

EDEN JAYONA, PLAINTIFF-APPELLANT, VS. GAUDIOSO NOGALES, DEFENDANT-APPELLEE.

Ponente: LAMPAS PERALTA, J.

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LAMPAS PERALTA, J.:

Before the Court is an appeal from the Resolution dated October 18, 2013[1] in Civil Case No. 2010-8180 of Branch 53, Regional Trial Court, Sorsogon City, Fifth Judicial Region, granting defendant-appellee's demurrer to evidence and dismissing plaintiff-appellant's complaint against defendant-appellee for damages arising from malicious prosecution.

THE ANTECEDENTS

The present case emanated from the filing by defendant-appellee Gaudioso Nogales of a complaint for estafa against plaintiff-appellant Eden Jayona. The salient facts that led to the filing of the subject complaint for damages arising from malicious prosecution were summarized in the trial court's Resolution dated October 18, 2013 as follows:

"This case sprang from the filing of the respondent of a Criminal Case for Estafa against the plaintiff. Previously, defendant filed a case for Estafa before the City Prosecutor's Office. Before the case went to court, the parties came to an agreement such that the plaintiff will pay the principal obligation in the amount of Php 400,000.00 to the defendant and the accumulated interest in the amount of Php 335,000.00 shall be paid on installment basis at the rate of Php 20,000.00 each month. With this agreement the case was dismissed in the City Prosecutor's Office. Plaintiff, however, paid the principal only. Aggrieved and thinking that plaintiff deceived him, defendant proceeded to file the case for Estafa which was docketed as Criminal Case No. 2007-6856. Plaintiff appealed the resolution of the prosecutor before the DOJ. The DOJ resolved to give merit to the appeal ruling that there was no probable cause in the case, thus, the same was withdrawn.

For reviving the Estafa case against her, plaintiff felt that it was defendant's sinister scheme to spite her for non-payment of the interest. x x x"[2]

On June 5, 2010, plaintiff-appellant filed with the trial court the subject complaint for "Damages with Prayer for Attachment"[3], alleging that (i) defendant-appellee's filing against plaintiff-appellant of the complaint for estafa was actuated by malice, sinister motives, improper schemes intended to vex, harass and humiliate plaintiff-appellant, and (ii) plaintiff-appellant suffered mental anguish, embarrassment, physical suffering, fright, serious anxiety, wounded feelings and social humiliation. Plaintiff-appellant prayed that she be paid P4,000,000.00 as moral damages, P1,000,000.00 as exemplary damages, P50,000.00 as attorney's fees, and P5,000.00 as appearance fee. Plaintiff-appellant also prayed for issuance of a writ of preliminary attachment against the properties of defendant-appellee to serve as security for the satisfaction of whatever judgment that may be rendered against him.

On July 15, 2010, defendant-appellee filed an answer[4], alleging that the finding by the City Prosecutor, Sorsogon City of probable cause against plaintiff-appellant in both first and second complaints for estafa negated plaintiff-appellant's allegation that defendant-appellee was impelled by malice, sinister motives, or improper

schemes in filing the complaints for estafa. Defendant-appellee also interposed a counterclaim for damages in the form of moral and exemplary damages, attorney' fees, litigation expenses and costs of suit.

In a pre-trial Order dated November 25, 2010[5], the following issues were submitted by the parties for consideration of the trial court: (i) whether plaintiff-appellant was entitled to damages; (ii) whether plaintiff-appellant had a cause of action against defendant-appellee; and, (iii) whether defendant-appellee was entitled to his counterclaim.

Trial ensued. Plaintiff-appellant presented as witnesses her friends Tesalonica G. Ubaldo[6], Amy Dolosa Batake[7] and Elizabeth Chavez[8], and endocrinologist Ramon T. Caceres.[9]

On August 29, 2013, defendant filed a motion for leave of court to file demurrer to evidence.[10] In the attached demurrer to evidence[11], defendant-appellee alleged that the evidence presented by plaintiff-appellant during trial failed to state a cause of action and to show right to relief.

On October 18, 2013, the trial court issued a Resolution granting defendant-appellee's demurrer to evidence and dismissing plaintiff-appellant's complaint for damages. The dispositive portion of said Resolution reads:

"WHEREFORE, premises considered, the Demurrer to Evidence is granted, the instant complaint is hereby DISMISSED.

SO ORDERED."[12]

Hence, plaintiff-appellant filed the present appeal assigning the following errors allegedly committed by the trial court.

I

THE LOWER COURT ERRED IN NOT TAKING INTO ACCOUNT THE ANTECEDENT CIRCUMSTANCES SHOWING THAT DEFENDANT FILED CRIMINAL CASE NO. 2007-6856 WITH MALICE.

II

THE LOWER COURT ERRED IN DISMISSING THE INSTANT COMPLAINT.[13]

ISSUE

Whether the trial court erred in dismissing plaintiff-appellant's complaint for damages for failure to establish, by preponderance of evidence, that defendant-appellee was actuated by malice and sinister motives in filing the complaint for estafa against plaintiff-appellant.

THE COURT'S RULING

The trial court dismissed plaintiff-appellant's complaint for damages arising from malicious prosecution due to plaintiff-appellant's failure to prove legal malice on the part of defendant-appellee in initiating a complaint for estafa against plaintiff-appellant. The trial court noted that since plaintiff-appellant was still indebted to defendant-appellee with respect to the amount of accrued interest on the principal loan of P400,000, it could not be said that the latter's claim against the former was entirely baseless or unfounded. Said the trial court:

"[P]laintiff (plaintiff-appellant herein) was not able to establish, by preponderance of evidence, the fact that defendant (defendant-appellee herein) was indeed actuated by malice and sinister motives. It may well be recalled that the plaintiff was indebted to the defendant and that interest was accrued from such debt. Plaintiff renege in the payment of her obligations to the defendant, thus, defendant filed a case for Estafa against the plaintiff before the City Prosecutor's Office. The case, however, was not filed with the court because the parties agreed on a settlement on the payment of the principal obligation plus the accrued interest. After the case was

dismissed, plaintiff only paid the principal obligation. The accrued interest was left unpaid. This prompted the defendant to file a case for Estafa against the plaintiff. It is thus clear that defendant did not fabricate any malicious charge against the plaintiff. Plaintiff is still obligated to pay the accrued interest, as stipulated, to the defendant. Hence, the claim of the defendant definitely has a basis. Defendant may have chosen the wrong course of action in enforcing the said obligation on the plaintiff, but still, his filing of the Estafa case cannot be construed as entirely baseless and unfounded. For a creditor, like the herein defendant, where interest is still owing to him by the plaintiff, it is understandable that he may feel aggrieved because there was non-payment of the interest which was stipulated during the settlement for which reason the first case for Estafa was dismissed."

Plaintiff-appellant faults the trial court in so ruling. Allegedly, "the evidence to show there was no malicious prosecution had been shifted to defendant-appellee. He should, therefore, be required to testify in court instead." [14] Moreover, plaintiff-appellant asseverates:

"It is worth mentioning at this juncture that at the time plaintiff-appellee (sic) instituted the instant complaint, she was still in her residence at Sorsogon City. But during the progress of the trial she had to go for further medical check-up and treatment in the United States of America because the trauma that she suffered by reason of the malicious filing of the said criminal case by defendant-appellee became worse. Nonetheless she, through counsel, was able to present the testimonies of her friends, Tesalonica Ubaldo, Amy Batake and Elizabeth Chavez who described the emotional condition of plaintiff-appellant being gloomy, problematic and out of herself, confiding that it was directly related to the said criminal case filed against her by defendant-appellee. Another witnesses (sic), Dr. Ramon T. Caceres, an endocrinologist, testified in essence that the hyperthyroidism was caused and further aggravated by emotional stress." [15]

The asseverations are unfounded.

Malicious prosecution is 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. [16] The statutory bases for a civil action for damages for malicious prosecution are found in the provisions of the New Civil Code on Human Relations and on damages particularly Articles 19, 20, 21, 26, 29, 32, 33, 35, 22 [17] and 2219.17 To constitute malicious prosecution and hold defendant liable, there must be proof that the prosecution was prompted by a sinister design to vex and humiliate a person and that the prosecution was initiated with the deliberate knowledge that the charge was false and baseless. [18]

For malicious prosecution suit to prosper, plaintiff must prove the following: (i) the prosecution did occur, and the defendant was himself the prosecutor or he instigated its commencement; (ii) the criminal action finally ended with an acquittal; (iii) in bringing the action, the prosecutor acted without probable cause; and (iv) the prosecution was impelled by legal malice, an improper or a sinister motive. [19]

The requisite that the action was terminated with an acquittal is wanting in the present case. The criminal case for estafa filed against plaintiff-appellant was dismissed by the RTC due to the motion to withdraw filed by the City Prosecutor, Sorsogon City. Said case was still in its initial stage and neither the prosecution nor the defense had presented their respective evidence. Thus, there was no finding that plaintiff-appellant did not at all commit the crime charged.

Well-settled is the doctrine that the mere act of submitting a case to the authorities for prosecution does not make one liable for malicious prosecution, for the law could not have meant to impose a penalty on the right to litigate. As held in *Magbanua v. Junsay*:

"[T]he 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."[20]

Even on the assumption that defendant-appellee's complaint for estafa against plaintiff-appellant lacked merit, the award of moral damages to plaintiff-appellant does not automatically follow as a matter of consequence, for "moral damages are only awarded if the basis therefor x x x is duly established".[21] As held in *Crystal v. Bank of the Philippine Island*[22]:

"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."

To recover moral damages, it is not enough that one merely suffered sleepless nights, mental anguish or serious anxiety as a result of the actuations of the other party. It is required that a culpable act or omission was factually established, that proof that the wrongful act or omission of the defendant is shown as the proximate cause of the damage sustained by the claimant and that the case is predicated on any of the instances expressed or envisioned by Arts. 2219[23] and 2220[24] of the Civil Code.[25] More importantly, the claimant must be presented as witness to prove the damages suffered. As held in *Mendoza v. Gomez*[26]:

"[I]f the plaintiff fails to take the witness stand and testify as to his social humiliation, wounded feelings and anxiety, moral damages cannot be awarded."

It is noteworthy that in the proceedings below, plaintiff-appellant failed to take the witness stand to prove her claim for damages. Plaintiff-appellant offered no valid reason why she was not presented in court to testify. The dismissal of plaintiff-appellant's complaint for damages, therefore, is only warranted under the prevailing circumstances. As correctly observed by the trial court:

"To prove that she suffered damages, plaintiff presented three (3) of her closest friends namely: Tesalonica Ubaldo, Amy Batake and Elizabeth Chavez. All of whom testified that plaintiff became gloomy, problematic and out of herself; that she confided to them that there was a criminal case against her which was filed by the defendant. To bolster the claim of the plaintiff, she presented Dr. Ramon T. Caceres, an endocrinologist who testified in essence that the hyperthyroidism of the plaintiff was caused and further aggravated by emotional stress. Interestingly, the plaintiff herself was not presented to testify on the suffering she allegedly endured from which she is claiming damages from the defendant. By her non-presentation on the witness stand, the court, in effect, is prevented from eliciting categorical declaration about the suffering plaintiff allegedly sustained by reason of the filing of the case for Estafa against her. The testimonies offered by the witnesses should have been a corroboration of her own testimony as to what she actually felt and suffered. Those witnesses did not experience these sufferings first hand as these are merely observations of plaintiff's countenance-these witnesses are only onlookers outside looking in, so to speak. Not even the declaration of the doctor could establish that plaintiff suffered moral damages or any damages for that matter. The testimony of the doctor failed to establish causal connection between the ailment of the plaintiff and the emotional stress she allegedly suffered by reason of the Estafa case. The connection, if any, is quite farfetched. A person who is under a uniquely stressful condition inevitably suffers physical and physiological weakening that renders him susceptible to many diseases. In this case, it was not clearly shown that it was the filing of the Estafa case that triggered plaintiff's hyperthyroidism. For it can be attributed to her financial problem, loneliness and other causes."[27]

Then again, hornbook is the doctrine that findings of fact of the trial court are entitled to great weight on appeal and should not be disturbed except for strong and valid reasons.[28] The Court is convinced that no significant

facts or circumstances were overlooked or disregarded by the trial court which, if considered, would warrant a reversal of the findings and vary the outcome of the case.

WHEREFORE, the appealed Resolution dated October 18, 2013 is affirmed.

SO ORDERED.

Acosta, and Garcia-Fernandez, JJ., concur.

[1] pp. 25-28, Rollo.

[2] pp. 26, Original Records.

[3] pp. 1-4, Id.

[4] pp. 19-25, Id.

[5] pp. 53-55, Id.

[6] p. 3, TSN, March 31, 2011.

[7] p. 3, TSN, May 19, 2011.

[8] p. 3, TSN, January 12, 2012.

[9] p. 2, TSN, December 6, 2012.

[10] pp. 155-158, Original Records.

[11] pp. 159-194, Id.

[12] p. 28, Rollo.

[13] p. 17, Id.

[14] p. 23, Id.

[15] p. 22, Id.

[16] Mijares vs. Court of Appeals, G.R. 113558, 271 SCRA 559, April 18, 1997.

[17] Drilon vs. Court of Appeals, G.R. No. 106922, 357 SCRA 13, April 20, 2001.

[18] Lao vs. Court of Appeals, G.R. No. 109205, 271 SCRA 477, April 18, 1997.

[19] Magbanua vs. Junsay, G.R. No. 132659, 515 SCRA 419, February 12, 2007.

[20] Supra.

[21] Delos Santos vs. Papa, G.R. No. 154427, 587 SCRA 385, May 8, 2009.

[22] G.R. No. 172428, 572 SCRA 697, November 28, 2008.

[23] Art. 2219. Moral damages may be recovered in the following and analogous cases:

- (1) A criminal offense resulting in physical injuries;
- (2) Quasi-delicts causing physical injuries;
- (3) Seduction, abduction, rape, or other lascivious acts;

- (4) Adultery or concubinage;
- (5) Illegal or arbitrary detention or arrest;
- (6) Illegal search;
- (7) Libel, slander or any other form of defamation;
- (8) Malicious prosecution;
- (9) Acts mentioned in Article 309;
- (10) Acts and actions referred to in Articles 21, 26, 27, 28, 29, 30, 32, 34, and 35.

The parents of the female seduced, abducted, raped, or abused, referred to in No. 3 of this article, may also recover moral damages.

The spouse, descendants, ascendants, and brothers and sisters may bring the action mentioned in No. 9 of this article, in the order named.

[24] Art. 2220. Willful injury to property may be a legal ground for awarding moral damages if the court should find that, under the circumstances, such damages are justly due. The same rule applies to breaches of contract where the defendant acted fraudulently or in bad faith.

[25] Aznar vs. Citibank, N.A., G.R. No. 164273, 519 SCRA 287, March 28, 2007.

[26] G.R. No. 160110, June 18, 2014.

[27] pp. 26-27, Rollo.

[28] Tayco vs. Heirs of Concepcion Tayco-Flores, G.R. No. 168692, 637 SCRA 742, December 13, 2010.

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