



SUPREME COURT OF THE PHILIPPINES  
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Republic of the Philippines  
Supreme Court  
Baguio City

*EN BANC*

PEOPLE OF THE G.R. No. 256700  
PHILIPPINES,

*Petitioner,*

- versus -

JOMERITO S. SOLIMAN,  
*Respondent.*

Present:  
GISMUNDO, C.J., Chairperson,  
LEONEN, S.A.J.,  
CAGUIOA,  
HERNANDO,\*  
LAZARO-JAVIER,  
INTING,  
ZALAMEDA,  
LOPEZ, M.,  
GAERLAN,  
ROSARIO,\*  
LOPEZ, J.,  
DIMAAMPAO,  
MARQUEZ,  
KHO, JR., and  
SINGH, JJ.

Promulgated:

April 25, 2023

X-----  
*[Signature]*  
X

**DECISION**

**KHO, JR., J.:**

\* On leave.

*File*

This Court resolves the Petition for Review on *Certiorari*<sup>1</sup> filed by petitioner People of the Philippines (petitioner), assailing the Decision<sup>2</sup> dated October 30, 2020 and the Resolution<sup>3</sup> dated May 31, 2021 of the Court of Appeals (CA) in CA-G.R. SP No. 162948, which affirmed the Decision<sup>4</sup> dated August 23, 2019 of the Regional Trial Court of Quezon City, Branch 90 (RTC) in Criminal Case No. R-QZN-18-13974-CR, convicting respondent Jomerito S. Soliman (Soliman) of the crime of Libel committed through a computer system and other similar means, or Online Libel, as defined and penalized under Section 4(c) (4)<sup>5</sup> of Republic Act No. (RA) 10175,<sup>6</sup> and sentencing Soliman to pay a fine in the amount of ₱50,000.00.

### The Facts

This case originated from an Information<sup>7</sup> filed before the RTC, charging Soliman with Online Libel, the accusatory portion of which reads:

That on or about the 23<sup>rd</sup> day of January, 2018, in Quezon City, Philippines, the above-named accused, with evident purpose of impeaching the virtue, integrity[,] and reputation of WALDO R. CARPIO, with malicious intent of exposing him to public hatred, contempt and ridicule, did then and there willfully, unlawfully, feloniously[,] and maliciously exhibit and circulate and/or cause to be exhibited and circulated by, through and with the use of information and communication technology, the following remarks/comments which he posted in his account on “Facebook”, to wit:

X X X X

“Jo Soliman  
4 hrs.

*MINSAN NA KAMING TINARANTADO AT GINAGO,  
HINDI NA MAUULIT.*

<sup>1</sup> *Rollo*, pp. 9–30.

<sup>2</sup> *Id.* at 37–52. Penned by Associate Justice Apolinario D. Bruselas, Jr. and concurred in by Associate Justices Marie Christine Azcarraga-Jacob and Tita Marilyn B. Payoyo-Villordon.

<sup>3</sup> *Id.* at 53–54.

<sup>4</sup> *Id.* at 55–69. Penned by Acting Presiding Judge Maria Luisa Lesle G. Gonzales-Betic.

<sup>5</sup> Section 4(c) 4 of RA 10175 reads:

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

a. x x x

b. x x x

c. Content-related Offenses:

1. x x x

x x x

4. Libel. — The unlawful or prohibited acts of libel as defined in Article 355 of the Revised Penal Code, as amended, committed through a computer system or any other similar means which may be devised in the future.

<sup>6</sup> Entitled “AN ACT DEFINING CYBERCRIME, PROVIDING FOR THE PREVENTION, INVESTIGATION, SUPPRESSION AND THE IMPOSITION OF PENALTIES THEREFOR AND FOR OTHER PURPOSES,” approved on September 12, 2012.

<sup>7</sup> *Rollo*, pp. 70–73.

*Atelo*

*Sabi ko na eh pag ako nagtrabaho mabilis!!! Buo na ang puzzle.*

*Putang ina mo kahit Carpio ka pa patanggal kita kay PRRD!!! Ipadyaryo nyo ako na smuggler? Tapos SPS (sanitary and phytosanitary clearance) ko IKAW pala nagiiipit???? Tapos sabihin ninyo wag ako bigyan ng MAV? Tapos ngayon pikon na pikon ako sa pagmumukha mo susumbong ka sa kuya mo? Pa dyaryo ka pa araw arawin mo!!!! Ngayon ko nalaman ikaw pala may hawak ng releasing sa Bureau of Plant Industry!!!! Galing mo!!! Sabi diba HUWAG AKO!!!*

*Bakit iniipit ni Waldo papel mo? Huhu? Sino Waldo? SPS. Eh diba sa ONIONS lang SPS hawak niya? Hindi pati sa BIGAS!!!*

*Inipit mo kahit alam mo deadline of arrival is February 28, 2018!!! Application was submitted to your office January 9, 2018, you released it January 22, 2018 after your attention it was called by Secretary. You are definitely NOT following the 3-day release of documents mandate of our President.*

*So since inipit mo papel naming delay ang shipment, since delay ang shipment, BIDA ang backdoor activities mo!*

*Bakit nakapasok as ASEC yan sa Department of Agriculture-Philippines?*

*So sino ngayon ang financer ng TROLL???*

Cc: Pres. Rody Duterte  
 Sec. Manny Piñol  
 SAP Christopher Bong Go  
 We are Collective  
 Ramon Gerardo San Luis  
 JP Montel Fajura  
 Pure Force-Media  
 Pure Force Dispatcher”

X X X X

and other words of similar import, the said accused intended to convey in his Facebook account false and malicious imputations against said complainant to the effect that the latter takes favors and unduly delays the release of the accused’s Sanitary and Phytosanitary Import clearance (SPS Permit), as the said accused well-knew were entirely false and malicious, in fact and therefore highly libelous offense and derogatory and were made for no other purpose than to impeach and besmirch the good name, integrity, credibility and reputation of said complainant as in fact the latter was exposed to dishonor, discredit, public hatred, contempt and ridicule, to the damage and prejudice of the said offended party.

CONTRARY TO LAW.<sup>8</sup>

<sup>8</sup> Id. at 70-72.

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After trial on the merits ensued, the RTC promulgated a Decision<sup>9</sup> dated August 23, 2019, finding Soliman guilty as follows:

**WHEREFORE**, premises considered, accused Jomerito S. Soliman is found **GUILTY** beyond reasonable doubt of On-line Libel under Section 4 (c) (4) of Republic Act No. 10175 and a fine in the amount of Php50,000.00 is hereby imposed with subsidiary imprisonment in case of non-payment of the fine.<sup>10</sup>

In imposing the penalty of fine only, the RTC invoked Administrative Circular No. (AC) 08-2008,<sup>11</sup> or the “*Guidelines in the Observance of a Rule of Preference in the Imposition of Penalties in Libel Cases*,” as well as prevailing case law on libel which allows, under the circumstances specified therein, for the imposition of fine only rather than imprisonment. The RTC opined that while AC 08-2008 does not remove imprisonment as a penalty for libel, judges may, taking into consideration the peculiar circumstances of each case and in the exercise of sound discretion, determine whether the imposition of a fine alone would best serve the interests of justice.<sup>12</sup>

Soliman no longer appealed his conviction and paid the fine imposed on him.<sup>13</sup> On the other hand, petitioner filed a Petition for *Certiorari*<sup>14</sup> with the CA, contending that the RTC committed grave abuse of discretion in imposing a penalty of fine only for violation of Online Libel. Citing Section 6 of RA 10175, petitioner argued that when crimes punishable under the Revised Penal Code (RPC), such as libel, are committed with the use of information and communication technologies, the penalty shall be one (1) degree higher than that provided in the RPC. Thus, petitioner argued that the RTC should have imposed the penalty of *prision correccional* in its maximum period to *prision mayor* in its minimum period instead of a fine only.<sup>15</sup>

In his Comment,<sup>16</sup> Soliman argued that: (1) in seeking a higher penalty, the petition for *certiorari* violated his right against double jeopardy; (2) a special civil action for *certiorari* is an improper remedy to question the RTC’s decision, which had already attained finality; (3) the acting presiding judge of the RTC did not act in an arbitrary or whimsical manner in issuing the decision; and (4) under applicable laws, the RTC is given the discretion to impose the penalty of imprisonment or a fine.<sup>17</sup>

<sup>9</sup> Id. at 55–69.

<sup>10</sup> Id. at 69.

<sup>11</sup> Issued on January 25, 2008.

<sup>12</sup> *Rollo*, p. 68.

<sup>13</sup> Id. at 40, citing Soliman’s Comment to the petition for *certiorari*.

<sup>14</sup> Dated October 15, 2019; id. at 74–87.

<sup>15</sup> Id. at 39–40 & 80–81.

<sup>16</sup> Id. at 190–213.

<sup>17</sup> Id. at 192–211.

### The CA Ruling

In a Decision<sup>18</sup> dated October 30, 2020, the CA denied due course to the *certiorari* petition.<sup>19</sup> It found no grave abuse of discretion on the part of the RTC, stating that if ever the penalty imposed is erroneous, the error is one of judgment and not of jurisdiction. It also held that the laws on libel and online libel do not remove the discretion of courts to impose the penalty of imprisonment or a fine, and that even the Implementing Rules and Regulations<sup>20</sup> (IRR) of RA 10175 states that the penalty for online libel is *prision correccional* in its maximum period to *prision mayor* in its minimum period or a fine ranging from ₱6,000.00 up to the maximum amount determined by the Court, or both. Finally, the CA held that the *certiorari* petition impinged on Soliman's right against double jeopardy, especially considering that the latter did not lodge an appeal from the RTC decision.<sup>21</sup>

Petitioner moved for reconsideration,<sup>22</sup> which was denied by the CA in a Resolution<sup>23</sup> dated May 31, 2021. Hence, this petition,<sup>24</sup> where petitioner argues that: (1) a special civil action for *certiorari* is the proper remedy to assail a court's imposition of the wrong penalty; (2) the *certiorari* petition does not violate the right of the accused against double jeopardy; and (3) the RTC gravely abused its discretion when it imposed a penalty of a fine only and not a penalty higher by one degree than that imposed by the RPC, in accordance with Section 6 of RA 10175.<sup>25</sup>

### The Issue Before the Court

The sole issue for the Court's resolution is whether or not the CA correctly ruled that the RTC did not gravely abused its discretion when it imposed the penalty of fine only on Soliman for his conviction for Online Libel.

### The Court's Ruling

The petition is not meritorious.

At the outset, it must be emphasized that what petitioner sought to assail in its *certiorari* petition before the CA is the penalty imposed by the RTC.

<sup>18</sup> Id. at 37–52.

<sup>19</sup> Id. at 51.

<sup>20</sup> Entitled "RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 10175, OTHERWISE KNOWN AS THE 'CYBERCRIME PREVENTION ACT OF 2012.'" (August 12, 2015).

<sup>21</sup> Id. at 41–51.

<sup>22</sup> Id. at 150–162.

<sup>23</sup> Id. at 53–54.

<sup>24</sup> Id. at 9–30.

<sup>25</sup> Id. at 15–27.

Thus, the Court's review is limited to the question of whether the CA was correct in ruling that the RTC committed no grave abuse of discretion in imposing the penalty of fine in the amount of ₱50,000.00 only, instead of imprisonment higher by one degree, as allegedly mandated by Section 6 of RA 10175.

**On the right against double jeopardy.**

In *People v. Celorio, (Celorio)*,<sup>26</sup> the Court, through Associate Justice Rosmari D. Carandang, held that an appeal by the government seeking to increase the penalty imposed by the trial court places the accused in double jeopardy.<sup>27</sup> However, the Court also explained in *Celorio* that a special civil action for *certiorari*, ascribing as it does grave abuse of discretion on the part of a tribunal in imposing the erroneous or invalid penalty, does not place the accused in double jeopardy.

For double jeopardy to apply, the judgment in the first jeopardy must have been issued by a court of competent jurisdiction,<sup>28</sup> the very issue in a *certiorari* petition, which seeks to correct errors of jurisdiction. When the writ is issued, the court is "vacated of its jurisdiction" and "its judgment takes no effect."<sup>29</sup> Thus, there is no double jeopardy if the court handing down the sentence in the first jeopardy is ousted of its jurisdiction. Conversely, if it is ultimately found that there was no grave abuse of discretion on the part of the court in the first jeopardy and the court is not vacated of its jurisdiction, then a writ of *certiorari* may not be issued and the penalty may not be increased since it violates the right of the accused against double jeopardy.

As will be explained further, the Court finds no grave abuse of discretion amounting to lack of jurisdiction on the part of the RTC in imposing the penalty of fine against Soliman for the crime of Online Libel. Hence, to modify or increase such valid penalty would place him in double jeopardy.

**Fine as an alternative penalty for Online Libel**

Substantively, the petition raises a novel issue, more particularly, whether a court may sentence an accused found guilty beyond reasonable doubt of the crime of Online Libel, as defined and penalized under Section 4(c) (4) of RA 10175 to the payment of a fine only.

<sup>26</sup> G.R. No. 226335, June 23, 2021 [First Division].

<sup>27</sup> Id.

<sup>28</sup> Id., citing *Atty. Dimayacyac v. CA*, 474 Phil. 139, 147 (2004) [Per J. Austria-Martinez, Second Division], further citing *People v. Ylagan*, 58 Phil. 851, 852-853 (1933) [Per J. Abad-Santos].

<sup>29</sup> *People v. Celorio*, supra.

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In this regard, petitioner argues that Section 6 of RA 10175 mandates the imposition of a penalty one (1) degree higher than that provided in the RPC for crimes punishable under the Code when committed with the use of information and communication technologies. To petitioner, this means that the penalty of imprisonment must necessarily be imposed when the felony is committed with the use of such technologies. Finally, petitioner also assailed the RTC's invocation of the AC 08-2008 in imposing the penalty of fine, arguing that the Circular cannot apply to online libel as RA 10175 was enacted later. Further, petitioner asserts that even assuming that the Circular is applicable, the circumstances in the present case do not fall under any of the circumstances mentioned therein.<sup>30</sup>

A closer look at petitioner's arguments clearly shows that its reason for assailing the penalty imposed is focused on the fact that only a fine was imposed. It claims that Section 6 of RA 10175 mandates the imposition of imprisonment. Section 6 provides:

SEC. 6. All crimes defined and penalized by the Revised Penal Code, as amended, and special laws, if committed by, through and with the use of information and communications technologies shall be covered by the relevant provisions of this Act: *Provided*, That the penalty to be imposed shall be one (1) degree higher than that provided for by the Revised Penal Code, as amended, and special laws, as the case may be.

Thus, for purposes of determining the correct penalty for online libel, Section 6 instructs that the commission of the crime through information and communication technologies **shall be one degree higher** than that provided for the crime of Libel punished under the RPC. These articles on libel provide:

ART. 353. *Definition of libel.* – A libel is public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead.

ART. 355. *Libel means by writings or similar means.* – A libel committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or

<sup>30</sup> AC 08-2008 recognized that the penalty of fine only was imposed in the following cases:

- (a) In *Sazon v. CA*, [325 Phil. 1053 (1996)] [Per J. Hermosisima, Jr.], when the accused wrote the libelous article to defend his honor against malicious messages that circulated in his subdivision;
- (b) In *Mari v. CA*, [388 Phil. 269 (2000)] [Per J. Pardo, First Division], when the slander by deed was committed in the heat of anger and in reaction to a perceived provocation;
- (c) In *Brillante v. CA*, [511 Phil. 96 (2005)] [Per J. Tinga, Second Division], when libel was committed because of intensely feverish passions evoked during an election season, against public officials in connection with their performance of official duties; and
- (d) In *Buatis, Jr. v. CA*, [520 Phil. 149 (2006)] [Per J. Austria-Martinez, First Division], when libel was committed for the first time, motivated by the accused's belief that he was merely exercising his civil or moral duty to his client.

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any similar means, shall be punished by *prision correccional* in its minimum and medium periods or a fine ranging from Forty thousand pesos (P40,000) to One million two hundred thousand pesos (P1,200,000), or both, in addition to the civil action which may be brought by the offended party. (As amended by Section 91 of RA 10951;<sup>31</sup> emphasis and underscoring supplied)

Relevantly, the RPC recognizes that the penalty of fine may be imposed as a single or alternative penalty,<sup>32</sup> which means it can be imposed *in lieu* of imprisonment, as obviously shown by the fact that the RPC provides for the alternative penalty of fine in many of its provisions.<sup>33</sup> Specifically on libel, the penalty of fine may also be imposed in the alternative, which is evident in the RPC's plain use of the disjunctive word "or" between the term of imprisonment and fine, such word signaling disassociation or independence between the two words.<sup>34</sup>

Petitioner appears to conclude that Section 6 mandates imprisonment as a penalty for Online Libel because it provides that the penalty shall be "one degree higher than that provided in the [RPC]." Thus, petitioner erroneously assumes that only imprisonment may be increased or decreased by degrees under the RPC. Verily, petitioner's argument is belied by Article 75 of the RPC which provides:

*Art. 75. Increasing or reducing the penalty of fine by one or more degrees. – Whenever it may be necessary to increase or reduce the penalty of fine by one or more degrees, it shall be increased or reduced, respectively, for each degree, by one-fourth of the maximum amount prescribed by law, without however, changing the minimum.*

The same rules shall be observed with regard to fines that do not consist of a fixed amount, but are made proportional. (Underscoring supplied)

From this, the Court finds that there is no legal basis for petitioner to argue that: (a) a penalty of fine may not be imposed in the case of Online Libel; and (b) Section 6 speaks only of imprisonment when it provided for a penalty one degree higher than that provided in the RPC. Clearly, Articles 26, 75, and 355 of the RPC provide that the penalty of fine may be imposed instead of imprisonment and it may be increased or decreased by degrees.

<sup>31</sup> Entitled "AN ACT ADJUSTING THE AMOUNT OR THE VALUE OF PROPERTY AND DAMAGE ON WHICH A PENALTY IS BASED, AND THE FINES IMPOSED UNDER THE REVISED PENAL CODE, AMENDING FOR THE PURPOSE ACT NO. 3815, OTHERWISE KNOWN AS 'THE REVISED PENAL CODE,' AS AMENDED," approved on August 29, 2017.

<sup>32</sup> Art. 26 of the REVISED PENAL CODE.

<sup>33</sup> RA 10951 lists thirty-seven (37) felonies imposing fine as an alternative penalty.

<sup>34</sup> See *Microsoft Corporation v. Manansala*, 772 Phil. 14, 22 (2015) [Per J. Bersamin, First Division], citing R. AGPALO, STATUTORY CONSTRUCTION 203 (4<sup>th</sup> ed., 1998).

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***The proper penalty for Online Libel.***

Considering the foregoing, the Court rules that the CA correctly found that the RTC did not gravely abuse its discretion in imposing the penalty of a fine only. The Court finds that the circumstances surrounding the defamatory Facebook post are akin to one of the circumstances enumerated in AC 08-2008; that is, that Soliman was animated by anger and his perception that private complainant Waldo R. Carpio was provoking him by his allegedly intentional delay in releasing Soliman's sanitary and phytosanitary clearance. This finding is confirmed by the fact that, as found by the RTC, Soliman immediately deleted the libelous post once the Secretary of the Department of Agriculture called his attention and apologized to Carpio several times.<sup>35</sup> Further, the Court also finds that the RTC did not gravely abuse its discretion when it set the amount of the fine imposed at ₱50,000.00, as will be explained below.

It bears pointing out that Section 91 of RA 10951, which was enacted *before* the crime was committed,<sup>36</sup> increased the penalty of fine for traditional libel (*i.e.*, as defined and penalized under the RPC) as follows:

Sec. 91. Article 355 of the same Act is hereby amended to read as follows:

Art. 355. *Libel by means of writings or similar means.* – A libel committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means, shall be punished by *prisión correccional* in its minimum and medium periods **or a fine ranging from Forty thousand pesos (P40,000) to One million two hundred thousand pesos (P1,200,000)**, or both, in addition to the civil action which may be brought by the offended party. (Emphasis and underscoring supplied)

Section 6 of RA 10175 provides that if a penalty of fine is imposed for online libel, it must be one degree higher than that imposed by the RPC. Following Article 75 of the RPC, each degree shall be one-fourth of the maximum amount set by law. Pertinently, the Court, through Associate Justice Marcelino R. Montemayor, applied this rule in the case of *De los Angeles v. People of the Philippines (De los Angeles)*,<sup>37</sup> where, in ascertaining the correct amount of fine to be imposed for an *attempted* felony, it determined that each degree shall be one-fourth of the maximum amount provided by law.

<sup>35</sup> *Rollo*, pp. 62 and 68.

<sup>36</sup> RA 10951 was approved on August 29, 2017 and was published in the *Official Gazette* on September 11, 2017. Per the Information, the crime was committed on January 23, 2018.

<sup>37</sup> 103 Phil. 295 (1958).

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In this case, then, upon dividing the maximum amount of fine— $\text{P}1,200,000.00$ —into four parts (one-fourth of the maximum amount set by law), each degree amounts to  $\text{P}300,000.00$ . Then, in order to determine the penalty one degree higher, the amount of  $\text{P}300,000.00$  shall be added to the maximum amount stated in the *amended* Article 355 of the RPC. Thus, the maximum amount of fine for online libel shall be  $\text{P}1,500,000.00$  ( $\text{P}1,200,000.00 + \text{P}300,000.00$ ). Further, the minimum shall be unchanged at  $\text{P}40,000.00$ , following Article 75 of the RPC. Finally, the range of the penalty of fine for online libel shall be from  $\text{P}40,000.00$  to  $\text{P}1,500,000.00$ . Hence, the fine imposed by the RTC at  $\text{P}50,000.00$  is within the range imposable by the law.

The Court also emphasizes that, because the minimum and maximum amounts of fine are fixed by law for traditional and consequently, for online libel, then, for the purpose of *reducing* the amount of fine by degrees, the minimum shall remain unchanged, as the Court ruled in *De los Angeles* and as provided by Article 75 of the RPC.

Further, considering that RA 10175 imposes upon online libel a penalty that is one (1) degree higher than traditional libel, then the maximum penalty of fine is  $\text{P}1,500,000.00$ . For the guidance of the Bench and the Bar, the Court holds that, in the event that it shall be necessary to reduce the penalty of fine for online libel by one (1) degree, then the maximum penalty for online libel shall be reduced by one-fourth ( $\text{P}1,500,000.00 / 4 = \text{P}375,000.00$ ). Hence, the range of the penalty shall be  $\text{P}40,000.00$ , as minimum, to  $\text{P}1,125,000.00$ , as maximum. If by two (2) degrees, then the minimum shall also remain unchanged, but the maximum shall be further reduced by another one-fourth of the original maximum penalty. Hence the range of penalty shall be  $\text{P}40,000.00$  to  $\text{P}750,000.00$ .

At this juncture, the Court is mindful of the fact that the IRR of RA 10175 explicitly states a different range of fines as a penalty for online libel, as follows:

**Section 5. Other Cybercrimes.** – The following constitute other cybercrime offenses punishable under the Act:

x x x x

3. **Libel** – The unlawful or prohibited acts of libel, as defined in Article 355 of the Revised Penal Code, as amended, committed through a computer system or any other similar means which may be devised in the future shall be punished with *prision correccional* in its maximum period to *prision mayor* in its minimum period or a fine ranging from Six Thousand Pesos (P6,000.00) up to the maximum amount determined by Court, or both, in addition to the civil action which may be brought by the offended party: *Provided*, That this provision applies only to the original

author of the post or online libel, and not to others who simply receive the post and react to it. (emphasis and underscoring supplied)

The Court also recognizes that as worded, the penalty of *imprisonment* in the IRR for online libel is indeed one degree higher than that provided in the RPC. The fine in the IRR, however, retained the old amount stated in Article 355 of the RPC, without increasing the maximum amount by one degree in accordance with Article 75. Additionally, as stated earlier, Article 355 of the RPC was amended by RA 10951 in 2017.<sup>38</sup> Thus, the passage of RA 10951, and with it, the adjustment of the amount of the fine imposed for libel and other crimes, created a variance between the penalties in Section 6 of RA 10175 and Section 5 of its IRR.

In determining the correct penalty for online libel, the Court finds that the express provision in Section 6 of RA 10175 is controlling than Section 5 of the law's IRR, whose authority for issuance is delegated by the law itself.<sup>39</sup> Settled jurisprudence dictates that implementing rules and regulations should not go against or beyond the law it seeks to implement. Thus, in case of a conflict between the law and its IRR, the law prevails.<sup>40</sup> As the offense in this case was committed on January 23, 2018, the courts must apply Section 6 of RA 10175 in relation to the RPC's penalty for libel in its amended form in force at the time the offense was committed.

Thus, the Court takes this opportunity to clarify, for the guidance of the Bench and the Bar, that as worded, both the RPC and RA 10175 prescribe the penalty of imprisonment *or a fine* for the crimes of Traditional Libel and Online Libel, depending on the circumstances present in each case. **Both statutes did not alter the character of the penalties of imprisonment and fine as alternatives to each other, or as concurrent penalties, in cases of Online Libel or Libel.**

**Applicability of Administrative Circular No. 08-2008 to Online Libel.**

Further, and likewise for the guidance of the Bench and the Bar, the Court deems it proper to rule on the applicability of AC 08-2008 in deciding cases of online libel. Petitioner argued that the Circular cannot be applied to

<sup>38</sup> The IRR was issued on August 12, 2015.

<sup>39</sup> Sec. 28 of RA 10175 reads:

*Implementing Rules and Regulations.* — The ICTO-DOST, the DOJ and the Department of the Interior and Local Government (DILG) shall jointly formulate the necessary rules and regulations within ninety (90) days from approval of this Act, for its effective implementation.

<sup>40</sup> *Limkaichong v. Land Bank of the Philippines*, 792 Phil 133, 179 (2016) [Per J. Bersamin, *En Banc*], citing *Commissioner of Internal Revenue v. Bicolandia Drug Corporation*, 528 Phil. 609, 621 (2006) [Per J. Velasco, Jr., Third Division].

online libel because RA 10175 was enacted later and that the “clear letter and intent of [RA 10175] which increases by one degree higher the penalty imposable for libel committed through the use of information and communications technology”<sup>41</sup> prevails over the Circular.

These arguments are untenable.

The Circular does not supplant the legislative intent behind the imposition of a higher degree of penalty in online libel. To be clear, in no way does it mandate the imposition of fine only in libel cases. **In fact, with due deference to prevailing statutes, it is careful to emphasize that it does not remove imprisonment as an alternative penalty.**

Therefore, courts should take note that in the imposition of penalty for libel/on-line libel, they should bear in mind the principles laid down in the Circular, as follows:

1. [AC 08-2008] does not remove imprisonment as an alternative penalty for the crime of libel under Article 355 of the Revised Penal Code;

2. The Judges concerned may, in the exercise of sound discretion, and taking into consideration the peculiar circumstances of each case, determine whether the imposition of a fine alone would best serve the interests of justice or whether forbearing to impose imprisonment would depreciate the seriousness of the offense, work violence on the social order, or otherwise be contrary to the imperatives of justice;

3. Should only a fine be imposed and the accused be unable to pay the fine, there is no legal obstacle to the application of the Revised Penal Code provisions on subsidiary imprisonment. (Underscoring supplied)

In conclusion, the CA correctly found no grave abuse of discretion on the part of the RTC when the latter court found Soliman guilty beyond reasonable doubt of the crime of Online Libel, and accordingly, sentenced him to suffer the penalty of payment of a fine in the amount of ₱50,000.00. Notably, said amount is within the prescribed range of fine in online libel, as stated earlier, taking into consideration the provisions of Articles 26, 75, and 355 of the RPC, in relation to Section 91 of RA 10951, and Section 4(c) (4) of RA 10175.

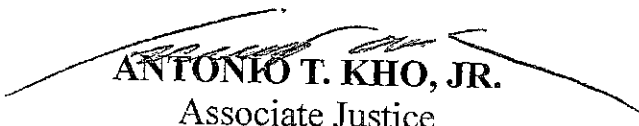
**ACCORDINGLY**, the petition is **DENIED**. The Decision October 30, 2020 and the Resolution dated May 31, 2021 of the Court of Appeals in CA-G.R. SP No. 162948 are hereby **AFFIRMED**.

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<sup>41</sup> Rollo, p. 26.


*Atty*

**SO ORDERED.**

  
**ANTONIO T. KHO, JR.**  
Associate Justice

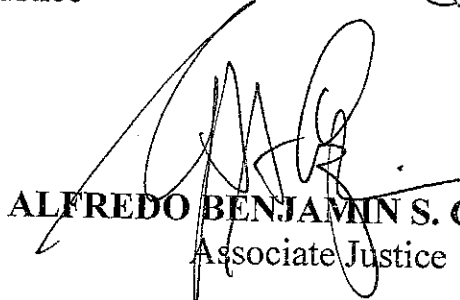
**WE CONCUR:**

*See concurring opinion*


  
**ALEXANDER G. GESMUNDO**  
Chief Justice


*See Separate  
Opinion*


  
**MARVIC M.V.F. LEONEN**  
Senior Associate Justice

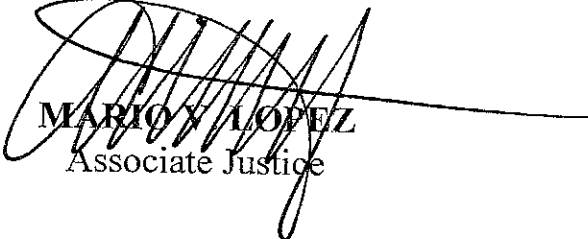
  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

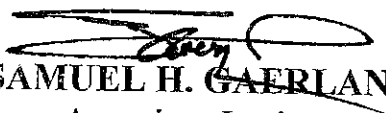
*On leave*  
**RAMON PAUL L. HERNANDO**  
Associate Justice

  
**AMY C. LAZARO-JAVIER**  
Associate Justice

  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**RODIL V. ZALAMEDA**  
Associate Justice

  
**MARIO Y. LOPEZ**  
Associate Justice


  
**SAMUEL H. GAERLAN**  
Associate Justice

*On leave*  
**RICARDO R. ROSARIO**  
Associate Justice

  
**JHOSEP Y. LOPEZ**  
Associate Justice

*Atty*

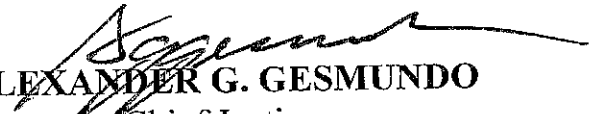
  
**JAPAR B. DIMAAMPAO**  
Associate Justice

  
**JOSE MIDAS P. MARQUEZ**  
Associate Justice

  
**MARIA FILOMENA D. SINGH**  
Associate Justice

**CERTIFICATION**

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

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

*Atilla*