

BENIGNO O. RUMINGAN, PLAINTIFF- APPELLANT, VS. LEODIGARIO B. DE GUZMAN, DEFENDANT- APPELLEE.

Ponente: VIDAL, M.D., J.

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VIDAL, M.D., J.:

Before Us is an Appeal[1] filed by Plaintiff- Appellant BENIGNO O. RUMINGAN (hereinafter Appellant) assailing the Decision[2] dated 31 March 1999 of the Regional Trial Court, Third Judicial Region, Branch 24, Cabanatuan City in CIVIL Case No. 2071-AF entitled BENIGNO O. RUMINGAN vs. LEODIGARIO B. DE GUZMAN for Damages. The fallo of the Decision reads:

WHEREFORE, premises considered, the instant case is as it is hereby ordered DISMISSED.

SO ORDERED.[3]

THE FACTS

On 6 January 1994, Appellant sent a letter[4] to GERARDO S. ERQUIZA (hereinafter ERQUIZA), the Schools Division Superintendent of Nueva Ecija, which reads:

The Schools Division Superintendent
DECS, Division of Nueva Ecija
Cabanatuan City

Sir:

This is to inform your good office that on January 4, 1994 at about 9:00 o'clock in the morning, Mr. Dario de Guzman delivered forty (40) school desks at the Central School this district. As the main gate was then closed, he signaled a teacher, Mr. Efren S. Gabuyo who was then walking at more or less fifteen (15) meters away from the main gate to open said steel gate for his pick up ride to enter. His signal was not noticed by Mr. Gabuyo, instead, the school children who were then near opened the gate for Mr. De Guzman. With Mr. de Guzman's belief that he was intentionally ignored by the teacher, he uttered the following sarcastic remarks to me and Mr. Gabuyo and I quote:

- Teacher ba siya? and I answered yes, and a teacher from Talabutab Norte Elementary School;
- Bakit hindi mo ako pinansin kanginang tinatawag kita upang buksan ang gate? (Answer) Hindi kita napansin boss;
- Maestro ka ba dito sa Central School? By this time I answered Mr. de Guzman for the second time that Mr. Gabuyo is a teacher of Talabutab Norte Elementary School;
- At this point, he introduced himself as saying "Hindi lang ako pang dibisyon kundi pang Region pa;
- Kaya kong magpalipat o magpatanggal ng guro dahil Kuya (elder brother) ko ang inyong Superintendent; and at this point of our conversation, with [sic] the presence of four more teachers of the Central School. I tried the most modest and prudent way to pacify his unruly manner and actuations. I invited for a merrienda at our

Home Economics Building together with the four teachers. While we were having our siesta, he related some pleasant and interesting stories about his life. And by this time, he said the following and again I quote.

- Alam ba ninyo na ang kotse (car) at dalawang jeeps (two jeeps) ni kuya (referring to the Superintendent) ay bigay ko lang?

- Sino ang gusto ninyong Principal II dito? Sabihin ninyo at ipadadala ko;

- Ikaw (referring to the undersigned) ano ang katungkulan mo dito?

(I answered him, Ako ang Officer-In-Charge na itinalaga ni Sir dito sa Central School;

- Ano man ang gusto ko ay sinusunod ni Kuya dahil alam na ninyo...

After saying item number 4, I left as we were then having our Staff Meeting at the district office. But before he left, he asked for a fifty pesos (50.00) allegedly for his gasoline. As a token of gratitude for the delivery of our desks, I readily gave him the amount, then he left.

It is my honest intention to come out in the open to expose such actuations of a man who wittingly or unwittingly tends to ruin or destroy the honor and dignity of the School Superintendent.

Very respectfully yours,

BENIGNO O. RUMINGAN

On 10 January 1994, Defendant- Appellee LEODIGARIO B. DE GUZMAN (hereinafter Appellee) received a copy of said letter from ERQUIZA. Feeling aggrieved by the contents of the letter, Appellee filed a complaint for Libel against the Appellant. However, upon review by the Regional State Prosecutor, Region III, on a petition for review lodged by the Appellant, the trial prosecutor moved for the dismissal of the case, i.e., Criminal Case no. 5722, which was granted by the Regional Trial Court, Branch 28, Cabanatuan City on 23 January 1995, on the ground that the contents of the said letter was a qualifiedly privilege communication.[5]

On 20 March 1995, a complaint for damages based on malicious prosecution was filed before the court a quo by the Appellant against the Appellee.[6] Appellant alleged that due to the libel suit filed by the Appellee against him, he suffered mental anguish, fright, serious anxiety, besmirched reputation, wounded feeling, moral shock and social humiliation. And because of the said case, Appellant was transferred to Belen Elementary School, Barangay Belen, Gen. Natividad, Nueva Ecija, to his damage and prejudice.[7] Appellant invoked Article 19[8] and 21[9] of the New Civil Code, claiming that Appellee abused his rights when he filed the libel suit against him (Appellant).[10] In defense, Appellee averred that he filed the said complaint in good faith, i.e., upon the advice of Asst. Prosecutor VIRGILIO CABALLERO.[11]

While the aforesaid case for damages was pending, Appellee re-filed the same complaint for Libel against Appellant which resulted in the filing of Criminal Case no. 6436 before the Regional Trial Court, Branch 26, Cabanatuan City. However, on 22 February 1996, the said case, upon motion by the trial prosecutor, as directed by the Regional State Prosecutor, was dismissed by the RTC, Branch 26 on the ground that there was no malice in the subject letter and that it was a qualified privilege communication.[12]

On 31 March 1999, the court a quo dismissed Appellant's complaint for damages anchored on his (Appellant's) failure to prove bad faith on the part of the Appellee.[13]

Hence, the instant appeal.

THE ISSUES

Appellant raised the following assignment of errors:

- That the Lower Court erred in holding that the defendant acted in good faith and without malice in filing criminal cases No. 5722 before RTC Br. 28 for Libel and Crim. Case No. 6436 before RTC Br. 26 of the RTC of Cabanatuan City also for Libel[;]
- That the Lower Court erred in not holding that defendant Leodigario de Guzman acted in bad faith and with malice, when he refiled his complaint for Libel against Benigno Rumingan after the Regional State Prosecutor for Region III ordered the Provincial Prosecutor to dismiss Criminal Case No. 5722 and thereafter worked for its filing with the Office of the Provincial Prosecutor up to its refiling in Court under Crim. Case No. 6436;
- That the Lower Court erred in not holding that the defendant is liable for moral, exemplary damages and litigation expenses with Attorney's fees to the Appellant.[14]

OUR RULING

Considering that the issues, supra, are interrelated, We shall discuss their merits jointly.

Article 2219, paragraph 8, of the New Civil Code allows the recovery of moral damages for malicious prosecution (false accusation or denuncia falsa), to wit:

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

x x x

(8) Malicious prosecution;

x x x

To maintain an action for damages based on malicious prosecution, the following elements must be present:

- The fact of the prosecution and the further fact that the defendant was himself the prosecutor, and that the action was finally terminated with an acquittal;
- That in bringing the action, the prosecution acted without probable cause; and
- The prosecutor was actuated or impelled by legal malice.[15]

Anent the 1[st] element, clearly, Appellant was prosecuted for libel twice upon the complaint of Appellee. However, the suits were not terminated with the acquittal of Appellant. As above discussed, both libel suits were dismissed on the ground that the letter subject of the said criminal complaint was qualifiedly privilege communication.

Acquittal is always based on the merits, that is the defendant is acquitted because the evidence does not show that defendant's guilt is beyond reasonable doubt. While dismissal does not decide the case on the merits. Dismissal terminates the proceeding, either because the court is not a court of competent jurisdiction, or the evidence does not show that the offense was committed within the territorial jurisdiction of the court, or the complaint or

information is not valid or sufficient in form and substance, etc.[16]

Thus, on the 1[st] element alone, Appellant's complaint for damages based on malicious prosecution could not be legally sustained.

Equally absent in the case at bar is the 2[nd] element, supra. It is clear from the evidentiary records that the Investigating Prosecutor acted with probable cause in filing the criminal information of libel against Appellant. The pertinent portions of Appellant's testimony before the court a quo are quoted hereunder as follows:

CROSS- EXAMINATION BY ATTY. PANGILINAN:

x x x

Q: You will admit that Leodegario de Guzman that [sic] the defendant in this case charged you with Libel on January 12, 1994?

A: Yes, sir.

Q: And the Investigating/ Asst. Prov'l Prosecutor Rodolfo Beltran found a probable cause and filed criminal information against you?

A: For the first time, yes, sir.

Q: You will also admit that after the criminal information for libel was dismissed before RTC, Br. 28, Cabanatuan City, Leodegario de Guzman again filed same complaint of [sic] libel before prosecutor's office?

A: Yes, sir.

Q: And you will also admit that [the] Office-in-Charge of the Office of the Prosecutor's Office [sic] found a probable cause against you?

A: Yes, sir.

x x x[17]

Hence, if it were not for the classification of the subject letter, i.e., qualifiedly privilege communication- a circumstance which took the contents thereof out from being tagged as "libelous", the proceedings could have pushed through.

Re the 3[rd] element, to sustain Appellant's complaint for damages, supra, he must, among others, prove that the Appellee was actuated by legal malice, that is, by improper and sinister motives. He has to prove that he has been denounced or charged falsely of an offense by the Appellee; that the latter knows that the charge was false; that said Appellee acted with malice; and that the Appellant suffered damages.[18]

Sadly, as shown by the records, Appellant failed to prove that Appellee, in filing the libel suits, was prompted by a sinister design to vex and humiliate Appellant. Moreover, Appellee's complaint for libel was not based on a false narration of facts. Obviously, it was premised on an actual letter written by the Appellant, the contents thereof were viewed by the Appellee as "libelous". Thus, bad faith can not be attributed to Appellee in filing the criminal complaint against the Appellant. In doing so, he was merely exercising what he considered as his right under the law. It clearly follows, therefore, that an award for damages based on malicious prosecution will not prosper.

Settled in our jurisprudence is the rule that moral damages cannot be recovered from a person who has filed a complaint against another in good faith, or without malice or bad faith. If damage results from the filing of the complaint, it is *damnum absque injuria* (damage without injury).[19]

WHEREFORE, premises considered, the instant Appeal is hereby DISMISSED. The assailed Decision stands.

SO ORDERED.

Reyes, and Lampas Peralta, JJ., concur.

[1] Rollo, pp. 19-36

[2] Rollo, pp. 37-41

[3] Rollo, page 41

[4] Rollo, pp 27-29

[5] Rollo, page 23

[6] Rollo, page 24

[7] Records, pp 1-2

[8] Article 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.

[9] Article 21. Any person who willfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage.

[10] Rollo, page 57

[11] Rollo, page 52

[12] Rollo, page 53

[13] Rollo, pp 40-41

[14] Rollo, pp 25-26

[15] Dennis Lao vs. Court of Appeals, GR No. 82808, 11 July 1991

[16] Malanyaon vs. Lising, GR No. L-56028, 30 July 1981

[17] TSN, 10 November 1995, page 4

[18] Alejo Madera, et al. vs. Heirs of Salvador Lopez, et al, GR No. L-37105, 10 February 1981

[19] China Banking Corp. vs. Court of Appeals, GR No. 94182, 28 March 1994

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