

WILIA B. BOUCHER, PLAINTIFF-APPELLANT, VS. SPOUSES ERNESTO F. ALMONTE AND GLORIA B. ALMONTE, JOWARD PEREZ (MINOR), LETECIA PEREZ, AND RYAN F. BERNARDO, DEFENDANTS-APPELLEES.

Ponente: CORALES, J.

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CORALES, J.:

This is an appeal[1] from the January 6, 2012 Decision[2] of the Regional Trial Court (RTC), Branch 41, Dagupan City dismissing plaintiff-appellant Wilia Boucher's (Wilia) complaint for malicious prosecution and damages in Civil Case No. 2005-0376-D.

The Antecedents

At the time of the filing of the complaint, Wilia was a resident of New York City, United States of America but she would regularly return to Dagupan City, Pangasinan to help her sister Gloria B. Almonte (Gloria) take care of their mother. However, Wilia's relationship with Gloria and the latter's husband Ernesto (collectively referred herein as Spouses Almonte) turned sour. On July 2, 2003, Spouses Almonte filed a complaint for easement of right of way (easement case) against Wilia. Thereafter, various criminal complaints were filed by the parties against each other. Wilia initiated the filing of the following criminal cases: (a) Criminal Case No. 5850 for grave threats[3] and Criminal Case No. 6146 for maltreatment[4] against Ernesto; (b) Criminal Case No. 5929 for malicious mischief against Spouses Almonte;[5] (c) Criminal Case No. 6237 for malicious mischief against Gloria and her son Glen;[6] (d) Criminal Case No. 6238 for malicious mischief against Spouses Almonte and Jeffrey Almonte;[7] and (e) Criminal Case No. 6516 for trespass to dwelling against Raul Estrada, one of Spouses Almonte's employees in their catering business.[8]

On the other hand, Ernesto filed before the Office of the Provincial Prosecutor (OPP), Dagupan City a criminal complaint for perjury against Wilia[9] for allegedly giving false statement in the complaint-affidavit for malicious mischief and theft while Gloria accused Wilia and the latter employees, Darwin Roces (Roces) and Jeffrey Suarez (Suarez), of attempted murder against her and Ernesto.[10] The OPP dismissed these complaints for lack of probable cause.[11]

Two of the employees of Spouses Almonte, defendants-appellees Ryan Bernardo (Bernardo) and Joward Perez (Joward),[12] a minor, also filed separate criminal complaints against Wilia. Joward, represented by his mother defendant-appellee Letecia Perez (Letecia),[13] accused Wilia and two of her employees of child abuse and physical injuries.[14] Meanwhile, Bernardo indicted Wilia, Suarez, and Wilia's niece Myma Agpalasin (Agpalasin) in his complaint for attempted murder and physical [15] In both complaints, the OPP dismissed the charges against Wilia for insufficiency of evidence.[16]

Feeling aggrieved, Wilia filed on November 14, 2005, a complaint[17] for malicious prosecution and damages against Spouses Almonte, Joward, Bernardo, and Letecia, docketed as Civil Case No. 2005-0376-D and raffled to RTC, Branch 41, Dagupan City. Wilia averred that her harmonious relationship with Spouses Almonte ended

when she discovered that the latter registered in their own name the parcel of land which she asked them to buy on her behalf and thereafter said spouses sued her for an easement of right of way despite their knowledge that it would displace all projected improvements that she originally envisioned. She further stated that she suffered injuries due to subsequent threats, intimidation, harassment and acts of unlawful aggression of Spouses Almonte and these prompted her to file various criminal complaints before the Municipal Trial Court (MTC) of Mangaldan, Pangasinan. Out of vengeance, malice, ill will, extreme hatred, anger and envy, Spouses Almonte filed several baseless criminal cases against her and enticed their employees to do the same but all were dismissed by the OPP. According to Wilia, Spouses Almonte's filing of vexatious and baseless cases are intended to harass her in utter violation of the New Civil Code (NCC) provisions on human relations and damages, particularly Articles 19, 20, 26, 29, 32, 33, 35, and 2219(8).[18]

During her testimony, Wilia confirmed the allegations in her complaint but testified on cross-examination that she did not execute a Special Power of Attorney in favor of Spouses Almonte for the purchase of the properties and after the discovery of the alleged fraud committed by the latter, she neither filed any case against them nor prohibited them from coming through and from her house. She also admitted that the perjury complaint was filed after the dismissal of her own criminal charges for theft against Spouses Almonte and there was no pattern in the dismissal of all the criminal complaints filed by the latter against her. She further testified that only one (1) criminal case proceeded to trial against Suarez, her employee, while seven (7) or eight (8) of the criminal complaints she had instituted were pending trial.[19]

Wilia also presented her niece, Agpalasin, who corroborated her testimony that the siblings' relationship deteriorated after the anomalous purchase of the properties but there was no pending case for the annulment of the said transaction. Agpalasin also testified that Spouses Almonte's house was situated behind Wilia's residence and Spouses Almonte threatened to include Wilia's houseboys in the criminal complaints that they would file.[20]

For their part, defendants-appellees admitted the filing of the criminal complaints against Wilia but denied any intention to harass her. According to Spouses Almonte, they acquired the properties with their own earnings and Wilia neither charged them with the management of her household affairs nor contributed materially to their catering business. Allegedly, the animosity between the siblings arose from Wilia's unjust closing of the northwestern side of her property which is the only way to go through their house situated at the back of Wilia's residence. Resultantly, they filed a petition for easement of a right of way against Wilia and the latter answered with her own cases against Spouses Almonte purportedly intended to dissuade them from continuing their petition. Spouses Almonte also alleged that despite the court order, Wilia erected a concrete wall completely closing the ingress and egress of vehicle in their catering business. Spouses Almonte also denied having been motivated by vengeance, malice, ill will, anger, hatred, or envy in instituting the cases against Wilia and claimed that these are "mere reactions to what (Wilia) continuous (sic) to be filing against them which are fabricated and or (sic) perjured." They admitted the dismissal of their various criminal complaints but insisted that the same were all meritorious.[21] When Gloria testified, she ascribed "special interest" to Prosecutor Edgardo A. Martin, Jr. (Prosecutor Martin) in dismissing the complaints against Wilia for attempted homicide, child abuse and perjury and averred that the prosecutor supposedly denied receipt of their motion to inhibit him from deciding the complaints. She also asserted that she no longer pursued the dismissal of the complaint for frustrated murder against Wilia because "it (was) apparent that (Prosecutor Martin) has interest so he dismissed the case".[22] However, she later on admitted that the other prosecutors had also dismissed the various complaints filed against Wilia and the latter's employees.[23] Ernesto corroborated Gloria's testimony and opined that Wilia had influenced Prosecutor Martin in dismissing their complaints against her.[24]

On the other hand, Letecia admitted that on behalf of her minor son, Joward, she had filed a child abuse complaint

against Wilia, Suarez and Roces because her son has been elbowed by Suarez, hit by Roces and scolded and threatened by Wilia that he would be arrested for allegedly stealing a logbook. When cross-examined, Letecia testified that she had no personal knowledge of the incident complained of and she no longer appealed the dismissal of the child abuse complaint.[25]

The Ruling of the RTC

On January 6, 2012, the RTC rendered a Decision[26] dismissing Wilia's complaint for failure to prove her case with preponderance of evidence. The court a quo noted the absence of proof to support Spouses Almonte's anomalous purchase of real property, which supposedly gave rise to the ill will that in turn motivated the alleged malicious prosecution, and Wilia's failure to show that Spouses Almonte and their two (2) employees had merely fabricated the evidence they presented in their various criminal complaints. It then disposed of the case as follows:

WHEREFORE, premises considered, judgment is hereby rendered dismissing the complaint for lack of merit.

SO ORDERED.

Unfazed, Wilia is now before Us via the instant appeal with the following assignment of errors:[27]

I

THE HONORABLE TRIAL COURT A QUO ERRED BY NOT FINDING THAT THE TESTIMONIAL AND DOCUMENTARY EVIDENCE BY PLAINTIFF-APPELLANT MERITS PREPONDERANCE OF EVIDENCE IN THE INSTANT CASE;

II

THE HONORABLE TRIAL COURT A QUO ERRED IN CONCLUDING THAT DEFENDANTS-APPELLEES ARE NOT LIABLE FOR DAMAGES, ATTORNEY'S FEES AND COST OF SUIT;

Wilia harps on the alleged lack of merit and probable cause of the various criminal complaints filed or purportedly instigated against her by Spouses Almonte. She insists that the anomalous purchase of the properties gave rise to the ill will between them but the documentary evidence for the said purchase cannot be obtained from the Register of Deeds without the authorization from Spouses Almonte. She also argues that Spouses Almonte lodged the various cases against her in order to “financially, emotionally, and psychologically pester”her.[28]

Defendants-appellees echo the RTC's findings that Wilia failed to substantiate her allegations of malicious prosecution. They reiterate their pleas of good faith in filing the various suits against Wilia and argue that the latter cannot claim wounded feelings, and besmirched reputation because she also filed several criminal cases against them.[29]

This Court's Ruling

The appeal lacks merit.

Malicious prosecution denotes 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. The gravamen of malicious prosecution is the deliberate initiation of an action with the knowledge that the charges were false and groundless.[30]

To warrant the recovery of damages for malicious prosecution, Wilia should prove the following elements: (1) defendants-appellees had caused her prosecution; (2) the criminal action ended in her acquittal; (3) in bringing the action, defendants-appellees had no probable cause; and (4) defendants-appellees were impelled by legal malice or an improper or sinister motive.[31] Thus, there is necessity of proof that the suit was so patently malicious as to warrant the award of damages under Articles 19 to 21 of the NCC or that the suit was grounded on malice or bad faith. Further, Wilia has to overcome the basic presumption of good faith and confront the well-entrenched 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 would not have meant to impose a penalty on the right to litigate. It must be remembered that not even an overzealousness in the pursuit of a criminal complaint will amount to the legal malice contemplated in suits for malicious prosecution — the inexcusable intent to injure, oppress, vex, annoy, or humiliate.[32]

Elsewise stated, the test for malicious prosecution is whether sufficient facts exist showing that, in bringing the criminal action, defendants-appellees acted without probable cause[33] and the prosecution was prompted by a sinister design to vex and humiliate or impelled by legal malice.[34]

Wilia failed to discharge the foregoing burden. There is no proof that defendants-appellees misused or abused the judicial processes or that the institution and pursuit of the legal proceedings against Wilia was merely intended to harass, annoy, vex or injure her. As aptly observed by the RTC, defendants-appellees submitted various documents and sworn statements in support of their complaints. The medico-legal reports, the police blotter entries, and the investigation and recommendation of the NBI for the filing of frustrated murder against Suarez[35] also indicate that the criminal complaints of defendants-appellees were not wholly unfounded. As a matter of fact, the OPP dismissed some of these cases without directly pronouncing that there was no probable cause for its filing but only on the ground of insufficient evidence. It bears stressing that the adverse result of an action does not per se make the action wrongful and subject to action to damages, for the law could not have meant to impose a penalty on the right to litigate.[36]

Even on the assumption that Wilia's testimony alone sufficed to prove the existence of hostility and ill will between her and Spouses Almonte, this Court did not find any sufficient evidence showing that the alleged conflict motivated defendants-appellees to pursue an illusory accusations against Wilia. It must be borne in mind that resort to judicial processes, by itself, is not an evidence of ill will which would automatically make the complainant liable for malicious prosecution.[37] A contrary rule would discourage peaceful recourse to the courts and unjustly penalize the exercise of a citizen's right to litigate. Where the action is filed in good faith or with the honest belief that the charges were meritorious, no penalty should be imposed thereon,[38] such as in this case.

Moreover, the hornbook rule remains that he who alleges must prove.[39] Asserting the affirmative of the issues she has raised, Wilia assumed the burden of proving her cause of action herein and may not simply rely on the weakness of the defense. The burden of proof never parts from her as plaintiff.[40] Having failed to discharge this burden, she is not entitled to the relief prayed for.

WHEREFORE, the appeal is DENIED. The assailed January 6, 2012 Decision of the Regional Trial Court, Branch 41, Dagupan City in Civil Case No. 2005-0376-D is hereby AFFIRMED.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Villon, J., Chairperson and Macalino, JJ., concur.

[1] See Notice of Appeal in relation to the February 14, 2012 Order of the RTC giving due course to said appeal, records, pages 215 and 219, respectively.

[2] Penned by Judge Emma M. Torio, rollo, pages 49-59.

[3] See Criminal Complaint, folder of Exhibit for the Defendants, page 31.

[4] See Information, *ibid.*, page 60.

[5] See Criminal Complaint, *ibid.*, page 36.

[6] See Criminal Complaint, *ibid.*, page 73.

[7] See Information, *ibid.*, pages 92-93.

[8] See Information, *ibid.*, page 109.

[9] See Complaint-Affidavit, folder of Exhibits for the Plaintiff, pages 7-8.

[10] See Complaint Sheet, Sinumpaang Salaysay by Ryan Bernardo y Fernandez and Gloria Biasaga de Almonte y Rabago and December 10, 2004 Certification of Police Blotter Entry, *ibid.*, pages 23, 25, 26-27, and 28, respectively.

[11] See September 21, 2004 Resolution and February 14, 2005 Resolution, both penned by Assistant Provincial Prosecutor Edgardo A. Martin, Jr., *ibid.*, pages 9-11 and 29-31, respectively.

[12] Interchangeably referred to as “Joeward Perez” or “Joeward” in the records.

[13] Interchangeably referred to as “Leticia Perez” or “Leticia” in the records.

[14] See Complaint Affidavit, Sworn Statement of Leticia Mejia-Perez, Medico-Legal Certificate No. 0401110194 dated November 24, 2004, Certification of Police Blotter Entry, Affidavit of Witness of Raul Estrada, and Certification to File Action, Exhibits “C” thru “H”, folder of Exhibits for the Plaintiff, pages 12-15, 16, 17, 18, 19, and 20, respectively.

[15] See Complaint Sheet, Sinumpaang Salaysay of Ryan Bernardo y Fernandez and Fidel Morales y Plana, and February 11, 2005 Certification of Police Blotter Entry, Exhibits “O” thru “S”, *ibid.*, pages 32-37.

[16] See February 14, 2005 Resolution and April 21, 2005 Resolution, *ibid.*, pages 21-22 and 39-41, respectively.

[17] See Complaint, records, pages 1-6.

[18] Civil Code, Art. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

Art. 20. Every person who, contrary to law, wilfully or negligently causes damage to another, shall indemnify the latter for the same.

Art. 26. Every person shall respect the dignity, personality, privacy and peace of mind of his neighbors and other persons. The following and similar acts, though they may not constitute a criminal offense, shall produce a cause of action for damages, prevention and other relief:

- (1) Prying into the privacy of another's residence;
- (2) Meddling with or disturbing the private life or family relations of another;
- (3) Intriguing to cause another to be alienated from his friends;
- (4) Vexing or humiliating another on account of his religious beliefs, lowly station in life, place of birth, physical defect, or other personal condition.

Art. 29. When the accused in a criminal prosecution is acquitted on the ground that his guilt has not been proved beyond reasonable doubt, a civil action for damages for the same act or omission may be instituted. Such action requires only a preponderance of evidence. Upon motion of the defendant, the court may require the plaintiff to file a bond to answer for damages in case the complaint should be found to be malicious.

If in a criminal case the judgment of acquittal is based upon reasonable doubt, the court shall so declare. In the absence of any declaration to that effect, it may be inferred from the text of the decision whether or not the acquittal is due to that ground.

Art. 32. Any public officer or employee, or any private individual, who directly or indirectly obstructs, defeats, violates or in any manner impedes or impairs any of the following rights and liberties of another person shall be liable to the latter for damages:

- (1) Freedom of religion;
- (2) Freedom of speech;
- (3) Freedom to write for the press or to maintain a periodical publication;
- (4) Freedom from arbitrary or illegal detention;
- (5) Freedom of suffrage;
- (6) The right against deprivation of property without due process of law;
- (7) The right to a just compensation when private property is taken for public use;
- (8) The right to the equal protection of the laws;
- (9) The right to be secure in one's person, house, papers, and effects against unreasonable searches and seizures;
- (10) The liberty of abode and of changing the same;
- (11) The privacy of communication and correspondence;
- (12) The right to become a member of associations or societies for purposes not contrary to law;
- (13) The right to take part in a peaceable assembly to petition the government for redress of grievances;
- (14) The right to be free from involuntary servitude in any form;
- (15) The right of the accused against excessive bail;
- (16) The right of the accused to be heard by himself and counsel, to be informed of the nature and cause of the

accusation against him, to have a speedy and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witness in his behalf;

(17) Freedom from being compelled to be a witness against one's self, or from being forced to confess guilt, or from being induced by a promise of immunity or reward to make such confession, except when the person confessing becomes a State witness;

(18) Freedom from excessive fines, or cruel and unusual punishment, unless the same is imposed or inflicted in accordance with a statute which has not been judicially declared unconstitutional; and

(19) Freedom of access to the courts.

In any of the cases referred to in this article, whether or not the defendant's act or omission constitutes a criminal offense, the aggrieved party has a right to commence an entirely separate and distinct civil action for damages, and for other relief. Such civil action shall proceed independently of any criminal prosecution (if the latter be instituted), and may be proved by a preponderance of evidence.

The indemnity shall include moral damages. Exemplary damages may also be adjudicated.

x x x

Art. 33. In cases of defamation, fraud, and physical injuries a civil action for damages, entirely separate and distinct from the criminal action, may be brought by the injured party. Such civil action shall proceed independently of the criminal prosecution, and shall require only a preponderance of evidence.

Art. 35. When a person, claiming to be injured by a criminal offense, charges another with the same, for which no independent civil action is granted in this Code or any special law, but the justice of the peace finds no reasonable grounds to believe that a crime has been committed, or the prosecuting attorney refuses or fails to institute criminal proceedings, the complaint may bring a civil action for damages against the alleged offender. Such civil action may be supported by a preponderance of evidence. Upon the defendant's motion, the court may require the plaintiff to file a bond to indemnify the defendant in case the complaint should be found to be malicious.

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

(8) Malicious prosecution;

[19] See TSN, Wilia Boucher, November 17, 2006, January 26, 2007, February 9, 2007, April 20, 2007, June 6, 2007, July 26, 2007, and May 5, 2011.

[20] See TSN, Myma Agpalasin, September 18, 2007, November 15, 2007, March 25, 2008, and June 26, 2008.

[21] See Defendants Answer to the Complaint, records, pages 26-35 and TSN, Gloria Almonte, August 20, 2009, pages 6-9..

[22] TSN, Gloria Almonte, *ibid.*, and September 17, 2009, page 7.

[23] See March 29, 2005 Resolution issued by 3rd Assistant Provincial Prosecutor (APP) Gonzano P. Marata, April 21, 2005 Resolution issued by APP Lily C. de Vera-Vallo, February 5, 2007 Resolution issued by APP Gil B. Rosario, and November 23, 2007 Resolution issued by APP Ferdinand DV Parayno, Exhibits "Y" thru "BB", records, pages 128-138.

[24] See TSN, Ernesto Almonte, August 19, 2010.

[25] See TSN, Leticia Perez, February 12, 2009 and June 4, 2009.

[26] Supra, at note 2.

[27] See page 8 of Appellant's Brief, rollo, page 18.

[28] See Appellant's Brief, *ibid.*, pages 11-39.

[29] See Appellees' Brief, *ibid.*, pages 74-79.

[30] See *Magbanua v. Junsay*, G.R. No. 132659. February 12, 2007.

[31] *Limanch-O Hotel and Leasing Corporation v. City Of Olongapo*, G.R. No. 185121. January 18, 2010, citing *Magbanua v. Junsay*, *ibid.*

[32] See *Limanch-O Hotel v. City of Olongapo*, *ibid.*

[33] See *Limanch-O Hotel v. City of Olongapo*, supra, at note 31 citing *Cometa v. Court of Appeals*, G.R. No.124062. December 29, 1999. See also *Villanueva v. United Coconut Planters Bank*, G.R. No. 138291. March 7, 2000

[34] *Magbanua v. Junsay*, supra, at note 30.

[35] See Annexes of Complaint Sheet, Exhibit "J", folder of exhibits for the plaintiff, pages 23-24.

[36] See *Saber v. Court of Appeals*, G.R. No. 132981. August 31, 2004.

[37] See *Limanch-O Hotel v. City of Olongapo*, supra, at note 31.

[38] *Villanueva v. United Coconut Planters Bank*, supra, at note 33. See also *Martires v. Cokieng*, G.R. No. 150192. February 17, 2005.

[39] See *Boyboy v. Yabut*, A.C. No. 5225. April 28, 2003.

[40] See *Peñalber v. Ramos*, G.R. No. 178645. January 30, 2009.

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