

MARISSA B. DIADULA, PLAINTIFF-APPELLANT, VS. SILVERIA T. MARSAMOLO, DEFENDANT-APPELLEE.

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

This is an appeal[1] from the Decision[2] dated January 8, 2007 of the Regional Trial Court (RTC), Branch 47, Tagbilaran City in Civil Case No. 6812 for Damages. The assailed Decision dismissed the instant case holding that the defendant-appellee's act of filing complaints or charges against the plaintiff-appellant before the Civil Service Commission and the then Officer-in-Charge of the Provincial Agriculture Office did not amount to evident bad faith or were patently malicious so as to warrant the award of damages under Articles 19 to 21 of the Civil Code and likewise held that even if damages resulted to the plaintiff-appellant, the same is “damnum absque injuria.”

The Antecedents

This case stemmed from a Complaint[3] for Damages filed by plaintiff-appellant against defendant-appellee on the ground that two complaints or charges were filed against her, the first was a complaint for the alleged commission of the offense of falsification and violation of the Anti-Graft and Corrupt Practices Act before the Civil Service Commission, Provincial Office, Tagbilaran City dated May 10, 1999, while the second was a letter-complaint dated November 18, 2002 addressed to Mrs. Judith Uy-Sumatra, the then Officer-in-Charge of the Provincial Agriculture Office, Province of Bohol allegedly imputing that the plaintiff-appellant was the one who placed a big question mark in black ink on the November 2002 Bundy Clock Time Card (BCTC) of the defendant-appellee. Plaintiff-appellant posited that the filing of these charges were malicious, unfounded and with the intention of harassing her. As a result of these cases, plaintiff-appellant was humiliated publicly and her name and reputation were severely desecrated causing her damage and prejudice. There being a resulting prejudice, plaintiff-appellant contended that the defendant-appellee must be held accountable. Hence, in her Complaint, plaintiff-appellant sought for the award of moral, exemplary and actual damages as well as litigation expenses and attorney's fees.

On the contrary, in her Answer with Counterclaim,[4] defendant-appellee pleaded good faith as the charges lodged against plaintiff-appellant were accordingly made by her in her capacity as the Administrative Officer III of the Provincial Agriculture Office and that she had acted regularly in accordance with the function bestowed by her office. By way of counterclaim, defendant-appellee alleged that as a consequence of this malicious suit against her, she suffered sleepless nights and felt sad, worried and tormented. As such, the plaintiff-appellant should be held liable for moral damages as well as attorney's fees and litigation expenses.

After pre-trial conference,[5] the trial court then proceeded to try the case on the merits. Trial on the merits started before the Honorable Raineldo T. Son and was later transferred to the herein Presiding Judge, Honorable Suceso A. Arcamo, when the former passed away on October 30, 2004.[6]

The evidence for the plaintiff-appellant, as culled from the trial court's summary, is as follows:

“Two of the witnesses testified for the plaintiff, namely: (1) Marissa B. Diadula, the plaintiff herself and (2) Liza Migrño Quirog.

x x x x

Stripped of the non-essentials, the testimonies of the above-named witnesses can be summarized as follows:

Plaintiff Marissa B. Diadula testified that she is the Records Officer II of the Provincial Agriculture Office whereas defendant Silveria Faelden, now Mrs. Silveria T. Marsamolo was their Administrative Officer.

Plaintiff claimed that while she was working with the defendant Mrs. Silveria Marsamolo, she (plaintiff) was always bothered and had no peace of mind. There were instances when she was supposed to be sent for training but the defendant blocked the same. Defendant resented when she (plaintiff) sometimes made corrections on the communication letters written by (defendant) which passed thru her table because she (defendant) could not accept the fact that a mere subordinate like her (plaintiff) would correct the former's work.

Defendant had also filed a case against her and her officemate Emma Abellana with the Civil Service Commission for falsification of public records as allegedly, plaintiff punched in the Bundy clock time card of Emma Abellana. She was ordered by the said commission to file under oath her answer and that of Emma Abellana. Their office security guard, Mr. Calixto Alfafero, had executed an affidavit in support of her affidavit.

However, the Civil Service Commission remanded the case against them to the Office of the Governor thru Mrs. Josephine Relampagos, the Human Resource Management and Development Officer, Province of Bohol. According to the Commission, the act of defendant in filing a complaint against them with the Civil Service Office was improper because it was not referred first to the HRMDO and the Office of the Governor.

After being summoned, Mrs. Josephine Relampagos investigated them (plaintiff and defendant) concerning the matter at issue. Mrs. Relampagos asked Mrs. Marsamolo what she would like to happen and the latter answered that she wanted her (plaintiff) to ask for forgiveness. She (plaintiff) retorted by saying that she could never ask forgiveness from the defendant because she had not done the act which was the subject of defendant's complaint. The defendant requested from Mrs. Relampagos that both plaintiff and Mrs. Abellana would get reprimanded. They (plaintiff and Abellana) waited for the reprimand letter and since there was none, they thought that the case was already closed and terminated.

x x x x

On November 18, 2002, defendant Silveria Marsamolo requested for an investigation regarding her (defendant) Bundy clock time card for the month of November 2002 which was allegedly written with a big question mark in black ink. Thereafter, Mrs. Silveria Marsamolo again filed a complaint against her addressed to the Officer-in-charge of the Provincial Agriculture Office, Mrs. Judith Uy-Sumatra where it was alleged that she (plaintiff) was the one who wrote a question mark on defendant's Bundy clock time card. Mrs. Judith Uy-Sumatra required her (plaintiff) to explain in writing regarding the complaint of defendant. Plaintiff then filed her counter-affidavit to explain her side. Mrs. Marsamolo filed her reply to plaintiff's explanation on December 11, 2002 which plaintiff received on December 13, 2002. Defendant's reply however was not responsive as it dealt on personal matters.

No resolution was rendered on the complaint of the defendant and no investigation was done by Mrs. Sumatra on the plaintiff.

Because of defendant's actions, plaintiff suffered anxiety and sleepless nights. She was hurt, downhearted and she cried as she could not understand why she had been unfairly treated by the defendant.

Before the filing of the instant case, plaintiff first filed a complaint against the defendant before the Office of

the Punong Barangay of Poblacion III where they were both called for a conference. Since no settlement was reached she was issued a Certification to File Action against Mrs. Marsamolo dated February 19, 2003.

Her main cause of action for damages against the defendant Mrs. Silveria Marsamolo was defendant's false accusation against her of having tampered defendant's Bundy clock time card.

x x x x

The second witness for the plaintiff was Liza M. Quirog. She was the Acting Executive Secretary to the Governor before she was transferred and appointed as Officer-in-Charge of the Department of Agriculture, Province of Bohol in June 19, 2000. In September 2000, she was relieved by the Governor but she again assumed office on March 17, 2001 as the Provincial Agriculturist of Bohol. She knows the plaintiff Marissa Diadula and the defendant Silveria Marsamolo who were her officemates at the Provincial Agriculture Office, Bohol.

When she assumed office as Assistant Provincial Agriculturist and at the same time acting as Administrative Officer, she filed an administrative case against Mrs. Marsamolo on the ground of habitual absenteeism.

As defendant's administrative officer, she was not able to rate her performance in the office because the latter did not submit her performance evaluation. The ratings in the Performance Evaluation System are from 0 to 10, ten being excellent. In terms of intellectual capability, she believes that Mrs. Marsamolo can perform her job if she would.

Since she became the Provincial Agriculturist she observed that Mrs. Marsamolo was not very cooperative. In the last term of January to June 2000, she gave her several warnings on poor performance which were rated as 0. In terms of her personal relationship with other employees, she was indifferent and would not cooperate in holding a dialogue. One time she asked her to submit her DTR but defendant said 'I will submit only when I want to.' At another time also, they were both attending a conference in the Governor's Office and when she asked her, 'Where were you? You were absent?,' Mrs. Marsamolo replied, 'We will not talk.'

The then Governor Rene L. Relampagos called the office personnel of the Provincial Agriculture for a dialogue to settle issues not only between the plaintiff and defendant but for every one in the office. During that meeting, the employees promised the governor to work harmoniously with each other and help achieve the task of the office.

After the meeting with the governor, defendant was transferred to the Provincial Motorpool Office. She believed that it was done by the governor in order to give in to the request of the employees and also not to hurt Mrs. Marsamolo's ego. When defendant was already transferred to the Provincial Motorpool, she (witness) was designated as the Acting Provincial Agriculturist per Memorandum or Office Order No. 18, Series of 2000.

When Gov. Rene L. Relampagos lost in the 2001 elections but before the new governor Erico B. Aumentado assumed office, she had been appointed as the Provincial Agriculturist of Bohol.

When the new governor was about to assume office in the last week of June 2001, Mrs. Marsamolo was transferred back to the Office of the Provincial Agriculture from the Provincial Motorpool.

She was aware that the defendant had filed a case against the plaintiff before the Civil Service Commission and another complaint also against the plaintiff before the Office of the Governor. She also knew that plaintiff Marissa Diadula had filed a case against the defendant with the barangay captain of Poblacion III before the instant case in court. She was present at one time during the barangay conference upon the invitation of Ms. Diadula. Defendant Silveria Marsamolo objected to her presence at the barangay conciliation proceedings because accordingly, she (witness) was not in the Office of the Provincial Agriculture when the incident of putting a question mark on defendant's Bundy card happened.

x x x x.”[7]

After the plaintiff-appellant had rested, defendant-appellee then presented her evidence. The version of the defendant-appellee, as narrated by the trial court is quoted hereunder:

“The testimonial evidence for the defendant consisted of the testimonies of defendant herself Silveria Marsamololo and the latter's witness Judith Uy-Sumatra.

x x x x

Defendant Silveria Timbal Marsamololo testified that plaintiff was the Records Officer II during the time when she was the Administrative Officer of the Provincial Agriculture Office while Emma M. Abellana was their utility worker.

She had written a letter to Atty. Karin Litz P. Zerna, Acting Director II of the Civil Service Commission, Head Office, Tagbilaran City dated May 10, 1999 where her surname was still Faelden because she was still then in the process of annulling her first marriage. She got married again in 2002. The gist of her letter was about an incident regarding the bundy clock time card and the DTR of Emma Abellana for the month of April 1999 which were missing. Their office timekeeper Mrs. Rina Tangcawan was the one who recovered the said bundy clock time card and DTR of Mrs. Abellana which were then given to her (defendant). Mrs. Rina Tangcawan told her that she received the DTR and the bundy clock time card of Mrs. Abellana from the plaintiff Marissa Diadula. She was surprised because the bundy clock time card should not be in the possession of anybody, not even its owner except when the DTR was to be filled up with the entries in the bundy clock time card.

She then made her own personal investigation and found out that the handwritten entries in the bundy clock time card and DTR of Mrs. Abellana were not that of Abellana's. She also noticed that the entries in the bundy clock time card on the 19[th] and 23[rd] of April were handwritten. When she made a check whether the bundy clock was operational or not during the aforesaid dates, she found out that it was operational.

Before the above incident, she had already observed that Marissa Diadula lacked respect on her being the administrative officer. Plaintiff did not want to be under her direct supervision and control.

The Civil Service Commission referred her complaint against the plaintiff and Mrs. Abellana to the HRMDO where they were amicably settled as what she only wanted from them was to ask forgiveness and to refrain from committing the same offense again.

On November 18, 2002, she wrote a letter-report addressed to their OIC Mrs. Judith Uy Sumatra stating that she discovered that her bundy clock time card for the month of November 2002 was written with a big question mark in black ink. During that time, she was trembling with anger and she got nervous. Their office was in some sort of commotion as to who was the one responsible for tampering with her card. Somebody informed her that it must have been the plaintiff Marissa Diadula who did the markings. When asked by the Court if she could mention the names of the employees who pinpointed Marissa Diadula as the culprit, herein defendant stated that she would not divulge their names as they were not willing to execute an affidavit which would attest to that it was the act of the plaintiff. Besides, she stated she did not believe the report but nevertheless, she wanted that plaintiff would be investigated in order for her to defend her side.

She admits she does not have any evidence against Marissa Diadula except the rumors she heard.

She had also been receiving several anonymous letters against her which were sent thru the office of the governor but she could not pinpoint to Mrs. Diadula as the one who wrote those anonymous letters. The persons with whom she perceived to have a personal grudge against her are the plaintiff Marissa Diadula, Salvio Gutierrez and Lyndon Flores who were the recipients of a memorandum that she sent. In the case of Lyndon Flores and Salvio Gutierrez, it was about drunkenness during office hours while in the case of plaintiff Marissa Diadula, she sent her a series of memoranda which started in 1999 when she punched in the bundy

clock time card of another employee.

As the office administrative officer, she did not think of talking about the case at issue privately with the plaintiff because during that time she had a previous animosity or personal grudge against her (plaintiff) pertaining to their office work.

She denied the allegation of plaintiff that she filed several unfounded, fabricated and baseless cases against her because she had filed only one case against plaintiff in the Office of the Civil Service Commission.

x x x x

She is presently assigned at the Bohol Agricultural Promotions Center at the rice seed production since July 2004 due to conflict with their head of office Liza Migrño Quirog, the incumbent Provincial Agriculturist. Until now she and Provincial Agriculturist Liza M. Quirog are not in good terms with each other because she was being harassed by the latter.

The other witness for the defendant, Judith Uy Sumatra, testified that she was appointed as Officer-in-Charge of the Provincial Agriculture Office by Gov. Erico B. Aumentado on September 1, 2001. Before she assumed office as such OIC, the Provincial Agriculturist during that time was Mrs. Liza Migrño Quirog. Defendant Silveria Marsamolo was the Administrative Officer while Marissa Diadula was the Records Officer II under the Administrative Division.

At one time, before she was appointed as OIC, Mrs. Liza M. Quirog and defendant Silveria Marsamolo had a heated argument before her in the governor's office which prompted her to walk out because she did not understand what was going on between the two.

She had been briefed by Gov. Aumentado about the situation in the subject office where there was a political faction among employees and was also instructed by the governor to unite the employees therein.

Mrs. Silveria Marsamolo wrote her a letter-report regarding her tampered bundy clock time card which was written with a question mark in black ink. She (defendant) pointed out in her letter that it was plaintiff Marissa Diadula who could be responsible in the marking of the big question mark. Mrs. Marsamolo was asking for an investigation of her case to include the security guard and their office timekeeper.

Among those she interviewed or investigated, one or two mentioned Mrs. Diadula's name but they could not produce any evidence against her. Some gave different names and different suspects but no particular person was pinpointed to be the one responsible for it.

When she asked Mrs. Marsamolo why she pinpointed out to Mrs. Diadula as the culprit, Mrs. Marsamolo said that it was because of a previous case between her and the plaintiff with the Office of the Civil Service Commission regarding falsification of records.

In the course of her interview with the office employees, she found out that some of them were quiet (sic) antagonistic with their Administrative Officer Mrs. Silveria Marsamolo. She came to know that Mrs. Silveria Marsamolo was a subject of petition letters and complaints among the employees of the Provincial Agriculture Office.

As her gesture to unify the plaintiff and defendant, she asked the plaintiff to act as her secretary knowing that Mrs. Marsamolo would visit regularly her office in the afternoon to report administrative matters. She thought that with Mrs. Marsamolo's frequent coming and going from her office and with Mrs. Diadula acting as her secretary, there could be a chance for both of them to interact with each other and perhaps lessen the antagonistic atmosphere in the office. But she observed that Mrs. Diadula was giving Mrs. Marsamolo a cold treatment and they were not talking to each other.

She issued a Certification dated January 24, 2003 where she stated that the actuation of Mrs. Marsamolo was

within the bounds of her duties and responsibilities as Administrative Officer.

x x x x.”[8]

The Ruling of the RTC

After trial on the merits and submission by the parties of their respective memoranda,[9] the RTC rendered on January 8, 2007 its challenged Decision,[10] which disposed as follows:

“WHEREFORE, prescinding from the foregoing disquisition, the herein case is hereby dismissed.”[11]

Dissatisfied with the foregoing decision, plaintiff-appellant appealed before Us assigning the following errors:

I.

THE TRIAL COURT [ERRED] IN FINDING GOOD FAITH FOR THE DEFENDANT-APPELLEE DESPITE OVERWHELMING EVIDENCE OF MALICE.

II.

THE TRIAL COURT ERRED IN DENYING PLAINTIFF-APPELLANTS [SIC] CLAIMS FOR DAMAGES DESPITE THE UTTER LACK OF PROBABLE CAUSE IN THE CASES FILED AGAINST HER BY DEFENDANT-APPELLEE.

III.

THE TRIAL COURT ERRED IN CONCLUDING THAT THERE WAS NO LEGAL INJURY SUFFERED BY PLAINTIFF-APPELLANT DESPITE DEFENDANT-APPELLEES [SIC] INORDINATELY BLATANT ABUSE OF HER RIGHTS ALL USED TO PREJUDICE PLAINTIFF-APPELLANT.[12]

This Court’s Ruling

The instant appeal is bereft of merit.

The foregoing issues being interrelated, they will be discussed jointly hereunder.

Trial Court's Findings Of Facts Are Accorded Due Respect On Appeal

Plaintiff-appellant's arguments rest on the oft-repeated pronouncement that the conclusions and findings of fact by the trial court are entitled to great weight on appeal and should not be disturbed unless for strong and cogent reasons because the trial court is in a better position to examine real evidence as well as observe the demeanor of the witnesses while testifying.[13]

The rule that the trial court's findings of facts are accorded due respect on appeal is not without exceptions. It is not applicable where there are strong and cogent reasons as when the trial court's findings are not supported by the evidence or when the trial court failed to consider material facts which would have led to a conclusion different from what was stated in its judgment or when the trial court's decision was attended by grave abuse of discretion amounting to lack of jurisdiction.[14]

Unfortunately for the plaintiff-appellant, however, We have made a close hard look into the bases for the trial court's decision and found none of the foregoing exceptions as obtaining herein to warrant a re-examination or reversal of the trial court's finding.

No Malice Attended the Filing of the Two Charges Against the Plaintiff-appellant

For Our resolution is the issue of whether plaintiff-appellant is entitled to damages for malicious prosecution.

However, before We could resolve said issue, We should first determine whether the filing of the complaints or charges against plaintiff-appellant constituted malicious prosecution.

It is plaintiff-appellant's submission that the filing of the two (2) charges against her by the defendant-appellee were not motivated by good faith but instead, motivated by malice and ill-will. That the filing of the letter-complaint which allegedly imputed to her the writing of a big question mark in black ink on defendant-appellee's November 2002 bundy clock time card, despite not having any evidence to prove her culpability of the said charge, is indicative of legal malice in itself or an inexcusable intent to injure, oppress, vex, annoy, and humiliate the plaintiff-appellant.

We are not persuaded.

In this jurisdiction, the term "malicious prosecution" has been defined as "an action for damages brought by one against whom a criminal prosecution, civil suit, or other legal proceeding has been instituted maliciously and without probable cause, after the termination of such prosecution, suit, or other proceeding in favor of the defendant therein." To constitute "malicious prosecution," there must be proof that the prosecution was prompted by a sinister design to vex or humiliate a person, and that it was initiated deliberately by the defendant knowing that his charges were false and groundless.[15] Concededly, the mere act of submitting a case to the authorities for prosecution does not make one liable for malicious prosecution.[16]

In an action to recover damages based on malicious prosecution, it must be established that the prosecution was impelled by legal malice. There is necessity of proof that the suit was so patently malicious as to warrant the award of damages under Articles 19 to 21,[17] of the Civil Code, or that the suit was grounded on malice or bad faith.[18] Moreover, it is a doctrine well-entrenched in jurisprudence that the mere act of submitting a case to the authorities for prosecution does not make one liable for malicious prosecution, for the law would not have meant to impose a penalty on the right to litigate.[19]

Applying the legal precepts in the recent case, We affirm the findings of the RTC that there was no proof of a sinister design on the part of the defendant-appellee to vex or humiliate plaintiff-appellant in instituting the two complaints against her. The RTC ruled in this wise and We quote:

“Thus, the mere act of the defendant in filing the subject complaint with the Civil Service Commission and the letter-complaint with Mrs. Judith Uy-Sumatra is not conclusive of bad faith or abuse of right.

Plaintiff and defendant may have been at each other's throats for some time now but that alone will not establish with certainty that the defendant was actuated and moved by malice in filing the subject complaints against the plaintiff and thus, overturn the presumption of good faith in defendant's favor.

The Court notes that the complaint filed by defendant against the plaintiff with the Civil Service Commission was made by the defendant in her capacity as the Administrative Officer III of the Office of the Provincial Agriculturist.

The complaint was not dismissed outright by the Civil Service Commission but was remanded to the Office of the Governor of the Province of Bohol for proper action, the latter being the office with the jurisdiction to handle such type of cases. It was just fortunate that the case died a natural death without any of the parties getting even a slight slap on the wrist from the Governor's Office thru the Human Resource Management and Development Office (HRMDO). However, on the flip side of the coin, there was also never a determination and much more a declaration by the Governor's Office that the case was baseless and filed on pure slight and malice.

Thus, when even in the Mamitua Saber case which had involved a far graver subject than the one in the present case as it sprung from a criminal case where after trial the accused was acquitted, the Supreme Court was still

able to afford to declare that there was no abuse of rights on the part of the complainants despite the acquittal of the accused, there is no reason why the herein court cannot resolve that the mere filing by the defendant of the complaint with the Civil Service Commission is but an exercise of her right to litigate absent any sufficient proof from the plaintiff that defendant had acted with bad faith.

Good faith is presumed and he who alleges bad faith has the duty to prove the same. Sadly, in this case, the plaintiff was not able to discharge such mandate.

On the issue whether defendant's letter-complaint sent to Mrs. Uy-Sumatra was also malicious, a perusal of the subject letter-complaint would reveal that it did not conclusively pointed out to the plaintiff as the author of the defacing of the defendant's Bundy Clock Time Card. In fact, contained therein is a request by the defendant to give plaintiff the chance and the opportunity to air out her side of the matter. Such a fact clearly negates bad faith.

Finally, it was found out after due and impartial investigation by the proper officials of the Provincial Government charged with ferreting out the truth in connection with the aforesaid incident that the defendant had acted regularly in accordance with her functions as such administrative officer.

Mrs. Judith Uy-Sumatra, Officer in Charge of the Provincial Agriculture Office who was upheld by Atty. Antonio S. Amora, Jr., Provincial Administrator acting by the authority of the Governor, found and certified to the effect that the act of defendant Mrs. Silveria T. Marsamolo was within the discharge of her functions and responsibilities as the Administrative Officer of their office and as the offended party of the case.”[20]

At the risk of being redundant, We stress that the proscription against the imposition of penalty on the right to litigate must not be violated. Mere filing of a suit does not render a person liable for malicious prosecution should he be unsuccessful, for the law could not have meant to impose a penalty on the right to litigate.[21] We also do not find the actuations of defendant-appellee to be impelled by legal malice.

Moreover, even if the letter-complaint addressed to Mrs. Judith Uy-Sumatra was dismissed for being unfounded, the award of moral damages is not a legal consequence that would automatically follow. Moral damages are only awarded if the basis therefor, as provided in the law quoted above, is duly established.

In the present case, the ground that plaintiff-appellant invoked and failed to establish is malicious prosecution. The case of *Crystal v. Bank of the Philippine Islands*[22] is instructive on this point, as it states that the law never intended to impose a penalty on the right to litigate so that the filing of an unfounded suit does not automatically entitle the defendant to moral damages:

The spouses' complaint against BPI proved to be unfounded, but it does not automatically entitle BPI to moral damages. Although the institution of a clearly unfounded civil suit can at times be a legal justification for an award of attorney's fees, such filing, however, has almost invariably been held not to be a ground for an award of moral damages. The rationale for the rule is that the law could not have meant to impose a penalty on the right to litigate. Otherwise, moral damages must every time be awarded in favor of the prevailing defendant against an unsuccessful plaintiff. (Emphasis supplied)

In light of Our ruling on non-entitlement to moral damages, the award of exemplary damages is likewise unwarranted. The rule in Our jurisdiction is that exemplary damages are awarded in addition to moral damages. In the case of *Mahinay v. Velasquez, Jr.*,[23] it was held:

Neither is respondent entitled to exemplary damages. "If the court has no proof or evidence upon which the claim for moral damages could be based, such indemnity could not be outrightly awarded. The same holds true with respect to the award of exemplary damages where it must be shown that the party acted in a wanton, oppressive or malevolent manner." Furthermore, this specie of damages is allowed only in addition to moral damages such that no exemplary damages can be awarded unless the claimant first establishes his clear right to

moral damages. (Emphasis supplied)

Neither do We find factual and legal basis for the award of attorney's fees. It has been consistently held that the award of attorney's fees is the exception rather than the general rule, and "counsel's fees are not to be awarded every time a party wins a suit. The discretion of the court to award attorney's fees under Article 2208 of the Civil Code demands factual, legal, and equitable justification, without which the award is a conclusion without a premise, its basis being improperly left to speculation and conjecture. In all events, the court must state the reason for the award of attorney's fees." [24] None of the circumstances justifying an award of attorney's fees enumerated under Art. 2008 of the Civil Code are present, or have been proven in this case. [25]

In sum, We find no reversible error on the part of the trial court in dismissing the instant case and in effect holding that defendant-appellee cannot be held liable for damages for the alleged malicious prosecution by her.

With the view We take of this case, We deem it unnecessary to dwell with the other issues raised by the plaintiff-appellant.

WHEREFORE, premises considered, the instant appeal is DENIED. The Decision dated January 8, 2007 of the RTC, Branch 47, Tagbilaran City in Civil Case No. 6812 is hereby AFFIRMED IN TOTO.

SO ORDERED.

Ingles, [*] and Azcarraga-Jacob, JJ., concur.

[*] Acting Chairperson per Office Order No. 14-14-GTI dated June 26, 2014.

[1] See Notice of Appeal, records, page 236.

[2] Penned by Judge Suceso A. Arcamo, records, pages 219-233.

[3] Records, pages 1-12.

[4] Records, pages 25-35.

[5] See Pre-trial Order, records, page 46.

[6] See page 2 of RTC Decision, records, page 220.

[7] Pages 4-8 of RTC Decision, records, pages 222-226.

[8] Pages 9-12 of RTC Decision, records, pages 227-230.

[9] Memorandum for plaintiff, records, pages 212-218; Memorandum for defendant, records, pages 209-211.

[10] Supra, at note 2.

[11] See page 15 of RTC Decision, records, page 233.

[12] Rollo, page 27.

[13] Capco v. Macasaet, G.R. No. 90888, September 13, 1990; Chase v. Buencamino, 136 SCRA 605 (1985).

[14] Capco v. Macasaet, supra.

[15] Moreno, Philippine Legal Dictionary, 3rd ed., 1988, p. 25 cited in the case of Yasoña v. De Ramos, G.R. No. 156339, October 6, 2004.

[16] *Yasoña v. De Ramos*, supra; *Manila Gas Corporation vs. Court of Appeals*, G.R. No. L-44190, 30 October 1980.

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

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

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

[18] *Solidbank Corporation v. Mindanao Ferroalloy Corporation*, G.R. No. 153535, 28 July 2005, 464 SCRA 409, 429, citing *ABS-CBN Broadcasting Corp. v. Court of Appeals*, 361 Phil. 499, 531 (1999).

[19] *Martires v. Cokieng*, G.R. No. 150192, 17 February 2005, 451 SCRA 696, 709, citing *Lao v. Court of Appeals*, 338 Phil. 191, 203 (1997).

[20] Pages 13-15 of RTC Decision, records, pages 231-233.

[21] See *China Banking Corporation v. Court of Appeals*, G.R. No. L-94182, 28 March 1994, 231 SCRA 472, 478; *Saber v. Court of Appeals*, G.R. No. 132981, 31 August 2004.

[22] G.R. No. 172428, November 28, 2008. See also *Expertravel & Tours, Inc. v. Court of Appeals*, G.R. No. 130030, June 25, 1999.

[23] G.R. No. 152753, January 13, 2004.

[24] *Congregation of the Religious of the Virgin Mary v. Court of Appeals*, G.R. No. 126363, 26 June 1998, 291 SCRA 385; *Philipp Brothers Oceanic v. Court of Appeals*, G.R. No. 105416-17, 111863, 143715, 25 June 2003, 404 SCRA 605.

[25] In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs cannot be recovered, except:

- (1) When exemplary damages are awarded;
- (2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;
- (3) In criminal cases of malicious prosecution against the plaintiff;
- (4) In case of a clearly unfounded civil action or proceeding against the plaintiff;
- (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;
- (6) In actions for legal support;
- (7) In actions for the recovery of wages of household helpers, laborers and skilled workers;
- (8) In actions for indemnity under workmen's compensation and employer's liability laws;
- (9) In a separate civil action to recover civil liability arising from a crime;
- (10) When at least double judicial costs are awarded;

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

In all cases, the attorney's fees and expenses of litigation must be reasonable.

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