

SECOND DIVISION

[G.R. Nos. 118757 & 121571, October 19, 2004]

**ROBERTO BRILLANTE, PETITIONER, VS. COURT OF APPEALS AND
THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

D E C I S I O N

TINGA, J.:

Good name in man and woman, dear my Lord,
Is the immediate jewel of their souls:
Who steals my purse steals trash; 'tis
Something, nothing;...
But he that filches from me my good name
Robs me of that which not enriches him,
And makes me poor indeed.

- Shakespeare: *Othello*, III, iii, 155.

Every man has a right to build, keep and be favored with a good name. This right is protected by law with the recognition of slander and libel as actionable wrongs, whether as criminal offenses or tortious conduct.

In these consolidated petitions for review on certiorari,^[1] petitioner Roberto Brillante (Brillante), also known as Bobby Brillante, questions his convictions for libel for writing and causing to be published in 1988 an open letter addressed to then President of the Republic of the Philippines Corazon C. Aquino discussing the alleged participation of Atty. Jejomar Binay (Binay), then the "OIC Mayor"^[2] and a candidate for the position of Mayor in the Municipality (now City) of Makati, and Dr. Nemesio Prudente (Prudente), then President of the Polytechnic University of the Philippines, in an assassination plot against Augusto Syjuco (Syjuco), another candidate for Mayor of Makati at that time.

On January 7, 1988, Brillante, then a candidate for the position of Councilor in Makati, held a press conference at the Makati Sports Club which was attended by some 50 journalists. In the course of the press conference, Brillante accused Binay of plotting the assassination of Syjuco. He further accused Binay of terrorism, intimidation and harassment of the Makati electorate. Brillante also circulated among the journalists copies of an open letter to President Aquino which discussed in detail his charges against Binay.^[3]

Several journalists who attended the press conference wrote news articles about the same. Angel Gonong, a writer for the *People's Journal*, wrote a news article entitled "Binay Accused of Plotting Slays of Rivals." It was cleared for publication by Max Buan, Jr. (Buan), and Luis Camino (Camino), Editor-in-Chief and News Editor, respectively, of the *People's Journal*. Gloria Hernandez (Hernandez) wrote a similar

article entitled "Binay Slay Plan on Syjuco" which was cleared for publication by Augusto Villanueva (Villanueva) and Virgilio Manuel (Manuel), Editor-in-Chief and News Editor, respectively, of the *News Today*.^[4]

The open letter was subsequently published under the title "Plea to Cory--Save Makati" in newspapers such as the *People's Journal*, *Balita*, *Malaya* and *Philippine Daily Inquirer*.^[5] The pertinent portions of the open letter read:

4. We have received reports that Atty. Binay and his group are plotting the assassination of Mr. Augusto "Bobby" Syjuco, now frontrunner in the Makati mayoralty race.

These reports are:

1. On December 14, 1987, Atty. Binay and Dr. Nemesio Prudente, president of the Polytechnic University of the Philippines (PUP), met at Puerto Azul in Cavite with, among others, a Commander Luming, a Major Rafael Nieva, and a commander Francis Baloloy. Subject of the meeting was "Winning the Election at all Costs."

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3. On December 17, 1987, Dr. Prudente, Atty. Binay and others including some unidentified government officials discussed operation "Dirty Fingers" after the ASEAN Summit Meeting. The operation involves terrorism, the use of public school teachers, the threat to kill or hurt political ward and precinct leaders not supporting or opposed to Atty. Binay, and to use these as samples to show rivals that his group is capable of doing so, the planting of his squads in places close to potential targets, the mobilization of "marshals" who will bring firearms and to ferry hitmen to target points. The "marshals" will also be used as "pointers" and to shelter the hitmen after accomplishing or performing their missions.

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4. On December 8, 1987, a certain Emilio Anecito, tagged as a hitman in the group of Dr. Prudente, has been specifically assigned to assassinate Mr. Syjuco, Aniceto has been described as Iranian mestizo looking, about five (5) feet in height, fair complexioned curly haired, sporting a mustache, and fairly built bodily. He is said to be a silent person and supposedly has a perfect score in hit missions assigned to him.

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5. On December 10, 1987, it was reported that Major Rafael Nieva had been assigned to work with Mr. Aniceto, Nieva's background report is that he:

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- c. Was hired by Dr. Prudente as security officer and personal

bodyguard.

d. Is a notorious killer used by the PUP forces and only his employer can control or stop him.^[6]

As a result of the publication of the open letter, Binay filed with the Makati fiscal's office four complaints for libel against Brillante, as the author of the letter; Gonong, Buan and Camino for writing and publishing the news article on Brillante's accusations against him in the *People's Journal*;^[7] Hernandez, Villanueva and Manuel for writing and publishing a similar news article in the *News Today*;^[8] and for publishing the open letter, Buan and Camino of the *People's Journal*;^[9] and Arcadio A. Sison (Sison) as President of A. Sison and Associates, an advertising agency.^[10]

Francisco Baloloy (Baloloy), who was identified in the open letter as among the persons who attended the meeting organized by Binay and Prudente to plan the assassination of Syjuco, likewise filed a criminal complaint for libel against Brillante, Domingo Quimlat (Quimlat), Publisher and Editor-in-Chief of *Balita*, and Sison as President of A. Sison and Associates.^[11]

Subsequently, five *Informations* for libel against Brillante were filed with the Regional Trial Court (RTC) of Makati.

Similarly, on January 15, 1988, Prudente filed four complaints for libel against Brillante and the editors and publishers of the newspapers where the open letter was published. On January 16, 1989, four *Informations* for libel were filed against Brillante and several co-accused with the RTC of Manila. Brillante's co-accused in these cases were: (i) Buan, Editor-in-Chief of the *People's Journal*;^[12] (ii) Amado P. Macasaet (Macasaet), Publisher, and Noel Albano (Albano), Editor, of the *Malaya*;^[13] (iii) Sison, Public Relations Officer and Federico D. Pascual (Pascual), Publisher and Executive Editor of the *Philippine Daily Inquirer*;^[14] and (iv) Sison, Public Relations Officer and Quimlat, Publisher and Editor-in-Chief of *Balita*.^[15]

Buan was not included in the trial of the cases in the RTC-Manila because he eluded arrest and was not arraigned. The charges against Pascual and Quimlat were dropped upon motion of the Assistant Prosecutor. The charges against Macasaet and Albano were also eventually dismissed upon motion of the prosecution. Only Brillante and Sison remained as accused.^[16] Both pleaded not guilty to the charges against them.

On January 25, 1993, the RTC-Manila acquitted Sison but found Brillante guilty of libel on four counts. The dispositive portion of the trial court's *Decision* in the consolidated cases reads:

WHEREFORE, judgment is rendered pronouncing accused Bobby Brillante, also known as Roberto Brillante, guilty beyond reasonable doubt on four (4) counts, as author or writer, of LIBEL defined under Article 353 of the Revised Penal Code and penalized under Article 355 of the same code, and sentencing him in each count to the indeterminate penalty of FOUR (4) MONTHS of arresto mayor, as minimum, to TWO (2) YEARS of prision

mayor, as maximum, and to pay a fine of P2,000.00 with subsidiary imprisonment in case of insolvency at the rate of ONE (1) DAY for every P8.00 that he is unable to pay, but which subsidiary imprisonment shall not exceed EIGHT (8) months.

Accused Bobby Brillante is ordered to pay the private offended party, Dr. Nemesio Prudente, the total sum of P1,000,000.00 in these four (4) cases for moral damages which the latter suffered.

Accused Arcadio Sison is acquitted in the two cases against him, his guilt of the charges against him not having been established beyond reasonable [doubt].

Two-third (2/3) of the costs is assessed against accused Bobby Brillante while the remaining one-third (1/3) is charged *de officio*.^[17]

Subsequently, Brillante appealed the Decision of the RTC-Manila to the Court of Appeals.^[18] Brillante contended that when the *Informations* in Criminal Cases No. 89-69614 to 17 were filed by the prosecutor on January 16, 1989, the offense had already prescribed because more than one year had elapsed since the publication of the open letter on January 10, 11 and 12, 1988. He also averred that the open letter which he wrote and caused to be published was not defamatory and was without malice. Brillante also claimed that the publication is considered privileged communication. Finally, he argued that he is entitled to equal protection of the laws and should be acquitted of the offenses charged like his co-accused.^[19]

On September 27, 1994, the Court of Appeals promulgated its Decision in CA-G.R. No. 14475 affirming the decision of the RTC-Manila. The appellate court held that the offense of libel had not yet prescribed because the one-year prescription period should be reckoned from the time that the private complainant Prudente filed his complaint with the fiscal's office on January 15, 1988 and not when the *Informations* were filed by the prosecutor on January 16, 1989. The Court of Appeals added that under Section 1, Rule 110, which took effect during the pendency of the cases against Brillante, the institution of the complaint before the fiscal's office or the courts for preliminary investigation interrupts the prescriptive period of the offense charged. It held that being a procedural rule, Section 1, Rule 110, applies to the cases against Brillante.^[20]

The Court of Appeals further held that the RTC-Manila did not err in finding that Brillante had committed libel against Prudente. It explained that the open letter, when read in its entirety, gives the impression that Prudente is part of a purported criminal conspiracy to kill Syjuco. According to the appellate court, the open letter is a malicious defamation which produced in the minds of the readers Brillante's intent and purpose to injure the reputation of Prudente, thereby exposing him to public hatred, contempt and ridicule.^[21] The Court of Appeals rejected Brillante's argument that the open letter may be considered privileged communication because the evidence does not show that Brillante wrote and published it out of a legal, moral or social duty.^[22]

The appellate court also debunked Brillante's allegation that he was denied the equal protection of the laws because while the charges against his co-accused were

dropped, those against him were not. According to the appellate court, he and his co-accused are not similarly situated because he was convicted of libel upon a finding that there existed evidence beyond reasonable doubt to sustain his conviction. In contrast, the charges against his co-accused were dismissed and their guilt was not proven beyond reasonable doubt.^[23]

Brillante's contention that his conviction for libel on four counts gave rise to double jeopardy because under our jurisdiction protection against double jeopardy may be invoked only for the same offense or identical offenses was also overruled by the appellate court. It held that each and every publication of the same libel constitutes a separate distinct offense and the charge for one instance of publication shall not bar a charge for subsequent and separate publications.^[24]

Brillante filed a *Motion for Reconsideration* of the decision of the Court of Appeals, but the motion was denied in a Resolution dated January 19, 1995.^[25]

In the meantime, Brillante was likewise convicted for libel on five counts by the RTC-Makati in Criminal Cases Nos. 88-1410, 88-1411, 88-1412, 88-3060 and 89-721. The dispositive portion of the Decision dated March 22, 1993 of the RTC-Makati reads:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. In Criminal Cases Nos. 88-1410, 88-1411, 88-1412, 88-3060 and 89-721, finding accused Bobby Brillante, also known as Roberto Brillante, GUILTY beyond reasonable doubt of the offense of libel charged in each of these five (5) cases, and sentencing him in each of the cases to suffer imprisonment of FOUR (4) MONTHS of arresto mayor, as minimum, to TWO (2) YEARS prision correccional, as maximum, and to pay fine, likewise in each of these (5) cases, of Four Thousand (P4,000.00) Pesos, Philippine Currency, with subsidiary imprisonment in case of insolvency pursuant to Article 39, paragraph 1, of the Revised Penal Code.
2. As to moral damages, said accused is also ordered to pay complainant, Jejomar C. Binay, the sum of One Million Pesos (P1,000,000.00), Philippine Currency, in all the four (4) charges (Crim. Cases Nos. 88-410, 88-1411, 88-1412 and 89-721), considering the latter's professional and political standing in society, he being a lawyer and former Governor of the Metro Manila Commission as well as director of various government agencies.
3. As to moral damages, said accused is also ordered to pay complainant, Francisco Baloloy, the sum of Fifty Thousand Pesos (P50,000.00), Philippine Currency, in Criminal Case No. 88-3060.
4. In Criminal Cases Nos. 88-1410 and 88-1412, ACQUITTING accused Max Buan, Jr., Angel Gonong and Louie Camino, of the two charges against them on the ground that their guilt has not been proven beyond reasonable doubt.