

SECOND DIVISION

[G.R. No. 242577, February 26, 2020]

**RICO V. DOMINGO, PETITIONER, VS. RAMON GIL MACAPAGAL,
RESPONDENT.**

D E C I S I O N

REYES, A., JR., J.:

The Antecedents

This case stemmed from a criminal Complaint^[1] for Libel lodged before the Office of the City Prosecutor (OCP)-Quezon City by Rico V. Domingo (petitioner), the sole proprietor of R.V. Domingo and Associates Law Firm, against respondent Ramon Gil Santos Macapagal (respondent), the Vice President for Corporate Affairs and Sustainability and the head of the Brand Protection Department of Unilever Philippines, Inc. (ULP). The case was docketed as N.P.S. No. XV-03-INV-141-10445 of the Quezon City Prosecutor's Office.^[2]

The cases factual backdrop is aptly narrated in the Decision^[3] of the Court of Appeals (CA):

On October 25, 2013, petitioner's law firm, through its employee Rowena J. Viacrusis (Viacrusis), received an e-mail sent by respondent's Executive Assistant, reading, to wit:

Dear Weng,

We are returning the invoices (hard copies to follow) as listed in the attachment pertaining to bills for appearance fees and per diems for the following reason:

Based on the SDAP schedule of fees dated September 10, 2001, under litigation support, the fee is P4,000.00 per appearance at hearings with in Metro-Manila plus per diem of P4,000.00 from appearances outside Metro Manila, exclusive of out-of-pocket expenses.

You have been overcharging ULP by billing P6,500.00 for appearance fees and P6,500.00 for per diems. Please bill us the correct amounts.

Thank you.

Rose Aquino - in behalf of Chito Macapagal
EA-VP for Corporate Affairs and Sustainability^[4]

Petitioner replied to that e-mail , apparently irked at the charge of overbilling.

This prompted a second letter dated October 30, 2013 from respondent, with the following content and tenor:

Dear Rico,

Subject: Appearance fees

This is in reply to your email dated October 25, 2013 addressed to my EA, Ms. Rose Aquino with copy furnished to me. First of all, at the end of Rose Aquino's email, it was clearly indicated that the email was sent in my behalf. The statement I have made was based on the 2001 SDAP retainership agreement.

Let us confine ourselves on the issue that you have raised so that we can put a closure to this discussion. In refuting our position on overcharging of appearance fees, you claim that the 2001 SDAP agreement on enforcement fees was amended in 2003 which you now claim to be the basis of your charges.

You will recall that you submitted the so called 2003 amendment only when you were asked by Rose as to the basis of you [sic] charges of P6,500.00 per appearance and P6,500.00 per diem.

If as you claim, the 2001 SDAP agreement was amended from P4,000 to P6,500.00, then is it correct to say that the rates of appearance fees with P&G and CPP were likewise increased?

Was the 2003 amendment signed by any officer of ULP, P&G and CPP? For the record, Danny did not sign the 2003 amended agreement. You are of course aware that the SDAP agreed to have a common rate of lawyer's fees and surely any changes would have been discussed during our regular SDAP meetings.

The mere fact that your fees of P6,500.00 were paid did not mean that these were the correct figures. For you to now claim that you forwarded to Danny the 2003 amended agreement and coinciding with the beginning of your charges of P6,500.00 is simply out of line. You must have forgotten that Badette of Legal requested for a copy of the retainership agreement from you several times. In those times, you have consistently given her a copy of the original agreement, the latest being March 2013 which indicated that your rate per appearance of P4,000.00.

You must realize that the manner you have responded have [sic] already escalated the issues to the point of adversely affecting our lawyer-client relationship.

I hope this has clarified our position and that you will reconsider yours.

Yours Truly

RAMON GIL S. MACAPAGAL
VP for Corporate Affairs and Sustainability
Unilever Philippines, Inc.^[5]

Evidently stung by the foregoing e-mail and letter, petitioner filed before the Office of the City Prosecutor-Quezon City (OCP-Quezon City) a criminal case for Libel against respondent; this was docketed as N.P.S. No. XV-03-INV-14J-10445 before the OCP-Manila.^[6]

Finding no probable cause to indict respondent for Libel, the OCP-Quezon City issued a Resolution dated May 11, 2015 dismissing petitioner 's complaint for Libel. The dispositive portion of this Resolution reads, to wit:

In the absence of the essential elements of libel, this Office finds no probable cause to indict respondent of the crime of libel.

WHEREFORE, it is respectfully recommended that the instant cased [sic] be DISMISSED.^[7]

Upon petitioner's motion for reconsideration, however, the same office reversed its May 11, 2015 Resolution.^[8] This time it decreed as follows:

Premises considered, the resolution of dismissal is hereby reversed and set aside, and on finding of probable cause, the corresponding information for Libel is to be filed against respondent Ramon Gil S. Macapagal.

Bail recommended: as stated in the information.^[9]

Accordingly, on July 27, 2015, the OCP-Quezon City filed in court an Information for Libel against respondent; this was docketed as Criminal Case No. R-QZN-15-07104-CR of Branch 101 of the Regional Trial Court (RTC) of Quezon City.

After studying the records, the RTC Judge, Honorable Evangeline C. Castillo-Marigomen, issued an Order finding probable cause for the issuance of a warrant of arrest against respondent. However, upon a motion for reconsideration by respondent, the same RTC judge issued another Order dated March 7, 2016, this time dismissing the Information for Libel, viz.:

WHEREFORE, the instant motion is hereby **GRANTED**. The criminal Information for libel against the accused is **DISMISSED**.

SO ORDERED.^[10]

Petitioner filed a motion for reconsideration of this Order, and when this was denied, petitioner sought out an appeal before the CA, whereat it was docketed as CA-G.R. SP No. 148471.^[11] In this appeal, petitioner contended that the RTC judge committed grave abuse of discretion amounting to lack or excess of jurisdiction because she usurped the executive function when after finding probable cause for the issuance of a warrant of arrest against respondent, she conducted a new preliminary investigation and dismissed the criminal case.^[12] Petitioner also claimed that the RTC judge erred in reversing the findings of the OCP-Quezon City to the effect that respondent's e-mail and letter were defamatory.

Respondent, in the interim, filed a petition for review before the Department of Justice (DOJ) assailing the Resolution of the OCP-Quezon City which, as stated, found probable cause to indict him for Libel. On April 25, 2016, the DOJ issued a Resolution granting respondent's petition. The dispositive portion of the DOJ's Resolution reads:

WHEREFORE, premises considered, the Assailed Resolution dated 27 July 2015 is **REVERSED** and **SET ASIDE**. The City Prosecutor of Quezon City is hereby directed to **cause the withdrawal** of the Information for

Libel tiled against Petitioner Ramon Gil S. Macapagal before the Regional Trial Court of Quezon City, and to report the action taken

to this Department within ten (10) days from receipt of this Resolution.

SO ORDERED.^[13]

Petitioner moved for reconsideration of the DOJ's Resolution, but this was denied. From this denial, petitioner appealed to the CA, where his appeal was docketed as CA-G.R. SP No. 147342.^[14]

Initially, the appellate court rendered a Decision dismissing the petition in CA-G.R. SP 147342, essentially on the ground that the petition had been rendered moot and academic by the subsequent filing of an Information for Libel in the RTC of Quezon City. Upon a motion for reconsideration, however, the CA, this time declared that Her Honor went beyond the scope of her authority when she dismissed the Information for Libel for lack of probable cause.^[15] The appellate court also held that Her Honor's ratiocination that the subject e-mail was in the nature of a private communication delved into the substantive aspect of the case, which, according to the CA, was best ventilated in a full-blown trial on the merits.^[16]

For this reason, the CA annulled and set aside the questioned Orders^[17] of the RTC judge. Nonetheless, upon respondent's motion for partial reconsideration, the CA rendered an Amended Decision, this time overturning its previous ruling. The CA thus in effect reinstated the RTC's Orders, to wit:

WHEREFORE, premises considered, private respondent's Motion for Partial Reconsideration is hereby **GRANTED**. Accordingly, the petition in CA-G.R. SP No. 148471 is **DISMISSED** and the Orders of public respondent Judge dated March 7, 2016 and September 5, 2016 are **REINSTATED**.

The Manifestation filed [sic] private respondent Macapagal dated October 12, 2017 is merely noted.

SO ORDERED.^[18]

Petitioner filed a motion for reconsideration of this Amended Decision, but this was denied by the CA in a Resolution^[19] dated September 12, 2018. Hence, this petition for review on *certiorari* with a prayer for preliminary injunction.

The Issues and the Arguments of the Parties

The several issues highlighted in this petition can be subsumed into two:

First, whether Her Honor committed grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing the Libel case against respondent.

Second, whether respondent is guilty of Libel in addressing the e-mail and letter to petitioner wherein he challenged what he believed was petitioner's overcharging of legal fees.

In the present case, petitioner seeks the correction *via certiorari* of the act of the RTC judge who, after finding probable cause for the issuance of a warrant of arrest