Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

ANTONIO F. TRILLANES IV,
Petitioner,

G.R. No. 223451

- versus -

HON. EVANGELINE C. CASTILLO-MARIGOMEN, IN HER CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, QUEZON CITY, BRANCH 101 AND ANTONIO L. TIU,
Respondents.

Present:

*SERENO, C.J.,
Chairperson,
**LEONARDO-DE CASTRO,
DEL CASTILLO,
JARDELEZA, and
TIJAM, *JJ.*

Promulgated:

MAR 14 2018

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DECISION

TIJAM, *J.*:

This is a Petition for *Certiorari*[1] under Rule 65 of the Rules of Court over public respondent's Order[2] dated May 19, 2015 which denied petitioner's motion to dismiss premised on the special and affirmative defenses in his Answer, and public respondent's Order[3] dated December 16, 2015 which denied petitioner's Motion for Reconsideration, both issued in Civil Case No. R-QZN-14-10666-CV entitled "Antonio L. Tiu v. Antonio F.

*On Leave.
**Designated Acting Chairperson, First Division, per Special Order No. 2540 dated February 28, 2018.

[1] *Rollo*, pp. 3-34.
[2] Id. at 41-42-A.
[3] Id. at 39-40.

Trillanes IV."

The Facts

Petitioner, as a Senator of the Republic of the Philippines, filed Proposed Senate Resolution No. 826 (P.S. Resolution No. 826) directing the Senate's Committee on Accountability of Public Officials and Investigations to investigate, in aid of legislation, the alleged ₱1.601 Billion overpricing of the new 11-storey Makati City Hall II Parking Building, the reported overpricing of the 22-storey Makati City Hall Building at the average cost of ₱240,000.00 per square meter, and related anomalies purportedly committed by former and local government officials.[4]

Petitioner alleged that at the October 8, 2014 Senate Blue Ribbon Sub-Committee (SBRS) hearing on P.S. Resolution No. 826, former Makati Vice Mayor Ernesto Mercado (Mercado) testified on how he helped former Vice President Jejomar Binay (VP Binay) acquire and expand what is now a 350-hectare estate in Barangay Rosario, Batangas, which has been referred to as the *Hacienda* Binay, about 150 hectares of which have already been developed, with paved roads, manicured lawns, a mansion with resort-style swimming pool, man-made lakes, Japanese gardens, a horse stable with practice race tracks, an extensive farm for fighting cocks, green houses and orchards.[5]

According to petitioner, Mercado related in said hearing that because VP Binay's wife would not allow the estate's developer, Hillmarcs' Construction Corporation (HCC), to charge the development expenses against VP Binay's 13% share in kickbacks from all Makati infrastructure projects, HCC was compelled to add the same as "overprice" on Makati projects, particularly the Makati City Hall Parking Building.[6]

Petitioner averred that private respondent thereafter claimed "absolute ownership" of the estate, albeit asserting that it only covered 145 hectares, through his company called Sunchamp Real Estate Corporation (Sunchamp), which purportedly entered into a Memorandum of Agreement (MOA) with a certain Laureano R. Gregorio, Jr. (Gregorio, Jr.), the alleged owner of the consolidated estate and its improvements.[7]

Petitioner further averred that private respondent testified before the SBRS on the so-called *Hacienda* Binay on October 22 and 30, 2014, and at the October 30, 2014 hearing, the latter presented a one-page Agreement[8] dated January 18, 2013 between Sunchamp and Gregorio.[9] On its face, the

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[4] Id. at 6-7.
[5] Id. at 8.
[6] Id.
[7] Id. at 9-10.
[8] Id. at 142.
[9] Id. at 11-13.

Agreement covered a 150-hectare property in Rosario, Batangas and showed a total consideration of ₱400 Million, payable in tranches and in cash and/or listed shares, adjustable based on the fair market value. The Agreement likewise ostensibly showed that Gregorio is obligated to cause the registration of improvements in the name of Sunchamp and within two years, to deliver titles/documents evidencing the real and enforceable rights of Sunchamp, and the latter, in the interim, shall have usufruct over the property, which is extendible.

Petitioner admitted that during media interviews at the Senate, particularly during gaps and breaks in the plenary hearings as well as committee hearings, and in reply to the media's request to respond to private respondent's claim over the estate, he expressed his opinion that based on his office's review of the documents, private respondent appears to be a "front" or "nominee" or is acting as a "dummy" of the actual and beneficial owner of the estate, VP Binay.[10]

On October 22, 2014, private respondent filed a Complaint for Damages[11] against petitioner, docketed as Civil Case No. R-QZN-14-10666-CV, for the latter's alleged defamatory statements before the media from October 8 to 14, 2014, specifically his repeated accusations that private respondent is a mere "dummy" of VP Binay.

Private respondent alleged that he is a legitimate businessman engaged in various businesses primarily in the agricultural sector, and that he has substantial shareholdings, whether in his own name or through his holding companies, in numerous corporations and companies, globally, some of which are publicly listed. He averred that because of petitioner's defamatory statements, his reputation was severely tarnished as shown by the steep drop in the stock prices of his publicly listed companies, AgriNurture, Inc. (AgriNurture), of which he is the Executive Chairman, and Greenergy Holdings, Inc. (Greenergy), of which he is the Chairman, President and Chief Executive Officer. To illustrate this, private respondent alleged that on October 7, 2014, the price of a share of stock of Greenergy was ₱0.011 per share and the volume of trading was at 61 Million, while on October 8, 2014, the price dropped to ₱0.0099 per share (equivalent to a 10% reduction) and the volume of trading increased by more than seven times (at 475.7 Million), with the price continuing to drop thereafter. Similarly, private respondent alleged that on October 8, 2014, AgriNurture experienced a six percent (6%) drop from its share price of October 7, 2014 (from ₱2.6 to ₱2.45) and an increase of more than six times in the volume of trading (from 68,000 to 409,000), with the share price continuing to drop thereafter. According to private respondent, the unusual drop in the share price and the drastic increase in trading could be attributed to the statements made by petitioner, which caused the general public to doubt his capability

[10] Id. at 10-11.
[11] Id. at 67-79.

as a businessman and to unload their shares, to the detriment of private respondent who has substantial shareholdings therein through his holding companies.

Denying that he is a "dummy," private respondent alleged that he possesses the requisite financial capacity to fund the development, operation and maintenance of the "Sunchamp Agri-Tourism Park." He averred that petitioner's accusations were defamatory, as they dishonored and discredited him, and malicious as they were intended to elicit bias and prejudice his reputation. He further averred that such statements were not absolutely privileged since they were not uttered in the discharge of petitioner's functions as a Senator, or qualifiedly privileged under Article 354 of the Revised Penal Code,[12] nor constitutive of fair commentaries on matters of public interest. He added that petitioner's statement that he was willing to apologize if proven wrong, showed that he spoke without a reasonable degree of care and without regard to the gravity of his sweeping accusation.

Claiming that petitioner's statements besmirched his reputation, and caused him sleepless nights, wounded feelings, serious anxiety, mental anguish and social humiliation, private respondent sought to recover ₱4 Million as moral damages, ₱500,000.00 as exemplary damages and attorney's fees in the amount of ₱500,000.00.

In his Answer with Motion to Dismiss,[13] petitioner raised the following Special and Affirmative Defenses:

First, petitioner averred that private respondent failed to state and substantiate his cause of action since petitioner's statement that private respondent was acting as a "front," "nominee" or "dummy" of VP Binay for his *Hacienda* Binay is a statement of fact.[14]

Petitioner asserted that private respondent was unable to prove his alleged ownership of the subject estate, and that Mercado had testified that VP Binay is the actual and beneficial owner thereof, based on his personal knowledge and his participation in the consolidation of the property. Petitioner noted that the titles covering the estate are in the names of persons related to or identified with Binay. He argued that the one-page Agreement submitted by private respondent hardly inspires belief as it was unnotarized and lacked details expected in a legitimate document such as the technical

[12] Art. 354. *Requirement for publicity.* — Every defamatory imputation is presumed to be malicious, even if it be true, if no good intention and justifiable motive for making it is shown, except in the following cases:

1. A private communication made by any person to another in the performance of any legal, moral or social duty; and

2. A fair and true report, made in good faith, without any comments or remarks, of any judicial, legislative or other official proceedings which are not of confidential nature, or of any statement, report or speech delivered in said proceedings, or of any other act performed by public officers in the exercise of their functions.

[13] *Rollo*, pp. 105-133.

[14] Id. at 116.

description of the property, the certificates of title, tax declarations, the area of the property and its metes and bounds, schedule of payments, list of deliverables with their due dates, warranties and undertakings and closing date. He also pointed out that while the total consideration for the Agreement was ₱446 Million, the downpayment was only ₱5 Million. With a yearly ₱30 Million revenue from the orchard, petitioner questioned why Gregorio would agree to part with his possession for a mere one percent (1%) of the total consideration.[15] Petitioner likewise disputed private respondent's supposed claim that Sunchamp had introduced improvements in the estate amounting to ₱50 Million, stressing that it took over the estate only in July 2014 and that it did not own the property and probably never would given the agrarian reform issues. Petitioner claimed that it was based on the foregoing and the report of his legal/legislative staff that he made his statement that private respondent is a front, nominee or dummy of VP Binay.[16]

Second, petitioner posited that his statements were part of an ongoing public debate on a matter of public concern, and private respondent, who had freely entered into and thrust himself to the forefront of said debate, has acquired the status of a public figure or quasi-public figure. For these reasons, he argued that his statements are protected by his constitutionally guaranteed rights to free speech and freedom of expression and of the press.[17]

Third, petitioner contended that his statements, having been made in the course of the performance of his duties as a Senator, are covered by his parliamentary immunity under Article VI, Section 11 of the 1987 Constitution.[18]

Citing *Antero J. Pobre v. Sen. Miriam Defensor-Santiago*,[19] petitioner argued that the claim of falsity of statements made by a member of Congress does not destroy the privilege of parliamentary immunity, and the authority to discipline said member lies in the assembly or the voters and not the courts.

Petitioner added that he never mentioned private respondent's two companies in his interviews and it was private respondent who brought them up. Petitioner pointed out that private respondent only had an eight percent (8%) shareholding in one of said companies and no shareholding in the other, and that based on the records of the Philippine Stock Exchange, the share prices of both companies had been on a downward trend long before October 8, 2014. Petitioner described the Complaint as a mere media ploy, noting that private respondent made no claim for actual damages despite the

[15] Id. at 117-118.
[16] Id. at 119.
[17] Id.
[18] Id. at 124.
[19] 613 Phil. 352, 360 (2009).

alleged price drop. This, according to petitioner, showed that private respondent could not substantiate his claim.[20]

Petitioner prayed for the dismissal of the Complaint and for the award of his Compulsory Counterclaims consisting of moral and exemplary damages and attorney's fees.[21]

Petitioner subsequently filed a Motion (to Set Special and Affirmative Defenses for Preliminary Hearing)[22] on the strength of Section 6, Rule 16 of the Rules of Court, which allows the court to hold a preliminary hearing on any of the grounds for dismissal provided in the same rule, as may have been pleaded as an affirmative defense in the answer.[23]

Private respondent opposed the motion on the grounds that the motion failed to comply with the provisions of the Rules of Court on motions, and a preliminary hearing on petitioner's special and affirmative defenses was prohibited as petitioner had filed a motion to dismiss.

On May 19, 2015, public respondent issued the Order[24] denying petitioner's motion to dismiss premised on the special and affirmative defenses in his Answer. The Order, in pertinent part, states:

> FIRST ISSUE: The Complaint failed to state a cause of action.
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> Whether true or false, the allegations in the complaint, would show that the same are sufficient to enable the court to render judgment according to the prayer/s in the complaint.
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> SECOND ISSUE: The defendant's parliamentary immunity.
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> The defense of parliamentary immunity may be invoked only on special circumstances such that the special circumstance becomes a factual issue that would require for its establishment the conduct of a full blown trial.
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> With the defense invoking the defendant's parliamentary immunity from suit, it claims that this Court has no jurisdiction over the instant case. Again, whether or not the courts have jurisdiction over the instant case is determined based on the allegations of the complaint.
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> Subject to the presentation of evidence, the complaint alleged that

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[20] *Rollo,* pp. 127-128.

[21] Petitioner asked for ₱5 Million in moral damages, ₱1 Million in exemplary damages, and ₱500,000.00 as attorney's fees.

[22] Id. at 43-56.

[23] Section 6. *Pleading grounds as affirmative defenses.* — If no motion to dismiss has been filed, any of the grounds for dismissal provided for in this Rule may be pleaded as an affirmative defense in the answer and, in the discretion of the court, a preliminary hearing may be had thereon as if a motion to dismiss had been filed.

[24] Supra note 2.

> the libelous or defamatory imputations (speech) committed by the defendant against the plaintiff were made not in Congress or in any committee thereof. This parliamentary immunity, again, is subject to special circumstances which circumstances must be established in a full blown trial.
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> FOURTH. Whether or not a motion to dismiss was filed to prevent a preliminary hearing on the defendant's special and affirmative defenses.
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> Said 'answer with motion to dismiss' of the defendant did not contain any notice of hearing and was not actually heard. To the mind of the Court, the use of the phrase 'with motion to dismiss' highlights the allegations of special and affirmative defenses which are grounds for a motion to dismiss. Thus, absent any motion to dismiss as contemplated by law, the preliminary hearing on the special and affirmative defenses of the defendant may be conducted thereon.

Petitioner's motion for reconsideration was denied in public respondent's Order[25] dated December 16, 2015. Public respondent held that:

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> To reiterate the ruling in the assailed order, parliamentary immunity is subject to special circumstances which must be established in a full blown trial.
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> In the complaint, the plaintiff stated that the defamatory statements were made in broadcast and print media, not during a Senate hearing. Hence, between the allegations in the complaint and the affirmative defenses in the answer, the issue on whether or not the alleged defamatory statements were made in Congress or in any committee thereof arises. It would be then up to the Court to determine whether the alleged defamatory statements are covered by parliamentary immunity after trial.

Petitioner subsequently filed the instant Petition for *Certiorari*, assailing public respondent's May 19, 2015 and December 16, 2015 Orders on the ground of grave abuse of discretion amounting to lack or excess of jurisdiction. In ascribing grave abuse of discretion against public respondent, petitioner reiterates the special and affirmative defenses in his Answer with Motion to Dismiss, and asks that the assailed Orders be nullified, reversed and set aside and a new one be issued dismissing the Complaint.

In his Comment,[26] private respondent points out that the petition violates the doctrine of hierarchy of courts. He contends that petitioner cannot invoke parliamentary immunity as his utterances were made in various media interviews, beyond the scope of his official duties as Senator,

[25] Supra note 3 at 39.
[26] *Rollo*, pp. 212-245.

and that the constitutional right to free speech can be raised only against the government, not against private individuals.

Private respondent asserts that his Complaint sufficiently stated a cause of action as petitioner's imputations, as alleged therein, were defamatory, malicious and made public, and the victim was clearly identifiable. According to him, petitioner's claim that his imputations were statements of fact, covered by his parliamentary immunity and not actionable under the doctrine of fair comment, are irrelevant as his motion to dismiss, based on failure to state a cause of action, hypothetically admitted the allegations in the Complaint. At any rate, he argues that truth is not a defense in an action for defamation.

Private respondent further contends that he is not a public figure as to apply the doctrine of fair comment, and that it was petitioner who brought up his name, out of nowhere, at the October 8, 2014 SBRS hearing. He asserts that contrary to petitioner's claim, the Courts, not the Senate, has jurisdiction over the case. Finally, he avers that because failure to state a cause of action and lack of jurisdiction over the subject matter are determined solely by the allegations of the complaint, a preliminary hearing is unnecessary.

The Court's Ruling

Hierarchy of courts should have been observed

In justifying his direct recourse to the Court, petitioner alleges that there is a clear threat to his parliamentary immunity as well as his rights to freedom of speech and freedom of expression, and he had no other plain, speedy and adequate remedy in the ordinary course of law that could protect him from such threat. Petitioner argues that the doctrine of hierarchy of courts is not an iron-clad rule, and direct filing with the Court is allowed when there are genuine issues of constitutionality that must be addressed at the most immediate time. Petitioner asserts that the case encompasses an issue which would require an interpretation of Section 11, Article VI of the 1987 Constitution.

The Court is not persuaded.

The power to issue writs of *certiorari*, prohibition, and *mandamus* is not exclusive to this Court.[27] The Court shares the jurisdiction over petitions for these extraordinary writs with the Court of Appeals and the Regional Trial Courts.[28] The hierarchy of courts serves as the general determinant of

[27] *Aala, et al. v. Uy, et al.*, G.R. No. 202781, January 10, 2017. *United Claimants Association of NEA (UNICAN) et al. v. National Electrification Administration (NEA), et al.*, 680 Phil. 506 (2012), citing *Mendoza, et al. v. Mayor Villas, et al.*, 659 Phil. 409, 414 (2011).

[28] Id.

the appropriate forum for such petitions.[29] The established policy is that "petitions for the issuance of extraordinary writs against first level (inferior) courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals," and "[a] direct invocation of the Supreme Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition."[30] The parties, therefore, do not have an unfettered discretion in selecting the forum to which their application will be directed.[31]

Adherence to the doctrine on hierarchy of courts ensures that every level of the judiciary performs its designated role in an effective and efficient manner.[32] This practical judicial policy is established to obviate "inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction," and to prevent the congestion of the Court's docket.[33] The Court must remain as a court of last resort if it were to satisfactorily perform its duties under the Constitution.[34]

After all, trial courts are not limited to the determination of facts upon evaluation of the evidence presented to them.[35] They are likewise competent to determine issues of law which may include the validity of an ordinance, statute, or even an executive issuance in relation to the Constitution.[36]

It is true that the doctrine of hierarchy of courts is not an iron-clad rule, and this Court has allowed a direct application to this Court for a writ of *certiorari* when there are genuine issues of constitutionality that must be addressed at the most immediate time.[37]

However, the issue of what parliamentary immunity encompasses, in relation to a lawmaker's speech or words spoken in debate in Congress, has been addressed as early as 1966 in the case of *Nicanor T. Jimenez v. Bartolome Cabangbang*,[38] where the Court succinctly held:

> The determination of the first issue depends on whether or not the aforementioned publication falls within the purview of the phrase "speech or debate therein" — that is to say, in Congress — used in this provision.
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> Said expression refers to utterances made by Congressmen **in the performance of their official functions**, such as speeches delivered,

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[29] Id.

[30] *United Claimants Association of NEA (UNICAN), et al. v. NEA*, supra note 27 at 514 .

[31] Id. *Aala, et al. v. Uy, et al.*, supra note 27.

[32] *Maza v. Turla*, G.R. No. 187094, February 15, 2017, citing *The Diocese of Bacolod, et al. v. COMELEC*, 751 Phil. 301, 329 (2015).

[33] *Aala, et al. v. Uy, et al.*, supra note 27. *United Claimants Association of NEA (UNICAN), et al. v. NEA*, supra note 27 at 514.

[34] *Aala, et al. v. Uy, et al.*, supra note 27.

[35] *Maza v. Turla*, supra note 32, citing *The Diocese of Bacolod, et al. v. COMELEC*, supra note 32.

[36] Id.

[37] Id. *Aala, et al. v. Uy, et al.*, supra note 27.

[38] 124 Phil. 296 (1966).

> statements made, or votes cast in the halls of Congress, while the same is in session, as well as bills introduced in Congress, whether the same is in session or not, and other acts performed by Congressmen, either in Congress or outside the premises housing its offices, in the **official discharge of their duties as members of Congress and of Congressional Committees duly authorized to perform its functions as such**, at the time of the performance of the acts in question. (Citations omitted and emphasis ours.)[39]

In *Jimenez,* a civil action for damages was filed against a member of the House of Representatives for the publication, in several newspapers of general circulation, of an open letter to the President which spoke of operational plans of some ambitious officers of the Armed Forces of the Philippines (AFP) involving a "massive political build-up" of then Secretary of National Defense Jesus Vargas to prepare him to become a presidential candidate, a *coup d'etat*, and a speech from General Arellano challenging Congress' authority and integrity to rally members of the AFP behind him and to gain civilian support. The letter alluded to the plaintiffs, who were members of the AFP, to be under the control of the unnamed "planners," "probably belong(ing) to the Vargas-Arellano clique," and possibly "unwitting tools" of the plans.

Holding that the open letter did not fall under the privilege of speech or debate under the Constitution, the Court declared:

> The publication involved in this case does *not* belong to this category. According to the complaint herein, it was an open letter to the President of the Philippines, dated November 14, 1958, when Congress presumably was *not* in session, and defendant caused said letter to be published in several newspapers of general circulation in the Philippines, on or about said date. It is obvious that, in thus causing the communication to be so published, he was **not performing his official duty, either as a member of Congress or as officer or any Committee thereof**. Hence, contrary to the finding made by His Honor, the trial Judge, said communication is **not absolutely privileged**. (Emphasis ours.)

Albeit rendered in reference to the 1935 constitutional grant of parliamentary immunity, the *Jimenez* pronouncement on what constitutes privileged speech or debate in Congress still applies. The same privilege of "speech or debate" was granted under the 1973 and 1987 Philippine Constitutions, with the latter Charters specifying that the immunity extended to lawmakers' speeches or debates in any committee of the legislature. This is clear from the "speech or debate" clauses in the parliamentary immunity provisions of the 1935, 1973 and 1987 Constitutions which respectively provide:

> Section 15. The Senators and Members of the House of Representatives shall in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of

[39] *Rollo,* pp. 298-299.

> the Congress, and in going to and returning from the same; and **for any speech or debate therein, they shall not be questioned in any other place.**[40] (Emphasis ours.)
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> Section 9. A Member of the National Assembly shall, in all offenses punishable by not more than six years imprisonment, be privileged from arrest during his attendance at its sessions, and in going to and returning from the same; but the National Assembly shall surrender the Member involved to the custody of the law within twenty-four hours after its adjournment for a recess or its next session, otherwise such privilege shall cease upon its failure to do so. **A Member shall not be questioned or held liable in any other place for any speech or debate in the Assembly or in any committee thereof.**[41] (Emphasis ours.)
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> Section 11. A Senator or Member of the House of Representatives shall, in all offenses punishable by not more than six years imprisonment, be privileged from arrest while the Congress is in session. **No Member shall be questioned nor be held liable in any other place for any speech or debate in the Congress or in any committee thereof.**[42] (Emphasis ours.)

Clearly, settled jurisprudence provides sufficient standards and guidelines by which the trial and appellate courts can address and resolve the issue of parliamentary immunity raised by petitioner. The Court is, thus, unconvinced that petitioner has presented an "exceptionally compelling reason"[43] to justify his direct application for a writ of *certiorari* with this Court.

Even assuming *arguendo* that direct recourse to this Court is permissible, the petition must still be dismissed.

Petitioner's statements in media interviews are not covered by the parliamentary "speech or debate" privilege

Petitioner admits that he uttered the questioned statements, describing private respondent as former VP Binay's "front" or "dummy" in connection with the so-called *Hacienda* Binay, in response to media interviews during gaps and breaks in plenary and committee hearings in the Senate.[44] With *Jimenez* as our guidepost, it is evident that petitioner's remarks fall outside the privilege of speech or debate under Section 11, Article VI of the 1987 Constitution. The statements were clearly not part of any speech delivered in the Senate or any of its committees. They were also not spoken in the course of any debate in said fora. It cannot likewise be successfully contended that they were made in the official discharge or performance of petitioner's

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[40] Article VI on the Legislative Department.
[41] Article VIII on The National Assembly.
[42] Article VI on The Legislative Department.
[43] *The Diocese of Bacolod, et al. v. COMELEC*, supra note 32.
[44] *Rollo*, pp. 10-11 and 119.

duties as a Senator, as the remarks were not part of or integral to the legislative process.

The Speech or Debate Clause under the 1935 Constitution "was taken or is a copy of sec. 6, clause 1 of Art. 1 of the Constitution of the United States."[45] Such immunity has come to this country from the practices of the Parliamentary as construed and applied by the Congress of the United States.[46]

The U.S. Supreme Court's disquisition in *United States v. Brewster*[47] on the scope of the privilege is of jurisprudential significance:

> *Johnson* thus stand as a unanimous holding that a Member of Congress may be prosecuted under a criminal statute provided that the Government's case does not rely on legislative acts or the motivation for legislative acts. **A legislative act has consistently been defined as an act generally done in Congress in relation to the business before it.** In sum, the Speech or Debate Clause prohibits inquiry only into those things generally said or done in the House or the Senate in the performance of official duties and into the motivation for those acts.
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> It is well known, of course, that Members of the Congress engage in many activities other than the purely legislative activities protected by the Speech or Debate Clause. These include a wide range of legitimate "errands" performed for constituents, the making of appointments with Government agencies, assistance in securing Government contracts, preparing so-called "news letters" to constituents, news releases, and speeches delivered outside the Congress. The range of these related activities has grown over the years. **They are performed in part because they have come to be expected by constituents, and because they are a means of developing continuing support for future elections. Although these are entirely legitimate activities, they are political in nature, rather than legislative**, in the sense that term has been used by the Court in prior cases. But it has never been seriously contended that these political matters, however appropriate, have the protection afforded by the Speech or Debate Clause. Careful examination of the decided cases reveals that the Court has regarded the protection as reaching **only those things "generally done in a session of the House by one of its members in relation to the business before it,"** *Kilbourn v. Thompson, supra,* at 204, or things "said or done by him, as a representative, in the exercise of the functions of that office," *Coffin v. Coffin,* 4 Mass. 1, 27 (1808).
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> xxx In stating that those things "in no wise related to the due functioning of the legislative process" were *not* covered by the privilege, the Court did not in any sense imply as a corollary that everything that "related" to the office of a Member was shielded by the Clause. Quite the contrary, in *Johnson* we held, citing *Kilbourn v. Thompson, supra,* that **only acts generally done in the course of the process of enacting legislation were protected**.
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[45] *Osmeña, Jr. v. Pendatun, et al.*, G.R. No. L-17144, October 28, 1960.
[46] Id.
[47] 408 U.S. 501 (1972).

> In no case has this Court ever treated the Clause as protecting all conduct *relating* to the legislative process. In every case thus far before this Court, **the Speech or Debate Clause has been limited to an act which was clearly a part of the legislative process -- the due functioning of the process.** Xxx
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> (c) We would not think it sound or wise, simply out of an abundance of caution to doubly insure legislative independence, to extend the privilege beyond its intended scope, its literal language, and its history, to include all things in any way related to the legislative process. Given such a sweeping reading, we have no doubt that there are few activities in which a legislator engages that he would be unable somehow to "relate" to the legislative process. Admittedly, the Speech or Debate Clause must be read broadly to effectuate its purpose of protecting the independence of the Legislative Branch, but **no more than the statutes we apply, was its purpose to make Members of Congress super-citizens**, immune from criminal responsibility. In its narrowest scope, the Clause is a very large, albeit essential, grant of privilege. It has enabled reckless men to slander and even destroy others with impunity, but that was the conscious choice of the Framers.
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> xxx.The authors of our Constitution were well aware of the history of both the need for the privilege and the abuses that could flow from too sweeping safeguards. In order to preserve other values, they wrote the privilege so that it tolerates and protects behavior on the part of Members not tolerated and protected when done by other citizens, but **the shield does not extend beyond what is necessary to preserve the integrity of the legislative process**. Moreover, unlike England, with no formal, written constitutional limitations on the monarch, we defined limits on the coordinate branches, providing other checks to protect against abuses of the kind experienced in that country.(Emphasis ours.)
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In *Gravel v. United States,*[48] the U.S. Supreme Court ruled that a Senator's private publication of certain classified documents (popularly known as the Pentagon Papers),which the latter had taken up at a Senate subcommittee hearing and placed in the legislative record, did not constitute "protected speech or debate," holding that it "was in no way essential to the deliberations of the Senate," and was "not part and parcel of the legislative process." Explaining the scope of the Speech or Debate Clause, the U.S. Supreme Court declared:

> But **the Clause has not been extended beyond the legislative sphere**. That Senators generally perform certain acts in their official capacity as Senators does not necessarily make all such acts legislative in nature. Members of Congress are constantly in touch with the Executive Branch of the Government and with administrative agencies - they may cajole, and exhort with respect to the administration of a federal statute - but such conduct, though generally done, is not protected legislative activity. xxx

[48] 408 U.S. 606 (1972).

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> Legislative acts are not all-encompassing. **The heart of the Clause is speech or debate in either House. Insofar as the Clause is construed to reach other matters, they must be an integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House.** xxx (Emphasis ours.)

It is, thus, clear that parliamentary non-accountability cannot be invoked when the lawmaker's speech or utterance is made outside sessions, hearings or debates in Congress, extraneous to the "due functioning of the (legislative) process."[49] To participate in or respond to media interviews is not an official function of any lawmaker; it is not demanded by his sworn duty nor is it a component of the process of enacting laws. Indeed, a lawmaker may well be able to discharge his duties and legislate without having to communicate with the press. A lawmaker's participation in media interviews is not a legislative act, but is "political in nature,"[50] outside the ambit of the immunity conferred under the Speech or Debate Clause in the 1987 Constitution. Contrary to petitioner's stance, therefore, he cannot invoke parliamentary immunity to cause the dismissal of private respondent's Complaint. The privilege arises not because the statement is made by a lawmaker, but because it is uttered in furtherance of legislation.

The Speech or Debate Clause in our Constitution did not turn our Senators and Congressmen into "super-citizens"[51] whose spoken words or actions are rendered absolutely impervious to prosecution or civil action. The Constitution conferred the privilege on members of Congress "not for their private indulgence, but for the public good."[52] It was intended to protect them against government pressure and intimidation aimed at influencing their decision-making prerogatives.[53] Such grant of legislative privilege must perforce be viewed according to its purpose and plain language. Indeed, the privilege of speech or debate, which may "(enable) reckless men to slander and even destroy others,"[54] is not a cloak of unqualified impunity; its invocation must be "as a means of perpetuating inviolate the functioning process of the legislative department."[55] As this Court emphasized in *Pobre*,[56] "the parliamentary non-accountability thus granted to members of Congress is not to protect them against prosecutions **for their own benefit**, but to enable them, as the people's representatives, **to perform the**

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[49] *U.S. v. Brewster*, supra note 47.

[50] Id.

[51] Id.

[52] *Pobre v. Sen. Santiago*, supra note 19 at 359, citing *Tenney v. Brandhove*, 341 US 367, 71 S. Ct. 783 (1951).

[53] *Pobre v. Sen. Santiago*, supra at 365.

[54] *U.S. v. Brewster*, supra note 47.

[55] *Pobre v. Sen. Santiago*, supra note 19.

[56] Id.

functions of their office without fear of being made responsible before the courts or other forums outside the congressional hall."

Jurisdiction lies with the courts, not the Senate

Petitioner argues that the RTC had no jurisdiction over the case, and citing *Pobre*, asserts that the authority to discipline a member of Congress lies in the assembly or the voters and not the courts.

Petitioner's reliance on *Pobre* is misplaced. The statements questioned in said disbarment case were part of a lawyer-Senator's privilege speech delivered on the Senate floor professedly with a view to future remedial legislation. By reason of the Senator's parliamentary immunity, the Court held that her speech was "not actionable criminally or in a disciplinary proceeding under the Rules of Court." The questioned statements in this case, however, were admittedly made in response to queries from the media during gaps in the Senate's plenary and committee hearings, thus, beyond the purview of privileged speech or debate under Section 11, Article VI of the Constitution.

The Court held in *Pobre*:

> **Courts do not interfere with the legislature or its members in the manner they perform their functions in the legislative floor or in committee rooms.** Any claim of an unworthy purpose or of the falsity and *mala fides* of the statement uttered by the member of the Congress does not destroy the privilege. The disciplinary authority of the assembly and the voters, not the courts, can properly discourage or correct such abuses committed in the name of parliamentary immunity. (Citations omitted and emphasis ours.)[57]

Clearly, the Court's pronouncement that the legislative body and the voters, not the courts, would serve as the disciplinary authority to correct abuses committed in the name of parliamentary immunity, was premised on the questionable remarks being made in the performance of legislative functions, on the legislative floor or committee rooms where the privilege of speech or debate may be invoked. Necessarily, therefore, statements falling outside the privilege and giving rise to civil injury or criminal responsibility will not foreclose judicial review.

Furthermore, it is well-settled that jurisdiction over the subject matter of a case is conferred by law.[58] An action for damages on account of defamatory statements not constituting protected or privileged "speech or debate" is a controversy well within the courts' authority to settle. The Constitution vests upon the courts the power and duty "to settle actual

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[57] *Pobre v. Sen. Santiago*, supra at 360.

[58] *Tumpag v. Tumpag*, 744 Phil. 423, 429 (2014).

controversies involving rights which are legally demandable and enforceable."[59] Batas Pambansa Blg. 129, as amended, conferred jurisdiction over actions for damages upon either the RTC or the Municipal Trial Court, depending on the total amount claimed.[60] So also, Article 33 of the Civil Code expressly provides that in cases of defamation, a civil action for damages, entirely separate and distinct from the criminal action, may be brought by the injured party, and such civil action shall proceed independently of the criminal prosecution, and shall require only a preponderance of evidence.

In fine, petitioner cannot successfully invoke parliamentary non-accountability to insulate his statements, uttered outside the "sphere of legislative activity,"[61] from judicial review.

Preliminary hearing was not warranted

Petitioner argues that a preliminary hearing on his special and affirmative defenses is necessary to allow him to present evidence that will warrant the immediate dismissal of the Complaint.

The Court is not persuaded.

Under Section 6, Rule 16 of the Rules of Court, a preliminary hearing on the affirmative defenses may be allowed only when no motion to dismiss has been filed. Section 6, however, must be construed in the light of Section 3 of the same Rule, which requires courts to resolve a motion to dismiss and prohibits deferment of such resolution on the ground of indubitability. Thus, Section 6 disallows a preliminary hearing of affirmative defenses once a motion to dismiss has been filed because such defenses should have already been resolved.[62]

In this case, however, petitioner's motion to dismiss had not been resolved when petitioner moved for a preliminary hearing. As public respondent stated in the assailed May 19, 2015 Order, the motion did not contain a notice of hearing and was not actually heard. Even so, a preliminary hearing is not warranted.

In his Answer with Motion to Dismiss, petitioner averred that private respondent failed to state and substantiate his cause of action, arguing that the statement he made before the media, in which he described private respondent as a "front" or "dummy" of former VP Binay for the so-called

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[59] Second paragraph, Section 1, Article VIII, 1987 Constitution.

[60] Pursuant to Section 5 of Republic Act No. 7691, which amended Section 19(8) of Batas Pambansa Blg. 129, the jurisdictional amount for RTC in Metro Manila was adjusted to exceeding ₱400,000.00.

[61] *Tenney v. Brandhove*, supra note 52.

[62] *California and Hawaiian Sugar Co. v. Pioneer Ins. and Surety Corp.*, 399 Phil. 795, 804 (2000).

Hacienda Binay, was one of fact.

By raising failure to state a cause of action as his defense, petitioner is regarded as having hypothetically admitted the allegations in the Complaint.[63]

The test of the sufficiency of the facts stated in a complaint as constituting a cause of action is whether or not, admitting the facts so alleged, the court can render a valid judgment upon the same in accordance with the plaintiff's prayer.[64] Inquiry is into the sufficiency not the veracity of the facts so alleged.[65] If the allegations furnish sufficient basis by which the complaint may be maintained, the same should not be dismissed regardless of the defenses that may be raised by the defendants.[66]

Accordingly, in determining whether a complaint did or did not state a cause of action, only the statements in the complaint may properly be considered.[67] The court cannot take cognizance of external facts or hold preliminary hearings to determine its existence.[68] For the court to do otherwise would be a procedural error and a denial of the plaintiff's right to due process.[69]

As this Court, in *Aquino, et al. v. Quiazon, et al.*,[70] instructs:

> The trial court may indeed elect to hold a preliminary hearing on affirmative defenses as raised in the answer under Section 6 of Rules 16 of the Rules of Court. It has been held, however, that **such a hearing is not necessary when the affirmative defense is failure to state a cause of action, and that it is, in fact, error for the court to hold a preliminary hearing to determine the existence of external facts outside the complaint**. The reception and the consideration of evidence on the ground that the complaint fails to state a cause of action, has been held to be improper and impermissible. Thus, in a preliminary hearing on a motion to dismiss or on the affirmative defenses raised in an answer, the parties are allowed to present evidence except when the motion is based on the ground of insufficiency of the statement of the cause of action which must be determined on the basis only of the facts alleged in the complaint and no other. **Section 6, therefore, does not apply to the ground that the complaint fails to state a cause of action**. The trial court, thus, erred in receiving and considering evidence in connection with this ground. (Citations omitted and emphasis ours.)

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[63] *Aquino, et al. v. Quiazon, et al.*, 755 Phil. 793, 810 (2015), citing *Insular Investment and Trust Corp. v. Capital One Equities Corp. et al.*, 686 Phil. 819, 847 (2012) and *Evangelista v. Santiago*, 497 Phil. 269, 290 (2005).

[64] *Aquino, et al. v. Quiazon, et al.*, supra at 810, citing *Insular Investment and Trust Corp. v. Capital One Equities Corp. et al.*, supra at 847.

[65] *Zuñiga-Santos v. Santos-Gran, et al.*, 745 Phil. 171, 180 (2014).

[66] *Aquino, et al. v. Quiazon, et al.*, supra at 810, citing *Insular Investment and Trust Corp. v. Capital One Equities Corp., et al.*, supra at 847.

[67] Id.

[68] Id.

[69] *Aquino, et al. v. Quiazon, et al.*, supra at 810.

[70] Supra at 816-817.

Complaint sufficiently states a cause of action

Private respondent filed his Complaint for moral and exemplary damages pursuant to Article 33 of the Civil Code[71] which authorizes an injured party to file a civil action for damages, separate and distinct from the criminal action, in cases of defamation, fraud and physical injuries.

As defined in Article 353 of the Revised Penal Code, a libel[72] 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.

For an imputation to be libelous, the following requisites must concur: a) it must be defamatory; b) it must be malicious; c) it must be given publicity and d) the victim must be identifiable.[73] Any of the imputations covered by Article 353 is defamatory,[74] and every defamatory imputation is presumed malicious.[75]

The Civil Code provides that moral damages include mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury, and may be recovered in cases of libel, slander or any other form of defamation,[76] while exemplary damages may be recovered in addition to moral damages, by way of correction or example for the public good, as determined by the court.[77]

Measured against the foregoing requisites and considerations, including the scope of parliamentary non-accountability, private respondent's Complaint, on its face, sufficiently makes out a cause of action for damages.

In his Complaint, private respondent alleged that petitioner gave statements during interviews by the media, describing him as the "dummy"

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[71] Article 33. In cases of defamation, fraud, and physical injuries, a civil action for damages, entirely separate and distinct from the criminal action, may be brought by the injured party. Such civil action shall proceed independently of the criminal prosecution, and shall require only a preponderance of evidence.

[72] Should be *difamación* [*Filipinas Broadcasting Network, Inc. v. Ago Medical & Educational Center-Bicol Christian College of Medicine*, 489 Phil. 380, 393 (2005), citing *Lu Chu Sing and Lu Tian Chiong v. Lu Tiong Gui*, 76 Phil. 669, 675 (1946)].

[73] *Lopez v. People, et al.*, 658 Phil. 20, 30 (2011).

[74] *Dr. Alonzo v. CA*, 311 Phil. 60, 71 (1995).

[75] *Filipinas Broadcasting Network, Inc. v. Ago Medical and Educational Center-Bicol Christian College of Medicine*, supra note 72 at 394.

[76] Articles 2217 and 2219 (7).

[77] Articles 2229 and 2233.

of former VP Binay in connection with the so-called *Hacienda* Binay. Private respondent averred that such imputation, unprivileged as it was uttered outside of petitioner's legislative functions, actually discredited him and tarnished his reputation as a legitimate businessman, and caused him sleepless nights, wounded feelings, serious anxiety, mental anguish and social humiliation. The statements, presumed to be malicious and so described by private respondent, were also alleged to have been made public through broadcast and print media, and identified private respondent as their subject. Hypothetically admitting these allegations as true, as is required in determining whether a complaint fails to state a cause of action, private respondent may be granted his claim.[78]

The Complaint, therefore, cannot be dismissed on the ground of failure to state a cause of action. As the RTC held, whether true or false, the allegations in the Complaint are sufficient to enable the court to render judgment according to private respondent's prayer.

Defense of lack of cause of action requires a full-blown trial

In moving for the outright dismissal of the Complaint, petitioner averred that private respondent failed to prove his alleged ownership of the subject estate. To establish this, petitioner pointed to Mercado's testimony that former VP Binay is the actual and beneficial owner thereof, the certificates of title covering the estate purportedly in the names of persons related to or identified with former VP Binay, and the one-page Agreement between Sunchamp and Gregorio which, according to petitioner, hardly inspires belief because it was not notarized and lacked details expected in a legitimate document, and because the transaction, which required Gregorio to give up possession, entailed a measly downpayment of ₱5 Million, out of the ₱446 Million total consideration, for an estate with a yearly ₱30 Million revenue from its orchard.

For these reasons, petitioner asserted that when he remarked before the media that private respondent was acting as former VP Binay's "front" or "dummy," he was simply making a statement of fact which he had based on documents, reports and information available to him, and which was never intended to be an insult or a derogatory imputation.

Petitioner also argued that because private respondent had thrust himself into the public debate on the so-called *Hacienda* Binay, he should be deemed a "public figure" and the questioned statements consequently qualify for the constitutional protection of freedom of expression.

[78] *Aquino, et al. v. Quiazon, et al.*, supra note 63.

Private respondent, however, has notably denied being a "dummy," and rebuffed petitioner's claim that he had thrust himself into the public debate, alleging that it was petitioner who brought up his name, out of nowhere, at the October 8, 2014 SBRS hearing.

Petitioner's Answer likewise repudiated private respondent's claim that the questioned statements had brought about a steep drop in the share prices of two listed companies he was managing, to the detriment of his substantial shareholdings therein. Petitioner countered that said prices had been on a downward trend long before he uttered the questioned statements; that he never mentioned said companies in his interviews; and that far from substantial, private respondent only had an 8% stake in one of the companies and none in the other.

A perusal of petitioner's defenses and arguments, as above outlined, at once reveals that the averments were grounded on lack of cause of action. In fact, by pleading in his Answer that private respondent failed to "substantiate" his cause of action, petitioner effectively questioned its existence, and would have the trial court inquire into the veracity and probative value of private respondent's submissions.

Distinguished from failure to state a cause of action, which refers to the insufficiency of the allegations in the pleading, lack of cause of action refers to the insufficiency of the factual basis for the action.[79] Petitioner, in his Answer with Motion to Dismiss, clearly impugned the sufficiency of private respondent's basis for filing his action for damages.

Section 6, Rule 16 allows the court to hold a preliminary hearing on affirmative defenses pleaded in the answer based on grounds for dismissal under the same rule.[80] The ground of "lack of cause of action," however, is not one of the grounds for a motion to dismiss under Rule 16, hence, not proper for resolution during a preliminary hearing held pursuant to Section 6 thereof.[81]

Furthermore, *Aquino* teaches that the existence of a cause of action "goes into the very crux of the controversy and is a matter of evidence for resolution after a full-blown hearing." An affirmative defense, raising the ground that there is no cause of action as against the defendant, poses a question of fact that should be resolved after the conduct of the trial on the merits.[82]

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[79] *Aquino, et al. v. Quiazon, et al*, supra note 63 at 808, citing *Dabuco v. Court of Appeals,* 379 Phil. 939, 944-945 (2000).

[80] *Aquino, et al. v. Quiazon, et al.,* supra note 63.

[81] *Aquino, et al. v. Quiazon, et al.,* supra at 809.

[82] Id.

Indeed, petitioner, in asking for the outright dismissal of the Complaint, has raised evidentiary matters and factual issues which this Court cannot address or resolve, let alone at the first instance. The proof thereon cannot be received in *certiorari* proceedings before the Court, but should be established in the RTC.[83]

Thus, even granting that the petition for *certiorari* might be directly filed with this Court, its dismissal must perforce follow because its consideration and resolution would inevitably require the consideration and evaluation of evidentiary matters. The Court is not a trier of facts, and cannot accept the petition for *certiorari* for that reason.[84]

All told, for its procedural infirmity and lack of merit, the petition must be dismissed.

WHEREFORE, the petition is **DISMISSED**. Public respondent's Orders dated May 19, 2015 and December 16, 2015 in Civil Case No. R-QZN-14-10666-CV are affirmed insofar as they are consistent with this decision.

SO ORDERED.

NOEL GIMENEZ TIJAM
Associate Justice

WE CONCUR:

(On Leave)
MA. LOURDES P. A. SERENO
Chief Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Acting Chairperson, First Division

MARIANO C. DEL CASTILLO
Associate Justice

[83] *Banez, Jr. v. Judge Concepcion, et al.*, 693 Phil. 399, 412 (2012).
[84] Id at 414.

FRANCIS H. JARDELEZA
Associate Justice

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.

TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

CERTIFICATION

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

ANTONIO T. CARPIO
Acting Chief Justice