

DOMINGA AZOR, COMPLAINANT, VS. JUDGE SOFRONIO G. SAYO, REGIONAL TRIAL COURT BRANCH 3 – PASAY CITY, RESPONDENT.

Adm. Matter No. RTJ-90-466. April 26, 1991

Ponente: PARAS, J.

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PARAS, J.:

This is an administrative complaint filed by Dominga Azor against Judge Sofronio G. Sayo of the RTC of Pasay City, Branch 111, charging the latter with negligence, gross incompetence and gross ignorance of the law on account of his dismissal of the suit for Damages arising from Malicious Prosecution.

The facts of the case are briefly as follows:

Dominga Azor, together with her husband Narciso Azor (now deceased), Josephine Azor and Ramon Manuel filed a suit for Damages arising from Malicious Prosecution against Marcelo Ty, David Reyes, and Remigio Zari.

The complaint alleges that on August 4, 1975, the plaintiffs (in the lower court) filed a criminal case against Ty for Violation of the Anti-Graft and Corrupt Practices Act; that in retaliation against the said graft charge, Ty maliciously filed charges of perjury against them which were investigated by then Assistant Fiscal Reyes; that without ascertaining if there was probable cause against the plaintiffs, Reyes filed the corresponding cases for perjury against them, which cases were tried by then City Court Judge Zari who arbitrarily sentenced them to imprisonment; that said decision, however, was reversed on appeal, thus, the plaintiffs, who were acquitted, sued Ty, Reyes and Zari for damages arising from malicious prosecution.

In his Answer, Ty alleged that in 1974, the plaintiffs filed a falsification case against one Juan Azor at the CIS District Office in Canlubang, Laguna; that being a CIS Agent, he investigated the falsification charge but he found no evidence to substantiate the same; that he recommended its dismissal, as a result of which, the plaintiffs charged him administratively with extortion and filed graft charges against him before the Circuit Criminal Court; that he was suspended from office for several months until he was acquitted by the Circuit Criminal Court; and that he filed perjury charges against the plaintiffs who according to him, had executed affidavits containing false statements against him.

Reyes, in answer to the complaint, alleged that after considering the evidence submitted by Ty on the perjury charges against the plaintiffs, he found prima facie evidence to sustain the same, thus, he recommended the filing of the corresponding informations against the plaintiffs, and his recommendation was approved by the City Fiscal of Quezon City; that he observed all the procedures and guidelines set forth in PD No. 77 when he conducted the preliminary investigation; and that he acted well within his official discretion when he resolved to recommend the filing of said charges against the plaintiffs.

Zari, likewise, in his answer, alleged that he tried the perjury cases against the plaintiffs, who were afforded ample opportunity to ventilate their defenses, in accordance with procedure and the law; that his decision convicting the plaintiffs was not motivated by ill-will nor personal vengeance but was based on his judgment and appreciation of

the evidence and the law; that plaintiffs' acquittal on appeal was grounded on reasonable doubt; and that the administrative complaint (filed by the plaintiffs against him for having rendered the questioned decision) with the Supreme Court docketed as ADM. MATTER NO. 1847 CTJ (Narciso Azor, et al. vs. Hon. Remigio Zari) was dismissed for lack of cause of action on November 15, 1978. (Annex H, pp. 2-3).

After the presentation of the evidence for the prosecution, Zari filed a Motion for Judgment on a Demurrer to Evidence.

Judge Sayo denied the said motion in an Order dated September 15, 1988 (Annex "E"), observing that —

"x x x The mass of evidentiary details at this stage of the proceedings apparently support the allegations in the complaint and the defendants are called upon to produce exculpatory or rebuttal evidence in their behalves and cannot expect the Court to imagine or surmise possible circumstances or situations which might justify rejection of such factual conclusions plaintiffs had attempted to establish. xxx" (p. 4, Petition)

Notwithstanding such pronouncement, the defendants waived their right to adduce evidence.

On November 3, 1989, however, Judge Sayo rendered a decision in favor of the defendants, the dispositive portion of which reads —

"WHEREFORE, finding no merit in plaintiffs' complaint, the same is hereby dismissed, with costs against the plaintiffs. For utter lack of evidence, the counterclaims of defendants are likewise dismissed.

SO ORDERED." (p. 7, Annex H)

Dominga Azor filed the instant administrative complaint against Judge Sayo, charging the latter, among others, with negligence, incompetence and gross ignorance of the law as a result of his dismissal of the Damages arising from Malicious prosecution case. Dominga Azor claims that Judge Sayo's decision is not supported by the facts and the evidence on record, for while he denied the demurrer, Judge Sayo rendered judgment in favor of the defendants who failed to adduce evidence at the trial.

There is need to impress upon the complainant that a denial of the demurrer is not a final order but merely an interlocutory one. Such an order or judgment is only provisional, as it determines some point or matter but is not a final decision of the whole controversy. (p. 731, Black's Law Dictionary, 5th Edition).

A perusal of the decision complained of belies the claim that the same is not supported by the facts and the evidence on record. In dismissing the complaint for Damages arising from Malicious Prosecution, Judge Sayo took into account all the documentary evidence submitted by the parties and the testimonial evidence adduced at the trial.

A review of the facts thus established and the applicable law clearly shows that the plaintiffs are not entitled to the relief sought.

Ty had ample reasons to believe that he had sufficient cause of action to file perjury charges against the plaintiffs who had charged him with extortion and graft but had failed to prove the same. Assistant City Fiscal Reyes and City Court Judge Zari were not moved by any malicious intent when they sustained Ty's action against the plaintiffs. Absent any malice on their part, the defendants in the civil case for damages, cannot also be made liable for damages when the upper court reversed the judgments against the plaintiffs. At most, they only committed an honest error of judgment. (Phil. Match Co. Ltd. vs. City of Cebu, 81 SCRA 109).

To constitute malicious prosecution, 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 by the defendant, knowing that his charge was

false and groundless. Manila Gas Corporation vs. Court of Appeals, 110 SCRA 602)

WHEREFORE, there being no sufficient basis to warrant further proceedings, the instant administrative complaint is hereby DISMISSED.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Grino-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.

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