

# Judgment

NORTH HOLLAND COURT

Civil law

Court place Alkmaar

Case number: C/15/347928 / HA ZA 24-30

## Judgment of January 22, 2025

In the case of

1. The foundation  
**LINH SON TEMPLE FOUNDATION**,  
Located in Heerhugowaard,
2. **XEM DO**,  
Living in Canada,
3. **FRANK ONNO VISSER**,  
Residing in Hoorn,  
Plaintiffs,  
lawyer: mr. M.A. Mak,

Against

1. **THI KIM LOAN NGUYEN**
2. **THI NGOC SUONG TRUONG**,
3. **NGOC HIEN LAM**,  
All residing in Purmerend,  
Defendants,

lawyer: mr. E. Doornbos.

Claimants will hereinafter be referred to separately as the Foundation, Do and Visser and jointly as the Foundation et al. Defendants will hereinafter be referred to as Nguyen, Truong and Lam and jointly as Nguyen et al.

The case in short.

In an earlier (interim) judgment dated September 4, 2024, the Foundation was given the opportunity to submit a translation by a certified translator of the statements made by Nguyen. Based on the translations submitted, the court finds that the Foundation has provided sufficient concrete evidence that Nguyen published unlawful statements on its social media. The claimed injunctions against Nguyen and the claimed rectification are granted, on pain of forfeiture of a penalty payment. The damages claimed are awarded in part.

1. The further proceedings

1.1 The further course of the proceedings is evidenced by:

- The judgment of September 4, 2024 (hereinafter: the interim judgment),

- The brief after interim judgment on the side of the Foundation et al., also conditional increase of the claim, with productions,
- The request for postponement (for the taking of a brief in reply) made by mr. Doornbos by means of form B4,
- The objection to this request for postponement made by Mr. Mak in B11 form,
- The directions of November 13, 2024, rejecting the postponement request of Nguyen et al,
- The defence brief on the side of Nguyen et al,
- The request made by Mr. Doornbos by form B7, in which he requested for a further oral hearing,
- Mr. Mak's objection to this request, made on form B16, in which she also requests the court to pass judgment,
- The directions of November 27, 2024, in which the court denied the request for a further oral hearing.

1.2 Finally, judgment was again rendered.

## **2. The Assessment**

2.1 In the interim judgment, the District Court held that the Foundation et al. had not sufficiently substantiated in concrete terms that Truong and Lam had published unlawful statements or that Lam was the instigator of making unlawful public statements. With regard to the claims against Nguyen, the Court found that a translation by a sworn translator of the statements made by Nguyen was lacking and gave the Foundation et al. the opportunity to submit such a translation. In doing so, the court determined that Nguyen could respond to that sworn translation by brief of defence. Reference is made to the legal considerations under 4.16 and 4.1. in the interim judgment.

2.2 This brief exchange has since taken place. In its brief, the Foundation et al. submitted translations of the alleged defamatory statements as set out in the summons and of the statements made after the provisional judgment and argued that - in view of their extent - it was impossible to have all statements translated in their entirety and that therefore only the defamatory parts were translated

According to Foundation et al., the translations demonstrate the correctness of the statements made in the summons and the exhibits. In its deed, the Foundation et al. expressly refers to the memorandum of translator T.B. H. Vu (hereinafter: Vu) about the use of certain words in the Vietnamese language that are considered disrespectful and insulting. Finally, the Foundation et al. assumes that the costs for the translations are part of the legal costs, but to the extent that they are not, it requests that Nguyen be ordered to pay these costs as well.

2.3 Nguyen, according to her defence brief, maintains her previous position. In addition, she defends herself with the argument that it has not been established that what has been translated is also what is said by Nguyen in the videos to which the links refer. After all, in response to the translations submitted, Nguyen contacted the translation agency engaged by the Foundation et al. In that contact, Nguyen was informed that the et al. Foundation simply provided its own transcribed texts. Thus, what it did not do was pass on the Internet links that form the basis of The Foundation et al.'s claims. Thus, the translator could not

verify that what has been translated by her is also what is said by Nguyen in the videos to which the links refer. Moreover, the entire context is not included. According to Nguyen, the translations should therefore be set aside. Only when the full excerpts are reviewed by a sworn translator can a proper picture be drawn of what Nguyen has put forward. Therefore, the only proper way is for the court to still hire a court translator. Nguyen wishes to emphatically point out that she herself has already submitted the necessary translations and that she has provided the necessary nuances. According to Nguyen, the selective submission of excerpts is not the way a fair trial should be conducted. In addition, Nguyen wishes to bring forward that the actions of the Foundation et al. are in violation of the Buddhist lifestyle and that she wants to expose this in an open and honest way. It does not aim to offend. Finally, Nguyen maintains her argument that the alleged damage has not been substantiated in any way.

*Statements made are unlawful*

2.4 With due observance of the standard set out in the interim judgment under 4.1 through 4.4, the Court concludes that there have been unlawful statements by Nguyen. In view of the nature, content and frequency of those statements, the right of the Foundation et al. to protection of honour, good name and reputation outweighs Nguyen's right to freedom of expression. The claims in the Interim judgment mentioned under 3.1. under i through iii will therefore be awarded. Regarding the rectification claimed (claim iii), the Court notes that for practical/technical reasons it is not possible for it to incorporate the judgment date into the Vietnamese text. To the orders to be granted, the court will attach a penalty payment to be capped. The court will discuss the grounds for these decisions below.

2.5 In its assessment, the court will assume that the translation presented by the Foundation et al. relates to Nguyen's statements. After all, Nguyen has not sufficiently substantiated why that premise would be incorrect. Moreover, the sworn translator explicitly declares to have translated the translation into Dutch in accordance with the source text. This translation also has the same purport as the translations previously brought into the proceedings by the parties.

2.6 Apart from the fact that not all statements may have been provided with the necessary context, the sworn translation shows serious accusations (theft and sexual abuse) that do not find any support in the facts. Both Do and Visser have been repeatedly accused of this without sound basis.

2.7 Nguyen's statements are not only critical and unfriendly, but as far as the Court is concerned, they far exceed the bounds of the permissible. Thus, the court considers texts such as (among others): *"That you (...) after a few know are so humiliated that you dare not show your faces..."*, *'Step by step maggots are crawling into these rotten rotten bastards'*, *'You (...) are greedy, you (...) are angry, you (...) are stupid, such that your true face after 30 years of life as a monk, is seen through in a short time'*. *"Your blood, the blood of a criminal gang, has come to the surface,"*, *'Just to win, the wounds from your mouth stink worse than shit from the dog'*, *"(...) your heart may be beating very hard today. Why is there*

*not played the drum and wind instrument today to accompany you (mày) to the main hall of the pagoda???? Do you (mày) like your debauched sex photos”, unnecessarily hurtful and (thus) obviously unlawful so that a ban on this and similar statements is in order. All posts are abundantly provided with vomiting and otherwise hurtful emoticons. Furthermore, it has been established as undisputed that under the leadership of Nguyen a manifestation was held on August 27, 2023, at which banners were shown with photos of Do, including the texts “A horny monk”, “A stammer, a robber, a thief” and “You literally and figuratively fuck the religion and culture”. Given the multitude of unlawful statements by Nguyen (of which only a very limited part has been quoted above), her defence about the selective supply of excerpts does not stand up.*

2.8 The Court weighs strongly that Nguyen's statements are not incidental in nature and that the statements were not limited to a short period of time. After all, the remarks were posted over an honourably broad time frame (namely from June 2022 to - in any case - September 2023). Furthermore, the full names and photographs of Do and Visser were made public without permission.

2.9 Finally, Nguyen has not been able to make it clear that the context is such that it deprives the statements she made of their unlawful character. For that matter, it should be noted that the antedating of the loan agreements – whatever is true of that - offers no justification for publicly accusing Do and Visser of fraudulent practices, let alone that such insulting and hurtful statements would be permissible.

#### Damage

2.10 As ruled above, the statements made about the Foundation et al. by Nguyen on her social media are unlawful. Because of the unequivocally unlawful nature of those statements, the damages suffered by the Foundation et al. as a result should be compensated. However, Nguyen disputes that the Foundation et al. has suffered damages.

2.11 Do and Visser have argued that they have suffered immaterial damage because their honour and reputation have been affected. For instance, the vehement accusations against Do have been spread around the world intensively for years and the insults expressed affect him all the more in view of his position as a (prominent) monk for whom integrity is so important. Something similar applies to Visser against whom a disciplinary banking complaint has also been filed. He has even been completely overworked for several weeks from the serious and false accusations. During the oral hearing, Visser explained that the statements have had a great impact on Do, Visser and the temple and that they have suffered enormous reputational damage.

2.12 The Court considers it sufficiently established that Do and Visser have suffered reputational damage and that their personal privacy has been firmly violated. Do and Visser have sufficiently explained that Nguyen's remarks have had a great impact on their lives and work. This unlawful act thus justifies compensation for immaterial damages (Article 6:106 sub b Civil Code, hereafter BW). Since the amount of such compensation cannot, by its very nature, be accurately determined, it will be estimated (Article 6:97 Civil Code). The court considers an amount of immaterial damages of € 5,000.00 for Do and

€2,000.00 for Visser is appropriate. The court takes into account the circumstance that Visser is much less than Do a public person and that Nguyen's Facebook page has a relatively small reach. The Court also takes into account that the statements were visible for a very long time. Finally, the Court considers it important that the statements contained highly offensive passages and that pictures of Do and Visser were also posted on Nguyen's Facebook page.

#### Other Damages

2.13 It must now be assessed whether the Foundation has also suffered damage as a result of Nguyen's statements. To this end, the Foundation has argued that it has lost a lot of donation money as a result of the statements. With Nguyen, the court finds that this damage is insufficiently substantiated. That the income of the Foundation has declined sharply and that this can be blamed on Nguyen has not been demonstrated. Moreover, during the oral hearing it was explained on behalf of the Foundation that the damages are based on an estimate made by Visser on the basis of donations from the past. This means that this claim will be dismissed.

#### Costs of translations

2.14 Finally, the Foundation et al. claim that Nguyen be ordered to pay the costs of Vu's translations. According to the invoice submitted by the Foundation et al. this amount consists of two amounts, one of which apparently relates to the statements mentioned in the summons and the other apparently to statements after the provisional interim judgment. The Court will limit the costs of the translations to that which was ordered by the Foundation et al. in the interim judgment, namely the amount of € 1,667.00 + € 350.07 in VAT). After all, as far as these costs are concerned, the usefulness and necessity of the translations in question are evident from the earlier judgment. The reasonableness of the costs charged by Vu for this work has not been disputed by Nguyen. This means that an amount of € 2,017.07 including VAT will be awarded for translation costs.

#### Legal costs

2.15 Nguyen has been ruled against and must therefore pay the costs of the proceedings (including follow-up costs). The legal costs of the Foundation et al. are estimated to date at:

- Costs of the summons	€	150.02
- Court fees	€	2,889.00
- Lawyer's fees	€	3,035.00 (2.5 points x tariff IV € 1,214.00)
- Subsequent costs	€	178.02 (plus the increase as stated in the decision)

Total	€	6,252.02
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2.16 As considered and decided in the judgment of September 4, 2024, the claims against Truong and Lam are dismissed. With respect to them, the Foundation et al. is therefore ruled against and must pay the costs of the proceedings. These costs the court estimates to date at nil.

### 3. The decision

The Court

3.1 Prohibits Nguyen from publicly suggesting on Facebook and/or through other media and/or otherwise directly or indirectly (through others) that Do and/or Visser would be sexually abusive and/or have taken money away from the temple on pain of forfeiture of a penalty of € 500.00 for each violation that is in full or partial violation thereof, with a maximum of € 30,000.00,

3.2 Prohibits Nguyen Do and/or Visser on Facebook and/or through other media and/or otherwise directly or indirectly (through others) from publicly addressing Do and/or Visser in an unnecessarily hurtful manner including, but not limited to by using swear words in connection with Do and/or Visser (jointly or each separately) including referring to them as *Asshole; Dirty Dirty Dog; Dirty Dog; Castrated Dog; Hungry Dog; Mad Dog; Dog; Virus; Fucking Dirty; Fuck Up; Depressed Frank Virus; Borderliner; Manipulative and Narcissistic Personality; Imbecile; Crook; Stupid Thing; Thằng and Con chó* and the posting of objectionable emoticons (such as a vomiting emoticon, a poop emoticon, an emoticon with devil's ears) on pain of forfeiture of a penalty of €500.00 for each offense that it is violated in whole or in part, up to a maximum of €30.000,00,

3.3 Orders Nguyen to send a written rectification - in letter form addressed to Do and Visser per address Linh Son Temple Foundation - within four days of the service of this judgment with only the following text in Dutch, in English and in Vietnamese rendered in the normal manner:

#### **In English**

*Dear Mr. Do and Mr. Visser,*

*I confirm that the District Court of Noord Holland has ordered me by judgment of 22 January 2025 to confirm to you that my statements about you both amongst which the accusation that Mr. Do with the support of Mr. Visser defrauded the Linh Son Temple and committed sexual abuse as well as my naming and shaming of you both have been considered by the District Court to be tortious since there is no evidence for my accusations and certain words I used in my accusations have been considered to be abusive. The District Court ordered me to cease and desist this behavior and to send you this letter. You have the right to make this letter public on your website and to communicate the same to other interested parties.*

*Sincerely yours,*

[Name]

#### **In Dutch**

*Geachte heren Do en Visser,*

*Ik bevestig dat de Rechtbank Noord-Holland mij bij vonnis van 22 januari 2025 heeft bevolen om aan u te bevestigen dat mijn verklaringen over u beiden, waaronder de beschuldiging dat de heer Do met de steun van de heer Visser de Linh Son Tempel heeft opgelicht en seksueel misbruik heeft gepleegd, alsmede mijn naming and shaming van u beiden, door de rechtbank als onrechtmatig zijn aangemerkt, aangezien er geen bewijs is voor mijn beschuldigingen en bepaalde woorden di ik gebruikte in mijn beschuldigingen zijn beschouwd als beledigend. De rechtbank heeft mij bevolen dit gedrag te staken en u deze brief te sturen. U heeft het recht om deze brief openbaar te maken op uw website en deze mee te delen aan andere geïnteresseerden.*

*Hoogachtend,*

*[NAME]*

**In Vietnamese**

*Kính xác nhận rằng Tòa án trực thuộc vùng miền Bắc Hòa Lan đã ra lệnh cho tôi theo phán quyết của [...] phải xác nhận với hai vị rằng những lời tôi đã viết về hai vị, bao gồm cả cáo buộc của tôi rằng ông Đỗ, với sự hỗ trợ của ông Visser, đã lường gạt tiền của Phật Tử Chùa Linh Sơn Hòa lan và Ông Đỗ đã phạm tội lạm dụng tình dục, cũng như việc tôi đã nêu tên và bôi nhọ danh dự của hai vị. Tôi đã bị Tòa án phạt rằng việc làm của tôi là bất hợp pháp, vì tôi không có bằng chứng nào để chứng minh cho lời buộc tội của tôi và một số từ ngữ tôi đã sử dụng cản trở hành vi này và gửi cho hai vị bức thư này. Hai vị có quyền công khai bức thư này trên trang nhà của mình và truyền đạt thư này tới những người khác mà hai vị quan tâm đến.*

*Trân trọng,*

*[NAME]*

and to post the above letter on her Facebook page for one month in a regular and clearly visible manner whereby the message is pinned so that it remains at the top during this period, on pain of forfeiting a penalty of € 500.00 for each day that this is violated in whole or in part, with a maximum of € 30,000.00,

3.4 orders Nguyen to pay to Do an amount of € 5,000.00 in immaterial damages,

3.5 orders Nguyen to pay to Visser an amount of € 2,000.00 in immaterial damages,

3.6 orders Nguyen to pay to the Foundation et al. an amount of € 2,017.07 including VAT for translation costs,

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3.7 orders Nguyen to pay the legal costs of €6,252.02, to be paid within fourteen days of notice to that effect, to be increased by €92.00 plus costs of service if Nguyen fails to comply with the order in time and the judgment is served thereafter,

3.8 dismisses the claims against Truong and Lam,

3.9 orders the Foundation et al. to pay Truong and Lam's legal costs, which are assessed at nil to date,

3.10 declares this judgment provisionally enforceable,

3.11 rejects the further or different claims.

This judgment was rendered by A.C. Haverkate and publicly pronounced on January 22, 2025.

