



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

ENRIQUE G. DE LEON,
 Petitioner,

G.R. No. 212623

Present:

- versus -

CARPIO, J., Chairperson,
BRION,
DEL CASTILLO,
MENDOZA, and
LEONEN, JJ.

PEOPLE OF THE PHILIPPINES
and SPO3 PEDRITO L.
LEONARDO,

Promulgated:

Respondents.

11 JAN 2016

H.M. Cabalag/Borgetto

x ----- x

DECISION

MENDOZA, J.:

This is a petition for review on *certiorari* seeking to reverse and set aside the November 14, 2013 Decision¹ and the May 20, 2014 Resolution² of the Court of Appeals (CA) in CA-G.R. CR No. 35390, which affirmed the September 28, 2012 Decision³ of the Regional Trial Court, Branch 27, Manila (RTC), sustaining the conviction of accused Enrique De Leon (*De Leon*) for Grave Oral Defamation by the Metropolitan Trial Court, Branch 6, Manila (*MeTC*).

Records show that De Leon was charged with Grave Oral Defamation in the Information filed before the MeTC, docketed as Criminal Case No. 453376-CR, the accusatory portion of which reads:

¹ *Rollo* pp. 49-63, penned by Associate Justice Apolinario D. Bruselas, Jr., with Associate Justice Rebecca De Guia Salvador and Associate Justice Samuel H. Gaerlan, concurring.

² *Id.* at 65-66.

³ *Id.* at 219-224, penned by Judge Teresa P. Soriaso.

That, on or about April 17, 2006, in the City of Manila, Philippines, the said accused, with the deliberate intent to besmirch the honor and reputation of one SPO3 PEDRITO L. LEONARDO, did and there wilfully, unlawfully, feloniously publicly proffer against the latter slanderous words and expressions such as “WALANGHIYA KANG MANGONGOTONG NA PULIS KA, ANG YABANG YABANG MO NOON. PATAY KA SA AKIN MAMAYA [.]” and other words and expressions of similar import, thereby bringing the said SPO3 PEDRITO L. LEONARDO into public contempt, discredit and ridicule.

Contrary to law.⁴

Upon arraignment, De Leon entered a plea of not guilty. Pursuant to the Supreme Court Circular No. 20-2002, De Leon and private respondent SPO3 Pedrito Leonardo (*SPO3 Leonardo*) appeared before the Philippine Mediation Center to settle the civil aspect of the case. The conciliation meeting, however, bogged down. Hence, the proceedings before the lower court continued. During the pre-trial, the parties pre-marked their respective exhibits and moved for the trial to commence.

Version of the Prosecution

The prosecution presented three witnesses, namely: private respondent SPO3 Leonardo, Carlito Principe (*Principe*) and Jennifer Malupeng (*Malupeng*). Their combined testimonies narrated that De Leon and his son, John Christopher De Leon (*John*), filed a complaint for Grave Misconduct against SPO3 Leonardo before the People’s Law Enforcement Board (*PLEB*), docketed as Administrative Case Nos. 06-02-060 (291) II and 06-02-061 (292) II.

The first hearing was scheduled on April 17, 2006 at the PLEB office on the 5th Floor of the Manila City Hall; At around 1:30 o’clock in the afternoon, while waiting outside the PLEB office on the 5th floor of the Manila City Hall, SPO3 Leonardo noticed De Leon and several of his companions approaching. Before entering the PLEB office, De Leon uttered these words to SPO3 Leonardo, “*Walanghiya kang mangongotong na pulis ka, ang yabang yabang mo noon. Patay ka sa akin ngayon.*”

The words uttered by De Leon caused SPO3 Leonardo embarrassment because there were several persons present at the PLEB premises. He could have arrested De Leon but he did not want to make a scene. Afterwards, De Leon’s wife, Concepcion, emerged from the said office and apologized to Leonardo for her husband’s actuations. SPO3 Leonardo calmly proceeded to the Special Operations Group of the Philippine National Police (*PNP*)

⁴ Id. at 77.

located at the Manila City Hall to have the incident entered in its blotter. On the same day, SPO3 Leonardo filed his complaint at the Office of the City Prosecutor (*OCP*) together with Principe.⁵

Version of the Defense

The defense presented Fernando Manalo (*Manalo*), Ruperto Molera (*Molera*), Concepcion De Leon (*Concepcion*) and the accused himself as witnesses.

From their testimonies, the defense claimed that there was a prior incident that took place on the morning of February 27, 2006 when De Leon, with his son John, while having breakfast with their fellow joggers at the Philippine National Railroad-Tutuban Station, were approached by SPO3 Leonardo who arrived on his scooter. With his gun drawn, SPO3 Leonardo walked fast towards the group and at a distance of two meters, more or less, he said, “*Putang ina mo, tapos ka na Ricky Boy*, referring to De Leon.” He pressed the trigger but the gun did not fire, when he was to strike again, De Leon was able to escape with the help of John.⁶

Consequently, De Leon and John filed an administrative complaint for grave misconduct against SPO3 Leonardo before the PLEB and the first hearing was set on April 17, 2006. In his *Sinumpaang Salaysay sa Paghahabla* filed before the PLEB, De Leon narrated that he and SPO3 Leonardo were former jogging buddies and that the latter wanted to borrow money from the former in the amount of ₱150,000.00, but he declined. SPO3 Leonardo became upset with him, culminating in the gun-pointing incident.⁷

On April 17, 2006, at around 1:30 o’clock in the afternoon, De Leon, in the company of his wife Concepcion, Manalo, Molera, and several others went to the PLEB office to attend the hearing. When De Leon and his companions arrived at the PLEB, they saw SPO3 Leonardo seated on the bench alone; that they were about to pass when SPO3 Leonardo stood up, badmouthed and threatened De Leon by uttering the words, “*Putang-ina mong mayabang ka, pag di mo inurong demanda mo sa akin, papatayin kita.*”

Moments later, they caused the incident to be entered in the police blotter. From there, they returned to the PLEB office where they were advised to file charges against SPO3 Leonardo in Camp Crame. Malupeng and Principe were not seen at the PLEB office premises. Molera even tried to pacify SPO3 Leonardo by saying, “*Itok* (referring to SPO3 Leonardo),

⁵ Id. at 78-80.

⁶ Id. at 206-207.

⁷ Id. at 143-144.

ano ka ba naman andito na tayo sa husgado, ayaw mo pang tigilan ang kamumura kay Ricky, referring to De Leon.” De Leon did not do anything, he simply entered the PLEB office and sat down there because he got nervous. He also denied apologizing to SPO3 Leonardo.

Also on April 17, 2006, De Leon utilized the police blotter to file a case against SPO3 Leonardo in Camp Crame. He filed the said case only after he received the subpoena from the OCP for the case filed against him by SPO3 Leonardo. Although he was with his lawyer when he went to Camp Crame, the latter did not advise him to file a complaint in the OCP right away. According to De Leon, he also saw SPO3 Leonardo deposit his service firearm while at the PLEB office.⁸

The Ruling of the MeTC

In its Decision,⁹ dated April 15, 2011, the MeTC found De Leon guilty beyond reasonable doubt of Grave Oral Defamation. The trial court considered SPO3 Leonardo’s police blotter as *prima facie* evidence of the facts contained therein. His actuations on the day of the incident were spontaneous. As borne by the records, he immediately reported the incident and filed his complaint on that very same day. Considering the animosity between him and De Leon, it was contrary to human experience to expect the him to arrest the latter right there and then when his motives would necessarily be met with doubt later on. Neither was there any ill-motive on the part of witness Principe whose testimony was given great probative consequence.¹⁰ The MeTC found De Leon’s defense as only an afterthought and self-serving as he merely filed the counter-charges against Leonardo after he had received the subpoena from the OCP. The dispositive portion of the MeTC decision reads:

WHEREFORE, with the foregoing, the Court finds the accused Enrique De Leon y Garcia **GUILTY** beyond reasonable doubt of the crime charged and is hereby **SENTENCED** to suffer the indeterminate penalty of 4 months and 1 day of *arresto mayor*, as minimum penalty, to 1 year, 1 month and 11 days of *prision correccional* in its minimum period, as maximum penalty.

On the civil aspect *ex delicto*, the accused is **ORDERED** to pay the private complainant ₱10,000 as moral damages.

SO ORDERED.¹¹

⁸ Id. at 81-84.

⁹ Id. at 77-89.

¹⁰ Id. at 86.

¹¹ Id. at 88-89.

The verdict being unacceptable to him, De Leon filed his Notice of Appeal,¹² dated April 18, 2011.

On May 4, 2011, the RTC issued the Order¹³ directing De Leon to file his appeal memorandum. De Leon, however, failed to comply. For his failure to file the same, the RTC issued another Order,¹⁴ dated December 28, 2011, dismissing his appeal. De Leon then filed a motion for reconsideration¹⁵ on January 30, 2012, which was granted by the RTC in its Order,¹⁶ dated May 22, 2012.

On June 15, 2012, De Leon filed his appeal memorandum¹⁷ and argued, among others, that the MeTC decision lacked the necessary constitutional and procedural requirements of a valid decision.

The Ruling of the RTC

On September 28, 2012, the RTC rendered its decision affirming in *toto* the ruling of the MeTC. It opined that where the issue was the extent of credence properly given to the declarations made by witnesses, the findings of the trial court were accorded great weight and respect. In appreciating the evidence of the prosecution, the RTC observed that the MeTC properly discussed in *seriatim* how it arrived at De Leon's conviction. Thus, contrary to his contentions, the findings of the MeTC were clearly elucidated.¹⁸

On October 30, 2012, De Leon filed his motion for reconsideration,¹⁹ but it was denied by the RTC in its November 27, 2012 Order.

Aggrieved, De Leon filed a petition for review under Rule 42 before the CA.

The Ruling of the CA

The CA affirmed the RTC decision with modification as to the imposed penalty. The CA stated that the issue of credibility was already raised with the RTC and was resolved against De Leon. The CA found that

¹² Id. at 90-91.

¹³ Id. at 165.

¹⁴ Id. at 96.

¹⁵ Id. at 98-106.

¹⁶ Id. at 176-177.

¹⁷ Id. at 178-205.

¹⁸ Id. at 224.

¹⁹ Id. at 225-232.

he had not shown any sufficient reason to justify a departure from the factual findings of the MeTC, which were affirmed by the RTC.²⁰

According to the CA, to call SPO3 Leonardo a “*walanghiya*,” “*mayabang*” and “*mangongotong*” in public unquestionably constituted grave oral defamation. These words seriously attacked SPO3 Leonardo’s character. The term “*mangongotong*” actually imputed a crime that was dishonorable to him as a police authority. There having been no provocation on the part of SPO3 Leonardo and that the utterances complained of were not made in the heat of unrestrained anger or obfuscation, the RTC did not err in upholding the judgment against De Leon for the crime of grave oral defamation.²¹ The decretal portion of the CA decision reads:

WHEREFORE, the petition for review is **DENIED**. The assailed decision of the RTC is **AFFIRMED** except that the minimum sentence of imprisonment is modified to the extent that the penalty to be served shall be: four (4) months as minimum [minus the one (1) day] to a maximum of one (1) year, one (1) month and eleven (11) days, (as imposed by the trial court).

IT IS SO ORDERED.²²

De Leon moved for partial reconsideration of the CA decision but to no avail.

Hence, this petition, where De Leon raises matters in question that can be summarized as follows:

ISSUES

- I. WHETHER THE DECISION OF THE MeTC FAILED TO INCLUDE THE FACTS AND THE LAW UPON WHICH THE DECISION WAS BASED**
- II. WHETHER DE LEON’S GUILT HAS BEEN PROVEN BEYOND REASONABLE DOUBT.**

In his Petition for Review,²³ De Leon again argues that the MeTC decision suffers from constitutional infirmity. The lower court should have decided the case on the basis of the testimonies of the witnesses for the

²⁰ Id. at 59.

²¹ Id. at 61.

²² Id. at 63.

²³ Id. at 3-41.

defense. Also, the conviction was based simply on De Leon's conduct during trial and not on the merits of the case.²⁴

In its Comment,²⁵ the Office of the Solicitor General (*OSG*) countered that the testimonies of SPO3 Leonardo and Principe were credible and competent. Further, in the absence of clear and convincing extrinsic evidence to prove the charge of bias and partiality on the part of MeTC Judge Teresa Soriaso (*Judge Soriaso*), the presumption of regularity in the performance of the judge's function will stand.²⁶

In his Reply,²⁷ however, De Leon insisted that the prosecution failed to prove his guilt beyond reasonable doubt. The intent on his part to diminish the esteem, goodwill or confidence of SPO3 Leonardo or to excite adverse, derogatory or unpleasant feelings or opinion of others against him was lacking as his testimony was made in good faith, without malice. He also reiterated his stand that there was no finding of clear and distinct facts and law to serve as a basis for its conclusion of convicting him for the crime charged and that the MeTC decision was not based on the merits, rather on the personal sentiments harbored by Judge Soriaso against him.²⁸

The Court's Ruling

The MeTC Decision clearly stated the facts and the law on which it was based

Under Section 14, Article VIII of the Constitution, no decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based. Section 1 of Rule 36 of the Rules of Court provides that a judgment or final order determining the merits of the case shall be in writing personally and directly prepared by the judge, stating clearly and distinctly the facts and the law on which it is based, signed by him and filed with the clerk of the court.

Faithful adherence to the requirements of Section 14, Article VIII of the Constitution is indisputably a paramount component of due process and fair play. A decision that does not clearly and distinctly state the facts and the law on which it is based leaves the parties in the dark as to how it was reached and is precisely prejudicial to the losing party, who is unable to pinpoint the possible errors of the court for review by a higher tribunal.

²⁴ Id. at 27.

²⁵ Id. at 265-287.

²⁶ Id. at 282.

²⁷ Id. at 297-312.

²⁸ Id. at 300-309.

More than that, the requirement is an assurance to the parties that, in arriving at a judgment, the judge did so through the processes of legal reasoning. It is, thus, a safeguard against the impetuosity of the judge, preventing him from deciding *ipse dixit*.²⁹

The standard "expected of the judiciary" is that the decision rendered makes clear why either party prevailed under the applicable law to the facts as established. Nor is there any rigid formula as to the language to be employed to satisfy the requirement of clarity and distinctness. The discretion of the particular judge in this respect, while not unlimited, is necessarily broad. There is no sacramental form of words which he must use upon pain of being considered as having failed to abide by what the Constitution directs.³⁰

It is understandable that courts, with heavy dockets and time constraints, often find themselves with little to spare in the preparation of decisions to the extent most desirable. Judges might learn to synthesize and to simplify their pronouncements. Nevertheless, concisely written such as they may be, decisions must still distinctly and clearly express, at least in minimum essence, its factual and legal bases.³¹

In this case, there was no breach of the constitutional mandate that decisions must express clearly and distinctly the facts and the law on which they are based. The CA correctly stated that the MeTC clearly emphasized in its decision, the factual findings, as well as the credibility and the probative weight of the evidence for the defense *vis-à-vis* the evidence of the prosecution. The MeTC presented both the version of the prosecution and that of the defense. De Leon was not left in the dark. He was fully aware of the alleged errors of the MeTC. The RTC, as an appellate court, found no reason to reverse the decision of the MeTC.

Likewise, when it comes to credibility of witnesses, this Court accords the highest respect, even finality, to the evaluation by the lower court of the testimonies of the witnesses presented before it.³²

Although De Leon claims that the testimony of Principe is incredible, the MeTC, the RTC and the CA perceived it otherwise. First, there was no ill motive on the part of Principe for him to weave a tale of lies against De Leon. Second, Judge Soriaso was able to observe Principe's demeanor

²⁹ *Dela Peña v. Court of Appeals*, 598 Phil. 862, 975 (2009).

³⁰ *Bernabe v. Geraldez*, 160 Phil. 102, 104 (1975).

³¹ *Chung v. Mondragon*, G.R. No. 179754, November 21, 2012, 686 SCRA 112.

³² *Lumanog v. People*, 644 Phil. 296, 395 (2010).

during trial. He was observed to be candid and composed and his conduct on the witness stand did not mirror that of an insincere or false witness.

*No bias and partiality on
the part of Judge Soriaso*

Unless there is concrete proof that a judge has a personal interest in the proceedings and that his bias stems from an extra-judicial source, this Court shall always presume that a magistrate shall decide on the merits of a case with an unclouded vision of its facts.³³ Bias and prejudice cannot be presumed, in light especially of a judge's sacred obligation under his oath of office to administer justice with impartiality. There should be clear and convincing evidence to prove the charge; mere suspicion of partiality is not enough.³⁴

De Leon posits that Judge Soriaso harbored ill feelings towards him which eventually resulted in his conviction. No evidence, however, was ever adduced to justify such allegation. Thus, such argument must also fail.

*The crime committed is only
Slight Oral Defamation*

Oral Defamation or Slander is libel committed by oral (spoken) means, instead of in writing. It is defined as “the speaking of base and defamatory words which tend to prejudice another in his reputation, office, trade, business or means of livelihood.”³⁵ The elements of oral defamation are: (1) there must be an imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, status or circumstances; (2) made orally; (3) publicly; (4) and maliciously; (5) directed to a natural or juridical person, or one who is dead; (6) which tends to cause dishonour, discredit or contempt of the person defamed. Oral defamation may either be simple or grave. It becomes grave when it is of a serious and insulting nature.

An allegation is considered defamatory if it ascribes to a person the commission of a crime, the possession of a vice or defect, real or imaginary or any act, omission, condition, status or circumstance which tends to dishonor or discredit or put him in contempt or which tends to blacken the memory of one who is dead. To determine whether a statement is defamatory, the words used in the statement must be construed in their entirety and should be taken in their plain, natural and ordinary meaning as they would naturally be understood by persons reading them, unless it appears that they were used and understood in another sense.³⁶ It must be

³³ *Gochan v. Gochan*, 446 Phil. 433, 439 (2003).

³⁴ *Lorenzana v. Austria*, A.M. No. RTJ-09-2200, April 2, 2014, 720 SCRA 319.

³⁵ *Villanueva v. People*, 521 Phil. 191, 200 (2006).

³⁶ *Lopez v. People*, 658 Phil. 20, 31 (2011).

stressed that words which are merely insulting are not actionable as libel or slander *per se*, and mere words of general abuse however opprobrious, ill-natured, or vexatious, whether written or spoken, do not constitute a basis for an action for defamation in the absence of an allegation for special damages. The fact that the language is offensive to the plaintiff does not make it actionable by itself.³⁷

In this case, the Court agrees that the words uttered by De Leon were defamatory in nature. It is, however, of the view that the same only constituted simple oral defamation.

Whether the offense committed is serious or slight oral defamation, depends not only upon the sense and grammatical meaning of the utterances but also upon the special circumstances of the case, like the social standing or the advanced age of the offended party.³⁸ “The gravity depends upon: (1) the expressions used; (2) the personal relations of the accused and the offended party; and (3) the special circumstances of the case, the antecedents or relationship between the offended party and the offender, which may tend to prove the intention of the offender at the time. In particular, it is a rule that uttering defamatory words in the heat of anger, with some provocation on the part of the offended party constitutes only a light felony.”³⁹

There are cases where the Court considered the circumstances of the concerned parties and held that the defamation was grave serious in nature.

In *U.S. v. Tolosa*,⁴⁰ where a woman of violent temper hurled offensive and scurrilous epithets including words imputing unchastity against a respectable married lady and tending to injure the character of her young daughters, the Court ruled that the crime committed was grave slander. In *Balite v. People*,⁴¹ the accused was found guilty of grave oral defamation as the scurrilous words he imputed to the offended party constituted the crime of estafa.

In some cases, the Court has declared that the defamatory utterances were not grave on the basis of the peculiar situations obtaining.

In the case of *People v. Arcand*,⁴² a priest called the offended party a gangster in the middle of the sermon. The Court affirmed the conviction of

³⁷ *MVRS Publications v. Islamic Da'wah Council of the Phil.*, 444 Phil. 230, 241 (2003).

³⁸ Reyes, *The Revised Penal Code Book 2*, 2008 Ed., p. 1020.

³⁹ *Agbayani v. Court of Appeals*, 689 Phil. 11, 28 (2012).

⁴⁰ 37 Phil. 166 (1917).

⁴¹ 124 Phil. 868 (1956).

⁴² 68 Phil. 601 (1939).

the accused for slight slander as there was no imputation of a crime, a vice or immorality. In *Pader v. People*,⁴³ the Court ruled that the crime committed was only slight oral defamation as it considered the expression, “*putang ina mo*,” as expression to convey anger or displeasure. Such utterance was found not seriously insulting considering that he was drunk when he uttered those words and his anger was instigated by what the private complainant did when the former’s father died. Also in *Jamilano v. Court of Appeals*,⁴⁴ where calling someone “*yabang*” (boastful or arrogant) was found not defamatory, the complainant’s subsequent recourse to the law on oral defamation was not sustained by the Court.

Considering the factual backdrop of this case, the Court is convinced that the crime committed by De Leon was only slight oral defamation for the following reasons:

First, as to the relationship of the parties, they were obviously acquainted with each other as they were former jogging buddies. Prior to the purported gun-pointing incident, there was no reason for De Leon to harbor ill feelings towards SPO3 Leonardo.

Second, as to the timing of the utterance, this was made during the first hearing on the administrative case, shortly after the alleged gun-pointing incident. The gap between the gun-pointing incident and the first hearing was relatively short, a span of time within which the wounded feelings could not have been healed. The utterance made by De Leon was but a mere product of emotional outburst, kept inside his system and unleashed during their encounter.

Third, such words taken as a whole were not uttered with evident intent to strike deep into the character of SPO3 Leonardo as the animosity between the parties should have been considered. It was because of the purported gun-pointing incident that De Leon hurled those words. There was no intention to ridicule or humiliate SPO3 Leonardo because De Leon’s utterance could simply be construed as his expression of dismay towards his actions as his friend and member of the community.

*The defamatory remarks
were not in connection with
the public officer’s duty*

Finally, the Court finds that even though SPO3 Leonardo was a police officer by profession, his complaint against De Leon for oral defamation

⁴³ 381 Phil. 932-937 (2000).

⁴⁴ 140 Phil. 524-532 (1969).

must still prosper. It has been held that a public officer should not be too onion-skinned and should be tolerant of criticism. The doctrine, nevertheless, would only apply if the defamatory statement was uttered in connection with the public officer's duty. The following cases are illustrative:

In the case of *Evangelista v. Sepulveda*,⁴⁵ petitioner lawyer made the following statements in his appeal brief:

THIS BLUNDER of the TRIAL COURT, AT ONCE SHOCKING AND UNPARDONABLE, BETRAYS BOTTOMLESS IGNORANCE OF LEGAL FUNDAMENTALS AND IS A BLACK REFLECTION ON THE COMPETENCE OF ITS INCUMBENT. IT COULD BE A GROUND FOR PROSECUTION AND ADMINISTRATIVE ACTION.

This shocking, colossal blunder deserves condemnation no end and cries for immediate relief in order to avoid repetitions of miscarriages of justice.

Appalled by the contents of the brief, the trial court judge charged the petitioner for indirect contempt. In absolving the latter, this Court recognized that lawyers sometimes get carried away and forget themselves especially if they act as their own counsel. Hence, if the judge had felt insulted, he should have sought redress by other means as it was not seemly for him to be a judge of his own cause.

In *Yabut v. Ombudsman*,⁴⁶ petitioner vice mayor was directing traffic as he was concurrently the commander of the Traffic Management Division at that time. On board his vehicle was private respondent Doran, who was impatient about the traffic. Angry words turned into an exchange of punches and Doran stuck a dirty finger at petitioner. Charged with an administrative case before the Office of the Ombudsman, petitioner vice mayor was suspended. The attendant circumstances served no excuse for the mauling incidents that followed. Though the acts of Doran were no less than "an act of spite, degradation and mockery," it did not justify an equally abhorrent reaction from petitioner. This Court wrote that public officers, especially those who were elected, should not be too onion-skinned as they are always looked upon to set the example how public officials should correctly conduct themselves even in the face of extreme provocation.

In both cases, the criticisms directed towards the public officer were made in connection with the dissatisfaction of the performance of their respective duties. Here, however, the malicious imputations were directed towards the public officer with respect to their past strained personal relationship. To note, De Leon's displeasure towards SPO3 Leonardo could be traced to a gun-pointing incident where the latter was angered when the

⁴⁵ 206 Phil. 598 (1983).

⁴⁶ G.R. No. 111304, June 17, 1994, 233 SCRA 310.

former failed to grant him a private loan transaction in the amount of ₱150,000.00.

One of man's most prized possessions is his integrity. There lies a thin line between criticism and outright defamation. When one makes commentaries about the other's performance of official duties, the criticism is considered constructive, then aimed for the betterment of his or her service to the public. It is thus, a continuing duty on the part of the public officer to make room for improvement on the basis of this constructive criticism in as much as it is imperative on the part of the general public to make the necessary commentaries should they see any lapses on the part of the public officer. In this case, however, the criticism was more destructive than constructive and, worse, it was directed towards the personal relations of the parties.

To reiterate, their altercation and De Leon's subsequent defamation were not in connection with SPO3 Leonardo's public duties. Taking into account the circumstances of the incident, calling him "*walanghiya*" and "*mangongotong na pulis*" was evidently geared towards his reputation as a private individual of the community. Thus, the defamation committed by De Leon, while only slight in character, must not go unpunished.

Accordingly, De Leon should be meted out only the penalty of *arresto mayor* or a fine not exceeding ₱200.00 pesos, for committing slight oral defamation as prescribed under Article 358 of the Revised Penal Code.

WHEREFORE, the petition is **PARTIALLY GRANTED**. The April 15, 2011 Decision of the Metropolitan Trial Court, Branch 6, Manila, is hereby **MODIFIED** to read as follows:

WHEREFORE, finding Enrique De Leon guilty beyond reasonable doubt of the crime of Slight Oral Defamation, the Court hereby sentences him to pay a fine of ₱200.00, with subsidiary imprisonment in case of insolvency, and to pay the costs.

On the civil aspect *ex delicto*, the accused is ordered to pay the private complainant ₱5,000.00 as moral damages.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



ARTURO D. BRION
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice

So dissenting opinion



MARVIC M.V.F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice