EN BANC

[G.R. No. 258524. April 08, 2026]

BERTENI CATALUÑA CAUSING, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, REGIONAL TRIAL COURT OF QUEZON CITY, BRANCH 93, OFFICE OF THE CITY PROSECUTOR OF QUEZON CITY, AND REPRESENTATIVE FERDINAND LEDESMA HERNANDEZ OF THE SECOND DISTRICT OF SOUTH COTABATO, RESPONDENTS.

R E S O L U T I O N

INTING, J.:

For resolution are motions for the partial reconsideration of the Court's Decision[1] dated October 11, 2023, to wit: *(1)* the Partial Motion for Reconsideration[2] filed by petitioner Berteni Cataluña Causing (Causing); and (2) the Motion for Partial Reconsideration[3] filed by respondents, through the Office of the Solicitor General (OSG).

The Assailed Decision dated October 11, 2023

In the Decision dated October 11, 2023, the Court affirmed the Orders dated October 5, 2021,[4] and November 15, 2021,[5] of Branch 93, Regional Trial Court (RTC), Quezon City in Criminal Case Nos. R-QZN-21-04099 and R-QZN-21-04100 (Cyber Libel Cases), which denied the Motion to Quash[6] of Causing.

Essentially, the Court ruled that the crime of cyber libel in Section 4(c)(4)[7] of Republic Act No. 10175, or the Cybercrime Prevention Act, prescribes in one year from discovery thereof by the offended party, the authorities, or their agents, in accordance with Article 90,[8] paragraph 4 and Article 91[9] of the Revised Penal Code.

Nonetheless, the Court denied Causing's Petition for *Certiorari*[10] because the issue on prescription requires the presentation of evidence. It explained that the RTC did not gravely abuse its discretion when it refused to quash the Informations[11] in the Cyber Libel Cases given that: *first*, Causing reckoned the prescription of the crimes based only on the date on which the allegedly defamatory remarks were posted online; and *second*, he failed to attach any evidence in support of his Motion to Quash. Still, the Court emphasized that Causing may present evidence during the full-blown trial of the

Cyber Libel Cases to support his contention that the charges of cyber libel against him had already prescribed.

Arguments in Petitioner's Motion for Partial Reconsideration

In his Motion, Causing seeks reconsideration of the Decision, insofar as it held that the prescriptive period of cyber libel is reckoned from the discovery of the published libelous matter by the offended party. He argues instead that the prescriptive period of cyber libel should be counted from the date of publication of the defamatory materials.[12] He insists that the private complainant, Representative Ferdinand Ledesma Hernandez (Hernandez), should be presumed to have discovered the defamatory materials at the time that they were posted on Facebook, an online social network or social media platform; otherwise, he would be at a loss on the reckoning date of the prescription of the crimes charged against him.[13]

Causing points out that online posts are more widespread compared with the traditional modes of publication in Article 355[14] of the Revised Penal Code.[15] He avers that the Court's ruling will result in an absurd situation where cyber libel may still be charged even after several years have already lapsed from the time of publication, as long as it was discovered at a, later date by the offended party.[16]

Arguments in Respondents' Motion for Partial Reconsideration

In its Motion, the OSG seeks reconsideration of the Decision insofar as it held that cyber libel prescribes in one year. It submits that Cyber Libel prescribes in 15 years based on Article 90, paragraph 2 of the Revised Penal Code because the imposable penalty therefor is afflictive. As basis, the OSG cites *Tolentino v. People*,[17] a case decided by the Court's First Division by way of an *unsigned* Resolution dated August 6, 2018. The OSG asserts that the Court's conclusions in the *unsigned* Resolution in *Tolentino* are binding doctrines or principles of law that may only be overturned by the Court sitting *en banc* pursuant to Article VIII, Section 4(3)[18] of the Constitution.[19]

The OSG further argues that a computer system cannot be considered as a "similar means" of committing libel under Article 355 of the Revised Penal Code because the various means of publication in the said provision of law do not include a computer system.[20] It thus opines that cyber libel does not fall within the term "libel" in Article 90, paragraph 4 of the Revised Penal Code. It insists that cyber libel is a graver offense compared with ordinary libel; hence, the one-year prescriptive period for "libel" under Article 90, paragraph 4 of the Revised Penal Code should not be applied to cyber libel.[21]

The Issues

The following are the issues before the Court:

I. Whether the *unsigned* Resolution in *Tolentino* laid down a doctrine or principle of law on cyber libel's prescription that may only be modified

or reversed by the Court *en banc* pursuant to Article VIII, Section 4(3) of the Constitution.

II. Whether cyber libel prescribes in one year under Article 90, paragraph 4 of the Revised Penal Code.

III. Whether the private offended party, the authorities, or their agents may be presumed to have read or discovered a defamatory material at the time that it is posted online for the purpose of reckoning the prescriptive period of cyber libel.

The Ruling of the Court

The motions for partial reconsideration filed by petitioner and the OSG are both denied for lack of merit.

I. The unsigned Resolution in Tolentino is not doctrinal and is therefore outside the purview of Article VIII, Section 4(3) of the Constitution

The OSG argues that the *unsigned* Resolution in *Tolentino* laid down a doctrine or principle of law on the prescription of Cyber Libel that cannot be modified or reversed except by the Court sitting *en banc* in accordance with Article VIII, Section 4(3) of the Constitution which states:

> (3) *Cases* or *matters* heard by a division shall be *decided* or *resolved* with the concurrence of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon, and in no case, without the concurrence of at least three of such Members. When the required number is not obtained, the case shall be decided en banc: Provided, that **no doctrine or principle of law laid down by the court in a decision rendered en banc or in division may be modified or reversed except by the court sitting en banc.** (Emphasis and underscoring supplied)

The Court disagrees with the OSG.

First, textually, Article VIII, Section 4(3) of the Constitution pertains to a doctrine or principle of law laid down by the Court in a *decision* rendered *en banc* or in a division. To be clear, *Tolentino* was decided through an *unsigned* resolution, and not by way of a decision.

Second, it is a basic rule in statutory construction that "every part of the [statute] must be interpreted with reference to the context, *i.e.*, that every part of the [statute] must be interpreted together with the other parts, and kept subservient to the general intent of the whole enactment."[22] Further, "[t]he particular words, clauses and phrases should not be studied as detached and isolated expressions, but the whole and every part of the

statute must be considered in fixing the meaning of any of its parts and in order to produce a harmonious whole."[23]

Thus, the *proviso* in Article VIII, Section 4(3) of the Constitution should not be read in isolation but instead be interpreted together with the first sentence thereof, which refers to cases decided "with the concurrence of a majority of the Members who actually took part in the *deliberations* on the issues in the case and *voted* thereon, and in no case, without the concurrence of at least three of such Members." Taking together the first and second sentences of Article VIII, Section 4(3), the Court stresses that the "decision" contemplated by the Constitution, wherein a doctrine or principle of law is laid down, refers to cases decided by the Court that shows the *concurrence* of the majority of the Members who took part in the *deliberations* on the issues in the case and *voted* thereon.

In relation thereto, Rule 13, Section 6 of A.M. No. 10-4-20-SC, or the Internal Rules of the Supreme Court, provides the manner by which the Court adjudicates a case before it. The rule distinguishes among a "decision," a "signed resolution," and an "*unsigned* resolution":

> SECTION 6. *Manner of adjudication.* - The Court shall adjudicate cases as follows:
>
> (a) By *decision*, when the Court disposes of the case on its merits and its rulings have significant doctrinal values; resolve novel issues; or impact on the social, political, and economic life of the nation. The decision shall state clearly and distinctly the facts and the law on which it is based. It shall bear the signatures of the Members who took part in the deliberation.
>
> (b) By *signed resolution*, when the Court comprehensively resolves the motion for reconsideration filed in the case or when a dissenting opinion is registered against such resolution. The signed resolution shall no longer discuss issues resolved in the decision and need not repeat the facts and the law stated in it. It shall also bear the signatures of the Members who took part in the deliberation.
>
> (c) By *unsigned resolution*[,] when the Court disposes of the case on the merits, but its ruling is essentially meaningful only to the parties; has no significant doctrinal value; or is of minimal interest to the law profession, the academe, or the public. The resolution shall state clearly and distinctly the facts and the law on which it is based.

Likewise, in Circular No. 2-89 dated February 7, 1989, providing Guidelines and Rules in the Referral to the Court *en banc* of Cases Assigned to a Division, the Court identified which decisions or resolutions of a division may be considered for referral to the Court *En Banc* pursuant to Article VIII, Section 4(3) of the Constitution, to wit:

> 2. A decision or resolution of a Division of the Court, when *concurred in by a majority of its Members* who actually took part in the deliberations on the

> issues in a case and *voted* thereon, and in no case without the concurrence of at least three of such Members, is a decision or resolution of *the* Supreme Court (Section 4[3], Article VIII, 1987 Constitution). (Emphasis supplied)

In view of Rule 13, Section 6 of the Internal Rules of the Supreme Court and paragraph 2 of Circular No. 2-89, it is apparent that a doctrine or principle of law may be laid down by the Court, sitting *en banc* or in a division, only via a *decision* or a *signed* resolution, as only such dispositions *expressly* show the concurrence of a majority of the Members who took part in the deliberations and voted thereon.[24]

Third, Article VIII, Section 4(3) of the 1987 Constitution refers to the doctrine of *stare decisis*,[25] which dictates that "for the sake of certainty, a conclusion reached in one case should be applied to those that follow if the facts are substantially the same, even though the parties may be *different*."[26] By the principle of *stare decisis*, the Court's ruling is deemed *final* even as to "parties who are *strangers* to the original proceeding and not bound by the judgment under the *res judicata* doctrine,"[27] and all points of law therein decided must generally be followed by all courts of lower rank in subsequent cases where the same legal issue is raised.[28]

The doctrine of *stare decisis* is entrenched in Article 8 of the Civil Code, which states that "[j]udicial decisions applying or interpreting the laws or the Constitution shall form part of the legal system of the Philippines."[29] Although judicial decisions are not laws themselves, they constitute evidence of what the law means; hence, as a rule, the application or interpretation that the Court places upon a law becomes a part of it as of the date of the enactment.[30]

Thus, judicial decisions assume the same authority as the laws themselves and, "until authoritatively abandoned, necessarily become, to the extent that they are applicable, *the criteria which must control the actuations not only of those called upon to abide thereby but also of those in duty bound to enforce obedience thereto*."[31] Otherwise said, all persons are duty-bound to respect and observe the Court's judicial pronouncements that have become part of the law of the land.[32]

Relevantly, all final judgments, orders, or resolutions of the Court are served upon the parties concerned.[33] However, under Rule 14, Section 7 of the Internal Rules of the Supreme Court, only decisions and *signed* resolutions of the Court shall be *published* in the Philippine Reports:

> SECTION 7. *Publication of decisions and resolutions. – A decision and signed resolution of the Court* ***shall*** *be published in the Philippine Reports*, with the synopsis and syllabus prepared by the Office of the Reporter. Other decisions and signed resolutions not so published may also be published in the Philippine Reports in the form of memoranda prepared by the Office of the Reporter. The Public Information Office (PIO) may choose and submit

> significant decisions and resolutions for publication in the Official Gazette. (Italics and underscoring supplied)

Thus, only the pronouncements in decisions and *signed* resolutions may be considered as *known* to non-parties and all other persons. Perforce, only decisions and *signed* resolutions may be considered as *doctrinal* and *binding* on third persons and strangers to a case. It would certainly be unfair to hold that the Court's disposition of a case should be taken as a doctrine or principle of law, which is binding on *all* persons, *if* the ruling is furnished only to the parties concerned but *not* to the rest of the populace who cannot be expected to take notice of its contents.

Considering that *Tolentino* is an *unsigned* and *unreported* Resolution that does *not* indicate the concurrence of the Members who took part in the deliberations and voted on the disposition of the case, the ruling therein as regards the prescription of cyber libel cannot be considered as a doctrine or principle of law under Article VIII, Section 4(3) of the Constitution. While the *unsigned* Resolution in *Tolentino* is binding on the parties thereto, any statement made therein by the Court cannot be considered as doctrinal or a binding principle of law *as against third parties*.

There being no principle of law or doctrine to modify or reverse in the first place, the Court's Third Division committed no misstep in rendering the assailed Decision without elevating the case to the Court *En Banc* for proper action.

I. *Conflicting rulings of the Court*
A. *on the application of the principle of stare decisis to unsigned resolutions*

That being said, the Court is not unaware of the conflicting rulings regarding the jurisprudential value of *unsigned* resolutions. Consequently, the Court now takes the opportunity to settle the matter once and for all for the guidance of the bench and the bar.

To recall, the Court held in *Eizmendi v. Fernandez*[34] that an *unsigned* resolution may create a binding precedent when it "state[s] clearly and distinctly the facts and law on which it is based and is not a mere dismissal of a petition for failure to comply with formal and substantive requirements."[35]

In *Eizmendi*, the Court's Special Third Division relied upon an *unsigned* resolution in a different case which likewise involved one of therein petitioners, Valle Verde Country Club, Inc. (Valle Verde), as a party, but excluded therein respondent Teodorico P. Fernandez (Fernandez). The Court ruled that the earlier *unsigned* resolution involving Valle Verde constituted *stare decisis* even against a non-party, such as Fernandez, as to the existence of an election contest based on the allegations in a complaint and the real parties-in-interest thereto.[36]

In contrast to Eizmendi, the Court's Third Division stated in *Denila v. Republic of the Philippines*[37] that an *unsigned* resolution constitutes *res judicata*, but it is *not doctrinal*.[38] Similarly, the Court's First Division in *RMFPU Holdings, Inc. v. Forbes Park Association, Inc*.[39] held that an *unsigned* Resolution, like a *minute* resolution, is binding only between the parties as both dispositions are *unsigned*. Thus, the doctrine of *stare decisis* cannot be invoked in a subsequent case to bind non-parties thereto:

> *PAGREL* was resolved by the Court through an unsigned Resolution. Being an unsigned Resolution, similar to a minute Resolution, the disposition therein is binding only as between the parties. The doctrine of *stare decisis* cannot be invoked in a subsequent case to bind non-parties thereto, who may be similarly situated as the original parties to the case. Thus, the CA erred when it justified its invocation of *PAGREL* in the present cases by applying the doctrine of *stare decisis*.[40] (Citation omitted)

In *RMFPU Holdings, Inc*., an earlier unsigned resolution was issued by the Court in *Forbes Park Association, Inc. v. PAGREL, Inc*.,[41] which involved cases filed by the registered owners of properties within Forbes Park Village for the cancellation of a Deed of Restrictions annotated on the owners' certificates of title. Like PAGREL, Inc., therein petitioner RMFPU Holdings, Inc. was also a registered owner of a property in Forbes Park Village and sought the cancellation of the same Deed of Restrictions annotated on its certificate of title. Both *PAGREL, Inc*. and *RMFPU Holdings, Inc*. raised the same issue on whether Forbes Park Association was an indispensable party in the similar actions for cancellation.

Despite the First Division's statement in *RMFPU Holdings, Inc*. that the *unsigned* resolution in *PAGREL, Inc*. cannot be invoked as stare decisis against non-parties, it nonetheless followed the ruling in the unsigned resolution because of the similarities of the parties, the factual circumstances, and the causes of action in both cases. The First Division emphasized that it found no cogent reason to depart from the earlier ruling in *PAGREL, Inc*.

It thus appears that *Eizmendi*, on the one hand, and *Denila* and *RMFPU Holdings, Inc*., on the other, provide *conflicting* rulings on whether the doctrine of *stare decisis* may be invoked as regards a case that was resolved through an *unsigned* resolution. While the Court's Special Third Division in *Eizmendi* held that an *unsigned* resolution may still be a binding precedent even against non-parties, an opposite conclusion was rendered by the Court's Third Division in *Denila* and the Court's First Division in *RMFPU Holdings, Inc*.

After a careful evaluation of the foregoing cases, the Court finds that the ruling in Denila and *RMFPU Holdings, Inc*. is more consistent with Our earlier discussion on disposition of cases that are covered by Article VIII, Section 4(3) of the Constitution. The Court thus re-affirms its ruling in *Denila* and *RMFPU Holdings, Inc*., and so holds that *an unsigned resolution is not doctrinal and is binding only on the parties thereto because it is unreported and unpublished and does not expressly show the concurrence of a majority of the Members who took part in the deliberations and voted thereon*. No

doctrine or principle of law may be laid down in an *unsigned* resolution in the context of Article VIII, Section 4(3) of the Constitution. At most, an *unsigned* resolution involving facts and issues that are similar to a pending case for review may serve as an uncertain guide to the reviewing court, but it cannot be deemed as doctrinal nor a binding source of *stare decisis* against non-parties and third persons.

To summarize, Article VIII, Section 4(3) of the Constitution pertains to the Court's decisions and *signed* resolutions, as these are the only manners of adjudication under Rule 13, Section 6 of the Internal Rules of the Supreme Court that bear "the concurrence of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon[.]"

Further, the "doctrine or principle of law" referred to in Article VIII, Section 4(3) relates to *stare decisis*, as entrenched in Article 8 of the Civil Code,[42] wherein decided points of law are not only considered binding on strangers to the original suit but must also be observed by all courts of lower rank in subsequent cases where the same legal issue is raised.[43] Due process and fairness dictate that the principle of *stare decisis* contemplated in Article VIII, Section 4(3) of the Constitution be only sourced from decisions and *signed* resolutions, as they are the only ones that are required to be published under the present internal rules[44] of the Court. To hold otherwise would lead to an iniquitous situation wherein all persons are mandated to respect and observe the Court's ruling in a specific case even when they are furnished only to the parties concerned but not to the general public.

Consequently, *minute* resolutions and *unsigned* resolutions of the Court are beyond the ambit of Article VIII, Section 4(3) of the Constitution and the principle of *stare decisis*.[45] For one, *minute* resolutions and *unsigned* resolutions are signed only by the clerk of court, by authority of the Court, and do not show the concurrence of the Members who participated in the deliberations and voted thereon. For another, as provided in the Internal Rules of the Court, *unsigned* resolutions have *no significant doctrinal value*, while minute resolutions[46] are issued by the Court when it denies or dismisses an action *outright* in the exercise of its discretion under Rule 45, Section 6[47] of the Rules of Court, or when the complaint or petition before it fails to comply with formal and substantive requirements.[48] Moreover, *unlike* decisions and signed resolutions, minute resolutions and *unsigned* resolutions are *not* required to be published under the Court's Internal Rules; hence, non-parties and strangers to a suit cannot be expected to take notice of their contents, much less comply therewith.

Nonetheless, the principle of *res judicata*, which dictates that a final judgment or decree *on the merits* by a court of competent jurisdiction shall be *conclusive* as to the rights of the parties or their privies in all later suits and on all points and matters determined in the former suit,[49] applies to *all* final decisions or resolutions of the Court, *regardless* of the manner of adjudication under Rule 13, Section 6 of the Internal Rules of the Supreme Court, i.e., by decision, signed resolution, *unsigned* resolution, or minute resolution.[50] The binding effect of a judgment or final order under Rule 39, Section

47[51] of the Rules of Court may be invoked in these dispositions by the Court.[52] Otherwise stated, minute resolutions and *unsigned* resolutions are not doctrinal and cannot serve as judicial precedents as against non-parties or strangers to suit; however, they are considered as dispositions on the merits and serve as *res judicata* as against the parties to the suit and the matters therein adjudged in accordance with Rule 39, Section 47 of the Rules of Court.

In the case at hand, the OSG cited the *unsigned* Resolution in *Tolentino* as basis for its argument that cyber libel prescribes in 15 years. Although lacking in doctrinal value, *Tolentino* may certainly serve as an aid or guide in the present case because of the common or similar issues and questions of law involved, i.e., prescription of cyber libel. However, for reasons explained in the assailed Decision, the Court's Third Division did not find *Tolentino* persuasive and found compelling grounds to depart from its ruling, which the Third Division could validly do without a prior referral to the *en banc* and without violating Article VIII, Section 4(3) of the Constitution.

II. Cyber libel prescribes in one year under Article 90, paragraph 4 of the Revised Penal Code

In the assailed Decision, the Court ruled that the prescriptive period of cyber libel should be determined based on Article 90, paragraph 4 of the Revised Penal Code, for the following reasons:

First, Section 4(c)(4) of the Cybercrime Prevention Act does not define any new crime of "cyber libel" but merely cites Article 355 of the Revised Penal Code in defining "Libel" as an unlawful conduct, *when committed through a computer system or any other similar means* which may be devised in the future.

Second, the Court *En Banc* in *Disini, Jr. v. The Secretary of Justice*[53] already stated that cyber libel is *not* a new crime because Article 353,[54] in relation to Article 355, of the Revised Penal Code already punishes it. The Cybercrime Prevention Act simply recognizes a computer system *as a means of publishing a defamatory material* and makes the use of information and communication technology (ICT) in the commission of libel a qualifying circumstance.

Third, the legislators themselves recognized that the Cybercrime Prevention Act did not create a new crime of cyber libel because libel is already punished by the Revised Penal Code.

Finally, even assuming that cyber libel is a "new" crime that is made punishable by a special law, i.e., the Cybercrime Prevention Act, the law's specific reference to libel under Article 355 of the Revised Penal Code calls for the application of the elementary principle that statutory provisions on the prescription of crimes must be construed in favor of the accused.[55]

II.A. *Libel in Section 4(c)(4) of the Cybercrime Prevention Act is the same crime of Libel in Article 353, in relation to Article 355 of the Revised Penal Code, when committed through a computer system or ICT*

The OSG insists that libel under Section 4(c)(4) of the Cybercrime Prevention Act is not the same as Libel in Article 355 of the Revised Penal Code because the means of publication recognized in the latter does not include a computer system or ICT. It thus argues that the one-year prescriptive period for ordinary Libel under Article 90, paragraph 4 of the Revised Penal Code cannot be applied to cyber libel.

The Court is not persuaded by the OSG's argument.

In *Peñalosa v. Ocampo, Jr.*,[56] the Court's Second Division ruled that the act of posting a defamatory remark on a social media platform in 2011, ***before*** the Cybercrime Prevention Act took effect, cannot be punished as libel in Section 4(c)(4) of the said law pursuant to the basic principle that penal statutes cannot be retroactively applied except when they are favorable to the accused. Neither may the conduct be punished as libel under Article 355 of the Revised Penal Code as the means of publication recognized in the said law do not include computer systems or ICT.

Peñalosa correctly states that Article 355 of the Revised Penal Code does *not* recognize a computer system or ICT as a means of publication. As the Court pointed out in the assailed Decision, when the Revised Penal Code was passed in 1930, the lawmakers "could not have contemplated the use of technologies not yet existing at that time, such as a computer system, to publish libelous statements."[57] This is the very reason why the only means of publication recognized in Article 355 of the Revised Penal Code are "writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means[.]"

While the enumeration in Article 355 includes electronic devices, such as radio and by extension, television,[58] these technologies refer to "the transmission and reception of electromagnetic waves without conducting wires intervening between *transmitter* and *receiver*."[59] They involve *one-way* communication, for the end-user merely *receives* the broadcast signals and could only use the radio or television to switch to a different channel. They are not computer devices for *two-way* communication, where end-users are capable not only of receiving signals but also of transmitting their own by inputting command prompts in the computer device, which then processes the instructions to produce the desired output or to achieve the intended result, i.e., to share or communicate information online or in cyberspace.[60]

Still, it is *incorrect* to state that Libel in Section 4(c)(4) of the Cybercrime Prevention Act is an entirely new crime that was not previously punished in the Revised Penal

Code. The OSG overlooks the fact that libel is *not* defined in Article 355 of the Revised Penal Code, but in Article 353 thereof, to wit:

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

There are several ways of committing libel under the Revised Penal Code, depending on how the defamatory remarks are uttered: if done through *writing*, Article 355 of the Revised Penal Code applies; if made *orally*, slander under Article 358[61] of the Revised Penal Code applies; if performed through any other act not included and punished in Title Thirteen of the Revised Penal Code, Article 359[62] on slander by deed applies.

When the Legislature introduced libel in Section 4(c)(4) of the Cybercrime Prevention Act, *it simply recognized another means of committing Libel* as defined in Article 353, in relation to Article 355, of the Revised Penal Code, that is, by publishing a defamatory material in the cyberspace using a computer system or ICT.

The Court cannot subscribe to the OSG's argument that cyber libel is entirely different from libel in the Revised Penal Code because the Cybercrime Prevention Act itself *refers* to the Revised Penal Code, not only in *defining* the crime of cyber libel, but also in setting the *penalty* therefor.

Verily, in defining "libel" as a prohibited act, Section 4(c)(4) of the Cybercrime Prevention Act merely refers to Article 355 of the Revised Penal Code, when it is committed through a computer system or any other similar means which may be devised in the future:

> SECTION 4. *Cybercrime Offenses*. — The following acts constitute the offense of cybercrime punishable under this Act:
>
> . . . .
>
> (c) Content-related Offenses:
>
> . . . .
>
> (4) Libel. - The unlawful or prohibited acts of libel *as defined in Article 355 of the Revised Penal Code*, as amended, committed through a computer system or any other similar means which may be devised in the future. (Italics supplied)

In setting the penalty therefor, Section 6 of the Cybercrime Prevention Act again refers to the Revised Penal Code:

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

Clearly, as stated in *Disini*, cyber libel in the Cybercrime Prevention Act is no different from libel in Article 353, in relation to Article 355, of the Revised Penal Code. Nonetheless, given the far reach of materials posted online, Section 6 of the law makes the commission of already *existing crimes* in special laws and the Revised Penal Code, such as libel, *through the internet*, a *qualifying circumstance* that raises by one degree the penalties corresponding to such crimes.[63] It considers as *aggravating* the deliberate use of available ICT by those who ply their wicked trades.[64]

Simply, pursuant to Section 4(c)(4) of the Cybercrime Prevention Act, when the crime of libel in Article 353, in relation to Article 355, of the Revised Penal Code is committed through and with the use of a computer system or ICT, the penalty therefor is one degree higher than what would have been imposed under Article 355 of the Revised Penal Code. In other words, the crime that is referred to as cyber libel is, in actuality, libel as defined and penalized under Article 353 in relation to Article 355 Revised Penal Code, and it is committed by publishing the defamatory remark online using a computer system or ICT.

There is therefore no merit to the OSG' s argument that Cyber Libel in the Cybercrime Prevention Act should be distinguished from "libel" under Article 90, paragraph 4 of the Revised Penal Code. The only distinction created by Article 90 as regards the prescriptive period of libel, as defined in Article 353, is as follows: (a) for oral defamation under Article 358 or slander by deed under Article 359, the crime prescribes at a shorter period of six months under Article 90, paragraph 5; and (b) for libel by means of writing under Article 355, the crime prescribes in one year pursuant to Article 90, paragraph 4. In the absence of a legislative act excluding Cyber Libel from the scope of the term "libel" in Article 90, paragraph 4 in relation to Articles 353 and 355 of the Revised Penal Code, the Court must apply the one-year prescriptive period to cyber libel as a matter of course.

II.B. *Cyber libel prescribes in one year despite the heavier penalty therefor*

The OSG asserts that cyber libel should have a longer prescriptive period because it carries an afflictive penalty and is graver compared with ordinary libel in writing under Article 355 of the Revised Penal Code. It opines that instead of Article 90, paragraph 4 of the Revised Penal Code, paragraph 2 thereof should be applied, which would make cyber libel prescribe in 15 years. In his Dissenting Opinion, Justice Antonio Kho, Jr., supports the OSG's argument and posits that Section 4(c)(4) of the Cybercrime Prevention Act, as a qualifying circumstance, changes the nature of the crime of libel

under Article 355, in relation to Article 353 of the Revised Penal Code, warranting the conclusion that cyber libel prescribes in 15 years.

The Court does not agree.

Article 90,[65] paragraph 4 of the Revised Penal Code provides a one-year prescriptive period for "libel *or other similar offenses*." Notably, Article 90 of the Revised Penal Code was amended through Republic Act No. 4661,[66] which originated from House Bill No. 1037. During the deliberations for the passage of the bill, the legislators discussed that the term "other similar offenses" in Article 90 of the Revised Penal Code includes the publication of defamatory remarks through modes other than traditional print media that are identified in Article 355 of the Revised Penal Code, such as radio broadcasts, which are disseminated more widely:

> Senator GANZON. Did I hear right that utterances which are prejudicial to the honor of an individual over the radio are oral defamation?
>
> Senator TAÑADA. That is in my opinion oral defamation.
>
> Senator GANZON. According to Article 355 of the Revised Penal Code, it is libel. "A libel committed by means of writing, printing, litography, engraving, radio, x x x" Here, Article 355 of the Revised Penal Code.
>
> Senator TAÑADA. I was shown by our authority on Criminal Law the provision of Article 355. It provides:
>
> "Art. 355. *Libel by means of writings or similar means*. – A libel committed by means of writing, printing, litography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means, shall be punished by *prision correcional* in its minimum and medium periods or a fine ranging from 200 to 6,000 pesos, or both, in addition to the civil action which may be brought by the offended party."
>
> Now, it seems, as stated by Senator Padilla, that "other similar offenses" covers radio broadcast, but I stick to my view that radio broadcast is oral defamation.
>
> Senator GANZON. Well, how about Article 355 of the Revised Penal Code?
>
> Senator TAÑADA. Because the only difference from an oral defamation without the aid of radio is that one is disseminated more widely and the other is not, but it is defamation just the same by verbal means.[67]

As earlier discussed, Section 4(c)(4) of the Cybercrime Prevention Act simply recognized another means of committing libel as defined in Article 353, in relation to Article 355, of the Revised Penal Code, i.e., with the use of ICT. Hence, even granting that a heavier penalty is warranted for cyber libel, it may still fall under the term "other similar offenses" under Article 90, paragraph 4 of the RPC.

Laws must be presumed to have been passed by the Legislature with deliberation and full knowledge of all statutes bearing on the subject.[68] When Congress referred to Article 355[69] of the Revised Penal Code in Section 4(c)(4) of the Cybercrime Prevention Act, it must be presumed to know all laws related to the subject, including the applicable provisions of the Revised Penal Code on the prescriptive period of "libel *or other similar offenses*." Had it been the intention of the Legislature to exclude cyber libel from the crime of "libel or other similar offenses" in Article 90, paragraph 4 of the Revised Penal Code, it would have used the appropriate amendatory or exclusionary language to do so, but it did not.[70]

Moreover, a review of the laws in relation to Libel reveals a legislative history that consistently distinguished Libel's prescriptive period from other crimes on the same penal scale. Thus, the mere fact that a heavier penalty applies to cyber libel is insufficient to conclude that its prescriptive period should be made longer compared with ordinary libel.

Originally, when the Revised Penal Code was enacted in 1930, written libel prescribed in *two years*, while crimes that are similarly punishable with a correctional penalty prescribed in 10 years. Congress further shortened written libel's prescriptive period to only *one year* through Republic Act No. 4661, but retained the 10-year prescriptive period for all other crimes on the same penal scale.

Plainly, as early as 1930, the prescriptive period of written Libel had *always* been shorter compared with other crimes that likewise carried correctional penalties. As the Court explained in the assailed Decision, excepting written libel from the general 10-year prescriptive period for other crimes with correctional penalties may be taken as an acknowledgment by the lawmakers that it is "less grave" than other crimes on the same penal scale.[71] There is nothing in the Cybercrime Prevention Act or any other amendatory law that may warrant the conclusion that the Legislature has changed its stance on the foregoing matter.

As Associate Justice Filomena D. Singh pointed out in her Separate Concurring Opinion in the present case, Republic Act No. 4661 originated from House Bill No. 1037, which was passed into law to *synchronize* the prescriptive period of libel with the one-year prescriptive period of civil actions for defamation under Article 1147[72] of the Civil Code.[73] In addition, Senator Lorenzo Tañada, who sponsored House Bill No. 1037, declared that a shorter prescriptive period for libel will especially benefit the members of the press by allowing them to "discharge their functions better."[74] As stated in the assailed Decision, the very same rationale remains true to this day and equally applies to the prescriptive period of cyber libel.

The Court stresses that it is the Legislature that wields the *exclusive* power to enact laws setting forth what should be criminalized, the definition of the crime, and the *prescriptive period* thereof.[75] These statutes must be construed in such a way as to give effect to the *intention* of the Legislature.[76] Hence, the Court cannot, as it should

not, disregard the legislative intent to set a different prescriptive period for libel, or cyber libel for that matter, compared with other crimes on the same penal scale, and to synchronize it with the prescription of civil actions for defamation under the Civil Code.

At any rate, it is well-established that the *statutory provisions on the prescription of crimes must be construed in favor of the accused*.[77] The Cybercrime Prevention Act's direct reference to libel under the Revised Penal Code creates an *ambiguity* in the laws which calls for the application of the doctrine that in the interpretation of the law on prescription of crimes, that which is more favorable to the accused is to be adopted.[78] In accordance with this principle, the provision of law that sets the shortest prescriptive period for cyber libel should be applied.[79] Because Article 90, paragraph 4 of the Revised Penal Code makes cyber libel prescribe in one year, then it should prevail over Article 90, paragraph 2 of the Revised Penal Code, which would make cyber libel prescribe in 15 years.

III. The prescriptive period of cyber libel is reckoned from discovery

For his part, petitioner argues that the prescriptive period of Cyber Libel must be reckoned from the date of publication of the libelous matter because online posts are more widespread compared with traditional written publications; thus, the private offended party may already be presumed to have read the online defamatory material when it is published. He insists that a contrary ruling would result in an absurd situation where the accused would be unable to determine the reckoning point for the prescription of the crime, and where a cyber libel charge may still be filed even if the defamatory material was posted several years prior.

The Court does not agree.

First, Article 91[80] of the Revised Penal Code categorically states that "[t]he period of prescription shall commence to run from the day on which the crime is *discovered* by the offended party, the authorities, or their agents[.]" The fundamental duty of the Court is *to apply the law*, regardless of its implications.[81] The Court is not in a position to disregard the foregoing provision of law, lest it tread upon impermissible judicial legislation and violate the elementary principle of separation of powers.

Second, there is no factual and legal basis to hold that the offended party may be presumed to have discovered or read an online defamatory material just because it is more widespread compared with traditional modes of publishing libelous remarks under Article 355 of the Revised Penal Code. To be sure, such a presumption does not exist in the Revised Penal Code or in any of the disputable presumptions in Section 3, Rule 131 of the Revised Rules on Evidence.

The Court is aware that there have been cases where the concept of "*constructive notice*" was applied in setting the reckoning point of the prescriptive period of a crime that is defined and penalized in the Revised Penal Code.

To illustrate, in *People v. Hon. Villalon*,[82] an Information was filed in March 1974 charging therein accused with estafa by falsification of a public document because he supposedly forged a Special Power of Attorney (SPA), which was registered with the Register of Deeds and annotated on a certificate of title in February 1964. The Court ruled that the registration of the SPA with the Register of Deeds, a *public registry*, constituted *constructive notice* to the whole world of the alleged falsification. Consequently, the Court concluded that the Information was filed beyond the 10-year prescriptive period for estafa, reckoned from the date of the SPA's registration with the Register of Deeds, to wit:

> The document which was allegedly falsified was a notarized special power of attorney registered in the Registry of Deeds of Dagupan City on February 13, 1964 authorizing private respondent to mortgage a parcel of land covered by Transfer Certificate of Title No. 47682 in order to secure a loan of [PHP] 8,500.00 from the People's Bank and Trust Company. The information for estafa thru falsification of a public document was filed only on March 29, 1974. We reject petitioner's claim that the ten-year period commenced when complainant supposedly discovered the crime in January, 1972 by reason of the ejectment suit against him.
>
> *People vs. Reyes* cites authorities on the well established rule that *registration in a public registry is a notice to the whole world*. The record is *constructive notice* of its contents as well as all interests, legal and equitable, included therein. All persons are charged with knowledge of what it contains. On these considerations, it holds that the prior ruling in *Cabral vs. Puno, etc., et al*., to the effect that in the crime of falsification of a public document the prescriptive period commences from the time the offended party had constructive notice of the alleged forgery after the document was registered with the Register of Deeds is not without legal basis.
>
> It was also noted that in *Armentia vs. Patriarca, et al*., in interpreting the phrase "from the discovery" found in Article 1391 of the Civil Code which authorizes annulment, in case of mistake or fraud, within four years from the time of the discovery of the same, the Court also held that the discovery must be reckoned to have taken place from the time the document was registered in the Register of Deeds, for the familiar rule is that *registration is a notice to the whole world and this should apply to both criminal and civil cases*.
>
> We are further in accord with the conclusion in *Reyes* that the application of said rule on constructive notice in the interpretation of Article 91 of the Revised Penal Code would most certainly be favorable to private respondent herein, since the prescriptive period of the crime shall have to be reckoned with earlier, that is, from the time the questioned documents were recorded in the Registry of Deeds.
>
> In the instant case, the special power of attorney involved was registered on February 13, 1964. The criminal information against private respondent

> having been filed only on March 29, 1974, or more than ten (10) years thereafter, the crime with which private respondent was charged has indubitably prescribed.[83] (Emphasis supplied)

However, the rule on constructive notice, as interpreted within the context of Article 91 of the Revised Penal Code, *cannot* be applied to the charge of cyber libel against petitioner, who allegedly posted defamatory remarks against respondent Hernandez on Facebook. The act of posting a libelous remark on Facebook is simply not the same as the registration of a document in a public registry.

In the first place, the constructive notice of a felony covered by the Revised Penal Code is based on the well-established rule that the *registration in a public registry is notice to the whole world*. In cases[84] where the principle of constructive notice was applied to a criminal case, there was a provision of law which expressly deemed the act of registration as the *operative act* that puts everyone on notice of the relevant transaction, e.g., Section 52[85] of Presidential Decree No. 1529 and Section 50[86] of Act No. 496.

There is no similar provision of law on constructive notice that applies to cyber libel. For this reason, the Court must reckon the prescriptive period of cyber libel from the *date of discovery* of the alleged defamatory remarks posted online, in the absence of a counterpart statutory provision on constructive or presumed notice relating to such publication.[87]

Moreover, there is a clear distinction between the registration of documents in a public registry and the posting of social media content, whether it be in text, photograph, and/or video formats, in online platforms such as Facebook.

Documents that are registered in a public registry are readily available to anyone who desires to inspect them. The public registry office cannot deny access to such public records or documents in its custody. In contrast, Facebook posts are not always available to or accessible by everyone. Indeed, in *Vivares v. St. Theresa's College*,[88] the Court recognized that the privacy settings of Facebook may be customized by expanding or restricting access to the social media content that a Facebook user posts in their account, viz.:

> To address concerns about privacy, but without defeating its purpose, *Facebook was armed with different privacy tools designed to regulate the accessibility of a user's profile as well as information uploaded by the user*. In *H v. W*, the South Gauteng High Court recognized this ability of the users to "customize their privacy settings," but did so with this caveat: "Facebook states in its policies that, although it makes every effort to protect a user's information, these privacy settings are not fool-proof."
>
> For instance, a Facebook user can regulate the visibility and accessibility of **digital images** (photos), posted on his or her personal bulletin or "wall," except for the user's profile picture and ID, by selecting his or her desired privacy setting:

(a) Public — the default setting; every Facebook user can view the photo;

(b) Friends of Friends — only the user's Facebook friends and their friends can view the photo;

(c) Friends — only the user's Facebook friends can view the photo;

(d) Custom — the photo is made visible only to particular friends and/or networks of the Facebook user; and

(e) Only Me — the digital image can be viewed only by the user.

The foregoing are privacy tools, available to Facebook users, designed to set up barriers to broaden or limit the visibility of his or her specific profile content, statuses, and photos, among others, from another user's point of view. In other words, Facebook extends its users an avenue to make the availability of their Facebook activities reflect their choice as to "when and to what extent to disclose facts about [themselves] — and to put others in the position of receiving such confidences." Ideally, the selected setting will be based on one's desire to interact with others, coupled with the opposing need to withhold certain information as well as to regulate the spreading of his or her personal information. Needless to say, as the privacy setting becomes more limiting, fewer Facebook users can view that user's particular post.[89] (Emphasis in the original; italics supplied)

Even more, access to a Facebook post would necessarily depend, among others, on: (1) access to a computer device connected to the internet; (2) possession of and logging into a Facebook account for posts that are not set to "public;" and (3) a "friends" connection with the relevant Facebook user who has not set the privacy setting of their account and/or post to "public."

All things considered, the Court cannot subscribe to the argument that respondent must be presumed to have already read or discovered the allegedly defamatory remarks that petitioner posted on Facebook, notwithstanding the allegation in respondent respondent's Complaint-Affidavit that the posts' privacy settings were set to "public." To rule otherwise and allow such a presumption to arise on the basis of unsubstantiated speculations, e.g., that the offended party has a Facebook account, or that they have access to the post uploaded on social media, would be a grave legal error.

Contrary to petitioner's submission, reckoning the prescriptive period of cyber libel from the date of discovery will not result in a situation where the accused would have no way of knowing when the period started to run. Knowledge, as the mental state of awareness of a fact, may be determined on a case-to-case basis by taking into consideration the prior or contemporaneous acts of the person to whom knowledge is imputed, as well as the surrounding circumstances of the case.[90] The offended party, and/or their agent, may comment on or react to a defamatory post, threaten a libel suit, or otherwise act in a manner that demonstrates their discovery of the libelous material. Surely, the attendant facts in each case are peculiar to it. Hence, the Court cannot agree

to petitioner's blanket statement that *in every case*, the accused is deprived of information on when the offended party came to know of the defamatory material that was posted online.

In addition, as the accused in the Cyber Libel Cases, petitioner has the right to have compulsory processes issued to secure the attendance of witnesses and the production of evidence in his behalf.[91] He may also cross-examine the prosecution witnesses as regards the date when they discovered the purported defamatory remarks that he uploaded on Facebook.[92] Plainly, there are procedural remedies and trial techniques available to petitioner in order to elicit evidence proving that the crime has prescribed.

The Court emphasizes that the prescription of crimes, as an act of amnesty and liberality on the part of the State in favor of the accused,[93] is the *sole prerogative* of the Congress.[94] As such, the Court cannot disregard the clear provision of Article 91 of the Revised Penal Code on the reckoning period for the prescription of crimes. The fundamental legal principle that every doubt in the construction of a criminal statute should be resolved in favor of the accused *presupposes* the existence of some doubt in the application of the law under the relevant circumstances.[95] Considering the absence of any ambiguity or doubt in the applicable law concerning the reckoning point of the prescriptive period of cyber libel under Article 91 of the Revised Penal Code, there is no room for the attempted interpretation or extended rationalization of the statute; instead, the Court's bounden duty is to simply apply it.[96]

ACCORDINGLY, the Motions for Partial Reconsideration are **DENIED WITH FINALITY**. No further pleadings shall be entertained.

Let entry of judgment be issued immediately.

SO ORDERED.

Gesmundo, C.J., Zalameda, Gaerlan, and *Marquez, JJ.*, concur.
Leonen, SAJ. and *Caguioa, J.*, see concurring opinions.
Hernando, Lazaro-Javier, Rosario, J. Lopez, Dimaampao, and *Villanueva, JJ.*, join in the dissent of Justice Kho.
Kho, Jr., J., with concurring and dissenting opinion.
Singh,[*] *J.*, on leave but left a concurring vote.

---

[*] On leave but left a concurring vote.

[1] *Rollo*, pp. 437-465.

[2] *Id.* at 472-486.

[3] *Id.* at 487-499.

[4] *Id.* at 195-198. Penned by Presiding Judge Arthur O. Malabaguio.

[5] *Id.* at 191-193.

[6] *Id.* at 95-113.

[7] Republic Act No. 10175, sec. 4(c)(4) provides:

> SECTION 4. *Cybercrime Offenses*. — The following acts constitute the offense of cybercrime punishable under this Act:
> . . . .
> (c) Content-related Offenses:
> . . . .
> (4) Libel. — The unlawful or prohibited acts of libel as defined in Article 355 of the Revised Penal Code, as amended, committed through a computer system or any other similar means which may be devised in the future.

[8] REV. PEN. CODE, art. 90 provides:

> ARTICLE 90. *Prescription of crimes*. — Crimes punishable by death, *reclusión perpetua* or *reclusión temporal* shall prescribe in twenty years.
> Crimes punishable by other afflictive penalties shall prescribe in fifteen years.
> Those punishable by a correctional penalty shall prescribe in ten years; with the exception of those punishable by *arresto mayor*, which shall prescribe in five years.
> The crime of libel or other similar offenses shall prescribe in one year.
> The offenses of oral defamation and slander by deed shall prescribe in six months.
> Light offenses prescribe in two months.
> When the penalty fixed by law is a compound one, the highest penalty shall be made the basis of the application of the rules contained in the first, second and third paragraphs of this article.

[9] ARTICLE 91. *Computation of prescription of offenses*. — The period of prescription shall commence to run from the day on which the crime is discovered by the offended party, the authorities, or their agents, and shall be interrupted by the filing of the complaint or information, and shall commence to run again when such proceedings terminate without the accused being convicted or acquitted, or are unjustifiably stopped for any reason not imputable to him.
The term of prescription shall not run when the offender is absent from the Philippine Archipelago.

[10] *Rollo*, pp. 7-57.

[11] *Id.* at 204-206 and 207-209.

[12] *Id.* at 477.

[13] *Id.* at 477-478.

[14] REV. PEN. CODE, art. 355 provides:

ARTICLE 355. *Libel by means of writings or similar means*. — A libel committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means, shall be punished by *prisión correccional* in its minimum and medium periods or a fine ranging from Forty thousand pesos ([PHP] 40,000) to One million two hundred thousand pesos ([PHP] 1,200,000), or both, in addition to the civil action which may be brought by the offended party.

[15] *Rollo*, pp. 478-479.

[16] *Id.* at 483-484.

[17] G.R. No. 240310, August 6, 2018 [Notice].

[18] SECTION 4. (1) The Supreme Court shall be composed of a Chief Justice and fourteen Associate Justices. It may sit *en banc* or in its discretion, in divisions of three, five, or seven Members. Any vacancy shall be filled within ninety days from the occurrence thereof.
. . . .
(3) Cases or matters heard by a division shall be decided or resolved with the concurrence of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon, and in no case, without the concurrence of at least three of such Members. When the required number is not obtained, the case shall be decided *en banc*: *Provided*, that no doctrine or principle of law laid down by the court in a decision rendered *en banc* or in division may be modified or reversed except by the court sitting *en banc*.

[19] *Rollo*, pp. 488-491.

[20] *Id.* at 491-495.

[21] *Id.* at 495-497.

[22] **Cong. Mandanas v. Exec. Secretary Ochoa**, 851 Phil. 545, 564 (2019) [Per C.J. Bersamin, *En Banc*].

[23] *Id.*

[24] *See* **Deutsche Bank AG Manila Branch v. Commissioner of Internal Revenue**, 716 Phil. 676, 687-688 (2013) [Per C.J. Sereno, First Division]; *citing* **Philippine Health Care Providers, Inc. v. Commissioner of Internal Revenue**, 616 Phil. 387 (2009) [Per J. Corona, Special First Division].

[25] *See* **De Castro v. Judicial and Bar Council**, 632 Phil. 657, 685 (2010) [Per J. Bersamin, *En Banc*].

[26] **Metropolitan Bank & Trust Co. v. Fortuna Paper Mill & Packaging Corp.**, 842 Phil. 819, 842 (2018) [Per J. A. Reyes, Jr., Second Division]; **Department of Transportation & Communications v. Cruz**, 581 Phil. 602, 611 (2008) [Per J. Austria-Martinez, *En Banc*]; **Luzon Brokerage Co., Inc. v. Maritime Building Co.**, 175 Phil. 476 (1978) [Per J. Teehankee, *En Banc*].

[27] **Negros Navigation Co., Inc. v. Court of Appeals**, 346 Phil. 551, 563 (1997) [Per J. Mendoza, Second Division].

[28] **CDCP Mining Corp. v. Commissioner of Internal Revenue**, 502 Phil. 511, 519 (2005) [Per J. Tinga, Second Division].

[29] **De Mesa v. Pepsi Cola Products Phils. Inc.**, 504 Phil. 685, 691 (2005) [Per J. Quisumbing, First Division].

[30] **People v. Licera**, 160 Phil. 270, 273 (1975) [Per J. Castro, First Division].

[31] **Caltex (Philippines) Inc. v. Palomar**, 124 Phil. 763, 774 (1966) [Per J. Ruiz Castro, *En Banc*].

[32] *See* **Republic Planters Bank v. National Labor Relations Commission**, 334 Phil. 124, 132 (1997) [Per J. Bellosillo, First Division].

[33] *See* 2019 Revised Rules of Civil Procedure, Rule 13, Section 13, which states:

> SECTION 13. *Service of judgments, final orders or resolutions*. — Judgments, final orders, or resolutions shall be served either personally or by registered mail. Upon *ex parte* motion of any party in the case, a copy of the judgment, final order, or resolution may be delivered by accredited courier at the expense of such party. When a party summoned by publication has failed to appear in the action, judgments, final orders or resolutions against him or her shall be served upon him or her also by means of publication at the expense of the prevailing party.

[34] 866 Phil. 638 (2019) [Per C.J. Peralta, Special Third Division].

[35] *Id.* at 651.

[36] *Id.* at 648-651.

[37] 877 Phil. 380 (2020) [Per J. Gesmundo, Third Division].

[38] *Id.* at 462.

[39] 903 Phil. 518 (2021) [Per J. Caguioa, First Division].

[40] *Id.* at 534-535.

[41] 568 Phil. 603 (2008) [Per J. Velasco Jr., Second Division].

[42] *See* **De Castro v. Judicial and Bar Council**, 632 Phil. 657, 685-687 (2010) [Per J. Bersamin, *En Banc*] and **De Mesa v. Pepsi Cola Products Phils. Inc.**, 504 Phil. 685, 691 (2005) [Per J. Quisumbing, First Division].

[43] *See* **Metropolitan Bank & Trust Co. v. Fortuna Paper Mill & Packaging Corp.**, 842 Phil. 819, 842 (2018) [Per J. A. Reyes, Jr., Second Division], **Department of Transportation & Communication v. Cruz**, 581 Phil. 602, 610 (2008) [Per J. Austria-Martinez, *En Banc*]; **CDCP Mining Corp. v. Commissioner of Internal Revenue**, 502 Phil. 511, 519 (2005) [Per J. Tinga, Second Division]; **Negros Navigation Co., Inc. v. Court of Appeals**, 346 Phil. 551 (1997) [Per J. Mendoza, Second Division]; **Luzon Brokerage Co., Inc. v. Maritime Building Co.**, 175 Phil. 476 (1978) [Per J. Teehankee, *En Banc*].

[44] *See* Rule 14, Section 7 of the Internal Rules of the Supreme Court.

[45] **San Miguel Corp. v. Commissioner of Internal Revenue**, 940 Phil. 285, 296 (2023) [Per J. Singh, Third Division] *citing* **Philippine Health Care Providers, Inc. v. Commissioner of Internal Revenue**, 616 Phil. 387 (2009) [Per J. Corona, Special First Division].

[46] Rule 13, Section 6(d) of the Internal Rules of the Supreme Court, which states:

> SECTION 6. *Manner of adjudication*. – The Court shall adjudicate cases as follows:
> . . . .
>
> (d) By *minute resolution* when the Court (1) dismisses a petition filed under Rule 64 or 65 of the Rules of Court, citing as legal basis the failure of the petition to show that the tribunal, board or officer exercising or quasi-judicial functions has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; (2) denies petition filed under Rule 45 of the said Rules, citing as legal basis the absence of reversible error committed in the challenged decision, resolution, or order of the court below; (3)

dismisses an administrative complaint, citing as legal basis failure to show a *prima facie* case against the respondent; (4) denies a motion for reconsideration, citing as legal basis the absence of a compelling or cogent reason to grant the motion, or the failure to raise any substantial argument to support such motion or the decision of the court has already passed upon the basic issue in the case; and (5) dismisses a petition on technical grounds or deficiencies.

[47] SECTION 6. *Review discretionary*. — A review is not a matter of right, but of sound judicial discretion, and will be granted only when there are special and important reasons thereof. The following, while neither controlling nor fully measuring the court's discretion, indicate the character of the reasons which will be considered:
(a) When the court *a quo* has decided a question of substance, not theretofore determined by the Supreme Court, or has decided it in a way probably not in accord with law or with the applicable decisions of the Supreme Court; or
(b) When the court *a quo* has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such departure by a lower court, as to call for an exercise of the power of supervision.

[48] *See* **San Miguel Corp. v. Commissioner of Internal Revenue**, 940 Phil. 285, 296 (2023) [Per J. Singh, Third Division] and **Que v. People**, 238 Phil. 155 (1987) [Per J. Paras, Special Former Second Division].

[49] **Villaroman v. Estate of Arciaga**, 905 Phil. 622, 635 (2021) [Per J. Hernando, Third Division].

[50] *See* **San Miguel Corp. v. Commissioner of Internal Revenue**, 940 Phil. 285, 296 (2023) [Per J. Singh, Third Division] *citing* **Philippine Health Care Providers, Inc. v. Commissioner of Internal Revenue**, 616 Phil. 387 (2009) [Per J. Corona, Special First Division]; **Philippine National Bank v. Lim**, 702 Phil. 461 (2013) [Per J. Reyes, First Division]; **Del Rosario, Jr. v. People**, 525 Phil. 261 (2006) [Per J. Corona, Second Division].

[51] SECTION 47. *Effect of judgments or final orders*. — The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

(a) In case of a judgment or final order against a specific thing, or in respect to the probate of a will, or the administration of the estate of a deceased person, or in respect to the personal, political, or legal condition or status of a particular person or his relationship to another, the judgment or final order is conclusive upon the title to the thing, the will or administration or the condition, status or relationship of the person; however, the probate of a will or granting of letters of administration shall only be *prima facie* evidence of the death of the testator or intestate;

(b) In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been missed in relation thereto, conclusive between the parties and their successors in interest, by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity; and
(c) In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.

[52] **Villaroman v. Estate of Arciaga**, 905 Phil. 622 (2021) [Per J. Hernando, Third Division].

[53] 733 Phil. 717, 741 (2014) [Per J. Abad, *En Banc*].

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

[55] **People v. Moran**, 44 Phil. 387, 394-401 (1923) [Per C.J. Araullo, *En Banc*]; **People v. Reyes**, 256 Phil. 1015, 1027 (1989) [Per J. Cortes, Third Division]; **People v. Pacificador**, 406 Phil. 774, 784 (2001) [Per J. De Leon, Jr., Second Division].

[56] 941 Phil. 680 (2023) [Per J. Leonen, Second Division].

[57] **Causing v. People**, 948 Phil. 400, 415 (2023) [Per J. Inting, Third Division].

[58] **Tieng v. Judge Palacio-Alaras**, 907 Phil. 616, 644 (2021) [Per J. Carandang, *En Banc*].

[59] **People v. Santiago**, 115 Phil. 219, 221 (1962) [Per J. Concepcion, *En Banc*].

[60] *See* Cybercrime Prevention Act, Section 3(d), (e), (f), (g), and (i) which state:

> SECTION 3. *Definition of Terms*. — For purposes of this Act, the following terms are hereby defined as follows:
>
> . . . .
> (d) *Computer* refers to an electronic, magnetic, optical, electrochemical, or other data processing or communications device, or grouping of such devices, capable of performing logical, arithmetic, routing, or storage functions and which includes any storage facility or equipment or communications facility or equipment directly related to or operating in

conjunction with such device. It covers any type of computer device including devices with data processing capabilities like mobile phones, smart phones, computer networks and other devices connected to the internet.

(e) *Computer data* refers to any representation of facts, information, or concepts in a form suitable for processing in a computer system including a program suitable to cause a computer system to perform a function and includes electronic documents and/or electronic data messages whether stored in local computer systems or online.

(f) *Computer program* refers to a set of instructions executed by the computer to achieve intended results.

(g) *Computer system* refers to any device or group of interconnected or related devices, one or more of which, pursuant to a program, performs automated processing of data. It covers any type of device with data processing capabilities including, but not limited to, computers and mobile phones. The device consisting of hardware and software may include input, output and storage components which may stand alone or be connected in a network or other similar devices. It also includes computer data storage devices or media.

. . . .

(i) *Cyber* refers to a computer or a computer network, the electronic medium in which online communication takes place.

[61] ARTICLE 358. *Slander*. – Oral defamation shall be punished by *arresto mayor* in its maximum period to *prision correccional* in its minimum period if it is of a serious and insulting nature; otherwise the penalty shall be *arresto menor* or a fine not exceeding Twenty thousand pesos ([PHP] 20,000).

[62] ARTICLE 359. *Slander by deed*. – The penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period or a fine ranging from Twenty thousand pesos ([PHP] 20,000) to One hundred thousand pesos ([PHP] 100,000) shall be imposed upon any person who shall perform any act not included and punished in this title, which shall cast dishonor, discredit or contempt upon another person. If said act is not of a serious nature, the penalty shall be *arresto menor* or a fine not exceeding Twenty thousand pesos ([PHP] 20,000).

[63] **Disini, Jr. v. The Secretary of Justice**, 733 Phil. 717, 737 (2014) [Per J. Abad, *En Banc*].

[64] *Id.* at 738.

[65] REV. PEN. CODE, art. 90 provides:

> ARTICLE 90. *Prescription of crimes*. — Crimes punishable by death, *reclusión perpetua* or *reclusion temporal* shall prescribe in twenty years.
> Crimes punishable by other afflictive penalties shall prescribe in fifteen years.

> Those punishable by a correctional penalty shall prescribe in ten years; with the exception of those punishable by *arresto mayor*, which shall prescribe in five years.
> The crime of libel **or other similar offenses** shall prescribe in one year.
> The offenses of oral defamation and slander by deed shall prescribe in six months. Light offenses prescribe in two months.
> When the penalty fixed by law is a compound one, the highest penalty shall be made the basis of the application of the rules contained in the first, second and third paragraphs of this article. (Emphasis supplied)

[66] Entitled "An Act Shortening the Prescriptive Period for Libel and other Similar Offenses, Amending for the Purpose Article Ninety of the Revised Penal Code," approved on June 18, 1966.

[67] Congressional Records on the Second Reading of House Bill No. 1037 dated May 12, 1966, Vol. I, No. 66, pp. 2589-2590.

[68] **Sps. Recana, Jr. v. Court of Appeals**, 402 Phil. 26, 35 (2001) [Per J. Quisumbing, Second Division], *citing* **City Gov't of San Pablo, Laguna v. Hon. Reyes**, 364 Phil. 842, 853 (1999) [Per J. Gonzaga-Reyes, Third Division].

[69] REV. PEN. CODE, art. 355 provides:

> Art. 355. *Libel by means of writings or similar means*. — A libel committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means, shall be punished by *prision correcciónal* in its minimum and medium periods or a fine ranging from Forty thousand pesos ([PHP] 40,000) to One million two hundred thousand pesos ([PHP] 1,200,000), or both, in addition to the civil action which may be brought by the offended party.

[70] *See* **South African Airways v. Commissioner of Internal Revenue**, 626 Phil. 566, 572-573 (2010) [Per J. Velasco, Jr., Third Division].

[71] **People v. Yu Hai**, 99 Phil. 725, 727-728 (1956) [Per J. J.B.L. Reyes, *En Banc*].

[72] Civil Code, art. 1147 provides:

> ARTICLE 1147. The following actions must be filed within one year:
> (1) For forcible entry and detainer;
> (2) For defamation.

[73] Separate Concurring Opinion of Justice Singh, pp. 5-6. *See also* Congressional Records on the Second Reading of House Bill No. 1037 dated May 12, 1966, Vol. I, No. 66, pp. 2587 and 2591.

[74] Congressional Records on the Second Reading of House Bill No. 1037 dated May 12, 1966, Vol. I, No. 66, p. 2588.

[75] **People v. Quijada**, 328 Phil. 505, 555 (1996) [Per J. Davide, Jr., *En Banc*].

[76] **People v. Duque**, 287 Phil. 669, 680 (1992) [Per J. Feliciano, Third Division].

[77] **People v. Moran**, 44 Phil. 387, 394-401 (1923) [Per C.J. Araullo, *En Banc*]; **People v. Reyes**, 256 Phil. 1015, 1027 (1989) [Per J. Cortes, Third Division]; and **People v. Pacificador**, 406 Phil. 774, 784 (2001) [Per J. De Leon, Jr., Second Division].

[78] **People v. Moran**, *Id.*

[79] *See* **People v. Terrado**, 211 Phil. 1 (1983) [Per J. Concepcion, Jr., Second Division].

[80] ART. 91. *Computation of prescription of offenses*. — The period of prescription shall commence to run from the day on which the crime is discovered by the offended party, the authorities, or their agents, and shall be interrupted by the filing of the complaint or information, and shall commence to run again when such proceedings terminate without the accused being convicted or acquitted, or are unjustifiably stopped for any reason not imputable to him.
The term of prescription shall not run when the offender is absent from the Philippine Archipelago.

[81] **Manigbas v. Luna**, 98 Phil. 466, 472 (1956) [Per J. Bautista].

[82] 270 Phil. 637 (1990) [Per J. Regalado, Second Division].

[83] *Id.* at 647-648.

[84] *See* **Batungbacal v. People**, 931 Phil. 698, 706 (2022) [Per J. Inting, Third Division]; **Lim v. People**, 830 Phil. 669 (2018) [Per J. Reyes, Jr., Second Division]; **People v. Hon. Villalon**, 270 Phil. 637 (1990) [Per J. Regalado, Second Division].

[85] SECTION 52. *Constructive Notice Upon Registration*. Every conveyance, mortgage, lease, lien, attachment, order, judgment, instrument or entry affecting registered land shall, if registered, filed or entered in the office of the Register of Deeds for the province or city where the land to which it relates lies, be *constructive notice* to all persons from the time of such registering, filing or entering. (Emphasis supplied)

[86] SECTION 50. An owner of registered land may convey, mortgage, lease, charge, or otherwise deal with the same as fully as if it had not been registered. He may use forms of deeds, mortgages, leases, or other voluntary instruments like those now in use and

sufficient in law for the purpose intended. But no deed, mortgage, lease, or other voluntary instrument, except a will, purporting to convey or affect registered land, shall take effect as a conveyance or bind the hind, but shall operate only as a contract between the parties and as evidence of authority to the clerk or register of deeds to make registration. *The act of registration shall be the operative act to convey and affect the land*, and in all cases under this Act the registration shall be made in the office of register of deeds for the province or provinces or city where the land lies. (Emphasis supplied)

[87] *See* **Sermonia v. Court of Appeals**, 303 Phil. 165, 172 (1994) [Per J. Bellosillo, First Division].

[88] 744 Phil. 451 (2014) [Per J. Velasco, Jr., Third Division].

[89] *Id.* at 469-471.

[90] *See* **Luna v. People**, 906 Phil. 438, 444-445 (2021) [Per J. Caguioa, First Division].

[91] CONST., art. III, sec. 14(2); Rules of Criminal Procedure, Rule 115, section 1(g).

[92] *See* **People v. Ang**, 887 Phil. 277, 325-326 (2020) [Per J. Carandang, *En Banc*].

[93] **People v. Pacificador**, 406 Phil. 774, 784 (2001) [Per J. De Leon, Jr., Second Division].

[94] **People v. Quijada**, 328 Phil. 505, 555 (1996) [Per J. Davide, Jr., *En Banc*].

[95] *Id.*

[96] *See* **People v. Laurel**, 349 Phil. 959, 963 (1998) [Per J. Bellosillo, First Division].

CONCURRING OPINION

LEONEN, *SAJ*:

I concur with the *ponencia* of my esteemed colleague, Associate Justice Henri Jean Paul B. Inting. I write this separate opinion to expound on my views regarding the constitutionality of libel.

The case originated from a Complaint-Affidavit filed by Ferdinand L. Hernandez (Hernandez) charging Berteni Cataluña Causing (Causing) with cyber libel. Hernandez, "a duly elected member of the House of Representatives of the Second District of South Cotabato,"[1] alleged that Causing, in a series of Facebook posts, "made it appear that

he stole public funds intended for Marawi siege victims."[2] According to Hernandez, the posts portrayed him as a thief, thus discrediting him.[3]

Following this, two Informations were filed against Causing charging him with two counts of cyber libel.

Causing filed a Motion to Quash, arguing that the offenses had already prescribed.[4] He claimed that because Hernadez's Complaint-Affidavit was filed more than a year after the alleged libelous Facebook posts, the cyber libel charges against him had already prescribed under Article 90 of the Revised Penal Code.

On October 5, 2021, the Regional Trial Court denied Causing's Motion to Quash. It held that contrary to Causing's argument, cyber libel prescribes in 12 years.[5]

In the assailed October 11, 2023 Decision, this Court settled the issue of the prescriptive period for cyber libel. Applying Article 90 of the Revised Penal Code, the Court held that cyber libel prescribes in one year, "counted from the day on which the crime is discovered by the offended party, the authorities, or their agents."[6] The Court nonetheless affirmed the denial of Causing' s Motion to Quash, ruling that he failed to present evidence to support his claim of prescription.

Petitioner Causing and respondents filed their respective Motions for Partial Reconsideration.[7]

Petitioner contends that in determining whether cyber libel has prescribed, the period should be reckoned from the date the alleged defamatory statement was published.[8] He argues that without presuming that the offended party discovered the defamatory material on the date of online posting, it would be difficult for the accused to know when the offense would prescribe. He further asserts that unlike statements made through traditional modes of publication, online utterances are more widespread.[9]

For their part, respondents argue that the prescriptive period for cyber libel is 15 years. To support their argument, they cite *Tolentino v. People*,[10] where the Court's First Division held that since the penalty for cyber libel is afflictive in nature, the offense prescribes in 15 years.[11]

The *ponencia* denied the Motions for Partial Reconsideration,[12] ruling that cyber libel prescribes in one year.[13]

I agree.

Prescription of crimes "is one of the modes of totally extinguishing criminal liability."[14] It refers to "the loss or waiver by the State of its right to prosecute an act prohibited and punished by law."[15] For acts penalized under the Revised Penal Code, prescription of crimes is governed by Article 90 of the same code. It states:

ARTICLE 90. Prescription of crimes.—Crimes punishable by death, *reclusion perpetua* or *reclusion temporal* shall prescribe in twenty years.

Crimes punishable by other afflictive penalties shall prescribe in fifteen years.

Those punishable by a correctional penalty shall prescribe in ten years; with the exception of those punishable by *arresto mayor*, which shall prescribe in five years.

The crime of libel or other similar offenses shall prescribe in one year.

The crime of oral defamation and slander by deed shall prescribe in six months.

Light offenses prescribe in two months.

When the penalty fixed by law is a compound one, the highest penalty shall be made the basis of the application of the rules contained in the first, second and third paragraphs of this article.

Article 90 is read in conjunction with Articles 25 and 26 of the Revised Penal Code which, in turn, categorize the penalties into scales:

ARTICLE 25. *Penalties which may be imposed*. - The penalties which may be imposed according to this Code, and their different classes, are those included in the following:

Scale
Principal Penalties

Capital punishment:
Death.

Afflictive penalties:
Reclusion perpetua,

Reclusion temporal,

Perpetual or temporary absolute disqualification,

Perpetual or temporary special disqualification,

Prision mayor.
Correctional penalties:
Prision correccional,

Arresto mayor,

Suspension,

Destierro.

Light penalties:
Arresto menor,

Public censure.
Penalties common to the three preceding classes:
Fine, and

Bond to keep the peace.

Accessory Penalties

Perpetual or temporary absolute disqualification,

Perpetual or temporary special disqualification,

Suspension from public office, the right to vote and be voted for, the profession or calling

Civil interdiction,

Indemnification,

Forfeiture or confiscation of instruments and proceeds of the offense,

Payment of costs.

ARTICLE 26. *Fine* - When afflictive, correctional, or light penalty. - A fine, whether imposed as a single or as an alternative penalty, shall be considered an afflictive penalty, if it exceeds 6,000 pesos; a correctional penalty, if it does not exceed 6,000 pesos but is not less than 200 pesos; and a light penalty if it be less than 200 pesos.

Notably, a reading of these provisions reveals a clear intent on the part of the Legislature to provide a shorter prescriptive period for the crime of libel.

To be sure, libel is defined as the "public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead."[16] It is penalized under Article 355 of the Revised Penal Code and carries a penalty of "*prision correccional* in its minimum and medium periods or a fine ranging from 200 to 6,000 pesos, or both":

ARTICLE 355. Libel means by writings or similar means. - A libel committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means, shall be punished by *prision correccional* in its

> minimum and medium periods or a fine ranging from 200 to 6,000 pesos, or both, in addition to the civil action which may be brought by the offended party.

As a rule, when the Revised Penal Code imposes a penalty of *prision correccional*[17] or a fine of PHP 200.00 to PHP 6,000.00,[18] as for the crime of libel, the penalty is characterized as correctional in nature and therefore prescribes in 10 years.[19]

However, notwithstanding the penalty provided for under Article 355, Article 90 of the Revised Penal Code explicitly provides that libel shall prescribe in one year.

Based on the foregoing, it can be construed that by imposing a one-year prescriptive period for libel and excluding it from the standard 10-year prescriptive period for offenses carrying correctional penalties, the Legislature acknowledges that libel is a crime of lesser gravity as "compared to other crimes at the same penal scale[.]"[20] As this Court explained in the 2023 Decision:

> *Third*, the history of the prescriptive period of Libel under Article 90 of the RPC discloses the Legislature's intent to set it apart from other crimes punishable with a correctional penalty. When the RPC was passed, the prescriptive period of Libel was two years. Congress further reduced the period by passing RA 4661, which amended Article 90 of the RPC to specifically *shorten* the prescriptive period of Libel and other similar offenses from two years to one year.
>
> Significantly, the Court has held that the prescription of a crime is intimately connected with and depends upon the gravity of the offense. Hence, a reduction or shortening of the prescriptive period "implies an acknowledgment on the part of the sovereign power that the greater severity of the former statute relative to the substances of the criminal action is unjust." Excepting Libel from the general 10-year prescriptive period for other crimes with correctional penalties may therefore be taken as an acknowledgment by the Legislature that it is "less grave" compared to other crimes at the same penal scale.[21] (Citations omitted)

In this regard, the question arises as to whether the one-year prescriptive period for libel applies to cyber libel under Republic Act No. 10175 or the Cybercrime Prevention Act of 2012. Under the law, libel is considered as a cybercrime offense when the act is committed through a computer system. Section 4(c)(4) provides:

> SECTION 4. Cybercrime Offenses. — The following acts constitute the offense of cybercrime punishable under this Act:
>
> . . . .
>
> (4) Libel. — The unlawful or prohibited acts of libel as defined in Article 355 of the Revised Penal Code, as amended, committed through a computer

system or any other similar means which may be devised in the future.

In ruling that the one-year prescriptive period applies to the crime of cyber libel, the *ponencia* decreed that Section 4(c)(4) of the Cybercrime Prevention Act did not introduce a new offense and merely "recognized another means of committing Libel as defined" under the Revised Penal Code.[22]

It then emphasized that in the absence of an enactment from the Legislature to the contrary, it must be construed that cyber libel is within "the scope of the term 'libel' in Article 90, paragraph 4 . . . of the Revised Penal Code" and carries a prescriptive period of one year.[23]

In addition, the *ponencia* ruled that notwithstanding the heavier penalty imposed for cyber libel, the crime may be considered as covered by the term "other similar offenses," which under Article 90, paragraph 4 of the Revised Penal Code likewise prescribes in one year.[24]

Our esteemed colleague, Associate Justice Antonio Kho, Jr., offers an opinion different from the majority in that the prescriptive period for cyber libel is 15 years.[25] According to him, cyber libel is a crime distinct from traditional libel, considering that as compared to libel under Article 355 of the Revised Penal Code, cyber libel requires an additional element of use of information and communications technologies (ICT). He maintains that this additional element is a qualifying aggravating circumstance which has the effect of changing the nature and designation of the offense.[26]

While I agree that the use of ICT is a qualifying aggravating circumstance which alters the nature of libel as an offense,[27] I am of the view that the Legislature intended the one-year prescriptive period to apply to cyber libel. As the *ponencia* aptly observed, this intention is evident with the Cybercrime Prevention Act's reference to Article 355 of the Revised Penal Code. I concur with the *ponencia* that through Section 4(c)(4) of the Cybercrime Prevention Act, the Legislature merely introduced a new method of committing libel.

In any case, the diverging theories on the applicable prescriptive period creates ambiguity on the cyber libel provisions under the Cybercrime Prevention Act. In such a situation where "the court is faced with two possible interpretations of a penal statute, one that is prejudicial to the accused and another that is favorable,"[28] the rule of lenity urges courts to adopt the theory that "is more lenient to the accused."[29] *People v. Valdez*[30] teaches:

> The foregoing interpretation is more favorable to Valdez as an accused following the rule of lenity:
>
> > Intimately related to the *in dubio pro reo* principle is the rule of lenity. The rule applies when the court is faced with two possible interpretations of a penal statute, one that is prejudicial to the

> accused and another that is favorable to him. The rule calls for the adoption of an interpretation which is more lenient to the accused.
>
> The time-honored principle is that penal statutes are construed strictly against the State and liberally in favor of the accused. When there is doubt on the interpretation of criminal laws, all must be resolved in favor of the accused. Since penal laws should not be applied mechanically, the Court must determine whether their application is consistent with the purpose and reason of the law.[31] (Citations omitted)

Accordingly, I am of the view that the rule of lenity calls us to adopt the interpretation that cyber libel prescribes in one year.

Notwithstanding the foregoing, it is my opinion that this rule should only apply to libel committed against *private individuals*. Libel against public figures is best decriminalized. The continued punishment of comments and criticisms directed at public figures hampers the promotion of an atmosphere of uninhibited discussion of ideas and opinions relating to the proper conduct of those in public office.

Notably, the constitutionality of both the penal code provisions on libel and Section 4(c)(4) of the Cybercrime Prevention Act on cyber libel was challenged in the case of *Disini, Jr. v. Secretary of Justice*.[32]

In sustaining the provisions' constitutionality, the Court declared that "libel is not a constitutionally protected speech and that the government has an obligation to protect private individuals from defamation."[33]

In my separate opinion in *Disini, Jr.*, I emphasized my disagreement with the statement that libel is not constitutionally protected speech. I explained that the continued characterization of libel as a crime not only "produces a 'chilling effect' that stifles our fundamental guarantees of free expression"[34] but also "contradicts our notions of a genuinely democratic society."[35] I further stressed:

> With the definite evolution of jurisprudence to accommodate free speech values, it is clear that the reenactment of the old text of libel is now unconstitutional. Articles 353, 354, and 355 of the Revised Penal Code — and by reference, Section 4(c) 4 of the law in question — are now overbroad as it prescribes a definition and presumption that have been repeatedly struck down by this court for several decades.
>
> A statute falls under the overbreadth doctrine when "a governmental purpose may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of protected freedoms." Section 4 (c) (4) of Rep. Act No. 10175 and Articles 353, 354, and 355 produce a chilling effect on speech by being fatally inconsistent with *Ayer Productions* as well as by imposing criminal liability in addition to civil ones. Not only once, but

> several times, did this court uphold the freedom of speech and expression under Article III, Section 4 of the 1987 Constitution over an alleged infringement of privacy or defamation. This trend implies an evolving rejection of the criminal nature of libel and must be expressly recognized in view of this court's duty to uphold the guarantees under the Constitution.
>
> The threat to freedom of speech and the public's participation in matters of general public interest is greater than any satisfaction from imprisonment of one who has allegedly "malicious[ly] imput[ed] . . . a crime, or . . . a nice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or . . . blacken[ed] the memory of [the] dead." The law provides for other means of preventing abuse and unwarranted attacks on the reputation or credibility of a private person. Among others, this remedy is granted under the Chapter on Human Relations in the Civil Code, particularly Articles 19, 20, 21, and even 26. There is, thus, no cogent reason that a penal statute would overbroadly subsume the primordial right of freedom of speech provided for in the Constitution.[36] (Citations omitted)

Tulfo v. People[37] echoed this observation, emphasizing that the kinds of speech actually deterred by criminal libel are often more valuable than the State interest the law seeks to protect:

> Besides, the constitutionality of criminalizing libel is doubtful. In libel, the kinds of speech actually deterred are more valuable than the State interest the law against libel protects. The libel cases that have reached this Court in recent years generally involve notable personalities for parties, highlighting a propensity for the powerful and influential to use the advantages of criminal libel to silence their critics.
>
> In any event, alternative legal remedies exist to address unwarranted attacks on a private person's reputation and credibility, such as the Civil Code chapter on Human Relations. Civil actions for defamation are more consistent with our democratic values since they do not threaten the constitutional right to free speech, and avoid the unnecessary chilling effect on criticisms toward public officials. The proper economic burden on complainants of civil actions also reduces the possibility of using libel as a tool to harass or silence critics and dissenters.[38] (Citations omitted)

Tulfo involved several counts of libel against Abante Tonite columnist Raffy T. Tulfo (Raffy). Raffy, in his "Shoot to Kill" column, tackled the purported irregular and illegal dealings of Atty. Carlos "Ding" So (Atty. So) of the Bureau of Customs.

In that case, the Court had the opportunity to expound on the elements of libel, particularly the element of malice:

Malice exists when the prosecution proves that 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."

The requisite of malice has evolved, there being a distinction between libel cases involving private persons and those involving public officers and public figures. Thus, whether the complainant is a private or public person is a factor that must be considered.

Here, the prosecution admitted during pre-trial that at the time the articles were published, private complainant Atty. So was a public officer, the then officer-in-charge of the Bureau of Customs Intelligence and Investigation Service at the Ninoy Aquino International Airport. This admission shall be considered in determining petitioners' liability for libel.

The Constitution mandates that "[p]ublic officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives."

As early as 1918, this Court in *Bustos* emphasized the need for full discussion of public affairs and how those in public positions should not be too thin-skinned when comments are made on their official functions.

In the United States, it was not only until the 1964 case of *New York Times v. Sullivan* that the United States Supreme Court laid down "the extent to which the constitutional protections for speech and press limit a State's power to award damages in a libel action brought by a public official against critics of his official conduct."

. . . .

The United States Supreme Court in *New York Times* went on to introduce the "actual malice" test. Under this test, a public official cannot recover damages for a defamatory falsehood on their official conduct unless they prove "that the statement was made ...with knowledge that it was false or with reckless disregard of whether it was false or not."

In our jurisdiction, this Court adopted with approval the actual malice test and has since applied it to several cases involving libel.

In *Ayer Productions Pty. Ltd. v. Hon. Capulong*, this Court extended the "actual malice" requirement in libel cases involving public officers to "public figures." It decreed that owing to the legitimate interest of the public

in his or her affairs "the right of privacy of a 'public figure' is necessarily narrower than that of an ordinary citizen."[39] (Citations omitted)

The Court then went on and explained the relationship between the element of malice and the presumption under Article 354 of the Revised Penal Code. Article 354 states that "[e]very defamatory imputation is presumed to be malicious, even if it be true, if no good intention and justifiable motive for making it is shown." One of the recognized exceptions to this is a privileged communication, whether absolute or qualified:

> As an exception to the presumption that every defamatory imputation is malicious, privileged communication has two kinds: absolute and qualified . . .
>
> . . . .
>
> Absolute privileged communications include Article VI, Section 11 of the Constitution, which states, "No Member [of Congress] shall be questioned nor be held liable in any other place for any speech or debate in the Congress or in any committee thereof." On the other hand, qualified privileged communications include "private communications" and 'fair and true report without any comment or remarks.'
>
> In *Borjal v. Court of Appeals*, this Court recognized that the enumeration of qualified privileged communications under Article 354 of the Revised Penal Code is not exclusive. It decreed that "fair commentaries on matters of public interest" are likewise deemed privileged by reason of the constitutional guarantee of freedom of the press:
>
> > The rule on privileged communications had its genesis not in the nation's penal code but in the Bill of Rights of the Constitution guaranteeing freedom of speech and of the press. As early as 1918, in *United States v. Caete*, this Court ruled that publications which are privileged for reasons of public policy are protected by the constitutional guaranty of freedom of speech. This constitutional right cannot be abolished by the mere failure of the legislature to give it express recognition in the statute punishing libels.
> >
> > The concept of privileged communications is implicit in the freedom of the press. As held in *Elizalde v. Gutierrez* and reiterated in *Santos v. Court of Appeals* —
> >
> > To be more specific, no culpability could be imputed to petitioners for alleged offending publication without doing violence to the concept of privileged communications implicit in the freedom of the press. As was so well put by Justice Malcolm in *Bustos*: Public policy, the welfare of society, and the orderly administration of government have demanded protection of

> public opinion. The inevitable and incontestable result has been the development and adoption of the doctrine of privilege.
>
> The doctrine formulated in these two (2) cases resonates the rule that privileged communications must, *sui generis*, be protective of public opinion. This closely adheres to the democratic theory of free speech as essential to collective self-determination and eschews the strictly libertarian view that it is protective solely of self-expression which, in the words of Yale Sterling Professor Owen Piss, makes its appeal to the individualistic ethos that so dominates our popular and political culture.
>
> To reiterate, fair commentaries on matters of public interest are privileged and constitute a valid defense in an action for libel or slander. The doctrine of fair comment means that while in general every discreditable imputation publicly made is deemed false, because every man is presumed innocent until his guilt is judicially proved, and every false imputation is deemed malicious, nevertheless, when the discreditable imputation is directed against a public person in his public capacity, it is not necessarily actionable. In order that such discreditable imputation to a public official may be actionable, it must either be a false allegation of fact or a comment based on a false supposition. If the comment is an expression of opinion, based on established facts, then it is immaterial that the opinion happens to be mistaken, as long as it might reasonably be inferred from the facts.
>
> . . . .
>
> Every prosecution for libel, therefore, must undergo the rigorous and exacting standard of ensuring that it does not violate the fundamental right to free speech and the press. Unless the prosecution proves that the defamatory statements were made with actual malice, a criminal case for libel against critics of a public officer's exercise of official functions cannot prosper.[40] (Citations omitted)

In rendering a decision of acquittal, the Court held that the prosecution failed to prove actual malice, especially considering the privileged nature of the articles involved. Once communication is deemed privileged, the burden shifts to the prosecution to prove that the defamatory statements were made with knowledge of their falsity or reckless disregard for the truth:

> Having established the privileged nature of the *Abante Tonite* articles, the burden shifts to the prosecution to prove that actual malice exists. The prosecution is duty bound to show that the alleged defamatory statements were made "with knowledge that it was false or with reckless disregard of

whether it was false or not." The reason for this rule is based on the *New York Times* doctrine, which provides:

> [T]o require critics of official conduct to guarantee the truth of all their factual assertions on pain of libel judgments would lead to self-censorship, since would-be critics would be deterred from voicing out their criticisms even if such were believed to be true, or were in fact true, because of doubt whether it could be proved or because of fear of the expense of having to prove it.

The "reckless disregard" standard "cannot be fully encompassed in one infallible definition" and must be applied depending on the facts of each case. Nevertheless, in *Flor v. People*, this Court decreed that the existence of reckless disregard cannot be based on "whether a reasonably prudent [person] would have published, or would have investigated before publishing." Instead, it depends on whether sufficient evidence has been adduced "to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of [their] publication."

Here, petitioner Tulfo's testimony on cross-examination does not show that the allegations were false, or that they were made with reckless disregard of ascertaining whether the statements were false or not. His testimony that no administrative case was filed against Atty. So does not mean that the statements in the articles were false.

Besides, it is not unusual that columnists have no personal knowledge on the material they report. Perhaps compelled by their societal duty to maintain good government, people with information on matters of public interest may contact reporters and columnists to share in confidence what they know. Columnists cannot be compelled to reveal their sources, pursuant to Republic Act No. 53, as amended by Republic Act No. 1477. The confidentiality of sources serves as their protection.[41] (Citations omitted)

In my view, the adoption and strict application of the actual malice test in cases involving public figures is a recognition of the importance of freedom of speech and expression.

Nonetheless, I agree that the State remains dutybound to protect private individuals from slanderous remarks. Private individuals have the "right to be free from 'unwarranted publicity, from the wrongful publicizing of the private affairs and activities of an individual which are outside the realm of legitimate public concern.'"[42]

In *Orillo v. People*,[43] the Court sustained the conviction of therein petitioners for libel after determining that the object of the defamatory articles was a private individual:

> At the core of libel is malice. Malice signifies that the offender is impelled by "personal ill [will] or spite and speaks not in response to duty, but merely

to injure the reputation of the person defamed; it implies an intention to do ulterior and unjustifiable harm."

. . . .

A more exacting standard is imposed for criminal libel cases where the plaintiff or complainant is a public figure, particularly a public officer. In those cases, it is on the prosecution to establish that actual malice exists, and not for the defense to refute.

Hence, whether complainant is a private person or a public officer is a matter ought to be considered in deciding libel cases. Here, the object of the defamatory articles is complainant Cabatian, a private individual.[44] (Emphasis supplied, citations omitted)

ACCORDINGLY, I vote to **DENY** the Motions for Partial Reconsideration.

---

[1] **Causing v. People**, 948 Phil. 400 (2023) [Per J. Inting, Third Division].

[2] *Id.* at 401.

[3] *Id.*

[4] *Id.* at 404.

[5] *Id.* at 405-406.

[6] *Id.* at 427.

[7] *Ponencia*, pp. 1-2.

[8] *Id.* at 3.

[9] *Id.*

[10] **G.R. No. 240310**, August 6, 2018 [Unsigned Resolution, First Division].

[11] *Ponencia*, pp. 3-4.

[12] *Id.* at 27.

[13] *Id.* at 21-22.

[14] **People v. Lee, Jr.**, 863 Phil. 134, 139 (2019) [Per J. Peralta, Third Division].

[15] *Id.*

[16] REV. PEN. CODE, art. 353.

[17] REV. PEN. CODE, art. 25.

[18] REV. PEN. CODE, art. 26.

[19] REV. PEN. CODE, art. 90.

[20] **Causing v. People**, 948 Phil. 400, 423 (2023) [Per J. Inting, Third Division].

[21] *Id.*

[22] *Ponencia*, pp. 16-17.

[23] *Id.* at 18.

[24] *Id.* at 20.

[25] J. Kho, Jr., Concurring and Dissenting Opinion, p. 6.

[26] *Id.* at 5-6.

[27] *See* **People v. ABC260708**, 950 Phil. 199, 229 (2024) [Per J.M. Lopez, *En Banc*].

[28] **People v. Valdez**, 774 Phil. 723, 747 (2015) [Per J. Peralta, *En Banc*]. (Citations omitted)

[29] *Id.*

[30] 774 Phil. 723 (2015) [Per J. Peralta, *En Banc*].

[31] *Id.* at 747.

[32] 727 Phil. 28 (2014) [Per J. Abad, *En Banc*].

[33] *Id.* at 114.

[34] *Id.* at 366.

[35] *Id.*

[36] *Id.* at 375-376.

[37] 893 Phil. 6 (2021) [Per J. Leonen, Third Division].

[38] *Id.* at 76-77.

[39] *Id.* at 49-51.

[40] *Id.* at 52-58.

[41] *Id.* at 64-66.

[42] **Ayer Productions Pty. Ltd. v. Capulong**, 243 Phil. 1007, 1018-1019 (1988) [Per J. Feliciano, *En Banc*].

[43] 934 Phil. 728 (2023) [Per J. Leonen, Second Division].

[44] *Id.* at 746-748.

CONCURRING OPINION

CAGUIOA, *J.*:

I concur with the *ponencia* in ruling that the prescriptive period under paragraph 4, Article 90 of the Revised Penal Code applies to libel committed through a computer system. This is consistent with the legislative intent evident from relevant laws and their subsequent amendments, as well as the long-standing legal principle that statutes on prescription of crimes are to be liberally construed in favor of the accused.

Brief Review of the Facts of the Case

Private complainant Ferdinand L. Hernandez (Hernandez) discovered on February 4, 2019 and April 21, 2019, a series of Facebook posts of petitioner Berteni Cataluña Causing (Causing) which made it appear that Hernandez stole public funds intended for Marawi siege victims. Hernandez averred that Causing's Facebook posts maligned and discredited him by portraying him as a thief. After finding probable cause against Causing, two separate Informations were filed with the Regional Trial Court of Quezon City (RTC) charging Causing of cyberlibel.

On June 8, 2021, Causing moved to quash the Informations on the ground of prescription. He claimed the one-year prescriptive period under Article 90 of the Revised Penal Code applies; thus, considering that the complaint was filed only in December 2020, or more than one year from the Facebook posts, then the State's right to prosecute the alleged crimes had already prescribed.

The RTC denied the motion and ruled that the prescriptive period for cyberlibel is 12 years, applying Act No. 3326.[1] The RTC further held that even if the provisions of the Revised Penal Code would apply, the prescriptive period is 15 years because Republic Act No. 10175 or the Cybercrime Prevention Act increased the penalty of libel committed through a computer system.

The RTC denied Causing's motion for reconsideration, prompting him to file a petition for *certiorari* before the Court.

In the assailed Decision, the Court (Third Division) ruled that the one-year prescriptive period under paragraph 3, Article 90 of the Revised Penal Code applies to the crime of cyberlibel.[2] This period is reckoned from the date the crime is discovered by the offended party, the authorities, or their agents. However, the RTC is correct in denying the motion to quash as Causing failed to present any proof that the charges against him had prescribed.

Hence, the present motions for reconsideration respectively filed by the parties. The Office of the Solicitor General insists on the application of the 15-year prescriptive period to cyberlibel. Causing, on the other hand, assails the reckoning of the prescriptive period. He asserts that the one-year period should be counted from posting and not discovery of the crime.

The *ponencia* denies both motions and reiterates that the prescriptive period for cyberlibel is one year.[3]

As stated at the outset, I concur with the *ponencia*'s ruling.

The long-standing legislative policy is to exclude libel from the general rule in the determination of the period of prescription of crimes

The crime of libel in Philippine jurisdiction originated from the Old. Spanish Penal Code[4] (Penal Code). Under the Penal Code, a false imputation of a crime expressed publicly in writing was punished "by *prisión correccional* in its minimum and medium degrees and a fine of not less than one thousand two hundred and fifty and not more than twelve thousand five hundred pesetas, if a grave felony be imputed, and by *arresto mayor* and a fine of not less than six hundred and twenty-five and not more than six thousand two hundred and fifty pesetas, if a less grave felony be imputed."[5]

As a general rule, the Penal Code based the prescriptive period of an offense on the penalty fixed therefor. Thus, paragraphs 1 to 3 of Article 131 stated: twenty years for felonies punishable by death, fifteen years for crimes with other afflictive penalty, and ten years for crimes with correctional penalty. Even if calumny (including those expressed in writing) was punishable by a correctional penalty, the Penal Code

expressly excepted said offense from the general rule and set the prescriptive period to only one year:

> ARTICLE 131. Felonies punishable by death or *cadena perpetua* shall prescribe in twenty years.
>
> When the penalty fixed by law is any other afflictive penalty, in fifteen years.
>
> When the penalty is correctional, in ten years.
>
> **The offenses of calumny and insults (injurias) are excepted; the former shall prescribe in one year** and the latter in six months.
>
> Misdemeanors prescribe in two months.
>
> When the penalty fixed by law is compound the highest penalty shall be made the basis of the application of the rules contained in the first, second, and third paragraphs of this article.
>
> The period of prescription shall commence to run on the day on which the crime is committed; or if not known at the time, from the day of its discovery and the beginning of the judicial proceedings for investigation and punishment.
>
> This prescription shall be interrupted from the commencement of the proceedings against the offender, and the term of prescription shall commence to run again when such proceedings terminate without the accused being convicted, or the proceedings are suspended by reason of some cause other than the default of the defendant.[6] (Emphasis supplied)

The provisions of the Penal Code on calumny expressed publicly in writing was repealed by Act No. 277[7] or the Philippine Libel Law.[8] Act No. 277 defined libel as "a malicious defamation, expressed either in writing, printing, or by signs or pictures, or the like, or public theatrical exhibitions, tending to blacken the memory of one who is dead or to impeach the honesty, virtue, or reputation, or publish the alleged or natural defects of one who is alive, and thereby expose him to public hatred, contempt, or ridicule." Said law penalized "[e]very person who willfully and with a malicious intent to injure another publishes or procures to be published any libel shall be punished by a fine of not exceeding two thousand dollars or imprisonment for not exceeding one year, or both."[9]

While Act No. 277 did not provide for a period of limitation for prosecuting the crime of libel penalized therein,[10] a subsequent enactment, Act No. 2595[11] stated that "[t]he crime of libel as well as the civil action arising therefrom shall prescribe two years after the publication of the libel."[12]

The Philippine Libel Law was eventually repealed by Act No. 3815,[13] commonly known as the Revised Penal Code.[14] The Revised Penal Code defines and penalizes the crime of libel as follows:

> ARTICLE 353. *Definition of Libel*. — A libel is a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt ·of a natural or juridical person, or to blacken the memory of one who is dead.
>
> ARTICLE 355. *Libel by Means Writings or Similar Means*. — A libel committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means, shall be **punished by *prisión correccional* in its minimum and medium periods or a fine ranging from 200 to 6,000 pesos, or both**, in addition to the civil action which may be brought by the offended party.[15] (Emphasis supplied)

Similar to the Penal Code, the prescriptive periods for crimes defined and penalized by the Revised Penal Code are generally based on the penalty provided by the Code. **Again, libel, with other similar offenses, is considered as an exception.** Instead of the 10-year period for offenses with correctional penalties, the two-year prescriptive period under Act. No. 2595 was adopted by the Revised Penal Code, to wit:

> ARTICLE 90. *Prescription of Crimes*. — Crimes punishable by death, *reclusión perpetua* or *reclusión temporal* shall prescribe in twenty years.
>
> Crimes punishable by other afflictive penalties shall prescribe in fifteen years.
>
> Those punishable by a correctional penalty shall prescribe in ten years; with the exception of those punishable by *arresto mayor*, which shall prescribe in five years.
>
> **The crime of libel or other similar offenses shall prescribe in <u>two years</u>.**
>
> The offenses of oral defamation and slander by deed shall prescribe in six months.
>
> Light offenses prescribe in two months.
>
> When the penalty fixed by law is a compound one the highest penalty shall be made the basis of the application of the rules contained in the first, second and third paragraphs of this article.[16] (Emphasis supplied)

The prescriptive period for libel was further shortened by Congress to one year. Under Republic Act No. 4661,[17] Article 90 was amended to read as follows:

> Art. 90. *Prescription of crimes*. — Crimes punishable by death, *reclusión perpetua* or *reclusión temporal* shall prescribe in twenty years.
>
> Crimes punishable by other afflictive penalties shall prescribe in fifteen years.
>
> Those punishable by a correctional penalty shall prescribe in ten years; with the exception of those punishable by arresto mayor, which shall prescribe in five years.
>
> **The crime of libel or other similar offenses shall prescribe in <u>one year</u>.**
>
> The offenses of oral defamation and slander by deed shall prescribe in six months.
>
> Light offenses prescribe in two months.
>
> When the penalty fixed by law is a compound one, the highest penalty shall be made the basis of the application of the rules contained in the first, second and third paragraphs of this article.[18] (Emphasis supplied)

Evident from the foregoing enactments is **the <u>consistent legislative policy</u> to exclude the crime of libel from the general rule on the determination of period for prescription of crimes**. Ever since the Penal Code until the Revised Penal Code, the crime of libel has been imposed a correctional penalty—and yet, its prescriptive period has always been fixed at one or two years, and never at 10 or more years.

In fact, to this date, no law has been enacted explicitly fixing a different prescriptive period for libel, repealing, or amending Article 90 of the Revised Penal Code.

Republic Act No. 10175[19] or the Cybercrime Prevention Act of 2012 (Cybercrime Act) did not amend or repeal paragraph 4, Article 90 of the Revised Penal Code. As explained by the Court in *Disini, Jr. v. Secretary of Justice*[20] (*Disini*), libel under the Cybercrime Act and libel under the Revised Penal Code have the same elements. **<u>The Cybercrime Act did not create a new crime but merely established the computer system as another means of publication.</u>** To be sure, in defining libel, the Cybercrime Act refers to Article 353 of the Revised Penal Code and incorporates provisions of the Revised Penal Code on libel. At most, as pointed out by Justice Kho, what the Cybercrime Act provided is a qualifying circumstance for committing libel, *viz*:

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

> Section 6 merely makes commission of existing crimes through the Internet a qualifying circumstance. As the Solicitor General points out, there exists a substantial distinction between crimes committed through the use of information .and communications technology and similar crimes committed using other means. In using the technology in question, the offender often evades identification and is able to reach far more victims or cause greater harm. The distinction, therefore, creates a basis for higher penalties for cybercrimes.[21]

Indeed, a qualifying circumstance changes the nature of the crime and increases the penalty therefor. As *Disini* explained, the increase in the penalty is necessitated by the pervasiveness of the harm caused in using technology to commit the crime. **This, however, does not automatically mean that the prescriptive period for libel has been amended.**

To be sure, the Cybercrime Act did not repeal, whether expressly or impliedly, Article 90 of the Revised Penal Code. Article 90 or any provision on prescription of crime is never mentioned in the law. Had Congress intended a different prescriptive period for cyberlibel, it could easily have explicitly provided for the same. **The fact that it did not only means that the one-year prescriptive period under paragraph 4 applies even to libel committed under the Cybercrime Act.**

In addition, repeals of statues by implication is never favored. The presumption is against implied repeal because the legislature is presumed to know the existing laws on the subject and not to have enacted inconsistent or conflicting statutes. Thus, before an inference of implied repeal may be drawn, the two laws must be absolutely irreconcilable.[22] Here, there is nothing genuinely inconsistent and repugnant between Article 90 of the Revised Penal Code and the libel provisions of the Cybercrime Act. The former deals specifically with the prescriptive period for libel, while the latter pertains to the definition of the crime, particularly as to the mode of committing the same. Both provisions can stand together.

Justice Kho justifies the application of the 15-year period under paragraph 2, Article 90 of the Revised Penal Code for libel committed under the Cybercrime Act by referring to how a qualifying circumstance affects the crime of Frustrated Homicide. He explains that the existence of a qualifying circumstance changes the crime of Frustrated Homicide to Frustrated Murder, increases the penalty of the accused, and consequently the prescriptive period from 15 years to 20 years.

To my mind, this analogy may be true for crimes covered by paragraphs 1 to 3 of Article 90 of the Revised Penal Code. **But this is not true for libel. As elucidated, the legislative policy since the Penal Code until the Revised Penal Code and its subsequent amendments, is to exclude libel from the general rule of prescription of crimes under paragraphs 1 to 3 of Article 90 of the Revised Penal Code.** By consistently providing a specific and separate provision on libel, the legislative intent to set an entirely different period for its prescription is unmistakable. The Court's only duty is to apply what the law provides so as to give life to the spirit that animates it. Without the benefit of legislation, ruling that the prescriptive period for cyberlibel is 10

or 15 years is tantamount to a judicial overreach—a breach of the fundamental principle of separation of powers.

Laws on prescription of crimes are construed in favor of the accused

A statute providing for prescription of crimes is an act of grace by which the State, after the lapse of a certain period of time, surrenders its sovereign power to prosecute the criminal act. It is an act of liberality on the part of the State in favor of the offender.[23] In the interpretation of laws on prescription, the rule is to adopt that which is most favorable to the accused.[24] The case of *People v. Moran*,[25] articulated the rationale for this rule:

> We should at first observe that a mistake is sometimes made in applying to statutes of limitations in criminal suits the construction that has been given to statutes of limitations in civil suits. The two classes of statutes, however, are essentially different. In civil suits the statute is interposed by the legislature as an impartial arbiter between two contending parties. In the construction of the statute, therefore, there is no intendment to be made in favor of either party. Neither grants the right to the other; there is therefore no grantor against whom the ordinary presumptions of construction are to be made. But it is otherwise when a statute of limitation is granted by the State. Here the State is the grantor, surrendering by act of grace its rights to prosecute, and declaring the offense to be no longer the subject of prosecution. The statute is not a statute of process, to be scantily and grudgingly applied but an amnesty, declaring that after a certain time oblivion shall be cast over the offense; that the offender shall be at liberty to return to his country, and resume his immunities as a citizen; and that from henceforth he may cease to preserve the proofs of his innocence, for the proofs of his guilt are blotted out. ***Hence it is that statutes of limitation are to be liberally construed in favor of the defendant, not only because such liberty of construction belongs to all acts of amnesty and grace, but because the very existence of the statute is a recognition and notification by the legislature of the fact that time, while it gradually wears out proofs of innocence, has assigned to it fixed and positive periods in which it destroys proofs of guilt.*** Independently of these views, it must be remembered that delay in instituting prosecutions is not only productive of expense to the State, but of peril to public justice in the attenuation and distortion, even by mere natural lapse of memory, of testimony. It is the policy of the law that prosecutions should be prompt, and that statutes enforcing such promptitude should be vigorously maintained. They are not merely acts of grace, but checks imposed by the State upon itself, to exact vigilant activity from its subalterns, and to secure for criminal trials the best evidence that can be obtained.[26] (Emphasis supplied)

There is no reason for the Court to deny Causing the benefit of a liberal construction as regards prescription of crimes. When the Revised Penal Code, as amended, was enacted explicitly providing for a one-year prescriptive period for libel, the State, through an act of liberality and grace, renounced its right to prosecute said crime in favor of the accused. The Court, sitting as one, cannot simply revoke or withdraw such grant. Any diminution of this endowment must be directly and expressly sanctioned by the source itself, the State. Any doubt on this matter must only be resolved in favor of the grantee thereof, the accused.[27] Considering that the one-year prescriptive period is more favorable to the accused, paragraph 4, Article 90 of the Revised Penal Code should be applied to libel committed under the Cybercrime Act.

ACCORDINGLY, I vote to **DENY** the motions for reconsideration.

---

[1] An Act to Establish Periods of Prescription for Violations Penalized by Special Acts and Municipal Ordinances and To Provide When Prescription Shall Begin to Run.

[2] *Ponencia*, p. 2.

[3] *Id.* at 27.

[4] From "The Penal Code of the Philippine Islands (English Translation)" edited by The Attorney-General, Manila: Bureau of Printing, 1911.

[5] PENAL CODE, art. 453.

[6] *Id.*

[7] An Act Defining The Law Of Libel And Threats To Publish A Libel, Making Libel And Threats To Publish A Libel Misdemeanors, Giving A Right Of Civil Action Therefor, And Making Obscene Or Indecent Publications Misdemeanors (1901).

[8] **People v. Castro**, 43 Phil. 842 (1922) [Per J. Johnson, *En Banc*].

[9] *Id.*

[10] *See* **U.S. v. Serapio**, 23 Phil. 584 (1912) [*Per Curiam*, First Division].

[11] An Act Fixing Two Years As The Term For The Prescription Of The Crime Of Libel And Of A Civil Action Arising Therefrom (1916).

[12] Sec. 1, Act No. 2595.

[13] An Act Revising the Penal Code and Other Penal Laws (1930).

[14] ARTICLE 367. *Repealing Clause*. — Except as is provided in the next preceding article, the present Penal Code, the Provisional Law for the application of its provisions, and Act Nos. 277, 282, 480, 518, 519, 899, 1121, 1438, 1523, 1559, 1692, 1754, 1955, 1773, 2020, 2036, 2071, 2142, 2212, 2293, 2298, 2300, 2364, 2549, 2557, 2595, 2609, 2718, 3103, 3195, 3244, 3298, 3309, 3313, 3397, 3559, and 3586, are hereby repealed.

[15] *Id.*

[16] *Id.*

[17] An Act Shortening The Prescriptive Period For Libel And Other Similar Offenses, Amending For The Purpose Article Ninety Of The Revised Penal Code (1966).

[18] *Id.*

[19] An Act Defining Cybercrime, Providing for The Prevention, Investigation, Suppression and The Imposition of Penalties Therefor and For Other Purposes.

[20] 727 Phil. 28 (2014) [Per J. Abad, *En Banc*].

[21] *Id.*

[22] *See* **Hagad v. Gozo-Dadole**, 321 Phil. 604 (1995) [Per J. Vitug, *En Banc*].

[23] *See* **People v. Duque**, 287 Phil. 669 (1992) [Per J. Feliciano, Third Division]; *See also* **People v. Reyes**, 256 Phil. 1015 (1989) [Per J. Cortes, Third Division].

[24] *See* **Romualdez v. Marcelo**, 529 Phil. 90 [Per J. Ynares-Santiago, Special First Division] (Resolution).

[25] 44 Phil. 387 [Per C.J. Araullo, *En Banc*].

[26] *Id.*

[27] *See* **Romualdez v. Marcelo**, *supra* note 24.

CONCURRING AND DISSENTING OPINION

KHO, JR., *J.*:

I concur insofar as the majority held that unsigned resolutions such as *Tolentino v. People*[1] have no doctrinal value. However, I respectfully register my dissent as to the

ruling that the prescriptive period for cyber libel is only one year from discovery of the defamatory remark.

I.

As aptly pointed out by the majority, *Tolentino* was adjudicated by way of an unsigned resolution. Notably, Rule 13, Section 6 of the Internal Rules of the Supreme Court provides for the manner of adjudication of cases by the Court, to wit:

> SEC. 6. *Manner of adjudication*. – The Court shall adjudicate cases as follows:
>
> (a) By *decision*, when the Court disposes of the case on its merits and its rulings have significant doctrinal values; resolve novel issues; or impact on the social, political, and economic life of the nation. The decision shall state clearly and distinctly the facts and the law on which it is based. It shall bear the signatures of the Members who took part in the deliberation.
>
> (b) By *signed resolution*, when the Court comprehensively resolves the motion for reconsideration filed in the case or when a dissenting opinion is registered against such resolution. The signed resolution shall no longer discuss issues resolved in the decision and need not repeat the facts and the law stated in it. It shall also bear the signatures of the Members who took part in the deliberation.
>
> (c) By *unsigned resolution* when the Court disposes of the case on the merits, but its ruling is essentially meaningful only to the parties; has no significant doctrinal value; or is of minimal interest to the law profession, the academe, or the public. The resolution shall state clearly and distinctly the facts and the law on which it is based.
>
> (d) By *minute resolution* when the Court (1) dismisses a petition filed under Rule 64 or 65 of the Rules of Court, citing as legal basis the failure of the petition to show that the tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; (2) denies a petition filed under Rule 45 of the said Rules, citing as legal basis the absence of reversible error committed in the challenged decision, resolution, or order of the court below; (3) dismisses an administrative complaint, citing as legal basis failure to show a *prima facie* case against the respondent; (4) denies a motion for reconsideration, citing as legal basis the absence of a compelling or cogent reason to grant the motion, or the failure to raise any substantial argument to support such motion or the decision of the Court has already passed upon the basic issues in the case; and (5) dismisses or denies a petition on technical grounds or deficiencies.

As may be gleaned from paragraph (c) thereof, while an unsigned resolution is a disposition on the merits, the same "is essentially meaningful only to the parties; ***has no***

significant doctrinal value; or is of minimal interest to the law profession, the academe, or the public." Furthermore, in *RMFPU Holdings, Inc. v. Forbes Park Association, Inc.*,[2] the Court had definitively clarified that similar with minute resolutions, the dispositions made in unsigned resolutions are only binding between the parties. ***More significantly, the doctrine of stare decisis cannot be invoked in a subsequent case to bind nonparties thereto, who may be similarly situated as the original parties to the case resolved by such unsigned resolutions.***[3]

Given the foregoing, whatever pronouncements made in *Tolentino*—or in other unsigned resolutions for that matter—could not be made precedents in future cases involving similar facts or issues.

II.

The foregoing notwithstanding, I respectfully tender my dissent on the majority's pronouncement that the prescriptive period for cyber libel is only one year from discovery of the defamatory remark, for reasons as will be explained hereunder.

Article 353, in relation to Article 355 of the Revised Penal Code[4] (RPC), as amended, respectively defines and penalizes libel, in its traditional sense, whereas Section 4(c)(4), in relation to Section 6 of Republic Act (R.A.) No. 10175[5] respectively defines and penalizes libel, committed through and with the use of information and communication technologies, otherwise known as cyber libel, to wit:

RPC, as Amended	**RA 10175**
ART. 353. *Definition of libel*. – A libel is a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory or one who is dead. . . . . ART. 355. *Libel by means of writings or similar means*. – A libel committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means, shall be punished by *prision correccional* in its minimum and medium periods or a fine ranging from Forty Thousand Pesos (P40,000) to One Million Two Hundred	SEC. 4. *Cybercrime Offenses*. – The following acts constitute the offense of cybercrime punishable under this Act: . . . . (c) Content-related Offenses: . . . . (4) Libel. - The unlawful or prohibited acts of libel as defined in Article 355 of the Revised Penal Code, as amended, committed through a computer system or any other similar means which may be devised in the future. . . . . SEC. 6. All crimes defined and penalized by the Revised Penal Code, as amended,

Thousand Pesos (P1,200,000), or both, in addition to the civil action which may be brought by the offended party.	and special laws, if committed by, through and with the use of information and communications technologies shall be covered by the relevant provisions of this Act: *Provided*, That the penalty to be imposed shall be one (1) degree higher than that provided for by the Revised Penal Code, as amended, and special laws, as the case may be.

Considering that traditional libel has a prescribed penalty of *prision correccional* in its minimum and medium periods, then the prescribed penalty for cyber libel, which should be one (1) degree higher than that provided for traditional libel, is *prision correccional* in its maximum period to *prision mayor* in its minimum period—or four years, two months, and one day, to eight years.

As regards the issue of prescription, the majority essentially posits that since cyber libel is the same crime as traditional libel, then pursuant to Article 90 of the RPC, the prescriptive period for cyber libel is one year,[6] reckoned from the discovery of the alleged defamatory remarks posted online.[7]

As stated earlier, I respectfully disagree.

I respectfully submit that the view proferred by the majority is contrary to the ruling of the Court in *Disini, Jr. v. Secretary of Justice*.[8] In *Disini*, the Court ruled that:

> ***Section 6 of the Cybercrime Law***
>
> Section 6 provides:
>
> Sec. 6 All crimes defined and penalized by the Revised Penal Code, as amended, and special laws, if committed by, through and with the use of information and communications technologies shall be covered by the relevant provisions of this Act: *Provided*, That the penalty to be imposed shall be one (1) degree higher than that provided for by the Revised Penal Code, as amended, and special laws, as the case may be.
>
> Section 6 merely makes commission of existing crimes through the internet a **qualifying circumstance**. As the Solicitor General points out, there exists a substantial distinction between crimes committed through the use of information and communications technology and similar crimes committed using other means. In using the technology in question, the offender often evades identification and is able to reach far more victims or cause greater harm. The distinction, therefore, creates a basis for higher penalties for cybercrimes.[9] (Emphasis supplied)

As explained by the Court in *Disini*, if libel is committed through the internet or through the use of information and communication technology (ICT), the use thereof is classified as a ***qualifying circumstance***, or more appropriately, a ***qualifying aggravating circumstance*** that elevates the crime of traditional libel into cyber libel, considering that the penalty is one (1) degree higher than that of traditional libel.

The *ponencia* agrees that the use of ICT in libel, pursuant to the Court's ruling in *Disini*, is a qualifying circumstance. However, the *ponencia* failed to recognize the basic function of a qualifying circumstance in our criminal law. As early as in the case of *People v. Bayot*,[10] the Court explained that the function of a qualifying circumstance is not only to give the crime its proper and exclusive name, but also to place the author thereof in such a situation as to deserve no other penalty than that specifically prescribed by law for the said crime.

Further, since the use of ICT is the qualifying circumstance for cyber libel, the presence of such circumstance is considered an additional essential requisite of cyber libel compared to the standard elements of traditional libel. The presence of such additional essential requisite transforms the crime of traditional libel to cyber libel. Thus, traditional libel and cyber libel are two different and separate crimes.

Moreover, in the recent case of *People v. ABC260708*,[11] the Court had the opportunity to explain the nature of qualifying aggravating circumstances, to wit:

> **A qualifying aggravating circumstance changes the nature or designation of the crime and must be provided in the definition of the offense. It warrants the increase of the imposable penalty even to the next higher degrees as provided by law and cannot be offset by an ordinary mitigating circumstance**. The circumstances enumerated in Article 248 of the RPC elevate the crime from homicide to murder. Other species of qualifying aggravating circumstances are those present in qualified theft and qualified seduction. Notably, if one of the aggravating circumstances is used to qualify the crime, the others will be deemed as generic aggravating circumstances. For example, where treachery has already been appreciated to qualify the crime as murder, the presence of evident premeditation should be considered only as a generic aggravating circumstance.[12] (Emphasis supplied, citations omitted)

A simple illustration.

An accused mortally wounded the victim, but the latter survived due to timely medical intervention. The crime under this scenario may be considered as either frustrated homicide or frustrated murder, depending on the existence of qualifying circumstances as provided under Article 248 of the RPC. Verily, the existence of the recognized qualifying circumstances will change the very nature and designation of the offense from homicide to murder. As a consequence, the penalty will also change, and necessarily, will have an effect insofar as the prescriptive period of the crime is concerned. To elucidate, since the prescribed penalty for frustrated homicide is *prision*

mayor (an afflictive penalty other than death, *reclusion perpetua*, or *reclusion temporal*), then the prescriptive period for this crime is 15 years. On the other hand, since the prescribed penalty for frustrated murder is *reclusion temporal*, then the prescriptive period for this crime is 20 years.

Applying the foregoing in libel and cyber libel cases, if the libel is committed via traditional means (e.g., print media), then the specific prescriptive period as provided under Article 90 of the RPC—one year—is controlling. On the other hand, if the libel is committed through the use of ICT (e.g., by posting the same through social media websites), then the crime is not anymore traditional libel or a specie thereof, as defined and penalized under Article 353, in relation to Article 355 of the RPC. It now becomes a distinct crime of cyber libel, as defined and penalized under Section 4(c)(4) of RA 10175 because the use of ICT—a qualifying aggravating circumstance—changes the nature of the crime from libel to cyber libel.

Due to the change of the nature of the crime from libel to cyber libel brought about by the qualifying aggravating circumstance of use of ICT, the one-year prescriptive period provided under Article 90 of the RPC is no longer controlling, ***as it is only applicable in traditional libel***. Rather, taking into consideration that the prescribed penalty for cyber libel, as shown above, is *prision correccional* in its maximum period to *prision mayor* in its minimum period (four years, two months, and one day, to eight years), which is considered an afflictive penalty, ***then it is posited that the prescriptive period for libel is 15 years from discovery of the defamatory remark***.

ACCORDINGLY, I **VOTE** to grant the Motion for Partial Reconsideration filed by the Office of the Solicitor General.

---

[1] G.R. No. 240310, August 6, 2018 [Notice, First Division].

[2] 903 Phil. 518 (2021) [Per J. Caguioa, First Division].

[3] *Id.* at 534, *citing* **Deutsche Bank AG Manila Branch v. Commissioner of Internal Revenue**, 716 Phil. 676 (2013) [Per C.J. Sereno, First Division].

[4] REV. PEN. CODE (1930).

[5] Republic Act No. 10175 (2012), Cybercrime Prevention Act of 2012.

[6] *See ponencia*, pp. 11-19.

[7] *Id.* at 20-24.

[8] 727 Phil. 28 (2014) [Per J. Abad, *En Banc*].

[9] *Id.* at 125-126.

[10] 64 Phil. 269 (1937) [Per J. Diaz, *En Banc*].

[11] 950 Phil. 199 (2024) [Per J.M. Lopez, *En Banc*].

[12] *Id.* at 229.

Source: Supreme Court E-Library | Date created: May 07, 2026
This page was dynamically generated by the E-Library Content Management System