

WILLIAM R. BAYANI, PLAINTIFF-APPELLEE, VS. PANAY ELECTRIC CO. INC. (PECO), JOSE MARIA CACHO, LUIS MIGUEL CACHO, NESTOR LEDESMA, GENE PARAICO & PRUDENCIO SEVILLA, DEFENDANTS-APPE...

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

This appeal seeks to reverse or set aside the Decision[1] dated December 12, 2003, rendered by the Regional Trial Court (RTC), Branch 38, Iloilo City in Civil Case No. 01-26849[2], the fallo of which reads:

“WHEREFORE, finding preponderance of evidence in favor of plaintiff William Bayani, judgment is hereby rendered ordering defendant Panay Electric Company (PECO) to pay the plaintiff the following:

Moral Damages in the sum of Eight Million Pesos (P8,000,000.00);

Exemplary damages in the sum of Two Million Pesos (P2,000,000.00);

Attorney's fees in the sum of Five Hundred Thousand Pesos (P500,000.00); and

The costs of the suit.

SO ORDERED.”

Factual Antecedents

Stripped of the non-essentials, the facts[3] are as follows:

The instant case stemmed from a Complaint[4] filed on August 7, 2001, for Specific Performance and Damages filed by plaintiff-appellee, William R. Bayani[5], against defendant-appellant, Panay Electric Company, Inc. (PECO) and defendants Jose Maria Cacho, Luis Miguel Cacho, Nestor Ledesma, Gene Paraico and Prudencio Sevilla.

In the complaint, Bayani alleged that he is a taxpayer, businessman and a contracted consumer of electricity supplied by PECO, not only for his domestic needs but also for his various business establishments. He is a residential house owner and sole proprietor of several business establishments[6] in Iloilo City.[7] PECO charged him with exorbitant electric bills which impelled him to question and protest his bills. Also, he complained that he cannot verify the correctness of his bills because PECO failed to provide a meter reader card for every electric meter to indicate the actual consumption of the consumers which is duly signed by an authorized PECO meter reader. The electric meters are also situated at very high levels from the surface, making it almost impossible for him to read his electric consumptions.[8]

PECO's disregard and indifference to Bayani's complaint prompted him to seek reliefs before the Energy Regulatory Board (ERB) in the last quarter of 1995. The ERB sent a team of inspectors/investigators to Iloilo City in the middle of January 1996 and inspected his business establishments. After a thorough inspection and

investigation, the ERB team rendered an investigation report[9] dated February 2, 1996, pertinent portion of which, reads:

“Inspection/investigation showed that most of the kilowatt-hour meters were installed on poled (sic) (see attached drawing). Further, inspection revealed that some meters were installed higher than the required height in violation of ERB Resolution No. 95-21 specifically section 30, paragraph 2 as stated “meters shall be located on the outside wall of the building or private pole and shall not be more than three (3) meters nor less than 1.52 meters mounting height from the surface on which one should stand to repair or inspect the meter.”

“It was also observed that no meter card was visible in the premises of the meter installed, again in violation of ERB Resolution No. 95-21 specifically section 32, paragraph 3 as stated “Every electric utility shall instruct its meter reader when reading periodically the meter installed in the premises of a customer, to leave in such premises a card, showing thereon the date of reading, the reading made and the total consumption expressed in units of service used, as read by the meter reader, and the signature or initials of the meter reader”.

As a result, PECO was officially declared guilty of violating the rules and regulations of the ERB. Bayani alleged that instead of desisting from violating the rules, PECO summarily, maliciously and arbitrarily disconnected all the electrical supply of his establishments at Calumpang, Iloilo City and at Mandurriao, Iloilo City sometime in March 1996. The incident caused him to suffer actual losses in the amount of at least P2,500,000.00. In aggravation PECO continued to subject him to harassment, humiliation, shame and ridicule by ordering its agents and representatives to commit trespass to his establishments at Mandurriao, Iloilo City. Also, these agents concocted false and fabricated imputations of his past brushes with law.[10]

With evident bad faith, unlawful aggression, and barbarism the defendants, Jose Maria Cacho, Luis Miguel Cacho, Nestor Ledesma, Gene Paraico and Prudencio Sevilla conspired in initiating false, baseless and fabricated criminal complaints against Bayani designed to destroy his good name and business reputation. The criminal complaints were maliciously instituted before the Office of the City Prosecutor of Iloilo City, docketed as follows:

9.a. I.S. No. 1763-96 for alleged violation of Republic Act No. 7832 otherwise known as “Anti-Electricity and Electric Transmission Lines/Materials Pilferage act of 1994” that allegedly happened on January 19, 1996 at Bayani Drive Inn, Calumpang, Molo, Iloilo City.

9.b. I.S. No. 1764-96 also for alleged violation of Republic Act No. 7832 that allegedly happened on January 18, 1996 at William Bayani Hotel, Mandurriao, Iloilo City.[11]

The Office of the City Prosecutor, Iloilo City dismissed[12] I.S. No. 1763-96 on August 8, 1996, for lack of prima facie evidence. Likewise I.S. No. 1764-96 was dismissed[13] on August 19, 1996, rooted on the same ground.

PECO appealed the resolutions to the Department of Justice. On December 9, 1997, Justice Secretary Teofisto T. Guingona, Jr., reversed[14] the resolution in I.S. No. 1763-96 and directed the City Prosecutor to file an information for violation of R.A. No. 9832 against Bayani.[15]

Bayani filed a motion for reconsideration which was granted[16] by Justice Secretary Silvestre H. Bello on March 4, 1998, the decretal portion whereof, reads:

“WHEREFORE, the motion for reconsideration is granted. Your resolution dated August 8, 1996 is hereby affirmed and our earlier directive to file an information against William R. Bayani for violation of R.A. No. 7832 is, thus, vacated. In the event that you have already filed an information in court, you are hereby directed to cause its withdrawal. Report to us the action taken within ten (10) days from receipt hereof.”

Aggrieved, PECO filed a motion for reconsideration but it was denied[17] by Justice Secretary Serafin R. Cuevas on February 1, 2000.

Finally, Bayani alleged that PECO's unlawful and malicious act which were done with evident bad faith, defamed and publicly ridiculed him. It caused him to suffer sleepless nights, wounded feelings, serious anxiety, besmirched reputation and loss of dignity. Thus, he is asking the trial court that judgment will be rendered against PECO and the other defendants to compensate him for actual, moral and exemplary damages including attorney's fees.

In response, PECO and the other named defendants filed their answer[18] denying the material allegations in the complaint. They alleged that Bayani's effort to embarrass PECO before the ERB through a letter dated November 6, 1995 backfired and he has only himself to blame for his predicament. Because of Bayani's letter, PECO sent a team to conduct a "special ocular inspection" on Bayani's establishment. On January 18, 1996, the team of inspectors, PNP personnel and PECO's inspectors inspected William Bayani Hotel and it led to a chance discovery of illegal connections. On January 19, 1996, a similar inspection was conducted on Bayani Drive Inn and it also yielded to discovery of illegal connections. Accordingly, two inspector's reports dated January 18 and 19, 1996, were duly accomplished. Thereafter, two notices were sent to Bayani concerning his violations in their electric current service contract as well as R.A. 7832. The computation for billing differential was attached with demand for its payment with surcharges otherwise disconnection will follow. Bayani sent a reply denying the deficiencies. On the other hand, PECO sent a rejoinder informing Bayani that it has no other recourse but to disconnect in view of his failure to comply with the notices.[19]

On March 13 and April 11, 1996, disconnections were made. Thereafter the two subject criminal complaints were filed in accordance with law.[20]

During the pre-trial conference the parties entered into the following stipulation of facts:

- "1. That there were two (2) criminal complaints filed before the Office of the Iloilo City Prosecutor docketed therein as IS No. 1763-96 and IS No. 1764-96;
2. That defendant Company appealed the resolution of the Office of the City Prosecutor of Iloilo City in IS No. 1763-96 and IS No. 1764-96 to the Secretary of Justice who, in turn, reversed the appealed resolutions in favor of the appellant company;
3. That plaintiff filed a motion for reconsideration for the order of dismissal in both cases;
4. That a motion for reconsideration was filed to the order of dismissal issued by Justice Secretary Belo, III;
5. That Secretary Cuevas affirmed the dismissal order rendered by former Secretary Bello, III in IS No. 1763-96;
6. That disconnections were restored on September 10, 1997 by virtue of the writ of preliminary injunction issued in RTC-Iloilo Civil Case No. 2376.[21]

Thereafter, trial on the merits ensued.

On December 12, 2003, the trial court rendered the assailed Decision[22] against defendant company PECO. In essence the court ruled that PECO committed malicious prosecution in filing the two criminal complaints against Bayani without probable cause. It ruled that the filing thereof was actuated by malice, hate and revenge to vex and harass Bayani because the latter reported to the ERB the violations committed by PECO of the existing rules and regulation of the ERB. Hence, the court a quo ordered PECO to pay Bayani the sum of P8,000,000.00 as moral damages; P2,000,000.00 as exemplary damages; P500,000.00 as attorney's fees and to pay the costs of the suit.

PECO filed a Motion for Partial Reconsideration[23] and Supplement to Motion for Partial Reconsideration[24] but it was denied[25] by the court a quo.

Hence, this appeal.

Assignment of Errors

PECO interposed the following errors:

I.

THE TRIAL COURT GRAVELY ERRED AND ACTED CONTRARY TO LAW AND ESTABLISHED JURISPRUDENCE IN FINDING PECO GUILTY OF MALICIOUS PROSECUTION WHEN THE EVIDENCE PRESENTED MISERABLY FAILED TO PROVE THAT PECO ACTED WITH MALICE AND WITHOUT PROBABLE CAUSE.

II.

THE TRIAL COURT GRAVELY ERRED AND ACTED CONTRARY TO LAW AND ESTABLISHED JURISPRUDENCE WHEN IT AWARDED MORAL AND EXEMPLARY DAMAGES AS WELL AS ATTORNEY'S FEES IN FAVOR OF THE PLAINTIFF-APPELLEE WHEN THERE IS NO LEGAL AND FACTUAL BASIS FOR SUCH AWARD.

III.

EVEN ASSUMING ARGUENDO THAT THERE ARE FACTUAL AND LEGAL BASIS FOR THE AWARD OF DAMAGES AND ATTORNEY'S FEES, THE TRIAL COURT GRAVELY ERRED WHEN IT AWARDED AN ALARMINGLY SCANDALOUS AMOUNT OF TEN MILLION FIVE HUNDRED THOUSAND PESOS (10,500,000.00) IN DAMAGES WHICH IS, BY ANY STANDARD, GROSSLY EXCESSIVE, EGREGIOUS AND OPPRESSIVE.[26]"

The Ruling of this Court

The crucial issue to be resolved in the instant appeal is whether or not PECO is guilty of malicious prosecution in filing the criminal complaints against Bayani for violation of R.A. 7832.

In ruling that PECO committed malicious prosecution the RTC ratiocinated in this manner:

"The undisputed evidence of the plaintiff further shows that sometime in the year 1995, the plaintiff reported the exorbitant electric bills charged by the defendants to the plaintiff and its failure to provide meter card for its electric meters installed in some business establishments of the plaintiff, that the electric meters were so situated at very high levels from the surface making it almost impossible to read plaintiff's electric consumption; that in the middle of January, 1996, the ERB sent a team of inspectors/investigators to conduct inspection/investigation on the plaintiffs establishments in Iloilo City, including the Bayani Drive-in and the William Bayani Hotel; thereafter, the ERB rendered an Investigation Report dated February 2, 1996 (Exhibit B) which contains, among others, the following finding:

"Inspection/investigation showed that most of the kilowatt-hour meters were installed on poles (see attached drawing). Further, inspection revealed that some meters were installed higher than the required height in violation of ERB Resolution No. 95-21 specifically section 30, paragraph 2 as stated "meters shall be located on the outside wall of the building or private pole and shall not be more than (3) meters or less than 1.52 meters mounting height from the surface on which one should stand to repair or inspect the meters.

"It was also observed that no meters card was visible in the premises of the meter installed, again, in violation of ERB Resolution No. 95-21 specifically section 32, paragraph 3 as stated "Every electric utility shall instruct its meter reader when reading periodically the meter installed in the premises of a customer, to leave in such premises a card, showing thereon the date of reading, the reading made and the total consumption expressed in units of service used, as read by the meter reader, and the signature or initials of the meter reader."

On the other hand, while the defendant company argued in its memorandum that it filed the two aforementioned criminal complaints with the City Prosecutor's Office for violation of RA 7832, nonetheless, no evidence thereof

was ever utilized and formally offered in the present case to support its claim that in the course of inspection of the electric meter in the premises of William Bayani Hotel located at Airport, Mandurriao, Iloilo, City the following were found: “(1) Peco Plastic Terminal Seal No. 35698 was tampered; (2) ERB glass cover seal was missing and (3) No. 2 AWG THW was directly connected to Peco service line side supplying current inside the hotel without passing the kilowatt-hour meter.”

In its memorandum the defendant company further argued that the foregoing facts were established as evidence in Civil Case No. 23276 then filed before Branch 34 of this Court. While it may be conceded for the nonce that there was evidence presented in civil case, this court cannot take judicial notice thereof. Courts are not authorized to take judicial notice in the cases pending before other courts or of the contents of the records of other cases, even when such cases have been tried or are pending in said court and notwithstanding the fact that both cases may have been tried or are actually pending before the said judge. The only exception to this is that in the absence of objection, and as a matter of convenience to all parties, the court may properly treat all or any part of the original record of a case found in its archives as read in the record of a case pending before it and when with the knowledge of the opposing party, reference is made to it, by name and number or in some of the manner by which it is sufficiently designated”. (See *People vs. Hernandez*, 360 SCRA 25 (1996); *Occidental Land Transportation Co., Inc. vs. Court of Appeals*, 220 SCRA 167 (1993). However, these exceptions are applicable only to cases pending before the same Court and does not apply to evidence pending before another court in another case. Hence, for the failure of the defendant company to present and formally offer such evidence before this Court, the claim of the defendant company that the plaintiff has committed criminal acts of violation of R.A. 7832 in connection with his electric meter installed in the premises of his establishment at the Airport, Mandurriao, Iloilo, cannot be given any credence as this Court cannot take judicial notice thereof. x x x.

What, therefore lurks in the mind of this Court is that notwithstanding the absence of probable cause to support the initiation of the criminal complaint against the plaintiff before the City Prosecutor Office of Iloilo City, defendant company filed the two criminal complaints, particularly I.S. No. 1763-96, where the dismissal order was ultimately affirmed by the Secretary of Justice and the order affirming the dismissal order is now final. This Court believes and so holds that it had no probable cause, the defendant company, in filing the two criminal complaints against the plaintiff was actuated by malice, hate and revenge, and were filed merely to vex and harass the plaintiff because the latter reported to the ERB the violation committed by the defendant company under the existing rules and regulations of the said body.

xxx.”

After a judicious perusal of the records of this case together with applicable laws and jurisprudence, We disagree with the findings of the trial court.

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.”[27]

In *Magbanua v. Junsay*[28], the Supreme Court has drawn four elements that must be shown to concur to recover damages for malicious prosecution, to wit: (1) the prosecution did occur, and the defendant was himself the prosecutor or that he instigated its commencement; (2) the criminal action finally ended with an acquittal; (3) in bringing the action, the prosecutor acted without probable cause; and (4) the prosecution was impelled by legal malice -- an improper or a sinister motive.

In *Diaz v. Davao Light and Power Co., Inc*[29], the Supreme Court stressed that “the element of malice and the

absence of probable cause must be proved. There must be proof that the prosecution was prompted by a sinister design to vex and humiliate a person, and that it was initiated deliberately knowing that the charge was false and baseless to entitle the victims to damages. The two elements must simultaneously exist; otherwise, the presence of probable cause signifies, as a legal consequence, the absence of malice.” (Bold letters and underscoring Ours)

The burden in suits for malicious prosecution is being able to prove the complainant's deliberate initiation of a criminal action knowing the charge to be false and groundless.[30] In this case, there is no evidence presented that PECO knowingly filed a false and baseless charge against Bayani. To the contrary the charges against Bayani were not merely pulled out of thin air. The charges were a product of an inspection conducted by police officers, PECO personnel and ERB representative on the establishments owned by Bayani. The secretaries in the Department of Justice were not even unanimous in ruling that there was no prima facie evidence against Bayani. Indubitably, when the findings of the City Prosecutors in I.S. No. 1763-96 and I.S. No. 1764-96 were brought before the Department of Justice, Secretary Guingona initially found sufficient evidence to indict Bayani on the offenses charged. Although, Secretary Guingona's ruling was subsequently reversed by Secretary Bello III, still it clearly demonstrated that the charges against Bayani were not totally false nor baseless that would warrant the award of damages for malicious prosecution. Pertinent portion of Secretary Guingona's findings which were attached by Bayani as Annex “I” in his complaint, are hereunder quoted for a better grasp of the situation:

“xxx. Even assuming that the inspection was made in his absence or in the absence of his duly-authorized representative, this had no effect of invalidating the inspection because the same was witnessed by a police officer in the person of SPO2 Paraiso. As a matter of fact SPO2 Paraiso executed a sworn statement confirming his presence at respondent's premises during the inspection and more importantly, confirming the discovery by the PECO personnel of the presence of the unauthorized illegal gadget as well as the tampering of the electric meter. To our mind, the presence of SPO2 Paraiso substantially satisfies the requirement prescribed under Section 4, Rule III of the Rules and Regulation Implementing R.A. 7832 that the discovery of the circumstances constituting violation of said law must be witnessed and attested to by “the consumer concerned or a duly authorized ERB representative or any officer of the law, XX”. As to the ERB personnel not confirming respondent's violation during the inspection, this was belied by the proceedings in Civil Case No. 23276 where it appears that an ERB employee in the person of Allan Tajanlangit testified to having personally witnessed and attested to the discovery by the PECO personnel of violation of R.A. 7832 in the premises of respondent during the inspection in question.

All told, considering that the quantum of proof required in a preliminary investigation is only prima facie case, we find and so hold that prima facie evidence exists in this case which warrants the prosecution of respondent for violation of R.A. 7832.”

Moreover, We examined the findings of the City Prosecutor in I.S. No. 1763-96 and I.S. No. 1764-96 and it is patent that both cases were primarily dismissed for PECO's failure to comply with the procedure required under R.A. 7832 and not because the charges were unfounded, baseless or false.

We find and so rule that the trial court erred in ruling that PECO is guilty of malicious prosecution since the complainant failed to establish by preponderance of evidence its essential element, i.e., that the prosecution was prompted by a sinister design to vex and humiliate the complainant, and that it was initiated deliberately knowing that the charges were false and baseless.

Finally, We quote the ponencia of Justice Callejo, Sr. in *Diaz v. Davao Light and Power Co., Inc*, supra, which We find as enlightening in this matter, thus:

“In a free society, controversies are heard and settled under the rule of law in the forum of the courts of justice. It is one of the virtues of our system of government that a person who feels aggrieved does not have to take the

law into his or her hands or resort to the use of force for the vindication of injury. The courts are there to hear and act on the complaint. The right to litigate is an escape valve to relieve the pressures of personal disagreements that might otherwise explode in physical confrontation. It is necessary not only for upholding one's claims when they are unjustly denied but also for the maintenance of peace, if not goodwill, among incipient antagonists. Without the right to litigate, conflicting claims cannot be examined and resolved in accordance with one of the primary purposes of government, which is to provide for a just and orderly society. Hence, the mere act of submitting a case to the authorities for prosecution does not render a person liable for malicious prosecution should he or she be unsuccessful, for the law could not have meant to impose a penalty on the right to litigate.[31]"

WHEREFORE, the appeal is hereby GRANTED. The Decision dated December 12, 2003, of the Regional Trial Court, Branch 38, Iloilo City in Civil Case No. 01-26849 is hereby REVERSED and SET ASIDE. The complaint dated August 2, 2001 filed by plaintiff-appellee, William R. Bayani is DISMISSED for lack of merit.

SO ORDERED.

Lagura-Yap, & *Quijano-Padilla, JJ. concur

*Acting Junior Member per Office Order No. 472-13-ABR dated December 12, 2013

[1] Rollo, pp. 165-181, penned by Presiding Judge Roger B. Patricio

[2] 01-26840 in the RTC's decision

[3] Culled from the records

[4] Records, p. 1-14

[5] Bayani for brevity

[6] Bayani is the owner of the following establishments: 1) Bayani Royal Hotel, 2) William Bayani Hotel, 3) WB Pensionne, 4) Bayani De Luxe Lodge, 5) Bayani Victory Cafe, 6) Bayani Lodge I, 7) Bayani Lodge II, 8) Bayani Mansion, 9) Bayani Beach House, 10) Bayani Beach Inn, 11) WB II, 12) Bayani Apartment, 13) Bayani Pension, Avaceña St., 14) Bayani Pension, Delgado, St., 15) William Bayani Building, 16) Bayani Apartment, 17) William Bayani Building, 18) Bayani Drive Inn, 19) William Bayani Residence

[7] Complaint, Records, 1-14 (at p. 3)

[8] Complaint, Id., at p. 5

[9] Records, pp. 23-34, signed by Alan B. Tajanlangit, Engineer III and Renato D. Dagami, Engineer I

[10] Complaint, supra (at p. 7)

[11] Complaint, supra, at pp. 7-8

[12] See Resolution, Records, pp. 94-99, penned by Prosecutor I, Edwin A. Fama.

[13] See Resolution, Records, pp. 100-107, penned by Investigating Prosecutor Jeremy V. Bionat.

[14] Records, pp. 44-47

[15] Complaint, supra (at p. 10)

[16] See Records, pp. 48-49

- [17] Records, pp. 51-52
- [18] Records, pp. 56-65
- [19] Answer, Id. at pp. 56-57
- [20] Answer, id. At p. 57
- [21] Pre-Trial Order dated Jan. 6, 2003, Records, pp. 212-215
- [22] Supra note 1
- [23] Records, pp. 595-605
- [24] Records, pp. 614-629
- [25] See Order dated Feb. 3, 2004, Records, pp. 646-649
- [26] Appellant's Brief, Rollo, pp. 114-164 (at pp. 121-122)
- [27] Yasoña v. Ramos, G.R. No. 156339, Oct. 6, 2004
- [28] G.R. No. 132659, February 12, 2007
- [29] G.R. No. 160959, April 4, 2007
- [30] Limanch-o Hotel and Leasing Corp. v. City of Olongapo, G.R. No. 185121, January 18, 2010
- [31] Diaz v. Davao Light and Power Co., Inc, see footnote 29

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