

THIRD DIVISION

[G.R. No. 180197, June 23, 2009]

FRANCISCO N. VILLANUEVA, PETITIONER, VS. VIRGILIO P. BALAGUER AND INTERCONTINENTAL BROADCASTING CORPORATION CHANNEL-13, RESPONDENTS.

DECISION

YNARES-SANTIAGO, J.:

Assailed is the August 10, 2007 Decision^[1] of the Court of Appeals in CA-G.R. CV No. 81657 which reversed the October 29, 2003 Decision and February 2, 2004 Resolution of the Regional Trial Court of Quezon City, Branch 89 finding petitioner Francisco N. Villanueva entitled to damages. Also assailed is the October 16, 2007 Resolution^[2] denying the motion for reconsideration.

On March 31, 1992, petitioner Francisco N. Villanueva, then Assistant Manager for Operations of Intercontinental Broadcasting Corporation-Channel 13 (IBC-13) was dismissed from employment on the ground of loss of confidence for purportedly selling forged certificates of performance. Contesting his termination, petitioner filed a complaint for illegal dismissal before the National Labor Relations Commission.

During the pendency of the labor case, news articles about irregularities in IBC-13 were published in the July 18, 1992 issue of the Manila Times and the Philippine Star, and in the July 19, 1992 issue of the Manila Bulletin.

In these news articles, respondent Virgilio P. Balaguer, then President of IBC-13, was quoted to have said that he uncovered various anomalies in IBC-13 during his tenure which led to the dismissal of an operations executive for selling forged certificates of performance.

In the Manila Times, on July 18, 1992:^[3]

Anomalies at IBC-13 uncovered

INSIDER pilferage, malversation, overpricing and other irregularities have cost government-owned Intercontinental Broadcasting Corporation (IBC) 13 more than P108 million in losses for the period 1986-1989.

Gil P. Balaguer, IBC president, uncovered the anomalies after a long and painstaking investigation when he took over the company in 1990.

The investigation uncovered irregularities ranging from selling forged certificates of performance (CP's) to non-remittance of sales collections, illegal and unauthorized airing of movie trailer advertisements (MTA's),

illegal leasing of electricity and machines to "friendly clients," millions worth of undocumented transactions to movie suppliers, exorbitant fees against in-house productions, abused overtime charges by certain employees.

The anomalies did not escape Balaguer when he came to IBC-13 backed by hands-on experience in television management work.

IBC has had four presidents since 1986 after the EDSA revolution. Balaguer is the fifth president.

A special investigative committee helped Balaguer uncover the anomalies in IBC. **It led to the dismissal of an operations executive who sold forged certificates of performance**, a former supervisor who pocketed IBC's sales collections, and station managers who did not remit payments on radio advertisements.

Other anomalies committed against the government station include the loose issuance of technical facilities orders (TFO's) which practically leased the network's broadcast facilities to a "friendly client" for free.

Balaguer, sources said, succeeded in staying as president because of his technical expertise in media and communications and his "managerial will" to cleanse the ranks of the firm. (Emphasis supplied)

In the Philippine Star, on July 18, 1992:^[4]

IBC president uncovers anomalies at tv network

The government-owned International Broadcasting Corp.-Channel 13 lost more than P108 million due to insider pilferage, malversation, overpricing and other irregularities from 1986 to 1989.

IBC president Gil P. Balaguer uncovered the anomalies after "a long and painstaking investigation" when he took over the television station in 1990.

Balaguer, in a statement, said the irregularities uncovered included the sale of forged certificates of performance, non-remittance of sales collections, illegal and unauthorized airing of movie advertisements, illegal lease of equipment to "friendly" clients, exorbitant fees on in-house productions and abused overtime charges by some employees.

Balaguer, the fifth IBC president since 1986, easily detected the anomalies as he has a vast experience in television management work.

A special investigative committee helped Balaguer uncover the anomalies at IBC, **which has resulted in the dismissal of an operations executive who sold forged certificates of performance**, a former

supervisor who pocketed sales collections and a station manager who did not remit payments on radio advertisements. (Emphasis supplied)

In the Manila Bulletin, on July 19, 1992:[5]

Sequestered firm's losses bared

The Intercontinental Broadcasting Corp. (IBC) 13, a sequestered firm, lost more than P108 million for the period 1986-1989 due to pilferage, malversation, over-pricing, and other irregularities perpetrated by a syndicate, according to Gil P. Balaguer, IBC president, who took over the company in 1990.

He said the irregularities ranged from selling forged certificates of performance to non-remittance of sales collections, illegal and unauthorized airing of movie trailer advertisements, illegal leasing of electricity and machines to "friendly clients," millions worth of undocumented transactions to movie suppliers, exorbitant fees against in-house productions, and abused overtime charges by certain employees.

IBC has had four presidents since 1986, Balaguer being the fifth.

A special probe committee that helped Balaguer said **one dismissed executive sold forged certificates of performance**, a former supervisor pocketed IBC sales collections, and some station managers did not remit payments on radio advertisements.

The loose issuance of technical facilities orders practically leased the network's broadcast facilities to a "friendly client" for free.

Balaguer is credited with accelerating the network's rank from number five in 1988 to number two or three under current ratings, despite the efforts of some holdouts who tried to derail his administration. (Emphasis supplied)

In a letter dated July 20, 1992, petitioner urged respondents to confirm or deny if he was the person alluded to in the news article as the operations executive of IBC-13 who was dismissed for selling forged certificates of performance.[6] None of the respondents replied to the letter.

On September 25, 1992, petitioner filed before the Regional Trial Court of Quezon City a complaint for damages against Balaguer,[7] which was later amended by impleading IBC-13 as additional defendant.[8]

Petitioner claimed that respondents caused the publication of the subject news articles which defamed him by falsely and maliciously referring to him as the IBC-13 operations executive who sold forged certificates of performance.[9] He alleged that in causing these false and malicious publications, respondents violated Articles 19,

20, 21, and 26 of the Civil Code.^[10]

Balaguer denied that he had anything to do with the publications.^[11] However, he argued that the publications are not actionable because they are true and without malice;^[12] are of legitimate public concern and interest because IBC-13 is under sequestration; that petitioner is a newsworthy and public figure;^[13] and that they are privileged communication.^[14] Balaguer filed a counterclaim against petitioner for alleged malicious filing of the civil case.^[15]

IBC-13 also denied participation in the publications. It claimed that assuming press statements were issued during a press conference, the same was done solely by Balaguer without its authority or sanction.^[16] IBC-13 also filed a counterclaim against petitioner^[17] and a cross-claim against Balaguer.^[18]

On August 31, 1993, the Labor Arbiter rendered a Decision^[19] finding petitioner's dismissal as illegal, which was affirmed by the National Labor Relations Commission. The Commission, however, declared respondents to be acting in good faith, hence, it deleted the award of moral and exemplary damages. On December 6, 1994, the parties entered into a Compromise Agreement,^[20] with IBC-13 proposing a scheme of payment for petitioner's monetary claims, and with IBC-13 and petitioner waiving any and all claims against each other arising out of the labor case.

On October 29, 2003, the Regional Trial Court^[21] of Quezon City held that petitioner is entitled to an award of damages,^[22] thus:

WHEREFORE, premises considered, judgment is rendered in favor of plaintiff Francisco N. Villanueva and against defendants Balaguer and Intercontinental Broadcasting Corporation (IBC-13).

Accordingly, defendants are hereby ordered to pay the plaintiff jointly and severally, as follows:

- 1) the sum of Five Hundred Thousand (P500,000.00) Pesos by way of moral damages;
- 2) the sum of One Hundred Thousand (P100,000.00) Pesos as and by way of exemplary damages;
- 3) the sum of Thirty Thousand (P30,000.00) Pesos by way of nominal damages;
- 4) the sum of Ten Thousand (P10,000.00) Pesos by way of temperate or moderate damages; and
- 5) the sum of One Hundred Thousand (P100,000.00) Pesos as and by way of attorney's fees.

With costs against defendants.

SO ORDERED.^[23]

Respondents moved for reconsideration but it was denied.^[24] Hence, they appealed

to the Court of Appeals which rendered the herein assailed Decision on August 10, 2007, disposing thus:

WHEREFORE, premises considered, the appeal is hereby GRANTED. The October 29, 2003 Decision and the February 2, 2004 Resolution with Clarification issued by the Regional Trial Court, Br. 89, National Capital Judicial Region, Quezon City, are hereby REVERSED. The Complaint, the Counterclaim, and the Cross-claim in Civil Case No. Q-92-13680 are hereby DISMISSED.

SO ORDERED.^[25]

Petitioner's motion for reconsideration was denied. Hence, the instant petition raising the following issues:^[26]

- a) Does the failure of the addressee to respond to a letter containing statements attributing to him commission of acts constituting actionable wrong, hence, adverse to his interest, and of such nature as would call for his reaction, reply, or comment if untrue, constitute his admission of said statements, consequently, may be used in evidence against him?
- b) Is the admission by a principal admissible against its agent? Is the admission by a person jointly interested with a party admissible against the latter?
- c) Does the failure of an individual to disown the attribution to him by newspaper publications, as the source of defamatory newspaper reports, when he is free and very able to do so, constitute admission that he, indeed, was the source of the said defamatory news reports?

The petition lacks merit.

As early as 1905, this Court has declared that it is the duty of the party seeking to enforce a right to prove that their right actually exists. In varying language, our Rules of Court, in speaking of burden of proof in civil cases, states that each party must prove his own affirmative allegations and that the burden of proof lies on the party who would be defeated if no evidence were given on either side.^[27] Thus, in civil cases, the burden of proof is generally on the plaintiff, with respect to his complaint.^[28]

In proving his claim, petitioner relied on the July 20, 1992 letter, the newspaper articles, and the alleged admission of respondents. Based on the above pieces of evidence, the Court finds that petitioner was unable to discharge his burden of proof. As such, the Court of Appeals properly dismissed the complaint for damages.