Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

BERTENI CATALUÑA CAUSING,		**G.R. No. 258524**
	Petitioner,	Present:
	- versus -	CAGUIOA, *J.*, *Chairperson*, INTING, GAERLAN, DIMAAMPAO, and SINGH, *JJ.*
PEOPLE OF THE PHILIPPINES, REGIONAL TRIAL COURT OF QUEZON CITY, BRANCH 93, OFFICE OF THE CITY PROSECUTOR OF QUEZON CITY, AND REPRESENTATIVE FERDINAND LEDESMA HERNANDEZ OF THE SECOND DISTRICT OF SOUTH COTABATO,		
	Respondents.	Promulgated: October 11, 2023

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D E C I S I O N

INTING, *J.*:

This resolves the Petition for *Certiorari*[1] (Petition) filed under Rule 65 of the Rules of Court, seeking the annulment of the Orders dated October 5, 2021,[2] and November 15, 2021,[3] both issued by Branch 93, Regional Trial Court (RTC), Quezon City in Criminal Cases Nos. R-QZN-21-04099 and R-QZN-21-04100 (Cyber Libel Cases). The RTC denied

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1 *Rollo*, pp. 7–57.
2 *Id.* at 195–198. Penned by Presiding Judge Arthur O. Malabaguio.
3 *Id.* at 191–193.

the Motion to Quash[4] filed by petitioner Berteni Cataluña Causing (Causing) in the Order dated October 5, 2021, and denied his Motion for Reconsideration[5] in the Order dated November 15, 2021.

The Antecedents

On December 16, 2020, respondent Ferdinand L. Hernandez (Hernandez), a duly elected member of the House of Representatives of the Second District of South Cotabato, filed his Complaint-Affidavit[6] with the Office of the City Prosecutor of Quezon City (OCP Quezon City) charging Causing with Cyber Libel under Section 4(c)(4)[7] of Republic Act No. (RA) 10175,[8] or the "Cybercrime Prevention Act of 2012," in relation to Articles 353[9] and 355[10] of the Revised Penal Code (RPC).

In his Complaint-Affidavit, Hernandez narrated his recent discovery that on February 4, 2019, and April 29, 2019, Causing uploaded several posts on Facebook, a social media platform, which made it appear that he stole public funds intended for Marawi siege victims. Hernandez averred that Causing's Facebook posts in a public profile page maligned and discredited him by portraying him as a thief unworthy of trust and public office.[11]

Causing submitted his Counter-Affidavit[12] to the OCP Quezon City,

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4 *Id.* at 95–113.

5 *Id.* at 62–83.

6 *Id.* at 210–219.

7 Section 4(c)(4) of Republic Act No. 10175 provides:
SECTION 4. *Cybercrime Offenses.* — The following acts constitute the offense of cybercrime punishable under this Act:
x x x x
(c) Content-related Offenses:
x x x x
(4) Libel. — The unlawful or prohibited acts of libel as defined in Article 355 of the Revised Penal Code, as amended, committed through a computer system or any other similar means which may be devised in the future.

8 Approved on September 12, 2012.

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

10 Article 355 of the RPC provides:
Art. 355. *Libel by means of writings or similar means.* — A libel committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means, shall be punished by *prisión correccional* in its minimum and medium periods or a fine ranging from Forty thousand pesos (P40,000) to One million two hundred thousand (P1,200,000), or both, in addition to the civil action which may be brought by the offended party.

11 *Rollo*, pp. 210–212.

12 *Id.* at 230–263.

followed by Hernandez's Reply-Affidavit.[13]

After a finding of probable cause, the OCP Quezon City filed with the RTC two separate Informations[14] both dated May 10, 2021, charging Causing with two (2) counts of Cyber Libel under Section 4(c)(4) of RA 10175 in relation to Articles 353 and 355 of the RPC, docketed as Criminal Case No. R-QZN-21-04099 and Criminal Case No. R-QZN-21-04100, *viz.*:

Criminal Case No. R-QZN-21-04099

The undersigned accuses **BERTENI CAUSING y CATALUÑA** of Violation of Section 4(c)(4) of Republic Act No. 10175 in relation to Articles 353 and 355 of the Revised Penal Code, committed as follows:

That on the 4th day of February 2019 in Quezon City, Philippines, the above-named accused, through the use of a computer system, a device which, pursuant to a program, is capable of automated processing of data and is connected to a network of other similar devices, with malicious intent of impeaching the honesty and integrity and reputation of one FERDINAND L. HERNANDEZ, a member of the House of Representative (*sic*), representing the Second District of South Cotabato, and exposing him to public hatred, contempt, scandal, ridicule and disgrace, did then and there, willfully, unlawfully, feloniously and publicly impute on the latter, through posting and sharing a video of Radyo Inquirer News Report on the personal Facebook account under the profile name "Berteni Cataluña Causing" and on a public group Facebook account under the name "Berteni 'Toto' Cataluña Causing" which is of general circulation, with the following defamatory remarks directed to said offended party, to wit:

> "PLEASE LIKE & SHARE
> xxxxxxxxxxxxxxxxx
>
> KATARUNGAN
>
> Hindi titigil ang sigaw ng katarungan dahil sa pagnanakaw ng P226 milyon mula sa relief goods para sa Marawi evacuees.
>
> Dahil tinanggal ng Radyo Inquirer itong video sa kanilang website, ini-upload ko ito para patuloy na mapapanood ng lahat ang pagsampa ng kasong PLUNDER o HIGANTENG PAGMANAKAW (*sic*) laban sa Region 12 DSWD Director Bai Zorahaida Taha at South Cotabato Co[n]gressman Dinand Hernandez.

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13 *Id.* at 289–303.
14 *Id.* at 204–209.

Mabuti na lang na nai-record ko."

which libelous statements had for its object to impute a defect, real or imaginary to those who read and watch it of said offended party, that Congressman Ferdinand L. Hernandez, is a plunderer and a thief of the Php225 Million allotted for the Marawi victims, to said offended party's damage and prejudice.

CONTRARY TO LAW.[15] (Emphasis in the original)

Criminal Case No. R-QZN-21-04100

The undersigned accuses **BERTENI CAUSING y CATALUÑA** of Violation of Section 4 (c)(4) of Republic Act No. 10175 in relation to Articles 353 and 355 of the Revised Penal Code, committed as follows:

That on the 29th day of April 2019 in Quezon City, Philippines, the above-named accused, through the use of a computer system, a device which, pursuant to a program, is capable of automated processing of data is connected to a network of other similar devices, with malicious intent of impeaching the honesty and integrity and reputation of one FERDINAND L. HERNANDEZ, a member of the House of Representative (*sic*), representing the Second District of South Cotabato, and exposing him to public hatred, contempt, scandal, ridicule and disgrace, did then and there, willfully, unlawfully, feloniously and publicly impute on the latter, through re-posting his February 4, 2019 post on the personal Facebook account under the profile name "Berteni Cataluña Causing" and on a public group Facebook account under the name "Berteni 'Toto' Cataluña Causing" which is of general circulation, with the following defamatory remarks directed to said offended party, to wit:

"KAMPON NG MGA MAGNANAKAW

HUWAG KALIMUTAN ANG NAGNAKAW NG PERA NG BAKWIT MARAWI na sina Dinand Hernandez, Zorahayday Taha, Maria Virginia Hernandez-Villaruel, at ang kanilang mga kasama na kampon ng demonyo.

Ninakaw nila ang P225 million na pera ng mga Maranao na biktima ng giyera sa Marawi sa pamamagitan ng pag-OVERPRICE sa pagkain.

Ang isang pack ng pagkain, ay NIYARI ng Tacurong Fitmart at DSWD Region XII na emergency bidding. Pinalabas nila na P515.00 ang halaga ng isang food pack. Pero kung bilhin mo ang mga items sa nasabing food pack directa sa Tacurong Fitmart, nagkahalaga

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15 *Id.* at 204–206.

> lamang ng P270.50 kada isang pack at idagdag na lang dito ang P48 na tuyo o bulad."
>
> which libelous statements had for its object to impute a defect, real or imaginary to those who read and watched it of said offended party, that Congressman Ferdinand L. Hernandez, is part of a gang of thieves who have stolen Php225 Million Pesos (*sic*) allotted for the Marawi victims by overpricing the cost of the relief goods and pocketing the money, to said offended party's damage and prejudice.
>
> **CONTRARY TO LAW.**[16] (Emphasis in the original)

On June 28, 2021, Causing filed his Motion to Quash,[17] praying that the Informations in the Cyber Libel Cases be quashed on the ground of prescription. In his motion, Causing argued that Section 4(c)(4) of RA 10175 did not create any new crime but merely recognized a computer system as another means of committing Libel as defined and penalized under Articles 353 and 355 of the RPC. He averred that paragraph 4, Article 90[18] of the RPC should be applied to determine the prescriptive period of Cyber Libel, arguing that the crime prescribes in one (1) year, counted from the date of the publication of the allegedly libelous statements.

Causing pointed to the fact that, as stated in the Informations, the purportedly libelous Facebook posts were uploaded on February 4, 2019, and April 29, 2019. However, the Complaint-Affidavit of Hernandez was filed with the OCP Quezon City only on December 16, 2020, or more than one year from the date when the subject Facebook posts were uploaded. Thus, according to Causing, the two counts of Cyber Libel charged against him have prescribed.

Causing further challenged the Court's ruling in *Tolentino v. People*[19] (*Tolentino*). While he recognized that *Tolentino* applied paragraph 2, Article 90 of the RPC and held that Cybel Libel prescribes in

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16 *Id.* at 207–209.

17 *Id.* at 95–113.

18 Article 90 of the RPC provides:
ART. 90. *Prescription of crimes.* — Crimes punishable by death, *reclusión perpetua* or *reclusión temporal* shall prescribe in twenty years.
Crimes punishable by other afflictive penalties shall prescribe in fifteen years.
Those punishable by a correctional penalty shall prescribe in ten years; with the exception of those punishable by *arresto mayor*, which shall prescribe in five years.
x x x x
The crime of libel or other similar offenses shall prescribe in one year.
The offenses of oral defamation and slander by deed shall prescribe in six months.
Light offenses prescribe in two months.
When the penalty fixed by law is a compound one, the highest penalty shall be made the basis of the application of the rules contained in the first, second and third paragraphs of this article.

19 G.R. No. 240310 (Notice), August 6, 2018.

15 years, he argued that *Tolentino* is not a binding precedent because it is an unsigned resolution.[20]

The Ruling of the RTC

In the assailed Order[21] dated October 5, 2021, the RTC denied Causing's Motion to Quash for lack of merit. It refused to apply Article 90 of the RPC to determine the prescriptive period of Cyber Libel because it only applies suppletorily to special laws such as RA 10175. It pointed out that because Cyber Libel is penalized by RA 10175, which does not provide a prescriptive period for the said crime, the period must be determined based on Section 1[22] of Act No. 3326[23] in relation to Section 6[24] of RA 10175. With these provisions of laws, the RTC concluded that Cyber Libel prescribes in 12 years.[25]

The RTC continued that even if Article 90 of the RPC is applied suppletorily, Section 6 of RA 10175 increased the penalty for Cyber Libel by one degree than that prescribed by the RPC, or to *prision correccional* in its maximum period to *prision mayor* in its minimum period, which is considered afflictive under Article 25[26] of the RPC. Thus, as concluded by the RTC, assuming that the RPC may be applied suppletorily to Cyber Libel, paragraph 2, Article 90 of the RPC is controlling, which makes Cyber Libel prescribe in 15 years. Because Hernandez filed his

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20 *Rollo*, pp. 101–102.

21 *Id.* at 195–198.

22 Section 1 of Act No. 3326 states:
SECTION 1. Violations penalized by special acts shall, unless otherwise provided in such acts, prescribe in accordance with the following rules: *(a)* after a year for offences punished only by a fine or by imprisonment for not more than one month, or both; *(b)* after four years for those punished by imprisonment for more than one month, but less than two years; *(c)* after eight years for those punished by imprisonment for two years or more, but less than six years; and *(d)* after twelve years for any other offence punished by imprisonment for six years or more, except the crime of treason, which shall prescribe after twenty years: *Provided, however,* That all offences against any law or part of law administered by the Bureau of Internal Revenue shall prescribe after five years. Violations penalized by municipal ordinances shall prescribe after two months.
Violations of the regulations or conditions of certificates of public convenience issued by the Public Service Commission, shall prescribe after two months.

23 Entitled "An Act To Establish Periods of Prescription For Violations Penalized By Special Acts And Municipal Ordinances And To Provide When Prescription Shall Begin To Run," approved on December 4, 1926.

24 Section 6 of RA 10175 states:
SECTION 6. All crimes defined and penalized by the Revised Penal Code, as amended, and special laws, if committed by, through and with the use of information and communications technologies shall be covered by the relevant provisions of this Act: *Provided*, That the penalty to be imposed shall be one (1) degree higher than that provided for by the Revised Penal Code, as amended, and special laws, as the case may be.

25 *Rollo*, p. 197.

26 Article 25 of the RPC enumerates afflictive penalties, as follows: 1) *reclusion perpetua*; 2) *reclusion temporal*; 3) perpetual or temporary absolute disqualification; 4) perpetual or temporary special disqualification; and 5) *prision mayor.*

Complaint-Affidavit on December 17, 2020,[27] or just a few weeks from his discovery of the purported crimes, the RTC concluded that the two counts of Cyber Libel charged against Causing have not prescribed.

The RTC thus denied Causing's Motion to Quash, to wit:

> WHEREFORE, in view of the foregoing, the *Motion to Quash Based on Lack of Jurisdiction over the Offense Charged and that the Criminal Action has been Extinguished* filed by the accused Atty. Berteni Cataluña Causing is hereby DENIED for lack of merit.
>
> Let the arraignment of the accused proceed on 24 November 2021 at 8:30 in the morning through videoconference hearing.
>
> Parties are hereby directed to furnish the court's official e-mail address (rtc1qzn093@judiciary.gov.ph) with their email address for them to be able to join the next hearing through videoconferencing.
>
> SO ORDERED.[28] (Emphasis omitted; italics in the original)

Causing filed his Motion for Reconsideration,[29] but the RTC denied it in the assailed Order[30] dated November 15, 2021.

Thus, the present Petition.

Petitioner's Arguments

In his Petition,[31] Causing submits that the RTC gravely abused its discretion in denying his Motion to Quash by applying Section 1 of Act No. 3326 and paragraph 2, Article 90 of the RPC to determine the prescriptive period of Cyber Libel. He argues that Act No. 3326 cannot apply to crimes which are defined and penalized by the RPC. Citing the Decision[32] (*Disini Decision*) in *Disini v. Secretary of Justice*[33] (*Disini*), Causing reiterates his argument in his Motion to Quash that RA 10175 did not create a new crime but merely created qualifying circumstances and increased the penalty for the felony of Libel, as defined under Article 353 in relation to Article 355 of the RPC, when committed through a computer

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27 It must be noted, however, that the Complaint-Affidavit of Hernandez bears the date of December 16, 2020 and subscribed to under oath before the OCP Quezon City on said date. (*Rollo*, pp. 210–219)

28 *Id.* at 198.

29 *Id.* at 62–83.

30 *Id.* at 191–193.

31 *Id.* at 7–57.

32 *Disini v. Secretary of Justice*, 727 Phil. 28 (2014).

33 *Disini v. Secretary of Justice*, 733 Phil. 717 (2014).

system.[34]

Causing further avers that instead of paragraph 2, Article 90 of the RPC, paragraph 4 thereof should have been applied by the RTC to determine the prescriptive period of Cyber Libel. He argues that pursuant to the said provision of law, Cyber Libel prescribes in one year counted from the date of publication; thus, the charges against him have already prescribed.[35] He again poses a challenge against *Tolentino*, insisting that it is not a binding precedent for being an unsigned resolution. Hence, the *Tolentino* ruling on 15 years as the prescriptive period of Cyber Libel based on paragraph 2, Article 90 of the RPC does not apply in his case.[36]

On a procedural matter, Causing insists that he filed his Petition directly with the Court because the issues he raised therein are purely legal, particularly, the correct interpretation of criminal laws on prescription of Cyber Libel. He thus prays for the Court to give due course to his Petition and rule on its merits.[37]

Respondents' Arguments

In its Comment,[38] the People, through the Office of the Solicitor General (OSG), argues that: *(1)* the present Petition is an improper remedy from the RTC's denial of the Motion to Quash; instead, Causing's remedy is to enter his plea and proceed to trial on the merits in the Cyber Libel Cases;[39] *(2)* the Petition must be dismissed because Causing disregarded the hierarchy of courts without providing any exceptional circumstance warranting direct resort to the Court;[40] *(3)* the RTC correctly applied the applicable laws on prescription of Cyber Libel as its ruling is consistent with *Tolentino*; and *(4) Tolentino*, though an unsigned resolution, serves

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34 *Rollo*, pp. 11–12.
35 *Id.* at 36–39.
36 *Id.* at 12–14.
37 *Id.* at 10–11.
38 In the Court's Resolution dated March 9, 2022, the respondents were directed to file their Comment on the Petition within 10 days from notice. (*Id.* at 186–187) The OSG filed its Motion for Extension of Time to File Comment and prayed that it be given a period of until October 7, 2021 within which to file its Comment. (*Id.* at 350–352) Hernandez likewise filed his Motion for Extension of Time to File Comment, praying that he be granted a period of until August 30, 2022 within which to file his Comment. (*Id.* at 369–373) Both motions for extension of time were granted by the Court. (*Id.* at 375–377) However, none of the respondents submitted their Comment within the period of extension granted by the Court.
The Court subsequently received the OSG's Motion to Admit with Attached Comment, where it admitted that it was unable to file its Comment within the period of extension allowed but prayed for the Court to exercise liberality and admit the Comment. (*Id.* at 378–401) In the interest of justice, the Court admits the OSG's Comment and considers the same in the resolution of the present Petition.
39 *Id.* at 388–392.
40 *Id.* at 392–394.

as a binding precedent pursuant to *Eizmendi v. Fernandez*[41] (*Eizmendi, Jr.*).[42]

Hernandez did not file any comment on the Petition despite his previous motion[43] for an extension of time to file it which the Court granted.[44] Hence, the Court deems Hernandez to have *waived* the submission of such pleading and now proceeds to resolve the case at hand.

The Issues

The issues before the Court are:

I. Whether the Petition should be dismissed outright for being an improper remedy against the RTC's denial of the Motion to Quash and for disregarding the hierarchy of courts;

II. Whether Article 90 of the RPC or Section 1 of Act No. 3326 determines prescription of Cyber Libel; and

III. Whether the two counts of Cyber Libel charged against Causing have prescribed.

These issues shall be resolved *in seriatim.*

The Court's Ruling

The Court denies the Petition for lack of merit. As will be later discussed at length, prescription is a *matter of defense* that requires the presentation of evidence. Hence, the RTC is correct in denying Causing's Motion to Quash.

I. Exceptional circumstances warrant the filing of the present Petition directly with the Court against the RTC's denial of the Motion to Quash.

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41 839 Phil. 902 (2019).
42 *Rollo*, pp. 394–398.
43 *Id.* at 369–373.
44 *Id.* at 375–377.

On a procedural matter, the OSG is correct that a *certiorari* petition is ordinarily an inappropriate remedy from the denial of a motion to quash.[45] Nevertheless, the Court may *relax* the application of this procedural rule in order to promote public welfare and public policy, among others.[46] Here, the Court recognizes the utmost importance of resolving the substantive issues raised by Causing and takes this opportunity to *review and revisit* the ruling in *Tolentino* regarding the prescriptive period of Cyber Libel and the reckoning date thereof for the guidance of the bench and the bar.

Causing's direct resort to the Court, too, is warranted under the circumstances of the case considering that the Petition specifically raises purely legal matters and calls for the Court's exercise of its power to overturn binding precedents.

Certainly, regional trial courts, the Court of Appeals (CA), and the Court share original and concurrent jurisdiction in the issuance of writs of *certiorari,* prohibition, *mandamus*, *quo warranto*, and *habeas corpus*.[47] However, the doctrine of hierarchy of courts prevents parties from randomly selecting which among these forums their actions will be directed.[48] Thus, as a rule, direct resort to the Court is improper because the Supreme Court is a court of last resort and must remain so in order for it to satisfactorily perform its constitutional functions.[49]

Nevertheless, the principle of hierarchy of courts is not an iron-clad rule and there are well-recognized exceptions to its application.[50] Thus,

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45 *Keh v. People*, 877 Phil. 76, 83 (2020).

46 In *Navaja v. De Castro*, 761 Phil. 142, 160–161 (2015), the Court enumerated the exceptions to the prohibition against the filing of a petition for *certiorari* assailing the denial of a motion to quash, as follows: (a) when the court issued the order without or in excess of jurisdiction or with grave abuse of discretion; (b) when the interlocutory order is patently erroneous and the remedy of appeal would not afford adequate and expeditious relief; (c) in the interest of a more enlightened and substantial justice; (d) to promote public welfare and public policy; and (e) when the cases have attracted nationwide attention, making it essential to proceed with dispatch in the consideration thereof.

47 *Governor Villafuerte v. Mayor Cordial, Jr.*, 876 Phil. 419, 426 (2020).

48 *Metropolitan Waterworks and Sewerage System v. The Local Government of Q.C.*, 842 Phil. 864, 877–878 (2018).

49 *Palafox, Jr. v. Mendiola*, G.R. No. 209551, February 15, 2021, citing *Dy v. Judge Bibat-Palamos*, 717 Phil. 776, 782 (2013).

50 In *Metropolitan Waterworks and Sewerage System v. The Local Government of Q.C., supra,* the exceptions to the principle of hierarchy of courts were enumerated as follows: (1) when genuine issues of constitutionality are raised that must be addressed immediately; (2) when the case involves transcendental importance; (3) when the case is novel; (4) when the constitutional issues raised are better decided by this Court; (5) when time is of the essence; (6) when the subject of review involves acts of a constitutional organ; (7) when there is no other plain, speedy, adequate remedy in the ordinary course of law; (8) when the petition includes questions that may affect public

the Court has given due course to petitions for *certiorari* directly filed with the Court because the issues raised therein are *purely legal*, even though the assailed orders were rendered by the trial courts and the CA is ordinarily the more appropriate forum for such petitions.[51] Direct resort to the Court has likewise been recognized when the writ of *certiorari* prayed for relates to the Supreme Court's role in promulgating doctrinal devices and leading the judiciary, by either overturning or reiterating prior rulings, taking into consideration new circumstances or confusions of bench or bar.[52]

The Petition presents exceptional circumstances that justify its direct filing with the Court.

First, the Petition raises issues on prescription of a crime that are purely legal in nature. Relevantly, the Court has held that prescription may be a question of law if it involves doubt or controversy as to what the law is on a given state of facts and there is no need to determine the veracity of factual matters as regards the date when the period to bring the action commenced to run.[53]

Here, the Petition does not pray for the Court to review factual matters by re-examining or re-evaluating evidence in the proceedings *a quo*. Instead, it raises issues on the correct interpretation of Section 4(c)(4) of RA 10175 and the law that should apply in setting the prescriptive period of Cyber Libel – be it paragraph 4, Article 90 of the RPC where the prescriptive period is one year, as argued by Causing; Section 1, Act No. 3326 where the prescriptive period is 12 years, as determined by the RTC; or paragraph 2, Article 90 of the RPC where the prescriptive period is 15 years, as held in *Tolentino*. The interpretation and application of these laws is purely legal.[54]

Second, the Petition behooves the Court to either break new ground or reiterate its ruling in *Tolentino*. To recall, the Court in *Tolentino* held that a criminal complaint for Cyber Libel filed on August 8, 2017 based on a Facebook post dated April 29, 2015, or more than two (2) years from publication, was filed within the prescriptive period because Section 6 of

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welfare, public policy, or demanded by the broader interest of justice; (9) when the order complained of was a patent nullity; and (10) when the appeal was considered as an inappropriate remedy.

51 See *Governor Villafuerte v. Mayor Cordial, Jr.*, *supra* note 47, at 427.

52 *The Diocese of Bacolod v. Commission on Elections*, 751 Phil. 301, 329–331 (2015).

53 *De Jesus v. Uyloan*, G.R. No. 234851, February 15, 2022.

54 See *Mangaliag v. Judge Catubig-Pastoral*, 510 Phil. 637, 646–647 (2005) and *Municipality of Cainta, Rizal v. Spouses Braña*, 870 Phil. 1, 9–10, where it was held that the correct application of law or jurisprudence to a given set of facts, as well as the interpretation and application of the law, is a pure question of law.

RA 10175 made the penalty for Cyber Libel afflictive, making the said crime prescribe in 15 years under paragraph 2, Article 90 of the RPC.

Causing argues that *Tolentino* is not a binding precedent because it is an unsigned resolution. This is wrong. As pointed out by the OSG, *Eizmendi, Jr.* already settles this issue by holding that an unsigned resolution, like *Tolentino,* constitutes a binding precedent if it states clearly and distinctly the facts and law on which it is based and is not a mere dismissal of a petition for failure to comply with formal and substantive requirements.[55]

Hence, the Court's ruling on the present Petition will resolve with finality the stream of conflicting opinions of the bench and bar on the provisions of laws that must be applied in setting the prescriptive period of Cyber Libel – by either reiterating *Tolentino* or overturning it based on the Court's evaluation and interpretation of the relevant statutes. Because it is only the Court that has the power to overturn its prior rulings, Causing's direct resort to the Court is justified.

The Court now rules on the merits of the Petition.

II.A. RA 10175 did not create a new crime but merely implements the RPC's provisions on libel when written defamatory remarks are published through a computer system.

The applicable laws on prescription of criminal offenses defined and penalized under the RPC are found in Articles 90 and 91 of the same Code; for those penalized by special laws which do not provide their own prescriptive period, Act No. 3326 applies.[56] Thus, for the Court to resolve the issue of whether Act No. 3326 or the RPC applies to Cyber Libel, it must first determine whether Cyber Libel is a crime defined and penalized by the RPC or by RA 10175, which is a special law.

The RTC concluded that Cyber Libel is penalized by RA 10175, a special law, and thus, applied Act No. 3326. Causing disagrees with the RTC and submits that Cyber Libel is a crime defined by the RPC; hence, the provisions of the RPC govern its prescriptive period.

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55 *Rollo*, pp. 395–398.

56 *Atty. Salvador v. Hon. Desierto*, 464 Phil. 988, 994–995 (2004).

The Court rules in favor of Causing. Section 4(c)(4) of RA 10175 *merely implements* the RPC's provisions on Libel under Articles 353 and 355 thereof when it is committed through a computer system. Thus, in determining the prescriptive period of Cyber Libel, the RPC, *not* Act No. 3326, should be applied.

First, a textual analysis of Section 4(c)(4) of RA 10175 readily reveals that the special law did not create any new crime. Instead, it merely enforces Article 355 in relation to Article 353 of the RPC on Libel when committed "through a computer system or any other similar means which may be devised in the future." Verily, in defining the act to be punished, RA 10175 itself refers to Article 355 of the RPC, *viz.*:

> Section 4. *Cybercrime Offenses.* — The following acts constitute the offense of cybercrime punishable under this Act:
>
> x x x x
>
> (c) Content-related Offenses:
>
> x x x x
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> (4) Libel. — The unlawful or prohibited acts of libel *as defined in Article 355 of the Revised Penal Code*, as amended, committed through a computer system or any other similar means which may be devised in the future. (Italics supplied)

Second, the Court could not have been more categorical in its *Disini Decision*: Cyber Libel is *not* a new crime because Article 353, in relation to Article 355 of the RPC, already punishes it. The offense under Section 4(c)(4) of RA 10175 and felony under Article 355 of the RPC are *one and the same crime* with the same elements. RA 10175 simply recognizes a computer system as "similar means" of publication and makes the use of information and communications technology (ICT) in the commission of Libel as a qualifying circumstance:

> The Court agrees with the Solicitor General that libel is not a constitutionally protected speech and that the government has an obligation to protect private individuals from defamation. Indeed, cyberlibel is actually not a new crime since Article 353, in relation to Article 355 of the penal code, already punishes it. In effect, Section 4(c)(4) above merely affirms that online defamation constitutes "similar means" for committing libel.
>
> x x x x
>
> Section 6 merely makes commission of existing crimes through the Internet a qualifying circumstance. As the Solicitor General points

> out, there exists a substantial distinction between crimes committed through the use of information and communications technology and similar crimes committed using other means. In using the technology in question, the offender often evades identification and is able to reach far more victims or cause greater harm. The distinction, therefore, creates a basis for higher penalties for cybercrimes.
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> x x x x
>
> Online libel is different. There should be no question that if the published material on print, said to be libelous, is again posted online or vice versa, that identical material cannot be the subject of two separate libels. The two offenses, one a violation of Article 353 of the Revised Penal Code and the other a violation of Section 4(c)(4) of R.A. 10175 involve essentially the same elements and are in fact one and the same offense. Indeed, the OSG itself claims that online libel under Section 4(c)(4) is not a new crime but is one already punished under Article 353. Section 4(c)(4) merely establishes the computer system as another means of publication. Charging the offender under both laws would be a blatant violation of the proscription against double jeopardy.[57]

In resolving the motion for reconsideration of the *Disini Decision*,[58] the Court reiterated that Cyber Libel is not a new crime for it is "essentially the old crime of libel found in the 1930 Revised Penal Code and transposed to operate in the cyberspace."[59]

Finally, even the lawmakers recognized that RA 10175 did not create a new crime of cyber or online Libel because it is already defined by the RPC. In passing Section 4(c)(4) of RA 10175, they acknowledged that the RPC is a very old law dating back to the Spanish occupation, where the legislators could not have contemplated the use of technologies not yet existing at that time, such as a computer system, to publish libelous statements.[60] With RA 10175, the law recognizes computer systems and ICT as novel *means* of committing Libel.[61] Thus, by including a specific RPC provision in RA 10175, the legislators intended to implement existing laws on Libel when the defamatory remarks are made online, which are "*just online versions of actual criminal activities in the real*

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57 *Disini v. Secretary of Justice*, *supra* note 32, at 114–115 and 125–127.

58 Resolution (*Disini Resolution*) of the Court in *Disini v. Secretary of Justice*, *supra* note 33.

59 *Id.* at 741.

60 Minutes of the Bicameral Committee on the Disagreeing Provisions of House Bill No. 5808 and Senate Bill No. 2796 (Cybercrime Prevention Act of 2012), Committee on Information and Communications Technology, May 31, 2012, pp. 268–275:
Senator Edgardo J. Angara (Chairperson, Senate Panel). Well, as you know, the Penal Code is really a very, very old Code. In fact, it dates back in Spanish time and we amend[ed] it through several congresses. So like child pornography, this is a new crime, cybersex is a new crime. *Libel through the use of computer system is a [novel] way of slandering and maligning people* x x x. (Italics supplied)

61 *Id.*

world."[62]

The foregoing irrefragably shows that RA 10175 did not create a new crime of Cyber Libel but merely enforces the felony of Libel as already defined and penalized by Articles 353 and 355 of the RPC, when it is committed with the use of a computer system. Otherwise stated, RA 10175 simply identifies a computer system as a means of publishing libelous statements and increases the penalty for Libel by one degree higher than that prescribed by the RPC when the crime is committed with the use of ICT. Cyber Libel is therefore a crime defined and penalized by the RPC.

II.B. Articles 90 and 91 of the RPC, not Section 1 of Act No. 3326, define the prescriptive period of Cyber Libel.

Considering that Cyber Libel is a crime defined and penalized by the RPC, the latter governs in determining the prescriptive period of Cyber Libel.

Act No. 3326 is not controlling because Section 1,[63] in relation to Section 3[64] thereof, makes the said law applicable *only* if the offense is defined and penalized by a special law without its own prescriptive period, and *not* when the crime is already defined and penalized by the RPC.

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62 Minutes of Second Reading of House Bill No. 5808, "An Act Defining Cybercrime, Providing for the Prevention, Investigation, Suppression and the Imposition of Penalties Therefor and for Other Purposes," May 9, 2012, pp. 202v208:
Representative Sigfrido R. Tinga (Tinga). Well, the idea, Madam Speaker, when the law was being crafted was that we saw all the various anti-cybercrime bills. There was a move to include this as part of the Anti-Cybercrime Bill. *And as we saw that in the physical world, libel is a crime, why should it not be in the online world*? If we were not to include this in the bill, it would be its own bill at some point in time anyway. We see this as – and all of these can be abused just like any law in this land.
I understand the concerns of my honorable colleague. But at the end of the day, if you look at what we are defining as a crime, and that has not been brought out by my honorable colleague, *it is actually defined as a criminal activity in the real world.* Whether it is abused by individuals, whether it is abused by the State or whether it is abused by the courts remain to be seen. Just as any bill or law that is filed in this House has the potential for being abused.
So my concern, Madam Speaker, is not whether – does not deal with whether this should be included or not. *It actually deals with the question, "Are these actually laws existing now that we reported online?" And the answer is "yes." There are existing laws with regards to defamation and libel in the real world. So the fact that it was reported online should not be a concern because the abuse in the real world and abuse online, it's the same thing.* (Italics supplied.)

63 *Disini v. Secretary of Justice*, *supra* note 32.

64 Section 3 of Act No. 3326 states:
SECTION 3. For the purposes of this Act, special acts shall be acts defining and penalizing violations of the law not included in the Penal Code

Even assuming *arguendo* that Cyber Libel is considered as an offense that is defined and penalized by Section 4(c)(4) of RA 10175, a special law without its own prescriptive period, the law's direct reference to Article 355 of the RPC precludes the automatic application of Act No. 3326 to define its prescriptive period. Instead, the Court must examine both Section 1, Act No. 3326 and Article 90 of the RPC, determine which statutory provision has the shortest prescriptive period and is most favorable to the accused, and apply the latter in setting the prescription of Cyber Libel. This is based on the settled rule that statutory provisions on the prescription of crimes must be construed in favor of the accused.[65]

People v. Terrado[66] (*Terrado*) is *apropos*. In that case, the accused were charged with Falsification of Public Documents under Article 171 of the RPC because they supposedly submitted false affidavits to the Bureau of Lands in support of a claim regarding lands of the public domain sometime in 1952 and 1953. The Informations were filed in 1962, or more than eight years from the date of the alleged commission of the crimes. The accused in *Terrado* argued that the charges against them have prescribed because they constituted violations of Section 129[67] of Commonwealth Act No. (CA) 141, as amended, which states that any person who submits such false affidavits "shall be deemed guilty of *perjury* and punished as such." They contended that Section 1 of Act No. 3326 must therefore be applied, which would make the charges against them prescribe in eight years from the alleged commission of the offense.

In resolving *Terrado* and holding that the crimes charged against therein accused have prescribed, the Court was guided by the well-established rule that penal statutes must be strictly construed against the State and liberally in favor of the accused. Because the charges in *Terrado* were covered by both the RPC and Section 129 of CA 141, a special law without its own prescriptive period for the crimes charged, the Court had to examine the provisions on prescription of both the RPC and Act No. 3326, identify which provisions of law provided the shortest prescriptive period, and apply the latter because it was the most favorable to the accused, *viz.*:

> Falsification of public documents is punishable by *prision mayor* and a fine not to exceed ₱5,000.00. *Prision mayor* is an afflictive penalty, and hence, prescribes in 15 years. Perjury, upon the

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65 *People v. Moran*, 44 Phil. 387, 394-401 (1923); *People v. Reyes*, 256 Phil. 1015, 1027 (1989); *People v. Pacificador*, 406 Phil. 774, 784 (2001).

66 211 Phil. 1 (1983).

67 Section 129 of CA 141 reads:
Sec. 129. Any person who presents or causes to be presented, or cooperates in the presentation of, any false application, declaration, or evidence, or makes or causes to be made or cooperates in the making of a false affidavit in support of any petition, claim, or objection respecting lands of the public domain, shall be deemed guilty of perjury and punished as such.

> other hand, is punishable by *arresto mayor* in its maximum period to *prision correccional* in its minimum period, or from four (4) months and one (1) day to two (2) years and four (4) months, which is correctional in nature, and prescribes in ten (10) years. However, Public Act No. 3326, as amended by Act 3585 and Act 3763, provides that "violations penalized by special laws shall, unless otherwise provided in such acts, prescribe in accordance with the following rules: x x x (c) after eight years for those punished by imprisonment for two years or more, but less than six years; x x x", so that perjury which is punishable by imprisonment of from four (4) months and one (1) day to two (2) years and four (4) months prescribes after eight years.
>
> Penal statutes, substantive and remedial or procedural are, by consecrated rule, to be strictly applied against the government and liberally in favor of the accused. *As it would be more favorable to the herein accused to apply Section 129 of Commonwealth Act 141 and Act 3326, as amended, in connection with the prescriptive period of the offenses charged, the same should be applied.* Considering, therefore, that the offenses were alleged to have been committed during the period from May 15, 1952 to February 2, 1953, with respect to Criminal Case No. 7613; from May 28, 1952 to August 18, 1952, with respect to Criminal Case No. 7614; and from November 16, 1951 to February 21, 1952, with respect to Criminal Case No. 7615, and the informations were filed only on March 13, 1962, or more than eight (8) years after the said offenses were allegedly committed, the lower court correctly ruled that the crimes in question had already prescribed.[68] (Italics ours)

Here, Cyber Libel is penalized under Section 4(c)(4) of RA 10175, but the same section of the law also refers to Article 355 of the RPC to define the prohibited act. Following *Terrado*, either Section 1, Act No. 3326 or Article 90 of the RPC may be applied to determine the prescriptive period of Cyber Libel; as between the two, the law that sets the *shorter* period for prescription and the more favorable to the accused must be applied. Considering that Article 90 of the RPC provides the shorter prescriptive period at *only one year* and is therefore more favorable to the accused, it should prevail over the application of Act No. 3326, which would make Cyber Libel prescribe in 12 years.

II.C. Paragraph 4, Article 90 of the RPC is controlling, making the crime of Cyber Libel prescribe in one year; thus, the ruling in Tolentino must be abandoned.

Article 90 of the RPC provides the prescriptive period for the crimes covered thereby. It states:

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[68] *People v. Terrado*, *supra* note 66, at 5–6.

> ART. 90. *Prescription of crimes.* — Crimes punishable by death, *reclusión perpetua* or *reclusión temporal* shall prescribe in twenty years.
>
> Crimes punishable by other afflictive penalties shall prescribe in fifteen years.
>
> Those punishable by a correctional penalty shall prescribe in ten years; with the exception of those punishable by *arresto mayor*, which shall prescribe in five years.
>
> The crime of libel or other similar offenses shall prescribe in one year.
>
> The offenses of oral defamation and slander by deed shall prescribe in six months.
>
> Light offenses prescribe in two months.
>
> When the penalty fixed by law is a compound one, the highest penalty shall be made the basis of the application of the rules contained in the first, second and third paragraphs of this article.

The parties in the present case disagree on which provision of Article 90 of the RPC must be applied in setting the prescriptive period of Cyber Libel.

On the one hand, the OSG posits that paragraph 2, Article 90 of the RPC governs because the penalty for Cyber Libel is afflictive under Article 25[69] of the RPC in relation to Section 6 of RA 10175, which increased the penalty for Cyber Libel by one degree than that prescribed by the RPC, or to *prision correccional* in its maximum period to *prision mayor* in its minimum period. Significantly, the Court reached the same conclusion in *Tolentino* when it declared that Cyber Libel prescribes in 15 years.

On the other hand, Causing argues that paragraph 4, Article 90 of the RPC must be applied because it clearly states that the "crime of libel or other similar offenses shall prescribe in one year." He insists that Cyber Libel, being the same crime of Libel under Articles 353 and 355 of the RPC, is covered by the foregoing provision.

The Court agrees with Causing and abandons the *Tolentino* doctrine on the prescriptive period of Cyber Libel. To emphasize, what governs the prescription of Cyber Libel is paragraph 4, *not* paragraph 2, of Article 90 of the RPC. Hence, the crime of Cyber Libel prescribes in one year.

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[69] *Rollo*, pp. 394-395.

First, paragraph 4, Article 90 of the RPC must be given its literal and plain meaning: the crime of Libel shall prescribe in one year. This provision must therefore determine the prescriptive period of Cyber Libel, consistent with the Court's finding that Section 4(c)(4) of RA 10175 is the same crime of Libel under Article 355 of the RPC when it is committed through a computer system.

Indeed, laws are presumed to have been passed with deliberation and full knowledge of all statutes existing on the subject.[70] By referencing Article 355 of the RPC in RA 10175, the lawmakers are presumed to know all laws bearing on Libel, including the applicable provisions of the RPC on the period for its prescription. Had it been the intention of the Legislature to exclude Cyber Libel from the crime of "libel" in paragraph 4, Article 90 of the RPC, it would have used the appropriate language to do so, but it did not.[71] The absence of any such amendatory or exclusionary clause warrants the conclusion that the Legislature did not intend to create a prescriptive period for Cyber Libel that is different from what is already provided in Article 90 of the RPC for Libel under Article 355 of the same Code.[72]

Second, it is an elementary rule in statutory construction that a special and specific provision of law prevails over a general provision of the same law irrespective of their relative position in the statute (*Generalia specialibus non derogant*).[73] Where there is, in the same statute, a particular enactment and also a general one which in its most comprehensive sense would include what is embraced in the former, the particular enactment must be operative, and the general enactment must be taken to affect only such cases within its general language as are not within the provisions of the particular enactment.[74] This rule has been applied by the Court in fixing the prescriptive period for an action for breach of warranty,[75] for a response to be filed in deficiency tax

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70 *Sps. Recaña, Jr. v. Court of Appeals*, 402 Phil. 26, 35 (2001), citing *City of Gov't of San Pablo, Laguna v. Hon. Reyes*, 364 Phil. 842, 853 (1999).

71 See *South African Airways v. Commissioner of Internal Revenue*, 626 Phil. 566, 572–573 (2010).

72 See *Gayo v. Verceles*, 492 Phil. 592, 601–602 (2005), citing *Commission on Audit of the Province of Cebu v. Province of Cebu*, 422 Phil. 519, 529–530 (2001).

73 *Commissioner of Internal Revenue v. Yumex Philippines Corp.*, G.R. No. 222476, May 5, 2021, citing *Commissioner of Customs v. Court of Tax Appeals*, 232 Phil. 641, 645–646 (1987).

74 *Id.*

75 In *ANQ Construction Corporation v. Ultra Petronne Interior Supply Corporation*, G.R. No. 251944 (Notice), September 30, 2020, the prescriptive period to file an action for breach of warranty in a contract of sale was fixed by the Court by applying the six-months period under Article 1571 of the Civil Code instead of the ten-year prescriptive period under Article 1144 of the same Code, since the former is the specific provision of law governing breach of warranty in contracts of sale.

assessment cases,[76] and for the duration of a contract.[77]

In the present case, a perusal of Article 90 of the RPC readily shows that paragraph 2 thereof is a general provision on prescription of crimes punishable by afflictive penalties, while paragraph 4 specifically governs Libel or other similar offenses. Applying the foregoing rule on statutory construction, paragraph 4, Article 90 of the RPC indisputably prevails over paragraph 2 thereof in setting the prescriptive period of Cyber Libel.

Third, the history of the prescriptive period of Libel under Article 90 of the RPC discloses the Legislature's intent to set it apart from other crimes punishable with a correctional penalty. When the RPC was passed, the prescriptive period of Libel was two years. Congress further reduced the period by passing RA 4661,[78] which amended Article 90 of the RPC to specifically *shorten* the prescriptive period of Libel and other similar offenses from two years to one year.

Significantly, the Court has held that the prescription of a crime is intimately connected with and depends upon the gravity of the offense.[79] Hence, a reduction or shortening of the prescriptive period "implies an acknowledgment on the part of the sovereign power that the greater severity of the former statute relative to the substances of the criminal action is unjust."[80] Excepting Libel from the general 10-year prescriptive period for other crimes with correctional penalties may therefore be taken as an acknowledgment by the Legislature that it is "less grave" compared to other crimes at the same penal scale.[81]

In addition, as aptly pointed out by Associate Justice Maria Filomena D. Singh, RA 4661, which originated from House Bill No. 1037 (HB 1037), was enacted by the Legislature to synchronize the prescriptive period of Libel with the one-year prescriptive period of civil actions for defamation under Article 1147[82] of the Civil Code.[83] Apart from this, Senator Lorenzo Tañada, who sponsored HB 1037, mentioned that a

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76 In *Commissioner of Internal Revenue v. Yumex Philippines Corp.*, *supra* note 73, the Court held that the specific provision of a revenue regulation on the period for a taxpayer to submit its response to a preliminary assessment notice from receipt thereof prevails over a general provision of the same regulation on constructive service.

77 In *Betts v. Matias*, 186 Phil. 292, 297 (1980), the Court mentioned that in a lease where a period has not been fixed, Article 1687 of the Civil Code, being the specific provision on contracts of lease, prevails over Article 1197 of the same Code, a general provision on obligations.

78 Entitled "An Act Shortening the Prescriptive Period for Libel and other Similar Offenses, Amending for the Purpose Article Ninety of the Revised Penal Code," approved on June 18, 1966.

79 *People v. Moran*, *supra* note 65.

80 *Id.* at 410. See also *People v. Maceda*, 73 Phil. 679, 681 (1942), where it was held that the prescriptive period for oral defamation was shorter because a verbal insult is forgotten as soon as the heat of passion subsides.

81 *People v. Yu Hai*, 99 Phil. 725, 727–728 (1956).

82 Article 1147. The following actions must be filed within one year:
(1) For forcible entry and detainer;
(2) For defamation.

83 Separate Concurring Opinion (Justice Singh), pp. 5–6. See also Congressional Records on the Second Reading of House Bill No. 1037 dated May 12, 1966, Vol. I, No. 66, pp. 2587 and 2591.

shorter prescriptive period for Libel will especially benefit the members of the press by allowing them to "discharge their functions better."[84] These very same rationales remain true to this day and equally apply to the prescriptive period of Cyber Libel.

Given the foregoing, the Court cannot subscribe to the classification of Cyber Libel as a crime punishable with an afflictive penalty under paragraph 2, Article 90 of the RPC that would increase its prescriptive period to 15 years. Such interpretation disregards the clear intent of the lawmakers to set Libel apart from the general class of crimes punishable with afflictive or correctional penalties. Absent any amendment of the statute clearly raising the prescriptive period of Cyber Libel, or an enactment on the prescription of said crime that is different from that provided in paragraph 4, Article 90 of the RPC, the Court must apply the latter.

Finally, it bears repeating that in interpreting statutory provisions on the prescription of crimes, what is more favorable to the accused must be adopted.[85] Hence, when there are several conflicting provisions of the RPC in classifying the penalty for a felony as light, correctional, or afflictive, in relation to Article 90 of the same Code, the Court must adopt the interpretation of the law that sets the shortest prescriptive period.[86] In the present case, consistent with the foregoing principle of liberality in favor of the accused, there is no doubt that paragraph 4, Article 90 of the RPC prevails over paragraph 2 thereof as the latter would make Cyber Libel prescribe in 15 years instead of just one.

II.D. Pursuant to Article 91 of the RPC, the crime of Cyber Libel prescribes in one year from its discovery by the offended party, the authorities, or their agents.

In determining when the one-year prescriptive period of Cyber Libel should be reckoned, reference must be made to Article 91 of the

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84 Congressional Records on the Second Reading of House Bill No. 1037 dated May 12, 1966, Vol. I, No. 66, p. 2588.

85 *People v. Moran*, *supra* note 65; *People v. Reyes*, *supra* note 65; *People v. Pacificador*, *supra* note 65.

86 In *People v. Yu Hai*, *supra* note 81, the accused was charged with a violation of Article 195 of the RPC, where the prescribed penalty is *arresto menor* or a fine not exceeding 200 pesos, or both. Under Article 9 of the RPC, the penalty in relation to *arresto menor* is light; however, based on the imposable fine, the penalty is correctional under Article 26 of the RPC. The Court applied Article 9 of the RPC because it is most favorable to the accused, *viz.*:
Finally, criminal statutes are to be strictly construed against the government and liberally in favor of the accused. As it would be more favorable to the herein accused to apply the definition of "light felonies" under Article 9 in connection with the prescriptive period of the offense charged, the same should be followed. Under Article 90, the offense charged, being a light offense, prescribed in two months. As it was allegedly committed on June 26, 1954 and the information filed only on October 22, 1954, the lower court correctly ruled that the crime in question has already prescribed.

RPC,[87] which sets forth the rule on the computation of prescriptive period of offenses:

> ART. 91. *Computation of Prescription of Offenses.* — The period of prescription shall commence to run from the day on which the crime is discovered by the offended party, the authorities, or their agents, and shall be interrupted by the filing of the complaint or information, and shall commence to run again when such proceedings terminate without the accused being convicted or acquitted, or are unjustifiably stopped for any reason not imputable to him.
>
> The term of prescription shall not run when the offender is absent from the Philippine Archipelago.

Despite the foregoing provision of law, a review of jurisprudence reveals conflicting decisions on when the prescriptive period of Libel is to be reckoned.

In earlier cases, the discovery rule was adopted by the Court. In *Alcantara v. Amoranto*[88] (*Alcantara*), it was held that the period to file a *civil* action for written defamation commences on the date that the crime is discovered, as provided in the RPC. The Court explained that "the libelous matter must first be exhibited to the person libeled before the action could be brought"[89] because the person defamed "could hardly be expected to institute the proceedings for damages arising from libel when he has no knowledge of the said libel."[90] In *Alcantara*, the libelous letter was published on October 23, 1955, but the contents thereof came to the knowledge of the offended party only on January 6, 1956. Hence, the action for Libel therein was timely filed on January 5, 1957, within the one-year prescriptive period counted from discovery of the crime.

The prescriptive period was also reckoned from discovery in *Inciong v. Tolentino*,[91] where the criminal action for Libel filed on May 23, 1954 was held to have been filed beyond the one-year prescriptive period because the offended party received the purportedly libelous material on October 8, 1952.[92]

Subsequently, several cases were decided by the Court where the prescriptive period of Libel commenced on the *date of the publication* of the libelous remarks. In *People v. Hon. Gines*[93] (*Gines*), the period was

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87 *Brillante v. Court of Appeals*, 483 Phil. 568 (2004).
88 107 Phil. 147 (1960).
89 *Id.* at 150.
90 *Id.*
91 106 Phil. 207, 210 (1959).
92 *Id.* at 210.
93 274 Phil. 770, 777 (1991).

counted from the date of the publication of the allegedly libelous newspaper, although the Court ruled that based on Article 91 of the RPC, "the prescriptive period commences to run from the day following the commission of the offense *or* discovery by the offended party, the authorities or their agents, and is interrupted by the filing of the complaint or information." In *Gines*, the criminal complaint filed on September 25, 1987 was deemed time-barred as it was filed more than one year from the date of the publication of the purportedly libelous newspaper on August 3, 1986.

Similarly, in *Syhunliong v. Rivera*[94] (*Syhunliong*), prescription was counted on the date when the allegedly libelous text message was sent to a third party. In that case, the criminal complaint for libel was dismissed on the ground of prescription because it was filed only on April 16, 2007, or more than one year from the date when the supposed libelous text message was sent on April 6, 2006.

Other cases decided by the Court counted the one-year prescriptive period of Libel from the date of publication in holding that the criminal proceedings therein were not time-barred. In *Hon. Calderon-Bargas v. RTC of Pasig, Metro Manila, Br. 162*,[95] prescription was deemed to commence from the date of the publication of the allegedly libelous newspaper. In *Sr. Arambulo v. Hon. Laqui*,[96] the period of prescription for a criminal action for Libel started to run on the date when the accused circulated the letter containing the malicious imputations against the private complainant.

Upon a careful evaluation of the foregoing cases, the Court holds that the prescriptive period of Libel under Article 355 of the RPC and Cyber Libel under Section 4(c)(4) of RA 10175, in relation to Article 355 of the RPC, must be counted *from the day on which the crime is discovered* by the offended party, the authorities, or their agents. The Court affirms its ruling in *Alcantara* that prescription is counted from discovery of the published libelous matter by the offended party, the authorities, or their agents, because they could hardly be expected to institute criminal proceedings for Libel without prior knowledge of the same. This is more in keeping with Article 91 of the RPC.

The prescriptive period may be reckoned from the publication of the libelous matter *only when* it coincides with the date of discovery by the offended party, the authorities, or their agents. Verily, although *Gines* and *Syhunliong* reckoned prescription from the date of publication, the

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[94] 735 Phil. 349, 362–363 (2014).
[95] 297 Phil. 983 (1993).
[96] 396 Phil. 914 (2000)

offended parties in the said cases did not allege a later date of discovery different from the publication date. It thus appears that in these two cases, the publication and discovery dates are one and the same, or, at the very least, have been impliedly admitted to be the same by the offended parties therein.

III. The prescription of the Cyber Libel charges against Causing is a question of fact to be determined by the RTC after hearing the parties thereon.

With the foregoing disquisition, the Court holds that despite the RTC's erroneous application of the laws to determine the period of prescription of Cyber Libel, it was nevertheless correct in denying the Motion to Quash.

The Court's conclusion is based on the rule that prescription is a matter of defense and the Prosecution need not even anticipate or meet it in the Informations.[97] Unless prescription is *apparent* on the face of the Information, the accused bears the burden to prove that the crime has prescribed.[98] Thus, the matter of prescription requires the presentation of evidence and when necessary, the trial court must set a hearing thereon.[99]

In the present case, Causing sought the quashal [100] of the Informations by computing prescription from the date of publication or posting of the allegedly libelous remarks on Facebook as alleged in the Informations, *i.e.*, on February 4, 2019 and April 29, 2019, respectively. Notably, he did *not* attach any affidavit, document, or other evidence in support of his allegation that the two counts of Cyber Libel charged against him have prescribed. Instead, the Motion to Quash relied *solely* on the date of publication of the allegedly libelous Facebook posts as provided in the Informations, in relation to the filing date of the Complaint-Affidavit of Hernandez with the OCP Quezon City.

However, as earlier discussed, the prescriptive period of Cyber Libel commences from the day when the crime was discovered by the offended party, the authorities, or their agents. In this regard, the records bear that the prescription of the two counts of Cyber Libel charged against Causing is not apparent on the face of the Informations because the dates of discovery are not stated therein.

Given the situation, Causing bore the burden to prove that the two

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97 *People v. Tierra*, 120 Phil. 1461, 1466 (1964).
98 *People v. Monteiro*, 270 Phil. 665, 670 (1990); *Romualdez v. Hon. Marcelo*, 507 Phil. 727 (2005).
99 *Romualdez v. Hon. Marcelo*, *supra*, at 741.
100 *Rollo*, pp. 95–113.

counts of Cyber Libel charged against him have prescribed. Thus, he should have attached evidence in support of this defense in his Motion to Quash to prove prescription. Absent such evidence, the Court must affirm the RTC's denial of the Motion to Quash, as the trial court could not have determined the prescription of the crimes charged based only on the Informations that are bereft of any statement on the date of discovery of the purportedly libelous Facebook posts. Neither could it have simply presumed that the dates of discovery coincided with the dates of publication without any proof thereon.[101]

It would have been different had Causing attached the supporting evidence to his Motion to Quash. In such a case, given that the discovery date and prescription do not appear of record, the trial court could have set the Motion to Quash for hearing so that the evidence may be examined and the parties heard thereon, in accordance with Section 8,[102] Rule 133 of the Rules of Court.[103] Considering that this is not the case, the RTC did not commit any error in denying the Motion to Quash, setting the Cyber Libel Cases for arraignment and pre-trial, and proceeding with trial.

Notably, in denying the Motion to Quash, the RTC ruled that Hernandez filed his Complaint-Affidavit with the OCP Quezon City on December 17, 2020,[104] *just a few weeks* from the alleged *date of discovery* of Causing's defamatory Facebook posts.[105] The RTC's findings are based on: *first*, the statements of Hernandez in his Complaint-Affidavit, wherein he asserted that he only "recently discovered" the purportedly libelous remarks of Causing in Facebook at the time of filing of the case;[106] and *second*, the printouts of the Facebook posts attached to Causing's Complaint-Affidavit, which were allegedly "last accessed" on October 5, 2020,[107] or a little over two (2) months before the case was filed with the OCP Quezon City.

Significantly, Causing has been arraigned on November 24, 2021.[108] Considering that the accused in a criminal case does not waive the defense of prescription despite arraignment in light of Article 89[109] of

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101 *People v. Monteiro*, *supra* note 98.

102 Section 8, Rule 133 of the Rules of Court provides:
Section 8. *Evidence on motion.* — When a motion is based on facts not appearing of record, the court may hear the matter on affidavits or depositions presented by the respective parties, but the court may direct that the matter be heard wholly or partly on oral testimony or depositions.

103 *People v. Monteiro*, *supra* note 98, at 669–670.

104 It must be noted, however, that the Complaint-Affidavit of Hernandez bears the date of December 16, 2020 and subscribed to under oath before the OCP Quezon City on said date. (*Rollo*, pp. 210–219)

105 *Id.* at 198.

106 *Id.* at 210.

107 *Id.* at 210–211.

108 *Id.* at 194.

109 Article 89 of the RPC provides:
Article 89. *How criminal liability is totally extinguished.* — Criminal liability is totally extinguished:
x x x x
5. By prescription of the crime[.]

the RPC, which expressly states that criminal liability is *totally extinguished* by the prescription of the crime,[110] Causing may continue to prove that the crimes charged against him have prescribed by presenting his evidence thereon during trial on the merits with the RTC. To emphasize, whether the Cyber Libel charges against Causing have prescribed is a factual matter to be resolved by RTC and on which, the Court makes no conclusions at this time. Nevertheless, to resolve this issue, the RTC must compute the prescriptive period of the charges of Cyber Libel against Causing based on the Court's pronouncements in the present case by applying paragraph 4, Article 90 and Article 91 of the RPC, *i.e.*, within one year from discovery of the allegedly libelous Facebook posts by Hernandez, the authorities, or their agents.

As a final point, the Court is aware of its earlier *dictum* in *Disini*,[111] where it recognized the greater perversity of crimes committed through or with the use of ICT, given that such technology allows offenders to perpetrate their crimes across national boundaries, with a larger audience and far more victims, all with the advantage of anonymity. Because of substantial distinctions between traditional crimes and cybercrimes, the Court upheld the constitutionality of Section 6 of RA 10175, which makes the use of ICT a qualifying circumstance in the commission of a crime punished under the RPC, including Libel.

Notwithstanding the foregoing, there is nothing in RA 10175 or any other enactment by the Legislature that amends the prescriptive period of Libel through or with the use of a computer system or ICT. Without the same, the Court can only apply and interpret the existing laws on the subject. A prescriptive period of Cyber Libel longer than what is provided in paragraph 4, Article 90 of the RPC is something for the Legislature, not this Court, to address.

It is also not amiss to point out that the present case has again brought to the fore the continuing debate against criminal libel *vis-à-vis* a basic principle of criminal law, *i.e.*, that a crime is an offense against the State concerning matters of public - *not of private* - interests.[112] Indeed, many have lobbied for the limitation of actions for libel and defamation to *civil actions* only, upon the argument that these crimes concern only the private interest of an individual over his or her reputation. Verily, while libel was initially criminalized due to its tendency to breach the peace, the modern view has ignored this aspect altogether and made "a libelous publication criminal if its tendency is to injure the person defamed, *regardless of its effect upon the public*."[113] Changing societal mores have thus forwarded the decriminalization of libel because penal sanctions must be reserved for "harmful behavior which exceptionally disturbs the *community's sense of*

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[110] Section 9, Rule 117 of the Rules of Court; See *Syhunliong v. Rivera*, *supra* note 94; *People v. Castro*, 95 Phil. 462, 764 (1954).

[111] *Disini v. Secretary of Justice*, *supra* note 32.

[112] *Merciales v. Court of Appeals*, 429 Phil. 70 (2002); *U.S. v. Go Chico*, 14 Phil. 128 (1909).

[113] *People v. Del Rosario*, 86 Phil. 163 (1950).

security," and personal calumny does not fall into this category.[114]

In addition, criminal libel is historically rooted in the State's concern with the prevention of sedition and the avoidance of speech that "engender hatred of the king or his government."[115] While a monarch indisputably had the absolute power to suppress political speech for being "libelous," many have raised doubts if the same could withstand our present democratic and liberal system of governance, where power is lodged in the people and public discussion is not merely encouraged but considered a *political duty* of the populace.[116] Certainly, in a democracy, "it is as much [the people's] duty to criticize as it is the official's duty to administer."[117]

Thus, when it comes to political speech and the criticism of those who occupy public office, repression cannot be justified even when the utterance may include half-truths and misinformation, *unless* the regulation passes the clear and present danger test *and* the utterer acted with knowledge that the statement was false or with reckless disregard of its probable falsity.[118] Also, *both* criminal and civil actions for libel were considered impermissible repression, for whether by fear of imprisonment in a criminal case or fear of pecuniary loss arising from liability for damages in a civil case, the resulting self-censorship and repression of political speech is equally achieved.[119] Libertarians further insist that political speech of the populace must enjoy the same immunities from suit enjoyed by members of the Congress and the President during their tenure.[120] To these advocates, withholding a *fair equivalent* of such immunity to the political speech of the citizenry would result in an absurd situation where public servants are granted unjustified preference over the very public whom they must serve.[121]

Still, the Court reiterates its ruling in *Disini* that "libel is not a protected speech."[122] While an honest utterance, even when inaccurate, may further the fruitful exercise of the right of free speech, a lie that is knowingly and deliberately published about a public official does not enjoy immunity.[123] Such calculated falsehoods or statements in reckless disregard of their probable falsity "are no essential part of any exposition

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114 See *Garrison v. Louisiana*, 379 U.S. 64, 70 (1964), citing the 10th draft of the Model Penal Code, and *Counterman v. Colorado*, 600 U.S. ___ (2023) [Concurring Opinion (J. Sotomayor)].

115 *Ashton v. Commonwealth*, 405 S.W.2d 562, 567-68 (Ky. Ct. App. 1966); *State v. Hoskins*, 62 N.W. 270, 60 Minn. 168 (1895).

116 See *Whitney v. California*, 274 U.S. 357, 375 (1927) [Concurring Opinion (J. Brandeis)] and *Brandenburg v. Ohio*, 395 U.S. 444 (1969) [Concurring Opinion (J. Douglas)]. See also *Counterman v. Colorado*, 600 U.S. ___ (2023) [Concurring Opinion (J. Sotomayor)], where the virtual disappearance of criminal prosecutions for libel in the United States was regarded as salutary.

117 *New York Times Co. v. Sullivan*, 376 U.S. 254, 282 (1964).

118 *Id.* at 273; See also *Counterman v. Colorado*, 600 U.S. ___ (2023). In her Concurring Opinion, in *Counterman v. Colorado,* Justice Sotomayor clarified that in civil action for libel, "the defendant must have made the false publication with a high degree of awareness of probable falsity or must have entertained serious doubts as to the truth."

119 *New York Times Co. v. Sullivan*, 376 U.S. 254, 277–280 (1964).

120 See Section 11, Article VI of the 1987 Constitution and *De Lima v. Duterte*, 865 Phil. 578 (2019).

121 *New York Times Co. v. Sullivan*, 376 U.S. 254, 282–283 (1964).

122 *Disini v. Secretary of Justice*, *supra* note 33, at 739.

123 *Garrison v. Louisiana*, 379 U.S. 64, 75–76 (1964).

of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality."[124]

Ultimately, the continuing recognition of criminal libel is a prerogative of the Legislature.[125] Just like with the prescriptive period of Libel and Cyber Libel, only Congress can lift the continuing recognition of criminal libel, and as long as it operates within the bounds of the Constitution, the Court's duty is to apply it.[126]

WHEREFORE, the Petition is **DENIED**. The Order dated October 5, 2021, and Order dated November 15, 2021, of Branch 93, Regional Trial Court, Quezon City in Criminal Cases Nos. R-QZN-21-04099 and R-QZN-21-04100 are hereby **AFFIRMED**.

SO ORDERED.

HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

JAPAR B. DIMAAMPAO
Associate Justice

MARIA FILOMENA D. SINGH
Associate Justice

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124 *Id.*, citing *Chaplinsky v. New Hampshire*, 315 U. S. 568 (1942).

125 See *Beuharnais v. Illinois*, 343 U.S. 250 (1952), where the US Supreme Court recognized the power of a state to enact laws against malicious defamation.

126 See *People v. Leachon, Jr.*, 357 Phil. 165 (1998).

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.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third 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.

ALEXANDER G. GESMUNDO
Chief Justice