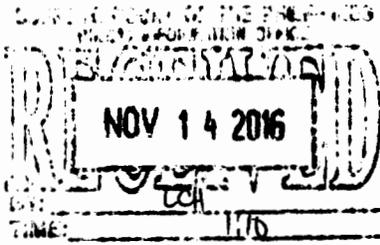




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Wilfredo V. Lapitan
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

Republic of the Philippines
Supreme Court
Manila

NOV 10 2016



THIRD DIVISION

ATTY. RAYMUND P. PALAD,
Petitioner,

G.R. No. 206691

Present:

- versus -

VELASCO, JR., J., *Chairperson*,
PERALTA,
PEREZ,
REYES, and
JARDELEZA, JJ.

LOLIT SOLIS, SALVE V. ASIS,
AL G. PEDROCHE and
RICARDO F. LO,

Promulgated:

Respondents.

~~October 3, 2016~~

X-----

Wilfredo V. Lapitan

X

DECISION

PERALTA, J.:

Before this Court is a petition to cite respondents Lolit Solis (*Solis*), Salve V. Asis (*Asis*), Al G. Pedroche (*Pedroche*), and Ricardo F. Lo (*Lo*) for indirect contempt for publishing articles on the petitioner Atty. Raymund P. Palad's suspension, which was subject of a pending administrative case.

The facts follow.

On December 14, 2012, the Board of Governors of the Integrated Bar of the Philippines (*IBP*) issued a Resolution in CBD Case No. 09-2498, recommending the penalty of suspension of herein petitioner Atty. Raymund P. Palad.¹ Palad received a copy of the Resolution on March 8, 2013, and filed his Motion for Reconsideration.

¹ Rollo, pp. 4-5.

Petitioner averred that around 6:30 in the morning on April 23, 2013, he received a text message from his fellow lawyer friends informing him that the latter read in an article in *Pilipino Star Ngayon* that petitioner was already suspended from the practice of law for one (1) year.² The article was written by respondent Solis in her column "*Take it, Take it*", which was also published on the tabloid's website. An excerpt of the article reads:

Dahil sa paglabag sa code of professional responsibility
ABOGADO NI KATRINA HALILI SUSPENDIDO NG ISANG TAON!

Sisikapin ng Startalk staff na kunin ang panig ni Atty. [Raymund] Palad, ang legal counsel ni Katrina Halili sa kaso na isasampa nito laban kay Hayden Kho, Jr.

May balita kasi na nakarating sa Startalk na suspendido si Atty. Palad sa practice of law dahil lumabag siya sa code of professional responsibility ng mga lawyer. Diumano, isang taon ang suspension ni Atty. Palad dahil sa mga salita na binitawan niya laban sa Belo Medical Clinic. Hindi raw nag-verify si Atty. Palad tungkol sa kaso na walang kinalaman ang klinika ni Dr. Vicki Belo.

Suki ng Startalk si Atty. Palad, lalo na noong kainitan ng kaso nina Katrina at Hayden. Karapatan niya na magsalita at magpaliwanag para mabigyang-linaw ang isyu na kinasasangkutan niya ngayon.

Apat na taon na ang nakalilipas mula nang pumutok ang sex video scandal nina Katrina at Hayden.

Ang akala ng lahat ay tapos na ang isyu dahil naglabas na ng desisyon ang korte pero hindi pa pala dahil sa bagong isyu na nagsasangkot sa pangalan ni Atty. [Raymund] Palad.

x x x x

Pipilitin din ng Startalk staff na hingin ang panig nina Katrina at Hayden tungkol sa alleged suspension ni Atty. Palad.

x x x x

Kung totoo man na suspended si Atty. Palad, pareho na lang sila ng kapalaran ni Hayden na binawian naman ng medical license ng Professional Regulation Commission (PRC).

x x x:³

Petitioner also alleged that respondent Lo broached the same topic in his column *Funfare* in *The Philippine Star* on April 23, 2013, thus:

² *Id.* at 5.

³ *Id.* at 19-20.



What's up?

- Could it be true that the lawyer Raymund Palad, the counsel of Katrina Halili (in the case she filed against Hayden Kho who was cleared by the court), was suspended from the practice of law because of several actions that were deemed inconsistent with the lawyers' code of professional responsibility, including making irresponsible public statements against the Belo Medical Clinic without verifying his reports and making public statements regarding a pending case of which *Funfare* sources said that lawyer Palad has filed a motion for reconsideration which is awaiting resolution.⁴

Petitioner avowed that respondents clearly violated the confidentiality rule in proceedings against attorneys as provided by Rule 139-B of the Rules of Court when they disclosed the pending administrative case to the public and are, likewise, liable for indirect contempt since they made comments, opinions and conclusions as to the findings of the IBP Board of Governors regarding the administrative case against him.

In their Joint Comment, respondent Solis alleged that she has been an entertainment journalist for forty (40) years who writes about anything that pertains to both local and international entertainment industry, including, among others, news about local and international celebrities and personalities who are associated with them. On the other hand, respondent Asis contended that she has been the editor of *Pilipino Star Ngayon's* Showbiz section for four years. As editor, she edits the articles submitted to the entertainment section by the entertainment columnists before they are published, but she has no control or discretion over the topics that the columnists write.

For his part, respondent Pedroche narrated that as the Editor-in-Chief, he is in charge of the overall preparation of the newspaper, and determines which news to be published by the order of their national significance. However, the editors of other segments, such as showbiz, have autonomy to decide which article to use. Meanwhile, respondent Lo averred that he has been an entertainment journalist for almost 40 years and that he writes the column *Funfare* in the entertainment section of the Philippine Star.

Solis and Lo further claimed that sometime in April 2013, they received information from a reliable source that petitioner was reportedly suspended from the practice of law for supposed violation of the code of ethics. They argued that the administrative case against petitioner is a matter of public interest because he became a public figure by gaining national recognition and notoriety as the ardent counsel of Katrina Halili, whose scandal with Hayden Kho made headlines a few years ago. Petitioner inevitably became an overnight celebrity lawyer due to his extensive media

⁴ *Id.* at 10.



exposure in defending his client. The issue with which petitioner was associated as Halili's lawyer generated so much publicity, captured the entire nation's attention, and even led to a Senate investigation. As such, they alleged that their writings about petitioner's suspension are considered qualified privileged communication, which is protected under the constitutional guarantee of freedom of the press.

Meanwhile, the Office of the City Prosecutor of Valenzuela City, in a Resolution⁵ dated June 28, 2013, dismissed the libel case filed by petitioner against Solis for lack of probable cause. The element of malice is wanting given that there were no wild imputations, distortions or defamatory comments calculated to damage petitioner's reputation when Solis reported in her column about the alleged suspension.⁶ Likewise, the case against Solis, Asis and Pedroche was also dismissed. It held that it is plainly evident from a reading of the article that it is but a mere inquiry of the alleged suspension.⁷ The case against Lo was also dismissed because all fair commentaries about the status and condition of the petitioner, for having acquired the stature of public figure, become qualified privileged communication.⁸

In the present petition, petitioner raises the following issues:

RESPONDENTS VIOLATED RULE 139-B OF THE RULES OF COURT WHICH DECLARES THAT PROCEEDINGS AGAINST ATTORNEY SHALL BE PRIVATE AND CONFIDENTIAL.

RESPONDENT[S] VIOLATED THE DECISION OF THE SUPREME COURT IN THE CASE OF ATTY. SIGFRID FORTUN VS. FREEDOM FUND FOR FILIPINO JOURNALISTS (FFFJ), ET AL. (sic)

Basically, the issue to be resolved by this Court is whether respondents violated the confidentiality rule in proceedings against lawyers, warranting a finding of guilt for indirect contempt of court.

Before all else, contempt of court has been defined as a willful disregard or disobedience of a public authority. Contempt, in its broad sense, is a disregard of, or disobedience to, the rules or orders of a legislative or judicial body or an interruption of its proceedings by disorderly behavior or insolent language in its presence or so near thereto as to disturb its proceedings or to impair the respect due to such a body. In its restricted and

⁵ *Id.* at 72-73.

⁶ *Id.* at 73.

⁷ *Id.* at 113.

⁸ *Id.* at 154.



more usual sense, contempt comprehends a despising of the authority, justice, or dignity of a court.⁹

Contempt of court is of two (2) kinds, namely: direct contempt and indirect contempt. Direct contempt is committed when a person is guilty of misbehavior in the presence of or so near a court as to obstruct or interrupt the proceedings before the same, including disrespect toward the court, offensive personalities toward others, or refusal to be sworn or to answer as a witness, or to subscribe an affidavit or deposition when lawfully required to do so. On the other hand, *indirect contempt or constructive contempt* is that which is committed out of the presence of the court, which includes any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice.¹⁰

We note that the petitioner filed a contempt charge in the nature of a criminal contempt. A criminal contempt is conduct that is directed against the dignity and authority of the court or a judge acting judicially; it is an act obstructing the administration of justice which tends to bring the court into disrepute or disrespect. Being directed against the dignity and authority of the court, criminal contempt is an offense against organized society and, in addition, is also held to be an offense against public justice which raises an issue between the public and the accused, and the proceedings to punish it are punitive.¹¹

Records of this case revealed that the petitioner's alleged penalty of suspension from the practice of law for one year had been published by respondents.

Section 18, Rule 139-B of the Rules of Court provides:

Section 18. *Confidentiality*. – Proceedings against attorneys shall be private and confidential. However, the final order of the Supreme Court shall be published like its decisions in other cases.

The confidential nature of the proceedings has a three-fold purpose, to wit: (i) to enable the court and the investigator to make the investigation free from any extraneous influence or interference; (ii) to protect the personal and professional reputation of attorneys from baseless charges of disgruntled, vindictive and irresponsible persons or clients by prohibiting the

⁹ *Ligon v. RTC-Branch 56, Makati City*, G.R. No. 190028, February 26, 2014, 717 SCRA 373, 386.

¹⁰ *Re: Conviction of Judge Angeles, RTC, Br. 121, Caloocan City in Criminal Case No. Q-69655 to 56 for Child Abuse*, 567 Phil. 189, 204 (2008)

¹¹ *Fortun v. Quinsayas, et al.*, 703 Phil. 578, 592 (2013).

publication of such charges pending their resolution; and (iii) to deter the press from publishing the charges or proceedings based thereon.¹²

We held that malicious and unauthorized publication or verbatim reproduction of administrative complaints against lawyers in newspapers by editors and/or reporters may be actionable. Such premature publication constitutes a contempt of court, punishable by either a fine or imprisonment or both at the discretion of the Court.¹³

Contempt is akin to a case of libel for both constitute limitations upon freedom of the press or freedom of expression guaranteed by our Constitution. What is considered a privilege in one may likewise be considered in the other.¹⁴ As early as 1918, this Court, in the case of *United States v. Cañete*,¹⁵ ruled that publications which are privileged for reasons of public policy are protected by the constitutional guaranty of freedom of speech.¹⁶ Therefore, the principle of privileged communications can also be invoked in contempt charges.

It is settled that Section 18, Rule 139-B of the Rules of Court is not a restriction on the freedom of the press. As long as there is a legitimate public interest, the media is not prohibited from making a fair, true, and accurate news report of a disbarment complaint. However, in the absence of a legitimate public interest in a disbarment complaint, members of the media must preserve the confidentiality of disbarment proceedings during its pendency.¹⁷

Petitioner alleged that unlike in the *Fortun*¹⁸ case, the media merely reported the filing of the disbarment complaint and was done without any comment, in good faith and without malice. Petitioner alleged that he is an ordinary private practicing lawyer who handled the Hayden Kho-Katrina Halili sex scandal which is a private case, not imbued with legitimate public interest.

We are not persuaded. This Court has always grappled with the meaning of the term “public interest.”¹⁹ Public interest is something in which the public, the community at large, has some pecuniary interest, or some interest by which their legal rights or liabilities are affected; it does not

¹² *Tan v. IBP Commission on Bar Discipline*, 532 Phil. 605, 613-614 (2006).

¹³ *Saludo v. CA*, 522 Phil. 556, 561 (2006).

¹⁴ *Fortun v. Quinsayas, et al.*, *supra* note 11, at 596, citing *People v. Castelo*, 114 Phil. 892, 901 (1962)

¹⁵ 38 Phil. 253 (1918).

¹⁶ *United States v. Cañete*, *supra*, at 265.

¹⁷ *Fortun v. Quinsayas, et al.*, *supra* note 11, at 597.

¹⁸ *Supra* note 11.

¹⁹ *Valmonte v. Belmonte, Jr.*, 252 Phil. 264, 273 (1989).

mean anything so narrow as mere curiosity, or as the interests of the particular localities, which may be affected by the matters in question.²⁰ As observed in *Legaspi v. Civil Service Commission*:²¹

In determining whether or not a particular information is of public concern there is no rigid test which can be applied. **"Public concern"** like **"public interest"** is a term that eludes exact definition. **Both terms embrace a broad spectrum of subjects which the public may want to know, either because these directly affect their lives, or simply because such matters naturally arouse the interest of an ordinary citizen.** In the final analysis, it is for the courts to determine in a case by case basis whether the matter at issue is of interest or importance, as it relates to or affects the public.²²

In the case at bar, the highly-publicized controversy involving petitioner's client, who is a public figure, roused the public's attention, as the footage was made available to anyone who has access to internet. The case involved the issue on photo or video voyeurism²³ on the internet which is considered a subject of public interest. The public concern was focused on the event, the conduct of the personalities, and the content, effect and significance of the conduct, and not on the mere personalities. Thus, petitioner represents a matter of public interest.

It is noted that the then Senator Ma. Ana Consuelo "Jamby" Madrigal stressed at the start of the Senate inquiry in 2009 that the proceeding was being conducted not only for Halili but for all women who might find themselves being videotaped during sexual intercourse and the footage publicized – all without their consent.²⁴ Republic Act No. 9995, otherwise known as *Anti-Photo and Video Voyeurism Act of 2009*, was enacted into a law to stop voyeurism using the internet.²⁵

²⁰ Black, Henry Campbell, BLACK'S LAW DICTIONARY, 5th ed., St. Paul Minn., West Publishing Co., 1979, p. 1106.

²¹ 234 Phil. 521 (1987)

²² *Legaspi v. Civil Service Commission, supra*, at 235. (Emphases supplied).

²³ R.A. 9995, Section 3 (d), "Photo or video voyeurism" means the act of taking photo or video coverage of a person or group of persons performing sexual act or any similar activity or of capturing an image of the private area of a person or persons without the latter's consent, under circumstances in which such person/s has/have a reasonable expectation of privacy, or the act of selling, copying, reproducing, broadcasting, sharing, showing or exhibiting the photo or video coverage or recordings of such sexual act or similar activity through VCD/DVD, internet, cellular phones and similar means or device without the written consent of the person/s involved, notwithstanding that consent to record or take photo or video coverage of same was given by such person/s.

²⁴ 'Hayden cam' case: A chance to clear legal 'gray areas,' says Revilla, May 28, 2009. <http://www.gmanetwork.com/news/story/163260/news/nation/hayden-cam-case-a-chance-to-clear-legal-gray-areas-says-revilla> (visited September 16, 2016).

²⁵ Student's Facebook scandal a test case for voyeurism law, March 3, 2011. <http://technology.inquirer.net/38/student%e2%80%99s-facebook-scandal-a-test-case-for-voyeurism-law#ixzz4Kwgv3dnP> (visited September 16, 2016).



A person, even if he was not a public official or at least a public figure, could validly be the subject of a public comment as long as he was involved in a public issue.²⁶ Petitioner has become a public figure because he is representing a public concern. We explained it, thus:

But even assuming x x x that [the person] would not qualify as a public figure, it does not necessarily follow that he could not validly be the subject of a public comment even if he was not a public official or at least a public figure, for he could be, as long as he was involved in a public issue. **If a matter is a subject of public or general interest, it cannot suddenly become less so merely because a private individual is involved or because in some sense the individual did not voluntarily choose to become involved. The public's primary interest is in the event; the public focus is on the conduct of the participant and the content, effect and significance of the conduct, not the participant's prior anonymity or notoriety.**²⁷

As a general rule, disciplinary proceedings are confidential in nature until their final resolution and the final decision of this Court. However, in this case, the disciplinary proceeding against petitioner became a matter of public concern considering that it arose from his representation of his client on the issue of video voyeurism on the internet. The interest of the public is not in himself but primarily in his involvement and participation as counsel of Halili in the scandal. Indeed, the disciplinary proceeding against petitioner related to his supposed conduct and statements made before the media in violation of the Code of Professional Responsibility involving the controversy.

Since petitioner has become a public figure for being involved in a public issue, and because the event itself that led to the filing of the disciplinary case against petitioner is a matter of public interest, the media has the right to report the disciplinary case as legitimate news. The legitimate media has a right to publish such fact under the constitutional guarantee of freedom of the press. Respondents merely reported on the alleged penalty of suspension from the practice of law for a year against petitioner, and the supposed grounds relied upon. It appeared that the respondents, as entertainment writers, merely acted on information they received from their source about the petitioner who used to appear before the media in representing his actress client. Also, there was no evidence that the respondents published the articles to influence this Court on its action on the disciplinary case or deliberately destroy petitioner's reputation. Thus, they did not violate the confidentiality rule in disciplinary proceedings against lawyers.



²⁶ *Borjal v. Court of Appeals*, 361 Phil. 1, 23 (1999).

²⁷ *Id.* (Emphasis supplied.)

Petitioner alleged that respondents made comments, opinions and conclusions as to the findings of the IBP Board of Governors. Petitioner also alleged that the articles are pure hearsay since they were not supposed to have copies of the Resolution. On the other hand, respondents alleged that as entertainment journalists, they received information from their respective sources about various incidents, events, and personalities. They alleged that they took the information about the petitioner as the truth, and reported the same as they were relayed to.

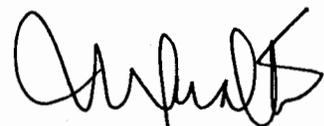
While substantiation of the facts supplied is an important reporting standard, still, a reporter may rely on information given by a lone source although it reflects only one side of the story provided the reporter does not entertain a "high degree of awareness of its probable falsity."²⁸

Furthermore, to be considered malicious, the libelous statement must be shown to have been written or published with the knowledge that they are false or in reckless disregard of whether they are false or not. "Reckless disregard of what is false or not" means that the author or publisher entertains serious doubt as to the truth of the publication, or that he possesses a high degree of awareness of their probable falsity.²⁹

Aside from his bare allegation, petitioner presented no proof that respondents have their own copies of the Resolution, or that they made their own comments, opinions and conclusions. Petitioner also failed to prove that the publication of the articles is malicious. Likewise, there was no evidence that respondents entertained awareness of the probable falsity of their information.

WHEREFORE, the instant petition filed by petitioner Atty. Raymund P. Palad to cite respondents Lolit Solis, Salve V. Asis, Al G. Pedroche, and Ricardo F. Lo for indirect contempt is hereby **DISMISSED**.

SO ORDERED.



DIOSDADO M. PERALTA
Associate Justice

²⁸ *Villanueva v. Philippine Daily Inquirer, Inc., et al.*, 605 Phil. 926, 941 (2009).
²⁹ *Id.* at 940.

WE CONCUR:


PRESBITERO J. VELASCO, JR.
 Associate Justice
 Chairperson


JOSE PORTUGAL PEREZ
 Associate Justice


BIENVENIDO L. REYES
 Associate Justice


FRANCIS H. JARDELEZA
 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's Division.


PRESBITERO J. VELASCO, JR.
 Acting Chief Justice

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 Third Division

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