

EN BANC

[G.R. No. 219603, January 26, 2016]

MARY ELIZABETH TY-DELGADO, PETITIONER, VS. HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL AND PHILIP ARREZA PICHAY, RESPONDENTS.

DECISION

CARPIO, J.:

The Case

This special civil action for certiorari^[1] assails the Decision dated 18 March 2015^[2] and Resolution dated 3 August 2015^[3] of the House of Representatives Electoral Tribunal (HRET), in HRET Case No. 13-022, declaring respondent Philip A. Pichay (Pichay) eligible to hold and serve the office of Member of the House of Representatives for the First Legislative District of Surigao del Sur.

The Facts

On 16 September 2008, the Court promulgated its Decision in G.R. Nos. 161032 and 161176, entitled "*Tulfo v. People of the Philippines*," convicting Pichay by final judgment of four counts of libel.^[4] In lieu of imprisonment, he was sentenced to pay a fine in the amount of Six Thousand Pesos (P6,000.00) for each count of libel and One Million Pesos (P1,000,000.00) as moral damages. This Decision became final and executory on 1 June 2009. On 17 February 2011, Pichay paid One Million Pesos (P1,000,000.00) as moral damages and Six Thousand Pesos (P6,000.00) as fine for each count of libel.

On 9 October 2012, Pichay filed his certificate of candidacy for the position of Member of the House of Representatives for the First Legislative District of Surigao del Sur for the 13 May 2013 elections.

On 18 February 2013, petitioner Mary Elizabeth Ty-Delgado (Ty-Delgado) filed a petition for disqualification under Section 12 of the Omnibus Election Code against Pichay before the Commission on Elections (Comelec), on the ground that Pichay was convicted of libel, a crime involving moral turpitude. Ty-Delgado argued that when Pichay paid the fine on 17 February 2011, the five-year period barring him to be a candidate had yet to lapse.

In his Answer dated 4 March 2013, Pichay, through his counsel, alleged that the petition for disqualification was actually a petition to deny due course to or cancel certificate of candidacy under Section 78, in relation to Section 74, of the Omnibus Election Code, and it was filed out of time. He admitted his conviction by final judgment for four counts of libel, but claimed that libel does not necessarily involve moral turpitude. He argued that he did not personally perform the acts prohibited

and his conviction for libel was only because of his presumed responsibility as president of the publishing company.

On 14 May 2013, Ty-Delgado filed a motion to suspend the proclamation of Pichay before the Comelec.

On 16 May 2013, the Provincial Board of Canvassers of Surigao del Sur proclaimed Pichay as the duly elected Member of the House of Representatives for the First Legislative District of Surigao del Sur, obtaining a total of seventy-six thousand eight hundred seventy (76,870) votes.

On 31 May 2013, Ty-Delgado filed an *ad cautelam* petition for *quo warranto* before the HRET reiterating that Pichay is ineligible to serve as Member of the House of Representatives because: (1) he was convicted by final judgment of four counts of libel, a crime involving moral turpitude; and (2) only two years have passed since he served his sentence or paid on 17 February 2011 the penalty imposed on him. In his Answer, Pichay claimed that his conviction for the crime of libel did not make him ineligible because ineligibility only pertained to lack of the qualifications under the Constitution.

In its Resolution dated 4 June 2013, the Comelec First Division dismissed the petition for disqualification filed against Pichay because of lack of jurisdiction.

On 16 July 2013, Ty-Delgado manifested her amenability to convert the *ad cautelam* petition into a regular petition for *quo warranto*.

On 22 October 2013, the preliminary conference took place and the parties waived the presentation of their evidence upon agreement that their case only involved legal issues.

The HRET Decision

In a Decision dated 18 March 2015, the HRET held that it had jurisdiction over the present *quo warranto* petition since it involved the eligibility of a Member of the House of Representatives due to a disqualification under Section 12 of the Omnibus Election Code. However, the HRET held that there is nothing in *Tulfo v. People of the Philippines* which found that Pichay directly participated in any way in writing the libelous articles, aside from being the president of the publishing company.

Thus, the HRET concluded that the circumstances surrounding Pichay's conviction for libel showed that the crime did not involve moral turpitude.

The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the instant Petition (for Quo Warranto) is DISMISSED, and respondent Philip A. Pichay is DECLARED ELIGIBLE to hold and serve the office of Member of the House of Representatives for the First Legislative District of Surigao del Sur.

No pronouncement as to costs.

SO ORDERED.^[5]

In Resolution No. 15-031 dated 3 August 2015, the HRET denied Ty-Delgado's motion for reconsideration for lack of merit considering that no new matter was raised which justified the reversal or modification of the Decision.

Hence, this petition.

The Issues

Ty-Delgado raises the following issues for resolution:

[I]

THE HOUSE OF REPRESENTANTIVES ELECTORAL TRIBUNAL GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF OR EXCESS OF JURISDICTION WHEN IT RULED THAT THE CIRCUMSTANCES SURROUNDING RESPONDENT PICHAY'S CONVICTION OF LIBEL DID NOT SHOW THAT MORAL TURPITUDE IS INVOLVED, WHICH IS CONTRARY TO THE FACTUAL AND LEGAL FINDINGS OF THE SUPREME COURT IN GR. NO. 161032 ENTITLED "*ERWIN TULFO V. PEOPLE AND ATTY. CARLOS T. SO*" AND IN G.R. NO. 161176 ENTITLED "*SUSAN CAMBRI, ET. AL. V. COURT OF APPEALS, ET. AL*"

[II]

THE HOUSE OF REPRESENTANTIVES ELECTORAL TRIBUNAL GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF OR EXCESS OF JURISDICTION IN FAILING TO DECLARE RESPONDENT PICHAY INELIGIBLE OR DISQUALIFIED FROM HOLDING THE POSITION OF MEMBER OF THE HOUSE OF REPRESENTANTIVES BY REASON OF HIS CONVICTION OF LIBEL, A CRIME INVOLVING MORAL TURPITUDE.

[III]

THE HOUSE OF REPRESENTANTIVES ELECTORAL TRIBUNAL GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF OR EXCESS OF JURISDICTION IN FAILING TO DECLARE THAT RESPONDENT PICHAY FALSELY REPRESENTED IN HIS CERTIFICATE OF CANDIDACY THAT HE IS ELIGIBLE TO RUN FOR CONGRESSMAN BECAUSE HIS CONVICTION OF A CRIME INVOLVING MORAL TURPITUDE RENDERED HIM INELIGIBLE OR DISQUALIFIED.

[IV]

THE HOUSE OF REPRESENTANTIVES ELECTORAL TRIBUNAL GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF OR EXCESS OF JURISDICTION IN FAILING TO DECLARE THAT RESPONDENT PICHAY SHOULD BE DEEMED TO HAVE NEVER BECOME A CANDIDATE SINCE HIS

CERTIFICATE OF CANDIDACY IS VOID AB INITIO.

[V]

THE HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF OR EXCESS OF JURISDICTION IN FAILING TO DECLARE THAT SINCE THE PETITION FOR QUO WARRANTO QUESTIONED THE VALIDITY OF RESPONDENT PICHAY'S CANDIDACY, THE JURISPRUDENCE ON A "SECOND PLACER" BEING PROCLAIMED AS WINNER SHOULD THE CERTIFICATE OF CANDIDACY OF A "FIRST PLACER" IS CANCELLED, SHOULD APPLY.

[VI]

THE HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF OR EXCESS OF JURISDICTION BY FAILING TO DECLARE THAT PETITIONER DELGADO WAS THE SOLE LEGITIMATE CANDIDATE FOR MEMBER, HOUSE OF REPRESENTATIVES OF THE FIRST LEGISLATIVE DISTRICT OF SURIGAO DEL SUR, THUS SHE MUST BE DECLARED THE RIGHTFUL WINNER IN THE 2013 ELECTIONS AND MUST BE MADE TO ASSUME THE SAID POSITION.^[6]

The Ruling of the Court

We find merit in the petition.

A sentence by final judgment for a crime involving moral turpitude is a ground for disqualification under Section 12 of the Omnibus Election Code:

Sec. 12. *Disqualifications*.— Any person who has been declared by competent authority insane or incompetent, or has been **sentenced by final judgment** for subversion, insurrection, rebellion or for any offense for which he was sentenced to a penalty of more than eighteen months or **for a crime involving moral turpitude, shall be disqualified to be a candidate and to hold any office**, unless he has been given plenary pardon or granted amnesty.

The disqualifications to be a candidate herein provided shall be deemed removed upon the declaration by competent authority that said insanity or incompetence had been removed or after the expiration of a period of five years from his service of sentence, unless within the same period he again becomes disqualified. (Emphasis supplied)

Moral turpitude is defined as everything which is done contrary to justice, modesty, or good morals; an act of baseness, vileness or depravity in the private and social duties which a man owes his fellowmen, or to society in general.^[7] Although not every criminal act involves moral turpitude, the Court is guided by one of the general rules that crimes *mala in se* involve moral turpitude while crimes *mala*

prohibita do not.^[8]

In *Villaber v. Commission on Elections*,^[9] we held that violation of *Batas Pambansa Blg. 22* is a crime involving moral turpitude because a drawer who issues an unfunded check deliberately reneges on the private duties he owes his fellow men or society in a manner contrary to accepted and customary rule of right and duty, justice, honesty or good morals. In *Dela Torre v. Commission on Elections*,^[10] we held that the crime of fencing involves moral turpitude because actual knowledge by the "fence" that property received is stolen displays the same degree of malicious deprivation of one's rightful property as that which animated the robbery or theft which, by their very nature, are crimes of moral turpitude. In *Magno v. Commission on Elections*,^[11] we ruled that direct bribery involves moral turpitude, because the fact that the offender agrees to accept a promise or gift and deliberately commits an unjust act or refrains from performing an official duty in exchange for some favors denotes a malicious intent on the part of the offender to renege on the duties which he owes his fellowmen and society in general.

In *Zari v. Flores*,^[12] we likewise listed libel as one of the crimes involving moral turpitude. The Revised Penal Code defines libel as a "public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead."^[13] The law recognizes that the enjoyment of a private reputation is as much a constitutional right as the possession of life, liberty or property.^[14]

To be liable for libel, the following elements must be shown to exist: (a) the allegation of a discreditable act or condition concerning another; (b) publication of the charge; (c) identity of the person defamed; and (d) existence of malice.^[15] Malice connotes ill will or spite and speaks not in response to duty but merely to injure the reputation of the person defamed, and implies an intention to do ulterior and unjustifiable harm.^[16] Malice is bad faith or bad motive and it is the essence of the crime of libel.^[17] To determine actual malice, a libelous statement must be shown to have been written or published with the knowledge that it is false or in reckless disregard of whether it is false or not.^[18] Reckless disregard of what is false or not means that the defendant entertains serious doubt as to the truth of the publication or possesses a high degree of awareness of its probable falsity.^[19]

In the present case, Pichay admits his conviction for four counts of libel. In *Tulfo v. People of the Philippines*,^[20] the Court found Pichay liable for publishing the four defamatory articles, which are libelous per se, with reckless disregard of whether they were false or not. The fact that another libelous article was published after the filing of the complaint can be considered as further evidence of malice.^[21] Thus, Pichay clearly acted with actual malice, and intention to do ulterior and unjustifiable harm. He committed an "act of baseness, vileness, or depravity in the private duties which he owes his fellow men, or society in general," and an act which is "contrary to justice, honesty, or good morals."

The dissenting opinion before the HRET even considered it "significant that [Pichay] has raised no issue against libel being a crime involving moral turpitude, and has