



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **02 March 2022** which reads as follows:*

“G.R. No. 244111 (*Baby Boy Lopez* v. People of the Philippines and Olga G. Nano*). – For this Court’s resolution is the *Motion for Reconsideration (With Motion to Downgrade the Offense from Grave Oral Defamation to Simple Oral Defamation and to Allow Petitioner to Serve Penalty via Either House Arrest Under Art. 88 of the RPC or Community Service, Under the New Art. 88-A Introduced by R.A. 11362)*¹ filed by petitioner Baby Boy Lopez (Lopez), seeking reconsideration of Our Minute Resolution² dated June 3, 2019. In the said Minute Resolution, We denied the instant Petition for Review on *Certiorari*³ for failure of Lopez to sufficiently show any reversible error in the Decision⁴ dated September 27, 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 40805, which affirmed with modification the Decision⁵ dated July 24, 2017 of the Regional Trial Court of Pasig City, Branch 160 (RTC) in Criminal Case No. 157774. The RTC Decision, in turn, affirmed the Judgment⁶ dated June 23, 2015 of the Metropolitan Trial Court, San Juan City, Branch 57 (MeTC) in Criminal Case No. 83901, convicting Lopez of Grave Oral Defamation, in violation of Article 358 of the Revised Penal Code (RPC).

In order to have a better understanding of the instant case, a recital of the relevant antecedent facts is in order.

* Also referred to as “Baby Boy Diaz Lopez,” a.k.a. “Conrad D. Lopez,” a.k.a. “Donnie Lopez.” *Rollo*, pp. 123, 212 and 217.

¹ *Rollo*, pp. 332-335.

² *Id.* at 320-321.

³ *Id.* at 28-67.

⁴ *Id.* at 8-19. Penned by Associate Justice Jane Aurora C. Lantion, with the concurrence of Associate Justices Pedro B. Corales and Ronaldo Roberto B. Martin.

⁵ *Id.* at 123-127. Penned by Acting Presiding Judge Caesar C. Buenagua.

⁶ *Id.* at 212-217. Penned by Presiding Judge Marianito C. Santos.

On May 13, 2008, an Information⁷ was filed against Lopez charging him with violation of Article 358 of the RPC. The accusatory portion of the Information reads:

That on or about the 4th day of August, 2007, in the City of San Juan, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent of bringing private complainant Olga G. Nano, into public dishonor, disrepute, contempt and ridicule, did then and there willfully, unlawfully and feloniously utter the following malicious, insulting and defamatory words and expressions in public and within the hearing distance of other people, to wit:

“Kayo ang umalis dito, mga magnanakaw kayo, magsama kayong magkapatid na parehong magnanakaw”

thus, malicious[ly] imputing a vice or defect upon said Olga G. Nano, tending to cause dishonor, discredit or contempt on the person of said complainant to her damage and prejudice.

CONTRARY TO LAW.⁸

Upon arraignment on September 9, 2008, Lopez pleaded not guilty to the crime charged.⁹

During trial, the prosecution presented the following witnesses: complainant Olga G. Nano (Olga) and Security Guard Arnel S. Tigie (Arnel).¹⁰

The prosecution alleged that Lopez is the lessee of Unit 201 in Greenhills Court Condominium located in San Juan City, while Olga is the unit owner and a Board Member of the condominium association. As stated in their lease agreement, Lopez, as lessee, is required to conform and comply with the Condominium Rules and Regulations, one of which is the prohibition of installing wires, cables, antennas, and other similar devices on the building's roof.¹¹

Despite the prohibition, Lopez installed and embedded an antenna on the condominium roof. When the antenna was found out by the building administration, they sent demand letters to Lopez ordering the latter to remove the antenna. However, despite the demand letters, Lopez refused to comply with the demands of the building administration. On August 4, 2007, at around

⁷ Id. at 202-203.

⁸ Id. at 202.

⁹ Id. at 9.

¹⁰ Id.

¹¹ Id.

10:30 am, the building administration removed the antenna from the roof since Lopez refused to remove the same.¹²

At about 12:30 pm of the same day, Olga was passing by the condominium lobby when she saw Lopez talking to the guard on duty. When Lopez saw Olga, he asked the latter why his antenna was removed without his permission. Olga informed him that installing an antenna on the roof is prohibited according to the Condominium Rules and Regulations, and that despite being advised to remove the same, Lopez refused to remove it. Olga told Lopez that if the latter will not follow the condominium Rules and Regulations, then it would be better for the latter to look for another place to rent. Upon hearing Olga's remark, Lopez suddenly shouted at Olga, saying, "*kayo ang umalis dito mga magnanakaw kayo, magsama kayong magkapatid na parehong magnanakaw!* (you are the ones who should leave, you thieves, go with your sibling who is also a thief!)." Olga was shocked by what she heard. She claimed that she did not expect that Lopez would disrespect her, considering that she is the latter's lessor. She further claimed that there were many people who heard Lopez's defamatory accusations against her, which caused her to suffer public humiliation, emotional anxiety, stress, palpitations, and hypertension.¹³

Arnel, on the other hand, testified that he was the security guard on duty on August 4, 2004. He corroborated Olga's testimony and claimed that he saw and heard Lopez shout at Olga "*kayo ang umalis dito mga magnanakaw kayo, magsama kayong magkapatid na parehong magnanakaw!* (you are the ones who should leave, you thieves, go with your sibling who is also a thief!)", while pointing his finger at Olga. Moreover, Arnel averred that he recorded that incident in his logbook.¹⁴

The defense presented Lopez as its sole witness. Lopez denied all the accusations against him and claimed that the instant case is merely a retaliation of Olga against him because he filed a criminal complaint against Olga's brother for serious physical injuries, and another separate complaint for stealing water from the building. He averred that he did not have any confrontation with Olga except for the fact that he was agitated by the removal of his antenna without his permission. Lopez assailed the credibility of the security guard Arnel because he is an employee of the condominium administration where Olga is a Board Member and Olga's brother is the Building Administrator. He claimed that he was not the one who installed the antenna on the roof but the people working for Smart Telecommunications

¹² Id. at 9-10.

¹³ Id. at 10.

¹⁴ Id.

Company. He further asserted that this was merely Olga's ploy to eject him as tenant and protect her brother.¹⁵

On June 23, 2015, the MeTC rendered Judgment¹⁶ finding Lopez guilty of Grave Oral Defamation in violation of Article 358 of the RPC. The dispositive portion reads, as follows:

WHEREFORE, premises considered, this Court finds accused BABY BOY DIAZ LOPEZ, a.k.a. "Conrad D. Lopez", a.k.a. "Donnie Lopez", a.k.a. "Baby Boy Lopez" **GUILTY** beyond reasonable doubt of the crime of Grave Oral Defamation, defined and penalized under Article 358, 1st Phrase of the Revised Penal Code, and hereby sentences him to suffer the penalty of imprisonment from four (4) months and one day of *arresto mayor* in its maximum period, as minimum, to two (2) years and four (4) months of *prision correccional* in its minimum period, as maximum. He is further ordered to pay Olga Nano P10,000.00 as moral damages.

SO ORDERED.¹⁷

Aggrieved, Lopez filed a Notice of Appeal.¹⁸ However, on July 24, 2017, the RTC issued a Decision denying his appeal. The RTC explained that—

Accused, however, while given the chance to cross examine the witnesses failed to rebut or discredit the testimonies pertaining to the utterances made. By and large, the extent of the testimony of the accused was this case was filed as a mere offshoot of the physical injuries case he filed against the brother of the private complainant. However, whether or not this case is a mere offshoot or impelled by [the] case he filed against the brother of the private complainant is of no moment. What is material was whether or not accused committed the acts complained of to which the prosecution sufficiently established.¹⁹

Lopez filed a Motion for Reconsideration²⁰ which was denied by the RTC in an Order²¹ dated November 28, 2017. Thus, Lopez filed a Petition for Review²² before the CA.

In its Decision dated September 27, 2018, the CA affirmed the RTC Decision with modification. The dispositive portion reads, as follows:

WHEREFORE, the instant Petition for Review is hereby DENIED. The Decision dated 24 July 2017 issued by the Regional Trial Court of Pasig

¹⁵ Id. at 11.

¹⁶ Id at 212-217.

¹⁷ Id. at 217.

¹⁸ Id. at 11.

¹⁹ Id. at 11-12, and 126.

²⁰ Id. at 246-261.

²¹ Id. at 128.

²² Id. at 88-120.

City, Branch 160 in Criminal Case No. 157774, is hereby AFFIRMED WITH MODIFICATION in that: petitioner Baby Boy Lopez shall suffer the indeterminate penalty of imprisonment of four (4) months of *arresto mayor*, as minimum, to one (1) year and eight (8) months of *prision correccional*, as maximum.

SO ORDERED.²³

Lopez filed a Motion for Reconsideration²⁴ which was denied by the CA in its Resolution²⁵ dated January 15, 2019. Hence, this Petition for Review on *Certiorari*.

In his Petition before this Court, Lopez argued that 1) the CA Decision ought to be annulled and set aside for being contrary to law and established jurisprudence. The testimonies and evidence presented by the prosecution were inconsistent, self-serving, biased and unreliable, and do not warrant any evidentiary weight. The prosecution failed to sufficiently establish the elements of grave oral defamation, particularly, the imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status or circumstance. Absent this element, the crime of grave oral defamation does not exist; and 2) the CA failed to pass upon the other issues he validly raised. The CA erred in failing to appreciate the factual backdrop of the case that led to the filing of the charge. The CA also erred in upholding Lopez's conviction for grave oral defamation when the offense charged in the information was only simple slander (simple oral defamation) under Article 358, 2nd phrase of the RPC. Such is contrary to Section 4, Rule 120 of the Rules of Court and in violation of his constitutional right to be informed of the nature and cause of the accusation against him. Assuming *arguendo* that Lopez uttered the defamatory remarks, this was done in the heat of anger, with some provocation on the part of the offended party, warranting the modification of the penalty to slight oral defamation or simple slander following the ruling in *Villanueva v. People*.²⁶ Lastly, there is no basis for the award of moral damages to Olga.²⁷

In a Minute Resolution²⁸ dated June 3, 2019, We resolved to deny the petition for failure of Lopez to sufficiently show any reversible error in the assailed Decision of the CA to warrant the exercise of the Court's discretionary appellate jurisdiction. A careful consideration of the Petition indicated a failure of Lopez to show any cogent reason why the actions of the three (3) courts which have passed upon the same issues should be reversed. Lopez failed to show that their factual findings are not based on substantial

²³ Id. at 18.

²⁴ Id. at 306-317.

²⁵ Id. at 21-22.

²⁶ 521 Phil. 191, 201-202 (2006).

²⁷ *Rollo*, pp. 29-31.

²⁸ Id. at 320-321.

evidence or that their decisions are contrary to applicable law and jurisprudence.

Before Us now is the Motion for Reconsideration²⁹ of the said Resolution wherein Lopez moves for the downgrading of the offense from grave oral defamation to simple oral defamation. He alleges that there is no sufficient evidence to bolster the claim that the defamatory remarks he allegedly made were of a grave nature since these remarks were clearly uttered in the heat of anger and in consideration of the special circumstances surrounding the incident. Lopez further moves that, in view of his advanced age, deteriorating health, and pettiness of the offense, he be allowed to serve the penalty of *arresto menor* via house arrest pursuant to the provisions of Article 88 of the RPC,³⁰ or, in the alternative, that he be allowed to serve his penalty via Republic Act (RA) No. 11362 or the Community Service Act.³¹

In its Comment,³² respondent People of the Philippines, represented by the Office of the Solicitor General (OSG), argues that the CA correctly affirmed the due weight and credit given by the trial court to the prosecution witnesses' testimonies, thus correctly affirming Lopez's conviction for the crime of grave oral defamation.

With this Court having previously resolved that the Petition failed to sufficiently show any reversible error in the assailed CA Decision to warrant the exercise of the Court's discretionary appellate jurisdiction, and that some of the allegations in the Motion for Reconsideration are a mere rehash of the Petition, We shall limit the issues for consideration to whether the offense may be downgraded from grave oral defamation to simple oral defamation, and whether Lopez may serve the penalty *via* either house arrest under Article 88 of the RPC or community service under the new Article 88-A, introduced by RA No. 11362.

The crimes of Grave Oral Defamation and Simple Oral Defamation are defined under Article 358 of the RPC, as follows:

Article 358. Slander. – Oral defamation shall be punished by *arresto mayor* in its maximum period to *prision correccional* in its

²⁹ Id. at 322-337.

³⁰ REVISED PENAL CODE, Article 88 provides:

Article 88. *Arresto menor*. - The penalty of *arresto menor* shall be served in the municipal jail, or in the house of the defendant himself under the surveillance of an officer of the law, when the court so provides in its decision, taking into consideration the health of the offender and other reasons which may seem satisfactory to it.

³¹ AN ACT AUTHORIZING THE COURT TO REQUIRE COMMUNITY SERVICE IN LIEU OF IMPRISONMENT FOR THE PENALTIES OF ARRESTO MENOR AND ARRESTO MAYOR, AMENDING FOR THE PURPOSE CHAPTER 5, TITLE 3, BOOK 1 OF ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS "THE REVISED PENAL CODE."

³² Id. at 343-355.

minimum period if it is of a serious and insulting nature; otherwise the penalty shall be *arresto menor* or a fine not exceeding 200 pesos.

The elements of oral defamation are: 1) there must be an imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, status or circumstances; 2) made orally; 3) publicly; 4) and maliciously; 5) directed to a natural or juridical person, or one who is dead; 6) which tends to cause dishonor, discredit or contempt of the person defamed. Oral defamation may either be simple or grave. It becomes grave when it is of a serious and insulting nature.³³

As correctly found by the lower courts, all the elements are present in this case. As for the first element, Lopez imputed the commission of a crime against Olga when he uttered "*Kayo ang umalis dito, mga magnanakaw kayo, magsama kayong magkapatid na parehong magnanakaw!*" The words seriously attacked Olga's character and the term "thief" imputed a crime that was dishonorable to Olga as a person and as a Board Member of the condominium association. The second, third and fourth elements are likewise present as the defamatory remark was made orally, publicly, and directed against the person of Olga. These were uttered in the building lobby in the presence of the security guard, Arnel, who also testified that there were other people in the lobby during the said incident.

Lastly, the fifth and sixth elements are present as well, the defamatory remark having been made maliciously and that the same caused dishonor, discredit or contempt on the person of Olga. We note that Olga, as Lopez's lessor and a Board Member of the condominium association, to be suddenly accused as a thief in the lobby of their own building where other people and residents could hear, is clearly a defamation of Olga's character and reputation as a person and also a malicious attack to embarrass her.

As regards the gravity of the offense committed, We agree with the findings of the lower courts that the oral defamation committed by Lopez is grave.

In *De Leon v. People*,³⁴ We explained the gravity of the offense in this wise:

Whether the offense committed is serious or slight oral defamation, depends not only upon the sense and grammatical meaning of the utterances but also upon the special circumstances of the case, like the social standing or the advanced age of the offended party. "The gravity depends upon: (1) the expressions used; (2) the personal relations of the accused and the offended party; and (3) the special circumstances of the

³³ *Ramos v. People*, 820 Phil. 1182, 1190 (2017), citing *De Leon v. People*, 776 Phil. 701, 717 (2016).

³⁴ *Supra*.

case, the antecedents or relationship between the offended party and the offender, which may tend to prove the intention of the offender at the time. In particular, it is a rule that uttering defamatory words in the heat of anger, with some provocation on the part of the offended party constitutes only a light felony.

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. To impute against someone as a thief is irrefragably grave oral defamation. This imputes to the victim a crime that is dishonorable or contemptuous.³⁵

In this case, the prosecution sufficiently established that there was no provocation on Olga's part when the incident happened. Olga was merely answering Lopez's queries as regards the reason why the latter's antenna was taken by the building administration when Lopez suddenly made his outburst and defamed Olga. Moreover, the fact that Olga is a Board Member of the condominium association and that Lopez accused Olga's brother of stealing water from the building, show that it was his intention to dishonor and discredit Olga's character.

We also note that Lopez's defense of denial is unmeritorious. Other than his own self-serving testimony, he was unable to present any evidence that would support his allegation that he never spoke the defamatory utterance. Moreover, his allegation that the remarks were uttered in the heat of anger ultimately negates his claim that the defamatory remarks were never made.

Considering the foregoing, We deny Lopez's motion to downgrade the offense from grave oral defamation to simple oral defamation.

Anent Lopez's motion to be allowed to serve the penalty of *arresto menor* via house arrest under Article 88 of the RPC, We deny the same in view of Our affirmation of his conviction for grave oral defamation. We likewise deny his motion to serve the penalty *via* community service under Article 88-A,³⁶ as introduced by RA No. 11362, since the penalty imposed exceeds *arresto mayor* and is, thus, beyond the coverage of the law.

³⁵ *Cañal, Sr. v. People*, 510 Phil. 187, 196 (2005).

³⁶ REVISED PENAL CODE, Article 88a provides:

Article 88a. *Community Service*. — The court in its discretion may, in lieu of service in jail, require that the penalties of *arresto menor* and *arresto mayor* be served by the defendant by rendering community service in the place where the crime was committed, under such terms as the court shall determine, taking into consideration the gravity of the offense and the circumstances of the case, which shall be under the supervision of a probation officer: *Provided*, That the court will prepare an order imposing the community service, specifying the number of hours to be worked and the period within which to complete the service. The order is then referred to the assigned probation officer who shall have responsibility of the defendant.

The defendant shall likewise be required to undergo rehabilitative counseling under the social welfare and development officer of the city or municipality concerned with the assistance of the Department of Social Welfare and Development (DSWD). In requiring community service, the court

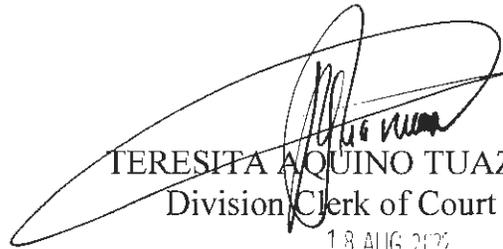
WHEREFORE, the Motion for Reconsideration is **DENIED** with **FINALITY**.

No further pleadings or motions shall be entertained in this case.

Let entry of judgment be issued immediately.

SO ORDERED."

By authority of the Court:



TERESITA AQUINO TUAZON
Division Clerk of Court *by 9/18*
18 AUG 2022

shall consider the welfare of the society and the reasonable probability that the person sentenced shall not violate the law while rendering the service.

Community service shall consist of any actual physical activity which inculcates civic consciousness, and is intended towards the improvement of a public work or promotion of a public service.

If the defendant violates the terms of the community service, the court shall order his/her re-arrest and the defendant shall serve the full term of the penalty, as the case may be, in jail, or in the house of the defendant as provided under Article 88. However, if the defendant has fully complied with the terms of the community service, the court shall order the release of the defendant unless detained for some other offense.

The privilege of rendering community service in lieu of service in jail shall be availed of only once.

Resolution

10

G.R. No. 244111
March 2, 2022

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GR244111. 03/02/2022(217)URES *Asllv*



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

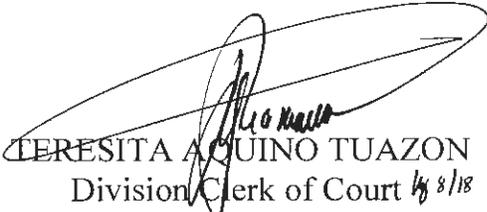
Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **02 March 2022** which reads as follows:*

“G.R. No. 244111 (*Baby Boy Lopez vs. People of the Philippines*).-

(The Judicial Records Office, this Court, is **DIRECTED** to report compliance with the directive on the immediate issuance of entry of final judgment within ten [10] days from receipt of records. [Internal Resolution – not for release.]”

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *by 8/18*
18 AUG 2022

INTERNAL RESOLUTION

THE CHIEF (x)
Judicial Records Office
Supreme Court, Manila