

## SECOND DIVISION

[ G.R. No. 226454, November 20, 2017 ]

**DIGNA RAMOS, PETITIONER, VS. PEOPLE OF THE PHILIPPINES,  
RESPONDENT.**

### D E C I S I O N

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>[1]</sup> are the Decision<sup>[2]</sup> dated March 29, 2016 and the Resolution<sup>[3]</sup> dated August 10, 2016 of the Court of Appeals (CA) in CA-G.R. CR No. 36970, which affirmed with modification the conviction of petitioner Digna Ramos (Ramos) for the crime of Grave Oral Defamation, defined and penalized under Article 358 of the Revised Penal Code (RPC).

#### The Facts

This case stemmed from an Information<sup>[4]</sup> filed before the Municipal Circuit Trial Court of Piat-Sto. Niño, Cagayan Province (MCTC) charging Ramos of the crime of Grave Oral Defamation,<sup>[5]</sup> the accusatory portion of which reads:

That on about 4:20 o'clock (sic) in the afternoon of 17<sup>th</sup> September 2003 at barangay Centro Norte, Sto. Niño, Cagayan and within the jurisdiction of this Honorable Court, the above-named accused, with ill motive, did then and there(,) wil(l)fully, unlawfully, and feloniously, uttered defamatory remarks against the honor and reputation of the undersigned complaint Mrs. Patrocinia R. Dumaua, the following words and/or phrases address (sic) to the undersigned complainant "*UKININAM, PUTA, AWAN AD-ADAL MO*" which if translated in the English language would mean, "*VULVA OF YOUR MOTHER, PROSTITUTE, ILLITERATE.*"

CONTRARY TO LAW.<sup>[6]</sup>

The prosecution alleged that at around four (4) o'clock of September 17, 2003, private complainant Patrocinia Dumaua (Dumaua) was watering her plants in her yard, when suddenly, she noticed five (5) schoolchildren pick up dried leaves and throw them into her yard. When Dumaua called the attention of the schoolchildren, the latter ran towards the direction of Sto. Nino Elementary School, where Ramos works as a public school teacher. A little later, Ramos arrived, picked up dried banana leaves, and allegedly threw them into Dumaua's yard, while saying "*ta sinnu ti pabasulem nga agilappak ti bulung, siguro dakayo ta nagpabirthday kayo*" which means "Whom do you blame throwing leaves? Maybe you did because you hosted a

birthday party." This prompted a quarrel between Ramos and Dumaua, during the course of which Ramos uttered to the latter, "*Ukininam, puta, awan ad-adalmo, nagbalay kayo ti nagdakkelan, magaburan daytoy balay kon*" which translates to "Vulva of your mother, prostitute, illiterate, you built a very big house, it overshadows my house." This was corroborated by Orlando Baltazar and Babileo Dumaua, who testified that they were watching television inside Dumaua's house when the commotion ensued. According to them, when they went out of the house to check the incident, they saw the verbal altercation between Ramos and Dumaua already at its height, with onlookers observing the same.<sup>[7]</sup>

In her defense, Ramos denied making any derogatory remarks against Dumaua, particularly "*ukininam, puta, awan ad-adal mo.*" She then narrated that on the time and date in question, she was traversing a pathway located between Dumaua's house and that of another neighbor when she saw Dumaua standing at her yard. Suddenly, Dumaua got angry at her, blamed her for the garbage in her yard, and threatened her not to use the pathway or else something will happen. Irked, Ramos asked Dumaua the basis for prohibiting her to use the pathway and demanded that she be shown her title over the pathway, but the latter could not produce anything. Ramos then proceeded to the Sto. Niño Police Station to report the incident and file a case of grave coercion against Dumaua. Ramos's testimony was then corroborated by her husband, who stated that he was waiting for his wife to go home when he noticed a commotion involving her. Upon arriving thereat, he pulled Ramos away as Dumaua was already armed with two (2) stones and about to grab his wife.<sup>[8]</sup>

### **The MCTC Ruling**

In a Decision<sup>[9]</sup> dated May 15, 2009, the MCTC found Ramos guilty beyond reasonable doubt of the crime of Grave Oral Defamation, and accordingly, sentenced her to suffer the penalty of imprisonment of one (1) year and one (1) day, as minimum, to one (1) year and eight (8) months, as maximum, of *prision correccional* and ordered to pay Dumaua the amount of P20,000.00 as moral damages, as well as the costs of suit.<sup>[10]</sup>

Ramos separately moved for a new trial and for reconsideration, both of which were denied in Resolutions dated September 28, 2009 and November 16, 2009, respectively. Aggrieved, she appealed to the Regional Trial Court of Tuao, Cagayan, Branch 11 (RTC).<sup>[11]</sup>

### **The RTC Ruling**

In a Decision<sup>[12]</sup> dated September 4, 2014, the RTC affirmed the MCTC ruling *in toto*<sup>[13]</sup> It found that the prosecution has indeed established the fact that Ramos uttered defamatory statements of a serious and insulting nature against Dumaua through the positive testimonies not only of the latter, but also of the latter's corroborative witnesses. As such, Ramos's bare denial that she did not say anything defamatory against Dumaua cannot be given any credence for being unsubstantiated and self-serving.<sup>[14]</sup>

Dissatisfied, Ramos filed a petition for review under Rule 42 of the Rules of Court before the CA.<sup>[15]</sup>

### **The CA Ruling**

In a Decision<sup>[16]</sup> dated March 29, 2016, the CA affirmed the rulings of the courts *a quo*, with modification, adjusting Ramos's period of imprisonment to four (4) months of *arresto mayor*, as minimum, to one (1) year and eight (8) months of *prision correccional*, as maximum, in accordance with the Indeterminate Sentence Law.<sup>[17]</sup>

Agreeing with the findings of the courts *a quo*, the CA ruled that Ramos's bare denials could not stand against the clear and positive testimony of the witnesses that she indeed uttered the words "*ukininam, puta, awan ad-adal mo*" which means "vulva of your mother, prostitute, illiterate" against Dumaua. In this regard, the CA held that such words were defamatory and serious in nature as the scurrilous imputations strike deep into the victim's character.<sup>[18]</sup>

Undaunted, Ramos moved for reconsideration<sup>[19]</sup> but the same was denied in a Resolution<sup>[20]</sup> dated August 10, 2016; hence, this petition.

### **The Issue Before the Court**

The issue for the Court's resolution is whether or not the CA correctly upheld Ramos's conviction for the crime of Grave Oral Defamation.

### **The Court's Ruling**

The appeal is partly meritorious.

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review and it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.<sup>[21]</sup> "The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law."<sup>[22]</sup>

Moreover, while it is a general rule that a re-examination of factual findings cannot be done through a petition for review on *certiorari* under Rule 45 of the Rules of Court, as in this case, since petitions of this nature are limited only to questions of law,<sup>[23]</sup> this rule admits of various exceptions, such as when the judgment is based on a misapprehension of facts or when the factual findings are contrary to the evidence on record.<sup>[24]</sup>

Guided by the foregoing considerations, the Court deems it proper to modify Ramos's conviction, as will be explained below.

Article 358 of the RPC defines and penalizes the crimes of Serious Oral Defamation and Slight Oral Defamation, to wit:

Article 358. *Slander*. – Oral defamation shall be punished by *arresto mayor* in its maximum period to *prision correccional* in its minimum period if it is of a serious and insulting nature; otherwise, the penalty shall be *arresto menor* or a fine not exceeding 200 pesos.

In *De Leon v. People*,<sup>[25]</sup> the Court thoroughly discussed the nature of Oral Defamation and the parameters for classifying the same as either Grave or Slight:

Oral Defamation or Slander is libel committed by oral (spoken) means, instead of in writing. It is defined as "the speaking of base and defamatory words which tend to prejudice another in his reputation, office, trade, business or means of livelihood." **The elements of oral defamation are: (1) there must be an imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, status or circumstances; (2) made orally; (3) publicly; (4) and maliciously; (5) directed to a natural or juridical person, or one who is dead; (6) which tends to cause dishonor, discredit or contempt of the person defamed.** Oral defamation may either be simple or grave. **It becomes grave when it is of a serious and insulting nature.**

An allegation is considered defamatory if it ascribes to a person the commission of a crime, the possession of a vice or defect, real or imaginary or any act, omission, condition, status or circumstance which tends to dishonor or discredit or put him in contempt or which tends to blacken the memory of one who is dead. To determine whether a statement is defamatory, the words used in the statement must 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. It must be stressed that words which are merely insulting are not actionable as libel or slander *per se*, and mere words of general abuse however opprobrious, ill-natured, or vexatious, whether written or spoken, do not constitute a basis for an action for defamation in the absence of an allegation for special damages. The fact that the language is offensive to the plaintiff does not make it actionable by itself.

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**Whether the offense committed is serious or slight oral defamation, depends not only upon the sense and grammatical meaning of the utterances but also upon the special circumstances of the case, like the social standing or the advanced age of the offended party. "The gravity depends upon; (1) the expressions used; (2) the personal relations of the accused and the offended party; and (3) the special**