

SECOND DIVISION

[G.R. NO. 139987, March 31, 2005]

**SALVADOR D. FLOR, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

DECISION

CHICO-NAZARIO, J.:

Before Us is a petition for review on certiorari seeking to reverse the Decision of the Court of Appeals in CA-G.R. CR Nos. 11577 and 33204^[1] which affirmed the joint decision of the Regional Trial Court (RTC), Branch 33 of Pili, Camarines Sur, in Criminal Case No. P-1855 convicting the petitioner and Nick Ramos^[2] for libel and Civil Case No. P-1672 awarding damages in favor of the private complainant, former Governor of Camarines Sur and Minister of the Presidential Commission on Government Reorganization Luis R. Villafuerte.

The facts are not disputed.

An information for libel was filed before the RTC, Branch 20, Naga City, against the petitioner and Ramos who were then the managing editor and correspondent, respectively, of the Bicol Forum, a local weekly newspaper circulated in the Bicol Region. The information reads as follows:

That on or about the 18th day up to the 24th day of August, 1986, in the Bicol Region comprised by the Provinces of Albay, Catanduanes, Sorsogon, Masbate, Camarines Sur, and Camarines Norte, and the Cities of Iriga and Naga, Philippines, and within the jurisdiction of this Honorable Court under R.A. No. 4363, and B.P. Blg. 129, the above-named accused who are the news correspondent and the managing editor, respectively, of the local weekly newspaper Bicol Forum, did then and there willfully, unlawfully and feloniously, without justifiable motive and with malicious intent of impeaching, discrediting and destroying the honor, integrity, good name and reputation of the complainant as Minister of the Presidential Commission on Government Reorganization and concurrently Governor of the Province of Camarines Sur, and to expose him to public hatred, ridicule and contempt, write, edit, publish and circulate an issue of the local weekly newspaper BICOL FORUM throughout the Bicol Region, with banner headline and front page news item read by the public throughout the Bicol Region, pertinent portions of which are quoted verbatim as follows:

“VILLAFUERTE’S DENIAL CONVINCES NO ONE”

NAGA CITY-Gov. Luis Villafuerte’s denial that he did not spend government money for his trips to Japan and Israel two weeks

ago has failed to convince people in Camarines Sur, reliable sources said.

What the people know, the sources said, is that the two trips of the governor who is also the minister of the Government Reorganization Commission was purely junket.

This was confirmed when capitol sources disclosed that about P700,000.00 collected by way of cash advances by ranking provincial officials were allegedly used for the two trips.

The cash advances, the sources said, were made at the instance of Villafuerte.

It was learned that the amount was withdrawn without resolution approving its release.

Villafuerte however said that he spent his own money for the two trips.

The governor was accompanied abroad by political supporters mostly municipal mayors in Camarines Sur, the report said.

This was contested by several individuals who told Bicol Forum that the members of Villafuerte's entourage did not have official functions in the province.

Villafuerte and his companions reportedly attended the 1986 baseball games in Japan.

When in truth and in fact said allegations are false and utterly untrue as the complainant has not done such acts, thus embarrassing, discrediting and ridiculing him before his friends, followers and other people.^[3]

The information was later amended to include Jose Burgos, Jr., who was at that time the publisher-editor of the Bicol Forum.^[4] The trial court, however, never acquired jurisdiction over his person as he did not surrender nor was he ever arrested by the authorities.

It appears from the records that prior to the filing of the criminal complaint, the private complainant had already instituted a separate civil action for damages arising out of the questioned news article before the RTC, Branch 23, Naga City. Due to this, the criminal suit for libel was ordered consolidated with the civil case pursuant to Article 360 of the Revised Penal Code, as amended.^[5] Subsequently, the consolidated actions were transferred to RTC, Branch 33, Pili, Camarines Sur, in accordance with Republic Act No. 4363 which outlines the venue of libel cases in the event that the offended party is a public official such as in this case.^[6] Thereafter, a joint trial of the cases ensued with accused Burgos, Jr., being declared as in default in the civil case due to his failure to attend its pre-trial conference.

Upon being arraigned, the petitioner and Ramos both pleaded not guilty.^[7]

During the trial, the private complainant himself took the witness stand to refute the statements contained in the subject news article. According to him, there were previous news reports and broadcasts regarding the cash advances allegedly made by some provincial government officials of Camarines Sur and that it was also reported that he made a trip to Japan which was branded as a mere "junket."^[8] The private complainant, however, explained that after he clarified over the radio that he never went to Japan, the issue was never discussed again until the matter was included in the questioned news item.^[9] As for the cash advances, the private complainant stated that the Provincial Auditor and the Budget Officer had already made a statement "to the effect that he had no pending cash advances."^[10] Further, the private complainant clarified that he made his trip to Israel in his capacity as a cabinet member of former President Corazon C. Aquino and that he spent his own money for the said official trip thereby debunking Bicol Forum's report that his travel to Israel was purely a junket.^[11] The private complainant also complained that no one from the Bicol Forum made any attempt to get his side of the story nor was he aware of any effort exerted by the representatives of said publication to confirm the veracity of the contents of the subject news article from any source at the provincial capitol.^[12] Finally, the private complainant took exception to the banner headline which states "Villafuerte's Denial Convinces No One." According to him, the Bicol Forum seemed to be making a mockery of his previous explanations regarding the cash advances and his trips abroad and such a sweeping statement subjected him to public ridicule and humiliation.^[13]

On the other hand, Ramos testified that he wrote the questioned news item on the basis of a note given to him by a source whom he refused to identify.^[14] Said source was allegedly connected with the Provincial Treasurer's Office.^[15] The note reads:

Media consultants of Villafuerte specially DWLV announcers had been announcing the travels of Villafuerte to Israel and Japan without spending a single centavo. This is unbelievable as lately the Gov. said he [spent] his own money for the trips.

No one will believe this. The governor and party went to Israel and Japan as there were some P700,000.00 cash advances collected in form of advances by top provincial officials for the trips. No [doubt] Villafuerte had a hand on this because he is the governor approving cash advances. Among them were Panes and Maceda.

There were no resolution, please publish this that people concern will react and they be forced to account for the money. Authenticated papers will follow. Bull's eye ito.

capr^[16]

Ramos likewise alleged that prior to writing the subject news article, he went to his source to ask some clarificatory questions and was told that he would be given authenticated records of the cash advances. Later, he was given a copy of the Schedule of Cash Advances of Disbursing Officers and Other Officers (as of June 30 1987).^[17] Among the provincial government officials listed therein were the private

respondent who had a 1986 balance of P25,000.00 incurred for cultural activities; Atty. Jose Maceda who also had a 1986 balance of P130,084.00 for sports development, Operation Smile, NAMCYA Festival, and prisoners' subsistence; and Eulogio Panes, Jr., who had beside his name a 1986 balance of P250,000 for the purpose of sports development. Ramos also claimed that when he went to the Provincial Treasurer's Office to conduct his investigation, he was shown some vouchers and was told that many of the members of the baseball delegation to Japan were not elected provincial officials and, in fact, some mayors and private individuals were sent as part of the Philippine group.^[18]

During his turn at the witness stand, the petitioner admitted that the headline was written by him in his capacity as the managing editor^[19] in accordance with the policy of their paper to print as headlines matters dealing with public concerns and public officials.^[20] According to him, the banner headline and the sub-headline truthfully reflect the substance of the story prepared by Ramos.^[21]

After the trial, the court *a quo* rendered a joint decision the dispositive portion of which reads:

IN VIEW OF ALL THE FOREGOING CONSIDERATIONS, judgment is hereby rendered:

In Criminal Case No. P-1855

Finding the accused Nick Ramos and Salvador D. Flor guilty beyond reasonable doubt of the crime of Libel defined and punished under Article 353 in connection with Article 355 of the Revised Penal Code and they are each sentenced to pay a fine of Two Thousand Pesos (P2,000.00) with subsidiary imprisonment in case of insolvency; and to pay the costs of suit.

In Civil Case No. P-1672

Ordering the defendants Nick Ramos, Salvador D. Flor and Jose Burgos, Jr. to pay jointly and severally to the plaintiff the following:

1. The amount of Three Hundred Thousand Pesos (P300,000.00) as moral damages;
2. The amount of Five Thousand Pesos (P5,000.00) as exemplary damages;
3. The amount of Five Thousand Pesos (P5,000.00) as attorney's fees; and to pay the costs of suit.^[22]

Unsatisfied with the findings of the trial court, the petitioner and Ramos filed an appeal with the Court of Appeals which affirmed the judgment of the trial court through its decision dated 10 December 1996.^[23] They thereafter filed a motion for reconsideration^[24] which was denied for lack of merit by the appellate court in its resolution of 19 August 1999.^[25]

In upholding the conclusion reached by the trial court, the Court of Appeals ratiocinated, thus:

The informant of Nick Ramos made a sweeping conclusion that it was Gov. Villafuerte who made the trips abroad using government money as there were cash advances of P700,000.00 made by top provincial officials, without first having verified the truth about the matters contained in his report. The imputation became malicious when they are based on mere conjectures. The alleged libelous article must be construed as a whole. The effect of the news item upon the minds of the readers must be considered in the prosecution of libel cases. The words used in the news report tends to impute a criminal act on the governor which may cause the readers to hold him up to public ridicule and induce them to believe that the governor was indeed guilty. The accused editor admitted that he did not make any personal investigation as to the truth of the statements made in the report. When such communication was sent for publication, the so-called privilege was destroyed when malice in fact was present.^[26]

In fine, the sole issue brought for the consideration of this Court is whether the questioned news item is libelous. We reverse.

Libel is defined as "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 person or juridical person, or to blacken the memory of one who is dead."^[27] Any of these imputations is defamatory and under the general rule stated in Article 354 of the Revised Penal Code, every defamatory imputation is presumed to be malicious.^[28] The presumption of malice, however, does not exist in the following instances:

1. A private communication made by any person to another in the performance of any legal, moral, or social duty; and
2. A fair and true report, made in good faith, without any comments or remarks, of any judicial, legislative, or other official proceedings which are not of confidential nature, or of any statement, report, or speech delivered in said proceedings, or of any other act performed by public officers in the exercise of their functions.^[29]

The law recognizes two kinds of privileged matters. First are those which are classified as *absolutely privileged* which enjoy immunity from libel suits regardless of the existence of malice in fact. Included herein are statements made in official proceedings of the legislature by the members thereof.^[30] Likewise, statements made in the course of judicial proceedings are absolutely privileged but only if pertinent or relevant to the case involved.^[31]

The other kind of privileged matters are the *qualifiedly or conditionally privileged* communications which, unlike the first classification, may be susceptible to a finding of libel provided the prosecution establishes the presence of malice in fact. The exceptions provided for in Article 354 of the Revised Penal Code fall into this category.