

# FIRST DIVISION

[ G.R. No. 248616, January 12, 2021 ]

**GALILEO A. MAGLASANG, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

## DECISION

**CARANDANG, J.:**

Before this Court is a Petition for Review on *Certiorari*<sup>[1]</sup> filed by petitioner Galileo A. Maglasang (Galileo) assailing the Decision<sup>[2]</sup> dated December 14, 2018 and the Resolution<sup>[3]</sup> dated July 17, 2019 of the Court of Appeals (CA) in CA-G.R. CR No. 01649-MIN. The CA affirmed the Judgment<sup>[4]</sup> dated November 17, 2017 and the Order<sup>[5]</sup> dated March 22, 2018 of the Regional Trial Court (RTC) of Cagayan de Oro City, Branch 20, in Criminal Case No. 2014-1164. The *fallo* of the Judgment provides:

**WHEREFORE**, there being proof beyond reasonable doubt, accused Galileo A. Maglasang is found guilty.

Pursuant to the Supreme Court Administrative Circular No. 08-2008 issued on 25 January 2008, accused is meted to pay a fine of P4,000.00.

SO ORDERED.<sup>[6]</sup> (Emphasis in the original)

### Facts of the Case

Galileo was charged with libel under Article 353 of the Revised Penal Code (RPC) in a Reproduced Information<sup>[7]</sup> dated February 22, 2016. The Reproduced Information is based on the Resolution<sup>[8]</sup> dated June 13, 2014 of Assistant City Prosecutor Abol Alam A. Padate. The Reproduced Information states:

That on 30 March 2014, in the City of Cagayan de Oro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, illegally, criminally and with the intention of attacking the honesty, virtue and reputation of offended parties **CAPT. RENE A. MAGLASANG and ENGR. NELIA COCOS**, who is the newly-elected President of Misamis Institute of Technology (MIT) and Registrar of MIT-Ozamis City, respectively, and for the further purpose of exposing the latter to public hatred, contempt and ridicule, wrote, composed and caused the publication of a LETTER-COMPLAINT, which contains injurious, malicious and defamatory imputations of an alleged illegal act committed by the offended parties, the pertinent provision of said letter reads, thus:

COMMO Ferdinand M. Velasco PCG  
Commander  
Coast Guard District Northern Mindanao

Corrales Extension, Macabalan,  
Cagayan De Oro City

Dear Commander Velasco,

*Re: Spurious S.O.'s and CAV's of graduates of the Misamis Institute of Technology CHED Region Office X*

XXXX

*I write in my capacity as President of the Misamis Institute of Technology, Inc. (hereafter, "MIT"), in relation to the case, entitled MISAMIS INSTITUTE OF TECHNOLOGY, INC versus ZENAIDA GERSANA, CHEDRO X Regional Director, and ROY ROQUE U. AGCORPA, CHEDRO X Chief Administrative Officer, now pending before the Office of the Executive Director of the Commission on Higher Education (hereafter, "CHED").*

*As a consequence to the above-mentioned case, we uncovered that CHED Region Office X at Cagayan de Oro City had turned over S.O. 's and CAV's to Rene A. Maglasang and to persons associated with him, including Engr. Nelia Cocos, who, in turn, sold said documents to unsuspecting students and graduates of MIT.*

*Rene A. Maglasang and all persons who take instructions from him, including Engr. Nelia Cocos, have nothing to do with MIT and do not have in their custody the academic records of the students and graduates of MIT to whom these S.O.'s and CAV's pertain.*

X X X X

*Very Truly Yours,  
Sgd. Galileo A. Maglasang*

with which statements, the said accused meant and intended to convey, as in fact he did mean and convey false and malicious imputation that the said offended parties were unscrupulous and devious individuals which imputations as he well knew, were false and malicious, offensive and derogatory to the good name, character and reputation of the offended parties and that the said letter was solely written and circulated by the said accused for no other purpose than to impeach and besmirch the good name, character and reputation of the offended parties, in order to expose him, as in fact, he was exposed to dishonor, discredit, public hatred, contempt and ridicule, to their damage and prejudice.

Contrary to law.<sup>[9]</sup> (Emphasis and italics in the original.)

Galileo was originally scheduled to be arraigned on February 3, 2015. However, a fire destroyed the records of this case on January 30, 2015. Thus, the Office of the City Prosecutor prayed for the reconstitution of the records of the case.<sup>[10]</sup> This was granted by the RTC in an Order<sup>[11]</sup> dated November 12, 2015. On June 2, 2016, Galileo was arraigned and pleaded not guilty.<sup>[12]</sup>

Respondent presented private complainant Rene A. Maglasang (Rene) and Ensign Ronnie Rey de la Vega Pabico (P/Ens Pabico), Community Relations Officer of the Philippine Coast Guard (PCG) in Northern Mindanao, as its witnesses. According to respondent, Engineer Allan A. Maglasang (Engr. Allan), Rene, and Galileo's brother, who is also a part of the PCG, called Rene on March 31, 2014 to inform him that the office of Commodore Ferdinand Velasco (Commo Velasco), Commander of the PCG Region X, Cagayan de Oro City, received a letter dated March 30, 2014 from Galileo.

[13] The letter reads:

I write in my capacity as President of the Misamis Institute of Technology, Inc. (hereafter, "MIT"), in relation to the case, entitled **MISAMIS INSTITUTE OF TECHNOLOGY, INC. versus ZENAIDA GERSANA**, CHEDRO X Regional Director, and **ROY ROQUE U. AGCORPA**, CHEDRO X Chief Administrative Officer, now pending before the Office of the Executive Director of the Commission on Higher Education (hereafter, "CHED").

As a consequence to the above-mentioned case, we uncovered that CHED Region Office X at Cagayan de Oro City had turned over S.O.'s and CAV's to Rene A. Maglasang and to persons associated with him, including Engr. Nelia Cocos, who, in turn sold said documents to unsuspecting students and graduates of MIT.

Rene A. Maglasang and all persons who take instructions from him, including Engr. Nelia Cocos, have nothing to do with MIT and do not have in their custody the academic records of the students and graduates of MIT to whom these S.O.'s and CAV's pertain.

In an effort to avert damage the issuance of these spurious S.O.'s and CAV's, the Office of the Executive Director of CHED, in the letter, dated March 6, 2014, machine copy of which attached hereto as **Annex A**, addressed to me clarified that indeed the issuance of the S.O.'s and the CAV's to persons who do not have custody of the academic records of the students and graduates of MIT to whom the S.O.'s and CAV's pertain is irregular. Consequently, the Office of the Executive Director of CHED, in the *Memorandum from the Office of the Executive Director*, dated March 27, 2014, machine copy of which attached hereto as **Annex B**, directed ZENAIDA GERSANA, CHEDRO X Regional Director, to issue the S.O.'s and CAV's in accordance with the proper procedure of CHED.

The Office of the Executive Director of CHED, in both the letter, dated March 6, 2014 (Annex A) and the *Memorandum from the Office of the Executive Director*, dated March 27, 2014 (Annex B), specifically addressed me, not Rene A. Maglasang, as the President of MIT.

I, therefore, request your good office not to accept the following S.O.'s and CAV's issued by CHEDRO X, to wit: x x x .

The foregoing list may not have been exhaustive. I, therefore, request that any document which appears to be signed by Rene A. Maglasang in which he described himself as the President of MIT, and by Engr. Nelia Cocos, in which she described herself as the Registrar MIT, be referred to the Office of the Executive Director of CHED for authenticity.

Lastly, may I request that your good office verify the foregoing matter with the Office of the Executive Director of CHED.

Thank you for your giving me your precious time and attention.<sup>[14]</sup>  
(Emphasis in the original.)

Upon Rene's request, Engr. Allan obtained a copy of the letter and gave it to Rene. Rene, his family, and the staff of the Misamis Institute of Technology, Inc. (MIT) read the letter. Rene felt insulted and maligned by the accusations in the letter. As such, he and Engr. Nelia Cocos (Engr. Cocos; collectively, private complainants) filed a complaint-affidavit for libel against Galileo. Galileo was charged with libel.<sup>[15]</sup>

Galileo did not present any evidence in his defense<sup>[16]</sup> but submitted a Memorandum<sup>[17]</sup> to the RTC. Galileo argued in his Memorandum that the original letter was not presented as evidence. Respondent was unable to prove that the original letter was destroyed or lost. Hence, the case should be dismissed, and Galileo should be acquitted.<sup>[18]</sup>

### **Ruling of the Regional Trial Court**

In its Judgment<sup>[19]</sup> dated November 17, 2017, the RTC found Galileo guilty beyond reasonable doubt of the crime of libel and imposed the penalty of a fine of P4,000.00 upon him.<sup>[20]</sup> The RTC held that all the elements of libel under Article 353 of the RPC were established in this case. The prosecution presented Rene and P/Ens Pabico as its witnesses. P/Ens Pabico testified as to the existence of the letter addressed to Commo Velasco that was on file in their office. *First*, Galileo's letter destroyed the character of private complainants by imputing that they committed irregularities, specifically selling Special Orders (SOs) and Certification, Authentication, and Verification (CAVs) to students of MIT even though they have nothing to do with MIT and do not have custody of the records of its students and graduates. *Second*, these imputations were malicious. Galileo did not present evidence to overcome the presumption that every defamatory imputation is malicious, even if it be true, if no good intention and justifiable motive for making it is shown. *Third*, the imputations made by Galileo were addressed to private complainants who are natural persons. *Fourth*, the malicious imputations made by Galileo brought dishonor, discredit, or contempt upon private complainants. *Fifth*, Galileo sent the letter to a third person, namely Commo Velasco. Rene learned about the letter through Engr. Allan. Hence, the element of publication, which requires the delivery of the libelous matter by mailing it, reading it, or communicating its purpose in any manner to any person other than the one libeled, was satisfied.<sup>[21]</sup>

Under the RPC, libel is punishable by imprisonment of *prison correccional* in its minimum and maximum period or a fine ranging from P200.00 to P6,000.00, or both, in addition to the civil action that may be brought by the offended party.<sup>[22]</sup> Pursuant to this Court's Administrative Circular No. 08-2008<sup>[23]</sup> issued on January 25, 2008, the RTC considered the following factors in imposing a penalty of a fine alone on Galileo: (1) Rene and Galileo are full-blooded brothers; (2) they are not in good terms because both were claiming to be the President of MIT; (3) this is the first time that Rene sued Galileo for libel; and (4) Engr. Cocos did not testify.<sup>[24]</sup>

Galileo filed a motion for reconsideration,<sup>[25]</sup> but it was denied.<sup>[26]</sup> He then appealed to the CA.<sup>[27]</sup>

### **Ruling of the Court of Appeals**

On December 14, 2018, the CA rendered its Decision<sup>[28]</sup> affirming the Judgment of the RTC. The CA held that respondent was able to establish that the original letter was unavailable and cannot be produced in Court. Therefore, the RTC was correct in admitting the photocopy of the letter as evidence pursuant to Section 5, Rule 130 of the Revised Rules on Evidence. The CA gave credence to the testimony of P/Ens Pabico that Commo Velasco's secretary emailed a copy of the letter to him sometime in January or February 2017. The secretary is no longer connected with PCG while Commo Velasco is under investigation and is in a floating status. P/Ens Pabico confirmed that his office received a copy of the letter.<sup>[29]</sup>

The CA also agreed with the RTC that all the elements of libel are present in the case, namely identifiability, defamatory allegation, and malice. Private complainants were clearly identified in the letter. The statements in the letter are defamatory because it ascribed the commission of irregular transactions against private complainants and their possession of a vice or defect, which tended to dishonor or discredit them and impeached their virtue, credit, and reputation. The malice in the imputations may be inferred from the ongoing legal dispute between Rene and Galileo over the leadership of MIT. And the element of publication was satisfied when Galileo sent the letter to Commo Velasco. Notably, Galileo did not question the presence of the elements of libel in this case.<sup>[30]</sup>

Galileo filed a Motion for Reconsideration.<sup>[31]</sup> After it was denied by the CA,<sup>[32]</sup> he filed a petition for review on *certiorari* before this Court.

### **Petitioner's Arguments**

Galileo argued that under Best Evidence Rule in Section 3, Rule 130 of the Revised Rules on Evidence, when the subject of the inquiry is the contents of the document, no evidence shall be admissible other than the original document itself, except in cases specified under said rule. Secondary evidence may only be accepted if the following are established: (1) the existence or due execution of the original; (2) loss and destruction of the original or the reason for its non-production in court; and (3) on the part of the offeror, the absence of bad faith to which the unavailability of the original can be attributed. Respondent did not exert any effort to justify the presentation of secondary evidence instead of the original letter. P/Ens Pabico testified that he cannot confirm if the letter was received by the PCG because he was not yet in PCG when the letter was supposedly sent. He does not know Comma Velasco's secretary who supposedly sent the email containing the letter or her location. In addition, the printed copy of the letter brought by P/Ens Pabico bore the marking "Annex A." This was the same marking placed on letter attached to Rene's complaint-affidavit as Annex A. Galileo concluded that the letter brought by P/Ens Pabico was actually given to him by respondent. Further, respondent did not submit evidence that Commo Velasco brought the letter with him after being separated from the PCG. Based on the foregoing, Galileo asserted that respondent failed to prove that the letter cannot be produced in court.<sup>[33]</sup>

### **Respondent's Arguments**