

## FIRST DIVISION

[ G.R. NO. 160351, April 10, 2006 ]

**NOEL VILLANUEVA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND YOLANDA CASTRO, RESPONDENTS.**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

This is no ordinary word war story. Here, the Councilor and Vice-Mayor of a town, both holders of exalted government positions, became slaves to their human limitations and engaged in a verbal scuffle at the municipal hall as if they were ordinary men in the streets. A moment of unguarded emotional outburst lead to the long-drawn out twists and turns of this case, which should have been avoided if only they have imbedded in their complex emotions, habits and convictions that consciousness to regulate these deflecting forces and not to let them loose, either to their own detriment or to that of the public they serve. This is the high price they have to pay as occupants of their exalted positions.<sup>[1]</sup>

At bar is a petition for review assailing the decision<sup>[2]</sup> dated 28 March 2003 of the Court of Appeals in CA-G.R. CR No. 22932 which affirmed with modification the decision of the Regional Trial Court (RTC) of Tarlac, likewise affirming with modification the joint decision of the 2nd Municipal Circuit Trial Court (MCTC) of Capas-Bamban-Concepcion, convicting petitioner of the crime of **Grave Oral Defamation** in Criminal Case No. 139-94 and **Slander by Deed** in Criminal Case No.140-94. Also assailed is the resolution<sup>[3]</sup> dated 9 October 2003 of the Court of Appeals denying the motion for reconsideration filed by petitioner.

Petitioner Noel Villanueva was then a member of the Municipal Council while private complainant Yolanda C. Castro was then Municipal Vice Mayor, both of Concepcion, Tarlac. Upon complaint of private complainant, two separate Criminal Complaints were filed on 9 October 1994 against the petitioner in the 2nd MCTC of Capas-Bamban-Concepcion, to wit:

CRIMINAL CASE NO. 139-94  
For: Grave Oral Defamation

On September 12, 1994 on or about 10:00 in the morning at the SB Office in the Municipal Building of Concepcion, Tarlac, in the presence of several persons and again in the afternoon on or about four thirty (4:30 PM) at the Old Session Hall of the Municipal Building in my presence and in the presence of several persons, defendant NOEL L. VILLANUEVA, in a loud voice and within hearing distance of everyone present, unlawfully, maliciously and feloniously uttered in a serious and insulting manner at the undersigned complainant the following words: ["*Nagmamalinis ca, ena ca man malinis, garapal ca*"] and "*Balamu mansanas cang malutu,*

*pero queng quilib ularan ca, tictac carinat*" (You are pretending to be clean and honest yet you are not clean and honest, you are corrupt; you are like a red apple, but inside you are worm infested and extremely dirty), which utterances are serious and insulting in nature, tending to cause dishonor, discredit and contempt of undersigned complainant and causing her extreme mental anguish, wound (sic) feelings, besmirched reputation and serious anxiety for which she is entitled to recover moral and exemplary damages in an amount to be determined by the honorable court. Contrary to law.

CRIM.CASE NO. 140-94  
For: Slander by Deed

On September 12, 1994 around four thirty (4:30 P.M.) in the afternoon, more or less, at the Municipal Building of Concepcion, Tarlac, where public authorities are engaged in the discharge of their duties, and in the presence of several persons, the accused Noel L. Villanueva while in the process of hurling verbal insults at the complainant, then and there unlawfully, feloniously and contemptuously gave the complainant what is commonly known as "**dirty finger**" by poking his hand at complainant's face with the middle finger extended and the rest of his fingers half-closed, an act tending to cause dishonor, discredit and contempt on the complainant and causing her mental anguish, wounded feelings and moral suffering for which she is entitled to moral and exemplary damages in an amount to be determined by the honorable court. Contrary to law.

[4]

Petitioner entered a plea of "not guilty" on both counts and trial ensued. The prosecution witnesses presented were the complainant and her two witnesses.

The MCTC restated the facts as presented by the prosecution evidence as follows:

On 12 September 1994, at 10:00 o'clock in the morning, **two utility men came to complainant's office, bringing with them the application for monetized leave of Sangguniang Bayan member Noel Villanueva, petitioner in this case. The application for monetized leave was not immediately** attended to by complainant as she was then busy dictating some important matters to her secretary.[5]

The accused at that time was standing in front of the Vice Mayor's Office and he allegedly said: "*E ano kung wala sa mood, e ano kung galit sya.*"[6] These utterances of accused were disregarded by complainant but accused then entered the complainant's office bringing with him his Application for Monetized Leave. The accused addressed the complainant's secretary: "*Malou, pag atiu ne keng mood, papirma mu ne.*" The alleged request of accused to the Secretary was made in a very sarcastic manner.[7]

Complainant got the monetized leave and filed it in her "in and out" files and while doing this, the paper accidentally fell on the floor. When she was about to pick it up, the accused allegedly got a yellow pad and swung it at complainant's face, but she was able to evade it. Accused then said: "*Ibuat daka ken, inabu daka keng awang, e*

*baling masukul naku.*" (I will lift you from there and I will throw you out of the window and I don't care if I will go to jail). Then the accused went out of the office and before leaving, he pointed a "dirty finger" at complainant, prompting the latter to stand and get an empty bottle of coke to shield her face. Accused proceeded towards the office of the municipal mayor. Because accused was still frothing invectives, complainant purportedly "rolled" the empty bottle of coke towards him. The incident was witnessed by so many people numbering about 20 to 30 who were then at the municipal hall.<sup>[8]</sup>

Prosecution evidence further showed that accused allegedly mouthed the following disparaging remarks, "*Magmalinis ka, ena ka man malinis, garapal ka.*" "*Balamu mansanas kang malutu, pero king kilub ularan ka, tiktak karinat*" (You are pretending to be clean and honest yet you are not clean and honest, you are corrupt. You are like red apple, you are worm infested inside and extremely dirty). While this was going on, the Municipal Attorney, Atty. Pepito Torres, intervened to pacify the accused, but he was unable to do so.<sup>[9]</sup>

Based on the account of the prosecution witnesses, from the municipal session hall, the complainant was persuaded to enter the office of the Sangguniang Bayan Secretary. Accused followed her and inside said office, the accused again said, "*Ibuat daka, inabu daka keng awang, e baling masukul ku* (I will lift you from there and I will throw you out of the window and I don't care if I will go to jail). *I Tata mu tinagal yang kapitan pero masambut ya, pero ing kaputul ku sinambut ne man*" (Your father ran for barangay captain and lost but my brother won)<sup>[10]</sup> and again, the accused pointed a "dirty finger" at complainant.<sup>[11]</sup>

The defense, on the other hand, presented six witnesses. From their testimonies, the MCTC gathered that on 12 September 1994, accused requested Flora Calayag to prepare the application for monetized leave and asked her to have it approved by the complainant. Because the application remained unsigned by the latter, it was Joel Cecilio who in the afternoon went to her office for the approval of the monetized leave, but again, to no avail.<sup>[12]</sup>

Accused then personally carried his application to complainant's office. At that time, complainant was dictating something to the Secretary and as he was about to give the copy to the Secretary, complainant got up and grabbed the paper from him and placed it on the right side of her table.<sup>[13]</sup>

This angered the accused and he said to complainant, "[i]s this the actuation of the high government official?" The complainant replied, "Bolang (Insane)." A verbal squabble ensued and the complainant allegedly said, "*nung munta kayo keng municipiyong ayni balamu ninu kayong hari, ala nakong depatan nung-e gawang pera, sira nako kareng tau.*" (When you go to the municipal building as if you are a king, you did nothing except to make money, the people no longer believe in you.)<sup>[14]</sup>

Complainant, at that instant, hurled a bottle of coke at petitioner and hit one of the *Barangay Captains* then present.<sup>[15]</sup>

After trial, the MCTC found petitioner guilty of Grave Oral Defamation and Serious

Slander by Deed in a joint decision dated 26 February 1998. The MCTC held that the statements uttered by petitioner and the act of making a dirty finger constitute an affront on complainant who, as Vice Mayor and a lady, deserves greater respect. The MCTC posited that the defense interposed by the petitioner that complainant brought the havoc upon herself when she refused to approve his application for accrued leave credits monetization cannot be considered as valid to obviate or obliterate the crime or damage done unto the complainant. The MCTC then held:

With these, this Court finds overwhelming evidence against the accused and as such this Court finds the accused guilty beyond reasonable doubt of a charged (sic) of Grave Oral Defamation punishable under Art. 358 of the Revised Penal Code and Slander by Deed punishable under Art. 359 of the Revised Penal Code. x x x The complainant although she can estimate the value of the moral damages is entitled to the sum of P50,000.00 and attorney's fees of P30,000.00 and P1,000.00 as appearance fee plus litigation expenses.

WHEREFORE, finding the accused guilty beyond reasonable doubt for the offenses or charges mentioned above, he is hereby sentenced to an imprisonment of FOUR (4) MONTHS and one (1) day to one (1) year in each case which the accused shall served (at the same time), and to pay by way of moral damages the sum of P50,000.00 without subsidiary imprisonment in case of insolvency and litigation expenses and attorneys fees of P30,000.00 plus P1,000.00 per appearance fee.<sup>[16]</sup>

Both parties appealed to the RTC of Tarlac, which affirmed petitioner's conviction, but modified the penalty and the manner of serving accused's sentence, and with a substantial increase in the award of damages. The *fallo* reads:

WHEREFORE, premises considered, the decision of the Municipal Circuit Trial Court, insofar as it finds the accused guilty of grave oral defamation in Criminal Case No. 139 and slander by deed in Criminal Case No. 140 is hereby AFFIRMED with the modification that the accused is to be sentenced to suffer the indeterminate penalty of imprisonment from three (3) months as minimum to TWO (2) years and TWO (2) months as maximum in each of the cases, the same to be served SUCCESSIVELY.

Likewise, the decision of the Municipal Circuit Trial Court is further modified and the accused is ordered to pay the amount of P100,000.00 as moral damages and another amount of P50,000.00 as exemplary damages, including the amount of P30,000.00 as attorney's fees and P1,000.00 per hearing as appearance fee.<sup>[17]</sup>

On appeal, the Court of Appeals affirmed the ruling of the trial court with the modification that the award of exemplary damages was deleted **because according to the Court of Appeals it was shown from the records that the petitioner himself was a victim of complainant's indiscretion for refusing, for no reason at all, to approve petitioner's application for monetization of his accrued leave credits.** The Court of Appeals disposed as follows:

IN VIEW OF ALL THE FOREGOING, the assailed decision is hereby affirmed with the modification that the award of exemplary damages is hereby deleted.<sup>[18]</sup>

As petitioner's motion for reconsideration was likewise met with failure, petitioner, in a last stab at absolution, lodged the present petition for review on the following arguments:

I.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN RULING ON ONLY ONE (1) ISSUE RAISED BY PETITIONER IN HIS PETITION FOR REVIEW AND IN NOT RULING SQUARELY ON THE OTHER FIVE (5) ISSUES, THUS, DENYING PETITIONER OF HIS RIGHT TO BE HEARD AND TO DUE PROCESS.

II.

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN NOT REVERSING THE ASSAILED DECISION OF THE REGIONAL TRIAL COURT DESPITE THE FACT THAT AS PER THE DECISION OF THE COURT OF APPEALS ITSELF, IT IS CLEAR, IT BEING SUSTAINED BY THE EVIDENCE ON RECORD, THAT IT WAS THE COMPLAINANT WHO GAVE THE PROVOCATION TO THE WHOLE INCIDENT.

III.

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN AFFIRMING THE DECISION OF THE LOWER COURTS DESPITE THE FACT THAT SAID COURTS GAVE CREDENCE AND WEIGHT ONLY TO THE TESTIMONIES OF THE PROSECUTION WITNESSES, BUT FAILED TO GIVE PROBATIVE VALUE TO AND ARBITRARILY DISREGARDED THE TESTIMONIES OF THE ACCUSED-PETITIONER AND THAT OF HIS WITNESSES.

IV.

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN NOT ACQUITTING THE PETITIONER ON THE GROUND THAT HIS GUILT OF THE CRIMES CHARGED HAD NOT BEEN PROVEN BEYOND REASONABLE DOUBT.<sup>[19]</sup>

The issues are: (1) whether the Court of Appeals erred in sustaining the conviction of petitioner for grave oral defamation in Criminal Case No. 139-94, and (2) whether the Court of Appeals erred in sustaining the conviction of petitioner for serious slander by deed in Criminal Case No. 140-94.

Anent the first issue, Article 358 of the Revised Penal Code provides:

Art. 358. Slander. - Oral defamation shall be punished by *arresto mayor* in its maximum period to *prision correccional* in its minimum period if it is of a serious and insulting nature; otherwise, the penalty shall be *arresto menor* or a fine not exceeding 200 pesos.

Slander is libel committed by oral (spoken) means, instead of in writing. The term oral defamation or slander as now understood, has been defined as the speaking of base and defamatory words which tend to prejudice another in his reputation, office,