



**Republic of the Philippines
Supreme Court
Manila**

THIRD DIVISION

FELINO A. PALAFOX, JR.,
Petitioner,

G.R. No. 209551

Present:

LEONEN, J.,
Chairperson,

HERNANDO,
INTING,
DELOS SANTOS, and
LOPEZ, J. Y., *JJ.*

- versus -

**HON. FRANCISCO G. MENDIOLA
and SENATOR EDGARDO J.
ANGARA,***

Promulgated:

Respondents.

February 15, 2021

Mis-DCBatt

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DECISION

HERNANDO, J.:

This is a Petition for *Certiorari*¹ assailing the July 11, 2013² and September 20, 2013 Orders³ of Regional Trial Court (RTC) of Pasay City, Branch 115.

The July 11, 2013 Order denied petitioner Felino A. Palafox, Jr.'s (Palafox, Jr.) motion to dismiss for improper venue and granted private respondent Edgardo J. Angara's (Sen. Angara) motion to take oral deposition.⁴

* Passed away on May 13, 2018 per Manifestation dated June 13, 2018; see *rollo*, pp. 633-638.

¹ *Rollo*, pp. 3-21.

² *Id.* at 23-24; penned by Judge Francisco G. Mendiola.

³ *Id.* at 25.

⁴ *Id.* at 23-24.

The September 20, 2013 Order denied Palafox, Jr.'s motion for reconsideration.⁵

Antecedents:

This case stemmed from the Complaint for Damages⁶ filed by Sen. Angara against Palafox, Jr., wherein Sen. Angara alleged that Palafox, Jr. authored an unsigned letter containing defamatory statements against him.⁷ In the Complaint, Sen. Angara indicated that he was holding office in Pasay City.⁸

In his Answer,⁹ Palafox, Jr. argued that venue was improperly laid since the Complaint was filed in the RTC of Pasay City instead of Makati City where both parties reside.¹⁰ He then moved to set the preliminary hearing on his affirmative defenses,¹¹ raising such issue of improper venue, among others.¹² Sen. Angara opposed this motion¹³ and pointed out that Article 360 of the Revised Penal Code¹⁴ allows the filing of the civil action where the

⁵ Id. at 25.

⁶ Records, Vol. I, pp. 41-56.

⁷ Id. at 46-48.

⁸ Id. at 41.

⁹ Id. at 83-88.

¹⁰ Id. at 86.

¹¹ Id. at 189-190.

¹² Id. at 189.

¹³ Id. at 196-204

¹⁴ REVISED PENAL CODE, Art. 360 reads:

Art. 360. *Persons responsible.* — Any person who shall publish, exhibit, or cause the publication or exhibition of any defamation in writing or by similar means, shall be responsible for the same.

The author or editor of a book or pamphlet, or the editor or business manager of a daily newspaper, magazine or serial publication, shall be responsible for the defamations contained therein to the same extent as if he were the author thereof.

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: *Provided*, however, That where one of the offended parties is a public officer whose office is in the City of Manila at the time of the commission of the offense, the action shall be filed in the Court of First Instance of the City of Manila or of the city or province where the libelous article is printed and first published, and **in case such public officer does not hold office in the City of Manila, the action shall be filed in the Court of First Instance of the province or city where he held office at the time of the commission of the offense** or where the libelous article is printed and first published and in case one of the offended parties is a private individual, the action shall be filed in the Court of First Instance of the province or city where he actually resides at the time of the commission of the offense or where the libelous matter is printed and first published: *Provided, further*, That the civil action shall be filed in the same court where the criminal action is filed and vice versa: *Provided, furthermore*, That the court where the criminal action or civil action for damages is first filed, shall acquire jurisdiction to the exclusion of other courts: *And provided, finally*, That this amendment shall not apply to cases of written defamations, the civil and/or criminal actions to which have been filed in court at the time of the effectivity of this law.

Preliminary investigation of criminal actions for written defamations as provided for in the chapter shall be conducted by the provincial or city fiscal of the province or city, or by the municipal court of the city or capital of the province where such actions may be instituted in accordance with the provisions of this article.

No criminal action for defamation which consists in the imputation of a crime which

public officer holds office. In response, Palafox, Jr. argued that Article 360 is inapplicable because the action involved is a civil action for damages and not a criminal action for libel.¹⁵

Meanwhile, Sen. Angara served Palafox, Jr. with a notice to take deposition upon oral examination.¹⁶ Palafox, Jr. opposed such notice on the ground that deposition was premature as pre-trial had not yet been terminated.¹⁷

In its July 11, 2013 Order, the trial court held that the venue was proper since the filing of a separate civil action for damages where the public officer holds office is allowed under Article 360.¹⁸ Thus, the RTC denied Palafox, Jr.'s motion to dismiss for improper venue.¹⁹ The trial court likewise granted Sen. Angara's motion to take oral deposition pursuant to Section 1, Rule 23 of the 1997 Rules on Civil Procedure,²⁰ which does not expressly require the termination of pre-trial before the taking of deposition.

The dispositive portion of the RTC Order reads:

WHEREFORE, defendant's motion to dismiss for improper venue is DENIED, while plaintiff's motion to compel defendant to oral deposition is GRANTED, and the testimony of defendant by oral examination will be taken before the Branch Clerk of Court on September 10, 2013 at 11:00 A.M.

SO ORDERED.²¹

Palafox, Jr. filed a motion for reconsideration but it was denied by the trial court in its September 20, 2013 Order.²²

Thus, this Petition for *Certiorari*, where Palafox, Jr. raises the following issues:

cannot be prosecuted *de officio* shall be brought except at the instance of and upon complaint expressly filed by the offended party. (Emphasis supplied)

¹⁵ Records, Vol. I, pp. 299-301.

¹⁶ Id. at 173-174.

¹⁷ Id. at 178.

¹⁸ *Rollo*, pp. 23-24.

¹⁹ Id.

²⁰ Id. Rule 23, Sec. 1 reads:

SECTION 1. *Depositions Pending Action, When May Be Taken.*— By leave of court after jurisdiction has been obtained over any defendant or over property which is the subject of the action, or without such leave after an answer has been served, the testimony of any person, whether a party or not, may be taken, at the instance of any party, by deposition upon oral examination or written interrogatories. The attendance of witnesses may be compelled by the use of a subpoena as provided in Rule 21. Depositions shall be taken only in accordance with these Rules. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

²¹ Id. at 24.

²² Id. at 25.

I. Whether or not the lower court committed grave abuse of discretion amounting to lack or excess of jurisdiction when it ruled that the venue as provided under Article 360 of the Revised Penal Code is applicable in a civil case for Moral and Exemplary Damages arising from alleged defamatory statements where no criminal case is commenced or filed.

II. Whether or not the lower court committed grave abuse of discretion amounting to lack or excess of jurisdiction in granting [Sen. Angara's] Motion to Compel Palafox to submit to Deposition upon Oral Examination.²³

Palafox, Jr. argues that for Article 360 to apply, there must be a criminal case filed, as gleaned from the usage of the conjunctive word "and" in the provision. Since no criminal case was commenced, Palafox, Jr. posits that Sen. Angara cannot rely on Article 360 but on the Rules of Court which requires the filing of the case where the plaintiff or defendant resides.²⁴ Further, Palafox, Jr. argues that the conduct of the oral deposition was premature since the trial court had yet to terminate pre-trial.²⁵ Accordingly, he prays for (1) a temporary restraining order (TRO) against the taking of his deposition; (2) the reversal of the RTC's July 11, 2013 and September 20, 2013 Orders, and (3) the dismissal of Sen. Angara's Complaint for Damages.²⁶

In his Comment,²⁷ Sen. Angara raised the following counter arguments: (1) that there is no need for a criminal case to be filed since Article 360 is clear that a criminal and civil action for damages can be filed simultaneously or separately;²⁸ (2) that there is no requirement that a pre-trial should be conducted first before deposition may be taken;²⁹ (3) that the prayer for TRO against the taking of deposition had become moot and academic in view of the happening of such event;³⁰ and (4) that Palafox, Jr. violated the rule on hierarchy of courts when he filed the Petition directly to the Supreme Court.³¹

While Palafox, Jr. was required to file a Reply to Sen. Angara's Comment,³² he manifested that he was adopting his arguments raised in the Petition.³³

Our Ruling

We dismiss the Petition for violation of the rule on hierarchy of courts.

In *Dy v. Bibat-Palamos*,³⁴ We summarized such rule and the exceptions

²³ Id. at 8.

²⁴ Id. at 8-15.

²⁵ Id. at 15-18.

²⁶ Id. at 17.

²⁷ Id. at 142-162.

²⁸ Id. at 152-153.

²⁹ Id. at 156.

³⁰ Id. at 157.

³¹ Id. at 159-160.

³² Id. at 604.

³³ Id. at 605-606.

thereto:

Under the principle of hierarchy of courts, direct recourse to this Court is improper because the Supreme Court is a court of last resort and must remain to be so in order for it to satisfactorily perform its constitutional functions, thereby allowing it to devote its time and attention to matters within its exclusive jurisdiction and preventing the overcrowding of its docket. Nonetheless, the invocation of this Court's original jurisdiction to issue writs of *certiorari* has been allowed in certain instances on the ground of special and important reasons clearly stated in the petition, such as, (1) when dictated by the public welfare and the advancement of public policy; (2) when demanded by the broader interest of justice; (3) when the challenged orders were patent nullities; or (4) when analogous exceptional and compelling circumstances called for and justified the immediate and direct handling of the case.³⁵ (Citations omitted)

We have repeatedly emphasized the importance of strictly respecting this rule. In *Pemberton v. De Lima*,³⁶ We said that the Court may only act when absolutely necessary or when serious and important reasons exist to justify an exception:

The Court must enjoin the observance of the policy on the hierarchy of courts, and now affirms that the policy is not to be ignored without serious consequences. The strictness of the policy is designed to shield the Court from having to deal with causes that are also well within the competence of the lower courts, and thus leave time to the Court to deal with the more fundamental and more essential tasks that the Constitution has assigned to it. The Court may act on petitions for the extraordinary writs of *certiorari*, prohibition and mandamus only when absolutely necessary or when serious and important reasons exist to justify an exception to the policy.³⁷

Further, We have held that such serious and important reasons must be "clearly stated in the petition."³⁸

Here, Palafox, Jr. filed his Petition directly to this Court despite the concurrent jurisdiction of the appellate court. **Significantly, he did not bother to provide any reason or explanation to justify his noncompliance to the rule on hierarchy of courts.** Further, when he was required to reply to Sen. Angara's Comment containing the latter's argument on the violation of hierarchy of courts, he simply manifested his adoption of his previous arguments in the Petition. This constitutes a clear disregard of the hierarchy of courts and merits the dismissal of the Petition.

WHEREFORE, this Court resolves to **DISMISS** the Petition.

³⁴ 717 Phil. 776-789 (2013).

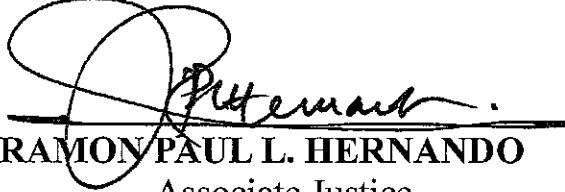
³⁵ Id. at 782-783.

³⁶ 784 Phil. 918-941 (2016).


³⁷ Id. at 930, citing *Bañez v. Concepcion*, 693 Phil. 399, 412 (2012).


³⁸ *Dy v. Bibat-Palamos*, supra note 34 at 783.

SO ORDERED.


RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


MARVIC M. V. F. LEONEN
Associate Justice
Chairperson



HENRI JEAN PAUL B. INTING
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice


JHOSEP Y. LOPEZ
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.



MARVIC M. V. F. LEONEN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I hereby 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.



DIOSDADO M. PERALTA
Chief Justice