

ALEJO MADERA, RICARDO DEQUITO, LEONCIO RAMON, OSCAR ALFREDO, AQUILINO FRANCISCO, INOCENCIO SAWILE, INOCENCIO REYES, FRANCISCO MAYNABAY, BONIFACIO FAJARDO, BLAS ALACRE AND MANUEL...

G.R. No. L-37105. February 10, 1981

Ponente: AQUINO, J.

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AQUINO, J.:

The eleven petitioners, illiterate farmers, appealed from the order of the Court of First Instance of Davao del Norte, dated November 21, 1972, dismissing their complaint against the respondents (except Judge Alejandro E. Sebastian) for the recovery of (1) damages due to alleged malicious prosecution and (2) the value of the copra supposedly derived from the coconuts taken from their lands by the respondent Lopez heirs (Civil Case No. 287). That complaint discloses the following facts:

The petitioners and twenty-three other farmers claim to be the adverse possessors en concepto de dueño of a parcel of land, with an area of around seventy hectares located at Sitio Ligadan, Barrio Limot, Mati, Davao Oriental, now known as Lot No. 1285 of the Mati cadastre.

In a decision dated February 28, 1959, the justice of the peace court of Mati, acting as a cadastral court upon assignment of the District Judge, awarded Lot No. 1285 to the Municipality of Mati on condition that it would be used as the site of an agricultural school within four years from that date and if such condition was not fulfilled, then the lot would revert to the owners, the heirs of Salvador Lopez (Cadastral Case No. N-17, LRC Cadastral Record No. 235, BL Cad. 287, Case No. 3, Republic vs. De Kalintas).

In 1963, the petitioners and other interested persons filed in the Court of First Instance a motion to set aside the said decision. On learning that the Land Registration Commission had issued a decree of registration, the petitioners filed an alternative petition for review under section 38 of Act No. 496.

The lower court denied that petition but the order of denial was reversed by this Court (Republic vs. De Kalintas. Dequito vs. Heirs of Salvador Lopez, L-25141, January 31, 1969, 26 SCRA 716).

Original Certificate of Title No. 2280 was issued for the said lot to the Heirs of Salvador Lopez on October 18, 1963 (pp. 27-28, Rollo).

After the issuance of that title, the heirs of Salvador Lopez allegedly harassed the petitioners with complaints for qualified theft of coconuts (p. 15, Rollo). The charges were dismissed by the Court of First Instance upon motion of the prosecutor.

Thus, in an order dated September 17, 1965, Judge Manases G. Reyes dismissed Criminal Case No. 9098 against Leoncio Ramon, et al. on the ground that the liability, if any, of the accused, is civil in nature, since they acted in good faith and under a bona fide claim of ownership over the coconut trees involved in the case (p. 42, Rollo).

On the same ground, Judge Alfredo I. Gonzales in an order dated September 11, 1965 dismissed Criminal Case No. 9282 against Ricardo Dequito, et al. (pp. 43 and 52, Rollo).

Notwithstanding those dismissals, respondent Ortillano D. Tan, as special counsel, filed against the petitioners and four other persons in the Court of First Instance of Davao Oriental an information for qualified theft dated July 11, 1969 (Criminal Case No. 213).

It was alleged in the information that the accused on September 28, 1965 stole the coconuts from the plantation of Enrique Lopez, Sr. in Mati and converted the same into copra valued at P734.37 (pp. 44-45, Rollo).

Judge Vicente Bullecer ordered the arrest of the accused. The petitioners were arrested and incarcerated in the provincial jail, unable to post bail by reason of their poverty (pp. 46-50, Rollo). They filed against Judge Bullecer in the Court of Appeals a petition for certiorari, prohibition and mandamus wherein they assailed the indictment.

The Court of Appeals held that a prejudicial question concerning ownership was involved in Criminal Case No. 213 and, therefore, Judge Bullecer erred in not granting the petitioners' motion to quash. He was directed to dismiss the case and to release the imprisoned petitioners (Dequito vs. Bullecer, CA-G.R. No. 45419-R, January 18, 1972, per Concepcion Jr., Serrano and San Diego, JJ., pp. 51-56, Rollo).

In compliance with that directive, Judge Bullecer on March 6, 1972 ordered the release from the provincial jail of the petitioners and four other persons (p. 57, Rollo). The petitioners had been imprisoned for more than two years (p. 7, Rollo, p. 25, Appellants' brief).

On June 19, 1972 or about three months after their release from jail, the petitioners filed against the Heirs of Salvador Lopez and Fiscal Ortillano the aforementioned complaint for damages arising from the alleged malicious prosecution which damages, as computed by respondent fiscal, amounted to P1,279,330. They alleged in their complaint the circumstances recited above.

The fiscal in his answer pleaded that he acted in good faith and with probable cause in filing the information and that he is exempt from civil liability for his official actions. He denied that he filed the information at the behest of respondent Leopoldo Lopez, the governor of Davao Oriental.

Respondents Lopez in their answer averred that the petitioners were Visayan immigrants who squatted on the land in question and that Judge Bullecer was not bound by the prior dismissal orders issued by Judges Reyes and Gonzales. The said respondents interposed as affirmative defenses lack of cause of action and lack of jurisdiction because of alleged underpayment of the docket fee.

The record does not show whether Judge Alejandro E. Sebastian, to whom the case was assigned, held a pre-trial. On November 21, 1972, he dismissed the case on the erroneous ground that the complaint was prematurely filed, meaning that it stated no valid cause of action (pp. 85-86, Rollo) because at the time the action was filed Criminal Case No. 213, the qualified theft case against the petitioners, was still pending.

Judge Sebastian further held that as respondent fiscal filed the information as a quasi-judicial officer, he is not civilly liable for his official act.

The petitioners filed a motion for reconsideration wherein they called Judge Sebastian's attention to the fact that the Court of Appeals had already dismissed the criminal case before the civil action in the instant case was filed.

Judge Sebastian in his order of January 24, 1973 denied the motion for reconsideration but he admitted his error in assuming that the criminal action was still pending. He adopted another ground for dismissing the action which is that the prosecution of the petitioners was not malicious. He also argued that the civil action could not be maintained in view of the pendency of the petition for the review of the decree of registration in Cadastral Case

No. N-17 and, for that reason, "the claim of ownership remains undecided" and the action for damages "is premature".

As already stated, the petitioners appealed from the orders of Judge Sebastian pursuant to Republic Act No. 5440 which took effect on September 9, 1968 and which abolished appeal to this Court by record on appeal from a judgment or final order of the Court of First Instance under Rule 42 of the Rules of Court. The appeal from an order of dismissal usually involves a question of law.

The private respondents in their answer to the petition question the timeliness of the appeal. This point was implicitly passed upon by this Court before it issued its resolution of November 5, 1973, directing the petitioners to file their brief. The notice to file brief was issued on the assumption that the petition for review was seasonably filed.

The petitioners contend that the trial court erred (1) in holding that the complaint does not state a valid cause of action and that it was prematurely filed in view of the pendency of the petition for review of the decree of registration, (2) in assuming that there was probable cause for prosecuting the petitioners and (3) in holding that Fiscal Tan is not civilly liable for his acts as a quasi-judicial officer.

Statutory recognition for an action for damages based on malicious prosecution is found in article 2219(8) of the Civil Code which allows recovery of moral damages for malicious prosecution (false accusation or denuncia falsa). Articles 21 and 2176 of the same Code may also be invoked to justify the action (*Ventura vs. Bernabe*, L-26760, April 30, 1971, 38 SCRA 587).

To support such an action, the plaintiff must prove the prosecution; that the defendant was himself the prosecutor or that he instigated its commencement; that it finally terminated in his acquittal; that in bringing it the prosecutor acted without probable cause, and that he was actuated by legal malice, that is, by improper and sinister motives (*Syllabus, Buchanan vs. Viuda de Esteban*, 32 Phil. 363; *RFC vs. Koh*, 114 Phil. 456, 462).

In other words, the aggrieved party has to prove "that he has been denounced or charged falsely of an offense by the defendant, that the latter knows that the charge was false, that the said defendant acted with malice" and that the plaintiff suffered damages (*Ventura vs. Bernabe*, L-26760, April 30, 1971, 38 SCRA 587, 596, per Justice Barredo).

The issue is whether the lower court acted correctly in dismissing outright petitioners' action for damages for supposed lack of cause of action, without giving them a chance to prove their claim.

It is not necessary to prejudge the merits of the complaint for that would be unfair to the respondents. We simply have to determine the propriety of the procedure followed by the trial court and whether it judiciously exercised its discretion in dismissing the complaint due to the pendency of the petition for review or by reason of the existing controversy as to the ownership of Lot No. 1258.

Respondents Lopez did not file any motion to dismiss. What the trial court did was to conduct a hearing on the affirmative defense of lack of cause of action. It heard the parties' counsel in oral argument.

It should be noted that the affirmative defense of lack of cause of action implies that the respondents hypothetically admitted the allegations of the complaint (*Palma vs. Graciano*, 99, Phil. 72). We hold that considering the pleadings, the trial court erred in dismissing the complaint. On its face, it is not totally devoid of merit. Its outright dismissal was arbitrary, unreasonable and high-handed.

The merits of the complaint for malicious prosecution have to be resolved in the light of the circumstances existing when the criminal action for qualified theft was filed and of the antecedent facts. The outcome of the

petition for review in the cadastral case would have no decisive effect on the adjudication of the malicious prosecution case.

The petitioners claim to have acted in good faith in gathering the coconuts from the land which they regarded as their property. They were disputing in court the title obtained by the respondent Lopez heirs. Two prior criminal cases against them for qualified theft had been dismissed. The third case was quashed by the Court of Appeals. The petitioners honestly believed that their prosecution for the third time for the same offense of qualified theft of coconuts was oppressive and vindictive in character.

A sober and dispassionate appraisal of the allegations of the complaint supports petitioners' contention that they should be afforded an opportunity to ventilate their grievances in a full-dress trial. That procedure would disabuse their minds of the notion that the courts grind the faces of the poor and that the rich people rule the law.

With respect to the action against Fiscal Tan, the presumption is that he performed regularly his official duties. He has nothing to fear if he acted in good faith without fear or favor.

Nevertheless, it is well-settled that "when a public officer goes beyond the scope of his duty, particularly when acting tortiously, he is not entitled to protection on account of his office but is liable for his acts like any private individual" (Syllabus, *Palma vs. Graciano*, 99 Phil. 72. See 63 Am Jur 2nd 798-9, 801-2).

WHEREFORE, the trial court's order of dismissal is reversed and set aside. It is directed to conduct further appropriate proceedings in the case. No costs.

SO ORDERED.

Barredo, (Chairman), Fernandez, Abad Santos, and De Castro, JJ., concur.

Concepcion, Jr., J., no part. Justice Fernandez was designated to sit in the Second Division.

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