REYNALDO T. COMETA AND STATE INVESTMENT TRUST, INC., PETITIONERS, VS. COURT OF APPEALS, HON. GEORGE MACLI-ING, IN HIS CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT, QUEZON C...

G.R. No. 124062. December 29, 1999

Ponente: MENDOZA, J.

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MENDOZA, J.:

Petitioners move for a reconsideration of the decision in this case. They contend (1) that the complaint and its annexes show that petitioners acted with probable cause and without malice in charging private respondent Reynaldo Guevarra with falsification of public documents, and (2) that the non-inclusion in the civil case for malicious prosecution of the government prosecutors who directed the filing in court of the criminal case shows the existence of probable cause and the absence of malice.

Contending that the prosecution of private respondent Guevarra for falsification was grounded on probable cause, they cite our ruling in Martinez vs. United Finance Corporation,[1] where a plaintiff's complaint for malicious prosecution was dismissed upon showing that the same complaint contained the following allegations: (1) a preliminary investigation was conducted by the fiscal; (2) despite plaintiff's opposition, an information was filed by the fiscal; (3) plaintiff was acquitted of the offense charged.

On the other hand, private respondents argue in their Opposition to petitioners' motion for reconsideration that the absence of probable cause is sufficiently alleged in their complaint that petitioners' criminal action against private respondent Guevarra had no basis in fact and in law as well as by virtue of the trial court's dismissal of the criminal case for falsification of public documents on private respondent Guevarra's demurrer to the evidence.

We have carefully considered the parties' arguments and now resolve to grant petitioners' motion for reconsideration.

The facts are set forth at pages 1 to 6 of the decision in this case and are hereby incorporated into this resolution by reference.

Since petitioners seek the dismissal of the complaint against them on the ground that it does not state a sufficient cause of action, the question for determination is whether, taking the facts alleged in the complaint and its annexes to be true, they constitute a cause of action, and not whether these allegations of facts are true.[2] As stated in our decision in this case, a complaint for malicious prosecution states a cause of action if it alleges the following: (1) that the defendant was himself the prosecutor or that at least the prosecution was instituted at his instance; (2) that the prosecution finally terminated in the acquittal of the plaintiff; (3) that in bringing the action the prosecutor acted without probable cause; and (4) that the prosecutor was actuated by malice, i.e. by improper and sinister motives.[3]

Does the complaint in this case allege these as facts? The complaint alleges in relevant parts:

> 12. Sometime in 1989, while SIHI's appeal from the order of the lower court was still pending with the appellate courts, SIHI and Cometa filed a criminal case against Guevara for falsification of Public Documents which was docketed in the Office of the Provincial Fiscal of Makati, Metro Manila, entitled "State Investment House, Inc. vs. Reynaldo S. Guevara", I.S. No. 89-3747. The basis of the aforesaid case filed by the defendants against Guevara is a supposed Affidavit of Undertaking dated September 9, 1987 which had allegedly been submitted by the plaintiffs with the (HLURB) in connection with its application of a License to Sell its townhouse units in the RSG Condominium-Gueventville II. According to the defendants, the Affidavit of Undertaking is a forgery because the signature therein purporting to be that of Cometa is not Cometa's signature.
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> 13. After the parties had submitted their respective Affidavits, the Office of the Makati Provincial Fiscal dismissed the case filed by the defendants against Guevara. Notwithstanding this, the defendants appealed to the Department of Justice and the latter reversed the dismissal of the case by the Makati Provincial Fiscal and ordered the filing of the corresponding information in court. Consequently, a criminal information was filed against Guevara in the Regional Trial Court of Makati, Metro Manila. The case was raffled to Branch 61 of the said court and docketed therein as Criminal Case No. 90-3018 entitled "People of the Philippines, Plaintiff, vs. Reynaldo s. Guevara, Accused".
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> 14. Upon the filing of the information, a Warrant of Arrest was issued against Guevara. Guevara posted the necessary bail bond and the warrant for his arrest was lifted.
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> 15. After Guevara had been arraigned and after he had entered a plea of not guilty, the prosecution represented by a private prosecutor hired by the defendants, presented its evidence against Guevara. The principal evidence submitted by the prosecution consists of the sworn testimony of Cometa to the effect that Guevara had submitted the forged document with the HLURB in connection with HBI's application for the issuance of a License to Sell the condominium units in the RSG Condominium-Gueventville II.
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> 16. After the prosecution had rested its case, Guevara filed a Motion to Dismiss on a Demurrer to the Evidence, contending that all the evidence submitted by the prosecution do not suffice to show that he had committed the crime for which he has been accused.
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> 17. On March 26, 1992, the Regional Trial Court of Makati issued an order, granting Guevara's Motion to Dismiss on a Demurrer to the Evidence and ordered the dismissal of the criminal case for falsification of public documents against him. A copy of the said order is herewith attached and made an integral part hereof as Annex "A"
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> 18. Based on the evidence presented by the defendants against Guevara in the aforesaid criminal case and based on the order of the Regional Trial Court of Makati dismissing the case against Guevara, it is clear that the defendants had maliciously prosecuted Guevara, to his and HBI's embarassment, damage and prejudice. The criminal case filed by the defendants against Guevara had absolutely no basis in fact and in law. Quite clearly, defendants had filed the aforesaid case with the sole intent of harassing and pressuring Guevara, in his capacity as Chairman of GIDC, to give in to their illicit and malicious desire to appropriate the remaining unsold properties of GIDC and/or to influence the appellate courts to decide in their favor, their appeal of the lower court's decision in the GIDC case.

The first two requisites are sufficiently alleged in the complaint. We may also take as sufficiently pleaded the fourth requisite, i.e., malice. As stated in the original decision in this case, a general averment of malice is sufficient in view of Rule 8, §5 of the Rules of Civil Procedure. Accordingly, the allegation in par. 18 that petitioners filed the criminal case for the purpose of harassing and pressuring Guevarra, in his capacity as chairman of Guevent Industrial Development Corporation (GIDC), to give in to their illicit and malicious desire

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to appropriate the remaining unsold properties of the corporation, may be considered sufficient.

The question, however, is whether the third requisite, i.e., that the prosecutor acted without probable cause, has been sufficiently alleged. To be sure, lack of probable cause is an element separate and distinct from that of malice. It follows, therefore, that one cannot be held liable in damages for maliciously instituting a prosecution where he acted with probable cause.

Obviously, a determination that there was no probable cause cannot be made to rest solely on the fact that the trial court, acting on private respondent Guevarra's demurrer to evidence, dismissed the criminal prosecution, just as it cannot be made to turn on the fact that the Department of Justice reversed the fiscal's findings and ordered the criminal case against private respondent Guevarra to be filed in court. The first would transform all acquittals into veritable countersuits for malicious prosecution. On the other hand, the second would result in the dismissal of all complaints for malicious prosecutions.[4]

Accordingly, the inquiry should be whether sufficient facts are alleged showing that in bringing the criminal action, the defendant in the civil action for malicious prosecution acted without probable cause. This Court has ruled that for purposes of malicious prosecution, "probable cause" means "such facts and circumstances as would excite the belief, in a reasonable mind, acting on the facts within the knowledge of the prosecutor, that the person charged was guilty of the crime for which he was prosecuted."[5] In this case, even if we consider the allegations in the complaint as true, as well as the order of the trial court annexed thereto, we do not find the same sufficient to establish the absence of probable cause.

On the contrary, tested by the definition of what constitutes "probable cause," the prosecution evidence shows probable cause for believing that private respondent Guevarra was indeed responsible for the forgery of the Letter of Undertaking (Exh. N). As summarized by the trial court in its order of March 26, 1992, the evidence of the prosecution is as follows:

> To prove that the subject UNDERTAKING (Exhibit "N") is falsified, the prosecution presented the testimony of complaining witness REYNALDO COMETA to prove that as President of the STATE INVESTMENT he did not execute the document of undertaking and thus, the subject document (Exhibit "N") is falsified and his signature thereat is not his signature. To corroborate the testimony of COMETA, the NBI handwriting expert LUZVIMINDA C. SABADO, submitted the questioned Documents Report No. 278-688 dated 21 June 1988 to show that the signature above the name of COMETA in the subject undertaking (Exhibit "N") and the specimen signatures of COMETA WERE not written by one and the same person (Exhibit "Y").
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> To prove that accused falsified and/or caused the falsification of the subject undertaking (Exhibit "N"), the prosecution presented the records of the HOUSING BOARD which include the "Official Form" letter-application (Exhibit "J") submitted by accused together with the required documents enumerated therein which supposedly included the undertaking to release mortgage. The testimony of a HOUSING BOARD official, Ms. Floredeliza Manuel was presented to testify as an official of the HOUSING BOARD the standard procedure is that the BOARD requires from applicants for authority such as that applied for by accused, the following requirements were quoted by the prosecution in page 5 of their OPPOSITION and reproduced hereunder:
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> Q Can you recall some of the requirements?
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> A Well, we require a memorandum of agreement between the HLURB, the bank, and a memorandum of agreement executed by the bank, the developer and the Owner and HLURB. We also require if the title is clean so we require an affidavit to the effect that it is free from any encumbrances and then we also require a bank because it is under escrow, so there is a trustee bank because all the money will be deposited in the bank. And if the property is mortgaged then we require an affidavit of undertaking from any banking or financing

> institution or if it is mortgaged with the private person then we also require an affidavit of undertaking from that person, sir. (TSN, 24 July 1991, pp. 6-7; emphasis added).
>
> Q Now, you said that if the property covered by an application for a license to sell is mortgaged, your office required the submission of an affidavit of undertaking?
>
> A Yes, sir.
>
> Q If there is no affidavit of undertaking, what action is taken on the application?
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> A We will not recommend that for approval, sir. (TSN, 24 July 1991, p. 13)
>
> The documentary evidence marked from Exhibits "A" to "EE" is mostly the corporate papers and titles of the GUEVENT and HONEYCOMB to prove that accused GUEVARRA is an incorporator, stockholder, director and officer of the said corporations except for Exhibits involving the subject documents to be segregated in the later findings.
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> It is true that in dismissing the criminal case against private respondent, the trial court found that "there is neither direct nor circumstantial evidence to prove that accused is the author of this falsified document (Exh. N)" and for this reason ordered:
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> WHEREFORE, premises above considered, for failure of the prosecution to establish a prima facie case against accused, the MOTION TO DISMISS is hereby GRANTED, and the charge against accused REYNALDO GUEVARRA for Falsification of Public Documents is hereby DISMISSED without pronouncement as to costs.

According to the trial court, the circumstantial evidence presented by the prosecution did not add up to a prima facie case against the accused.[6] It adverted to the fact that the forged Letter of Undertaking was dated September 9, 1987, while private respondent Guevarra's application, with documents attached to it, was dated September 3, 1987. In this circumstance, the trial court thought it was not clear that the accused was responsible for sending the document dated September 9, 1987 and, therefore, the legal presumption that the possessor of a forged instrument is also the forger did not apply. Moreover, the trial court noted that the accused, through an affidavit, had represented to the Housing and Land Use Regulatory Board that the property, subject of the application, was unencumbered. Hence, there was no need for the accused to submit a letter of undertaking since such was required only if the property was mortgaged.

For this reason, the trial court ruled that the evidence for the prosecution did not establish "a prima facie case against accused [private private respondent Reynaldo Guevarra]." However, prima facie evidence is different from probable cause. Prima facie evidence requires a degree or quantum of proof greater than probable cause. "[It] denotes evidence which, if unexplained or uncontradicted, is sufficient to sustain a prosecution or establish the facts, as to counterbalance the presumption of innocence and warrant the conviction of the accused."[7] On the other hand, probable cause for the filing of an information merely means "reasonable ground for belief in the existence of facts warranting the proceedings complained of, or an apparent state of facts found to exist upon reasonable inquiry which would induce a reasonably intelligent and prudent man to believe that the accused person has committed the crime."[8] What is needed to bring an action in court is simply probable cause, not prima facie evidence.[9] In the terminology of the Rules of Criminal Procedure,[10] what is required for bringing a criminal action is only such evidence as is sufficient to "engender a well founded belief as to the facts of the commission of a crime and the respondent's probable guilt thereof."

The finding of the trial court in the criminal case does not imply lack of probable cause in bringing the case. To the contrary, its findings, as shown above, clearly show that petitioners had reasonable ground to believe that private respondent Guevarra was responsible for the forged Letter of Undertaking (Exh. N) which was submitted

to the HLURB in connection with the application of the Honeycomb Builders Inc. for a license to sell units at the RSG Condominium Guentville II Subdivision. It is noteworthy that in pars. 6 to 8 of their complaint, private respondents admitted that the properties were mortgaged to petitioner SITI. A letter of undertaking by the mortgagee was thus needed for the issuance of a license to sell to HBI.

We, therefore, hold that the complaint in this case fails to state a cause of action against petitioners.

WHEREFORE, petitioners' motion for reconsideration is GRANTED, the decision of the Court of Appeals is REVERSED, and the complaint against petitioners in Civil Case Q-93-15691 is DISMISSED for failure to state a cause of action.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Buena, and De Leon, Jr., JJ., concur.

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[1] 34 SCRA 524 (1970).

[2] Suyom v. Collantes, 69 SCRA 514 (1976).

[3] Madera v. Lopez, 102 SCRA 700 (1981).

[4] See Ventura v. Bernabe, 38 SCRA 587 (1971).

[5] Buchanan v. Vda. de Esteban, 32 Phil. 363, 365 (1915).

[6] Rollo, p. 95.

[7] People v. Montilla, 285 SCRA 703, 720 n. 22 (1998).

[8] Id at 720.

[9] Cruz, Jr. v. People, 233 SCRA 439, 459 (1994)

[10] Rule 112, §11.

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