

## **[SYLLABUS]**

**[ G.R. No. 120715, March 29, 1996 ]**

**FERNANDO SAZON Y RAMOS, PETITIONER, VS. HON. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

### **D E C I S I O N**

**HERMOSISIMA, JR., J.:**

Before us is a petition for review on certiorari to set aside the decision of the Court of Appeals (Special Third Division) in CA-G.R. C.R. No. 13777 which affirmed the decision of the Regional Trial Court, Branch 161 of Pasig City, in Criminal Case No. 58939, convicting the petitioner of the crime of libel.

The relevant antecedents are not disputed.

Petitioner Fernando Sazon and private complainant Abdon Reyes were both residents of the PML Homes in East Drive, Parang Marikina, Metro Manila. They were likewise members of the PML-Parang Bagong Lipunan Community Association, Inc. (PML-BLCA), an association of homeowners of PML Homes. The association had a monthly newsletter, the PML-Homemaker, of which the petitioner was the editor.

On December 11, 1983, the PML-BLCA held an election for the members of its board of directors. Among those who ran in the election were the private complainant and the petitioner. The petitioner was elected as a director. He was likewise elected by the new board as president of the homeowners' association. The private complainant lost in said election.

Unable to accept defeat, the private complainant, on January 16, 1984, wrote a letter to the Estate Management Office of the Home Financing Corporation (EMO-HFC) protesting the election of the petitioner as a director and president of the homeowners' association. He alleged that the election was a nullity because of: (1) the lack of authority of the petitioner to call for such an election; (2) the absence of a quorum; and (3) lack of the required notice to the homeowners. -

On January 18, 1984, the private complainant wrote his co-homeowners explaining to them his election protest and urging them not to recognize the petitioner and the other members who won in the election.

Meanwhile, in response to the election protest, the EMO-HFC ordered the PML-BLCA to conduct a referendum to be supervised by the EMO-HFC. The private complainant then notified his co-homeowners about this development and requested them to attend a general meeting with the representatives of the EMO-HFC which was to be held before the referendum.

Soon after the general meeting, several copies of a leaflet called the "PML Scoop"

were received by the homeowners. The leaflet was entitled "Supalpal si Sazon," obviously referring to the affirmative action taken by the EMO-HFC in connection with the private respondent's election protest. At about the same time, the phrase "Sazon, nasaan ang pondo ng simbahan?" was seen boldly written on the walls near the entrance gate of the subdivision. There was no proof, however, as to who was responsible for these writings.

Thinking that only private complainant was capable of these acts, petitioner Sazon started writing, publishing, and circulating newsletters to his co-homeowners, culminating in the appearance in the February 10, 1984 issue of the PML-Homemakers of the following article:

**"USAPAN NG BOARD v. ABDON NAG-COLLAPSE SA ESTATE MANAGEMENT OFFICE**

Dala ng mahigpit na pakiusap ng Estate Management Office (EMO) na gawin ang lahat na nararapat upang magkaroon ng katahimikan at pagkakaisa ang mga tiga PML Homes, ang Board Secretary, Mr. Pacis at President F.R. Sazon ay nagpaunlak na pagbigyan ang kahilingan ng ating kasama na si Abdon Reyes.

Ang kahilingan: Anyayahan ang EMO-HFC na magconduct ng Plebiscite or Referendum para sa possibility ng isa pang halalan ng Board of Directors.

Sa meeting na dinaluhan ni Abdon Reyes na nagdala ng isang cameraman at may kasamang pagyayabang at kaunting panggolpe de gulat (na tila бага puro tanga yata ang akala niya sa mga kausap), ipinipilit pa rin nitong ang Board sa PML Parang ay binubuo pa rin nuong mga taong inilukluk ng developer na nag 1-2-3.

Halos pag-pupukpuhin ng bag ng mga kababaihang nagsisama sa miting ang ating pobrang super kulit na walang pakialam sa mga taga atin.

Ang mga nagsipagbigay suporta sa Pangulo at Board Secretary ay sina Gng. Cavarosa, Gng. Triffie Ladisla, Gng. Nitz Rodriguez at Dra. Sazon.

Kung di dahil sa pakiusap nina Messr's. ABNER PACAIGUE at HOMER AGNOTE, kasama na ng Board Secretary at Pangulo, malamang ay nagulpi sana ang mandurugas.

Dahil sa patuloy na kabulastugan ni Abdon, ang meeting na ginaganap sa EMO kaninang umaga ay nag-collapse nang malaman na may ikinalat na liham ang mandurugas, na nagsasabing di umano ay hindi tutoo ang ibinabalita ng 'Homemaker' na siya ay turned-down sa HFC.

Matagal na po tayong niloloko ng magkasamang Abdon at Evangeline Lopez. Dahil sa tagal ay alam na tuloy natin kung papaanong maipapatigil ang kanilang kabulastugan.

Sila rin ang mastermind sa paninirang pun sa Pangulo sa pamamagitan ng pag-susulat ng panira sa mga pader natin. Diumano'y itinatanong daw nila kung saan dinala ang pondo ng simbahan. Bakit hindi sila tumungo

sa kinauukulan: Treasurer, Auditor, at iba pang officials.

**UPHELD PO ANG ATING BOARD, ITO AY MABUBUWAG LANG KUNG INYONG NANAISIN.**

Mag-iingat po tayo sa panlilinlang ng mga taong gaya ni Abdon at Vangie.

**UNITED WE STAND DIVIDED WE FALL LET'S UNITE AND FIGHT EVIL!!!**

**F.R. SAZON - Editor"**<sup>[1]</sup>

Aggrieved by the aforequoted article, the private complainant initiated the necessary complaint against the petitioner, and on May 25, 1984, an Information was filed before the trial court charging the petitioner with libel.

On March 18, 1992, the trial court rendered its decision finding the petitioner guilty of the crime charged, and accordingly sentenced him, thus:

"WHEREFORE, foregoing considered, the accused is found guilty beyond reasonable doubt of the crime charged and is hereby sentenced to suffer imprisonment of FOUR (4) months and ONE (1) day of arresto mayor as minimum to TWO (2) years, FOUR (4) months and ONE (1) day of prision correccional as maximum, with the accessory penalties provided by law, and to pay a fine of P200.00 in accordance with Art. 353, in relation to Art. 355 of the Revised Penal Code.

With costs against the accused.

SO ORDERED."

<sup>[2]</sup>

The petitioner appealed said decision to the Court of Appeals. On June 19, 1995, the appellate court dismissed the appeal and affirmed the decision of the trial court.

Hence, petitioner brought the present action, and in seeking a reversal of the challenged decision, he claims that the Court of Appeals, erred:

"1. x x x IN NOT HOLDING THAT THE QUESTIONED ARTICLE (EXHIBIT "A") IS IN THE NATURE OF A PRIVILEGED COMMUNICATION AND HENCE, PROTECTED AND NOT ACTIONABLE.

2. x x x IN NOT HOLDING THAT THE WORDS IN CONTROVERSY ARE NOT DEFAMATORY OF PRIVATE COMPLAINANT AS THEY ARE NON-ACTIONABLE EPITHETS WRITTEN WITHOUT MALICE.

3. x x x IN NOT HOLDING THAT THE QUESTIONED ARTICLE DID NOT CAUSE DAMAGE TO PRIVATE COMPLAINANT'S REPUTATION.

4. GRANTING ARGUENDO THAT ACCUSED-PETITIONER'S CONVICTION IS

WARRANTED, x x x IN NOT LIMITING THE PENALTY IMPOSED UPON HIM TO FINE ALONE WITHOUT IMPRISONMENT x x x."<sup>[3]</sup>

In fine, the principal issue posited in this petition is whether or not the questioned article written by the petitioner is libelous.

We rule in the affirmative.

Article 353 of the Revised Penal Code defines libel in this wise:

"ART. 353. Definition of libel. - A libel is a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead."

For an imputation then to be libelous, the following requisites must concur:

- "(a) it must be defamatory;
- (b) it must be malicious;
- (c) it must be given publicity; and
- (d) the victim must be identifiable."<sup>[4]</sup>

Petitioner concedes the existence of the third and fourth requisites in the case at bench. Accordingly, only the first and second elements need to be discussed herein.

Petitioner insists that the allegedly offensive words found in the subject article are not actually defamatory. According to petitioner, the word "mandurugas" and other words and phrases used in the questioned article do not impute to private complainant any crime, vice or defect which would be injurious or damaging to his name and reputation. As far as petitioner is concerned, the descriptive words and phrases used should be considered as mere epithets which are a form of non-actionable opinion, because while they may express petitioner's strong emotional feelings of dislike, they do not mean to reflect adversely on private complainant's reputation.

We do not agree. In libel cases, the question is not what the writer of an alleged libel means, but what the words used by him mean.<sup>[5]</sup> Here, the defamatory character of the words used by the petitioner are shown by the very recitals thereof in the questioned article. No evidence aliunde need be adduced to prove it. Petitioner used the following words and phrases in describing the private complainant: "mandurugas," "mag-ingat sa panlilinlang," "matagal na tayong niloloko," "may kasamang pagyayabang," "ang ating pobreng super kulit," "patuloy na kabulastugan," "mastermind sa paninirang puri," etc.<sup>[6]</sup> Jurisprudence has laid down a test to determine the defamatory character of words used in the following manner, viz:

"Words calculated to induce suspicion are sometimes more effective to destroy reputation than false charges directly made. Ironical and metaphorical language is a favored vehicle for slander. **A charge is**