

## EDGAR S. SAN LUIS, PLAINTIFF-APPELLEE, VS. EDWIN L. FARGAS, DEFENDANT-APPELLANT.

Ponente: BRUSELAS, JR. J.

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### BRUSELAS, JR. J.:

Before us is an ordinary appeal from a Decision[1] and Order[2] which were rendered in favor of the plaintiff-appellee Edgar S. San Luis (“San Luis”) and against the defendant-appellant Edwin L. Fargas (“Fargas”) in an action for damages. The dispositive portions of which read:

“WHEREFORE, premises considered, this Court decided in favor of the plaintiff and the defendant is hereby ordered to pay the plaintiff:

1. Moral damages in the amount of TWO MILLION PESOS (P 2,000,000.00);
2. Exemplary damages in the amount of ONE MILLION PESOS (P 1,000,000.00);
3. Attorney’s fees in the mount of FIVE HUNDRED THOUSAND PESOS (P 500,000.00); AND
4. The costs of suit.

SO ORDERED.”[3]

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“Finding merit on the manifestation of Atty. Fernando F. Manas, Jr., counsel for the plaintiff, supported by his OPPOSITION TO (“Motion For Reconsideration dated October 29, 2009), the said MOTION FOR RECONSIDERATION is hereby DENIED and the decision is final.

SO ORDERED.”[4]

The antecedent facts of the case are as follows:

The then President Joseph Estrada (“President Estrada”) issued a Memorandum dated May 12, 1999 directing the Presidential Commission on Good Government (PCGG) Chairman Magdangal Elma to streamline the structure of Radio Philippines Network, then known as RPN-9 Channel in the TV industry, in accordance with the recommendations contained in the audit report of the Presidential Management Staff (PMS). President Estrada issued a letter dated May 13, 1999 to the PCGG Chairman which read:

“It is my desire that MR. EDGAR S. SAN LUIS be elected PRESIDENT AND GENERAL MANAGER, RADIO PHILIPPINES NETWORK, INC. (RPN-9)”

Due to the streamlining of the said channel, a new Table of Organization was drawn up and the News and Current Affairs Department headed by Fargas was merged with the Operations Division headed by the Assistant General Manager, who directly reported to San Luis – the then President and General Manager of the said channel. The office formerly headed by Fargas was consequently abolished.

On July 12, 1999, San Luis notified Fargas, pursuant to the PMS audit findings and Board Resolution No. 07-06-99-02, that the latter be considered “retired” effective July 13, 1999 after having rendered thirty-one (31)

years of continuous service to the network and be entitled to retirement pay computed at 80-days pay for every year of service. Fargas was paid the amount of P 5,223,899.13 for which he signed a waiver, release and quitclaim to file any claims, causes of actions, rights, demands, losses, actions and suits against the network or its directors and officers.

San Luis also issued a Memorandum dated June 17, 1999 requiring that the cars previously provided to the executives be returned, and as a result of such Memorandum, the Board of Directors issued a Resolution dated September 17, 1999 that San Luis had the authority to sign and deliver the contract of sale of the car to the employee who in turn will buy the car.

In January 2001, San Luis resigned from his position as President and General Manager of RPN-9.

On March 20, 2001, Fargas filed an affidavit-complaint with the Ombudsman docketed as Case No. 0-01-0275 charging San Luis, as the former President and General Manager of the network, its Board of Directors, and its Finance and Administration Manager, Vivencio Reyes ("Reyes"), for violation of the provisions of R.A. 3019 or the Anti-Graft and Corrupt Practices Act which was eventually resolved in favor of San Luis in a Resolution dated December 13, 2001 and approved by the Ombudsman on February 1, 2002 for insufficiency of evidence.

As a consequence of Fargas' false and malicious prosecution against San Luis, the latter underwent medical treatment for hypertension and depression and incurred hospital expenses for such treatment.

Instead of filing an Answer, however, Fargas filed a Motion to Dismiss dated May 13, 2002 wherein he alleged that the complaint stated no cause of action because San Luis was a public official and the institution of the said action for Violation of RA No. 3019 arose from a legitimate source of action arising from injury or grief. The said motion was denied by the court a quo for lack of merit.

In his testimony, San Luis testified that he was the then elected Congressman of the Fourth District of Laguna; that for more than twenty (20) years, he was engaged in the marketing and advertising of premium brand names in the food and beverage market for television; that he also provided advertisers for nationwide coverage of important public affairs, news and current events, sports contests and movie box entertainment, both in local and international networks; that he likewise held the position of Sales and Marketing Contractor of PTV-4 during the time of President Corazon Aquino; and that during the time of President Estrada, he was appointed as the President and General Manager of RPN-9.

San Luis further claimed that it was the first time he was charged with any offense and as a result of the case filed against him he suffered psychological, emotional and physical stress. Because of the stress that he experienced, he was taken to a cardiologist at the Cardinal Santos in the person of Dr. Jaime Tan. He thus incurred expenses in the amount of P 40,000.00- P 50,000.00 for the consultation, medication and medical care extended by Dr. Tan.

San Luis likewise asked for the award of P 5,000,000.00 for moral damages because of the malicious suit filed by Fargas. He claimed that it tarnished the name of his father, Governor Felicisimo T. San Luis. In defending himself at the Ombudsman's Office, San Luis hired the services of Ongkiko, Kalaw, Manhit and Acorda Law Office and thereby incurred the following expenses: P 150,000.00 for acceptance fee and P 350,000.00 for costs of suit.

The court a quo thereafter rendered the assailed decision in favor of San Luis. Fargas moved to reconsider the adverse decision but his motion was denied by the court a quo via the assailed order.

Hence, this appeal.

The defendant-appellant Fargas interposes the following assignment of errors:

"The trial court committed reversible errors and gravely abused its discretion amounting to lack of jurisdiction

on the following grounds:

- a. The evidence is insufficient to justify the Decision;
- b. The Decision is contrary to law; and
- c. The damages awarded are excessive.”

The appeal is devoid of merit.

Fargas maintains that San Luis, as a public official, being the then President and General Manager of RPN-9, a Government Owned and Controlled Corporation (GOCC), was prone to the watchful eye of the taxpayers and ordinary people can criticize his actions and conduct; that being a Filipino Citizen, Section 11, Article III of the 1987 Constitution guarantees him free access to the courts; and that the filing of a complaint-affidavit with the Office of the Ombudsman for the violation by San Luis of R.A. 3019 arose from a legitimate cause of action arising from injury or grief.

Fargas likewise argues that to constitute malicious prosecution and hold a 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. He claims that there was no malicious intent when he filed the complainant-affidavit against San Luis with the Ombudsman and that the element of malice is not present because he relied on his belief that a violation of RA 3019 was committed by San Luis and the other public officials.

We resolve.

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.[5] To constitute malicious prosecution, there must be proof that the prosecution was prompted by a sinister design to vex or humiliate a person, and that it was initiated deliberately by the defendant knowing that his charges were false and groundless.[6]

A damage suit for malicious prosecution seeks redress for the defendant's act of instituting a criminal prosecution or civil suit in bad faith and without probable cause.[7] Hence, the elements of (1) malice and (2) absence of probable cause should be present.

In the letter-complaint filed by Fargas with the Ombudsman charging San Luis, as President of RPN-9, its Board of Directors, who were, however, not named in particular, and its Finance Administration Manager, Reyes, with violating the provisions of RA 3019, as amended, also known as the Anti-Graft and Corrupt Practices Act, he alleged, among others, that:

“ 1. With the machinations of Mr. Reyes, the Board authorized the sale of several Nissan vehicles, including Cefiros, at outrageously low prices to chosen Managers and certain individuals with less than two years tenure in the Network.

The sale was made despite earlier efforts by retired network officers to buy the vehicles at very much higher prices.”[8]

Fargas claimed that he did not buy the Nissan Cefiro car assigned to him because of its high price, but found out later that it was sold to a newly appointed manager at a very low price of P 15,154.00, and which sale was contrary to San Luis' Memorandum that authorized Mr. Reyes to determine the price of the vehicles.

The same letter-complaint contained a request to the Ombudsman to, “expedite and finish the investigation before

the end of the month to prevent Mr. Reyes from getting his retirement pay.” It was claimed by Fargas that Reyes was the “henchman” of San Luis.

The Ombudsman, however, rendered a decision that found:

“As can be gleaned from the evidence at hand, the claim of Complainant that he was forced to retire and that he was unduly denied availment of his service vehicle pursuant to the respective memoranda of respondent San Luis and Reyes is more imaginary than real.

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It is worthwhile mentioning that unlike in actions for torts, undue injury in Section 3(e) of RA 3019 cannot be presumed even after a wrong or violation of right has been established, its existence must be proven as one of the essential elements of the crime and that undue injury be specified, quantified and proven to the point of moral certainty. Moreover, it was held that mere inconvenience is not undue injury. (Llorente v. Sandiganbayan, 287 SCRA 382)”

The Ombudsman further enumerated the essential elements that need to be present before an officer can be held criminally liable for violation of Section 3 (e) of RA 3019. The elements of manifest partiality and/or evident bad faith, as well as undue injury, however, have not been satisfactorily established, so much so that Fargas was in fact paid his retirement pay.

Fargas' contention that he was unduly deprived of acquiring his service vehicle which caused him injury was not accepted by the Ombudsman because the evidence showed that the disposal of the vehicles was likewise in accordance with the PMS Audit Report which provided that,

“Instead of providing Executives a free company car, they may be offered a car plan based on the remaining book value of their vehicles (which were procured by the Network some two years ago) xxx”

The Ombudsman further found that Board Resolution No. 09-17-99-02 which set the guidelines for the sale of the cars in question was passed and approved only on September 17, 1999 as evidenced by the Secretary's Certificate, long after the mandatory, compulsory retirement of complainant Fargas. The Ombudsman likewise upheld the rule on presumption of regularity in the performance of official functions.

From the foregoing, it would appear that there was ample basis to support the court a quo's finding that Fargas' false accusations was prompted only by malice and deliberate intent to harass appellee San Luis. Fargas' acts were motivated by a sinister design and malicious intent to vex and humiliate the appellee. Fargas knew very well that his complaint lacked probable cause as he in fact voluntarily signed a quitclaim absolving RPN-9, as well as its directors and officers, from any liability after having received his retirement pay. The filing of the complaint with the Ombudsman was actually intended to vex and humiliate San Luis and to blacken his reputation not only as a businessman but also as a politician.

As to the grant of damages, malicious prosecution has been enumerated as one of the instances in Article 2219 of the Civil Code whereby moral damages can be recovered. To merit an award for moral damages predicated on malicious prosecution, claimants must prove that they had been denounced or charged falsely, that complainant knew that the charge was false, that the latter acted with malice and of course, the damages they suffered.[9]

Article 2217 of the Civil Code likewise provides that "moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission."

Fargas improvidently filed the complaint against San Luis before the Ombudsman to harass, vituperate and vilify the honor and dignity of San Luis who was merely performing his duties on behalf of the government. Fargas' baseless accusations extremely prejudiced San Luis to the extent that he sustained "physical suffering, mental anguish, fright, serious anxiety, moral shock, social humiliation and similar injury." Fargas likewise smeared San Luis' good name and reputation as an elected official, as well as that of the latter's father.

In sustaining the court a quo's award of moral damages, We give due consideration to San Luis' social and financial status as a businessman, as well as his being an elected congressman, and the mental anguish he suffered as a result of the false imputation.

To be able to claim exemplary damages, a complainant must show that he is entitled to moral, temperate or compensatory damages.[10] Article 2229 provides that "exemplary or corrective damages are imposed, by way of example or correction for the public good, in addition, to the moral, temperate, liquidated or compensatory damages."

In the case at hand, San Luis proved that he was entitled to moral damages, thus, the adjudication in his favor of exemplary damages was in order.

Attorney's fees awarded in favor of San Luis are justified under paragraphs 1 and 3 of Article 2208 of the Civil Code, which allows grant of attorney's fees when exemplary damages are awarded and in criminal cases of malicious prosecution against the plaintiff.

Fargas challenges that the amounts of the awards of damages and attorney's fees by the court a quo as being unconscionable, if not down right excessive.

It must be remembered that both moral and exemplary damages are in the category of an award designed to compensate claimants for actual injury and are not meant to enrich complainant at the expense of the defendants. In instances where no actual damages are adjudicated, as in the case at hand, the court may reduce moral and exemplary damages.[11]

Because the trial court had not awarded any amount for actual damages owing to the paucity of the evidence on the matter, we find the sums awarded to be excessive and unconscionable. Given the circumstances obtaining, the grant of P 2,000,000.00 as moral damages should be reduced to P 100,000.00. The award of exemplary damages in the amount of P 1,000,000.00 should be equitably reduced to P 25,000.00. Likewise, the award of attorney's fees in the amount of P 500,000.00 should be reduced to P 50,000.00.

WHEREFORE, the instant appeal is DENIED. Consequently, the assailed Decision and Order of the court a quo are AFFIRMED with the MODIFICATION that the award of Moral and Exemplary damages as well as Attorney's Fees be reduced to P 100,000.00, P 25,000.00 and P 50,000.00, respectively.

### **IT IS SO ORDERED.**

Reyes, Jr., P.J., (Chairperson) and Gaerlan, J., concur.

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[1] Written by Acting Presiding Judge Jaime C. Blancaflor, Branch 27 of the Regional Trial Court of Sta. Cruz, Laguina in Civil Case No. SC-4180 dated 22 September 2009; Records, pp. 178-185.

[2] Dated February 5, 2010; Records, p. 202.

[3] Records, p. 185.

[4] Ibid, p. 202.

[5] *Tiongco v. Deguma*, G.R. No. 133619, October 26, 1999, 317 SCRA 527; *Yasoña v. De Ramos*, G.R No. 156339, October 6, 2004, 440 SCRA 154.

[6] *Yasoña v. De Ramos*, *ibid*; *Manila Gas Corporation v. Court of Appeals*, G.R. No. L-44190, October 30, 1980, 100 SCRA 602.

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

[8] *Records*, p. 51.

[9] *Tiongco v. Deguma*, *supra* at footnote 5.

[10] *Tiongco v. Deguma*, *supra* at footnote 5.

[11] *Supra* at footnote 10.

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