

PERFECTO ECLARIN, PLAINTIFF AND APPELLEE, VS. THE MUNICIPALITY OF TAYABAS, DEFENDANT AND APPELLANT.*G.R. No. 10070. December 01, 1915*

Ponente: TORRES, J.

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This appeal was filed by the provincial fiscal of Tayabas, in behalf of the municipality of Tayabas, from the judgment of April 4, 1913, in which the said municipality was ordered to pay to Perfecto Eclarin the sum of P2,212.50, the value of the coconut-trees belonging to him which were destroyed by order of this municipality in opening a public road on the plaintiff's land, and an additional sum of P2,345 as reimbursement for what the plaintiff had to spend to defend himself from a false and malicious criminal charge brought against him by the defendant municipality, and a further sum of P5,000 which, as exemplary damages, the defendant corporation should pay to the plaintiff; making a total of P9,557.50, which the municipality of Tayabas should pay the plaintiff.

By a written complaint of January 24, 1912, afterwards amended on November 29 of the same year, by counsel Perfecto Eclarin filed suit in the Court of First Instance of Tayabas in which he alleged as the first cause of action that he was the owner of two parcels of coconut-land in the barrio of Baguio of the municipality of Tayabas, the area and boundaries whereof are set forth in the complaint; that the municipality of Tayabas, in or about the year 1905, in spite of his protests and without prior payment of indemnity, unlawfully appropriated for public uses a strip of the said land of his exclusive ownership, opened thereon a local road, uprooted and destroyed about 177 of his coconut trees, from four to five years of age, deprived him of the possession and enjoyment of his said land and of the fruits of his coconut plantation from 1905 to 1911, and caused him damages and unnecessary expenses to the amount of P8,000; and, as a second cause of action, that the defendant corporation, not satisfied by its acts above-mentioned, procured his arrest by filing a complaint and charging him before the justice of the peace with a violation of section 16 of Act No. 1511, succeeded in obtaining his conviction, although on appeal he was absolved from the complaint and recognized to be the owner of the land that had been converted into a public thoroughfare; that the said proceedings r«doundtd to hii discredit and caused him unnecessary expenses and damages to the amount of P7,000, wherefore he prayed for judgment in which the municipality of Tayabas be ordered to pay him the sum of P15,000 as an indemnity for losses and damages, together with the costs.

The provincial fiscal of Tayabas in representation of the defendant municipality denied in his answer each and all of the allegations contained in the complaint, and as a special defense alleged that the right of action based on the first cause assigned in the complaint had prescribed; and that the facts set forth for the second do not constitute a cause of action.

After the hearing and introduction of evidence by both parties, the court rendered the judgment aforementioned, to which the defendant corporation excepted and moved in writing for a rehearing and a new trial. This motion was overruled, the appellant excepted, and, the proper bill of exception having been presented, the same was approved and transmitted to the clerk of this court.

The questions to be decided in this suit consist in whether or not it is true that the municipality of Tayabas proceeded to open a road on the land owned by the plaintiff; whether or not the latter is entitled to an indemnity for losses and damages, which, by various estimates and according to the judgment appealed from amount to P9,557.50; and whether or not the right of action based on the first cause alleged in the complaint has already prescribed.

It is shown by the record to have been fully proven that on May 31, 1902, the municipality of Tayabas, on petition of the residents of the barrio of Baguio where the lands of Perfecto Eclarin are situated, resolved to open a public road across the latter's property, and, for this purpose, appointed a committee of three councilors, in order that with the aid of the lieutenant of that barrio they might proceed to open the said public road: that, on June 9, 1905, the said councilors, accompanied by several residents of the locality, went upon the land of Perfecto Eclarin and without his consent or further legal proceedings opened the road by clearing a strip of the said land about forty meters in length by one or two meters in breadth and by destroying along the line of the new road a certain number of coconut trees, estimated by the plaintiff to be 177, although his witness, Tedfilo Trinidad, who took part in that work, testified that only 100 coconut trees were destroyed, and the witness for the defendant municipality, Vicente Ragudo, one of those charged with the execution of the said work, stated that he saw the destruction of only 30 trees.

By reason of the said acts, Eclarin, on the same day, June, 9, 1905, brought suit for damages in the justice of the peace court of Tayabas against the parties who had proceeded to open the said road. This suit, however, was afterwards dismissed and Eclarin must have closed the road and fenced in his lands, for, by a resolution of the 11th of the same month of June, 1905 (Exhibit B), the municipal council of Tayabas ordered him to reopen the road in question within six hours, under penalty of a fine of P200 for noncompliance with the order, which was not obeyed by Eclarin. By a letter of July 26th of that year, the municipal president again ordered the plaintiff to reopen the said road within twenty-four hours, else he would incur the penalty prescribed by the municipal ordinances (Exhibit C). It is also an indisputable fact that Eclarin protested to the municipal council of Tayabas against the opening of a public road through his property, and attached to his protest the deeds of ownership to his lands (p. 50, record).

The record does not disclose what happened with respect to this matter from the year 1906 to December 1, 1911, when the municipal president again wrote to Eclarin, ordering him to reopen the road in question (Exhibit H), and as Eclarin did not obey the order a charge was filed against him by the said municipal president, in the justice of the peace court on December 5, 1911, for violation of section 16 of Act No. 1511, known as the Road Law (Exhibit I) and he was prosecuted in cause No. 1638, the record of which forms a part of the evidence in the present case. He was then arrested but afterwards released on bail, and subsequently sentenced to thirty days' imprisonment and to pay a fine of P75 (Exhibit K). Eclarin appealed the case to the Court of First Instance, and was again arrested, on January 6, 1912 (Exhibit N), and provisionally released two days later, although he was finally absolved from the complaint, the court holding that the municipality of Tayabas had not proved that the road in question, opened on land belonging to the defendant Eclarin, was a public road (Record in case No. 1638, pp. 151-152).

With these antecedents the plaintiff brought the present action to collect from the municipality of Tayabas the sum of P8,000 for losses and damages suffered by him by being deprived from the year 1905 to December, 1911, of the use, enjoyment and possession of the strip of land on which the said municipality opened a public road and destroyed 177 coconut trees; a sum for attorney's fees, and other necessary expenses which, to defend his property rights, he was obliged to incur through the fault and unlawful acts of the defendant municipality; and still another sum of P7,000 for the moral and material damages caused him by being prosecuted and molested by the defendant

corporation to the extent of being arrested and brought into court, thereby injuring his reputation and obliging him to incur extraordinary expenses.

The defendant municipality claims that the action brought by Perfecto Eclarin for recovery of damages claimed to have been caused him has prescribed.

We believe this defense is well taken. It is an indisputable fact that, on June 9, 1905, a committee of councilors, accompanied by several residents of the locality, went to the plaintiff's land situated in the barrio of Baguio, entered upon it and uprooted therefrom a large number of young coconut-trees which he had planted on the strip of land cleared by them for use as a public road. From the documents presented by the plaintiff himself and from his own testimony at the hearing of this case, it is clearly shown that the opening of the said road was effected and the damages to the plantings on the said strip of land belonging to him were caused on June 9, 1905.

At trial no evidence whatever was produced that the municipality of Tayabas, subsequent to this date, continued to commit or committed further acts of trespass upon the plaintiff's land and caused other damages to his property. The record certainly contains nothing to show what occurred in regard to this matter from the year 1906 to December, 1911, hence it is concluded that the defendant municipality only once took action against the plaintiff's property, i. e. June 9, 1905; and if the question culminated in the criminal charge filed by the provincial fiscal against the plaintiff, Eclarin, in December 1911, it was because the latter persisted in fencing his land, thus preventing the road from continuing to be used as a public highway.

In the complaint filed by Perfecto Eclarin on January 24, 1912, praying for recovery of losses and damages on account of the unlawful acts performed upon, and injury caused to his land by the defendant corporation on June 9, 1905, no petition was made for the recovery of possession of the land used as a road, and none whatever relative to his title deed. The said damage to and trespass upon the plaintiff's land having occurred on June 9, 1905, it is evident that the action brought on January 24, 1912, has now prescribed under paragraph 3 of section 43 of the Code of Civil Procedure, which fixes the period of four years after the right of action accrues for the exercise of such right for injury to, or trespass upon, real estate.

The plaintiff alleges that the period for the prescription of his right should have been computed as commencing on January 16, 1912, the date on which the Court of First Instance absolved him from the criminal charge and recognized him to be the owner of the land on which the said public road was opened, and, in support of this contention, states: "The reason is obvious. The question of ownership is the main question, because, if a court of competent jurisdiction should hold that the plaintiff is not the owner of the land trespassed upon, he would not be entitled to an indemnity."

The question presented is, accordingly: From what date did the period of the alleged prescription begin to run? Section 43 of the Code of Civil Procedure limits the time within which actions can be brought after the right of action accrues, and fixes the period of four years as that within which an action can be brought for injury to, or trespass upon, real estate, and for the other actions therein specified. It is a general rule that the right or cause of action accrues from the date on which an action or suit may be brought by reason of a certain act or event. (Appeal of Amole's Administrators, 115 Pa. St., 356.)

From the 9th of June, 1905, when losses and damages were caused to the rights and interests of the plaintiff Eclarin and to his property, the right of action accrued, and from that date he could have filed a complaint demanding indemnity for such losses and damages caused to him. It is unnecessary that his right and title in the lands trespassed upon and on which the damages were caused should previously have been determined, inasmuch as his right of ownership was not denied or discussed, and his claim, had it been presented in due time, would of course have given him control over the said land. In the case of Raynor vs. Mintzer, tried in 1887 (72 Cal., 585),

it appears that the plaintiff Raynor, being the owner of a four-sevenths interest in certain real property and the defendants the owners of the other three-sevenths, was fraudulently dispossessed by the latter, in 1875, of the part of the land belonging to him and was obliged by them to maintain long and costly suits. In 1881 the plaintiff commenced an action against the then defendants to compel them to return his land to him, and finally won the suit on June 23, 1885. On November 23, 1885, Raynor commenced a second action against the same defendants to recover damages for their fraudulent acts, and the demurrer, sustained by the lower court, was upon the ground, among others, that the action had prescribed, because, according to the laws of California, such an action could be brought only within two years after the commission of the act complained of. Raynor appealed from the order sustaining the demurrer and the supreme court of the State of California, sustaining it, said, among other things, on pages 590 and 591: "But however this may be, the general rule is that a cause of action for tort arises when the wrongful act, causing damage, is done, and the statute of limitation then begins to run against it. The damages occasioned by the act may not all have been sustained at that time, but that fact does not postpone the running of the statute."

That the period of prescription is computed from the date of the commission of the wrongful act is a rule established in another case where it was held that: "A cause of action for a malicious attachment of the property of the plaintiff without probable cause is barred in two years (according to the laws of the State) from the date of the levy of the attachment." (McCusker vs. Walker, 77 Cal., 208.)

With respect to the second cause of action set up in Perfecto Eclarin's complaint and in which an indemnity of P7,000 is demanded for the moral and material damages suffered by him and for the extraordinary expenses he had to incur on account of the criminal charge preferred against him, we are of the opinion that this action is improper, in view of the provisions of article 326 of the Penal Code, the practical application of which appears to be sustained by the decision rendered in the case of United States vs. Barrera (4 Phil. Rep., 461) in which it was held that there can be no prosecution for a false accusation under article 326 of the Penal Code unless the court, in dismissing the first case, expressly orders the prosecuting attorney to proceed against the complaining witness for a violation of said article. It does not matter in what terms Eclarin's complaint was drawn up, for it is clear that its object is to obtain an indemnity for losses and damages which he alleges he suffered by being criminally prosecuted, although he was subsequently acquitted.

Under such conditions, in accordance with the said article 326 of the Penal Code, a civil action for damages does not lie, nor a criminal action either, unless the court, in its judgment acquitting the defendant or in the order of final dismissal expressly orders a criminal prosecution to be commenced, as held in the case of Gonzalez Quiros vs. Palanca Tan-Guinlay (5 Phil. Rep., 675). The said article 326 of the Penal Code is applicable, not only to criminal actions but also to civil actions brought against the complainant.

For the foregoing reasons we hold that the judgment appealed from must be reversed and that we should, as we do hereby, absolve the municipality of Tayabas from the complaint filed against it by Perfecto Eclarin, without special finding as to the costs in both instances. So ordered.

Johnson, Carson, Trent, and Araullo, JJ., concur.

Judgment reversed; defendant acquitted.

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