

POLICARPIO GEGANTO, PLAINTIFF AND APPELLANT, VS. QUINTIN KATALBAS, JESUS BAUTISTA AND CARLOS CHAVEZ, DEFENDANTS AND APPELLEES.

G.R.No. L-17105. July 31, 1963

Ponente: DIZON, J.

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DIZON, J.:

This is an appeal taken by Policarpio Geganto from an order of the Court of First Instance of Negros Occidental in Civil Case No. 5706 dismissing his complaint.

On May 6, 1959, Jesus Bautista, Chief of Police of Sagay, Occidental Negros, filed a criminal complaint for homicide against appellant in the Justice of the Peace Court of said municipality. When the case was forwarded to the Court of First Instance of Negros Occidental after appellant had waived his right to a preliminary investigation, the Provincial Fiscal reinvestigated the case and, as a result, he later moved for its dismissal on the ground that appellant did not appear to be the one guilty of the crime charged; The Court granted the motion and appellant was released from custody.

Thereafter, appellant instituted the present action for damages for malicious prosecution against appellees Quintin Katalbas, Jesus Bautista and Carlos Chavez, Mayor, Chief of Police and Sergeant of Police of Sagay, respectively, alleging that said officers had induced him to acknowledge his guilt of the crime he was charged with, by threatening him that, if he did not, he would be accused of the graver crime of murder, and had, likewise, induced one Wilfredo Mangubat to sign an affidavit incriminating him and used it later to support the criminal complaint for homicide filed with the Justice of the Peace Court of Sagay, but said witness disclosed during the reinvestigation that he was only induced by appellees to sign the same.

Appellees moved for the dismissal of the complaint on the ground that it stated no cause of action. The Court, in its resolution of May 27, 1960, granted the motion and dismissed the complaint. Hence, this appeal.

The issue involved in this appeal is, therefore, whether the facts alleged in the complaint constitute a cause of action against appellees. The least that may be said in this connection is that the ground relied upon in the motion to dismiss does not appear to be indubitable. The trial court, therefore, should have held its resolution in abeyance until after trial on the merits instead of dismissing the complaint. If the facts alleged in the complaint were established with competent evidence, it would seem that appellant would be entitled to relief against appellees not necessarily because the latter were guilty of malicious prosecution but because the facts of the case, in the opinion of the court, justify a judgment for attorneys fees and expenses of litigation (Art. 2208, No. 11, New Civil Code). In the present case appellant claims, among other things, to be entitled as against appellees to the sum of P2,000.00 as attorneys fees—an amount he claims to have spent to defend himself against the charge filed against him.

Wherefore, the order appealed from is set aside and the present case is remanded to the lower court for further proceedings.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, Regala and Makalintal, JJ., concur.

Bengzon, C.J., concur in the result.

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