Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

ALEJANDRO C. ALMENDRAS, JR., Petitioner,	**G.R. No. 179491**
	Present:
- versus -	SERENO, *CJ*, Chairperson, LEONARDO-DE CASTRO, BERSAMIN, PEREZ, and PERLAS-BERNABE, *JJ.*
ALEXIS C. ALMENDRAS, Respondent.	Promulgated: JAN 14 2015

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DECISION

SERENO, *CJ:*

We resolve the Petition for Review filed by petitioner Alejandro C. Almendras, Jr., from the 27 January 2006 Decision and 28 August 2007 Resolution of the Court of Appeals (CA) in CA-G.R. CV No. 73088.[1] The CA affirmed the Decision and Order of the Regional Trial Court (RTC) in Civil Case No. 3343[2] finding petitioner liable for damages.

THE FACTS

As culled from the CA, petitioner sent letters with similar contents on 7 February 1996 to House Speaker Jose de Venecia, Jr., and on 26 February 1996 to Dr. Nemesio Prudente, President of Oil Carriers, Inc. The controversial portion of the first and second letters reads as follows:

> This is to notify your good self and your staff that one ALEXIS "DODONG" C. ALMENDRAS, a brother, is not vested with any authority to liaison or transact any business with any department, office, or bureau, public or otherwise, that has bearing or relation with my office, mandates or functions. x x x.

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[1] *Rollo,* pp. 48-57 and 58-59; penned by Associate Justice Edgardo A. Camello, and concurred by Associate Justices Normandie B. Pizarro and Ramon R. Garcia.

[2] Id. at 104-108, 122-123; the RTC Decision dated 19 June 2001 and Order dated 5 October 2001 were penned by Judge Hilario I. Mapayo of RTC Branch 19, Digos City.

> Noteworthy to mention, perhaps, is the fact that Mr. Alexis "Dodong" C. Almendras, a reknown blackmailer, is a bitter rival in the just concluded election of 1995 who ran against the wishes of my father, the late Congressman Alejandro D. Almendras, Sr. He has caused pain to the family when he filed cases against us: his brothers and sisters, and worst against his own mother.
>
> I deemed that his act of transacting business that affects my person and official functions is malicious in purpose, done with ill motive and part of a larger plan of harassment activities to perforce realise his egoistic and evil objectives.
>
> May I therefore request the assistance of your office in circulating the above information to concerned officials and secretariat employees of the House of Representatives.[3]
>
> x x x x

These letters were allegedly printed, distributed, circulated and published by petitioner, assisted by Atty. Roberto Layug, in Digos, Davao del Sur and Quezon City, with evident bad faith and manifest malice to destroy respondent Alexis C. Almendras' good name. Hence, the latter filed an action for damages arising from libel and defamation against petitioner in the Regional Trial Court (RTC), Branch 19, Digos City.

THE RTC RULING

In the course of trial at the lower court, petitioner failed to present any evidence, except his Answer, despite several rescheduling of hearings at his instance.[4] The trial court thus submitted the case for decision, and eventually ruled that respondent was libeled and defamed. For the sufferings, social ridicule, defamation and dishonor caused by petitioner's letters, respondent was awarded damages, as follows: "□5,000,000.00 as moral damages; □100,000.00 as exemplary damages; □10,000.00 for litigation expenses; and attorney's fees in the amount of 25% of whatever amounts actually received by plaintiff for this judgment."[5]

Petitioner moved for reconsideration and/or new trial,[6] but the same was denied by the trial court.[7]

THE CA RULING

On intermediate appellate review, the CA ruled that petitioner was not denied due process. It noted that petitioner was given full opportunity to

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[3] Id. at 97-98.
[4] Id. at 106-107; Atty. Roberto Layug failed to file his Answer, and on motion of respondent's counsel, was declared in default by the trial court.
[5] Id. at 107-108
[6] Id. at 113-118.
[7] Id. at 122-123.

present his evidence, but he vehemently disregarded the proceedings by merely absenting himself from trials without valid excuses. [8]

The appellate court also ruled that the letters were not privileged communications, since petitioner was not acting as a member of the Congress when he sent them. In fact, his letter stated that he extends his "apology for bringing this personal matter in the open." He was, as maintained by the respondent, sending open libelous and unsealed letters, duly published and circulated in Digos, Davao del Sur, and Quezon City.[9] Consequently, the CA upheld the damages awarded by the trial court, the amounts being consistent with the social and financial standing of the parties involved.[10]

We now rule on the final review of the case.

THE ISSUES

From the foregoing, we reduce the issues to the following:

(1) Whether or not petitioner was deprived due process;
(2) Whether or not the letters are libelous in nature;
(3) Whether or not the letters fall within the purview of privileged communication; and
(4) Whether or not respondent is entitled to moral and exemplary damages, attorney's fees and litigation expenses.

OUR RULING

We deny the petition.

Petitioner anchors his appeal on the ground that his letters are covered by privileged communications. He insists that he has the legal, moral, or social duty to make the communication, or at least, had an interest to protect, being then a Congressman duty-bound to insulate his office and his constituents from the dubious and mistrustful pursuits of his elder brother.[11] Moreover, the letters were also not meant to be circulated or published. They were sent merely to warn the individuals of respondent's nefarious activities, and made in good faith and without any actual malice. Respondent's testimony that he learned the existence of the letter from others cannot be countenanced, as no witness corroborated this. At best, it is only hearsay.[12]

On the denial of his motion for reconsideration and/or new trial, he maintains that his own counsel Atty. Leonardo D. Suario categorically admitted that he did not know of petitioner's ailment and thus did not make the proper manifestations in Court. His failure to attend the hearing was not of

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[8] Id. at 51-53.
[9] Id. at 53-55.
[10] Id. at 55-56.
[11] Id. at 16.
[12] Id. at 19-20.

his own volition, but because of his doctor's strict advice since he earlier underwent a quadruple coronary artery bypass at the St. Luke's Medical Center-Heart Institute in Quezon City on 16 July 2001, just a day before the Motion for Reconsideration and/or New Trial was filed. While his counsel represents him, the latter's mistakes should not deprive him of his day in court to present his side.[13]

As to the damages, petitioner avers that since respondent never testified on any suffering he sustained or why he is entitled to them, the same must not be awarded.

On the other hand, respondent asserts that petitioner's letters do not fall within the purview of privileged communication because it was published and read by the secretariat of the House of the Representatives, and not exclusively communicated to persons who have some interest or duty in the matter and who have the power to furnish the protection sought by the author of the statement. Moreover, he was not acting as a member of congress when he sent the letters. The writing of a personal matter (which petitioner admitted in the letters), not relating to the functions of a member of Congress cannot, by any stretch of imagination, be deemed to be privileged and insulated from suit arising therefrom.[14]

Malice has also been sufficiently proven because the language of the letters in fact shows that the writer had some ill-feeling towards the respondent by using the words such as "reknown blackmailer" and "bitter rival." There is sufficient showing that petitioner bore a grudge against the respondent and that there was rivalry or ill-feeling between them.[15]

Anent the damages, respondent believes that they were rightly awarded, taking into consideration his testimony in the lower court,[16] and the financial and social standing of the parties herein.[17]

***First,* we rule that petitioner was not deprived of his right to due process.**

Settled is the rule that a client is bound by the mistakes of his counsel. The only exception is when the negligence of the counsel is so gross, reckless and inexcusable that the client is deprived of his day in court. In such instance, the remedy is to reopen the case and allow the party who was denied his day in court to adduce evidence. However, perusing the case at bar, we find no reason to depart from the general rule.[18]

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[13] Id. at 21-22.
[14] Id. at 65.
[15] Id. at 167.
[16] Id. at 106.
[17] Id. at 168.
[18] *Barza v. Sps. Dinglasan*, 484 Phil. 242 (2004), citing *Villa Rhecar Bus vs. Dela Cruz,* 241 Phil. 14 (1988); *Producers Bank of the Philippines vs. Court of Appeals,* 430 Phil. 812 (2002).

Petitioner was given several opportunities to present his evidence or to clarify his medical constraints in court, but he did not do so, despite knowing full well that he had a pending case in court. For petitioner to feign and repeatedly insist upon a lack of awareness of the progress of an important litigation is to unmask a penchant for the ludicrous. Although he rightfully expected counsel to amply protect his interest, he cannot just sit back, relax and await the outcome of the case. In keeping with the normal course of events, he should have taken the initiative "of making the proper inquiries from his counsel and the trial court as to the status of his case." For his failure to do so, he has only himself to blame.[19] The Court cannot allow petitioner the exception to the general rule just because his counsel admitted having no knowledge of his medical condition. To do so will set a dangerous precedent of never-ending suits, so long as lawyers could allege their own fault or negligence to support the client's case and obtain remedies and reliefs already lost by the operation of law.[20]

***Second,* we find that petitioner's letters are libelous in nature and do not fall within the purview of privileged communication.**

For an imputation to be libelous under Article 353 of the Revised Penal Code, the following requisites must be present: (a) it must be defamatory; (b) it must be malicious; (c) it must be given publicity; and (d) the victim must be identifiable.[21]

Consequently, under Article 354, every defamatory imputation is presumed to be malicious, even if true, if no good intention and justifiable motive is shown. As an exception to the rule, the presumption of malice is done away with when the defamatory imputation qualifies as privileged communication.[22] In order to qualify as privileged communication under Article 354, Number 1,[23] the following requisites must concur: (1) the person who made the communication had a legal, moral, or social duty to make the communication, or at least, had an interest to protect, which interest may either be his own or of the one to whom it is made; (2) the communication is addressed to an officer or a board, or superior, having some interest or duty in the matter, and who has the power to furnish the protection sought; and (3) the statements in the communication are made in good faith and without malice.[24]

Were petitioner's letters defamatory in nature? We believe so.

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[19] *Air Philippines Corporation v. International Business Aviation Services Phils., Inc.,* 481 Phil. 366 (2004), citing *Gold Line Transit, Inc. v. Ramos*, 415 Phil. 492, 504 (2001).
[20] *Building Care Corporation v. Macaraeg*, G.R. No. 198357, 10 December 2012, 687 SCRA 643, citing *Lagua v. Court of Appeals*, G.R. No. 173390, 27 June 2012, 675 SCRA 176; *Panay Railways, Inc. v. Heva Management and Development Corp.*, G.R. No. 154061, 25 January 2012, 664 SCRA 1, 9.
[21] *Diaz v. People*, 551 Phil. 192 (2007), citing *Novicio v. Aggabao*, 463 Phil. 510 (2003).
[22] *Brillante v. Court of Appeals*, 483 Phil. 568 (2004), citing Revised Penal Code, Art. 354, par. 1; Art. 354, par. 2
[23] Revised Penal Code, Art. 354, Number 1 – A private communication made by any person to another in the performance of any legal, moral or social duty.
[24] Supra note 21, citing *U.S. v. Bustos*, 13 Phil 690, 701 (1909).

In determining whether a statement is defamatory, the words used are to be construed in their entirety and should be taken in their plain, natural, and ordinary meaning as they would naturally be understood by the persons reading them, unless it appears that they were used and understood in another sense.[25] In the instant case, the letters tag respondent as a "reknown black mailer," a vengeful family member who filed cases against his mother and siblings, and with nefarious designs. Even an impartial mind reading these descriptions would be led to entertain doubts on the person's character, thereby affecting that person's reputation.

Malice can also be presumed inasmuch as the letters are not privileged in nature. Petitioner's contention that he has the legal, moral or social duty to make the communication cannot be countenanced because he failed to communicate the statements only to the person or persons who have some interest or duty in the matter alleged, and who have the power to furnish the protection sought by the author of the statement. A written letter containing libelous matter cannot be classified as privileged when it is published and circulated among the public.[26] Examination of the letters would reveal that petitioner himself intended for the letters to be circulated (and they were so) when he said that:

> May I therefore request the assistance of your office in circulating the above information to concerned officials and secretariat employees of the House of Representatives.[27]

This lack of selectivity on his part is indicative of malice and is anathema to his claim of privileged communication because such publication created upon the minds of the readers a circumstance which brought discredit and shame to respondent's reputation.[28]

Lastly, having duly proved that all the elements of libel are present in this case, **we rule that the damages awarded by the trial court and affirmed by the appellate court must be modified and equitably reduced.**

In awarding damages in libel cases, the court is given ample discretion to determine the amount, depending upon the facts of the particular case.[29] Article 2219 of the Civil Code expressly authorizes the recovery of moral damages in cases of libel, slander or any other form of defamation. However, "while no proof of pecuniary loss is necessary in order that moral damages may be awarded, x x x it is nevertheless essential that the claimant should satisfactorily show the existence of the factual basis of damages and its causal connection to defendant's acts."[30] Considering that respondent sufficiently

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[25] Supra note 20.
[26] *Buatis, Jr. v. People*, 520 Phil. 149 (2006), citing *Brillante v. Court of Appeals*, 483 Phil. 568 (2004); *Daez v. Court of Appeals*, G.R. No. 47971, 31 October 1990, 191 SCRA 61, 69.
[27] Supra note 3.
[28] Supra note 25, citing *Brillante v. Court of Appeals*, 483 Phil. 568 (2004).
[29] *Philippine Journalists, Inc., v. Thoenen,* 513 Phil. 607 (2005), citing *Guevarra v. Almario* 56 Phil. 476 (1932).
[30] *Mahinay v. Velasquez, Jr.,* 464 Phil. 146 (2004), citing *Kierulf v. Court of Appeals,* 336 Phil. 414 (1997).

justified his claim for damages (*i.e.* he testified that he was "embarrassed by the said letters [and] ashamed to show his face in [sic] government offices"[31]), we find him entitled to moral and exemplary damages.

However, we equitably reduce the amounts[32] awarded because even though the letters were libellous, respondent has not suffered such grave or substantial damage to his reputation to warrant receiving ₱5,000,000 as moral damages and ₱100,000.00 as exemplary damages. In fact, he was able to successfully secure an elected position in recent years. Accordingly, we reduce the award of moral damages from ₱5,000,000 to ₱100,000 and exemplary damages from ₱100,000 to ₱20,000.

The award of attorney's fees is not proper because respondent failed to justify satisfactorily his claim, and both the trial and appellate courts failed to explicitly state in their respective decisions the rationale for the award.[33] It is an accepted doctrine that the award thereof as an item of damages is the exception rather than the rule, and counsel's fees are not to be awarded every time a party wins a suit. The power of the court to award attorney's fees under Article 2208 of the Civil Code demands factual, legal and equitable justification, without which the award is a conclusion without a premise, its basis being improperly left to speculation and conjecture. In all events, the court must explicitly state in the text of the decision, and not only in the decretal portion thereof, the legal reason for the award of attorney's fees.[34] The same is true for the award of litigation expenses because respondent failed to satisfactorily justify his claim.

WHEREFORE, we **DENY** the instant petition. The 27 January 2006 Decision and 28 August 2007 Resolution of the Court of Appeals in CA-G.R. CV No. 73088 are hereby **MODIFIED**, in that: (1) the award of moral damages is reduced from ₱5,000,000 to ₱100,000; (2) the award of exemplary damages is reduced from ₱100,000 to ₱20,000; and (3) litigation expenses and attorney's fees are deleted.

SO ORDERED.

MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

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[31] *Rollo*, p. 106.
[32] Id. at 107; The Decision states "₱5,000,000 as moral damages and ₱100,000 as exemplary damages."
[33] Id. at 108, citing *Koa v. CA*, G.R. No. 84847, 5 March 1993, 219 SCRA 541.
[34] *Inter-Asia Investment Industries, Inc. v. Court of Appeals* , 451 Phil. 554 (2003). See also *PNB v. CA*, 326 Phil. 504 (1996); *ABS-CBN Broadcasting Corp. v. CA*, 361 Phil. 499 (1999).

WE CONCUR:

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

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

MARIA LOURDES P. A. SERENO
Chief Justice