

EN BANC

[G.R. No. 118971, September 15, 1999]

**RODOLFO R. VASQUEZ, PETITIONER, VS. COURT OF APPEALS,
THE REGIONAL TRIAL COURT OF MANILA, BRANCH 40, AND THE
PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

DECISION

MENDOZA, J.:

The question for determination in this case is the liability for libel of a citizen who denounces a barangay official for misconduct in office. The Regional Trial Court of Manila, Branch 40, found petitioner guilty and fined him P1,000.00 on the ground that petitioner failed to prove the truth of the charges and that he was "motivated by vengeance in uttering the defamatory statement." On appeal, the Court of Appeals, in a decision^[1] dated February 1, 1995, affirmed. Hence, this petition for review. The decision appealed from should be reversed.

The facts are not in dispute. Petitioner Rodolfo R. Vasquez is a resident of the Tondo Foreshore Area. Sometime in April 1986, he and some 37 families from the area went to see then National Housing Authority (NHA) General Manager Lito Atienza regarding their complaint against their Barangay Chairman, Jaime Olmedo. After their meeting with Atienza and other NHA officials, petitioner and his companions were met and interviewed by newspaper reporters at the NHA compound concerning their complaint. The next day, April 22, 1986, the following news article^[2] appeared in the newspaper *Ang Tinig ng Masa*:

Nananawagan kahapon kay pangulong Corazon Aquino ang 38 mahihirap na pamilya sa Tondo Foreshore Area na umano'y inagawan ng lupa ng kanilang barangay chairman sa pakikipagsabwatan sa ilang pinuno ng National Housing Authority sapul 1980.

Sinabi nila na nakipagsabwatan umano si Chairman Jaime Olmedo ng barangay 66, Zone 6, Tondo Foreshore Area, sa mga project manager ng NHA upang makamkam ang may 14 na lote ng lupa sa naturang lugar.

Binanggit ni Rodolfo R. Vasquez, 40, Tagapagsalita ng (mga) pamilyang apektado, na umaabot lang sa 487.87 metro kuwadrado ang kabuuan ng mga lupa na kinatitirikan ng mga barung-barung ng 38 pamilya.

"Naninirahan na kami sa mga lupang nabanggit sapul 1950 at pinatunayan sa mga survey ng NHA noong nakalipas na taon na may karapatan kami sa mga lupang ito ng pamahalaan," ani Vasquez.

"Pawang lupa ng gobyerno ang mga lupa at ilegal man na patituluhan, nagawa ito ni Olmedo sa pakikipagsabwatan sa mga project manager at

legal officers ng NHA," sabi ni Vasquez.

Sinabi rin ng mga pamilya na protektado ng dating pinuno ng city hall ng Maynila, MHS Minister Conrado Benitez, at ilang pinuno ng pulisya ang barangay chairman kaya "nakalusot" ang mga ginawa nitong katiwalian.

Bukod sa pagkamkam ng mga lupaing gobyerno, kasangkot din umano si Olmedo sa mga ilegal na pasugalan sa naturang lugar at maging sa mga nakawan ng manok.

"Sapin-sapin na ang mga kaso na idinulog namin noong nakalipas na mga taon, pero pinawalang saysay ang lahat ng iyon, kabilang na ang tangkang pagpatay sa akin kaugnay ng pagrereklamo sa pangangamkam ng lupa noong 1984," sabi pa ni Vasquez.

Based on the newspaper article, Olmedo filed a complaint for libel against petitioner alleging that the latter's statements cast aspersions on him and damaged his reputation. After conducting preliminary investigation, the city prosecutor filed the following information in the Regional Trial Court of Manila, Branch 40:

The undersigned accuses RODOLFO R. VASQUEZ of the crime of libel committed as follows:

That on or about April 22, 1986, in the city of Manila, Philippines, the said accused, with malicious intent of impeaching the reputation and character of one Jaime Olmedo, chairman of Barangay 66, Zone 6 in Tondo, Manila, and with evident intent of exposing him to public hatred, contempt, ridicule, did then and there willfully, unlawfully, feloniously and maliciously caused the publication of an article entitled "38 Pamilya Inagawan ng Lupa" in Ang Tinig ng Masa, a daily newspaper sold to the public and of general circulation in the Philippines in its April 22, 1986 issue, which portion of the said article reads as follows:

Nananawagan kahapon kay pangulong Corazon Aquino ang 38 mahihirap na pamilya sa Tondo Foreshore Area na umano'y inagawan ng lupa ng kanilang barangay chairman sa pakikipagsabwatan sa ilang pinuno ng National Housing Authority sapul 1980.

Sinabi nila na nakipagsabwatan umano si Chairman Jaime Olmedo ng barangay 66, Zone 6, Tondo Foreshore Area sa mga project manager ng NHA upang makamkam ang may 14 na lote ng lupa sa naturang lugar.

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Sinabi rin ng mga pamilya na protektado ng dating pinuno ng city hall ng Maynila, MHS Minister Conrado Benitez, at ilang pinuno ng pulisya ang barangay chairman kaya "nakalusot" ang mga ginawa nitong katiwalian.

Bukod sa pagkamkam ng mga lupaing gobyerno, kasangkot din umano si Olmedo sa mga ilegal na pasugalan sa naturang lugar at maging sa mga

nakawan ng manok. x x x

with which statements, the said accused meant and intended to convey, as in fact he did mean and convey false and malicious imputations that said Jaime Olmedo is engaged in landgrabbing and involved in illegal gambling and stealing of chickens at the Tondo Foreshore Area, Tondo, Manila, which statements, as he well knew, were entirely false and malicious, offensive and derogatory to the good name, character and reputation of said Jaime Olmedo, thereby tending to impeach, besmirch and destroy the honor, character and reputation of Jaime Olmedo, as in fact, the latter was exposed to dishonor, discredit, public hatred, contempt and ridicule.

Contrary to law.

Upon being arraigned, petitioner entered a plea of not guilty, whereupon the case was tried. The prosecution presented Barangay Chairman Olmedo and his neighbor, Florentina Calayag, as witnesses. On the other hand, the defense presented Ciriaco Cabuhat, Nicasio Agustin, Estrelita Felix, Fernando Rodriguez ³/₄ all residents of the Tondo Foreshore Area ³/₄ and petitioner as its witnesses.

On May 28, 1992, the trial court rendered judgment finding petitioner guilty of libel and sentencing him to pay a fine of P1,000.00. On appeal, the Court of Appeals affirmed in toto. Hence, this petition for review. Petitioner contends that ³/₄

- I. THE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE TRIAL COURT PINPOINTING PETITIONER AS THE SOURCE OF THE ALLEGED LIBELOUS ARTICLE.
- II. THE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE TRIAL COURT THAT PETITIONER IMPUTED THE QUESTIONED ACTS TO COMPLAINANT.
- III. THE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE TRIAL COURT THAT THE ALLEGED IMPUTATIONS WERE MADE MALICIOUSLY.
- IV. THE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE TRIAL COURT WHICH FAILED TO APPRECIATE PETITIONER'S DEFENSE OF TRUTH.
- V. THE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE TRIAL COURT THAT ALL THE ELEMENTS OF LIBEL WERE PROVEN.

We will deal with these contentions in the order in which they are made.

First. Petitioner claims he was "unfairly singled out" as the source of the statements in the article when any member of the 38 complainant-families could have been the source of the alleged libelous statements.^[3] The reference is to the following portion of the decision of the Court of Appeals:

. . . In his sworn statement, appellant admitted he was the source of the libelous article (Exh. "B"). He affirmed this fact when he testified in open court as follows: That his allegation on the act of landgrabbing by Olmedo was based on the alleged report and pronouncements of the NHA representatives (p. 5, tsn, Oct. 18, 1989); that said allegations were made by him before the local press people in the pursuit of fairness and truthfulness and not in bad faith (pp. 8-9, id.); that the only inaccurate account in the published article of "Ang Tinig ng Masa" is the reference to the 487.87 sq.m. lot, on which Olmedo's residence now stands, attributed by the reporter as the lot currently occupied by appellants and his fellow complainants (pp. 4-5, tsn, Nov. 15, 1989; pp. 4-5, tsn, January 15, 1990); and that after the interview, he never expected that his statement would be the cause of the much-publicized libelous article (pp. 4-6, tsn, Nov. 15, 1989).^[4]

It is true petitioner did not directly admit that he was the source of the statements in the questioned article. What he said in his sworn statement^[5] was that the contents of the article are true in almost all respects, thus:

9. Tama ang nakalathala sa pahayagang "Ang Masa" maliban na lang sa tinutukoy na ako at ang mga kasamahang maralitang taga-lungsod ay nakatira sa humigit kumulang 487.87 square meters sapagkat ang nabanggit na 487.87 square meters ay siyang kinatitirikan ng bahay ni Barangay Chairman Olmedo kung saan nakaloob ang anim na lote - isang paglabag sa batas o regulasyon ng NHA;

10. Ang ginawa kong pahayag na nailathala sa "Ang Masa" ay sanhi ng aking nais na maging mabuting mamamayan at upang maituwid ang mga katiwaliang nagaganap sa Tondo Foreshore Area kung saan ako at sampu ng aking mga kasamang maralitang taga-lungsod ay apektado at naaapi.

This was likewise what he stated in his testimony in court both on direct^[6] and on cross-examination.^[7] However, by claiming that what he had told the reporter was made by him in the performance of a civic duty, petitioner in effect admitted authorship of the article and not only of the statements attributed to him therein, to wit:

"Pawang lupa ng gobyerno ang mga lupa at ilegal man na patituluhan, nagawa ito ni Olmedo sa pakikipagsabwatan sa mga project manager at legal officers ng NHA," sabi ni Vasquez.

. . . .

"Sapin-sapin na ang mga kaso na idinulog namin noong nakalipas na mga taon, pero pinawalang saysay ang lahat ng iyon, kabilang na ang tangkang pagpatay sa akin kaugnay ng pagrereklamo sa pangangamkam ng lupa noong 1984," sabi pa ni Vasquez.

Petitioner cannot claim to have been the source of only a few statements in the article in question and point to the other parties as the source of the rest, when he admits that he was correctly identified as the spokesperson of the families during the interview.

Second. Petitioner points out that the information did not set out the entire news article as published. In fact, the second statement attributed to petitioner was not included in the information. But, while the general rule is that the information must set out the particular defamatory words verbatim and as published and that a statement of their substance is insufficient,^[8] *United States v. Eguia*, 38 Phil. 857 (1918).⁸ a defect in this regard may be cured by evidence.^[9] In this case, the article was presented in evidence, but petitioner failed to object to its introduction. Instead, he engaged in the trial of the entire article, not only of the portions quoted in the information, and sought to prove it to be true. In doing so, he waived objection based on the defect in the information. Consequently, he cannot raise this issue at this late stage.^[10]

Third. On the main issue whether petitioner is guilty of libel, petitioner contends that what he said was true and was made with good motives and for justifiable ends.

To find a person guilty of libel under Art. 353 of the Revised Penal Code, the following elements must be proved: (a) the allegation of a discreditable act or condition concerning another; (b) publication of the charge; (c) identity of the person defamed; and (d) existence of malice.^[11]

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.^[12]

There is publication if the material is communicated to a third person.^[13] It is not required that the person defamed has read or heard about the libelous remark. What is material is that a third person has read or heard the libelous statement, for "a man's reputation is the estimate in which others hold him, not the good opinion which he has of himself."^[14]

On the other hand, to satisfy the element of identifiability, it must be shown that at least a third person or a stranger was able to identify him as the object of the defamatory statement.^[15]

Finally, malice or ill will must be present. Art. 354 of the Revised Penal Code provides:

Every defamatory imputation is presumed to be malicious, even if it be true, if no good intention and justifiable motive for making it is shown, except in the following cases:

1. A private communication made by any person to another in the performance of any legal, moral or security 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