

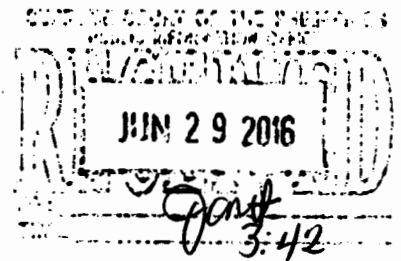


Republic of the Philippines

Supreme Court

Baguio City

FIRST DIVISION



MALAYAN INSURANCE
COMPANY, INC. and HELEN
Y. DEE,

GR. No. 203370

Petitioners,

- versus -

PHILIP PICCIO, MIA
GATMAYTAN, MA.
ANNABELLA RELOVA
SANTOS, JOHN JOSEPH
GUTIERREZ, JOCELYN
UPANO, JOSE DIZON,
ROLANDO PAREJA, WONINA
M. BONIFACIO, ELVIRA
CRUZ, CORNELIO ZAFRA,
VICENTE ORTUOSTE,
VICTORIA GOMEZ JACINTO,
JUVENCIO PERECHE, JR.,
RICARDO LORAYES, PETER
C. SUCHIANCO, and
TRENNIE MONSOD,

Respondents.

X-----X

MALAYAN INSURANCE
COMPANY, INC.,

GR. No. 215106

Petitioner,

- versus -

PHILIP PICCIO, MIA
GATMAYTAN, MA.
ANNABELLA RELOVA
SANTOS, JOHN JOSEPH
GUTIERREZ, JOCELYN
UPANO, JOSE DIZON,
ROLANDO PAREJA, WONINA

**M. BONIFACIO, ELVIRA
CRUZ, CORNELIO ZAFRA,
VICENTE ORTUOSTE,
VICTORIA GOMEZ JACINTO,
JUVENCIO PERECHE, JR.,
RICARDO LORAYES, PETER
C. SUCHIANCO, and
TRENNIE MONSOD,**

Respondents.

Present:

SERENO, C.J., Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
PERLAS-BERNABE, and
CAGUIOA, JJ.

Promulgated:

APR 11 2016

X-----X

DECISION

PERLAS-BERNABE, J.:

Before this Court are two (2) consolidated petitions for review on *certiorari*.¹ The first petition, docketed as G.R. No. 203370, filed by petitioners Malayan Insurance Company, Inc. (Malayan Insurance) and Helen Y. Dee (petitioners) assails the Decision² dated February 24, 2012 and the Resolution³ dated September 5, 2012 of the Court of Appeals (CA) in CA-G.R. CR No. 31467, which denied their appeal from the Order⁴ dated February 20, 2007 and the Resolution⁵ dated September 3, 2007 of the Regional Trial Court of Makati City (Makati-RTC), Branch 137 (Makati-RTC, Br. 137) in Criminal Case Nos. 06-877 and 06-882 on the ground that the same was not authorized by the Office of the Solicitor General (OSG). On the other hand, the second petition, docketed as G.R. No. 215106, filed by petitioner Malayan Insurance assails the Decision⁶ dated March 31, 2014 and the Resolution⁷ dated October 17, 2014 of the CA in CA-G.R. CR. No. 32148, which denied its appeal from the Orders⁸ dated December 28, 2007 and August 29, 2008 of the Makati-RTC, Branch 62 (Makati-RTC, Br. 62) in Criminal Case No. 06-884 on the ground of lack of jurisdiction.

¹ *Rollo* (G.R. No. 203370), pp. 10-51; and *rollo* (G.R. No. 215106), pp. 10-37.

² *Rollo* (G.R. No. 203370), pp. 54-62. Penned by Associate Justice Manuel M. Barrios with Associate Justices Juan Q. Enriquez, Jr. and Apolinario D. Bruselas, Jr. concurring.

³ *Id.* at 64-65. Penned by Associate Justice Manuel M. Barrios with Associate Justices Apolinario D. Bruselas, Jr. and Francisco P. Acosta concurring.

⁴ *Id.* at 311-321. Penned by Presiding Judge (now Deputy Court Administrator) Jenny Lind R. Aldecoa-Delorino.

⁵ *Id.* at 341-344.

⁶ *Rollo* (G.R. No. 215106), pp. 47-55. Penned by Associate Justice Elihu A. Ybañez with Associate Justices Japar B. Dimaampao and Melchor Q.C. Sadang concurring.

⁷ *Id.* at 57-58.

⁸ *Id.* at 249-257 and 314, respectively. Penned by Judge Selma Palacio Alaras.

The Facts

On October 18, 2005, Jessie John P. Gimenez (Gimenez), President of the Philippine Integrated Advertising Agency – the advertising arm of the Yuchengco Group of Companies (Yuchengco Group), to which Malayan Insurance is a corporate member – filed a Complaint-Affidavit⁹ for thirteen (13) counts of Libel, defined and penalized under Article 355 in relation to Article 353 of the Revised Penal Code (RPC), before the City Prosecutor of Makati City, docketed as I.S. No. 05-I-11895, against herein respondents Philip Piccio, Mia Gatmaytan, Ma. Annabella Relova Santos, John Joseph Gutierrez, Jocelyn Upano, Jose Dizon, Rolando Pareja, Wonina M. Bonifacio, Elvira Cruz, Cornelio Zafra, Vicente Ortuoste, Victoria Gomez Jacinto, Juvencio Pereche, Jr., Ricardo Lorayes, Peter C. Suchianco, and Trennie Monsod (respondents) for purportedly posting defamatory articles/statements on the website www.pepcoalition.com that besmirched the reputation of the Yuchengco family and the Yuchengco Group, including herein petitioners.¹⁰

Upon the prosecutor's finding of probable cause,¹¹ thirteen (13) Informations were filed before the Makati-RTC. Among those filed were Criminal Case Nos. 06-877¹² and 06-882¹³ (raffled to Makati-RTC, Br. 137)

⁹ *Rollo* (G.R. No. 203370), pp. 68-90; and *rollo* (G.R. No. 215106), pp. 59-81.

¹⁰ *Rollo* (G.R. No. 203370), pp. 16-20; and *rollo* (G.R. No. 215106), pp. 15-19.

¹¹ See Resolution dated May 2, 2006 (promulgated on May 5, 2006) of the Makati City Prosecutor's Office signed by 1st Assistant City Prosecutor Romulo I. Nanola and approved by City Prosecutor Feliciano Aspi; *rollo* (G.R. No. 203370), pp. 219-230; and *rollo* (G.R. No. 215106), pp. 198-209.

¹² Excerpts from the Information in Criminal Case No. 06-877 read:

That on or about the 26th day of August 2005 in Makati City, Metro Manila, Philippines, a place within the jurisdiction of the Honorable Court, the above-named accused, being then the trustees of Parents Enabling Parents Coalition and as such trustees they hold the legal title to the website [www.pepcoalition.com] which is of general circulation, and publication to the public conspiring confederating and mutually helping with one another together with John Does, did then and there [wilfully], unlawfully and feloniously and publicly and maliciously with intention of attacking the honesty, virtue, honor and integrity, character and reputation of complainant Malayan Insurance Co., Inc., Yuchengco Family particularly Yuchengco Family and [Yuchengco Group of Companies (YGC)] of which Malayan is part and for further purpose exposing the complainant to public hatred and contempt published an article imputing a vice or defect to the complainant and caused to be composed, posted and published in the said website [www.pepcoalition.com] and injurious and defamatory article as follows:

It's just plain common sense. Why throw good, hard earned money on something that will earn you nothing?

We PPI planholders should face reality. The Yuchengcos are not the insurance business. Their core business is DECEPTION. So why put your money on an insurance or pre-need company that is not trustworthy? Ten years from now when you make a claim, they'll just give you the same run around that they've been giving us now.

C'mon do you really believe that the Yuchengco[']s will honor their commitments? Hoy, Gising'

x x x x (See *rollo* [G.R. No. 203370], pp. 231-233.)

¹³ Excerpts from the Information in Criminal Case No. 06-882 read:

That on or about the 12th day of September 2005 in Makati City, Metro Manila, Philippines, a place within the jurisdiction of the Honorable Court, the above-named accused, being then the trustees of Parents Enabling Parents Coalition and as such trustees they hold the legal title to the website [www.pepcoalition.com] which is of general circulation, and publication to the public conspiring confederating and mutually

and Criminal Case No. 06-884¹⁴ (raffled to Makati-RTC, Br. 62), from which arose the present petitions.

In Criminal Case Nos. 06-877 and 06-882, respondents filed a Motion to Quash¹⁵ dated June 7, 2006, asserting, among others, lack of jurisdiction, since the residences of petitioners were not alleged in the Informations. Besides, even if so stated, the residence or principal office address of petitioners was admittedly at Quintin Paredes Street, Binondo, Manila, and not in Makati City. Hence, the venue was mislaid, and the Makati-RTC, Br. 137 did not have jurisdiction over the said cases.¹⁶

In an Order¹⁷ dated February 20, 2007, the Makati-RTC, Br. 137 granted the said motion and dismissed **Criminal Case Nos. 06-877 and 06-882** on the ground of lack of jurisdiction.¹⁸ It found that the Informations filed in these cases failed to state that any one of the offended parties resides in Makati City, or that the subject articles were printed or first published in Makati City.¹⁹ Hence, the failure to state the aforementioned details was a

helping with one another together with John Does, did then and there [wilfully], unlawfully and feloniously and publicly and maliciously with intention of attacking the honesty, virtue, honor and integrity, character and reputation of complainant Malayan Insurance Co., Inc., Yuchengco Family particularly Malayan is part and Helen Dee and for further purpose exposing the complainant to public hatred and contempt published an article imputing a vice or defect to the complainant and caused to be composed, posted and published in the said website [www.pepcoalition.com] and injurious and defamatory article as follows:

The coalition has been attacked by all sorts of lowlifes unleashed [sic] by the HYDRA (Helen Yuchengco Dee's Rampaging *Alipores*).

Maybe it is time to give YGC a dose of their own medicine. There are a lot of you there with access or at least internet cafes.

x x x x (See *rollo* [G.R. No. 203370], pp. 234-235.)

¹⁴ Excerpts from the Information in Criminal Case No. 06-884 read:

That on or about the 24th day of September 2005 in Makati City, Metro Manila, Philippines, a place within the jurisdiction of the Honorable Court, the above-named accused, being then the trustees of Parents Enabling Parents Coalition and as such trustees they hold the legal title to the website [www.pepcoalition.com] which is of general circulation, and publication to the public conspiring confederating and mutually helping with one another together with John Does, did then and there [wilfully], unlawfully and feloniously and publicly and maliciously with intention of attacking the honesty, virtue, honor and integrity, character and reputation of complainant Malayan Insurance Co., Inc., Yuchengco Family particularly Yuchengco Family and for further purpose exposing the complainant to public hatred and contempt published an article imputing a vice or defect to the complainant and caused to be composed, posted and published in the said website [www.pepcoalition.com] and injurious and defamatory article as follows:

If, by any chance, our children's cries for justice and a better future, have struck a choir in your heart, we ask you to convince the Scrooges in your family to let go of the greed that seems to have overtaken and ruled their style of corporate governance... lest the spirits of the past, present and future catch up with them all.

x x x x (See *rollo* [G.R. No. 215106], pp. 210-211.)

¹⁵ Particularly respondents Wonina M. Bonifacio, Vicente Ortuoste, Juvencio Pereche, Jr., and Jocelyn Upano. *Rollo* (G.R. No. 203370), pp. 236-274.

¹⁶ Id. at 55.

¹⁷ Id. at 311-321.

¹⁸ Id. at 321.

¹⁹ Id. at 319-320.

fatal defect which negated its jurisdiction over the criminal cases.²⁰ Petitioners filed a motion for reconsideration,²¹ which was, however, denied in a Resolution²² dated September 3, 2007. Hence, petitioners filed an appeal²³ before the CA, docketed as **CA-G.R. CR No. 31467**.

Similarly, in Criminal Case No. 06-884, respondents filed a Motion to Quash²⁴ dated June 5, 2006, based on the following grounds: (a) that the Information failed to vest jurisdiction on the Makati-RTC; (b) that the acts complained of in the Information are not punishable by law; and (c) that the Information is fatally defective for failing to designate the offense charged and to allege the acts or omissions complained of as constituting the offense of Libel.²⁵

In an Order²⁶ dated December 28, 2007, the Makati-RTC, Br. 62 dismissed **Criminal Case No. 06-884** for lack of probable cause. Among others, it ruled that the element of malice was lacking since respondents did not appear to have been motivated by personal ill will to speak or spite Malayan Insurance.²⁷ The prosecution filed a motion for reconsideration,²⁸ which was, however, denied in an Order²⁹ dated August 29, 2008. Thus, Malayan Insurance filed an appeal³⁰ before the CA, docketed as **CA-G.R. CR No. 32148**.

The Proceedings Before the CA

In **CA-G.R. CR No. 31467**, the CA noted that while petitioners filed a Notice of Appeal, the Appellants' Brief was filed only by the private prosecutor, and not by the OSG as required by law.³¹ It likewise observed from the records that the OSG filed a Manifestation and Motion³² dated September 16, 2008 asking that "it be excused from filing any documents or pleadings relative to the aforementioned case[,] considering that it had not received any endorsement coming from the Department of Justice to appeal the same."³³ Moreover, the CA held that "the Chief City Prosecutor of Makati City was required to comment, and he categorically stated in his Explanation and Compliance that he did not authorize the filing, nor

²⁰ Id. at 320-321.

²¹ Dated March 15, 2007. id. at 322-340.

²² Id. at 341-344.

²³ See Notice of Appeal dated September 21, 2007 filed through the private prosecutor, with conformity of Public Prosecutor George V. De Joya; id. at 345-346.

²⁴ Particularly respondents Winona M. Bonifacio, Vicente Ortuoste, Juvencio Pereche, Jr., and Jocelyn Upano. *Rollo* (G.R. No. 215106), pp. 212-246.

²⁵ Id. at 212.

²⁶ Id. at 249-257.

²⁷ Id. at 51 and 256.

²⁸ Dated April 24, 2008; id. at 258-278.

²⁹ Id. at 314.

³⁰ See Notice of Appeal dated September 23, 2008 filed through the private prosecutor; id. at 315-317.

³¹ Id. at 56.

³² Dated September 16, 2008. Id. at 366-368.

³³ Id. at 56.

conform to the filing of an appeal from the quashal of the two (2) Informations in [**Criminal Case Nos. 06-877 and 06-882**].”³⁴

Thus, in the assailed Decision³⁵ dated February 24, 2012, the CA denied the appeal outright on the ground that the same was not filed by the authorized official, *i.e.*, the OSG. It remarked that although the private prosecutor may, at certain times, be permitted to participate in criminal proceedings on appeal in the CA, his participation is always subject to prior approval of the OSG; and the former cannot be permitted to adopt a position that is not consistent with that of the OSG.³⁶ Petitioners’ motion for reconsideration³⁷ was denied in the assailed Resolution³⁸ dated September 5, 2012, prompting them to file the petition in **G.R. No. 203370**.

The same was reached when the CA, in the assailed Decision³⁹ dated March 31, 2014 in **CA-G.R. CR. No. 32148**, denied Malayan Insurance’s appeal, but this time, on the ground of lack of jurisdiction. The ruling was premised on its finding that the case of *Bonifacio v. RTC of Makati, Branch 149 (Bonifacio)*,⁴⁰ which involved one of the thirteen (13) Libel cases, particularly Criminal Case No. 06-876, participated in by the same parties albeit concerning a different defamatory article, is already controlling.⁴¹ Hence, since this Court directed the quashal of Information in Criminal Case No. 06-876 and dismissed the same, the CA did not delve on the propriety of the Makati-RTC, Br. 62’s finding of probable cause, and instead, adopted the same course of action in *Bonifacio*. In its view, all other issues are rendered moot and academic in light of this Court’s declaration that the Makati-RTC is without jurisdiction to try and hear cases for Libel filed by Malayan Insurance against respondents.⁴² Malayan Insurance’s motion for reconsideration⁴³ was denied in the assailed Resolution⁴⁴ dated October 17, 2014, prompting it to file the petition in **G.R. No. 215106**.

The Issues Before the Court

In **G.R. No. 203370**, petitioners contend that the CA erred in denying the appeal in **CA-G.R. CR No. 31467** due to lack of the OSG’s authorization. While in **G.R. No. 215106**, Malayan Insurance argued that the CA likewise erred in denying its appeal in **CA-G.R. CR. No. 32148**, but this time, on jurisdictional grounds.

³⁴ Id.

³⁵ Id. at 54-62.

³⁶ Id. at 58-59.

³⁷ Not attached to the *rollos*.

³⁸ *Rollo* (G.R. No. 203370), pp. 64-65.

³⁹ *Rollo* (G.R. No. 215106), pp. 47-55.

⁴⁰ 634 Phil. 348 (2010).

⁴¹ *Rollo* (G.R. No. 215106), p. 52.

⁴² Id. at 53.

⁴³ Not attached to the *rollos*.

⁴⁴ *Rollo* (G.R. No. 215106), pp. 57-58.

The Court's Ruling

I. Resolution of G.R. No. 203370

The authority to represent the State in appeals of criminal cases before the Court and the CA is vested solely in the OSG⁴⁵ which is “the law office of the Government whose specific powers and functions include that of representing the Republic and/or the People [of the Philippines] before any court in any action which affects the welfare of the people as the ends of justice may require.”⁴⁶ Section 35 (1), Chapter 12, Title III, Book IV of the 1987 Administrative Code⁴⁷ provides that:

Section 35. Powers and Functions. — **The Office of the Solicitor General shall represent the Government of the Philippines**, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer. x x x. It shall have the following specific powers and functions:

(1) **Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings**; represent the Government and its officers in the Supreme Court, and Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party. (Emphases supplied)

In *People v. Piccio (Piccio)*,⁴⁸ which involved one of the thirteen (13) criminal cases between the same parties, this Court held that “if there is a dismissal of a criminal case by the trial court or if there is an acquittal of the accused, **it is only the OSG that may bring an appeal on the criminal aspect representing the People**. The rationale therefor is rooted in the principle that the party affected by the dismissal of the criminal action is the People and not the petitioners who are mere complaining witnesses. For this reason, **the People are therefore deemed as the real parties in interest in the criminal case and, therefore, only the OSG can represent them in criminal proceedings pending in the CA or in this Court**. In view of the corollary principle that every action must be prosecuted or defended in the name of the real party in interest who stands to be benefited or injured by the judgment in the suit, or by the party entitled to the avails of the suit, an appeal of the criminal case not filed by the People as represented by the OSG is perforce dismissible. The private complainant or the offended party may, however, file an appeal without the intervention of the OSG but only insofar as the civil liability of the accused is concerned. He may also file a special civil action for *certiorari* even without the intervention of the OSG, but only to the end of preserving his interest in the civil aspect of the case.”⁴⁹

⁴⁵ *Villareal v. Aliga*, G.R. No. 166995, January 13, 2014, 713 SCRA 52, 64, citing *Bautista v. Cuneta-Pangilinan*, G.R. No. 189754, October 24, 2012, 684 SCRA 521, 534.

⁴⁶ *Gonzales v. Chavez*, G.R. No. 97351, February 4, 1992, 205 SCRA 816, 845.

⁴⁷ Executive Order No. 292, Series of 1987, entitled “INSTITUTING THE ADMINISTRATIVE CODE OF 1987,” signed on July 25, 1987.

⁴⁸ G.R. No. 193681, August 6, 2014, 732 SCRA 254.

⁴⁹ *Id.* at 261-262; emphases and underscoring supplied.

In this case, as in *Piccio*, records show that petitioners’ appeal in **CA-G.R. CR No. 31467** principally sought the remand of **Criminal Case Nos. 06-877 and 06-882** to the Makati-RTC, Br. 137 for arraignment and trial, or, in the alternative, amend the Informations, and therefore, was not intended to merely preserve their interest in the civil aspect of the case. Thus, as its appeal was filed in relation to the criminal aspect of the case, it is necessary that the same be filed with the authorization of the OSG, which, by law, is the proper representative of the real party in interest in the criminal proceedings, the People. There being no authorization given, the appeal was rightfully dismissed by the CA. In fact, in its Comment⁵⁰ dated July 5, 2013, the People, through the OSG, even sought the dismissal of petitioners’ appeal before this Court⁵¹ on the ground that “petitioners have no legal personality to elevate on appeal the quashal of the [Informations] in the subject criminal cases.”⁵² As it is, petitioners have no legal standing to interpose an appeal in the criminal proceeding; hence, as they went beyond the bounds of their interest, petitioners cannot successfully contest the propriety of the Makati-RTC, Br. 137’s dismissal of the criminal cases. It must, however, be clarified that the CA’s denial of petitioners’ appeal is without prejudice to their filing of the appropriate action to preserve their interest in the civil aspect of the Libel cases, following the parameters of Rule 111 of the Rules of Criminal Procedure.⁵³

II. Resolution of G.R. No. 215106

“Venue is jurisdictional in criminal actions such that the place where the crime was committed determines not only the venue of the action but constitutes an essential element of jurisdiction. This principle acquires even greater import in libel cases, given that Article 360 [of the RPC], as amended [by Republic Act No. 4363⁵⁴], specifically provides for the possible venues for the institution of the criminal and civil aspects of such cases,”⁵⁵ to wit:

Article 360. *Persons responsible.* – x x x.

x x x x

The criminal and civil action for damages in cases of written defamations as provided for in this chapter, shall be filed simultaneously or separately **with the court of first instance of the province or city where the libelous article is printed and first published or where any of the offended parties actually resides at the time of the commission of the offense:** x x x.

x x x x (Emphasis and underscoring supplied)

⁵⁰ *Rollo* (G.R. No. 203370), pp. 636-660.
⁵¹ *Id.* at 659.
⁵² *Id.* at 648.
⁵³ See *People v. Piccio*, supra note 48, at 262.
⁵⁴ Entitled “AN ACT FURTHER AMEND ARTICLE THREE HUNDRED SIXTY OF THE REVISED PENAL CODE,” approved on June 19, 1965.
⁵⁵ *Bonifacio v. RTC of Makati, Branch 149*, supra note 40, at 360, citing *Macasaet v. People*, 492 Phil. 355, 370 (2005).

Thus, generally speaking, “the venue of libel cases where the complainant is a private individual is limited to only either of two places, namely: 1) where the complainant actually resides at the time of the commission of the offense; or 2) where the alleged defamatory article was printed and first published.”⁵⁶

In this case, the CA proceeded to deny Malayan Insurance’s appeal in view of the Makati-RTC, Br. 62’s lack of jurisdiction over Criminal Case No. 06-884. It held that this Court’s ruling in *Bonifacio* is already “controlling here because they involve the same parties and the same issues,”⁵⁷ observing that this case is “one (1) of the thirteen (13) cases/[I]nformations filed before the [Makati-RTC] which originated from the complaint initiated by [Gimenez].”⁵⁸

To contextualize, the Libel case involved in *Bonifacio* was Criminal Case No. 06-876 which, as the CA observed, involved the same parties herein. Highlighting the Amended Information’s allegation that the offending article “was first published and accessed by the private complainant in Makati City,”⁵⁹ respondents submitted that “[t]he prosecution erroneously laid the venue of the case in the place where the offended party accessed the internet-published article.”⁶⁰ This Court sustained the argument, and directed the Makati-RTC to quash the Amended Information in Criminal Case No. 06-876 and dismiss the case, ratiocinating in the following wise:

If the circumstances as to where the libel was printed and first published are used by the offended party as basis for the venue in the criminal action, the Information must allege with particularity where the defamatory article was printed and first published, as evidenced or supported by, for instance, the address of their editorial or business offices in the case of newspapers, magazines or serial publications. This precondition becomes necessary in order to forestall any inclination to harass.

The same measure cannot be reasonably expected when it pertains to defamatory material appearing on a website on the internet as there would be no way of determining the *situs* of its printing and first publication. To credit Gimenez’s premise of equating his first *access* to the defamatory article on petitioners’ website in Makati with printing and first publication would spawn the very ills that the amendment to Article 360 of the RPC sought to discourage and prevent. It hardly requires much imagination to see the chaos that would ensue in situations where the website’s author or writer, a blogger or anyone who posts messages therein could be sued for libel anywhere in the Philippines that the private complainant may have allegedly accessed the offending website.

⁵⁶ Id. at 361; underscoring supplied.

⁵⁷ *Rollo* (G.R. No. 215106), p. 52.

⁵⁸ Id.

⁵⁹ *Bonifacio v. RTC of Makati, Branch 149*, supra note 40, at 357; emphasis and underscoring in the original.

⁶⁰ Id. at 358.

For the Court to hold that the Amended Information sufficiently vested jurisdiction in the courts of Makati simply because the defamatory article was accessed therein would open the floodgates to the libel suit being filed in all other locations where the *pepcoalition* website is likewise accessed or capable of being accessed.⁶¹ (Underscoring in the original)

Here, Malayan Insurance opposes the CA's application of *Bonifacio*, asserting that the venue was properly laid as the Informations subject of this case state in one continuous sentence that: "x x x in Makati City, [Metro Manila,] Philippines and a place within the jurisdiction of this Honorable Court x x x, the above-named accused x x x did then and there x x x **caused to be composed, posted and published** in the said website *www.pepcoalition.com* and [sic] injurious and defamatory article."⁶² They also aver that *Bonifacio* laid down an entirely new requirement on internet Libel cases which did not exist prior to its promulgation and, hence, should not be applied retroactively to Malayan Insurance's prejudice.⁶³

While *Bonifacio*'s applicability was indeed squarely raised in the instant petition, this Court finds that it would be improper not to pass upon this issue considering that – similar to the appeal in CA-G.R. CR No. 31467 – the appeal in CA-G.R. CR No. 32148, **as well as this petition for review**, suffers from a fatal defect in that they were filed without the conformity of the OSG. As earlier stated, the right to prosecute criminal cases pertains exclusively to the People, which is, therefore, the proper party to bring the appeal, through the representation of the OSG. **The People are deemed as the real parties in interest in the criminal case and, therefore, only the OSG can represent them in criminal proceedings pending in the CA or in this Court.** As the records bear out, this Court, in a Resolution⁶⁴ dated September 9, 2015, required the OSG to file its Comment so as to be given the ample opportunity to manifest its desire to prosecute the present appeal, in representation of the People. However, in a Manifestation (In lieu of Comment),⁶⁵ the People, through the OSG, manifested that it is adopting its Comment⁶⁶ dated July 5, 2013 in G.R. No. 203370, which sought the dismissal of the petition on the ground that "petitioners have no legal personality to elevate on appeal the quashal of the [Informations] in the subject criminal cases."⁶⁷ Hence, in view of Malayan Insurance's lack of legal personality to file the present petition, this Court has to dismiss the same, without prejudice, however, to Malayan Insurance's filing of the appropriate action to preserve its interest in the civil aspect of the Libel case following the parameters of Rule 111 of the Rules of Criminal Procedure.⁶⁸

⁶¹ Id. at 362-363.

⁶² *Rollo* (G.R. No. 215106), p. 26; emphasis supplied. See also id. at 210-211.

⁶³ Id. at 30. Notably, this same argument is echoed in the above-discussed petition in G.R. No. 203370. However, since the actual basis of the CA's denial of appeal was the OSG's lack of conformity to the appeal in CA-G.R. CR No. 31467, which this Court has hereinabove sustained, it is unnecessary to pass upon the merits of such claim (see *rollo* [G.R. No. 203370], pp. 32-35).

⁶⁴ See Minute Resolution dated September 9, 2015; *rollo* (G.R. No. 203370), pp. 713-715.

⁶⁵ Dated February 2, 2016. *Rollo* (G.R. No. 215106), pp. 487-489.


⁶⁶ *Rollo* (G.R. No. 203370), pp. 636-660.

⁶⁷ Id. at 648.


⁶⁸ See *People v. Piccio*, supra note 48, at 262.


WHEREFORE, the petitions are **DENIED**.

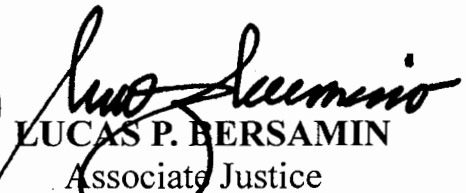
SO ORDERED.

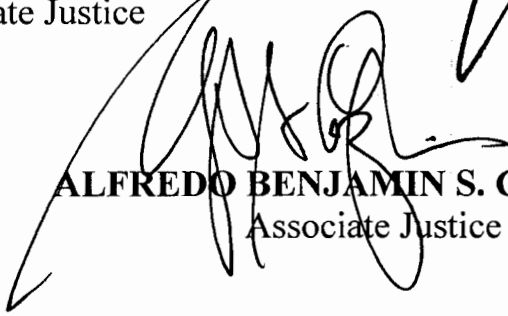

ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice

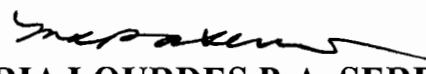

TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
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 cases were assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice