprehensively resolves the motion for reconsideration filed in the case or when a dissenting opinion is registered against such resolution. The signed resolution shall no longer discuss issues resolved in the decision and need not repeat the facts

¹ G.R. No. 240310, August 6, 2018 [Notice, First Division].

and the law stated in it. It shall also bear the signatures of the Members who took part in the deliberation.

(c) By *unsigned resolution* when the Court disposes of the case on the merits, but its ruling is essentially meaningful only to the parties; has no significant doctrinal value; or is of minimal interest to the law profession, the academe, or the public. The resolution shall state clearly and distinctly the facts and the law on which it is based.

(d) By *minute resolution* when the Court (1) dismisses a petition filed under Rule 64 or 65 of the Rules of Court, citing as legal basis the failure of the petition to show that the tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; (2) denies a petition filed under Rule 45 of the said Rules, citing as legal basis the absence of reversible error committed in the challenged decision, resolution, or order of the court below; (3) dismisses an administrative complaint, citing as legal basis failure to show a *prima facie* case against the respondent; (4) denies a motion for reconsideration, citing as legal basis the absence of a compelling or cogent reason to grant the motion, or the failure to raise any substantial argument to support such motion or the decision of the Court has already passed upon the basic issues in the case; and (5) dismisses or denies a petition on technical grounds or deficiencies.

As may be gleaned from paragraph (c) thereof, while an unsigned resolution is a disposition on the merits, the same “is essentially meaningful only to the parties; ***has no significant doctrinal value***; or is of minimal interest to the law profession, the academe, or the public.” Furthermore, in *RMFPU Holdings, Inc. v. Forbes Park Association, Inc.*,² the Court had definitively clarified that similar with minute resolutions, the dispositions made in unsigned resolutions are only binding between the parties. ***More significantly, the doctrine of stare decisis cannot be invoked in a subsequent case to bind nonparties thereto, who may be similarly situated as the original parties to the case resolved by such unsigned resolutions.***³

Given the foregoing, whatever pronouncements made in *Tolentino*—or in other unsigned resolutions for that matter—could not be made precedents in future cases involving similar facts or issues.

II.

The foregoing notwithstanding, I respectfully tender my dissent on the majority’s pronouncement that the prescriptive period for cyber libel is only one year from discovery of the defamatory remark, for reasons as will be explained hereunder.

² 903 Phil. 518 (2021) [Per J. Caguioa, First Division].

³ *Id.* at 534, citing *Deutsche Bank AG Manila Branch v. Commissioner of Internal Revenue*, 716 Phil. 676 (2013) [Per C.J. Sereno, First Division].

Article 353, in relation to Article 355 of the Revised Penal Code⁴ (RPC), as amended, respectively defines and penalizes libel, in its traditional sense, whereas Section 4(c)(4), in relation to Section 6 of Republic Act (R.A.) No. 10175⁵ respectively defines and penalizes libel, committed through and with the use of information and communication technologies, otherwise known as cyber libel, to wit:

RPC, as Amended	RA 10175
<p>ART. 353. <i>Definition of libel.</i> – 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 or one who is dead.</p> <p>.....</p>	<p>SEC. 4. <i>Cybercrime Offenses.</i> – The following acts constitute the offense of cybercrime punishable under this Act:</p> <p>.....</p> <p>(c) Content-related Offenses:</p> <p>.....</p> <p>(4) Libel. – The unlawful or prohibited acts of libel as defined in Article 355 of the Revised Penal Code, as amended, committed through a computer system or any other similar means which may be devised in the future.</p> <p>.....</p>
<p>ART. 355. <i>Libel by means of writings or similar means.</i> – 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 <i>prision correccional</i> in its minimum and medium periods or a fine ranging from Forty Thousand Pesos (P40,000) to One Million Two Hundred Thousand Pesos (P1,200,000), or both, in addition to the civil action which may be brought by the offended party.</p>	<p>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: <i>Provided</i>, 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.</p>

Considering that traditional libel has a prescribed penalty of *prision correccional* in its minimum and medium periods, then the prescribed penalty for cyber libel, which should be one (1) degree higher than that provided for traditional libel, is *prision correccional* in its maximum period to *prision mayor* in its minimum period—or four years, two months, and one day, to eight years.

As regards the issue of prescription, the majority essentially posits that since cyber libel is the same crime as traditional libel, then pursuant to Article

⁴ REV. PEN. CODE (1930).

⁵ Republic Act No. 10175 (2012), Cybercrime Prevention Act of 2012.



90 of the RPC, the prescriptive period for cyber libel is one year,⁶ reckoned from the discovery of the alleged defamatory remarks posted online.⁷

As stated earlier, I respectfully disagree.

I respectfully submit that the view proffered by the majority is contrary to the ruling of the Court in *Disini, Jr. v. Secretary of Justice*.⁸ In *Disini*, the Court ruled that:

Section 6 of the Cybercrime Law

Section 6 provides:

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.⁹ (Emphasis supplied)

As explained by the Court in *Disini*, if libel is committed through the internet or through the use of information and communication technology (ICT), the use thereof is classified as a **qualifying circumstance**, or more appropriately, a **qualifying aggravating circumstance** that elevates the crime of traditional libel into cyber libel, considering that the penalty is one (1) degree higher than that of traditional libel.

The *ponencia* agrees that the use of ICT in libel, pursuant to the Court's ruling in *Disini*, is a qualifying circumstance. However, the *ponencia* failed to recognize the basic function of a qualifying circumstance in our criminal law. As early as in the case of *People v. Bayot*,¹⁰ the Court explained that the function of a qualifying circumstance is not only to give the crime its proper and exclusive name, but also to place the author thereof in such a situation as to deserve no other penalty than that specifically prescribed by law for the said crime.

⁶ See *ponencia*, pp. 11–19.

⁷ *Id.* at 20–24.

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

⁹ *Id.* at 125–126.

¹⁰ 64 Phil. 269 (1937) [Per J. Diaz, *En Banc*].

Further, since the use of ICT is the qualifying circumstance for cyber libel, the presence of such circumstance is considered an additional essential requisite of cyber libel compared to the standard elements of traditional libel. The presence of such additional essential requisite transforms the crime of traditional libel to cyber libel. Thus, traditional libel and cyber libel are two different and separate crimes.

Moreover, in the recent case of *People v. ABC260708*,¹¹ the Court had the opportunity to explain the nature of qualifying aggravating circumstances, to wit:

A qualifying aggravating circumstance changes the nature or designation of the crime and must be provided in the definition of the offense. It warrants the increase of the imposable penalty even to the next higher degrees as provided by law and cannot be offset by an ordinary mitigating circumstance. The circumstances enumerated in Article 248 of the RPC elevate the crime from homicide to murder. Other species of qualifying aggravating circumstances are those present in qualified theft and qualified seduction. Notably, if one of the aggravating circumstances is used to qualify the crime, the others will be deemed as generic aggravating circumstances. For example, where treachery has already been appreciated to qualify the crime as murder, the presence of evident premeditation should be considered only as a generic aggravating circumstance.¹² (Emphasis supplied, citations omitted)

A simple illustration.

An accused mortally wounded the victim, but the latter survived due to timely medical intervention. The crime under this scenario may be considered as either frustrated homicide or frustrated murder, depending on the existence of qualifying circumstances as provided under Article 248 of the RPC. Verily, the existence of the recognized qualifying circumstances will change the very nature and designation of the offense from homicide to murder. As a consequence, the penalty will also change, and necessarily, will have an effect insofar as the prescriptive period of the crime is concerned. To elucidate, since the prescribed penalty for frustrated homicide is *prision mayor* (an afflictive penalty other than death, *reclusion perpetua*, or *reclusion temporal*), then the prescriptive period for this crime is 15 years. On the other hand, since the prescribed penalty for frustrated murder is *reclusion temporal*, then the prescriptive period for this crime is 20 years.

Applying the foregoing in libel and cyber libel cases, if the libel is committed via traditional means (e.g., print media), then the specific prescriptive period as provided under Article 90 of the RPC—one year—is controlling. On the other hand, if the libel is committed through the use of ICT

¹¹ 950 Phil. 199 (2024) [Per J. M. Lopez, *En Banc*].

¹² *Id.* at 229.

(e.g., by posting the same through social media websites), then the crime is not anymore traditional libel or a specie thereof, as defined and penalized under Article 353, in relation to Article 355 of the RPC. It now becomes a distinct crime of cyber libel, as defined and penalized under Section 4(c)(4) of RA 10175 because the use of ICT—a qualifying aggravating circumstance—changes the nature of the crime from libel to cyber libel.

Due to the change of the nature of the crime from libel to cyber libel brought about by the qualifying aggravating circumstance of use of ICT, the one-year prescriptive period provided under Article 90 of the RPC is no longer controlling, *as it is only applicable in traditional libel*. Rather, taking into consideration that the prescribed penalty for cyber libel, as shown above, is *prision correccional* in its maximum period to *prision mayor* in its minimum period (four years, two months, and one day, to eight years), which is considered an afflictive penalty, *then it is posited that the prescriptive period for libel is 15 years from discovery of the defamatory remark*.

ACCORDINGLY, I VOTE to grant the Motion for Partial Reconsideration filed by the Office of the Solicitor General.



ANTONIO T. KHO, JR.

Associate Justice

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