

TWENTIETH DIVISION

[CA-G.R. CR NO. 01331, June 17, 2014]

ALICIA VDA. DE ABAPO, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

AZCARRAGA-JACOB, J.:

This is a petition for review^[1] of the *Decision*^[2] dated 21 July 2009 of the Regional Trial Court (RTC), Branch 61, Bogo, Cebu, rendered in the exercise of its appellate jurisdiction,^[3] affirming *in toto* the *Decision*^[4] dated 8 July 2008 of the 3rd Municipal Circuit Trial Court (MCTC) of Daanbantayan-Medellin, finding accused Alicia Vda. de Abapo (petitioner) guilty of the crime of Grave Oral Defamation committed against Praxidio Trangia, Sr. (private complainant).

The Antecedent Facts

On 04 February 2002, at around 9:00 o'clock in the morning, private complainant, along with some companions, went to his shop at Barangay Agujo, Daanbantayan, Cebu. When they arrived at the place, private complainant and his companions saw petitioner Abapo, together with several persons, destroying the wall of private complainant's shop. Immediately, private complainant told petitioner to stop, but the latter got angry. To prevent any untoward incident, private complainant went to the Office of the Barangay Captain of Agujo to seek for assistance. In response, Punong Barangay Gerry Agang-ang escorted private complainant to the police station. Moments later, the police authorities arrived at the shop of private complainant. Consequently, petitioner was restrained from making further destruction on private complainant's shop.

The next day, 05 February 2002, private complainant, together with the same individuals who accompanied him the day before, went back to Barangay Agujo to check his shop. Upon their arrival, private respondent and his companions again saw petitioner destroying private complainant's shop with the help of several persons. Private complainant immediately approached petitioner and confronted him. Instead of explicating herself, petitioner pointed her finger at private complainant, while simultaneously uttering the following words: "*Buang! Ignorante! Ayaw pagbuot! Kiha bisan asa! Kaliwat ka'g buang!*" which means: **Insane! Ignorant! Don't interfere! File your complaint anywhere! You come from a family of insane persons!** These remarks were heard by the other four companions of private complainant and several other persons.

Seventeen (17) days later, on 22 February 2005, private complainant and petitioner formally met up at the Office of the Barangay Captain of Agujo for a conciliation meeting. During the proceedings, petitioner repeatedly shouted at private complainant the same defamatory words she uttered days earlier, "*Buang! Ignorante!*

Ayaw pagbuot! Kiha bisan asa! Kaliwat ka'g buang!" in the presence of several other people in the barangay.

As expected, private complainant and petitioner failed to reach a settlement, thus prompting the former to file with the MCTC a case for grave oral defamation against the latter.

The Proceedings Before the Lower Courts

In due time, the MCTC convicted petitioner of the crime charged. The punitive *fallo* of its decision^[5] reads:

WHEREFORE, premises considered, accused ALICIA VDA. DE ABAPO is found guilty of the crime charged and is hereby sentenced to suffer an imprisonment of *arresto mayor* in its maximum period to *prision correccional* in its minimum period which is four (4) months and one (1) day to two (2) years and four (4) months.

Due to plaintiff's besmirched reputation, sleepless nights, anxiety, wounded feelings, mental and physical stress, moral damages is hereby awarded in the amount of Ten Thousand Pesos (Php10,000.00); the claim of blackened reputation not [being] substantially proven is hereby denied. Other claims unsupported with sufficient evidences are likewise denied.

SO ORDERED.

Perturbed, petitioner appealed^[6] to the RTC, which dismissed the appeal and affirmed the MCTC decision,^[7] thus--

WHEREFORE, premises considered, accused-appellant's appeal is hereby DISMISSED, and the Decision of this Court [*sic*] dated July 8, 2008 of the 3rd Municipal Circuit Trial Court, Daanbantayan-Medellin, in Criminal Case No. 6276-D, entitled "PEOPLE OF THE PHILIPPINES, Plaintiff, versus ALICIA VDA. DE ABAPO, Accused," for Grave Oral Defamation, is hereby AFFIRMED EN TOTO.

SO ORDERED.

The Sole Issue

In this petition for review, petitioner solely claims that the criminal proceedings against her should have been dismissed because the barangay certification to file the complaint for grave oral defamation against her, as provided under Sections 412^[8] and 515^[9] of Republic Act (R.A.) No. 7160, known as the Local Government Code of 1991, was falsified, specifically the signature of Barangay Chairman Gerry Agang-ang of Agujo, Daanbantayan, Cebu. In short, petitioner argues that since the criminal prosecution against her stemmed from a fake barangay certification, the whole criminal proceedings must necessarily be voided.

The Ruling of this Court

The petition is bereft of merit.

Record shows that petitioner failed to present evidence to support her claim that the Barangay Certification to File Action dated 22 February 2002 was falsified. Petitioner did not even submit the affidavit of Barangay Chairman Agang-ang to prove that the latter's signature reflected on the barangay certification was forged. Contrary to the claim of petitioner that Mr. Agang-ang *testified* in court where he, allegedly, declared that the certification to file action is falsified, and the signature therein is forged, there was never an instance when Mr. Agang-ang took the witness stand in the court *a quo* to disprove the purported forgery and falsification.

As clearly disclosed by both decisions of MCTC and RTC, Mr. Agang-ang had neither testified in court nor his affidavit offered in evidence or even became part of the records of the case.

For clarity, We quote a portion of the MCTC decision on this specific issue:

The defense presented the accused but her testimony failed to overcome testimonies of the prosecution witnesses. Their [*sic*] argument and testimonies [*sic*] mainly dwell on the issuance of the Certification to File Action. **There was no corroboration on the lone testimony of accused.** Accused also failed to rebut the prosecution witnesses. xxx (*Emphasis supplied*).^[10]

As it was categorically stated in the MCTC decision that only the petitioner testified in her defense, it is perplexing why she continually insists that Mr. Agang-ang testified in court. If indeed Mr. Agang-ang testified, there would have been a record of his testimony. Yet petitioner omitted to produce proof thereof.

Except for her bare allegation casting doubt on the authenticity of the barangay certification in question, petitioner failed miserably to rebut the presumption in law that the questioned document was regularly issued by the officer concerned in the performance of official duty.^[11] Mere suspicion on the authenticity and due execution on such barangay certification, which is a public document, will not stand against the presumption of regularity and legality in its favor absent evidence that is clear, convincing, and more than merely preponderant.^[12]

Notwithstanding the foregoing discussion, We find petitioner's reliance on the purported falsity of the Certification to File Action to support her efforts to extricate herself from criminal liability, to be legally and procedurally askew because whether the barangay certification presented by private complainant in court is spurious or not is not the issue that matters. Private complainant need not have undergone the barangay conciliation process because the penalty of imprisonment for the offense of grave oral defamation for which petitioner has been charged, exceeds a period of one (1) year, a circumstance that activates the exception provided for in paragraph (c), Section 408 of R.A. 7160, viz.:

...Subject Matter for Amicable Settlement; Exception Thereto. – The lupon of each barangay shall have authority to bring together the parties actually residing in the same city of municipality for amicable settlement of all disputes except: