

SECOND DIVISION

[G.R. No. 161032, September 16, 2008]

**ERWIN TULFO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES
AND ATTY. CARLOS T. SO, RESPONDENTS.**

G.R. NO. 161176

**SUSAN CAMBRI, REY SALAO, JOCELYN BARLIZO, AND PHILIP
PICHAY, PETITIONERS, VS. COURT OF APPEALS, PEOPLE OF THE
PHILIPPINES, AND CARLOS SO, RESPONDENTS.**

D E C I S I O N

VELASCO JR., J.:

The freedom of the press is one of the cherished hallmarks of our democracy; but even as we strive to protect and respect the fourth estate, the freedom it enjoys must be balanced with responsibility. There is a fine line between freedom of expression and libel, and it falls on the courts to determine whether or not that line has been crossed.

The Facts

On the complaint of Atty. Carlos "Ding" So of the Bureau of Customs, four (4) separate informations were filed on September 8, 1999 with the Regional Trial Court in (RTC) Pasay City. These were assigned to Branch 112 and docketed as Criminal Case Nos. 99-1597 to 99-1600, and charged petitioners Erwin Tulfo, as author/writer, Susan Cambri, as managing editor, Rey Salao, as national editor, Jocelyn Barlizo, as city editor, and Philip Pichay, as president of the Carlo Publishing House, Inc., of the daily tabloid *Remate*, with the crime of libel in connection with the publication of the articles in the column "Direct Hit" in the issues of May 11, 1999; May 12, 1999; May 19, 1999; and June 25, 1999.^[1] The four informations read as follows:

Criminal Case No. 99-1598

That on or about the 11th day of May, 1999 in Pasay City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping one another, being then the columnist, publisher and managing editor, respectively of "REMATE", a tabloid published daily and of general circulation in the Philippines, did then and there willfully, unlawfully and feloniously and with malicious intent to discredit or dishonor complainant, ATTY. CARLOS "DING" SO, and with the malicious intent of injuring and exposing said complainant to public hatred, contempt and ridicule, write

and publish in the regular issue of said publication on May 11, 1999, its daily column "DIRECT HIT", quoted hereunder, to wit:

PINAKAMAYAMAN SA CUSTOMS

Ito palang si Atty. Ding So ng Intelligence Division ng Bureau of Customs and [sic] pinakamayaman na yata na government official sa buong bansa sa pangungurakot lamang diyan sa South Harbor.

Hindi matibag ang gagong attorney dahil malakas daw ito sa Iglesia ni Kristo.

Hoy, So! . . nakakahiya ka sa mga INC, ikaw na yata ang pinakagago at magnanakaw na miyembro nito.

Balita ko, malapit ka nang itiwalag ng nasabing simbahan dahil sa mga kalokohan mo.

Abangan bukas ang mga raket ni So sa BOC.

WHEREIN said complainant was indicated as an extortionist, a corrupt public official, smuggler and having illegally acquired wealth, all as already stated, with the object of destroying his reputation, discrediting and ridiculing him before the bar of public opinion.^[2]

Criminal Case No. 99-1599

That on or about the 12th day of May, 1999 in Pasay City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping one another, being then the columnist, publisher and managing editor, respectively of "REMATE", a tabloid published daily and of general circulation in the Philippines, did then and there willfully, unlawfully and feloniously and with malicious intent to discredit or dishonor complainant, ATTY. CARLOS "DING" SO, and with the malicious intent of injuring and exposing said complainant to public hatred, contempt and ridicule, write and publish in the regular issue of said publication on May 12, 1999, in daily column "DIRECT HIT", quoted hereunder, to wit:

SI ATTY. SO NG BOC

"LINTEK" din sa pangungurakot itong Ding So ng Bureau of Customs Intelligence Unit sa South Harbor.

Daan-daang libong piso ang kinikita ng masiba at matakaw na si So sa mga importer na ayaw ideklara ang totoong laman ng mga container para makaiwas sa pagbayad ng malaking customs duties at taxes.

Si So ang nagpapadrino sa mga pag-inspection ng mga container na ito. Siyempre-binibigyan din niya ng salapi yung

ibang mga ahensiya para pumikit na lang at itikom ang kanilang nga [sic] bibig diyan sa mga buwayang taga BOC.

Awang-awa ako sa ating gobyerno. Bankrupt na nga, ninanakawan pa ng mga kawatan tulad ni So.

Ewan ko ba rito kay Atty. So, bakit hindi na lang tumayo ng sarili niyang robbery-hold-up gang para kumita ng mas mabilis.

Hoy So.. hindi bagay sa iyo ang pagiging attorney . . . Mas bagay sa iyo ang pagiging buwayang naka korbata at holdaper. Magnanakaw ka So!!"

WHEREIN said complainant was indicated as an extortionist, a corrupt public official, smuggler and having illegally acquired wealth, all as already stated, with the object of destroying his reputation, discrediting and ridiculing him before the bar of public opinion.^[3]

Criminal Case No. 99-1600

That on or about 19th day of May, 1999 in Pasay City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping one another, being then the columnist, publisher and managing editor, respectively of "REMATE", a tabloid published daily and of general circulation in the Philippines, did then and there willfully, unlawfully and feloniously and with malicious intent to discredit or dishonor complainant, ATTY. CARLOS "DING" SO, and with the malicious intent of injuring and exposing said complainant to public hatred, contempt and ridicule, write and publish in the regular issue of said publication on May 19, 1999, in daily column "DIRECT HIT", quoted hereunder, to wit:

x x x x

"Tulad ni Atty. Ding So ng Bureau of Customs Intelligence Division, saksakan din ng lakas itong si Daniel Aquino ng Presidential Anti-Smuggling Unit na nakatalaga sa South Harbor.

Tulad ni So, magnanakaw na tunay itong si Aquino.

Panghihingi ng pera sa mga brokers, ang lakad nito.

Pag hindi nagbigay ng pera ang mga brokers, maiipit ang pagre-release ng kanilang kargamento."

WHEREIN said complainant was indicated as an extortionist, a corrupt public official, smuggler and having illegally acquired wealth, all as already stated, with the object of destroying his reputation, discrediting

and ridiculing him before the bar of public opinion.^[4]

Criminal Case No. 99-1597

That on or about 25th day of June, 1999 in Pasay City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping one another, being then the columnist, publisher and managing editor, respectively of "REMATE", a tabloid published daily and of general circulation in the Philippines, did then and there willfully, unlawfully and feloniously and with malicious intent to discredit or dishonor complainant, ATTY. CARLOS "DING" T. SO, and with the malicious intent of injuring and exposing said complainant to public hatred, contempt and ridicule, write and publish in the regular issue of said publication on June 25, 1999, its daily column "DIRECT HIT", quoted hereunder, to wit:

x x x x

Nagfile ng P10 M na libel suit itong si Atty. Carlos So ng Bureau of Customs laban sa inyong lingkod at ilang opisyaes ng Remate sa Pasay City Court. Nagalit itong tarantadong si Atty. So dahil binanatan ko siya at inexpose ang kagaguhan niya sa BOC.

Hoy, So . . . dagdagan mo pa ang pagnanakaw mo dahil hindi kita tatantanan. Buhay ka pa sinusunog na ang iyong kaluluwa sa impyerno.

WHEREIN said complainant was indicated as an extortionist, a corrupt public official, smuggler and having illegally acquired wealth, all as already stated, with the object of destroying his reputation, discrediting and ridiculing him before the bar of public opinion.^[5]

On November 3, 1999, Tulfo, Salao, and Cambri were arraigned, while Barlizo and Pichay were arraigned on December 15, 1999. They all pleaded not guilty to the offenses charged.

At pre-trial, the following were admitted by petitioners: (1) that during the four dates of the publication of the questioned articles, the complaining witness was not assigned at South Harbor; (2) that the accused and complaining witness did not know each other during all the time material to the four dates of publication; (3) that *Remate* is a newspaper/tabloid of general circulation in the Philippines; (4) the existence and genuineness of the *Remate* newspaper; (5) the column therein and its authorship and the alleged libelous statement as well as the editorial post containing the designated positions of the other accused; and (6) the prosecution's qualified admission that it is the duty of media persons to expose corruption.^[6]

The prosecution presented four witnesses, namely: Oscar M. Ablan, Atty. James Fortes, Jr., Gladys Fontanilla, and complainant Atty. So. The prosecution presented documentary evidence as well.

Ablan testified that he had read the four columns written by Tulfo, and that the

articles were untrue because he had known Atty. So since 1992 and had worked with him in the Customs Intelligence and Investigation Service Division of the Bureau of Customs. He further testified that upon reading the articles written by Tulfo, he concluded that they referred to Atty. So because the subject articles identified "Atty. Carlos" as "Atty. `Ding' So" of the Customs Intelligence and Investigation Service Division, Bureau of Customs and there was only one Atty. Carlos "Ding" So of the Bureau of Customs.^[7]

Fontanilla, Records Officer I of the Bureau of Customs, testified that she issued a certification in connection with these cases upon the request of Atty. So.^[8] This certification stated that as per records available in her office, there was only one employee by the name of "Atty. Carlos T. So" who was also known as "Atty. Ding So" in the Intelligence Division of the Customs Intelligence and Investigation Service or in the entire Bureau of Customs.^[9]

Atty. Fortes testified that he knew Atty. So as a fellow member of the *Iglesia Ni Kristo* and as a lawyer, and that having read the articles of Tulfo, he believed that these were untrue, as he knew Atty. Carlos "Ding" So.^[10]

Atty. So testified that he was the private complainant in these consolidated cases. He further testified that he is also known as Atty. "Ding" So, that he had been connected with the Bureau of Customs since October 1981, and that he was assigned as Officer-in-Charge (OIC) of the Customs Intelligence and Investigation Service Division at the Manila International Container Port since December 27, 1999. He executed two complaint-affidavits, one dated June 4, 1999 and the other dated July 5, 1999, for Criminal Case Nos. 99-1598 to 99-1600. Prior to this, he also filed 14 cases of libel against Raffy Tulfo, brother of petitioner Erwin Tulfo. He testified that petitioner Tulfo's act of imputing upon him criminality, assailing his honesty and integrity, caused him dishonor, discredit, and contempt among his co-members in the legal profession, co-officers of the Armed Forces of the Philippines, co-members and peers in the *Iglesia ni Kristo*, his co-officers and employees and superior officers in the Bureau of Customs, and among ordinary persons who had read said articles. He said it also caused him and his family sleepless nights, mental anguish, wounded feelings, intrigues, and embarrassment. He further testified that he included in his complaint for libel the officers of *Remate* such as the publisher, managing editor, city editor, and national editor because under Article 360 of the Revised Penal Code (RPC), they are equally responsible and liable to the same extent as if they were the author of the articles. He also testified that "Ding" is his nickname and that he is the only person in the entire Bureau of Customs who goes by the name of Atty. Carlos T. So or Atty. Carlos "Ding" So.^[11]

In his defense, petitioner Tulfo testified that he did not write the subject articles with malice, that he neither knew Atty. So nor met him before the publication of the articles. He testified that his criticism of a certain Atty. So of the South Harbor was not directed against the complainant, but against a person by the name of Atty. "Ding" So at the South Harbor. Tulfo claimed that it was the practice of certain people to use other people's names to advance their corrupt practices. He also claimed that his articles had neither discredited nor dishonored the complainant because as per his source in the Bureau of Customs, Atty. So had been promoted. He further testified that he did not do any research on Atty. So before the subject articles, because as a columnist, he had to rely on his source, and that he had