

Republic of the Philippines
REGIONAL TRIAL COURT
10th Judicial Region
Branch 35, Ozamiz City

PEOPLE OF THE PHILIPPINES,
Plaintiff, Criminal Case No. RTC-3699

-VS-

VICENTE F. GAMBITO,
Accused,

ORDER

Accused is charged for a crime of Libel for his alleged malicious publication imputing Engr. Efren B. Bollozos, a public official. Without being arraigned, accused filed a Motion to Dismiss on the ground of improper venue, stressing among others, that the private complainant is holding office at the Philippine Ports Authority Head Office, Marsman Building, South Harbor, City of Manila and presently employed as Port Manager of the Philippine Ports Authority.

This was opposed by the prosecution by maintaining that venue in this case is properly laid.

This Court is agreeable to a well settled rule that the offended party who is a public official can only institute an action arising from libel, at his option, in two (2) venues: (a) the place where he holds office, and (b) the place where the alleged libelous article was printed and first published.

As can be glanced in the Information, it shows that the alleged libelous article was printed in Manila but there is no mention as to the place where the article was first published, only that the said publications were accessible, among others, to the users of the internet particularly in Ozamiz City.

It was also admitted by the prosecution that the private complainant was a public official holding office in the city of Manila during the commission of the incident in question but alleged that he merely held office thereat on a temporary basis for his regular appointment, being Port Manager of the Philippine Ports Authority, is in Tagbilaran City.

As to the first venue (place where he holds office), Ozamiz City is surely not the proper one. To determine as to whether or not the phrase "whose office is in the City of Manila at the time of the commission of the offense" requires a permanent status is immaterial in the sense that the alleged permanent office is in Tagbilaran City while his temporary assignment is in Manila.

As to the second venue which is the place where the articles were printed and first published, this Court believes that Ozamiz City is improper venue for this case. The reason is obvious. The alleged libelous publication was not printed in

Ozamiz City. There was even no showing that the said article was first published in this City. Besides, Article 360 of the Revised Penal Code uses the connective word "printed and first published" to be interpreted as occurred in one place otherwise the same law will rather speak of three venues which are the place where he holds office, the place where the alleged libelous articles were printed and the place where the same was first published. But, again, Art. 360 of the Revised Penal Code speaks of two venues only as laid down in *Patricio R. Diaz vs. Judge Santos B. Adiong, et al.*, G.R. No. 106847, March 5, 1993 that states:

"From the foregoing provision, it is clear that an offended party who is at the same time a public official can only institute an action arising from libel in two (2) venues: the place where he holds office and the place where the alleged libelous articles were printed and first published."

This made clearly in pointing out that Ozamiz City is improper venue in this case for the simple reason that the alleged libelous articles were not printed and first published therein.

Considering that venue in criminal cases is also considered as jurisdictional, this will logically follow that this Court has no jurisdiction over this case.

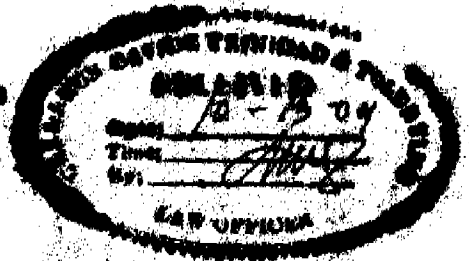
WHEREFORE, premises considered, this case is hereby dismissed for lack of jurisdiction.

SO ORDERED.

September 30, 2004, Ozamiz City.

[Signed]
SALOME P. DUNOG
Executive Judge.

Republic of the Philippines
REGIONAL TRIAL COURT
10th Judicial Region
Branch 33, Ozamis City



PEOPLE OF THE PHILIPPINES,

- versus -

FOR:

VICENTE F. GARRERO,
Accused,

LIBEL

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ORDER

Accused is charged for a crime of libel for his alleged malicious publication imputing Engr. Edwin A. Bellows, a public official. Without being arraigned, accused filed a Motion to Dismiss on the ground of improper venue, stressing among others, that the private complainant is holding office at the Philippine Ports Authority Head Office, Marquee Bldg., South Harbor, City of Manila and presently employed as Port Manager of the Philippine Ports Authority.

This was opposed by the prosecution by maintaining that venue in this case is properly laid.

This Court is agreeable to a well settled rule that the offended party who is a public official can only institute an action arising from libel, at his option, in two (2) venues: (a) the place where he holds office, and (b) the place where the alleged libelous article was printed and first published.

As can be gleaned in the information, it shows that the alleged libelous article was printed in Manila but there is no mention as to the place where the article was first published, only that the said publications were accessible, among others, to users of the internet particularly in Ozamis City.

It was also admitted by the prosecution that the private complainant was a public official holding office in the City of Manila during the commission of the incident in question but alleged that he merely held office thereon on a temporary basis for his regular assignment. Being Port Manager of the

"printed and first published" to be interpreted as occurred in one place otherwise the same law will rather speak of three venues which are the place where he holds office, the place where the alleged libelous articles were printed, and the place where the same was first published. But, again, Art. 960 of the Revised Penal Code speaks of two venues only as laid down in *Patricio R. Diaz vs. Judge Santos R. Adiong, et al.*, G.R. No. 108847, March 3, 1995 that states:

"From the foregoing provision, it is clear that an offended party who is at the same time a public official can only institute an action arising from libel in two (2) venues: the place where he holds office and the place where the alleged libelous articles were printed and first published."

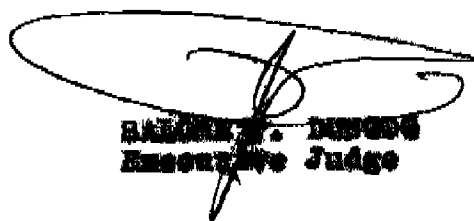
This made clearly in pointing out that Oceans City is improper venue in this case for the simple reason that the alleged libelous articles were not printed and first published therein.

UNDERSTANDING THAT VENUE IN CRIMINAL CASES IS ALSO CONSIDERED AS JURISDICTION, THIS COURT LEGALLY SHOULD HOLD THAT THIS COURT HAS NO JURISDICTION OVER THIS CASE.

WHEREFORE, premises considered, this case is hereby dismissed for lack of jurisdiction.

SO ORDERED.

September 30, 2004, Oceans City.


RALPHY R. DURSO
Executive Judge

/vs