



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

MANILA BULLETIN PUBLISHING
CORPORATION AND RUTHER
BATUIGAS,

Petitioners,

-versus-

G.R. No. 170341

Present:

CARPIO, J.,
Chairperson
VELASCO, JR.,*
MENDOZA,
LEONEN,
MARTIRES, JJ.

VICTOR A. DOMINGO AND THE PEOPLE
OF THE PHILIPPINES,

Respondents.

Promulgated:

05 JUL 2017

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X ----- X

DECISION

MARTIRES, J.:

Through their petition for review under Rule 45 of the Rules of Court, petitioners plead that the Court nullify and set aside the 30 March 2005 decision¹ and 25 October 2005 resolution² of the Court of Appeals (CA), Eighteenth Division in CA-G.R. CR. No. 19089 affirming the joint decision³ of the Regional Trial Court, Branch 6, Tacloban City, in Civil Case No. 91-02-23 and Criminal Case No. 91-03-159.

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* Designated additional member per Raffle dated 22 March 2017.

¹ *Rollo*, pp. 41-47; Penned by Associate Justice Pampio A. Abarintos, and concurred in by Associate Justices Mercedes Gozo-Dadole and Ramon M. Bato, Jr.

² *Id.* at 48-49.

³ Records (Civil Case No. 91-02-23), pp. 230-256.

THE FACTS

Petitioner Ruther D. Batuigas (*Batuigas*) was a writer of the widely circulated tabloid *Tempo*, published by the Manila Bulletin Publishing Corporation (*Manila Bulletin*).

On 20 December 1990, Batuigas wrote an article in his Bull's Eye column in *Tempo* titled "*Crucial task for JoeCon's successor.*" The article dealt with the letter-complaint of the Waray employees of the Department of Trade and Industry (*DTI*), Region VIII on the "[m]ismanagement, low moral[e], improper decorum, gross inefficiency, nepotism, etc." in the office. One of the public officials complained of was petitioner Regional Director Victor Domingo (*Domingo*) who was accused of dereliction of official duties, among others.⁴ The "JoeCon" referred to was the outgoing DTI Secretary, Jose Concepcion.

On 4 January 1991, Batuigas wrote in his column titled "*A challenge to Sec. Garrucho*" about the alleged "lousy performance of Regional Director R.D. Domingo in DTI Region 8," among others.⁵ Peter Garrucho was the newly appointed DTI Secretary who took over from Jose Concepcion.

Offended by these two articles, Domingo filed, on 18 January 1991, a complaint for libel against Batuigas before the Provincial Prosecutor of Palo, Leyte.⁶

On 7 February 1991, Domingo likewise filed a complaint for Damages before the Regional Trial Court (RTC) of Palo, Leyte, against Batuigas and the Manila Bulletin. The complaint, docketed as Civil Case No. 91-02-23, was raffled to the RTC, Branch 6, Palo, Leyte.⁷

On 18 March 1991, the Provincial Prosecutor terminated the preliminary investigation with the filing of an Information for Libel⁸ against Batuigas, viz:

That on or about the 20th day of December 1990, and the 4th day of January 1991, the above-named accused, with malice afterthought and with intent to damage, ruin and discredit the good name and reputation of one VICTOR A. DOMINGO of Tacloban City, Leyte, did then and there willfully, unlawfully and feloniously wr[o]te and publish[ed] in the TEMPO Publication in Manila, the following, to wit:

⁴ *Id.*; Exhibit "A-1."

⁵ *Id.*; Exhibit "B-1."

⁶ Records (Criminal Case No. 91-03-159) pp. 14-21.

⁷ Records (Civil Case No. 91-02-23), pp. 1-7.

⁸ Records (Criminal Case No. 91-03-159), pp. 1-4.



December 20, 1990

But whoever will succeed JoeCon (Mr. Jose Concepcion, then the Secretary of the Department of Trade and Industry), will inherit a brewing problem at the Eastern Visayas office of the Department of Trade and industry.

Eastern Visayas in Region 8 is made up of two Leyte and three Samar provinces.

In their letter to this corner, the Waray employees of DTI-8 say they are disgusted over how things are being run and handled in the regional office in Tacloban City.

Mismanagement, low morale, improper decorum, gross inefficiency, nepotism, etc.

“These complaints, they say, were brought last year to the attention of DTI Makati, Civil Service Commission and Ombudsman.

Wala raw nangyari sa reklamo nila.

Kaya kami lumapit sa inyo, Gg. Batuigas, dahil nagbibigay ng resulta ang kolum ninyo,” his letter said.

To JoeCon’s successor, here are the specifics:

Regional Director V. Domingo is accused of dereliction of official duties.

PECS are allegedly mismanaged, the Kalakalan program not given any direction and non-implementation of the rules on product standards.

The complainants charge that Director Domingo is more interested in night[-]clubbing the female members of his staff.

He also brings out the staff to seminars and conferences because he enjoys the pleasure of their company and his being out of his region, they aver.

A provincial director has organized his staff composed of clan members. Only his house pets were not included.

A couple are in the same office holding sensitive positions.

P. Caludac, a division chief, has hired an aunt to assume a vital post.

On the pretext that they are on fieldwork, time cards of ass-kissers are punched to the detriment of those loyal to the public service.



And these spoiled brats are led by no less than Director Domingo's secretary.

This corner is also told that the director's personal secretary is more often seen in the city hotels and beauty parlors than in her office.

The civil status of the media specialist is officially recorded as 'single' although her three children were sired by different fathers.

And Director Domingo has full knowledge of such immorality.

The Leyte provincial director has neglected to perform his functions causing a downfall in business.

This outright neglect is detrimental to DTI and the region's progress.

These national employees should be commended for bringing into the open this garbage that has piled in their own backyard.

To JoeCon's successor, the chopping board is ready.

All you need is a Muslim kris.

Palakulin mo, Pare ko!

January 4, 1991 issue:

Newly appointed Secretary of the Department of Trade and Industry Peter Garrucho has a difficult job ahead of him.

He is like sailing in turbulent waters.

If he fails the exception (sic) of the public, it is not only his name at stake, but of Tita Cory, too.

He must perform something extraordinary to surpass what JoeCon did at DTI.

One problem that he should give priority [to] is the lousy performance of Regional Director (sic) Domingo in DTI Region 8.

There is a serious breakdown of morale of DTI employees in that region because of Domingo's mismanagement.

After we exposed the alleged shenanigans of Domingo and his minions in our Dec. 20 column, the guy reportedly went on the air over PR TV 12 and radio station



DYXL (sic) in Tacloban City and announced that he would sue this columnist with a 'multi-million pesos' libel [case].

But why should Domingo threaten us with libel suits instead of presenting his side is something that we can't understand.

We have volumes of documents against you, Mr. Domingo, furnished us by your people there at DTI Region 8.

Maybe you should answer them point by point instead of issuing threats against us.

Ms. Lilia Bautista, DTI Undersecretary for personnel and administration should know all the charges against you by this time.

Your people there have been sending her documented complaints long time ago, before I exposed your kalokohan in my Dec. 20 column.

You will be reading more about them soon.

Abangan!"

thereby injuring the good name, integrity and honor of said Victor A. Domingo and causing and exposing him to public hatred, ridicule and contempt.⁹

The Information, docketed as Criminal Case No. 91-03-159, was raffled to the RTC, Branch 6, Palo, Leyte. The criminal case was subsequently consolidated with Civil Case No. 91-02-23.

When called to the witness stand, Domingo, then the DTI Director for Region VIII, denied the allegations against him which were contained in the 20 December 1990 and 4 January 1991 articles of Batuigas.¹⁰ He claimed that he felt like he had been assassinated because of these articles, while his family members were emotionally upset and traumatized.¹¹

To support his claim that the allegations against him were not true, Domingo presented the following: (a) his sworn statement¹² for the filing of a libel case against Batuigas;¹³ (b) the Joint Affidavit¹⁴ of all the employees of the DTI Provincial Office denying that they had sent a letter of complaint to Batuigas as mentioned in the 20 December 1990 article and as to the

⁹ *Id.*

¹⁰ TSN, 13 September 1991, pp. 5-7.

¹¹ *Id.* at 7.

¹² Records (Civil Case No. 91-02-23), pp. 10-16; Exhibit "C."

¹³ TSN, 13 September 1991, p. 8.

¹⁴ Records (Civil Case No. 91-02-23), pp. 22-24; Exhibit "D."

allegations contained therein;¹⁵ (c) the 8 January 1991 letter¹⁶ of Civil Service Commission (CSC) Chairman Patricia Sto. Tomas (*Chairman Sto. Tomas*) to Batuigas in response to the 20 December 1990 article on the alleged "mismanagement, low morale, gross inefficiency and nepotism" pervading at the DTI Region VIII;¹⁷ (d) the CSC Indorsement¹⁸ of Region VIII Director Eliseo Gatchalian relative to the findings and recommendations on the complaint of R. De Paz and company;¹⁹ (e) the 7 November 1990 letter²⁰ of Victoria E. Valeriano (Valeriano) to the CSC Regional Director with reference to her investigation on the complaint of R. De Paz and company against him, among others, and which contained Valeriano's recommendation that the complaint be dismissed and be considered closed and terminated²¹; (f) the CSC Region VIII Report of Investigation²² where the complaint of immorality against him and Jacqueline G. Aguiles was dismissed;²³ (g) his draft letter²⁴ to Batuigas protesting the inaccuracies and the ill motivation of the 20 December 1990 column but which letter he no longer sent to Batuigas;²⁵ (h) the 28 September 1989 letter²⁶ of the DTI Director of Legal Affairs transmitting the 7 August 1989 resolution of the Office of the Ombudsman in OSP-88-02282 dismissing the complaint of Arturo Salvacion against him, among others;²⁷ (i) the 7 August 1989 resolution²⁸ of the Office of the Ombudsman in OSP-88-02282;²⁹ (j) the 21 August 1989 memorandum³⁰ of the Office of the Ombudsman on the complaint against him by Jose Amable;³¹ (k) the 14 January 1991 resolution³² of the Regional Development Council expressing its support and confidence in him;³³ (l) the 4 January 1991 resolution³⁴ of the Leyte Private Media, Inc. where he was commended for being a clean public official and a model family man;³⁵ (m) the respective affidavits of DTI Assistant Secretary Jose Mari S. Yu³⁶ and DTI Director Zafrullah G. Masahud³⁷ vouching for his integrity and morality;³⁸ (n) the DTI certification³⁹ of Amando T. Alvis stating that the DTI Region VIII has no

¹⁵ TSN, 13 September 1991, pp. 8-9.

¹⁶ Records (Civil Case No. 91-02-23), pp.17-18; Exhibit "E."

¹⁷ TSN, 13 September 1991, pp. 9-10.

¹⁸ Records (Civil Case No. 91-02-23), p.123; Exhibit "F."

¹⁹ TSN, 13 September 1991, p. 10.

²⁰ Records (Civil Case No. 91-02-23), p. 124; Exhibit "F-2."

²¹ TSN, 13 September 1991, p. 10-11.

²² Records (Civil Case No. 91-02-23), pp. 126-128; Exhibit "G'."

²³ TSN, 7 November 1991, pp. 3-4.

²⁴ Records (Civil Case No. 91-02-23), pp.129-131; Exhibit "H."

²⁵ TSN, 7 November 1991, pp. 4-5.

²⁶ Records (Civil Case No. 91-02-23) p.132; Exhibit "I."

²⁷ TSN, 7 November 1991, pp. 5-6.

²⁸ Records (Civil Case No. 91-02-23) pp. 133-134; Exhibit "J."

²⁹ TSN, 7 November 1991, p. 6.

³⁰ Records (Civil Case No. 91-02-23) pp. 135-136; Exhibit "K."

³¹ TSN, 7 November 1991, p. 7.

³² Records (Civil Case No. 91-02-23) p. 137; Exhibit "L."

³³ TSN, 7 November 1991, p. 8.

³⁴ Records (Civil Case No. 91-02-23) p. 138; Exhibit "L-1."

³⁵ TSN, 7 November 1991, p. 8.

³⁶ Records, (Civil Case No. 91-02-23) p. 139; Exhibit "L-2."

³⁷ *Id.* at 140-141; Exhibit "L-3."

³⁸ TSN, 7 November 1991, p. 9.

³⁹ Records (Civil Case No. 92-03-23) p. 142; Exhibit "M."

employee by the name of R. de Paz or Meillin dela Cruz either in the past or at present; (o) the resolution⁴⁰ of Provincial Prosecutor Joventino P. Isidro on the libel complaint he filed against Batuigas;⁴¹ and, (p) the affidavit⁴² of the DTI Region VIII employees denying the statements of Batuigas in his column.⁴³

Domingo stated that his friends who knew him well knew that the articles were fabrications; those who did not know him that well would think him guilty of these charges, some of whom made hurtful comments. He quantified the mental anguish, sleepless nights, and wounded feelings that he suffered as a result of the false and malicious charges against him by Batuigas in the amount of ₱2 million. He asked that he be paid ₱1 million and ₱500,000.00 for moral and exemplary damages, respectively. He claimed to have paid ₱10,000.00 as filing fee for his complaint against Batuigas and that he agreed to pay his lawyer ₱200.00 per appearance.⁴⁴

Domingo claimed that after his exoneration by the CSC no other charges were filed against him before any court or body. On the complaint of immorality, similar charges were filed against him but these were also dismissed.⁴⁵

Atty. Imelda Nartea,⁴⁶ a resident of Tacloban; Gilene Sta. Maria Advincula,⁴⁷ an employee of the DTI Region VIII during the time that Domingo was the Regional Director; and Jose Nicolasora,⁴⁸ a businessman from Tacloban, testified to deny the allegations against Domingo.

Batuigas took the witness stand for his defense. As the chief reporter and a columnist of Tempo, he described his work as an exposé, a product of investigative work. He claimed that he exposes anomalies and other shenanigans in the government and even of private individuals in the hope that corruption in the government might be minimized. As a result of his exposés, he was able to cause the dismissal of some officials in the government, although cases were also filed against him by officials of the government. At the time he testified, he had not been convicted in any of the cases filed against him.⁴⁹



⁴⁰ *Id.* at 143-147; Exhibit "N" and "N-1."

⁴¹ TSN, 7 November 1991, pp. 10-12.

⁴² Records (Civil Case No. 91-02-23) pp. 19-22; Exhibit "O."

⁴³ TSN, 8 November 1991, pp. 3-4.

⁴⁴ *Id.* at 5-6.

⁴⁵ *Id.* at 9-10.

⁴⁶ TSN, 3 August 1992, pp. 2-10.

⁴⁷ TSN, 8 October 1992, pp. 3-17.

⁴⁸ *Id.* at 18-24.

⁴⁹ TSN, 9 February 1993, pp. 13-16.

He stated that he met Domingo for the first time during the previous hearing of the cases. He only came to know of Domingo when he received several letters of complaint against the Regional Director. He presumed that the copies of the complaints were those filed against Domingo before the CSC and the Office of the Ombudsman. Thus, he wrote the questioned articles because he found the complaints to be of public interest as these involved the shenanigans committed by Domingo in his office. He no longer had copies of the complaints claiming he lost these when he left the Manila Bulletin.⁵⁰

Ruling of the Regional Trial Court

In a joint decision⁵¹ dated 2 December 1994, the RTC resolved Civil Case No. 91-02-23 and Crim. Case No. 91-03-159 as follows:

Wherefore, finding accused Ruther Batuigas guilty beyond reasonable doubt and principal of the crime of Libel defined by Article 353 in relation to Article 354 of the Revised Penal Code, and penalized under Article 355 of the same Code, hereby imposes upon accused Ruther Batuigas a fine of Six Thousand (P6,000.00) Pesos with subsidiary imprisonment in case of insolvency.

In Civil Case No. 91-02-23, judgment is hereby rendered in favor of the plaintiff and against the defendants:

1. Ordering defendants Ruther Batuigas and the Manila Bulletin Corporation to solidarily pay plaintiff moral damages in the amount of One Million (P1,000,000.00) Pesos;
2. Ordering the same defendants to solidarily pay the same plaintiff the sum of Five Hundred Thousand (P500,000.00) Pesos exemplary damages;
3. Ordering the same defendants to solidarily pay the same plaintiff the sum of Two Hundred Thousand (P200,000.00) Pesos attorney's fees; litigation expenses in the sum of Ten Thousand (P10,000.00) Pesos; and
4. Ordering the same defendants to solidarily pay the costs of this suit.⁵²

Ruling of the Court of Appeals

Batuigas and the Manila Bulletin raised the decision of the RTC via an appeal, docketed as CA-G.R. CR. No. 19089, to the CA, Cebu City. On

⁵⁰ Id. at 17-18 and 21.

⁵¹ Records (Civil Case No. 91-02-23), pp. 230-256.

⁵² Id. at 255-256.



30 March 2005, the CA Eighteenth Division⁵³ rendered its decision the dispositive portion of which reads as follows:

WHEREFORE, in view of all the foregoing, the joint decision rendered by the Regional Trial Court, Branch 6, Tacloban City in criminal case no. 91-03159 for libel and in civil case no. 91-02-23 for damages is hereby **AFFIRMED *in toto***.

Costs against appellant.⁵⁴

Undeterred, Batuigas and the Manila Bulletin sought a reconsideration of the decision which was denied by the CA in its resolution⁵⁵ promulgated on 25 October 2005.

Hence, this petition for review on *certiorari*.

Issues

Batuigas and the Manila Bulletin anchored their unanimous plea for the reversal of the CA's decision and resolution on the following grounds:

I.

WITH ALL DUE RESPECT, THE COURT OF APPEALS GRAVELY ERRED IN ITS DECISION IN DISREGARDING, CONTRARY TO LAW, CONTROLLING JURISPRUDENCE, WHICH WOULD HAVE COMPELLED THE COURT TO CONCLUDE THAT (1) THE ARTICLES IN QUESTION WERE QUALIFIEDLY PRIVILEGED COMMUNICATION; (2) IT WAS INCUMBENT UPON THE PROSECUTION AND PRIVATE RESPONDENT TO PROVE THE FACT OF "ACTUAL MALICE," WHICH BURDEN WAS NOT DISCHARGED BY THE LATTER IN THESE CASES; AND (3) THERE WAS NO "ACTUAL MALICE" IN THE SUBJECT ARTICLES, THEREBY REQUIRING THE DISMISSAL OF THE COMPLAINT *A QUO* AND THE ACQUITTAL OF PETITIONER BATUIGAS.

II.

WITH ALL DUE RESPECT, EVEN ASSUMING FOR THE SAKE OF ARGUMENT THAT LIBEL WAS PRESENT IN THIS CASE, THE COURT OF APPEALS AND THE RTC EGREGIOUSLY AND GRAVELY ERRED IN THEIR DECISIONS IN AWARDING UNWARRANTED AND EXCESSIVE MORAL AND EXEMPLARY DAMAGES AND ATTORNEY'S FEES TO PRIVATE RESPONDENT VICTOR DOMINGO, CONTRARY TO LAW AND JURISPRUDENCE.

⁵³ *Rollo*, pp. 41-47.

⁵⁴ *Id.* at 47.

⁵⁵ *Id.* at 48-49.



ACCORDINGLY, THE AWARD OF MORAL DAMAGES SHOULD CONSIDERABLY BE REDUCED, AND THE AWARD OF EXEMPLARY DAMAGES AND ATTORNEY'S FEES BE DELETED AND SET ASIDE.⁵⁶

THE RULING OF THE COURT

We grant the petition.

The petition under Rule 45 of the Rules of Court

Section 1, Rule 45 of the Rules of Court explicitly provides that a petition for review on certiorari shall raise only questions of law, which must be distinctly set forth.⁵⁷ In a case,⁵⁸ the Court reiterated its earlier rulings on the distinction between a question of law from a question of fact, as follows:

A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts. For a question to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them. The resolution of the issue must rest solely on what the law provides on the given set of circumstances. Once it is clear that the issue invites a review of the evidence presented, the question posed is one of fact. Thus, the test of whether a question is one of law or of fact is not the appellation given to such question by the party raising the same; rather, it is whether the appellate court can determine the issue raised without reviewing or evaluating the evidence, in which case, it is a question of law; otherwise it is a question of fact.⁵⁹

Under Rule 45, the Court is not required to examine and evaluate all over again the evidence which had already been passed upon by the lower courts. Findings of fact made by a trial court are accorded the highest degree of respect by an appellate tribunal and, absent a clear disregard of the evidence before it that can otherwise affect the results of the case, those findings should not be ignored.⁶⁰ This becomes even more significant when the factual findings of the lower court had been sustained by the CA. Thus, the rule that factual findings of the trial court, affirmed by the CA, are final and conclusive and may not be reviewed on appeal.⁶¹ This is the rule in which Domingo finds refuge in opposing the plea of Batuigas and the Manila Bulletin in their quest before the Court to reverse the findings of the

⁵⁶ *Id.* at 13-14.

⁵⁷ *Ladines v. People*, G.R. No. 167333, 11 January 2016.

⁵⁸ *Tongonan Holdings and Dev't. Corp. v. Atty. Escaño, Jr.*, 672 Phil. 747 (2011).

⁵⁹ *Id.* at 256 citing *Republic of the Philippines v. Malabanan*, 646 Phil. 631, 637-638 (2010).

⁶⁰ *Uyboco v. People*, 749 Phil. 987, 992 (2014).

⁶¹ *Bacalso, v. Aca-ac*, G.R. No. 172919, 13 January 2016.



RTC and the CA. Domingo asserted that the findings of the RTC had been rendered as conclusive upon this Court because these had been adopted by the CA.⁶²

We must be reminded, however, that the general rule that the factual findings of the lower courts are conclusive is not cast in stone since accruing jurisprudence continuously reiterate the exceptions to the limitation of an appeal by certiorari to only questions of law, viz: (1) when the findings are grounded entirely on speculation, surmises, or conjectures; (2) when the interference made is manifestly mistaken, absurd, or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when in making its findings, the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; and (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record.⁶³

An evaluation of the records of these cases, however, prods the Court to apply the fourth exception above instead of the general rule. As will be discussed later, the RTC and the CA had misapprehended the facts when these courts concluded that Batuigas was guilty of libel, and that both he and the Manila Bulletin were liable for damages.

The criminal case of Libel

Under our law, criminal libel is defined as 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.⁶⁴ For an imputation to be libelous under Art. 353 of the Revised Penal Code (*RPC*), the following requisites must be present: (a) it must be defamatory; (b) it must be malicious; (c) it must be given publicity; and (d) the victim must be identifiable.⁶⁵

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

⁶² *Rollo*, p. 227.

⁶³ *Bacalso, v. Aca-ac*, *supra* note 61.

⁶⁴ *Guinguing v. Court of Appeals*, 508 Phil. 193, 204 (2005).

⁶⁵ *Almendras, Jr., v. Almendras*, 750 Phil. 634, 642 (2015).

memory of one who is dead.⁶⁶ In determining whether a statement is *defamatory*, the words used are to 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.⁶⁷ Moreover, a charge is sufficient if the words are calculated to induce the hearers to suppose and understand that the person or persons against whom they were uttered were guilty of certain offenses or are sufficient to impeach the honesty, virtue or reputation or to hold the person or persons up to public ridicule.⁶⁸

Malice connotes ill will or spite and speaks not in response to duty but merely to injure the reputation of the person defamed, and implies an intention to do ulterior and unjustifiable harm. Malice is bad faith or bad motive. It is the essence of the crime of libel.⁶⁹

There is *publication* if the material is communicated to a third person. It is not required that the person defamed has read or heard about the libelous remark. What is material is that a third person has read or heard the libelous statement, for “a man’s reputation is the estimate in which others hold him, not the good opinion which he has of himself.”⁷⁰ Simply put, in libel, publication means making the defamatory matter, after it is written, known to someone other than the person against whom it has been written.⁷¹ “The reason for this is that [a] communication of the defamatory matter to the person defamed cannot injure his reputation though it may wound his self-esteem. A man’s reputation is not the good opinion he has of himself, but the estimation in which others hold him.”⁷²

On the other hand, to satisfy the element of *identifiability*, it must be shown that at least a third person or a stranger was able to identify him as the object of the defamatory statement.⁷³ It is enough if by intrinsic reference the allusion is apparent or if the publication contains matters of description or reference to facts and circumstances from which others reading the article may know the person alluded to; or if the latter is pointed out by extraneous circumstances so that those knowing such person could and did understand that he was the person referred to.⁷⁴

The element of publication is clearly not at issue in this case considering that both articles of Batuigas were published in *Tempo*, a tabloid

⁶⁶ *Philippine Journalists Inc. (People’s Journal) v. Thoenen*, 513 Phil. 607, 618 (2005), citing *Vasquez v. Court of Appeals*, G.R. No. 118971, 15 September 1999.

⁶⁷ *Almendras, Jr., v. Almendras*, *supra* note 65 at 643.

⁶⁸ *Lopez v. People*, G.R. No. 172203, 658 Phil. 20, 31 (2011).

⁶⁹ *Borjal, v. Court of Appeals*, 361 Phil. 1, 24 (1999). (citations omitted)

⁷⁰ *Philippine Journalists Inc. (People’s Journal) v. Thoenen*, *supra* note 66

⁷¹ *Buatis, Jr. v. People*, 520 Phil. 149, 160 (2006).

⁷² *Alonzo v. Court of Appeals*, 311 Phil. 60, 73 (1995).

⁷³ *Philippine Journalists Inc. (People’s Journal) v. Thoenen*, *supra* note 66.

⁷⁴ *Diaz v. People*, 551 Phil. 192, 199-200 (2007).

widely circulated all over the country. As to the elements of identifiability, defamatory allegation, and malice, the Court shall examine the two articles with the following as its guidepost:

For the purpose of determining the meaning of any publication alleged to be libelous “that construction must be adopted which will give to the matter such a meaning as is natural and obvious in the plain and ordinary sense in which the public would naturally understand what was uttered. The published matter alleged to be libelous must be construed as a whole. In applying these rules to the language of an alleged libel, the court will disregard any subtle or ingenious explanation offered by the publisher on being called to account. The whole question being the effect the publication had upon the minds of the readers, and they not having been assisted by the offered explanation in reading the article, it comes too late to have the effect of removing the sting, if any there be, from the word used in the publication.”⁷⁵

a) The 20 December 1990 article

The Court cannot sustain the findings of the RTC and the CA that this article was libelous. Viewed in its entirety, the article withholds the finding that it impeaches the virtue, credit, and reputation of Domingo. The article was but a fair and true report by Batuigas based on the documents received by him and thus exempts him from criminal liability under Art. 354(2) of the RPC, viz:

Art. 354. *Requirement for publicity.* - Every defamatory imputation is presumed to be malicious, even if it be true, if no good intention and justifiable motive for making it is shown, except in the following cases:

1. A private communication made by any person to another in the performance of any legal, moral or social duty; and
2. A fair and true report, made in good faith, without any comments or remarks, of any judicial, legislative or other official proceedings which are not of confidential nature, or of any statement, report or speech delivered in said proceedings, or of any other act performed by public officers in the exercise of their functions.

Noteworthy, the first sentence on the 20 December 1990 article⁷⁶ warns the successor of JoeCon of the brewing problem that he will inherit at the DTI Region VIII office. The immediately following sentences relate that in a letter to Batuigas, the Waray employees of Region VIII made known their disgust on how DTI Region VIII was being run and handled. According

⁷⁵ *Yuchengco v. The Manila Chronicle Publishing Corp.*, 620 Phil. 697, 723 (2009).

⁷⁶ Records (Civil Case No. 91-02-23) p. 148; Exhibit “A.”

to the Waray employees, the complaints as to the “mismanagement, low morale, improper decorum, gross inefficiency, nepotism” in the office had already been made known to the DTI Makati office, the CSC and the Ombudsman, only that “[w]ala raw nangyari sa reklamo nila.” The letter further provided that the Waray employees turned instead to Batuigas knowing that his column produces results, i.e., “*Kaya kami lumapit sa inyo Gg. Batuigas dahil nagbibigay ng resulta ang kolum ninyo.*”

As culled by Batuigas from the letter, the succeeding sentences in the article merely enumerated the specifics of the complaints against several employees and officials of the DTI Region VIII, among whom was Domingo, that had been brought to the attention of DTI, CSC, and the Office of the Ombudsman, from which the Waray employees claimed nothing happened.

The article cannot be considered as defamatory because Batuigas had not ascribed to Domingo the commission of a crime, the possession of a vice or defect, or any act or omission, condition, status or circumstance which tends to dishonor or discredit the latter. The article was merely a factual report which, to stress, were based on the letter of the Waray employees reiterating their earlier complaints against Domingo and other co-workers at the DTI Region VIII. “Where the words imputed [are] not defamatory in character, a libel charge will not prosper. Malice is necessarily rendered immaterial.”⁷⁷

Parenthetically, it was through the evidence, consisting of public documents,⁷⁸ presented by Domingo during the hearing of these cases that it was confirmed that there were indeed complaints filed against him and the other DTI officials before the CSC and the Office of the Ombudsman relative to “mismanagement, low morale, improper decorum, gross inefficiency, nepotism.” Although, based on these pieces of evidence, the complaints against Domingo had already been dismissed by the CSC and the Office of the Ombudsman, the fact remains that there were actual complaints against him, among others, the particulars of which were those plainly enumerated in the article. True, it was embarrassing that these complaints were disclosed to the public; but equally factual was that these were matters clearly supported by public records.

The CA, however, moored on these statements its resolution that the 20 December 1990 article was libelous, viz:

These national employees should be commended for bringing into the open this garbage that has piled [up] in their own backyard.

⁷⁷ *Lopez v. People*, *supra* note 68.

⁷⁸ Records (Civil Case No. 17-18, 123, 126-128, 132, 133-134, 135-136, 137 & 138; Exhibits “E”, “F”, “G”, “I”, “J”, “K”, “L” and “L-1.”

To JoeCon's successor, the chopping board is ready.

All you need is a Muslim kris!

Palakulin mo, Pare ko!⁷⁹

The CA held that because of the comments or remarks made by Batuigas, the article would not fall under the exceptions of Art. 354 of the RPC. The CA ruled that the test of the defamatory character was whether or not the words were calculated to induce suspicion, a manner more effective to destroy reputation than false charges directly made, and that the meaning of the writer was even immaterial.⁸⁰

A plain reading of the statements found by the CA as libelous cannot support a ruling that these were disparaging to Domingo or calculated to induce suspicion upon his person. In the statement “[t]hese national employees should be commended for bringing into the open this garbage that has piled [up] in their own backyard,” Batuigas was merely commending the DTI employees who brought into the open their complaints which had already been made known to the CSC and the Office of the Ombudsman. It was a fair remark directed to the DTI employees and made no reference to Domingo or imputed to him any defamatory allegation.

On the last three sentences, Batuigas explained that this was only a figure of speech.⁸¹ The statements were obviously addressed to the new DTI Secretary suggesting that he use a chopping board and a Muslim *kris* to solve the mounting problems at the DTI office. A plain, natural, and ordinary appreciation of the statements fails to validate the finding that these ascribed something deprecating against Domingo. The sentences merely meant that heads should roll at the DTI office but palpably absent were the identities of those persons. Corollary thereto, the article could not have qualified as libelous because it is the well-entrenched rule that statements are not libelous unless they refer to an ascertained or ascertainable person.⁸²

***b) The 4 January 1991
article***

The CA ruled that this article contained statements not lifted from another source, as is true in the 20 December 1990 column, but were the words of Batuigas. According to the CA, the tenor of the article showed that Batuigas had already formed his conclusions that Domingo had committed “*shenanigans*” in his office and that Domingo’s “*kalokohan*” were supported

⁷⁹ Records (Criminal Case No. 91-03-159), p. 3.

⁸⁰ *Rollo*, p. 44; CA Decision.

⁸¹ TSN, 3 June 1993, p. 9.

⁸² *Yuchengco v. The Manila Chronicle Publishing Corp.*, *supra* note 75 at 725.

by voluminous documents but which were never presented during the hearing of the cases.⁸³ Apparently, it was because of the words “*shenanigans*” and “*kalokohan*” that the CA found the article libelous.

It must be noted that Batuigas qualified as “*alleged*” the “*shenanigans*” of Domingo as referred to in the 20 December 1990 column. By stating that what he had exposed were “*alleged shenanigans*,” Batuigas unmistakably did not confirm the truth as to the specifics of the complaints made against Domingo or form a conclusion that Domingo had actually committed mischiefs or misbehaved in office. Batuigas was merely relying on the documents furnished him by the employees of DTI Region VIII thus, his mention that these were “*alleged shenanigans*.” On the other hand, the “*kalokohan*” unmistakably had reference to the “*alleged shenanigans*” mentioned in the early part of the article considering that both alluded to the exposés in the December column. It is for this reason that a finding that the “*kalokohan*” was a conclusion of Batuigas, as with the “*alleged shenanigans*,” cannot be sustained.

However, when Batuigas made statements referring to the “lousy performance” of Domingo and his “mismanagement” resulting in the breakdown of morale of the DTI Region VIII employees, the former was actually impeaching the virtue and reputation of Domingo as DTI Regional Director. At that instance, Batuigas was relaying to his readers his comments about Domingo.

In contrast to the 20 December 1990 article where the statement as to the “mismanagement, low morale, improper decorum, gross inefficiency, nepotism, etc.” were merely lifted by Batuigas from the letter of the DTI Region VIII employees, the allegation in the 4 January 1991 article as to the “lousy performance” and “mismanagement” of Domingo amounts to Batuigas’ personal remarks about the Regional Director.

Notwithstanding the defamatory imputation in the 4 January 1991 article of Batuigas, Art. 354 of the RPC provides for the instances when its author can be exempted from criminal liability. Evaluated against the exceptions enumerated in Art. 354 of the RPC, it is beyond doubt that the statements of Batuigas as to the “lousy performance” and “mismanagement” of Domingo cannot be considered as either private communication or a report without any comments or remarks. The Court hastens to add, however, that the exceptions in Art. 354 of the RPC are not exclusive since jurisprudence provides for the additional exceptions to the privileged communications, viz: in *Borjal v. Court of Appeals*,⁸⁴ where it was held that in view of the constitutional right on the freedoms of speech and of the press, fair commentaries on matters of public interest are privileged; and in

⁸³ *Rollo*, p. 45.

⁸⁴ *Supra* note 69 at 18.

Guinguing v. Court of Appeals,⁸⁵ where the remarks directed against a public figure were ruled as privileged.⁸⁶

A privileged communication may be classified as either absolutely privileged or qualifiedly privileged.⁸⁷ The absolutely privileged communications are those which are not actionable even if the author has acted in bad faith. This classification includes statements made by members of Congress in the discharge of their functions as such, official communications made by public officers in the performance of their duties, and allegations or statements made by the parties or their counsel in their pleadings or motions or during the hearing of judicial proceedings, as well as the answers given by witnesses in reply to questions propounded to them, in the course of said proceedings, provided that said allegations or statements are relevant to the issues, and the answers are responsive or pertinent to the questions propounded to said witnesses.⁸⁸

The qualifiedly privileged communications are those which contain defamatory imputations but which are not actionable unless found to have been made without good intention or justifiable motive, and to which “private communications” and “fair and true report without any comments or remarks” belong.⁸⁹ Since the qualifiedly privileged communications are the exceptions to the general rule, these require proof of actual malice in order that a defamatory imputation may be held actionable.⁹⁰ But when malice in fact is proven, assertions and proofs that the libelous articles are qualifiedly privileged communications are futile, since being qualifiedly privileged communications merely prevents the presumption of malice from attaching to a defamatory imputation.⁹¹

The conduct, moral fitness, and ability of a public official to discharge his duties are undoubtedly matters of public interest for he is, after all, legally required to be at all times accountable to the people and is expected to discharge his duties with utmost responsibility, integrity, competence, and loyalty; and to act with patriotism and justice, lead modest lives, and uphold public interest over personal interest.⁹² Indeed, as early as 1918, the Court had already laid down a legal teaching⁹³ recognizing the right to criticize the action and conduct of a public official, viz:



⁸⁵ *Supra* note 64.

⁸⁶ See *Co v. Munoz, Jr.*, 722 Phil. 729, 742 (2013).

⁸⁷ *Philippine Journalists Inc. (People's Journal) v. Thoenen*, *supra* note 66 at 86 citing *Borjal v. Court of Appeals*, *supra* note 69 at 18.

⁸⁸ *Yuchengco v. The Manila Chronicle Publishing Corp.*, *supra* note 75 at 728 citing *Orfanel v. People*, 141 Phil. 519, 523-524 (1969).

⁸⁹ *Borjal v. Court of Appeals*, *supra* note 69 at 18.

⁹⁰ *Yuchengco v. The Manila Chronicle Publishing Corp.*, *supra* note 75 at 727.

⁹¹ *Id.* at 731.

⁹² Republic Act No. 6713, Section 2.

⁹³ *United States v. Bustos*, 37 Phil. 731, 740-741 (1918), cited in *Jalandoni v. Drilon*, 383 Phil. 855, 870 (2000).

The interest of society and the maintenance of good government demand a full discussion of public affairs. Complete liberty to comment on the conduct of public men is a scalpel in the case of free speech. The sharp incision of its probe relieves the abscesses of officialdom. Men in public life may suffer under a hostile and an unjust accusation; the wound can be assuaged with the balm of a clear conscience. A public officer must not be too thin-skinned with reference to comment upon his official acts. Only thus can the intelligence and dignity of the individual be exalted. Of course, criticism does not authorize defamation. Nevertheless, as the individual is less than the State, so must expected criticism be born[e] for the common good. Rising superior to any official or set of officials, to the Chief Executive, to the Legislature, to the Judiciary—to any or all the agencies of Government—public opinion should be the constant source of liberty and democracy.

It is for this reason that, when confronted with libel cases involving publications which deal with public officials and the discharge of their official functions, this Court is not confined within the wordings of the libel statute; rather, the case should likewise be examined under the constitutional precept of freedom of the press.⁹⁴ But if the utterances are false, malicious, or unrelated to a public officer's performance of his duties or irrelevant to matters of public interest involving public figures, the same may give rise to criminal and civil liability.⁹⁵ In contrast, where the subject of the libelous article is a private individual, malice need not be proved by the plaintiff. The law explicitly presumes its existence (malice in law) from the defamatory character of the assailed statement.⁹⁶

The statements on the “lousy performance” and “mismanagement” of Domingo are matters of public interest as these relate to his moral conduct, his capacity to lead the DTI Region VIII employees, and to manage and supervise the affairs of the office. These statements undoubtedly make it to the grade of qualifiedly privileged communication and thus, would require actual malice to be actionable. It must be stressed, however, that once it is established that the article is of a privileged character, the onus of proving actual malice rests on the plaintiff who must then convince the court that the offender was prompted by malice or ill will.⁹⁷

In *Disini v. The Secretary of Justice*,⁹⁸ the Court explained “actual malice” as follows:

There is “actual malice” or malice in fact when the offender makes the defamatory statement with the knowledge that it is false or with reckless disregard of whether it was false or not. The reckless disregard standard used here requires a high degree of awareness of probable falsity.

⁹⁴ *Flor v. People*, 494 Phil. 439, 450 (2005).

⁹⁵ *Fermin v. People*, 573 Phil. 278, 297 (2008).

⁹⁶ *Disini, Jr. v. The Secretary of Justice*, 727 Phil. 28, 113 (2014).

⁹⁷ *Vicario v. Court of Appeals*, 367 Phil. 292, 303 (1999).

⁹⁸ *Supra* note 96.



There must be sufficient evidence to permit the conclusion that the accused in fact entertained serious doubts as to the truth of the statement he published. Gross or even extreme negligence is not sufficient to establish actual malice.⁹⁹ (citations omitted)

Records cannot sustain a finding that Domingo was able to establish that Batuigas had actual malice in writing this article. Batuigas testified that sometime in the latter part of 1990 and until 1991, he received letters of complaint denouncing Domingo.¹⁰⁰ Although Batuigas was not able to present these letters during the hearing of these cases it can be rationally deduced that he was in actual receipt of the complaints against the DTI Region VIII officials and employees because he was able to cite the specifics of the grievances of the Waray employees in his 20 December 1990 article. Presumably, too, the letters that Batuigas received were those complaints that had been dismissed by the CSC and the Office of the Ombudsman, and with the corresponding resolutions evidencing the dismissal of these complaints having been presented by Domingo during the hearing of the cases.

It was evident that the statements as to the “lousy performance” and “mismanagement” of Domingo cannot be regarded to have been written with the knowledge that these were false or in reckless disregard of whether these were false, bearing in mind that Batuigas had documentary evidence to support his statements. Batuigas merely expressed his opinion based on the fact that there were complaints filed against Domingo, among others. If the comment is an expression of opinion, based on established facts, then it is immaterial that the opinion happens to be mistaken, as long as it might reasonably be inferred from the facts.¹⁰¹

Moreover, these statements were but fair commentaries of Batuigas which can be reasonably inferred from the contents of the documents that he had received and which he qualified, in his 20 December 1990 article, to have been brought already to the attention of the DTI, CSC, and the Ombudsman. Jurisprudence defines fair comment as follows:

To reiterate, fair commentaries on matters of public interest are privileged and constitute a valid defense in an action for libel or slander. The doctrine of fair comment means that while in general every discreditable imputation publicly made is deemed false, because every man is presumed innocent until his guilt is judicially proved, and every false imputation is deemed malicious, nevertheless, when the discreditable imputation is directed against a public person in his public capacity, it is not necessarily actionable. In order that such discreditable imputation to a public official may be actionable, it must either be a false allegation of fact or a comment based on a false supposition. If the comment is an

⁹⁹ *Id.* at 112.

¹⁰⁰ TSN, 9 February 1993, p. 17.

¹⁰¹ *Tulfo v. People*, 587 Phil. 64, 86 (2008), citing *Borjal v. Court of Appeals*, *supra* note 69 at 20.



expression of opinion, based on established facts, then it is immaterial that the opinion happens to be mistaken, as long as it might reasonably be inferred from the facts.¹⁰² (emphasis omitted)

True, the complaints had already been dismissed by the government offices tasked to resolve these, and of which fact Batuigas had not been informed when he wrote the 20 December 1990 and 4 January 1991 articles; but it must be pointed out that even assuming that the contents of the articles were false, mere error, inaccuracy or even falsity alone does not prove actual malice.¹⁰³

In order to constitute malice, ill will must be personal.¹⁰⁴ Domingo testified that he did not personally know Batuigas or had met him before.¹⁰⁵ When Domingo was asked as to the motive of Batuigas in writing the articles putting his (Domingo's) name in a bad light, he explained that the employees he had dismissed during the reorganization could have caused the writing of the articles. Domingo further stated that, likewise, he suspected a group of loggers in the region he had been very vocal against for the past ten years.¹⁰⁶

When cross-examined, Domingo reiterated his earlier testimony that he had no dealings with Batuigas, or had not personally met or spoken with him. When further probed, Domingo said that Batuigas could have been (used as) a tool by people who were interested in going after his neck because he had stepped on them in the discharge of his duties. When asked to confirm whether Batuigas had a personal grudge against him, Domingo said: "I do not think he harbors ill will against me."¹⁰⁷

The absence of personal ill will of Batuigas against Domingo disavows actual malice and buttresses the finding that Batuigas was prompted by a legitimate or plausible motive in writing the articles. It was pointed out that Batuigas characterized his writing akin to an exposé where he revealed anomalies and shenanigans in the government in the hope that corruption might be minimized.¹⁰⁸ Moreover, Batuigas had no reason to doubt that R. de Paz, the sender of the letter containing the complaints against Domingo, did not exist considering that the letter was signed by one claiming to be R. de Paz.¹⁰⁹



¹⁰² *Id.* at 85-86, citing *Borjal v. Court of Appeals*, *supra* note 69 at 20.

¹⁰³ *Id.* at 84, citing *Borjal v. Court of Appeals*, *supra* note 69 at 26.

¹⁰⁴ *Vicario v. Court of Appeals*, *supra* note 97 at 301.

¹⁰⁵ TSN, 8 November 1991, p. 9.

¹⁰⁶ *Id.* at 11.

¹⁰⁷ TSN, 8 June 1992, pp. 5-6.

¹⁰⁸ TSN, 9 February 1993, p. 22.

¹⁰⁹ Records (Civil Case No. 91-02-23) p. 148; Exhibits "R-1."

Art. 354 of the RPC provides that good intention and justifiable motives are defenses for a defamatory imputation even if it be true. Batuigas was able to firmly establish his defenses of good faith and good motive when he testified that, after he received several letters of complaint against Domingo, he came up with the said columns because he found the complaints on the shenanigans by Domingo at the DTI to be of public interest.¹¹⁰ Batuigas' defense was reinforced by the records bereft of any showing that the prosecution offered evidence to support a conclusion that Batuigas had written the articles with the sole purpose of injuring the reputation of Domingo.

In his 16 January 1991 article¹¹¹ titled "*The other side of DTI 8 issue*," Batuigas acknowledged that he might have been used by the detractors of Domingo due to their failure to establish a prima facie case against the Regional Director. In the same article, Batuigas quoted portions of the separate letters sent to him by Zaldy Lim and Lions International Deputy Vice-Governor Prudencio J. Gesta, who both denied the allegations against Domingo. Additionally, Batuigas had written the 16 January 1991 article before Domingo could file criminal and civil cases against him and the Manila Bulletin. These truths evidently refuted malice or ill will by Batuigas against Domingo.

The CA found fault in the failure of Batuigas to check his sources despite the 21 December 2000¹¹² letter of Domingo denouncing the accusations against him, and the 4 January 1991 letter of Chairman Sto. Tomas absolving Domingo of these accusations. Further to this, the CA ruled that Domingo was not accorded the fair and equal opportunity to have these letters published in order to balance the issue.¹¹³

Domingo admitted that he had drafted a letter¹¹⁴ to Batuigas protesting the inaccuracies in the 20 December 1990 article. Unfortunately, Domingo eventually changed his mind and did not send his letter to Batuigas¹¹⁵ as this could have informed Batuigas that the charges against him (Domingo) had already been dismissed by the CSC and the Office of the Ombudsman; thus, not having known of the dismissal of the complaints against Domingo, Batuigas could not have mentioned it in his 4 January 1991 article. In the same vein, it was implausible that the letter¹¹⁶ of Chairman Sto. Tomas could have been included in the 4 January 1991 Bull's Eye article since the letter was dated only 8 January 1991. Additionally, there was nothing from the records that would prove when Batuigas had received the letter of Chairman

¹¹⁰ TSN, 9 February 1993, p.

¹¹¹ Records (Civil Case No. 91-02-23), p. 149; Exhibit "R-1."

¹¹² Should be 21 December 1990.

¹¹³ *Rollo*, pp. 45-46.

¹¹⁴ Records (Civil Case No. 91-02-23), pp. 129-131; Exhibit "H."

¹¹⁵ TSN, 7 November 1991, pp. 4-5.

¹¹⁶ Records (Civil Case No. 91-02-23) pp. 17-18; Exhibit "E."



Sto. Tomas. Notwithstanding the absence of this proof, Batuigas unmistakably acknowledged the dismissal of the charges against Domingo, the main topic of Chairman Sto. Tomas' letter, when he stated in his 16 January 1991 article: "It is indeed unfortunate that we published the charges against him six weeks after he was cleared by the Civil Service Commission of the same charges."¹¹⁷

The failure of Batuigas to counter-check the status of the complaints against Domingo was indeed unfortunate, but such failure cannot be considered as enough reason to hold him liable. While substantiation of the facts supplied is an important reporting standard, still, a reporter may rely on information given by a lone source although it reflects only one side of the story provided the reporter does not entertain a high degree of awareness of its probable falsity.¹¹⁸ Domingo, who had the burden of proving actual malice, was not able to present proof that Batuigas had entertained awareness as to the probable falsehood of the complaints against him (Domingo). Indeed, on the basis of the documents in Batuigas' possession, which were actually complaints against Domingo, Batuigas wrote his comments on Domingo's "lousy performance" and "mismanagement." The Court thus finds it significant to restate its legal teaching in *Vasquez v. Court of Appeals*,¹¹⁹ viz:

A rule placing on the accused the burden of showing the truth of allegations of official misconduct and/or good motives and justifiable ends for making such allegations would not only be contrary to Art. 361 of the Revised Penal Code. It would, above all, infringe on the constitutionally guaranteed freedom of expression. Such a rule would deter citizens from performing their duties as members of a self-governing community. Without free speech and assembly, discussions of our most abiding concerns as a nation would be stifled. As Justice Brandeis has said, "public discussion is a political duty" and "the greatest menace to freedom is an inert people."¹²⁰

For sure, the words "lousy performance" and "mismanagement" had caused hurt or embarrassment to Domingo and even to his family and friends, but it must be emphasized that hurt or embarrassment even if real, is not automatically equivalent to defamation; 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 bases for an action for defamation in the absence of an allegation for special damages.¹²¹ If a writer in the course of temperate and legitimate criticism falls into error as to some detail, or draws an incorrect inference from the facts before him, and thus goes beyond the

¹¹⁷ *Id.* at 149; Exhibit "R."

¹¹⁸ *Villanueva v. Phil. Daily Inquirer*, 605 Phil. 926, 940 (2009).

¹¹⁹ 373 Phil. 238, 254-255 (1999).

¹²⁰ *Id.* at 254-255 cited in *Flor v. People of the Philippines*, *supra* note 94 at 454.

¹²¹ *Lopez v. People*, *supra* note 68 at 34.

limits of strict truth, such inaccuracies will not cause judgment to go against him, if the jury are satisfied, after reading the whole publication, that it was written honestly, fairly, and with regard to what truth and justice require.¹²² Domingo must remember that one of the costs associated with participation in public affairs is an attendant loss of privacy.¹²³

It may be well for us to keep in mind that the rule on privileged communications in defamation cases developed because “public policy, the welfare of society and the orderly administration of justice” have demanded protection for public opinion.¹²⁴ “While the doctrine of privileged communication can be abused, and its abuse can lead to great hardships; to allow libel suits to prosper strictly on this account will give rise to even greater hardships. The doctrine itself rests on public policy which looks to the free and unfettered administration of justice. It is as a rule applied liberally.”¹²⁵ Equally important is the following pronouncement which this Court had consistently reiterated, to wit:

A newspaper especially one national in reach and coverage, should be free to report on events and developments in which the public has a legitimate interest with minimum fear of being hauled (sic) to court by one group or another on criminal or civil charges for libel, so long as the newspaper respects and keeps within the standards of morality and civility prevailing within the general community.

To avoid the self-censorship that would necessarily accompany strict liability for erroneous statements, rules governing liability for injury to reputation are required to allow an adequate margin of error by protecting some inaccuracies. It is for the same reason that the New York Times doctrine requires that liability for defamation of a public official or public figure may not be imposed in the absence of proof of “actual malice” on the part of the person making the libelous statement.¹²⁶

The civil case for Damages

The Court finds that there can be no civil liability in Civil Case No. 91-02-23 because no libel was committed. The 20 December 1990 article was not libelous because it was only a fair and true report by Batuigas using the documents received by him thus relieving him of criminal liability pursuant to Art. 354 (2) of the RPC. On the one hand, the privileged nature of the 16 January 1991 article and the failure of Domingo to discharge his burden of proving actual malice on the part of Batuigas failed to support a

¹²² *Flor v. People*, *supra* note 94 at 453, citing *Newell, Slander and Libel*, p. 253, 4th Edition.

¹²³ *Villanueva v. Phil. Daily Inquirer*, *supra* note 117 at 943.

¹²⁴ *Santos v. Court of Appeals*, 280 Phil. 120, 128 (1991).

¹²⁵ *Alcantara v. Ponce*, 545 Phil. 677, 685 (2007).

¹²⁶ *Guinguing v. Court of Appeals, et al.*, *supra* note 64 at 223, citing *Borjal, et al. v. Court of Appeals*, *supra* note 69 at 27.

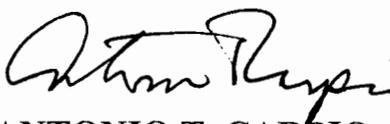
finding that there was libel. Clearly, there was no act that exists from which the civil liability may arise.¹²⁷

WHEREFORE, premises considered, the 30 March 2005 decision and 25 October 2005 resolution of the Court of Appeals, Eighteenth Division in CA-G.R. CR. No. 19089 are hereby **REVERSED** and **SET ASIDE**. Petitioner Ruther Batuigas is **ACQUITTED** of the charge against him in Criminal Case No. 91-03-159 while the complaint for damages in Civil Case No. 91-02-23 is dismissed.

SO ORDERED.

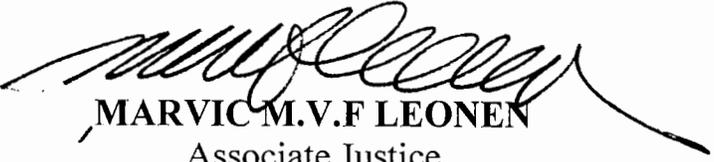

SAMUEL R. MARTIRES
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson


PRESBITERO J. VELASCO, JR.
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice

¹²⁷ *Co v. Munoz, Jr., supra* note 86 at 743.

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, 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