

## SECOND DIVISION

[ G.R. No. 210475, April 11, 2018 ]

**RAMON K. ILUSORIO, MA. LOURDES C. CRISTOBAL, ROMEO G. RODRIGUEZ, EDUARDO C. ROJAS, CESAR B. CRISOL, VIOLETA J. JOSEF, ERLINDA K. ILUSORIO, SHEREEN K. ILUSORIO, AND CECILIA A. BISUÑA, PETITIONERS, V. SYLVIA K. ILUSORIO, RESPONDENT.**

### D E C I S I O N

**PERALTA, J.:**

This petition for review on *certiorari* under Rule 45 of the Rules of Court (*Rules*) with prayer for temporary restraining order (*TRO*) or writ of preliminary injunction (*WPI*) seeks to annul and set aside the Resolutions dated July 17, 2013<sup>[1]</sup> and November 21, 2013,<sup>[2]</sup> of the Court of Appeals (*CA*) in CA-G.R. SP No. 130416, which denied due course and dismissed the petition for *certiorari* filed by petitioners assailing the Order<sup>[3]</sup> dated April 3, 2013 of the Regional Trial Court (*RTC*), Branch 52, Manila.

Based on a complaint for libel of respondent Sylvia K. Ilusorio, an Information<sup>[4]</sup> dated December 18, 2008 was filed against petitioners Ramon K. Ilusorio, Ma. Lourdes C. Cristobal, Romeo G. Rodriguez, Eduardo C. Rojas, Cesar B. Crisol, Violeta J. Josef, Erlinda K. Ilusorio, Shereen K. Ilusorio, and Cecilia A. Bisuña, together with their co-defendants Orlando D. Nepomuceno, Erwin C. Mutuc, Daniel C. Subido, and Marietta K. Ilusorio.<sup>[5]</sup> It stemmed from the alleged libelous book entitled "On the Edge of Heaven" authored by Erlinda and circulated by the Directors/Officers of PI-EKI Foundation (formerly House of St. Joseph Foundation), Senior Partners Foundation, Inc. (formerly Quantum Foundation of the Philippines), and Multinational Investment Bancorporation.

The case was docketed as Criminal Case No. 09-270043 and was initially raffled to the Manila RTC Br. 6. In August 2009, the defendants filed a Motion for Determination of Probable Cause (With Prayer to Defer the Issuance of Warrant of Arrest).<sup>[6]</sup> The exchange of pleadings revealed that the charge against the defendants was dismissed on August 12, 2005 by the Department of Justice (*DOJ*) Investigating Panel and Sylvia's motion for reconsideration (*MR*) was denied on November 10, 2005; that DOJ Secretary Raul Gonzales *motu proprio* dismissed Sylvia's petition for review on August 10, 2006, but, upon *MR*, reversed the Resolution on November 6, 2006; that the defendants filed their *MR*, which was denied on October 27, 2008; and, they filed a petition for *certiorari* before the *CA*, which did not issue any *TRO* or *WPI* against the filing of the Information. The defendants asserted that the findings of the DOJ Investigating Panel and the initial resolution of the DOJ Secretary as to the non-existence of probable cause to issue a warrant of arrest should be upheld.

On January 28, 2010, Presiding Judge Jansen R. Rodriguez denied the defendants' motion.<sup>[7]</sup> The Order stated:

After a judicious scrutiny of the records, *i.e., the Information, the Resolution of the Secretary of Justice, the Complaint-Affidavit, the Counter-Affidavits and the excerpts taken from the book entitled "On the Edge of Heaven,"* this Court strongly opines and holds that probable cause indeed exists for the issuance of a warrant of arrest against all the accused herein.

The gravamen of libel is that words, written or printed, caused discredit to a person in the minds of any considerable and respectable class in the community, taking into account the emotions, prejudices and intolerance of every one surrounding the person being discredited.

Guided thereby, did the excerpts come into the purview of being a libelous matter? The Court believes so. After a perusal of the records, this Court finds that there is a probability that the crime of libel had indeed been committed and the herein accused are probably guilty thereof. A mere cursory reading of the alleged excerpts from the aforementioned book would indeed instill upon the mind of a reasonable man that the person being mentioned therein had committed the alleged crimes or wrongdoings. As hereinbeforehand stated, the Court, at this point, does not delve into the certainty of the offense but only on the probability thereof.

It is not disputed, as in fact it was admitted, that Erlinda K. Ilusorio was the source of the alleged writings, hence, she should be made to answer the Information filed in this Court. As to who shall be held accountable together with Erlinda K. Ilusorio, the Court, based on the documents attached to the records, finds that all the other accused, being officers of the publishing foundation, *PI-EKI Foundation*, must likewise be held accountable for the publication of the alleged libelous book.

Anent the other matters raised in the pleadings, the Court sees no need to discuss the same. To the mind of this Court, the same can be best ventilated in court during a full blown hearing, it being a matter of defense and is evidentiary in nature.<sup>[8]</sup>

A MR with motion to inhibit was filed by the defendants.<sup>[9]</sup> After Judge Rodriguez inhibited from the case,<sup>[10]</sup> it was re-raffled to the Manila RTC Br. 52. On June 5, 2012, Acting Presiding Judge Ruben Reynaldo G. Roxas resolved to deny the MR, opining that the grounds raised have already been passed upon and exhaustively discussed in the challenged Order and that no additional evidence was presented to reverse or modify the same.<sup>[11]</sup>

Subsequently, the defendants<sup>[12]</sup> filed a Motion to Quash<sup>[13]</sup> on the grounds that: (1) the court has no jurisdiction over the offense charged (as the Information failed to allege the actual residence of Sylvia or where the libelous matter was printed or first published); (2) the Assistant Prosecutor who filed the Information had no authority to do so (as Sylvia was not alleged as a resident of Manila and that the libelous matter was printed or first published in Manila); (3) the facts charged do not constitute the offense of libel (as the book itself was not attached as part of the

Information and its author or editor was not identified); and (4) the alleged criminal action for libel has been extinguished (as the Information did not allege the date when the book was printed or first published).

Justifying that the issues raised have already been discussed in the Order dated January 28, 2010 and that there is no reason to deviate therefrom, the court denied the motion on April 3, 2013.<sup>[14]</sup> Judge Roxas noted that the MR of the Order dated January 28, 2010 was already denied in the Order dated June 5, 2012; thus, any other motions to be filed pertaining or related to the issues raised in the MR and in the motions subject of the April 3, 2013 Order in the guise of a MR or otherwise would no longer be entertained.

Immediately, petitioners filed before the CA a petition for *certiorari* with prayer for TRO and/or WPI. They prayed:

1. In view of extreme urgency and in order that the petitioners may not suffer great and irreparable injuries, a Temporary Restraining Order/Preliminary Injunction enjoining the respondents from proceeding with the subject criminal case;
2. The petitioners are willing to post a bond for this purpose as may be directed by this Honorable Court; [and]
3. The petitioners pray for other legal and equitable reliefs[.]<sup>[15]</sup>

On July 17, 2013, the petition, which was docketed as CA-G.R. SP No. 130416, was denied due course and dismissed. According to the CA, petitioners are only seeking injunctive relief *sans* the requisite principal action for the nullification of any issuances rendered by the RTC. It ruled that the petition indubitably failed for lack of principal action on which the prayer for injunction relief rests.

Petitioners filed a MR and/or Admit Amended Petition for *Certiorari*, attaching therein the amended petition.<sup>[16]</sup> However, it was denied on November 21, 2013, saying:

x x x Where a petition for *certiorari*, as in this case, is incipiently defective in form and substance, [petitioners'] attempt to cure it beyond the 60-day non-extendible period cannot be allowed, lest such limitation be improperly circumvented. Further, the allegations in the amended petition sought to be admitted do not substantiate the imputation of grave abuse of discretion on public respondent as to otherwise warrant the availment of the extraordinary remedy of *certiorari*.<sup>[17]</sup>

The petition is granted.

The failure of petitioners to state in their prayer the declaration of nullity of the RTC Order dated April 3, 2013 is a mere formal defect. It was a result of a mere inadvertence; hence, constituting excusable negligence.

The CA should have disregarded the fact that the prayer of the petition in CA-G.R. SP No. 130416 did not specifically seek to declare as void the Order dated April 3, 2013. On its face, the main object of the petition was clear and unmistakable considering that the following errors were assigned: