



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

DIGNA RAMOS,

Petitioner,

G.R. No. 226454

Present:

- versus -

PEOPLE OF THE
PHILIPPINES,

Respondent.

CARPIO, J., Chairperson,
PERALTA,
PERLAS-BERNABE,
CAGUIOA, and
REYES, JR., * JJ.

Promulgated:

20 NOV 2017

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DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ are the Decision² dated March 29, 2016 and the Resolution³ dated August 10, 2016 of the Court of Appeals (CA) in CA-G.R. CR No. 36970, which affirmed with modification the conviction of petitioner Digna Ramos (Ramos) for the crime of Grave Oral Defamation, defined and penalized under Article 358 of the Revised Penal Code (RPC).

The Facts

This case stemmed from an Information⁴ filed before the Municipal Circuit Trial Court of Piat-Sto. Niño, Cagayan Province (MCTC) charging

* On official leave.
¹ *Rollo*, pp. 3-16.
² *Id.* at 33-51. Penned by Associate Justice Celia C. Librea-Leagogo with Associate Justices Amy C. Lazaro-Javier and Melchor Q.C. Sadang, concurring.
³ *Id.* at 19-20.
⁴ Not attached to the *rollo*.

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Ramos of the crime of Grave Oral Defamation,⁵ the accusatory portion of which reads:

That on about 4:20 o'clock (sic) in the afternoon of 17th September 2003 at barangay Centro Norte, Sto. Niño, Cagayan and within the jurisdiction of this Honorable Court, the above-named accused, with ill motive, did then and there(,) wil(l)fully, unlawfully, and feloniously, uttered defamatory remarks against the honor and reputation of the undersigned complainant Mrs. Patrocina R. Dumaua, the following words and/or phrases address (sic) to the undersigned complainant "*UKININAM, PUTA, AWAN AD-ADAL MO*" which if translated in the English language would mean, "*VULVA OF YOUR MOTHER, PROSTITUTE, ILLITERATE.*"

CONTRARY TO LAW.⁶

The prosecution alleged that at around four (4) o'clock of September 17, 2003, private complainant Patrocina Dumaua (Dumaua) was watering her plants in her yard, when suddenly, she noticed five (5) schoolchildren pick up dried leaves and throw them into her yard. When Dumaua called the attention of the schoolchildren, the latter ran towards the direction of Sto. Niño Elementary School, where Ramos works as a public school teacher. A little later, Ramos arrived, picked up dried banana leaves, and allegedly threw them into Dumaua's yard, while saying "*ta sinnu ti pabasulem nga agilappak ti bulung, siguro dakayo ta nagpabirthday kayo*" which means "Whom do you blame throwing leaves? Maybe you did because you hosted a birthday party." This prompted a quarrel between Ramos and Dumaua, during the course of which Ramos uttered to the latter, "*Ukininam, puta, awan ad-adalmo, nagbalay kayo ti nagdakkelan, magaburan daytoy balay kon*" which translates to "Vulva of your mother, prostitute, illiterate, you built a very big house, it overshadows my house." This was corroborated by Orlando Baltazar and Babileo Dumaua, who testified that they were watching television inside Dumaua's house when the commotion ensued. According to them, when they went out of the house to check the incident, they saw the verbal altercation between Ramos and Dumaua already at its height, with onlookers observing the same.⁷

In her defense, Ramos denied making any derogatory remarks against Dumaua, particularly "*ukininam, puta, awan ad-adal mo.*" She then narrated that on the time and date in question, she was traversing a pathway located between Dumaua's house and that of another neighbor when she saw Dumaua standing at her yard. Suddenly, Dumaua got angry at her, blamed her for the garbage in her yard, and threatened her not to use the pathway or else something will happen. Irked, Ramos asked Dumaua the basis for prohibiting her to use the pathway and demanded that she be shown her title over the pathway, but the latter could not produce anything. Ramos then

⁵ See *rollo*, pp. 33-34.

⁶ *Id.* at 34.

⁷ See *id.* at 35-36.

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proceeded to the Sto. Niño Police Station to report the incident and file a case of grave coercion against Dumaua. Ramos's testimony was then corroborated by her husband, who stated that he was waiting for his wife to go home when he noticed a commotion involving her. Upon arriving thereat, he pulled Ramos away as Dumaua was already armed with two (2) stones and about to grab his wife.⁸

The MCTC Ruling

In a Decision⁹ dated May 15, 2009, the MCTC found Ramos guilty beyond reasonable doubt of the crime of Grave Oral Defamation, and accordingly, sentenced her to suffer the penalty of imprisonment of one (1) year and one (1) day, as minimum, to one (1) year and eight (8) months, as maximum, of *prision correccional* and ordered to pay Dumaua the amount of ₱20,000.00 as moral damages, as well as the costs of suit.¹⁰

Ramos separately moved for a new trial and for reconsideration, both of which were denied in Resolutions dated September 28, 2009 and November 16, 2009, respectively. Aggrieved, she appealed to the Regional Trial Court of Tuao, Cagayan, Branch 11 (RTC).¹¹

The RTC Ruling

In a Decision¹² dated September 4, 2014, the RTC affirmed the MCTC ruling *in toto*.¹³ It found that the prosecution has indeed established the fact that Ramos uttered defamatory statements of a serious and insulting nature against Dumaua through the positive testimonies not only of the latter, but also of the latter's corroborative witnesses. As such, Ramos's bare denial that she did not say anything defamatory against Dumaua cannot be given any credence for being unsubstantiated and self-serving.¹⁴

Dissatisfied, Ramos filed a petition for review under Rule 42 of the Rules of Court before the CA.¹⁵

The CA Ruling

In a Decision¹⁶ dated March 29, 2016, the CA affirmed the rulings of the courts *a quo*, with modification, adjusting Ramos's period of

⁸ See *id.* at 36-37.

⁹ Not attached to the *rollo*. See *id.* at 38.

¹⁰ *Id.*

¹¹ See *id.*

¹² *Id.* at 22-31. Penned by Judge Designate Raymond Reynold R. Lauigan.

¹³ *Id.* at 30.

¹⁴ See *id.* at 26-30.

¹⁵ Not attached to the *rollo*. See *id.* at 33.

imprisonment to four (4) months of *arresto mayor*, as minimum, to one (1) year and eight (8) months of *prision correccional*, as maximum, in accordance with the Indeterminate Sentence Law.¹⁷

Agreeing with the findings of the courts *a quo*, the CA ruled that Ramos's bare denials could not stand against the clear and positive testimony of the witnesses that she indeed uttered the words "*ukininam, puta, awan ad-adal mo*" which means "vulva of your mother, prostitute, illiterate" against Dumaua. In this regard, the CA held that such words were defamatory and serious in nature as the scurrilous imputations strike deep into the victim's character.¹⁸

Undaunted, Ramos moved for reconsideration¹⁹ but the same was denied in a Resolution²⁰ dated August 10, 2016; hence, this petition.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA correctly upheld Ramos's conviction for the crime of Grave Oral Defamation.

The Court's Ruling

The appeal is partly meritorious.

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review and it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.²¹ "The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law."²²

Moreover, while it is a general rule that a re-examination of factual findings cannot be done through a petition for review on *certiorari* under Rule 45 of the Rules of Court, as in this case, since petitions of this nature are limited only to questions of law,²³ this rule admits of various exceptions,

¹⁶ Id. at 33-51.

¹⁷ See id. at 47-48.

¹⁸ See id. at 40-47.

¹⁹ Not attached to the *rollo*. See id. at 19.

²⁰ Id. at 19-20.

²¹ *People v. Dahil*, 750 Phil. 212, 225 (2015).

²² *People v. Comboy*, G.R. No. 218399, March 2, 2016, 785 SCRA 512, 521.

²³ See *Miro v. Vda. de Erederos*, 721 Phil. 772, 785 (2013). *Far Eastern Surety and Insurance Co., Inc. v. People* (721 Phil. 760, 767 [2013]; citations omitted) states that "[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, its resolution

such as when the judgment is based on a misapprehension of facts or when the factual findings are contrary to the evidence on record.²⁴

Guided by the foregoing considerations, the Court deems it proper to modify Ramos's conviction, as will be explained below.

Article 358 of the RPC defines and penalizes the crimes of Serious Oral Defamation and Slight Oral Defamation, to wit:

Article 358. *Slander*. – Oral defamation shall be punished by *arresto mayor* in its maximum period to *prision correccional* in its minimum period if it is of a serious and insulting nature; otherwise, the penalty shall be *arresto menor* or a fine not exceeding 200 pesos.

In *De Leon v. People*,²⁵ the Court thoroughly discussed the nature of Oral Defamation and the parameters for classifying the same as either Grave or Slight:

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.” **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 dishonor, 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. It must be 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

must not involve an examination of the probative value of the evidence presented by the litigants, but must rely solely on what the law provides on the given set of facts. If the facts are disputed or if the issues require an examination of the evidence, the question posed is one of fact. The test, therefore, is not the appellation given to a question by the party raising it, but whether the appellate court can resolve the issue without examining or evaluating the evidence, in which case, it is a question of law; otherwise, it is a question of fact.”

²⁴ See *Pascual v. Burgos*, G.R. No. 171722, January 11, 2016, 778 SCRA 189, 205-206, citing *Medina v. Mayor Asistio, Jr.*, 269 Phil. 225, 232 (1990).

²⁵ G.R. No. 212623, January 11, 2016, 779 SCRA 84.

absence of an allegation for special damages. The fact that the language is offensive to the plaintiff does not make it actionable by itself.

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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. “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.”²⁶ (Emphases and underscoring supplied)

A judicious review of the records of this case reveals that Ramos indeed uttered the words “*ukininam, puta, awan ad-adal mo,*” which means “vulva of your mother, prostitute, illiterate,” against Dumaua. However, no evidence was presented to show that Ramos indeed started the altercation by instructing her schoolchildren to throw leaves into Dumaua’s yard, and eventually, throwing dried banana leaves therein as well. It must be pointed out that Dumaua’s claim to that effect was not supported by her corroborative witnesses whose testimonies only pertain to matters transpiring during the height of the verbal altercation as they were inside the house when the fight started. Absent such evidence, the Court is inclined to lend more credence to Ramos’s narration that she was just passing through a pathway adjacent to Dumaua’s house when the latter got mad at her; started blaming her for the garbage in her yard; and warned her not to use the pathway anymore or else something will happen to her – all of which resulted in the two of them hurling invectives against one another. Thus, it may safely be concluded that while Ramos indeed said defamatory words against Dumaua, the utterances were made in the heat of anger and were with some sort of provocation on the part of the latter. As such, the Court is constrained to hold that Ramos is only guilty of the crime of Slight Oral Defamation.

Since the crime committed is only Slight Oral Defamation which is punishable by *arresto menor* or a fine of ₱200.00,²⁷ the Court deems it proper to impose on Ramos the latter penalty instead, with subsidiary imprisonment in case of insolvency.²⁸

²⁶ Id. at 100-101; citations omitted.

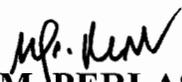
²⁷ While Section 94 of Republic Act No. 10951, entitled “AN ACT ADJUSTING THE AMOUNT OR THE VALUE OF PROPERTY AND DAMAGE ON WHICH A PENALTY IS BASED, AND THE FINES IMPOSED UNDER THE REVISED PENAL CODE, AMENDING FOR THE PURPOSE ACT NO. 3815, OTHERWISE KNOWN AS ‘THE REVISED PENAL CODE,’ AS AMENDED,” already increased the prescribed fine to ₱20,000.00, such adjustment could not be made to apply in this case as the crime was committed prior to the law’s enactment. It is settled that penal laws are given retroactive effect only if their application shall be favorable to the accused, which is not the case here. (See *Ortega v. People*, 584 Phil. 429, 453 [2008].)

²⁸ See *De Leon v. People*, supra note 26, at 105-106.

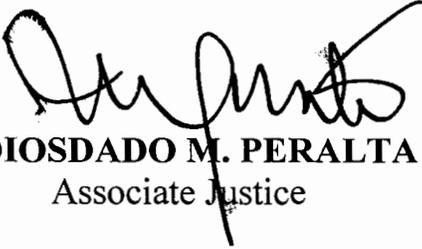
As to Ramos's civil liability, while Dumaua is still entitled to moral damages pursuant to Article 2219 (7)²⁹ of the Civil Code, the Court deems it proper to reduce the same to ₱5,000.00³⁰ in light of the downgrading of Ramos's conviction to Slight Oral Defamation. Further, such amount shall earn legal interest at the rate of six percent (6%) per annum from the date of finality of this Decision until fully paid.³¹

WHEREFORE, the petition is **PARTLY GRANTED**. The Decision dated March 29, 2016 and the Resolution dated August 10, 2016 of the Court of Appeals in CA-G.R. CR No. 36970 is hereby **MODIFIED**, finding petitioner Digna Ramos **GUILTY** beyond reasonable doubt only of the crime of Slight Oral Defamation defined and penalized under Article 358 of the Revised Penal Code. Accordingly, she is meted with the penalty of a **FINE** in the amount of ₱200.00, with subsidiary imprisonment in case of insolvency; and ordered to pay private complainant Patrocinia Dumaua the amount of ₱5,000.00 as moral damages plus legal interest at the rate of six percent (6%) per annum from the date of finality of this Decision until fully paid, and the costs of suit.

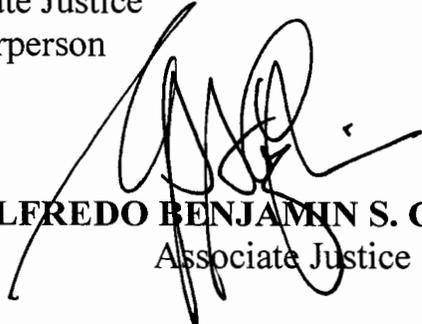
SO ORDERED.


ESTELA M. PERLAS-BERNABE
 Associate Justice

WE CONCUR:


DIOSDADO M. PERALTA
 Associate Justice

ANTONIO T. CARPIO
 Associate Justice
 Chairperson


ALFREDO BENJAMIN S. CAGUIOA
 Associate Justice

On Official Leave
ANDRES B. REYES, JR.
 Associate Justice

²⁹ Article 2219 (7) of the Civil Code reads:

Article 2219. Moral damages may be recovered in the following and analogous cases:

x x x x

(7) Libel, slander or any other form of defamation.

x x x x

³⁰ See *De Leon v. People*, supra note 26, at 106.

³¹ See *People v. Jugueta*, G.R. No. 202124, April 5, 2016, 788 SCRA 331, 388.

A T T E S T A T I O N

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

C E R T I F I C A T I O N

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