

## SECOND DIVISION

[ G.R. NO. 159813, August 09, 2006 ]

**TONY N. FIGUEROA AND ROGELIO J. FLAVIANO, PETITIONERS,  
VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**GARCIA, J.:**

Assailed and sought to be set aside in this petition for review under Rule 45 of the Rules of Court is the Decision<sup>[1]</sup> dated October 11, 2002 of the Court of Appeals (CA) in *CA-G.R. CR No. 17235*, affirming *in toto* an earlier decision of the Regional Trial Court (RTC) of Davao City, Branch 17, which found herein petitioners guilty of the crime of libel.

The antecedent facts:

On March 24, 1992, in the RTC of Davao City, the city prosecutor of Davao, at the instance of one Aproniano Rivera, filed an Information<sup>[2]</sup> for libel under Article 355 in relation to Article 360 of the Revised Penal Code against the herein petitioners, Tony N. Figueroa and Rogelio J. Flaviano. Docketed in the same court as Criminal Case No. 25,957-92 and raffled to Branch 17 thereof, the Information alleges as follows:

That on or about April 9, 1991, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, Tony VN. Figueroa, writer under the column entitled "Footprints" of the People's Daily Forum, conspiring, confederating and helping one another with his co-accused Rogelio J. Flaviano, Publisher-Editor of the same magazine, with malicious intent of impeaching the honesty, integrity, character as well as the reputation and the social standing of one Aproniano Rivera and with intent to cast dishonor, discredit and contempt upon said Aproniano Rivera, willfully, unlawfully and feloniously published in the People's Daily Forum, a news publication as follows:

"Bangkerohan public market these days is no different from the US Times Square. Bullies, thugs, hooligans and gypers roam with impunity, some using organizational clout as a ploy to keep themselves from obvious exposure. Some leeches, like a certain Aproniano "Rey" Rivera, our sources say, are lording it over like the city's sprawling vegetable and meat complex has become an apportioned bailiwick.

"Rivera, apparently a non-Visayan pseudobully flaunting with his tag as president of a vendor's federation, has intimidated a good number of lowly hawkers. This is a confirmed fact, our

sources believe. And our independent eavesdroppers [sic] have come with a similar perception of a man who continues to lead a federation when, in the first place, he has no business being in Davao or in Bankerohan.

"Often, Mr. "Re" (King?) Rivera strolls the stretches which criss-cross the Bankerohan confines with the arrogance of a tribal chieftain; the only differences, however, are that: he uses no G-strings, speaks in some strange Luzon lingo and twang, and has no solid leadership. Our reports have finely outlined the mechanics of Rivera's tactics despite assertions the man is nothing but a paper tiger conveniently propped up by federation members loyal to his sometime indecent role as a sachem.

"This man, the sources add, is backed by powerful city government hooligans who, it was reported, have direct hand in the planned manipulation in the distribution of stalls to privileged applicants. Even if he has reportedly sold his interest in the public market, which should be reason enough for him to resign from his position, Rivera still carries the false aura of intimidating poor vendors and imposing his insensible remarks about what must be done about the governance of Bangkerohan.

"Sometimes its hard to compel a man with Rivera's mind about the nuances of honorable resignation. May iba d'yan na pakapalan na lang ng mukha!"

xxx xxx xxx

"Rivera, however, must be consoled in knowing he's not alone with his dirty antics. Romy Miclat, a president of a meat vendors group in Bankerohan, and his board member, Erning Garcia, have tacitly followed the way of the thugs, floating little fibs to gullible victims. Our moles have gathered the due are seeling [sic] the new public market stalls for P9,000 with the assurances that the buyer gets a display area ordinarily occupied by two applicants. A lot more have fallen prey to the scheme, and more the blindly swallowing all the books the two are peddling.

"This dilemma has been there for so long, but the city hall, RCDP, and the city council have continuously evaded the vicious cabal of men out to derail the raffling of the stalls to applicants. Some believe strongly this is odd, but they can only whimper at their helplessness against power-brokers who have taken over the dominance of Bangkerohan. One of the likely victims in this filthy machination are the sinapo vendors who have become explosively furious over the snafu they are facing because of the manipulation of stalls inside Bangkerohan.

"Insiders continuo[u]sly tell of woeful tales about how they have been given runarounds by many so-called public servants, but they have maintained their composes quite curiously. They are talking, however, of anger which, our sources [s]ay, may end up with a bloody retaliation. This probability is looming more lucid every day the officials handling the Bangkerohan stall mess are condoning their plight. Even politicians are oddly silent about the whole controversy for some unknown reasons. It looks like the alleged schemes perpetrated by Rivera, Miclat and Garcia will remain unperturbed, no thanks to power-brokers."

which newspaper was read by the people throughout Davao City, to the dishonor, discredit and contempt upon said Aproniano Rivera.

Contrary to law.

On arraignment, petitioners as accused, assisted by counsel, entered a common plea of "Not Guilty." Thereafter, trial on the merits ensued.

On June 8, 1993, the RTC rendered its decision<sup>[3]</sup> finding both petitioners guilty as charged and accordingly sentenced them, thus:

WHEREFORE, finding the evidence of the prosecution sufficient to prove the guilt of both accused, Tony Figueroa and Rogelio Flaviano, columnist and publisher-editor, respectively of the People's Daily Forum, of the offense charged, beyond reasonable doubt; their evidence adduced is not sufficient to afford their exoneration, pursuant to Art. 355 in relation to Art. 360 of the Revised Penal Code, without any mitigating or [sic] aggravating circumstances, proved in the commission of the offense charged, imposing the indeterminate sentence law, both accused are hereby sentenced to suffer an indeterminate penalty of imprisonment of five months and one day of arresto mayor maximum as minimum penalty, to two years four months and 31 days of prision correccional minimum as maximum penalty with accessory penalty as provided for by law.

Moreover, pursuant to Art. 100 in relation to Art. 104 of the Revised Penal Code, governing civil indemnity, both accused are ordered to pay jointly and solidarily the amount of P50,000.00 as moral damages to complainant, Aproniano Rivera and the amount of P10,000.00 by way of attorney's fees with costs.

Without any aggravating circumstances proved by the prosecution, in the commission of the offense charged exemplary damages against both accused, cannot be awarded. x x x

SO ORDERED.

From the trial court's judgment of conviction, petitioners went to the CA whereat their appellate recourse was docketed as *CA-G.R. CR No. 17235*.