

## SECOND DIVISION

[ G.R. NO. 145022, September 23, 2005 ]

**ARMAND NOCUM AND THE PHILIPPINE DAILY INQUIRER, INC.,  
PETITIONERS, VS. LUCIO TAN, RESPONDENT.**

### D E C I S I O N

**CHICO-NAZARIO, J.**

Assailed in a Petition for Review on *Certiorari* under Rule 45 of the 1997 Rules of Civil Procedure are the decision<sup>[1]</sup> of the Court of Appeals dated 19 April 2000 that affirmed the order of the Regional Trial Court (RTC) of Makati City, Branch 56, in Civil Case No. 98-2288, dated 19 April 1999, admitting respondent Lucio Tan's Amended Complaint for Damages for the alleged malicious and defamatory imputations against him in two (2) articles of the Philippine Daily Inquirer, and its Resolution<sup>[2]</sup> dated 15 September 2000 denying petitioners Armand Nocum and The Philippine Daily Inquirer, Inc.'s motion for reconsideration.

The antecedents are summarized by the Court of Appeals.

On September 27, 1998, Lucio Tan filed a complaint against reporter Armand Nocum, Capt. Florendo Umali, ALPAP and Inquirer with the Regional Trial Court of Makati, docketed as **Civil Case No. 98-2288**, seeking moral and exemplary damages for the alleged malicious and defamatory imputations contained in a news article.

INQUIRER and NOCUM filed their joint answer, dated October 27, 1998, wherein they alleged that: *(1) the complaint failed to state a cause of action; (2) the defamatory statements alleged in the complaint were general conclusions without factual premises; (3) the questioned news report constituted fair and true report on the matters of public interest concerning a public figure and therefore, was privileged in nature; and (4) malice on their part was negated by the publication in the same article of plaintiff's or PAL's side of the dispute with the pilot's union.*

ALPAP and UMALI likewise filed their joint answer, dated October 31, 1998, and alleged therein that: *(1) the complaint stated no cause of action; (2) venue was improperly laid; and (3) plaintiff Lucio Tan was not a real party in interest.* It appeared that the complaint failed to state the residence of the complainant at the time of the alleged commission of the offense and the place where the libelous article was printed and first published.

Thus, the Regional Trial Court of Makati issued an Order dated February 10, 1999, dismissing the complaint without prejudice on the ground of improper venue.

Aggrieved by the dismissal of the complaint, respondent Lucio Tan filed an Omnibus Motion dated February 24, 1999, seeking reconsideration of the dismissal and admission of the amended complaint. In *par. 2.01.1* of the amended complaint, it is alleged that "*This article was printed and first published in the City of Makati*" (**p. 53, Rollo**, CA-G.R. SP No. 55192), and in *par. 2.04.1*, that "*This caricature was printed and first published in the City of Makati*" (**p. 55, id.**).

The lower court, after having the case dismissed for improper venue, admitted the amended complaint and deemed set aside the previous order of dismissal, *supra*, stating, *inter alia*, that:

"The mistake or deficiency in the original complaint appears now to have been cured in the Amended Complaint which can still be properly admitted, pursuant to Rule 10 of the 1997 Rules of Civil Procedure, inasmuch as the Order of dismissal is not yet final. Besides, there is no substantial amendment in the Amended Complaint which would affect the defendants' defenses and their Answers. The Amendment is merely formal, contrary to the contention of the defendants that it is substantial."

Dissatisfied, petitioners, together with defendants Capt. Florendo Umali and the Airline Pilots Association of the Philippines, Inc. (ALPAP), appealed the RTC decision to the Court of Appeals. Two petitions for *certiorari* were filed, one filed by petitioners which was docketed as CA-G.R. SP No. 55192, and the other by defendants Umali and ALPAP which was docketed as CA-G.R. SP No. 54894. The two petitions were consolidated.

On 19 April 2000, the Court of Appeals rendered its decision the dispositive portion of which reads:

WHEREFORE, premises considered, the petition is hereby DENIED DUE COURSE and DISMISSED for lack of merit. The Order of the court *a quo* is hereby AFFIRMED.

The motions for reconsideration filed by petitioners and by defendants Umali and ALPAP were likewise denied in a resolution dated 15 September 2000.

Both petitioners and defendants Umali and ALPAP appealed to this Court. Under consideration is the petition for review filed by petitioners.

On 11 December 2000, the Court required respondent Tan to comment on the petition filed by petitioners.<sup>[3]</sup>

Respondent filed his comment on 22 January 2001<sup>[4]</sup> to which petitioners filed a reply on 26 April 2001.<sup>[5]</sup>

In a Manifestation filed on 19 February 2001, respondent stated that the petition<sup>[6]</sup> filed by defendants Umali and ALPAP has already been denied by the Court in a resolution dated 17 January 2001.<sup>[7]</sup>

On 20 August 2003, the Court resolved to give due course to the petition and required the parties to submit their respective memoranda within thirty (30) days from notice.<sup>[8]</sup> Both petitioners and respondent complied.<sup>[9]</sup>

Petitioners assigned the following as errors:

- A. THE COURT OF APPEALS ERRED IN RULING (1) THAT THE LOWER COURT HAD JURISDICTION OVER THE CASE (ON THE BASIS OF THE ORIGINAL COMPLAINT) NOTWITHSTANDING THE FACT THAT THE LOWER COURT HAD EARLIER DISMISSED THE ORIGINAL COMPLAINT FOR ITS FAILURE TO CONFER JURISDICTION UPON THE COURT; AND (2) THAT THE AMENDED COMPLAINT WAS PROPERLY ALLOWED OR ADMITTED BECAUSE THE LOWER COURT WAS "NEVER DIVESTED" OF JURISDICTION OVER THE CASE;
- B. THE COURT OF APPEALS ERRED IN NOT RULING THAT THE ORIGINAL COMPLAINT OF RESPONDENT WAS AMENDED PURPOSELY TO CONFER UPON THE LOWER COURT JURISDICTION OVER THE CASE.<sup>[10]</sup>

Petitioners state that Article 360 of the Revised Penal Code vests jurisdiction over all civil and criminal complaints for libel on the RTC of the place: (1) where the libelous article was printed and first published; or (2) where the complainant, if a private person, resides; or (3) where the complainant, if a public official, holds office. They argue that since the original complaint only contained the office address of respondent and not the latter's actual residence or the place where the allegedly offending news reports were printed and first published, the original complaint, by reason of the deficiencies in its allegations, failed to confer jurisdiction on the lower court.

The question to be resolved is: Did the lower court acquire jurisdiction over the civil case upon the filing of the original complaint for damages?

We rule in the affirmative.

It is settled that jurisdiction is conferred by law based on the facts alleged in the complaint since the latter comprises a concise statement of the ultimate facts constituting the plaintiff's causes of action.<sup>[11]</sup> In the case at bar, after examining the original complaint, we find that the RTC acquired jurisdiction over the case when the case was filed before it. From the allegations thereof, respondent's cause of action is for damages arising from libel, the jurisdiction of which is vested with the RTC. Article 360 of the Revised Penal Code provides that it is a Court of First Instance<sup>[12]</sup> that is specifically designated to try a libel case.<sup>[13]</sup>

Petitioners are confusing jurisdiction with venue. A former colleague, the Hon. Florenz D. Regalado,<sup>[14]</sup> differentiated jurisdiction and venue as follows: (a) Jurisdiction is the authority to hear and determine a case; venue is the place where the case is to be heard or tried; (b) Jurisdiction is a matter of substantive law; venue, of procedural law; (c) Jurisdiction establishes a relation between the court and the subject matter; venue, a relation between plaintiff and defendant, or petitioner and respondent; and, (d) Jurisdiction is fixed by law and cannot be

conferred by the parties; venue may be conferred by the act or agreement of the parties.

In the case at bar, the additional allegations in the Amended Complaint that the article and the caricature were printed and first published in the City of Makati referred only to the question of venue and not jurisdiction. These additional allegations would neither confer jurisdiction on the RTC nor would respondent's failure to include the same in the original complaint divest the lower court of its jurisdiction over the case. Respondent's failure to allege these allegations gave the lower court the power, upon motion by a party, to dismiss the complaint on the ground that venue was not properly laid.

In *Laquian v. Baltazar*,<sup>[15]</sup> this Court construed the term "jurisdiction" in Article 360 of the Revised Penal Code as referring to the place where actions for libel shall be filed or "venue."

In *Escribano v. Avila*,<sup>[16]</sup> pursuant to Republic Act No. 4363,<sup>[17]</sup> we laid down the following rules on the venue of the criminal and civil actions in written defamations.

1. General rule: The action may be filed in 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.
2. If the offended party is a public officer with office in Manila at the time the offense was committed, the venue is Manila or the city or province where the libelous article is printed and first published.
3. Where an offended party is a public official with office outside of Manila, the venue is the province or the city where he held office at the time of the commission of the offense or where the libelous article is printed and first published.
4. If an offended party is a private person, the venue is his place of residence at the time of the commission of the offense or where the libelous article is printed and first published.

The common feature of the foregoing rules is that whether the offended party is a public officer or a private person, he has always the option to file the action in the Court of First Instance of the province or city where the libelous article is printed or first published.

We further restated<sup>[18]</sup> the rules on venue in Article 360 as follows:

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