LADISLAO PALMA, PLAINTIFF AND APPELLANT, VS. HONORATO GRACIANO, THE CITY OP CEBU, HON. MIGUEL CUENCO AND THE PEOVINGE OP CEBU, DEFENDANTS AND APPELLEES.

G.R. No. L-7240. May 16, 1956

Ponente: CONCEPCION, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/ee5037e6b821/

CONCEPCION, J.:

This is an action to recover damages for the institution, against plaintiff-appellant, Ladislao Palma, of Criminal case No. V-2135 of the Court of First Instance of Cebu, for "frauds against the public treasury," which was dismissed, and of criminal case No. V-2763, of the same court, for malversation of public funds, in which he was acquitted. It is alleged in the complaint that the information in said criminal cases were, on or about August 31 and September 26, 1950, respectively, caused to be filed— through "malicious machination" and in "bad faith", as well as "without any probable cause" and "with the intention of harassing and embarrassing the plaintiff" and "to besmirch" his "honor and reputation"—by defendant Manuel Cuenco, then provincial governor of Cebu who, it is said, acted, "with evident premeditation" and "due to personal hatred and vengeance against plaintiff," in connivance with defendant Honorato Graciano, as assistant fiscal of the City of Cebu, and contrary to law. Said City of Cebu and the province of Cebu were, likewise, included in the complaint as defendants.

In due course, each one of the aforementioned four defendants filed separate motions to dismiss, all based upon one and the same ground, namely, "that the complaint states no cause of action". By an order of August 12, 1953, the Court of First Instance of Cebu granted said motions and dismissed the complaint. Hence, this appeal by plaintiff Ladislao Palma.

The only question before us is whether or not plaintiff's complaint states a cause of action against any of the four defendants herein.

With respect to the province of Cebu and the City of Cebu, it is clear that the order appealed from is well-taken and must be upheld. Indeed, if as plaintiff avers in his complaint, the acts therein set forth were performed by defendants Manuel Cuenco and Honorato Garciano, "contrary to law," it follows that they bore neither the approval nor the authority of said political subdivisions, which, accordingly, cannot be held liable therefor. This exemption from responsibility of the province of Cebu and the City of Cebu becomes more evident when we consider that said acts (prosecution of crimes) are, not corporate, but governmental or political in character, and that, in the discharge of functions of this nature, municipal corporations are responsible for the acts of its officers, except if and when, and only to the extent that they have acted by authority of the law, and in conformity with the requirements thereof (Cooley, Municipal Corporations, 376; 38 Am. Jur. 299-300). In fact, section 5 of Commonwealth Act No. 58 (as amended), which is the Charter of the City of Cebu, provides:

> '"The city shall not be liable or held for damages or injuries to persons or property arising from the failure of the mayor, the municipal board, or any other city officer, to enforce the provisions of this charter, or any other law or ordinance, or from negligence of said mayor, municipal board, or other officers while enforcing or

attempting to enforce said provisions."

The situation varies, fundamentally, as regards defendants Manuel Cuenco and Honorato Graciano. The order of dismissal complained of is predicated upon the theory that the filing of the informations above referred to, is "presumed" to have been made "in good faith" and that, in fact, the proper court had found the existence of probable cause against plaintiff herein, contrary to the allegations in the complaint, which specifically charges "bad faith", lack of "any probable cause", desire to give vent to "personal hatred and vengeance," and intent to harass and embarrass the plaintiff and to besmirch his honor and reputation. The only question for determination by the court, at the time of the issuance of said order, was whether or not the complaint states a cause of action. This implied that said issue was to be passed upon on the basis of the allegations of the complaint, assuming them to be true. Instead, his honor, the trial judge inquired into the truth of said allegations and, in effect, found them to be false. And this it did without giving the plaintiff an opportunity to prove his aforesaid allegations. Thus, the lower court had, not only exceeded its jurisdiction, by going beyond the purview of the issue posed by defendants' motions to dismiss, but, also, denied due process of law to plaintiff herein, by, in effect deciding the case on the merits, before it had been submitted for decision and before plaintiff had had a chance to introduce evidence in support of the allegations of his complaint.

Upon the other hand, it is impliedly conceded that a cause of action would exist against defendants Manuel Cuenco and Honorato Graciano, if said allegations were taken on their face value. In this connection, it is well settled that when a public officer goes outside 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 (46 C. J. 1046; 22 R. C. L. 478-479).

Wherefore, the order appealed from is affirmed as regards, only, the province of Cebu and the City of Cebu, and it is reversed as to defendants Manuel Cuenco and Honorato Graciano, and let the record be remanded to the lower court for further proceedings, insofar as the last two defendants are concerned, without special pronouncement as to costs. It is so ordered.

Paras, C. J., Bengzon, Padillla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, Reyes, J. B. L., and Endencia, JJ., concur.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.