

## THIRD DIVISION

[ G.R. No. 213023, April 10, 2019 ]

**MICHAEL C. GUY, PLAINTIFF-APPELLEE, VS. RAFFY TULFO,  
ALLEN MACASAET, NICOLAS V. QUIJANO, JR., JANET BAY, JESUS  
P. GALANG, RANDY HAGOS, JEANY LACORTE, AND VENUS  
TANDOC, ACCUSED-APPELLANT.**

### DECISION

**LEONEN, J.:**

The degree of freedom by which journalists operate to uncover and write the news is an indication of the current state of our country's democracy. By freely obtaining vital information on matters of public concern, citizens become socially aware and well-equipped to participate in different political processes to exercise their rights enshrined in the fundamental law. Journalists are the sentinels who keep watch over the actions of the government. They are the eyes and ears of the citizenry. In today's digital age, the work of journalists is held to a higher standard more than ever. Beyond the multitude that participate on social media, they have value as part of a profession that should be trusted with the truth.

Nevertheless, the probing done by journalists must be made "with good motives and for justifiable ends[.]"<sup>[1]</sup> The protection afforded by the Constitution<sup>[2]</sup> to the press is not *carte blanche* that allows journalists to abandon their responsibility for truth and transparency. It is incumbent upon them to exercise a high degree of professionalism in their work, regardless of the subject of their stories.

This resolves a Petition for Review on Certiorari<sup>[3]</sup> assailing the Court of Appeals June 13, 2014 Amended Decision<sup>[4]</sup> in CA-G.R. CR No. 33256.

On March 24, 2004, an article entitled "Malinis ba talaga o naglilinis-linisan lang (Sino si Finance Sec. Juanita Amatong?)"<sup>[5]</sup> was published in *Abante Tonight*, a newspaper of general circulation in the Philippines.<sup>[6]</sup>

Written by Raffy T. Tulfo (Tulfo), the article reported that a certain Michael C. Guy (Guy), who was then being investigated by the Revenue Integrity Protection Service of the Department of Finance for tax fraud, went to former Department of Finance Secretary Juanita Amatong (Secretary Amatong)'s house to ask for help.<sup>[7]</sup> Secretary Amatong then purportedly called the head of the Revenue Integrity Protection Service and directed that all the documents that the Revenue Integrity Protection Service had obtained on Guy's case be surrendered to her.<sup>[8]</sup> The article read:

Ang mga tanong ngayon, may katotohanan kaya ang akusasyon ni Salanga laban kay Amatong? Nagsasabi naman kaya ng totoo si Amatong nang itanggi niya ang akusasyon ni Salanga laban sa kanya?

Narito ang isang balitang natanggap ng SHOOT TO KILL mula sa isang mapagkakatiwalaan at A-1 source na kung saan ay inarbor ni Amatong sa kanyang mga tauhan ang isang negosyanteng iniimb[e]st[i]gahan ng DoF dahil sa katiwalian sa tax refund. Narito ang kwento at kayo na ang bahalang manghugsa kung sino ang may kredibilidad, si Amatong o si Salanga?

Noong March 20, 2004, Sabado ng hapon pumunta ang isang negosyanteng nagngangalang Michael Guy sa bahay ni Amatong. Si Guy ay iniimb[e]st[i]gahan ng mga tauhan ng Revenue Integrity Protection Service (RIPS) ng DOF dahil sa kahinahinalang mga tax refund na natanggap nito mula sa BIR simula 1998 hanggang 2003.

Problemado si Guy sapagkat natunugan niyang iniimbestigahan na siya ng RIPS. Ito'y matapos magpadala ng sulat ang RIPS sa Central Bank at hinihingi rito ang lahat ng mga transaksyon ng kumpanya ni Guy sa lahat ng mga bangko. Ang nakatanggap ng sulat sa Central Bank ay kakilala ni Guy.

Noong Sabado ng hapon din, ayon sa aking source, tinawagan ni Amatong ang hepe ng RIPS para hilingin dito na ihinto imbestigasyon laban kay Guy at isurender sa kanyang opisina ang lahat ng mga dokumentong nakalap ng RIPS laban dito!!!<sup>[9]</sup>

Claiming that the article had tainted his reputation, Guy filed before the Office of the City Prosecutor of Makati City a Complaint-Affidavit against Tulfo and the following representatives of *Abante Tonite's* publisher, Monica Publishing Corporation: (1) Allen Macasaet; (2) Nicolas V. Quijano, Jr.; (3) Janet Bay; (4) Jesus P. Galang; (5) Randy Hagos; (6) Jeany Lacorte; and (7) Venus Tandoc (collectively, Macasaet, et al.).<sup>[10]</sup>

After a preliminary investigation, the Office of the City Prosecutor filed an Amended Information charging Tulfo and Macasaet, et al. with the crime of libel.<sup>[11]</sup>

On arraignment, Tulfo and Macasaet, et al. refused to enter a plea. Accordingly, the Regional Trial Court ordered that a plea of not guilty be entered for all of them.<sup>[12]</sup>

In its February 24, 2010 Judgment, the Regional Trial Court convicted Tulfo and Macasaet, et al. of the crime of libel. It ruled that the prosecution was able to establish by proof beyond reasonable doubt the elements of the crime.<sup>[13]</sup>

The trial court ordered Tulfo and Macasaet, et al. to pay Guy: (1) P5,000,000.00 as actual damages; (2) P5,000,000.00 as moral damages; and (3) P211,200.00 as attorney's fees.<sup>[14]</sup> The dispositive portion of its Judgment read:

**WHEREFORE**, the Court finds the accused **Allen Macasaet, Nicolas V. Quijano, Jr., Janet Bay, Jesus P. Galang, Randy Hagos, Jeany Lacorte, Venus Tandoc and Raffy Tulfo, GUILTY** beyond reasonable doubt of the crime of Libel, as defined in Article 353 of the Revised Penal Code, and sentences each of the accused to pay a fine of **SIX THOUSAND PESOS (P6,000.00) with subsidiary imprisonment, in case of insolvency.**

They are likewise hereby ordered to pay private complainant Michael C. Guy, jointly and severally, the sum of **FIVE MILLION PESOS (P5,000,000.00)** as actual damages, **FIVE MILLION PESOS (P5,000,000.00)** as moral damages, and **TWO HUNDRED ELEVEN THOUSAND TWO HUNDRED PESOS (P211,200.00)** as attorney's fees.<sup>[15]</sup> (Emphasis in the original)

Aggrieved, Tulfo and Macasaet, et al. filed before the Court of Appeals separate Appeals assailing the Regional Trial Court February 24, 2010 Judgment.<sup>[16]</sup>

In its August 30, 2013 Decision,<sup>[17]</sup> the Court of Appeals affirmed the trial court's Judgment convicting Tulfo and Macasaet, et al. of libel. Nonetheless, it reduced the award of moral damages to P500,000.00 and ordered them to pay Guy exemplary damages in the amount of P500,000.00.<sup>[18]</sup> The dispositive portion of its Decision read:

**WHEREFORE**, the appeal is **DENIED**. The February 24, 2010 Judgment of the Regional Trial Court, Branch 132, Makati City in Criminal Case No. 04-3614 is **AFFIRMED** with **MODIFICATION** that all accused-appellants are ordered to pay Michael Guy, jointly and severally, P500,000.00 moral damages and P500,000.00 exemplary damages.<sup>[19]</sup> (Emphasis in the original)

Insisting on their innocence, Tulfo sought the reconsideration of the Court of Appeals August 30, 2013 Decision. Similarly, Guy moved for partial reconsideration and clarification of the Decision.<sup>[20]</sup>

In its June 13, 2014 Amended Decision,<sup>[21]</sup> the Court of Appeals modified its August 30, 2013 Decision and deleted the award of exemplary damages. It likewise deleted the Regional Trial Court's award of actual damages for lack of factual and legal basis.<sup>[22]</sup> The dispositive portion of its Amended Decision read:

**WHEREFORE**, the appeal is **DENIED**. The February 24, 2010 Judgment of the Regional Trial Court, Branch 132, Makati City in Criminal Case No. 04-3614 is hereby **AFFIRMED** with **MODIFICATIONS** that all accused-appellants are **ORDERED** to pay Michael Guy, jointly and severally, P500,000.00 moral damages

**and P211,200.00 attorney's fees. The award of P5,000,000.00 actual damages is DELETED for lack of factual and legal basis.**<sup>[23]</sup>  
(Emphasis in the original)

On August 26, 2014, Guy filed this Petition for Review on Certiorari,<sup>[24]</sup> seeking the reversal of the Court of Appeals Amended Decision and the reinstatement of the Regional Trial Court Judgment.

Petitioner maintains that contrary to the Court of Appeals' findings, there is factual and legal basis for the award of actual damages.<sup>[25]</sup> He avers that it had been established in the trial court proceedings that he may be able to earn P50,000,000.00 in 10 years. This possibility, he points out, constitutes the factual basis for the award of actual damages.<sup>[26]</sup>

Assuming that there is no sufficient basis for the award of actual damages, petitioner asserts that he is still entitled to temperate damages. Citing Articles 2216, 2224, and 2225 of the Civil Code, he claims that temperate damages may be awarded even without competent proof, as long as the court finds that the victim has incurred some pecuniary loss.<sup>[27]</sup> He insists that in his case, the libelous article tainted his reputation, causing some of his clients to terminate their arrangements with him.<sup>[28]</sup>

Petitioner further claims to have had good standing in the community, which the libelous article destroyed. Thus, he argues that the amount of P5,000,000.00 as moral damages is a reasonable recompense for the grief and suffering he has endured.<sup>[29]</sup>

Petitioner maintains that as the president of MG Forex Corporation, a company engaged in foreign exchange trading, he was a reputable businessman.<sup>[30]</sup> However, as a result of the libelous article, his business associates and clients lost trust in him. One (1) of his sisters, who was also his business associate, sold him back her company shares after losing confidence in his dealings. Clients refused to do business with him, terrified that they be linked with the accusations against him.<sup>[31]</sup>

Petitioner likewise avers that his family members doubted him. His mother berated him for bringing shame to the family. His children were questioned in school for the article about their father.<sup>[32]</sup>

Finally, petitioner contends that exemplary damages should be awarded in his favor. He maintains that respondent Tulfo deliberately took advantage of his standing as a renowned journalist to tarnish petitioner's reputation.<sup>[33]</sup> He asserts that respondent Tulfo's penchant for writing defamatory articles should be restrained.<sup>[34]</sup>

In its November 12, 2014 Resolution,<sup>[35]</sup> this Court directed respondents to file their comment.

In its July 13, 2015 Resolution,<sup>[36]</sup> this Court required the counsels of respondents

Tulfo and Macasaet, et al. to show cause why they should not be disciplinary dealt with for their failure to file their respective comments. It also required them to comply with the November 12, 2014 Resolution.

On September 3, 2015, respondents Macasaet, et al. filed a Compliance,<sup>[37]</sup> manifesting that they would not submit any comment and instead leave the Petition to this Court's discretion.

In his Comment<sup>[38]</sup> filed on August 26, 2016, respondent Tulfo avers that the Court of Appeals correctly deleted the award of actual damages for lack of sufficient legal basis.<sup>[39]</sup> Maintaining further that the deletion of the award of exemplary damages was proper, he argues that exemplary damages may be awarded only when the crime was committed with one (1) or more aggravating circumstances. He insists that the amount of moral damages should also be deleted.<sup>[40]</sup>

In its September 21, 2016 Resolution,<sup>[41]</sup> this Court required petitioner to file a reply.

In his Reply,<sup>[42]</sup> petitioner reiterates that he is entitled to actual, moral, and exemplary damages.

For this Court's resolution are the following issues:

First, whether or not there is sufficient factual basis for an award of actual damages;

Second, whether or not petitioner Michael C. Guy is entitled to moral damages; and

Finally, whether or not he is entitled to exemplary damages.

The Petition is partly meritorious.

## **I**

"Generally, a criminal case has two aspects, the civil and the criminal."<sup>[43]</sup> This notion is rooted in the fundamental theory that when a criminal act is committed, two (2) different entities are offended: (1) the State, whose law has been violated; and (2) the person directly injured by the offender's act or omission.<sup>[44]</sup> As explained in *Banal v. Tadeo, Jr.*:<sup>[45]</sup>

Generally, the basis of civil liability arising from crime is the fundamental postulate of our law that "Every man criminally liable is also civilly liable" (Art. 100, The Revised Penal Code). Underlying this legal principle is the traditional theory that when a person commits a crime he offends two entities namely (1) the society in which he lives in or the political entity called the State whose law he had violated; and (2) the individual member of that society whose person, right, honor, chastity or property was actually or directly injured or damaged by the same punishable act or omission. . . . While an act or omission is felonious because it is