

SECOND DIVISION

[G. R. NO. 156747, February 23, 2005]

ALLEN A. MACASAET, NICOLAS V. QUIJANO, JR., AND ALFIE LORENZO, PETITIONERS, VS. THE PEOPLE OF THE PHILIPPINES AND JOSELITO TRINIDAD, RESPONDENTS.

D E C I S I O N

CHICO-NAZARIO, J.:

Before Us is a Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court of the Decision^[1] dated 22 March 2002 and Resolution dated 6 January 2003 of the Court of Appeals in CA-G.R. CR No. 22067 entitled, "*People of the Philippines v. Alfie Lorenzo, et al.*"

The factual antecedents are as follows:

In an Information dated 10 July 1997, Alfie Lorenzo, Allen Macasaet, Nicolas Quijano, Jr., and Roger Parajes, columnist, publisher, managing editor, and editor, respectively of the newspaper "*Abante*" were charged before the Regional Trial Court (RTC) of Quezon City, with the crime of libel. The information, which was raffled off to Branch 93 of said court, reads:

The undersigned accuses ALFIE LORENZO, ALLEN MACASAET, NICOLAS QUIJANO JR., ROGER B. PARAJES and JORDAN CASTILLO, of the crime of LIBEL, committed as follows:

That on or about the 13th day of July, 1996 in Quezon City, Philippines, the said accused ALFIE LORENZO, columnist, ALLEN MACASAET, publisher, NICOLAS QUIJANO JR., managing editor, ROGER B. PARAJES, editor, respectively of "*Abante*" a newspaper of general circulation in the Philippines, and JORDAN CASTILLO, conspiring, confederating together and mutually helping one another, with evident intent of exposing JOSELITO MAGALLANES TRINIDAD, a.k.a. JOEY TRINIDAD a.k.a. TOTO TRINIDAD to public hatred, dishonor, discredit and contempt and ridicule, did, then and there willfully, unlawfully and feloniously and maliciously write, publish, exhibit and circulate and/or cause to be written, published, exhibited and circulated in the aforesaid newspaper, in its issue of July 13, 1996 an article which reads as follows:

"Humarap sa ilang reporters si Jordan Castillo hindi para magkaroon ng writeups kundi para ituwid lang ang ilang bagay na baluktot at binaluktot pang lalo ng isang Toto Trinidad.

Hindi namin naging barkada si Joey Trinidad. Bah, Toto na

pala siya ngayon. Anong palagay niya sa sarili niya, si Direk Toto Natividad siya? Nakikibuhay lang talaga yang taong 'yan sa amin sa Liberty Ave. noon. Ni hindi nga pinapansin ni Tito Alfie 'yan dahil nga sa amoy-pawis siya pagkatapos mag-barbell. Kami naka-shower na, si Joey punas lang nang punas sa katawan niya ng T-shirt niyang siya ring isusuot niya pagkatapos na gawing pamunas!

Madalas ngang makikain sa amin yan noon. Galit na galit nga ang mayordoma naming si Manang Hilda noon dahil nagkukulang ang rasyon namin dahil dagdag pakainin nga yang si Joey. Tamang-tama nga lang sa amin ang kanin at ulam, pero sinusugod pa niya ang kaldero para magkayod ng natitirang tutong sa kaldero. Naaawa nga ako madalas diyan kaya sineshare ko na lang ang pagkain ko sa kanya.

Ewan ko kung anong naisipan ng taong 'yan at pagsasalitaan pa niya ng masama si Tito Alfie. Hindi man lang siya tumanaw ng utang na loob na kahit konti at kahit na sandali ay naitawid ng gutom niya. Hindi ko alam kung may kunsenya pa ang gangyang klaseng tao, pero sana naman ay makunsensya ka, Pare!

Madalas nga itinatago ka na nga namin ni Tito Alfie para hindi mahighblood sa iyo, ganyan pa ang gagawin mo. Napupuyat nga si Manang Hilda sa pagbabantay sa iyo at hindi makatulog ang matanda hangga't hindi ka pa umuuwi, magsasalita ka pa ng mga inimbento mo. Pati nga si Eruel ay madalas mabanas sa iyo, natatandaan mo pa ba, dahil sa kakulitan mo! Pilit mo kaming binubuyo na sabihin kay Tito Alfie na tulungan ka rin tulad ng tulong na ibinibigay ni Tito Alfie na pag-aalaga sa amin. Pero hate na hate ka nga ni Tito Alfie dahil sa masamang ugali, natatandaan mo pa ba yun? Kaya tiyak ko na imbento mo lang ang lahat ng pinagsasabi mo para makaganti ka kay Tito Alfie," ani Jordan sa mga nag-interbyu sa kanyang legitimate writers.

Hindi na siguro namin kailangan pang dagdagan ang mga sinabi ng sinasabi ni Toto Trinidad na mga barkada niya at kapwa niya kuno Liberty Boys!"

thereby publicly imputing a crime, vice or defect, real or imaginary or an act, omission, condition, status or circumstance and causing in view of their publication, discredit and contempt upon the person of said JOSELITO MAGALLANES TRINIDAD a.k.a. JOEY TRINIDAD a.k.a. TOTO TRINIDAD, to his damage and prejudice.^[2]

In an Order dated 16 July 1997, Judge Apolinario D. Bruselas, Jr., presiding judge of RTC, Branch 93, Quezon City, set the arraignment of the petitioners on 27 August 1997.^[3]

On 22 August 1997, petitioners filed before the court *a quo* an Urgent Motion to

Suspend Arraignment and/or Defer Proceedings dated 21 August 1997 claiming that they intended to elevate the adverse Resolution of the Office of the City Prosecutor of Quezon City to the Department of Justice (DOJ) for review. Despite this motion, the scheduled arraignment of petitioners pushed through on 27 August 1997. During said proceeding, petitioners Lorenzo and Quijano, Jr., together with their co-accused Parajes and Castillo, refused to enter any plea and so the trial court ordered that a plea of not guilty be entered into the records on their behalf.^[4] As for petitioner Macasaet, his arraignment was rescheduled to 20 October 1997 due to his failure to attend the previously calendared arraignment.

On 12 September 1997, petitioners filed a Motion to Dismiss the libel case on the ground that the trial court did not have jurisdiction over the offense charged. According to petitioners, as the information discloses that the residence of private respondent was in Marikina, the RTC of Quezon City did not have jurisdiction over the case pursuant to Article 360 of the Revised Penal Code, to wit:

The criminal and civil action for damages in cases of written defamations as provided for in this chapter, shall be filed simultaneously or separately with the Court of First Instance of the province or city where the libelous article is printed and first published or where any of the offended parties actually resides at the time of the commission of the offense...^[5]
(Emphasis supplied.)

Subsequently, on 23 September 1997, the trial court received by way of registered mail, petitioners' Motion for Reconsideration and to Withdraw Plea dated 3 September 1997.^[6] Petitioners argued therein that the trial court committed grave error when it denied the petitioners' Urgent Motion to Suspend Arraignment and/or Defer Proceedings and continued with the scheduled arraignment on 27 August 1997. According to petitioners and their co-accused, by the trial judge's denial of their Urgent Motion to Defer Arraignment and/or Defer Proceedings, he had effectively denied them their right to obtain relief from the Department of Justice. Moreover, banking on the case of *Roberts, et al. v. Court of Appeals*,^[7] the petitioners and their fellow accused contended that since they had already manifested their intention to file a petition for review of the Resolution of the city prosecutor of Quezon City before the DOJ, it was premature for the trial court to deny their urgent motion of 21 August 1997. Finally, petitioners and their co-accused claimed that regardless of the outcome of their petition for review before the DOJ, the withdrawal of their "not guilty" pleas is in order as they planned to move for the quashal of the information against them.

In an Order dated 26 September 1997,^[8] Judge Bruselas, Jr., ruled that "with the filing of the 'Motion to Dismiss,' the court considers the accused to have abandoned their 'Motion for Reconsideration and to Withdraw Plea' and sees no further need to act on the same."

In his Opposition to the Motion to Dismiss dated 23 September 1997,^[9] the public prosecutor argued that the RTC, Quezon City, had jurisdiction over the case. He maintained that during the time material to this case, private respondent (private complainant below) was a resident of both 28-D Matino St. corner Malumanay St., Sikatuna Village, Quezon City and Karen St., Paliparan, Sto. Niño, Marikina, Metro Manila, as shown in his Reply-Affidavit of 11 October 1996 filed during the

preliminary investigation of the case.

For their part, the petitioners and their co-accused countered that it was incorrect for the public prosecutor to refer to the affidavit purportedly executed by private respondent as it is "axiomatic that the resolution of a motion to quash is limited to a consideration of the information as filed with the court, and no other." Further, as both the complaint-affidavit executed by private respondent and the information filed before the court state that private respondent's residence is in Marikina City, the dismissal of the case is warranted for the rule is that jurisdiction is determined solely by the allegations contained in the complaint or information.^[10]

On 16 October 1997, petitioners and their fellow accused filed a Supplemental Reply^[11] attaching thereto certifications issued by Jimmy Ong and Pablito C. Antonio, *barangay* captains of *Barangay* Malaya, Quezon City and *Barangay* Sto. Niño, Marikina City, respectively. The pertinent portion of the *barangay* certification^[12] issued by Barangay Captain Ong states:

This is to certify that this office has no record on file nor with the list of registered voters of this barangay regarding a certain person by the name of one MR. JOSELITO TRINIDAD.

This further certifies that our BSDO's (have) been looking for said person seeking information regarding his whereabouts but to no avail.

On the other hand, the certification^[13] issued by *Barangay* Captain Antonio, reads in part:

This is to certify that JOSELITO TRINIDAD of legal age, single/married/separate/widow/widower, a resident of Karen Street, Sto. Niño, Marikina City is a bonafide member of this barangay.

. . .

This is being issued upon request of the above-named person for "IDENTIFICATION."

During the hearing on 20 October 1997, the trial court received and marked in evidence the two *barangay* certifications. Also marked for evidence were page 4 of the information stating the address of private respondent to be in Marikina City and the editorial box appearing in page 18 of *Abante* indicating that the tabloid maintains its editorial and business offices at Rm. 301/305, 3/F BF Condominium Bldg., Solana cor. A. Soriano Sts., Intramuros, Manila. The prosecution was then given five (5) days within which to submit its comment to the evidence submitted by the petitioners and their fellow accused.

In his Rejoinder to Supplemental Reply,^[14] private respondent contended that the certification issued by the *barangay* captain of *Barangay* Malaya was issued after he had already moved out of the apartment unit he was renting in Sikatuna Village, Quezon City; that owners of residential houses do not usually declare they rent out rooms to boarders in order to avoid payment of local taxes; and that there is no showing that a census was conducted among the residents of *Barangay* Malaya during the time he resided therein.

As regards the certification issued by the *barangay* chairman of Sto. Niño, Marikina City, private respondent argued that it is of judicial notice that *barangay* and city records are not regularly updated to reflect the transfer of residence of their constituents and that a perusal of said certification reveals that the *barangay* captain did not personally know him (private respondent). Finally, private respondent claimed that his receipt of the copy of petitioners' Appeal to the DOJ, which was sent to his alleged address in Sikatuna Village, Quezon City, proved that he did, in fact, reside at said place.

On 24 November 1997, the trial court rendered an Order dismissing the case due to lack of jurisdiction.^[15] The court *a quo* noted that although the information alleged the venue of this case falls within the jurisdiction of Quezon City, the evidence submitted for its consideration indicated otherwise. First, the editorial box of *Abante* clearly indicated that the purported libelous article was printed and first published in the City of Manila. In addition, the trial court relied on the following matters to support its conclusion that, indeed, jurisdiction was improperly laid in this case: a) on page 4 of the information, the address of private respondent appeared to be the one in Marikina City although right below it was a handwritten notation stating "131 Sct. Lozano St., Barangay Sacred Heart, QC"; b) the two *barangay* certifications submitted by the petitioners; and c) the Memorandum for Preliminary Investigation and Affidavit-Complaint attached to the information wherein the given address of private respondent was Marikina City.

On 03 December 1997, private respondent filed a motion for reconsideration^[16] insisting that at the time the alleged libelous article was published, he was actually residing in Quezon City. According to him, he mistakenly stated that he was a resident of Marikina City at the time of publication of the claimed defamatory article because he understood the term "address" to mean the place where he originally came from. Nevertheless, the error was rectified by his supplemental affidavit which indicated Quezon City as his actual residence at the time of publication of the 13 July 1996 issue of *Abante*.

On 22 January 1998, private respondent filed a supplemental motion for reconsideration to which he attached an affidavit executed by a certain Cristina B. Del Rosario, allegedly the owner of the house and lot in Sikatuna Village, Quezon City, where private respondent supposedly lived from July 1996 until May 1997. She also stated in her affidavit that she was not aware of any inquiry conducted by the *barangay* officials of *Barangay* Malaya regarding the residency of private respondent in their locality.

Through an Order dated 12 February 1998, the trial court denied private respondent's motion for reconsideration, ruling thus:

[Del Rosario's] affidavit appears to have been executed only on 19 January 1998 to which fact the court can only chuckle and observe that evidently said affidavit is in the nature of a curative evidence, the weight and sufficiency of which is highly suspect.^[17]

Undaunted, the public and the private prosecutors filed a notice of appeal before the court *a quo*.^[18] In the Decision now assailed before us, the Court of Appeals reversed and set aside the trial court's conclusion and ordered the remand of the