

**Bonifacio, et al. vs. Regional Trial Court of Makati, Branch 129, et al.**  
**G.R. No. 184800; 5 May 2010**

**Facts:** Upon the complaint filed by Jessie John P. Gimenez (Gimenez) on behalf of the Yuchengco Family (particularly, former Ambassador Alfonso Yuchengco and Helen Y. Dee) and the Malayan Insurance Co., Inc. (Malayan), 13 Informations for libel were filed with the Makati Regional Trial Court (RTC) against officers, trustees and a member of the Parents Enabling Parents Coalition, Inc. (PEPCI), and a certain John Doe, the administrator of the website [www.pepcoalition.com](http://www.pepcoalition.com), which provides a forum for planholders of Pacific Plans, Inc. – a wholly owned subsidiary of Great Pacific Life Assurance Corporation, also owned by the Yuchengco Group of Companies – to seek redress for being unable to collect under their pre-need educational plans after PPI, due to liquidity concerns, filed for corporate rehabilitation with prayer for suspension of payments. The Informations alleged that the accused, holding legal title to the said website, maliciously published therein the following defamatory article against the Yuchengco Family and Malayan:

Talagang naisahan na naman tayo ng mga Yuchengcos. Nangyari na ang mga kinatatakutan kong pagbagsak ng negotiation. x x x x x x x x x

For sure may tactics pa silang nakabasta sa atin. Let us be ready for it because they had successfully lull us and the next time they will try to kill us na. x x x

However, on appeal, the Secretary of Justice directed the withdrawal of the Informations for lack of probable cause, opining that the crime of “internet libel” was non-existent. On motion of the accused, the RTC, albeit finding probable cause, quashed the Informations for failure to allege that the offended parties were actually residing in Makati at the time the offense was committed as in fact they listed their address in Manila, or to allege that the article was printed and first published in Makati. The prosecution moved for reconsideration, arguing that even assuming the Information was deficient it merely needed a formal amendment. The RTC granted the motion and ordered the prosecution to amend the Information to cure the defect of improper venue. The prosecution amended the Information to show that the website was “accessible in Makati City” and the defamatory article “was first published and accessed by the private complainant in Makati City.” After the RTC admitted the Amended Information, several of the accused (petitioners) filed a petition for certiorari and prohibition with the Supreme Court faulting the RTC.

**Issues:** (1) Whether or not petitioners, in filing the petition directly to the Supreme Court, violated the rule on hierarchy of courts to thus render the petition dismissible; and (2) whether or not the RTC gravely abuse its discretion when it admitted the Amended Information.

**Held:** (1) Strict observance of the judicial hierarchy of courts requires that recourse must first be made to the lower-ranked court exercising concurrent jurisdiction with a higher court. Thus, petitions for the issuance of extraordinary writs against the RTC should be filed in the Court of Appeals. The rule, however, admits of certain exceptions as when the case involves purely legal questions. In this case, petitioners raised a pure question of law involving jurisdiction in criminal complaints for libel under Article 360 of the Revised Penal Code (RPC), as amended by Republic Act (RA) No. 4363.

(2) The Amended Information was insufficient to vest jurisdiction in Makati.

Venue is jurisdictional in criminal actions such that the place where the crime was committed determines not only the venue of the action but constitutes an essential element of jurisdiction. Venue of libel cases where the complainant is a private individual is limited to only either of two places, namely: (a) where the complainant actually resides at the time of the commission of the offense; or (b) where the alleged defamatory article was printed and first published. The prosecution chose the second.

Before Article 360 of the RPC was amended, the rule was that a criminal action for libel may be instituted in any jurisdiction where the libelous article was published or circulated, irrespective of where it was written or printed. Under that rule, the criminal action is transitory and the injured party has a choice of venue. Article 360 was amended by RA 4363 to state that such action should be brought where the article was printed and first published. The evil sought to be prevented by the amendment was the indiscriminate or arbitrary laying of the venue in libel cases in distant, isolated or far-flung areas, meant to accomplish nothing more than to harass or intimidate an accused, especially when the offended party is a person of sufficient means or possesses influence, and is motivated by spite or the need for revenge.

If the circumstances as to where the libel was printed and first published are used by the offended party as basis for the venue in the criminal action, the Information must allege with particularity where the defamatory article was printed and first published, as evidenced or supported by, for instance, the address of their editorial or business offices in the case of newspapers, magazines or serial publications. This pre-condition becomes necessary in order to forestall any inclination to harass.

The same measure cannot be reasonably expected when it pertains to defamatory material appearing on a website on the internet as there would be no way of determining the *situs* of its printing and first publication. To equate first *access* to the defamatory article on petitioners' website in Makati with "printing and first publication" would spawn the very ills that the amendment to Article 360 of the RPC sought to discourage and prevent. For the Court to hold that the Amended Information sufficiently vested jurisdiction in the courts of Makati simply because the defamatory article was accessed therein would open the floodgates to the libel suit being filed in all other locations where the *pepcoalition* website is likewise accessed or capable of being accessed.

Contrary to petitioners' claim, the venue requirements, under Article 360 of the RPC, for libel actions filed by private persons cannot be considered unduly oppressive as they still allow such persons to file the civil or criminal complaint in their respective places of residence, in which situation there is no need to embark on a quest to determine with precision where the libelous matter was printed and first published.

**Disposition:** The RTC was directed to quash the Amended Information and to dismiss the case.

**Ponente:** J. Conchita Carpio-Morales

**Vote:** 5-0