

SECOND DIVISION

[G.R. No. 125813, February 06, 2007]

**FRANCISCO I. CHAVEZ AND PEOPLE OF THE PHILIPPINES,
PETITIONERS, VS. COURT OF APPEALS, RAFAEL BASKIÑAS AND
RICARDO MANAPAT, RESPONDENTS.**

DECISION

TINGA, J.:

An Information for Libel dated 26 June 1995 was filed before the Regional Trial Court (RTC) of Manila against private respondents Rafael Baskinas and Ricardo Manapat, with petitioner Francisco Chavez as the complainant. The Information reads in part:

"That on or about March 1995, in the City of Manila, Philippines, the said accused [Baskinas and Manapat] conspiring and confederating with others whose true names, real identities and present whereabouts are still unknown and helping one another, with malicious intent of impeaching the honesty, virtue, character and reputation of one FRANCISCO I. CHAVEZ, former Solicitor General of the Philippines, and with the evident purpose of injuring and exposing him to public ridicule, hatred and contempt, did then and there willfully, unlawfully and maliciously cause to be published in "Smart File," a magazine of general circulation in Manila, and in their respective capacity as Editor-in-Chief and Author-Reporter, the following, to wit:

x x x x

with which published articles, the said accused meant and intended to convey, as in fact they did mean and convey false and malicious imputations of a defect, vice and crime, which insinuations and imputations as the accused well knew are entirely false and untrue and without the foundation in fact whatsoever, and tend to impeach, besmirch and destroy the good name, character and reputation of said FRANCISCO I. CHAVEZ, as in fact, he was exposed to dishonor, discredit, public hatred, contempt and ridicule.

CONTRARY TO LAW.^[1]

Private respondents moved to quash the Information, as well as the corresponding warrants of arrest subsequently issued. However, these motions were denied by the RTC of Manila, Branch 16, in an Order dated 31 August 1995.^[2] Private respondents then filed a Petition for Certiorari with the Court of Appeals, assailing the 31 August 1995 Order. The petition was granted in a Decision dated 21 December 1995, hence the present petition.

The crux of the matter revolves around whether the above-quoted Information is sufficient to sustain a charge for libel, considering the following requirement imposed by Article 360 of the Revised Penal Code, as amended by Rep. Act No. 4363:

Article 360. *Persons responsible.*-Any person who shall publish, exhibit or cause the publication or exhibition of any defamation in writing or by similar means, shall be responsible for the same.

The author or editor of a book or pamphlet, or the editor or business manager of a daily newspaper, magazine or serial publication, shall be responsible for the defamations contained therein to the same extent as if he were the author thereof.

The criminal action and civil action for damages in cases of written defamations, as provided for in this chapter shall be filed simultaneously or separately with the court of first instance of the **province or city where the libelous article is printed and first published** or where any of the offended parties actually resides at the time of the commission of the offense: Provided, however, That where one of the offended parties is a public officer whose office is in the City of Manila at the time of the commission of the offense, the action shall be filed in the Court of First Instance of the City of Manila or of the city or province where the libelous article is printed and first published, and in case such public officer does not hold office in the City of Manila, the action shall be filed in the Court of First Instance of the province or city where he held office at the time of the commission of the offense or where the libelous article is printed and first published and in case one of the offended parties is a private individual, the action shall be filed in the Court of First Instance of the province or city where he actually resides at the time of the commission of the offense or where the libelous matter is printed and first published x x x. (Emphasis supplied.)

Referring to the fact that the Information against private respondents states that the libelous matter was "caused to be published in *Smart File*, a magazine of general circulation in Manila," the Court of Appeals deemed the cases of *Agbayani v. Sayo*^[3] and *Soriano v. LAC*^[4] as controlling. Based on the doctrines pronounced in said cases, the appellate court held that the Information failed to allege where the written defamation was "printed and first published," an allegation *sine qua non* "if the circumstances as to where the libel was printed and first published is used as the basis of the venue of the publication."^[5] It was observed that "venue of libel cases where the complainant is a private person is either in any of only two places, namely: (1) where the subject article was printed and first published; and (2) where complainant of the commission actually resides at the time of the commission of the offense." The Information, it was noted, did not indicate that the libelous articles were printed or first published in Manila, or that petitioner resided in Manila at the time of the publication of the articles.

The Court of Appeals further observed that even during the preliminary investigation, private respondents had already interposed that *Smart File* was actually printed and first published in the City of Makati, and that the address of the publisher Animal Farms Publication as indicated in the editorial page of the

publication itself was a post office box with the Makati Central Post Office. Even as this observation was disputed by petitioner, who insisted the place of private respondent's printing and publishing business was actually in Manila, the Court of Appeals noted that he should have been alerted enough by private respondents' adverse insistence and that a due investigation would have inevitably revealed that private respondents had transferred from their previous Manila address to Makati by the time the subject articles were published.^[6]

Before this Court, petitioner attacks the reliance placed on *Agbayani* and *Soriano*, primarily by pointing out that in both cases, the complainants were public officers, and not private officials. Petitioner submits that the 1965 amendments to Article 360 of the Revised Penal Code which imposed the present venue requisites were introduced in order to preclude the harassment of members of the press through libel suits filed in remote and distant places by public officers. Petitioner also assails the conclusion of the Court of Appeals that the place of printing and first publication of *Smart File* was in Makati, saying that this was derived out of hearsay evidence.

Does the subject information sufficiently vest jurisdiction in the Manila trial courts to hear the libel charge, in consonance with Article 360 of the Revised Penal Code? Jurisprudence applying the provision has established that it does not.

Agbayani supplies a comprehensive restatement of the rules of venue in actions for criminal libel, following the amendment by Rep. Act No. 4363 of the Revised Penal Code:

Article 360 in its original form provided that the venue of the criminal and civil actions for written defamations is the province wherein the libel was published, displayed or exhibited, regardless of the place where the same was written, printed or composed. Article 360 originally did not specify the public officers and the courts that may conduct the preliminary investigation of complaints for libel.

Before article 360 was amended, the rule was that a criminal action for libel may be instituted in any jurisdiction where the libelous article was published or circulated, irrespective of where it was written or printed (*People v. Borja*, 43 Phil. 618). Under that rule, the criminal action is transitory and the injured party has a choice of venue.

Experience had shown that under that old rule the offended party could harass the accused in a libel case by laying the venue of the criminal action in a remote or distant place.

Thus, in connection with an article published in the *Daily Mirror* and the *Philippine Free Press*, Pio Pedrosa, Manuel V. Villareal and Joaquin Rocas were charged with libel in the justice of the peace court of San Fabian, Pangasinan (*Amansec v. De Guzman*, 93 Phil. 933).

To forestall such harassment, Republic Act No. 4363 was enacted. It lays down specific rules as to the venue of the criminal action so as to prevent the offended party in written defamation cases from inconveniencing the accused by means of out-of-town libel suits, meaning complaints filed in remote municipal courts (Explanatory Note for the bill which became

Republic Act No. 4363, Congressional Record of May 20, 1965, pp. 424-5; *Time, Inc. v. Reyes*, L-28882, May 31, 1971, 39 SCRA 303, 311).

The rules on venue in article 360 may be restated thus:

1. **Whether the offended party is a public official or a private person, the criminal action may be filed in the Court of First Instance of the province or city where the libelous article is printed and first published.**
2. If the offended party is a private individual, the criminal action may also be filed in the Court of First Instance of the province where he actually resided at the time of the commission of the offense.
3. If the offended party is a public officer whose office is in Manila at the time of the commission of the offense, the action may be filed in the Court of First Instance of Manila.
4. If the offended party is a public officer holding office outside of Manila, the action may be filed in the Court of First Instance of the province or city where he held office at the time of the commission of the offense.^[7] (Emphasis supplied.)

The rules, as restated in *Agbayani*, do not lay a distinction that only those actions for criminal libel lodged by public officers need be filed in the place of printing and first publication. In fact, the rule is quite clear that such place of printing and first publication stands as one of only two venues where a private person may file the complaint for libel, the other venue being the place of residence of the offended party at the time the offense was committed. The very language itself of Article 360, as amended, does not support petitioner's thesis that where the complainant is a private person, a more liberal interpretation of the phrase "printed and first published" is warranted than when a public officer is the offended party. To wit:

Article 360. *Persons responsible.* x x x The criminal and civil action for damages in cases of written defamations as provided for in this chapter, shall be filed simultaneously or separately with the Court of First Instance of the province or city where the libelous article is printed and first published or where any of the offended parties actually resides at the time of the commission of the offense. x x x

Where the law does not distinguish, we should not distinguish.^[8]

Petitioner faults the Court of Appeals for relying on *Agbayani* and *Soriano*, two cases wherein the complainant was a public officer. Yet the Court has since had the opportunity to reiterate the *Agbayani* doctrine even in cases where the complainants were private persons.

Most telling of the recent precedents is *Agustin v. Pamintuan*,^[9] which involved a criminal action for libel filed by a private person, the acting general manager of the Baguio Country Club, with the RTC of Baguio City. The relevant portion of the Information is quoted below: