

FIRST DIVISION

[G.R. No. 223451, March 14, 2018]

ANTONIO F. TRILLANES IV, PETITIONER, VS. HON. EVANGELINE C. CASTILLO-MARIGOMEN, IN HER CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, QUEZON CITY, BRANCH 101 AND ANTONIO L. TIU, RESPONDENTS.

DECISION

TIJAM, J.:

This is a Petition for *Certiorari*^[1] under Rule 65 of the Rules of Court over public respondent's Order^[2] dated May 19, 2015 which denied petitioner's motion to dismiss premised on the special and affirmative defenses in his Answer, and public respondent's Order^[3] dated December 16, 2015 which denied petitioner's Motion for Reconsideration, both issued in Civil Case No. R-QZN-14-10666-CV entitled "Antonio L. Tiu v. Antonio F. Trillanes IV."

The Facts

Petitioner, as a Senator of the Republic of the Philippines, filed Proposed Senate Resolution No. 826 (P.S. Resolution No. 826) directing the Senate's Committee on Accountability of Public Officials and Investigations to investigate, in aid of legislation, the alleged P1.601 Billion overpricing of the new 11-storey Makati City Hall II Parking Building, the reported overpricing of the 22-storey Makati City Hall Building at the average cost of P240,000.00 per square meter, and related anomalies purportedly committed by former and local government officials.^[4]

Petitioner alleged that at the October 8, 2014 Senate Blue Ribbon Sub-Committee (SBRS) hearing on P.S. Resolution No. 826, former Makati Vice Mayor Ernesto Mercado (Mercado) testified on how he helped former Vice President Jejomar Binay (VP Binay) acquire and expand what is now a 350-hectare estate in Barangay Rosario, Batangas, which has been referred to as the *Hacienda* Binay, about 150 hectares of which have already been developed, with paved roads, manicured lawns, a mansion with resort-style swimming pool, man-made lakes, Japanese gardens, a horse stable with practice race tracks, an extensive farm for fighting cocks, green houses and orchards.^[5]

According to petitioner, Mercado related in said hearing that because VP Binay's wife would not allow the estate's developer, Hillmares' Construction Corporation (HCC), to charge the development expenses against VP Binay's 13% share in kickbacks from all Makati infrastructure projects, HCC was compelled to add the same as "overprice" on Makati projects, particularly the Makati City Hall Parking Building.^[6]

Petitioner averred that private respondent thereafter claimed "absolute ownership"

of the estate, albeit asserting that it only covered 145 hectares, through his company called Sunchamp Real Estate Corporation (Sunchamp), which purportedly entered into a Memorandum of Agreement (MOA) with a certain Laureano R. Gregorio, Jr. (Gregorio, Jr.), the alleged owner of the consolidated estate and its improvements.^[7]

Petitioner further averred that private respondent testified before the SBRS on the so-called *Hacienda* Binay on October 22 and 30, 2014, and at the October 30, 2014 hearing, the latter presented a one-page Agreement^[8] dated January 18, 2013 between Sunchamp and Gregorio.^[9] On its face, the Agreement covered a 150-hectare property in Rosario, Batangas and showed a total consideration of P400 Million, payable in tranches and in cash and/or listed shares, adjustable based on the fair market value. The Agreement likewise ostensibly showed that Gregorio is obligated to cause the registration of improvements in the name of Sunchamp and within two years, to deliver titles/documents evidencing the real and enforceable rights of Sunchamp, and the latter, in the interim, shall have usufruct over the property, which is extendible.

Petitioner admitted that during media interviews at the Senate, particularly during gaps and breaks in the plenary hearings as well as committee hearings, and in reply to the media's request to respond to private respondent's claim over the estate, he expressed his opinion that based on his office's review of the documents, private respondent appears to be a "front" or "nominee" or is acting as a "dummy" of the actual and beneficial owner of the estate, VP Binay.^[10]

On October 22, 2014, private respondent filed a Complaint for Damages^[11] against petitioner, docketed as Civil Case No. R-QZN-14-10666-CV, for the latter's alleged defamatory statements before the media from October 8 to 14, 2014, specifically his repeated accusations that private respondent is a mere "dummy" of VP Binay.

Private respondent alleged that he is a legitimate businessman engaged in various businesses primarily in the agricultural sector, and that he has substantial shareholdings, whether in his own name or through his holding companies, in numerous corporations and companies, globally, some of which are publicly listed. He averred that because of petitioner's defamatory statements, his reputation was severely tarnished as shown by the steep drop in the stock prices of his publicly listed companies, AgriNurture, Inc. (AgriNurture), of which he is the Executive Chairman, and Greenery Holdings, Inc. (Greenery), of which he is the Chairman, President and Chief Executive Officer. To illustrate this, private respondent alleged that on October 7, 2014, the price of a share of stock of Greenery was P0.011 per share and the volume of trading was at 61 Million, while on October 8, 2014, the price dropped to P0.0099 per share (equivalent to a 10% reduction) and the volume of trading increased by more than seven times (at 475.7 Million), with the price continuing to drop thereafter. Similarly, private respondent alleged that on October 8, 2014, AgriNurture experienced a six percent (6%) drop from its share price of October 7, 2014 (from P2.6 to P2.45) and an increase of more than six times in the volume of trading (from 68,000 to 409,000), with the share price continuing to drop thereafter. According to private respondent, the unusual drop in the share price and the drastic increase in trading could be attributed to the statements made by petitioner, which caused the general public to doubt his capability as a businessman and to unload their shares, to the detriment of private respondent who has

substantial shareholdings therein through his holding companies.

Denying that he is a "dummy," private respondent alleged that he possesses the requisite financial capacity to fund the development, operation and maintenance of the "Sunchamp Agri-Tourism Park." He averred that petitioner's accusations were defamatory, as they dishonored and discredited him, and malicious as they were intended to elicit bias and prejudice his reputation. He further averred that such statements were not absolutely privileged since they were not uttered in the discharge of petitioner's functions as a Senator, or qualifiedly privileged under Article 354 of the Revised Penal Code,^[12] nor constitutive of fair commentaries on matters of public interest. He added that petitioner's statement that he was willing to apologize if proven wrong, showed that he spoke without a reasonable degree of care and without regard to the gravity of his sweeping accusation.

Claiming that petitioner's statements besmirched his reputation, and caused him sleepless nights, wounded feelings, serious anxiety, mental anguish and social humiliation, private respondent sought to recover P4 Million as moral damages, P500,000.00 as exemplary damages and attorney's fees in the amount of P500,000.00.

In his Answer with Motion to Dismiss,^[13] petitioner raised the following Special and Affirmative Defenses:

First, petitioner averred that private respondent failed to state and substantiate his cause of action since petitioner's statement that private respondent was acting as a "front," "nominee" or "dummy" of VP Binay for his *Hacienda* Binay is a statement of fact.^[14]

Petitioner asserted that private respondent was unable to prove his alleged ownership of the subject estate, and that Mercado had testified that VP Binay is the actual and beneficial owner thereof, based on his personal knowledge and his participation in the consolidation of the property. Petitioner noted that the titles covering the estate are in the names of persons related to or identified with Binay. He argued that the one-page Agreement submitted by private respondent hardly inspires belief as it was unnotarized and lacked details expected in a legitimate document such as the technical description of the property, the certificates of title, tax declarations, the area of the property and its metes and bounds, schedule of payments, list of deliverables with their due dates, warranties and undertakings and closing date. He also pointed out that while the total consideration for the Agreement was P446 Million, the downpayment was only P5 Million. With a yearly P30 Million revenue from the orchard, petitioner questioned why Gregorio would agree to part with his possession for a mere one percent (1%) of the total consideration.^[15] Petitioner likewise disputed private respondent's supposed claim that Sunchamp had introduced improvements in the estate amounting to P50 Million, stressing that it took over the estate only in July 2014 and that it did not own the property and probably never would given the agrarian reform issues. Petitioner claimed that it was based on the foregoing and the report of his legal/legislative staff that he made his statement that private respondent is a front, nominee or dummy of VP Binay.^[16]

Second, petitioner posited that his statements were part of an ongoing public debate

on a matter of public concern, and private respondent, who had freely entered into and thrust himself to the forefront of said debate, has acquired the status of a public figure or quasi-public figure. For these reasons, he argued that his statements are protected by his constitutionally guaranteed rights to free speech and freedom of expression and of the press.^[17]

Third, petitioner contended that his statements, having been made in the course of the performance of his duties as a Senator, are covered by his parliamentary immunity under Article VI, Section 11 of the 1987 Constitution.^[18]

Citing *Antero J Pobre v. Sen. Miriam Defensor-Santiago*,^[19] petitioner argued that the claim of falsity of statements made by a member of Congress does not destroy the privilege of parliamentary immunity, and the authority to discipline said member lies in the assembly or the voters and not the courts.

Petitioner added that he never mentioned private respondent's two companies in his interviews and it was private respondent who brought them up. Petitioner pointed out that private respondent only had an eight percent (8%) shareholding in one of said companies and no shareholding in the other, and that based on the records of the Philippine Stock Exchange, the share prices of both companies had been on a downward trend long before October 8, 2014. Petitioner described the Complaint as a mere media ploy, noting that private respondent made no claim for actual damages despite the alleged price drop. This, according to petitioner, showed that private respondent could not substantiate his claim.^[20]

Petitioner prayed for the dismissal of the Complaint and for the award of his Compulsory Counterclaims consisting of moral and exemplary damages and attorney's fees.^[21]

Petitioner subsequently filed a Motion (to Set Special and Affirmative Defenses for Preliminary Hearing)^[22] on the strength of Section 6, Rule 16 of the Rules of Court, which allows the court to hold a preliminary hearing on any of the grounds for dismissal provided in the same rule, as may have been pleaded as an affirmative defense in the answer.^[23]

Private respondent opposed the motion on the grounds that the motion failed to comply with the provisions of the Rules of Court on motions, and a preliminary hearing on petitioner's special and affirmative defenses was prohibited as petitioner had filed a motion to dismiss.

On May 19, 2015, public respondent issued the Order^[24] denying petitioner's motion to dismiss premised on the special and affirmative defenses in his Answer. The Order, in pertinent part, states:

FIRST ISSUE: The Complaint failed to state a cause of action.

Whether true or false, the allegations in the complaint, would show that the same are sufficient to enable the court to render judgment according to the prayer/s in the complaint.

SECOND ISSUE: The defendant's parliamentary immunity.

The defense of parliamentary immunity may be invoked only on special circumstances such that the special circumstance becomes a factual issue that would require for its establishment the conduct of a full blown trial.

With the defense invoking the defendant's parliamentary immunity from suit, it claims that this Court has no jurisdiction over the instant case. Again, whether or not the courts have jurisdiction over the instant case is determined based on the allegations of the complaint.

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Subject to the presentation of evidence, the complaint alleged that the libelous or defamatory imputations (speech) committed by the defendant against the plaintiff were made not in Congress or in any committee thereof. This parliamentary immunity, again, is subject to special circumstances which circumstances must be established in a full blown trial.

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FOURTH. Whether or not a motion to dismiss was filed to prevent a preliminary hearing on the defendant's special and affirmative defenses.

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Said 'answer with motion to dismiss' of the defendant did not contain any notice of hearing and was not actually heard. To the mind of the Court, the use of the phrase 'with motion to dismiss' highlights the allegations of special and affirmative defenses which are grounds for a motion to dismiss. Thus, absent any motion to dismiss as contemplated by law, the preliminary hearing on the special and affirmative defenses of the defendant may be conducted thereon.

Petitioner's motion for reconsideration was denied in public respondent's Order^[25] dated December 16, 2015. Public respondent held that:

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To reiterate the ruling in the assailed order, parliamentary immunity is subject to special circumstances which must be established in a full blown trial.

In the complaint, the plaintiff stated that the defamatory statements were made in broadcast and print media, not during a Senate hearing. Hence, between the allegations in the complaint and the affirmative defenses in the answer, the issue on whether or not the alleged defamatory statements were made in Congress or in any committee thereof arises. It would be then up to the Court to determine whether the alleged defamatory statements are covered by parliamentary immunity after trial.