

Republic of the Philippines
REGIONAL TRIAL COURT
National Capital Judicial Region
BRANCH 306, QUEZON CITY
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Contact Nos. 09760968624 / 8-660-1763

**ALFONSO TOMAS "ATOM" PAGADUAN
ARAULLO,**

Plaintiff,

- versus -

Civil Case No. R-QZN-23-08237
For: Damages (Articles 19 to 21,
26 and 33 of the Civil Code)

**LORRAINE MARIE T. BADOY-PARTOSA
and JEFFREY M. CELIZ,**

Defendants.

X-----X

DECISION

This is a complaint filed by the plaintiff, *Alfonso Tomas "Atom" P. Araullo*, through counsel, against the defendants, *Lorraine Marie T. Badoy-Partosa and Jeffrey M. Celiz*, seeking an award for nominal, moral, and exemplary damages, along with attorney's fees and litigation costs.

The Facts and Antecedent Proceedings

The Complaint¹ alleged that the plaintiff is a journalist, television anchor, and documentary filmmaker whose work mainly revolves around social issues, disasters, conflicts, and climate crisis. In view of his advocacies and humanitarian efforts, he was conferred with the title of National Goodwill Ambassador for the United Nations High Commissioner for Refugees (UNHCR) in 2019. Through the years, he garnered further recognition and became the recipient of various accolades and awards both local and abroad.

Defendants, Lorraine Marie Badoy-Partosa and Jeffrey M. Celiz, on the other hand, are hosts of the talk show dubbed as "*Laban Kasama ang Bayan*" that is broadcasted by the SMNI News Channel and re-published through SMNI social media accounts, which as of June 2023, have vast public audience, to wit:



¹ Exhibit "A", Record at 1-49.

- a) Laban Kasama ang Bayan Facebook page (23,000,000 followers and 960,000 likes)
- b) SMNI News Facebook page (1,066,000 subscribers)
- c) SMNI News Youtube channel (87,100 followers)
- d) SMNI News Twitter account (83,000 followers and 25,000 likes).²


During the months of August and November 2022, the defendants persistently targeted and defamed plaintiff's mother, Dra. Carol Araullo, in their SMNI *"Laban Kasama ang Bayan"* talk show. Specifically, in their episode aired on August 10, 2022, Dra. Araullo was labelled as *"urban infiltrator"* of the CPP-NPA-NDF.³ In the episode aired on August 25, 2022, she was labeled as one of the individuals *"in-charge of recruitment for CPP-NPA-NDF"* through alleged front organizations.⁴ And, in the episode on November 1, 2022, she was again labeled as an *"urban infiltrator"* and as *"one of the heads of CPP-NPA-NDF"*.⁵

It was during the period of airing of these episodes that the plaintiff started receiving comments on his social media accounts that were related to the attacks against his mother and were then already being used by others to threaten and to attack him through lines such as: *"balita ko nanay mo NPA ah, at di ka pa naman binubusalan dami nyo nga alam eh puro reklamo"*, *"eh pano naman yung nanay mong utak ng bomba sa Mendiola massacre,"* and *"malalaman pa ng grupo niyo kung pano kayo iisa-isahin."*⁶

Defendants also dragged the plaintiff, in their red tagging spree and publicly branded him as the *"spawn"* of an *"active CPP Central Committee leader"* as broadcasted on October 19, 2022 and January 30, 2023.

In the October 19, 2022 episode⁷, defendants publicly ridiculed him and his mother through their malicious accusations and insinuations, by uttering the following defamatory statements:

SMNI *"LABAN KASAMA ANG BAYAN"*
October 19, 2022 Episode

[00:14:33] Jeffrey Celiz (JC) ... Si Vergel Santos ay kasabwat ng Movement Against Tyranny nina Obet De Castro, **Carol Araullo**, 

² Exhibit "O", series; *Id.* at 53-54.

³ Exhibit "C", with video file name Live_Laban Kasama ang Bayan_August 10, 2022.mp4, as contained in Exhibit "B"; *Id.* at 782.

⁴ Exhibit "D", with video file name Live_Laban Kasama ang Bayan_August 25, 2022.mp4, as contained in Exhibit "B"; *Id.* at 782.

⁵ Exhibit "E", with video file name Live_Laban Kasama ang Bayan_November 21, 2022.mp4, as contained in Exhibit "B"; *Id.* at 782.

⁶ Exhibit "F", "J", and "L", with sub-markings; *Id.* at 55-74.

⁷ Exhibit "G", with video file name Live_Laban Kasama ang Bayan_August 19, 2022.mp4, as contained in Exhibit "B"; *Id.* at 782.

Teddy Casiño, at Neri Colmenares, **mga operatiba ng CPP-NPA-NDF** na nagbubuo ng Oust Duterte Movement... Pangalawa, itong nagpapakilalang taga-GMA, brother Franco, na ang pangalan nya ay Atom Araullo. Anak ito ng isang active CPP Central Committee leader. Ang nanay niya ay si Carol Araullo. At ito, ay a, ang kanyang anak, pinaaral ito kagaya ni Carol Araullo, pinaaral ng mamamayan sa UP, ginastusan ng taumbayan, at ang kanyang ginawa ay inaatake at sinisira ang ating bayan. At ang kinakampihan nila ay ang mga teroristang grouping CPP-NPA-NDF. Your take on this, brother Franco, as if si Pastor Quiboloy ay isang fugitive at isang criminal, convicted na sa Estados Unidos, the way na itong si Atom Araullo at itong si Vergel Santos at ang grupong nga mga kasabwat nilang media operatives kung paano nila pino-portray at binabastos itong pagkatao ni Pastor Quiboloy, Brother Franco...

xxx

JC: ... Nagulat nga kami na pumunta pala ito sa Davao itong si Atom Araullo. Baka nag-espiya lang iyon dun, 'no, brother Franco?

FB: Hindi ko masabi Ka Eric... Ano kaya ang dahilan bilang isang kadre at alam mo kung ano ang nilalaman sa likod ng mga CPP-NPA-NDF na ito? Knowing na ang kanyang a...

LBP: Nanay...

FB: in...nanay...

JC: Central Committee.

FB: Ay Central Committee.

JC: Ayaw man niyang aminin pero lumalabas 'yun, brother Franco, na si Carol Araullo, na ina ni Atom Araullo, ay active CPP-NPA operative handling the National United Front Commission, and part siya ng CPP Central Committee, brother Franco. ...

[00:18:31] LBP: ... Hindi naman nakakataka 'yon kasi, um, si Pastor at si Secretary Remulla ay fiercely anti-CPP on one hand, and Carol Araullo is a CPP member, ano, a Central Committee member according to Eric, and the son has already created documentaries that are really very faithful, the CPP-NPA-NDF, like the documentaries on the Bakwit Schools. Napaka-one hundred million percent faithful sa kasinungalingan na pinaglalabas ng CPP-NPA-NDF... And it's just natural, natural lang, na ang CPP-NPA-NDF operatives ay talagang tatamaan si Pastor, 'di ba? So natural na natural 'yung ginagawa nitong mga ito. Itong si Carol Araullo at tsaka yung 'yung spawn nya, 'yung anak niya, 'no. So I'm not surprised by this.

[00:20:24] JC: And this is a part of a systematic orchestrated attack to derail, discourage, and sabotage all efforts of the

government and those who support the government like Pastor Quiboloy, SMNI, ma'am Lorraine, Laban Kasama ang Bayan... Pangalawa, malinaw din na si Atom Araullo, ang kanyang kinakampihan ay ang interes ng CPP-NPA-NDF. Una sa lahat, kung totoo ka, Atom Araullo, na para ka sa pagbubuo ng bayan, pagtatanggol sa mamamayan, join your mother in condemning the CPP-NPA-NDF to stop the recruitment of minors, of indigenous people, and recruitment of the youth and students, to become offerings into the altar of nonsense violent and bloody revolution of your idol Joma Sison. Kung hindi kayo mga CPP-NPA-NDF, ikondena nyo ang totoong nagwawasak ng bayan. ... So kaninong interes ka naninindigan? Nagkataon lang na may pangalan ka dahil nasa GMA ka. Pero ang iyong media practice, kagaya ng iba pang ka-grupo mo, ay hindi naglalayong itaas at ipagbunyi ang kabutihan ng ating bansa. Bagkus ang ginagawa mo, 'yung nagtatanggol ng mga mamamayan, nagtatanggol, ma'am Lorraine, laban sa terorismo, ng CPP-NPA-NDF, kagaya ni Pastor Quiboloy at ng SMNI, gusto mong sirain at atakihin. Sige nga, kung nainiwala ka na tama ang iyong ginagawa, samahan mo kami. Kung ikaw ay makatotohanang nagmamahal sa bayang Pilipinas, kondenahin mor in ang CPP-NPA-NDF, sapagka't 'yan ay proven in 53 years na nagwawasak at pumapatay sa ating bayan, at nagpapabagsak at sumisira sa ating buong sambayanan...

[00:22:49] LBP: Now, in other words, Eric, ang sinasbai natin, 'Oy Atom, pagusapan natin 'yung mga krimen na in-enable ng nanay mo.' Kung talagang mahal mo ang Pilipinas, pagusapan natin kung ano 'yung parte na ginawa ng nanay mo sapag-enable at pag-protect ng CPP-NPA-NDF, na isang teroristang organisasyon, na kung saan ang nanay mo ay isang urban operative, 'no. So pag-usapan natin yan. Tatal you're a human rights defender and all of that, right? So let's go there, 'no.

[00:23:20] FB: And also, ma'am Lorraine, have you ever done something that is really good for the country? Yun lang, ma'am. May nagawa k aba na kahit isa.. even in your documentaries.. na makatulong sa ating bansa. Hindi yung puro negatibo. Hindi yung puro naninira. Nakagawa ka na ba ng parang ginagawa ng ating honorary chairman, si Pastor Apollo, na puro positive, nation-building? Ipinapakita natin yung ganda, 'yong tulong ng ating bansa. Nakatulong ka na ba sa mga kabataan? Nakatulong ka na ba sa iba't-ibang proyekto ng ating gobyerno? Ito ang isa sa mga bagay na hindi natin aakalain na magagawa, magagawa mo, Atom ...

[00:30:05] JC: Kababayan, napakinggan po ninyo at napanood ang napakagandang paglalahad ng katotohanan sa terorismo at pagwawasak na dulot ng CPP-NPA-NDF sa Samar, lalo na sa Jipapad na hindi kayang gawan ng documentary report na tama ni Atom Araullo, at hindi niya kayang kondenahin ang CPP-NPA-NDF na kanyang pinaka-idol...



[00:40:04] LBP: ... In other words, sino din yung mga binibiktima nina Arlene Brosas ng Gabriela, Raoul Manuel ng Kabataan, Franz Castro ng Alliance ng Concerned Teachers, sina Atom Araullo tsaka 'yung nanay niya? Sino yung pino-protektahan nilang mga terorista? Sino itong tine-terrorize at binibiktima nitong mga teroristang organisasyon na ito? ...

[00:42:16] LBP: ...Kasama nitong sina ano, itong sina Carol Araullo, na hanggang ngayon, hindi nila matanggap tanggap na isinusuka na kayo ng Pilipinas.


FB: Kaya nga... siguro, kaya hindi na rin nakatiis. Ginamit na rin ang kanyang anak...

[00:46:32] JC: ... Si Atom Araullo, ipinangangalandakan niya, proud na proud siya sa kanyang nanay, na nakilaban daw sa Martial Law Dictatorship. Ang tanong naming sa'yo, Atom Araullo, alam mo ba na ang idol mong si Joma Sison ang dahilan kung bakit nagkaroon ng malaganap na pagpapatupad ng Martial Law dahil pinabombahan ng granada ng CPP-NPA-NDF sa utos ni Joma Sison ang Plaza Miranda, at pinatay nila ang mahigit fifteen thousand na mga sundalo at pulis, na pinapalakpakan mo, at ngayon kasama diyan, ang mga pinagpapatay nila sa Samar?...

[00:17:02]

JC: ... At kami may pananagutan din kami na ituwid ang baluktot na pananaw mo at ng nanay mo kaya huwag kang magmagaling at magmalinis. Kasi kung hindi mo kayang kondenahin ang CPP-NPA-NDF na pinaglilingkuran ng nanay mo, at dati mong pinaglilingkuran nung nasa loob ka ng UP, huwag kang magpost ng mga bagay na nag uudyok ng kabaluktutan ng kaisipan, lalo na ang pag-atake mo sa SMNI at kay Pastor Quiboloy. Kasi hindi ka naming palalampasin at ng mga mamamayan...

[01:26:37] xxx 'Huy, Carol Araullo, urban operative ka ng CPP-NPA-NDF.' 'Oy, huy, Atom Araullo, nanay mo, Central Committee ng CPP, tumigil ka nga diyan.' xxx

Moreover, defendant Badoy-Partosa publicly accused plaintiff of creating documentaries *"that faithfully follow the CPP-NPA-NDF propaganda"*, to wit: 

SMNI "LABAN KASAMA ANG BAYAN"
January 30, 2023 Episode⁸

[00:52:30] JC: **Never naming sinangkot siya sa sinasabi mong mga ginagawa ng NPA pero tinanong naming siya kung bakit ayaw nya rin kondenahin ang CPP-NPA-NDF? Is that not a valid question to ask Atom Araullo who is a journalist? Number two, na-komentaryohan ang anak nyo sa kanyang pagmamaktol at sa kanyang pang iinsulto sa gobyerno nang hindi lang siya nakakuha ng taxi o nang grab o nang sasakyang pampubliko dun sa airport at the height of the ... xxx**

[00:53:10] LBP: **Not only that, Eric. Atom Araullo has created products that very faithfully follows the lines of the CPP-NPA-NDF propaganda. Like about the ... he calls the Lumad Schools, the Salugpungan Schools. He came out with a documentary about this. A mini documentary defending it. The exact lies of the CPP-NPA-NDF. So tama si Carol Araullo, he's already adult enough, noh? When the time comes, if we get there, he has to... the consequences have to be there. He has to face the consequences...**

[00:53:49] JC: **Kasi sinabi nya broken transport system, hindi naman broken eh, Prove it. Umiikot ako, ginagamit ko ito...pa-victim effect kayong mag-ina...**

On the *Today* facebook page, a short video interview⁹ with defendant Celiz was posted on May 5, 2022 wherein the latter publicly accused the plaintiff of being a member of the "*communist party*" while he was still a college student, quoting:

xxx Si Atom Araullo communist party man yan dati sa UP Diliman, hindi ko alam ngayon kung communist party pa siya, pero ang kanyang paninindigan tugma sa communist party. Ang nanay niya, central committee yan. Pag sinabing central committee, nasa mataas na pamunuan. Ang pangalan niya ay si Carol Araullo.

Kasama si Satur Ocampo at ni Teddy Casiño, Pastor. At ako mismo ang nagsasabi, hindi yan red tagging. Kasi nakakasama ko sila sa mga meeting ng communist party. xxx

The plaintiff was deliberately subjected to utterly false and malicious vilification by defendants who publicly branded him: as the

⁸ Exhibit "H", with video file name Live_Laban Kasama ang Bayan_January 30, 2023.mp4, as contained in Exhibit "B"; *Id.* at 782.

⁹ Exhibits "I", "I-1" and "I-2", as contained in Exhibit "B"; *Id.* at 782.

“spawn” of an “active CPP Central Committee leader”; of taking part in a “systematic orchestrated attack” against the government; publicly declared that he was a member of the “communist party”; accused him of victimizing Filipinos and protecting terrorists; of using his profession to destroy and attack others; and, of producing documentaries that are “faithful to the lies of the CPP-NPA-NDF”, among many other disparaging and defamatory imputations and remarks, contrary to law. The defendants’ utterances generated public hatred towards the plaintiff and his mother, as reflected in the public comments and reactions posted by various individuals, such as: “what do we expect from Atom? Heard his mom is also a member”, “langhiya naman palay ang Atom Araullo na yan”, “Atom Araullo kunwari ka pa nag mamalinis pero CPP NPA NDF member ka”, “may dugong komunista”, “utak rebelde din pala si Atom ginagamit ang media”, “Atom anti-government”, and so forth.¹⁰

The underlying malice and malevolence behind the actions of the defendants and their intention to disseminate the same to the public are bolstered by the hundreds and thousands of views, reactions, and comments that the subject episodes had garnered.¹¹ The subject videos were further amplified on the internet by other net users through video highlights postings and re-broadcasts on various social media platforms and subject titles that were focused on the plaintiff. These re-postings or re-broadcasts managed to garner as much as 630,000 views and 28,000 likes from their followers as of June 2023.¹²

According to the plaintiff, these malicious and defamatory utterances and injurious remarks made by the defendants were calculated to blacken and besmirch his personal character and dignity as a human being, as well as his professional integrity as a journalist. As a result, the plaintiff has suffered and continues to suffer moral shock, fright, serious anxiety, sleepless nights, depression, social humiliation, and besmirched reputation. The plaintiff based his cause of action for damages on Articles 19, 20, and 21 of the Civil Code, which expressly provide for the principle of abuse of rights and the corresponding remedy where such abuse has resulted in damage to another; Article 26; and, Article 33 of the Civil Code.

Within the reglementary period, the defendants filed their respective answers with affirmative defenses.¹³ On January 5, 2024, the Court issued a *Resolution*¹⁴ denying defendants’ affirmative defense of failure to state a cause of action. *af*

¹⁰ Exhibits “L” and “P, series; *Id.* at 71-74, 85-94.

¹¹ Exhibit “M”, series; *Id.* at 75-78.

¹² Exhibit “N”, series; *Id.* at 79-84.

¹³ *Id.* at 206-243, 294-323.

¹⁴ *Id.* at 415-418.

Thereafter, the case was set for pre-trial on February 27, 2024 at 1:30 in the afternoon.¹⁵ The plaintiff filed a *Motion to Reset Pre-Trial*¹⁶ on the ground that his lead counsel had a pre-arranged trip to Singapore for a medical examination. The defendants filed an *Opposition*¹⁷ to the said motion. The plaintiff submitted his *Pre-trial Brief* on February 23, 2024.¹⁸ On the other hand, defendant Celiz submitted his *Pre-trial Brief*¹⁹ on February 27, 2027, the day of the scheduled hearing; whereas, defendant Badoy-Partosa belatedly filed her *Pre-trial Brief*²⁰ on March 7, 2024.

Considering that both defendants failed to file their respective pre-trial briefs on time or at least three (3) days before the date of the pre-trial pursuant to Section 6, Rule 18 of the Rules of Court, upon motion, the Court allowed the plaintiff to present his evidence *ex-parte*.²¹ The defendants' respective motions for reconsideration²² were denied²³ by the Court in the Resolution dated May 10, 2024. In the same Resolution, the Court also denied plaintiff's motion to strike out or expunge all or part of defendants' pleadings.²⁴

Both defendants questioned the Resolution dated May 10, 2024 before the Court of Appeals via *certiorari* under Rule 65. As there was no restraining order issued by the appellate court, the proceedings before this Court continued.

Sections 5 and 6, Rule 18 of the Rules of Court

According to Section 6, Rule 118 of the Rules of Court, as amended, failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial. Then, in Section 5 of the same Rule, it is stated that in case of non-appearance of the defendants, the plaintiff shall be allowed to present evidence *ex parte* and the court shall render judgment on the basis of the evidence offered.

Since the Court shall only consider the evidence adduced by the plaintiff, it is no longer necessary to state herein the allegations and arguments put forth by the defendants in their respective answers. The Court only has to determine if the evidence of the plaintiff are sufficient to support his causes of action.



¹⁵ *Id.* at 419-420.

¹⁶ *Id.* at 421-428, 433-440.

¹⁷ *Id.* at 429-432.

¹⁸ *Id.* at 441-471.

¹⁹ *Id.* at 472-490.

²⁰ *Id.* at 556-577.

²¹ Order dated February 27, 2024; *Id.* at 526-527.

²² *Id.* at 664-670, 671-698.

²³ *Id.* at 771-778.

²⁴ *Id.*

Evidence Presented

During the *ex-parte* presentation of the plaintiff's evidence, four (4) witnesses were presented, namely: (1) Alfonso Tomas "Atom" Pagaduan Araullo, the plaintiff himself; (2) Miguel Gonzales Araullo; (3) Jose Voltaire Costob Tupaz; and (4) Arthur Are Gonzales III.

Alfonso Tomas "Atom" Pagaduan Araullo²⁵

Plaintiff Atom Araullo filed this complaint is to seek reparation for the grave damage and injury that was inflicted upon him by the defendants, through their defamatory attacks made in their publicly broadcasted and/or published talk show called, "*Laban Kasama Ang Bayan*," a segment of the SMNI News Channel, and through an online video clip of an interview of defendant Celiz as posted on the "Today" page on Facebook.

In his Judicial Affidavit, the plaintiff basically reiterated his allegations in the Complaint. According to him, the defendants persistently targeted and defamed him and his mother, Dr. Carol Araullo, through their "red-tagging spree" beginning early 2022 until the end of January 2023. He was publicly branded as: *the "spawn" of an active CPP Central Committee leader; being a member of the communist party; of victimizing Filipinos and protecting terrorists; of using his profession to destroy and attack others; and, of producing documentaries that are "faithful to the lies of the CPP-NPA-NDF"*, among many other disparaging or defamatory imputations and remarks. Consequently, the defendants have besmirched both his personal character and dignity as a human being and his professional integrity as a journalist. He added that the links to the episodes and clips were forwarded to him by concerned friends and family. He eventually did a search on social media to discover these video clips and he downloaded and saved them in a USB flash drive. He also took screenshots of the reactions and comments made on his Twitter account, some of which include: "*balita ko nanay mo NPA*," "*pano naman yung nanay mong utak ng bomba sa Mendiola massacre*," and so forth. These attacks against his mother were being used by others to threaten him and to besmirch his person. The defamatory remarks were further amplified on the internet by other net users through their video highlights postings and re-broadcasts the same on various social media platforms and channels with subject titles that were focused on him such as: "*Atom Araullo, anak ng active CPP Central Committee leader*," "*Ka-Eric ibinunyag ang kaugnayan ng media man na si Atom Araullo sa CPP Central Committee*," "*Atom Araullo newscaster dati sa ABS CBN nalipat sa GMA dating communist sa UP*," "*Malinaw na si Atom Araullo ang kanyang kinakampihan ay interes ng CPP-NPA-NDF*," "*Atom Araullo kumpirmadong*"

²⁵ Judicial Affidavit dated September 10, 2023; *Id.* at 95-120.

kakampi ni Joma," and so on. Due to these public defamatory and injurious statements that were made by the defendants against him, he has suffered and continues to suffer mental anguish, fright, serious anxiety, social humiliation, and besmirched reputation. He also claimed to have spent many sleepless nights as he had feared for his personal safety and that of his mother.

Miguel Gonzales Araullo²⁶

Witness Miguel testified that he is the father of the plaintiff and as such, he has personal knowledge of the circumstances surrounding the case, and that he has personally viewed the subject videos sometime in 2022 and early 2023 wherein defendants have repeatedly defamed and red-tagged both his wife, Dr. Maria Carolina Araullo, and his son, herein plaintiff, in public. He also confirmed that he knew the defendants as public figures given that they are SMNI talk show hosts. He added that defendant Badoy-Partosa was a public official being the former Undersecretary of the Philippine Presidential Communications Operations Office (PCOO).

After watching the subject videos²⁷, he told his wife and called his son about the said videos. The plaintiff told him that he already knew about these videos and that defendants have long been defaming him in public. His son would rather ignore the baseless gossips and accusations being spread on the internet against him, but as time passed, he sensed that his son started to feel stressed and anxious about these false accusations. He also observed that the plaintiff started to worry about his mother's safety, as he believes that she is their principal target, and about his own security, since it appears that their motive is to undermine his professional credibility as a journalist.

He further claimed that he cannot help but be worried about his family's safety and security. The statements made by the defendants were meant to publicly demonize and ridicule his wife and son. If left unchallenged, these can lead to more harmful consequences on their unsullied reputation and even make them vulnerable to trumped-up criminal charges and physical attacks. He averred that he knows for a fact that neither of them would engage in any of these groundless accusations. He also denied that his son has ever been involved with the communist party, not during his high school years in Philippine Science High School, or during his college years in UP Diliman, and at present time. The witness expected that from this complaint filed by his son, the defendants will be directed to completely take down all of the videos and written public accusations against his son and wife, and that damages will be

²⁶ Judicial Affidavit dated September 10, 2023; *Id.* at 167-176.

²⁷ *Supra* notes 3-5, 7-9.

awarded.

Jose Voltaire Costob Tupaz²⁸

Witness Tupaz, a journalist, testified that he has been a colleague and a friend of the plaintiff since college days. Sometime in 2018, they both founded FYT Media, an independent media group that promotes public interest and community-oriented journalism. The witness is currently the Chief Content Officer of the said media outfit. He personally viewed the publicly broadcasted videos of the defendants and has personal knowledge of their adverse effects on the plaintiff. According to him, he has not only viewed the videos²⁹ subject of the complaint but has also monitored them due to the nature of their contents. As part of the program of FYT media, he collected data concerning disinformation for the purpose of submitting to Facebook reports about malign actors spreading false information on its platform.

In the subject videos that he viewed, the plaintiff was publicly defamed and red-tagged by the defendants, which is absurd and preposterous as the plaintiff has not promoted any political cause in their media group and in their circle of friends.

During their personal conversations about this, he observed that the plaintiff was under so much stress. It affected him deeply given the public and social humiliation that he was subjected to on both personal and professional level. Based on the public reactions to the subject videos, their FYT group has since become very concerned when taking the plaintiff to the province for work. During those instances when the team could not secure his safety in out-of-town activities, they would discourage him from joining the trip. They rarely brought the plaintiff to these out-of-town trips or activities because they have become scared and uncertain about security risks he might be exposed to given the online hate speech that he has received because of red-tagging.

Arthur Are Gonzales III³⁰

Witness Arthur, a college professor, and close friend of the plaintiff since high school at the Philippine Science High School, testified that the plaintiff shared the subject videos³¹ to him and his wife during one occasion when they were invited to his place. He felt scared for the plaintiff as he noticed that the latter became deeply distressed. To him, all

²⁸ Judicial Affidavit dated September 10, 2023; *Id.* at 177-187.

²⁹ *Supra* notes 3-5, 7-9.

³⁰ Judicial Affidavit dated September 10, 2023; *Id.* at 188-191.

³¹ *Supra* notes 3-5, 7-9.

of these were just an attempt to discredit the plaintiff as a journalist and to subject him to public humiliation. Given the gravity of the situation, and the fact that the plaintiff has suffered fright, serious anxiety, and social humiliation due to these public videos, it is only right for him to bring this matter before the court of law.

After the completion of the testimony of the above-mentioned witnesses, the plaintiff's counsel orally offered their documentary exhibits from Exhibits "A" to "V", with sub-markings.³² The same were admitted into evidence and the case was submitted for decision.³³ Thereafter, the plaintiff submitted his *Memorandum*³⁴.

Issue

Whether or not the plaintiff is entitled to damages, attorney's fees, and costs of suit as prayed for in the Complaint.

Discussion

The subject of the complaint is the alleged defamatory statements made by the defendants on the TV show, "*Laban Kasama ang Bayan*" (October 19, 2022 and January 30, 2023 episodes) and in an interview with defendant Celiz, a video clip of which was posted on the "*Today*" Facebook page. These statements are as follows:

- a) That the plaintiff is the son (and sometimes called "*spawn*") of an *active CPP Central Committee leader*;
- b) "*Inaatake at sinisira ang ating bayan*";
- c) "*Kinakampihan nila ay ang mga teroristang grupong CPP-NPA-NDF*";
- d) "*Kasabwat nilang media operatives*";
- e) That the plaintiff "*created documentaries that are...one hundred million percent faithful sa kasinungalingan na pinapalabas ng CPP-NPA-NDF*";
- f) That the plaintiff is "*part of a systematic orchestrated attack to derail, discourage, and sabotage all efforts of the government and those who support the government*";
- g) That the plaintiff *sided with the interests of the CPP-NPA-NDF* ("*...malinaw din na si Atom Araullo, ang kanyang kinakampihan ay ang interes ng CPP-NPA-NDF*");
- h) That the CPP's Joma Sison is plaintiff's "*idol*";
- i) That the plaintiff is involved with or is an enabler of CPP-

³² Order dated June 11, 2024; *Id.* at 810-835.

³³ *Id.*

³⁴ *Id.* at 866-912.

- NPA-NDF because of his refusal to condemn said group;
- j) That the plaintiff used his profession to destroy and attack others;
 - k) That plaintiff's mother committed a crime and/or enabled the commission of a crime;
 - l) That the plaintiff's mother is "*an urban operative*" who repeatedly enabled and protected a "terrorist organization" ("*...pag-usapan natin kung ano yung parte na ginawa ng nanay mo sap ag-enable at pag protect ng CPP-NPA-NDF, na isang teroristang organisasyon, na kung saan ang nanay mo ay isang urban operative...*");
 - m) That plaintiff victimized Filipinos and protected terrorists;
 - n) That plaintiff was a member of the communist party when he was a college student in UP Diliman; and,
 - o) That the plaintiff has "*created products that very faithfully follows the lines of the CPP-NPA-NDF propaganda...The exact lies of the CPP-NPA-NDF.*"

These statements labeling the plaintiff as an enabler, supporter, and member of the CPP-NPA-NDF, identified by the government as a communist and terrorist group, clearly exemplify **red-tagging**. Red-tagging involves the branding of individuals or organizations as communists, terrorists or enemies of the State, without factual evidence. In the recent case of *Deduro v. Major Gen. Vinoya*³⁵, the Supreme Court acknowledged the existence and characterization of red tagging:

"Red-tagging has been acknowledged by international organizations as a form of harassment and intimidation. As early as 2007, the United Nations Human Rights Council observed the prevalence of a practice in the Philippines where groups at the left of the political spectrum are characterized as front organizations of anti-democratic groups. The report called the practice 'vilification,' 'labelling,' or guilt by association."

I. Abuse of Right Principle

Red-tagging constitutes an abuse of right under Article 19 of the Civil Code, which protects individuals from acts contrary to morals, good customs, and public policy.

Article 19 of the Civil Code sets the standards for the exercise of one's rights and performance of duties:

³⁵ G.R. No. 254753, July 4, 2023.

Article 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

This provision recognizes that even the exercise of a right may be the source of some illegal act, when done in a manner contrary to the standards it sets, and results in damage to another.³⁶ Meanwhile, Articles 20 and 21 provide for the legal remedy for a violation of Article 19:


ARTICLE 20. Every person who, contrary to law, wilfully or negligently causes damage to another, shall indemnify the latter for the same.

ARTICLE 21. Any person who wilfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage.

For there to be a finding of an abuse of rights under Article 19, the following elements must concur: (1) there is a legal right or duty; (2) the right is exercised or the duty is performed in bad faith; and (3) the sole intent of the exercise or performance is to prejudice or injure another.³⁷ It must be shown that the exercise of the right or performance of the duty was done with bad faith.³⁸ The legal concept of bad faith denotes a dishonest purpose, moral deviation, and a conscious commission of a wrong.³⁹ It includes a breach of known duty through some motive or interest or ill will that partakes of the nature of fraud.⁴⁰ It is, therefore, a question of intention, which can be inferred from one's conduct and/or contemporaneous statements.⁴¹

The presence of all these elements is not even necessary as long as the absence of good faith in the exercise of one's rights is proven. In *Tocom's Philippines, Inc. v. Philips Electronics and Lightings, Inc.*⁴², it was held that:

"There is xxx no hard and fast rule which can be applied to determine whether or not the principle of abuse of rights may be invoked. The question of whether or not the principle of abuse of rights has been violated, resulting in damages under Articles 20 and 21 or other applicable provision of law, depends on the circumstances of each case."



³⁶ Navarro-Banaria v. Banaria, et al., G.R. No. 217806, July 28, 2020.

³⁷ *Id.*

³⁸ Mercado v. Ongpin, G.R. No. 207324, September 30, 2020.

³⁹ *Id.*, citing Dart Philippines, Inc. v. Spouses Calogcog, 613 Phil. 224, 234 (2009).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² G.R. No. 214046, February 05, 2020.

Cases such as *University of the East v. Jader* and the *Globe Mackay* case, where the Court did not utilize the foregoing threefold test in finding a violation of Article 19, have therefore led to the following observation, viz.:

[T]he principle [of abuse of rights] may be invoked if it is proven that a right or duty was exercised in bad faith, regardless of whether it was for the sole intent of injuring another. Thus, it is the absence of good faith which is essential for the application of this principle.

The foregoing discussion highlights bad faith as the crucial element to a violation of Article 19. The mala fide exercise of a legal right in accordance with Article 19 is penalized by Article 21, under which "[a]ny person who wilfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage." Stated differently, Article 19 imposes upon all persons exercising their legal rights the duty to act with justice, give everyone his due, and to observe honesty and good faith. Failure to discharge such duties is compensable under Article 20 if the act is "contrary to law"; and under Article 21 if the act is legal but "contrary to morals, good customs, or public policy."⁴³

In the instant case, the right to free speech was abused by the defendants by red-tagging the plaintiff.

The right to free speech is not absolute; it imposes limitations on its exercise to ensure that it will not impinge upon the rights of others. It does not protect defamatory statements. As correctly stated by the plaintiff in his Memorandum, "it is not a tool to spread defamatory statements" or "to disseminate misinformation or disinformation".

The exercise of free speech must be based on facts and should not cross defamation. According to the Supreme Court, the exercise of this right or any right enshrined in the Bill of Rights...comes with an equal burden of responsible exercise of that right. The recognition of a right is not free license for the one claiming it to run roughshod over the rights of others.⁴⁴ Thus, defendants' right to express opinions and share information through their TV show, "Laban Kasama ang Bayan," does not extend to red-tagging the plaintiff.

As regards bad faith, jurisprudence state that bad faith does not simply connote bad judgment or simple negligence; it involves a dishonest purpose or some moral obloquy and conscious doing of a wrong, a breach of known duty due to some motives or interest or ill will that partakes of the nature of fraud. Malice connotes ill will or spite and speaks not in response to duty. It implies an intention to do ulterior and unjustifiable harm. Malice is bad faith or bad motive.⁴⁵

⁴³ Citations omitted. Emphasis supplied.

⁴⁴ *Tulfo v. People*, G.R. No. 161032, September 16, 2008.

⁴⁵ *Supra* note 38.

Again, in *Deduro v. Maj. Gen. Vinoya*⁴⁶, the Supreme Court recognized, as acknowledged by international organizations, that red-tagging is “a form of harassment and intimidation.” Given the background and prevalence of red-tagging in the country, the High Court ultimately declared the act as a threat to a person’s fundamental rights:

“...this Court declares that red-tagging, vilification, labelling, and guilt by association constitute threats to a person's right to life, liberty, or security ...”

Although the cited case involves the propriety of issuance of a writ of *amparo* based on allegations of red-tagging, the High Court clearly recognized red-tagging as a harmful practice of harassment as it labels individuals or groups as associated or connected with communism or terrorism without proof or basis.

By engaging in red-tagging, the defendants deliberately sought to discredit and inflict harm on the plaintiff. Their remarks were aimed at damaging the plaintiff’s reputation and credibility, both as a person and as a journalist by associating him with the CPP-NPA-NDF without proof. These labels and remarks went beyond mere editorial opinion or fair commentary and, worse, incited backlash, threats and public hatred toward the plaintiff. This was clearly evident in the following comments by internet followers and viewers of defendants’ program:

“What do we expect from Atom? Heard his mom is also a member,”

“Langhiya naman pala yan Atom Araullo na yan,”


“Atom Araullo kunwari ka pa nagmamalinis pero CPP NPA NDF member ka,”

“may dugong komunista,”

“Puro ka press freedom... hahantingin kita at putulan ng ulo hayop ka,”

“tangna mo, NPA ka dba,”

“tumahimik ka Atom, isa ka ring NPA puta ka,”

among numerous other comments. 

⁴⁶ *Supra* note 35.

II.

Respect for a Person's Dignity, Personality, Privacy and Peace of Mind

The red-tagging disturbed the plaintiff's family relations by causing humiliation to him and his mother.

The red-tagging violated the plaintiff's right to peace of mind.

Article 26 of the Civil Code states:

Article 26. *Every person shall respect the dignity, personality, privacy and peace of mind of his neighbors and other persons.* The following and similar acts, though they may not constitute a criminal offense, shall produce a cause of action for damages, prevention and other relief:

- (1) Prying into the privacy of another's residence;
- (2) Meddling with or disturbing the private life or family relations of another;
- (3) Intriguing to cause another to be alienated from his friends;
- (4) Vexing or humiliating another on account of his religious beliefs, lowly station in life, place of birth, physical defect, or other personal condition."

The provision specifically applies to intentional acts *which fall short of being criminal offenses*.⁴⁷ It grants a cause of action for damages, prevention, and other relief in cases of breach, though not necessarily constituting a criminal offense, of the following rights: (1) right to personal dignity; (2) right to personal security; (3) right to family relations; (4) right to social intercourse; (5) right to privacy; and (6) right to peace of mind.⁴⁸

The Supreme Court explained the philosophy behind Art. 26, to wit:

"The Code Commission stressed in no uncertain terms that the human personality must be exalted. The sacredness of human personality is a concomitant consideration of every plan for human amelioration. The touchstone of every system of law, of the culture and civilization of every country, is how far it dignifies man. If the statutes insufficiently protect a person from being unjustly humiliated, in short, if human personality is not exalted - then the laws are indeed defective. Thus, under this article, the rights of persons are amply protected, and damages are provided for violations of a person's dignity, personality, privacy and peace of mind."⁴⁹

⁴⁷ MVR Publications, Inc., et. al. vs. Islamic Da'wah Council of the Philippines, Inc., et. al., G.R. No. 135306, January 28, 2003.

⁴⁸ Zenaida Gregorio vs. Court of Appeals, G.R. No. 179799, September 11, 2009.

⁴⁹ Unicapital, Inc. et al. vs. Rafael Jose Consing, Jr. et al., G.R. Nos. 175277 & 175285, September 11,

According to the plaintiff, the defendants meddled with his private life or family relations by failing to exercise a "reasonable degree" of care before airing their defamatory statements indicating the presence of "actual malice". Even though he is a public figure, being a journalist and TV personality, he is still protected by Article 26. As a public figure, his image and reputation are particularly crucial for him to maintain and even grow his career. Defendants' wrongful actions have caused damage and injury to his dignity, personality, privacy, and peace of mind.

The Court agrees with the plaintiff. By broadcasting accusations that the plaintiff is a member of the CPP-NPA-NDF, together with his mother, Dr. Carol Araullo, who is allegedly an active CPP Central Committee leader, the defendants violated Article 26 of the Civil Code. The accusations pried into the family life of the plaintiff, disturbed his family relations, and publicly humiliated him and his mother. The remarks have also incited unwarranted hostility against the plaintiff and his mother. As shown by the following statements, the "netizens" vilified him, harassed him, and even threatened him:

"What do we expect from Atom? Heard his mom is also a member,"

"Langhiya naman pala yan Atom Araullo na yan,"

"Atom Araullo kunwari ka pa nagmamalinis pero CPP NPA NDF member ka,"

"may dugong komunista,"

"utak rebelde pala si Atom ginagamit ang media,

"Atom anti-government,"

"Puro ka press freedom... hahantingin kita at putulan ng ulo hayop ka,"

"tangna mo, NPA ka dba,"

"Atom Araullo communist terrorist mouthpiece – just like his communist-terrorist mother," and

"tumahimik ka Atom, isa ka ring NPA puta ka."

Defendants' labels and remarks also affected the plaintiff's ability to participate in his organization's activities, programs, and travels. To this effect, witness Jose Voltaire Tupaz testified as follows:

"Based on the public reactions to our videos, our group has since become very concerned when taking Atom to the province for work. During those instances when our team could not secure his safety in out-of-town activities, we would not encourage him to join us. Our group's




approach has always been community oriented. Meaning, we frequently interact with local media, train campus journalists, and cover local stories. During these activities, we rarely bring Atom with us because we have become scared and uncertain about security risks he might be exposed to given the online hate speech that he has received because of red-tagging.”⁵⁰

This Court again refers back to the recognition of red-tagging as a form of intimidation and harassment in the *Deduro* case. Being a form of intimidation and harassment, the red-tagging significantly affected plaintiff’s mental peace. The netizens’s vilification and threats, after being red-tagged by the defendants, created a state of stress and anxiety on the plaintiff as narrated by him and his witnesses. He also feared for his personal safety due to these hate messages and harsh comments. This heightened state of anxiety, along with fright, social humiliation, sleepless nights, disrupted his normal functioning both as an individual and as a professional.⁵¹

The Court is not unaware of the standard of proof required concerning defamatory statements against public figures and public officials. The plaintiff is no doubt a public figure. In *Ayer Productions Pty. Ltd. v. Capulong*⁵², a public figure was defined as follows:

“A public figure has been defined as a person who, by his accomplishments, fame, or mode of living, or by adopting a profession or calling which gives the public a legitimate interest in his doings, his affairs, and his character, has become a “public personage.” He is, in other words, a celebrity. Obviously to be included in this category are those who have achieved some degree of reputation by appearing before the public, as in the case of an actor, a professional baseball player, a pugilist, or any other entertainer. The list is, however, broader than this. It includes public officers, famous inventors and explorers, war heroes and even ordinary soldiers, an infant prodigy, and no less a personage than the Grand Exalted Ruler of a lodge. It includes, in short, anyone who has arrived at a position where public attention is focused upon him as a person.”

According to jurisprudence, in cases involving defamation of a public figure, “actual malice” – that is, that the defendants knew the statements were false or they had acted with reckless disregard for their truth, must be present to consider the statements defamatory so as to be liable for damages.⁵³ However, going back to the characterization of red-tagging in *Deduro* case, that it “constitutes threats to a person’s life, liberty, or security,” red-tagging is, thus, inherently malicious. Defendants’ remarks against the plaintiff deliberately implicated him in communism 

⁵⁰ Answer to Question No. 16, Judicial Affidavit; Record at 183.

⁵¹ Answers to Question Nos. 41 and 50, Judicial Affidavit of Alfonso Tomas “Atom” P. Araullo; *Id.* at 117, 119.

⁵² G.R. No. 82380 April 29, 1988.

⁵³ *Philippine Daily Inquirer v. Enrile, et al.*, G.R. No. 229440, July 14, 2021.

or terrorism, by distorting information or without factual basis, consequently tarnishing his credibility, reputation and dignity as a person and as a journalist. The defendants cannot thus seek refuge under the usual protections afforded to freedom of the press or speech.

III.

Defamation as A Separate Civil Action


Red-tagging, being a threat to a person's fundamental rights, is inherently malicious.

Article 33 of the Civil Code which deals with the specific instances where a civil action for damages, entirely separate and distinct from the criminal action, may be brought by an injured party, states:

"Art. 33. In cases of defamation, fraud, and physical injuries, a civil action for damages, entirely separate and distinct from the criminal action, may be brought by the injured party. Such civil action shall proceed independently of the criminal prosecution, and shall require only a preponderance of evidence."

The provision is explicit that in cases of defamation, fraud, and physical injuries, the civil action is entirely separate and distinct from the criminal action and shall proceed independently of the criminal prosecution. Accordingly, Article 33 contemplates a civil action for the recovery of damages that is entirely unrelated to the purely criminal aspect of the case.⁵⁴ Even the quantum of proof required—preponderance of evidence, as opposed to the proof beyond reasonable doubt in criminal cases—is different, confirming that the civil action under Article 33 is independent of the criminal action.⁵⁵

Here, the plaintiff claims that the subject statements of the defendants were slanderous, disparaging and defamatory. The said remarks ascribe to the plaintiff the commission of a crime and deliberately subjects his life, liberty, and security at risk.

The terms defamation and fraud, as used in Article 33, should be interpreted in their ordinary sense, because there are no specific provisions in the Revised Penal Code using these terms as means of offenses defined therein.⁵⁶ 

⁵⁴ Alastair John Kane vs. Patricia Roggenkamp, G.R. No. 214326, July 06, 2020.

⁵⁵ *Id.*


⁵⁶ Tulfo v. People, G.R. Nos. 187113 & 187230, January 11, 2021.

An allegation is considered *defamatory* if it ascribes to a person the commission of a crime, the possession of a vice or defect, real or imaginary, or any act, omission, condition, status or circumstance which tends to dishonor or discredit or put him in contempt, or which tends to blacken the memory of one who is dead. In determining whether a statement is *defamatory*, the words used are to be construed in their entirety and should be taken in their plain, natural, and ordinary meaning as they would naturally be understood by persons reading them, unless it appears that they were used and understood in another sense. Moreover, a charge is sufficient if the words are calculated to induce the hearers to suppose and understand that the person or persons against whom they were uttered were guilty of certain offenses or are sufficient to impeach the honesty, virtue or reputation or to hold the person or persons up to public ridicule.⁵⁷

Also, defamatory words must refer to an ascertained or ascertainable person, and that person must be the plaintiff. Statements are not libelous unless they refer to an ascertained or ascertainable person. However, the obnoxious writing need not mention the libeled party by name. It is sufficient if it is shown that the offended party is the person meant or alluded to.⁵⁸

An award of damages under the premises presupposes the commission of an act amounting to defamatory imputation or libel, which, in turn, presupposes malice. Libel is the public and malicious imputation to another of a discreditable act or condition tending to cause the dishonor, discredit, or contempt of a natural or juridical person. Liability for libel attaches when the following elements are present: (a) an allegation or imputation of a discreditable act or condition concerning another; (b) publication of the imputation; (c) identity of the person defamed; and (d) existence of malice.⁵⁹ The said elements of libel were adopted as well in a purely civil action for damages.⁶⁰

In the instant case, all the elements of defamation are present.

Firstly, the defendants labelled the plaintiff as a member of the CPP-NPA-NDF, a government-identified terrorist group, and accused him of supporting the causes of the said group. These allegations suggest that the plaintiff is involved in activities that are criminally punishable under the Anti-Terrorism Act of 2020, thereby discrediting him as a person and as a multi-awarded journalist. 

⁵⁷ Manila Bulletin Publishing Corporation v. Victor A. Domingo and People, G.R. No. 170341, July 5, 2017.

⁵⁸ *Id.*

⁵⁹ GMA Network, Inc. v. Bustos, et al., G.R. No. 146848, October 17, 2006.

⁶⁰ Yuchengco v. The Manila Chronicle Publishing Corporation, G.R. No. 184315, November 25, 2009.

Secondly, these accusations have been broadcasted/ and or live-streamed through SMNI "*Laban Kasama ang Bayan*" and were subsequently republished or reposted on various social media accounts all over the internet and were viewed by thousands of viewers and internet users. "There is *publication* if the material is communicated to a third person. It is not required that the person defamed has read or heard about the libelous remark. What is material is that a third person has read or heard the libelous statement, for 'a man's reputation is the estimate in which others hold him, not the good opinion which he has of himself.' Simply put...publication means making the defamatory matter, after it is written, known to someone other than the person against whom it has been written."⁶¹

Thirdly, the plaintiff was named in the remarks made by the defendants.

Lastly, malice was attendant when the defendants uttered the subject statements. "Malice exists when...the author made the defamatory statement knowing it was false, or even if true, there is no showing of good intention and justifiable motive. It 'implies an intention to do ulterior and unjustifiable harm' and exists when 'the offender is prompted by personal ill-will or spite and speaks not in response to duty, but merely to injure the reputation of the person defamed.'"⁶²

Further, for the purpose of determining the meaning of any publication alleged to be libelous that construction must be adopted which will give to the matter such a meaning as is natural and obvious in the plain and ordinary sense in which the public would naturally understand what was uttered.⁶³ The published matter alleged to be libelous must be construed as a whole.⁶⁴ In applying these rules to the language of an alleged libel, the court will disregard any subtle or ingenious explanation offered by the publisher on being called to account.⁶⁵ In the case at bar, the Court agrees with the plaintiff that a plain and straightforward reading of the defendants' statements suggests that the plaintiff is associated with the CPP-NPA-NDF, a government-identified communist and terrorist group. These remarks are injurious to the dignity of the plaintiff as a person and to his integrity and credibility as a journalist.

The burning question now is, given that the plaintiff is a public figure, was "actual malice" proven to meet the threshold of defamation under Article 33?

⁶¹ *Supra* note 56.

⁶² *Id.*

⁶³ *Supra* note 60.

⁶⁴ *Id.*

⁶⁵ *Id.*

It must be underscored that red-tagging extends beyond defamation. In the case of the plaintiff, the statements implicate him in terrorism, putting his safety and security at risk. Being labelled as a member of the CPP-NPA-NDF carries severe implications. Once again, at the risk of repetition, in the *Deduro* case, the Supreme Court, observed as follows:

“Xxx

More than a decade after; red-tagging also transitioned to online social media platforms like Facebook. As noted by the United Nations High Commissioner for Human Rights in its Annual Report dated 29 June 2020, labelling certain groups or persons as ‘reds’ oftentimes came with frequent surveillance and direct harassment. Some received death threats either through text or online direct messages. A number of women activists have reported being threatened with rape or other forms of sexual assault.

While some of these red-labelling remained as threats, the report also noted that some of those red-tagged individuals were eventually killed. Just last year, various United Nations special rapporteurs made a public plea to stop the practice of red-tagging in the country, stating: ‘Human rights defenders in the Philippines continue to be red-tagged, labelled as ‘terrorists’ and ultimately killed in attempts to silence them and delegitimize their human rights work. This must end.’

The foregoing accounts of red-tagging depict it as a likely precursor to abduction or extrajudicial killing. Being associated with communists or terrorists makes the red-tagged person a target of vigilantes, paramilitary groups, or even State agents. Thus, it is easy to comprehend how a person may, in certain circumstances, develop or harbor fear that being red-tagged places his or her life or security in peril.

Xxx”

The above-cited context is applicable to the case at hand. As demonstrated earlier, the plaintiff was subjected to hate comments, harassment, intimidation, and threats from netizens which were fueled by the defendants’ reckless dissemination of unfounded claims. Considering the dangers associated with being red-tagged, the *Deduro* case reflected the Supreme Court’s serious view on the matter. The Supreme Court declared that red-tagging constitutes “a threat to a person’s right to life, liberty, and security.” Consequently, an act that threatens fundamental rights inherently carries malice. Clearly, even if the plaintiff is a public figure, there is no need for him to prove “actual malice”⁶⁶, i.e., *positive desire and intention to injure*, in the statements of the defendants. The burden of proof falls on the defendants, who are the accusers, not on the plaintiff, the one being accused. The plaintiff, a victim of red-tagging, should not be burdened with the duty of proving malice

⁶⁶ *Supra* note 53.

when in the first place, the defendants have not established or offered proofs of their claims.

IV. Damages

Nominal damages

Nominal damages are adjudicated in order that a right of the plaintiff, which has been violated or invaded by the defendant, may be vindicated or recognized, and not for the purpose of indemnifying the plaintiff for any loss suffered by him.⁶⁷ Nominal damages serve as a legal remedy to affirm rights rather than provide compensation for losses.

By engaging in red-tagging, an inherently malicious act, the defendants abused their right to free speech to the damage and prejudice of the plaintiff. The subject statements of the defendants disrupted the plaintiff's family relations and disturbed his mental peace thereby exposing him to severe stress and anxiety.' Such statements were also defamatory that they tarnished the plaintiff's integrity, reputation and dignity as an individual and as a journalist. The plaintiff must therefore be vindicated.

Moral Damages

Article 2217 of the Civil Code states:

Article 2217. Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission.

Article 2219 of the same Code provides that moral damages may be recovered in cases of libel, slander or any other form of defamation, and in acts and actions referred to in Articles 21, 26, 27, 28, 29, 30, 32, 34, and 35.

To be entitled to moral damages, the claimant must prove the wrongful act or omission, and the emotional suffering he experienced as a result.

As discussed above, the red-tagging of the plaintiff violated his rights and maligned him as a person and as a journalist. As a result, the plaintiff

⁶⁷ Article 2221, Civil Code.

was exposed to public hatred, hostility, harassment, and threats which caused him fright, serious anxiety, humiliation and sleepless nights.

Exemplary Damages

Exemplary or corrective damages are imposed by way of example or correction for the public good. It is imposed as a punishment for highly reprehensible conduct and serves as a notice to prevent the public from the repetition of socially deleterious actions. Such damages are required by public policy, for wanton acts must be suppressed. They are an antidote so that the poison of wickedness may not run through the body politic.⁶⁸

The following are the requirements before exemplary damages may be awarded, to wit: *First*, they may be imposed by way of example or correction only in addition, among others, to compensatory damages, and cannot be recovered as a matter of right, their determination depending upon the amount of compensatory damages that may be awarded to the claimant. *Second*, the claimant must first establish his right to moral, temperate, liquidated or compensatory damages. *Third*, the wrongful act must be accompanied by bad faith, and the award would be allowed only if the guilty party acted in a wanton, fraudulent, reckless, oppressive or malevolent manner.⁶⁹

Red-tagging is, by itself, a manifestation of bad faith. By engaging in red-tagging, the defendants acted grossly and recklessly without regard for truth. Thus, to ensure that such conduct will not be repeated by anyone, the plaintiff must be awarded exemplary damages, in addition to nominal and moral damages.

Attorney's fees and costs of suit

Article 2208 of the Civil Code provides the basis for the award of attorney's fees and expenses of litigation, except judicial costs, when there is no stipulation between the parties relating thereto. It specifies several instances when such award can be granted, including:

1. When exemplary damages are awarded;
2. Where the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;
3. In cases of clearly unfounded civil actions or proceedings against the plaintiff; and,

⁶⁸ Guy v. Tulfo, et al., G.R. No. 213023, April 10, 2019.

⁶⁹ *Id.*, citing Kierulf v. Court of Appeals, G.R. No. 99343, March 13, 1997.

4. In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

The award of attorney's fees to the winning party lies within the discretion of the court, taking into account the circumstances of each case. This means that such an award should have factual, legal, and equitable basis, not founded on pure speculation and conjecture. In addition, the court should state the reason for the award of attorney's fees in the body of the decision. Its unheralded appearance in the dispositive portion, as a rule, is not allowed.⁷⁰

In the instant case, the Court deems it proper to award attorney's fees to the plaintiff. *First*, exemplary damages have been awarded; *Second*, because of the red-tagging and its effects on his personal life and on his career as a journalist, the plaintiff was compelled to file this case in order to protect his rights.

Fallo

WHEREFORE, in view of the foregoing, judgment is hereby rendered in favor of the plaintiff, Alfonso Tomas "Atom" Pagaduan Araullo, and against the defendants, Lorraine Marie T. Badoy-Partosa and Jeffrey M. Celiz. Accordingly, the defendants are hereby ordered to jointly and severally pay the plaintiff the following amounts:

- (1) On the first cause of action (Articles 19, 20, and 21 of the Civil Code):

- 1.1 Two Hundred Thirty Thousand Pesos
(Php230,000.00) as nominal damages;
- 1.2 Two Hundred Thirty Thousand Pesos
(Php230,000.00) as moral damages; and
- 1.3 Two Hundred Thirty Thousand Pesos
(Php230,000.00) as exemplary damages.

- (2) On the second cause of action (Article 26 of the Civil Code):

- 2.1 Two Hundred Thirty Thousand Pesos
(Php230,000.00) as nominal damages;
- 2.2 Two Hundred Thirty Thousand Pesos
(Php230,000.00) as moral damages; and
- 2.3 Two Hundred Thirty Thousand Pesos
(Php230,000.00) as exemplary damages.

⁷⁰ Sps. Timado v. Rural Bank of San Jose, G.R. Nos. 201436, July 11, 2016.

(3) On the third cause of action (Article 33 of the Civil Code):


- 3.1 Two Hundred Thirty Thousand Pesos (Php230,000.00) as nominal damages;
- 3.2 Two Hundred Thirty Thousand Pesos (Php230,000.00) as moral damages; and
- 3.3 Two Hundred Thirty Thousand Pesos (Php230,000.00) as exemplary damages.

(4) Ten Thousand Pesos (Php10,000.00) as attorney's fees and cost of suit.

All damages awarded shall be subject to interest at the rate of six percent (6%) per annum from the finality of this Decision until its full satisfaction.

SO ORDERED.

December 12, 2024, Quezon City.


DOLLY ROSE R. BOLANTE-PRADO
Presiding Judge

Copy Furnished:

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