

THIRD DIVISION

G.R. No. 258524 – BERTENI CATALUÑA CAUSING, *petitioner, versus* 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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SEPARATE CONCURRING OPINION

SINGH, J.:

I concur with the *ponencia* that the crime of Cyber Libel prescribes in one (1) year. This interpretation is consistent with the intent of the legislature in setting a specific prescriptive period for libel and other similar crimes.

The crime of libel is defined under Article 353 of the Revised Penal Code (RPC), as follows:

Article 353. *Definition of libel.* — A libel is **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. (Emphasis supplied)

On the other hand, Article 355 of the RPC penalizes libel committed by means of writings or “similar means,” thus:

Article 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 *prision correccional* in its minimum and medium periods or a fine ranging from 200 to 6,000 pesos, or both, in addition to the civil action which may be brought by the offended party.



In 2012, Republic Act (R.A.) No. 10175,¹ or the Cybercrime Prevention Act of 2012, was enacted into law. This statute specifically added Cyber Libel as one of the means of committing libel under Article 355 of the RPC.

SEC. 4. *Cybercrime Offenses.* — The following acts constitute the offense of cybercrime punishable under this Act:

....

(c) Content-related Offenses:

....

(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. (Emphasis supplied)

In *Disini v. Executive Secretary*,² the Court *En Banc* ruled that Cyber Libel is not a new crime as it was already punished under Article 353, in relation to Article 355, of the RPC.

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.**³ (Emphasis supplied)

However, in *Peñalosa v. Ocampo*,⁴ the Court held that the phrase “similar means” under Article 355 of the RPC does not include Cyber Libel:

Reading Article 355 of the Revised Penal Code, “similar means” could not have included “online defamation” under the statutory construction rule of *noscitur a sociis*. Under this rule, “where a particular word or phrase is ambiguous in itself or is equally susceptible to various meanings, its correct construction may be made clear and specific by considering the company of words in which it is founded or with which it is associated.”

....

To make cyber libel punishable under Article 355 of the Revised Penal Code is to make a penal law effective retroactively but unfavorably to the accused. This is contrary to Article 22 of the Revised Penal Code,

¹ Approved on September 12, 2012.

² 727 Phil. 28 (2014).

³ Id. at 114–115.

⁴ G.R. No. 230299, April 26, 2023.

which states that “[p]enal laws shall have a retroactive effect insofar as they favor the person guilty of a felony[.]”⁵ (Citation omitted)

Based on the foregoing discussion, R.A. No. 10175 merely recognized an additional means for committing libel. Considering that libel is broadly defined as a “public and malicious imputation,” it covers other libelous statements committed by any means other than those enumerated in Article 355 of the RPC. However, the requirement of publicity must be complied with. In this regard, the publicity requirement in libel has been discussed by the Court in *Manila Bulletin Publishing Corporation v. Domingo*,⁶ as follows:

There is publication if the material is communicated to a third person. It is not required that the person defamed has read or heard about the libelous remark. What is material is that a third person has read or heard the libelous statement, for “a man’s reputation is the estimate in which others hold him, not the good opinion which he has of himself.” Simply put, in libel, publication means making the defamatory matter, after it is written, known to someone other than the person against whom it has been written. “The reason for this is that [a] communication of the defamatory matter to the person defamed cannot injure his reputation though it may wound his self-esteem. A man’s reputation is not the good opinion he has of himself, but the estimation in which others hold him.”⁷ (Emphasis supplied; citations omitted)

Based on the above definition of “publication,” making malicious imputations online, when the same are read or heard by third persons, fall under the broad definition of libel. However, prior to the enactment of R.A. No. 10175, libel committed online was not criminally punishable under Article 355 of the RPC because it is not covered by the phrase “any similar means.”⁸

Further, unlike the other unlawful acts originally or previously covered by Article 355 of the RPC, a higher penalty was imposed against Cyber Libel under R.A. No. 10175:

SEC. 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.** (Emphasis supplied)

However, R.A. No. 10175 is silent as to the prescriptive period for Cyber Libel. An issue now arises as to the correct prescriptive period for this crime.

⁵ *Id.*

⁶ 813 Phil. 37 (2017).

⁷ *Id.* at 56–57.

⁸ See *Peñalosa v. Ocampo*, G.R. No. 230299, April 26, 2023.



Did the Congress, in imposing a higher penalty for Cyber Libel as compared to the other means of committing libel, intend to likewise lengthen the prescriptive period for Cyber Libel? As correctly found in the *ponencia*, the Congress did not intend to do so.

The prescription of crimes punishable under the RPC is provided for under Article 90:

Article 90. *Prescription of crime.* — Crimes punishable by death, *reclusion perpetua* or *reclusion 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 crime 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. (Emphasis supplied)

Based on the provision, the prescription of crimes is generally directly proportional to the prescribed penalties for said crimes. Considering that the penalty for online or cyber libel is *prision mayor*, which is one degree higher than that provided under Article 355 of the RPC, it may be argued that the prescriptive period for this crime should be fifteen (15) years.

However, it is notable that the legislature provided a special rule with respect to the prescription of libel or other similar offenses, oral defamation, and slander. Notwithstanding the fact that libel committed by any of the means enumerated in Article 355 of the RPC is punishable by *prision correccional* in its minimum and medium periods, the same only has a prescriptive period of one (1) year.

It appears, therefore, that the legislature specifically exempted libel from the general rule that the prescription of crimes is directly proportional to the prescribed penalties. To resolve this issue, there is a need to look at the intent of the lawmakers in setting the prescriptive period for libel to one (1) year. It is a cardinal rule in statutory construction that where there is ambiguity, *ratio*



legis est anima. The words of the statute should be interpreted in accordance with the intent of its framers.⁹

A review of the records of the Senate and the House of Representatives, in relation to R.A. No. 4661,¹⁰ which shortened the prescriptive period for criminal libel from two (2) years to one (1) year, reveals that the specific intent of the lawmakers in enacting such measure was to harmonize it with the Civil Code provision on the prescriptive period for civil actions for defamation, which is also one (1) year.¹¹

The Explanatory Note for House Bill (H.B.) No. 1037, which later became R.A. 4661, states:

Situations are quite common where an information for the crime of libel is filed in court one year after its commission but before the expiration of two years. The theory is that civil action for recovery of civil liability is impliedly instituted with the criminal action, which would have prescribed after one year had it been instituted independently, but is nonetheless included in the criminal suit for libel.

This question has nagged lawyers and courts but to date it has not been finally decided. It is imperative that these differences of opinion be set at rest. This can best be accomplished by making the prescriptive period for criminal and civil libel uniform. Two years is quite long and one year is just and reasonable. Newspapers will not have to keep documents supporting their publications for an unnecessarily long period. Such documents, if kept through the years, would be too voluminous, expensive and a fire hazard.

The attached bill proposes, therefore, to shorten the prescriptive period to one year by amending Article 90 of the Revised Penal Code. The foregoing amendment will resolve the doubts presently entertained.¹² (Emphasis supplied)

Also, in his sponsorship speech of H.B. No. 1037, Senator Lorenzo Tañada declared:

Mr. President, House Bill No. 1037 is a very simple measure. It proposes to reduce the period within which criminal action for libel shall be filed.

Under Article 90 of the Revised Penal Code, the crime of libel shall prescribe in two years, whereas under Article 1147 of the New Civil Code, civil action for libel prescribes in one year. It has happened not only once but many times, that a criminal action for libel was

⁹ See *Francisco v. House of Representatives*, 460 Phil. 830 (2003).

¹⁰ 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.

¹¹ CIVIL CODE, art. 1147(2).

¹² House Bill No. 1037 (1966), 6th Congress, 1st Session, Explanatory Note.

instituted after the expiration of one year and the question that confronted the court was whether in that criminal action the court may adjudge in favor of the offended party, civil damages. The question arises precisely because, as I said, under Article 1147, the civil action for libel prescribes in one year.

In order to synchronize the provisions of the New Civil Code and the Revised Penal Code on this simple point, and in order to dispel all sorts of doubt on this matter, House Bill No. 1037 has been presented with a view to amending Article 90 of the Revised Penal Code by reducing the period of prescription of criminal action for libel from two years to one year.

Mr. President, I believe that the bill is simple and the purpose is laudable so that, if there is no other question, I would move for the approval of this bill without amendment.¹³ (Emphasis supplied)

Based on the foregoing, the legislative intent for setting the prescriptive period for the criminal action of libel to one (1) year was to synchronize it with the one-year prescriptive period for instituting a civil action for defamation, notwithstanding the criminal penalty imposed for libel.

I note that R.A. No. 10175 is the latest expression of the legislative will as to the penalty for libel committed online, and by statutory construction principles, it prevails over the RPC, which is a general law. However, it is also noteworthy that, in enacting R.A. No. 10175, the legislature did not impose a prescriptive period for Cyber Libel different from the provisions on prescription of crimes in the RPC, notwithstanding its intent to increase its penalty.

I thus submit that considering the specific intent for the setting of the one-year prescriptive period for criminal action for libel, which is independent of the prescribed penalty, the intent of the legislature in penalizing Cyber Libel did not extend to giving it a prescriptive period different from that provided under the RPC for libel. As such, even if the legislature imposed a higher penalty for Cyber Libel, the same did not change the legislative intent behind the one-year prescriptive period for libel. If the Congress intended to change the same, it would have expressly done so when it enacted R.A. No. 10175. It did not.


MARIA FILOMENA D. SINGH
Associate Justice

¹³ I Record, Senate, 6th Congress, 1st Session (May 12, 1966).