

HECTOR C. VILLANUEVA, PETITIONER, VS. UNITED COCONUT PLANTERS BANK (UCPB), DUMAGUETE BRANCH, RESPONDENT.

G.R. No. 138291. March 07, 2000

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

A suit for malicious prosecution cannot prosper unless the plaintiff satisfactorily proves that the earlier criminal action lacked probable cause and was filed, by a sinister design, mainly to injure, vex, annoy or humiliate. An acquittal, by itself, does not necessarily prove the absence of probable cause in the criminal information or complaint. Upon the other hand, the complainant cannot escape liability merely on the ground that it was the fiscal who prosecuted the proceedings in court.

The Case

Before us is a Petition for Review on Certiorari of the October 30, 1998 Decision[1] and the April 8, 1999 Resolution[2] of the Court of Appeals[3] (CA) in CA-GR CV No. 52904. The assailed Decision disposed as follows:[4]

"WHEREFORE, IN VIEW OF THE FOREGOING, this appeal is hereby GRANTED. The Decision of the lower [c]ourt dated November 6, 1995 is REVERSED and SET ASIDE, and the complaint for damages in the court below is ordered DISMISSED. No pronouncement as to costs."

The assailed Resolution denied the petitioner's Motion for Reconsideration.[5]

The Facts

The Court of Appeals, in its assailed Decision, related the antecedents of this case in this wise:[6]

"Sometime in December 1978, Hermenegildo Villanueva, father of [herein Petitioner] Hector C. Villanueva, applied for and was granted a loan by [Respondent] United Coconut Planters' Bank (UCPB), Dumaguete City Branch, which at that time was managed by one Bobby Cafe. The loan was for the alleged purpose of agricultural coconut production and for processing under the Coconut Production Loan Program. As security therefor, Hermenegildo Villanueva mortgaged to the bank a parcel of land registered in his name located at Mauban, Quezon.

"In the course of a bank audit, certain fraud, anomalies and irregularities were discovered in the application, processing and granting of said loan prompting UCPB to conduct further investigation on the matter.

"After due inquiry, the [respondent] bank found and concluded that [petitioner], together with his father, Hermenegildo Villanueva, Bobby Cafe (UCPB Dumaguete City Branch Manager) and a certain Reynaldo Ramos, confederated and conspired with each other in perpetrating the fraud, anomalies and irregularities to the detriment of the bank.

"On June 8, 1979, UCPB, through its counsel, filed the following criminal complaints with the Office of the City Fiscal (now Prosecutor) of Dumaguete City, to wit:

- Against Bobby B. Cafe, Hermenegildo G. Villanueva, Hector Villanueva and Reynaldo Ramos, for violation of Section 77 of the General Banking Act, Republic Act (RA) No. 337, as amended by Presidential Decree (PD) No. 71, in relation to Central Bank Circular No. 517, Series of 1976, and Section 87 of the General Banking Act (Exh. "1", pp. 8-9, Defendant's Folder of Exhibit);
- Against Hermenegildo Villanueva, Hector Villanueva and Reynaldo Ramos for violation of Section 87-A-2(d) of the General Banking Act, RA No. 337, as amended by PD No. 71 (Exh. "2", pp. 33-34, *ibid.*);
- Against Bobby B. Cafe for violation of Section 87-A-1 (c) of the General Banking Act, RA No. 337, as amended by PD No. 71 (Exh "3", pp. 46-47, *ibid.*);
- Against Bobby B. Cafe, Hermenegildo G. Villanueva, Hector Villanueva and Reynaldo Ramos for violation of Section 87-A-2(b) of the General Banking Act, RA No. 337, as amended by PD No. 71 (Exh. "4", pp. 59-60, *ibid.*);
- Against Bobby B. Cafe, Hermenegildo G. Villanueva, Hector Villanueva and Reynaldo Ramos for violation of Articles 315(2)(a) and 316(2) of the Revised Penal Code (Exh. "5", pp. 72-73, *ibid.*); and
- Against Bobby B. Cafe, Hermenegildo G. Villanueva, Hector Villanueva and Reynaldo Ramos for violation of Section 87-A-1(d) and Section 87-A-2(a) of the General Banking Act, RA No. 337, as amended by PD No. 71 (Exh. "6", pp. 85-86, *ibid.*).

"After preliminary investigation, the City Fiscal found probable cause and resolved to file three (3) informations with the Court of First Instance (now Regional Trial Court) of Dumaguete City (Exh. "7", pp. 98-120, *ibid.*), as follows:

'1. Criminal Case No. 3699

'Against Bobby Cafe, Hermenegildo Villanueva, Hector Villanueva and Reynaldo Ramos for violation of Sections 77, 87-A-2(b) and 87-A-1(d) of the General Banking Act, RA No. 337, as amended by PD No. 71 and [Central Bank] Circular No. 517, Series of 1976 (Exh. "8", pp. 121-122, *ibid.*);

'2. Criminal Case No. 3700

'Against Hermenegildo Villanueva, Hector Villanueva, Reynaldo Ramos and Bobby B. Cafe for violation of Sections 87-A-2(d) and 87-A-1(c), General Banking Act, RA No. 337, as amended by PD NO. 71 (Exh. "9", pp. 123-124, *ibid.*);

'3. Criminal Case No. 3701

'Against Bobby Cafe, Hermenegildo Villanueva, Hector Villanueva and Reynaldo Ramos for the crime of Estafa under Article 315(2)(a) of the Revised Penal Code (Exh. "10", pp. 125-126, *ibid.*).'

"The three (3) criminal cases were consolidated and tried jointly.

"On June 29, 1991, the Regional Trial Court of Dumaguete City, Branch 37, rendered a decision therein acquitting all the accused except for Bobby Cafe, the dispositive portion of which reads:

'WHEREFORE, all the foregoing considered, judgment is hereby rendered as follows:

'1. In Criminal Case No. 3699, accused Bobby Cafe is found guilty beyond reasonable doubt of violating Paragraph 1(d) of Section 87-A of the General Banking Act as amended and is hereby sentenced to imprisonment of one year and to pay a fine of P2,000.00 with subsidiary imprisonment at the rate of one day for each eight pesos but in no case to exceed one-third of the term of the sentence, in case of insolvency, and to pay ¼ of the costs. Accused Rey Ramos and Hector Villanueva are acquitted on grounds of reasonable doubt with ½ of the costs de oficio.

‘In Criminal Case No. 3700 and Criminal Case No. 3701, accused Bobby Cafe, Hector Villanueva and Rey Ramos are acquitted on grounds of reasonable doubt with costs de oficio.

‘All the three cases against Hermenegildo Villanueva are ordered dismissed in view of his death pursuant to Paragraph 1 of Article 89 of the Revised Penal Code.’

‘xxx xxx xxx.’

(Exhs. "K" and "11"; p. 358, Orig. Rec., Vol. I)

"In view of his acquittal in the criminal cases, Hector Villanueva filed a complaint for damages on the ground of alleged malicious prosecution with the Regional Trial Court of Dumaguete City against [respondent bank], which was docketed as Civil Case No. 172-B and raffled to Branch [44] of the court. The complaint alleged, among others, that [petitioner] is a respectable member of the community, a professional, a member of various civic organizations, a businessman, and a political leader; that the filing of the criminal cases against him by [respondent bank] was done with malice which resulted in the undue maligning, blackening x x x of his integrity, honesty and good reputation, as well as adversely affecting his political career and business dealings, for which [petitioner] prayed that [respondent bank] be held liable to him for the amount [of] P200,000.00 in actual damages, P6,000,000.00 in moral damages, P2,000,000.00 in exemplary damages, P1,000,000.00 in nominal damages, and P800,000.00 in attorney's fees, as well as P5,000.00 charge per court appearance.

"In its answer, [respondent bank] denied the allegations in the complaint and asseverated that [petitioner] ha[d] no cause of action against [respondent bank] since the bank's filing of the criminal complaints before the Fiscal's Office of Dumaguete City was not tainted with malice; that it was the Fiscal's Office that prosecuted the criminal cases against [petitioner] and his co-accused when after preliminary investigation, it found probable cause to file the informations in court; that the acts of the City Fiscal in filing the informations and prosecuting the cases [were] presumed to have been performed with regularity and in good faith; that [petitioner's] acquittal based on reasonable doubt justifie[d][respondent bank's] submission of its grievances to the machinery of justice for ruling and possible redress; that [petitioner's] assertion that the filing of the criminal cases by the bank caused his political misfortunes [was] strained and farfetched; and that [petitioner's] claim for damages ha [d] no legal and factual bases. [Respondent bank] thus prayed for the dismissal of the complaint and, in his counterclaim, for an award of P10,000,000.00 in moral damages, P2,000,000.00 in exemplary damages, P1,000,000.00 in attorney's fees and costs of suit."

After trial on the merits, the lower court rendered its Decision[7] dated November 6, 1995, in favor of petitioner. The dispositive portion reads:[8]

"WHEREFORE, finding a preponderance of evidence in favor of the [petitioner], and considering his social standing in the community and in the Province of Negros Oriental, judgment is hereby rendered awarding:

- Moral damages in the amount of [o]ne and a half million pesos;
- Exemplary damages in the amount of two million pesos;
- Attorney's fees in the amount of five hundred thousand pesos.

"All the counterclaims of [respondent bank] are hereby dismissed for lack of merit."

On appeal, the CA reversed the trial court in the assailed Decision and Resolution.

Ruling of the Court of Appeals

The Court of Appeals ruled that the petitioner had failed to prove the elements of malicious prosecution.

First, even if the respondent bank filed the six criminal Complaints against the petitioner, it was not the prosecutor but merely the complainant. The prosecution of those criminal cases was left solely to the discretion and control of the city fiscal. Second, the prosecutor acted with probable cause. The Resolution of the city fiscal of Dumaguete clearly showed petitioner's participation in the alleged crimes and the reasons why the accused was probably guilty as charged. Third, the petitioner also failed to establish malice behind the filing of the criminal Complaints.

The adverse result of an action does not by itself make the prosecution thereof wrongful; neither does it subject the actor to payment of damages. The law does not impose a penalty on the right to litigate.

Hence, this Petition.[9]

Issues

In his Memorandum, the petitioner submits the following issues for our consideration:

"I.

Can probable cause exist in non-existent crimes or indicted criminal acts not specifically punished by existing penal statutes?

"II.

Complainant of a criminal complaint being merely reduced to the status of [a] complaining witness in the prosecution of the x x x information filed in court, does such reduced status absolve complainant of civil liability under the doctrine of malicious prosecution?

"III.

On the application of the doctrine of malicious prosecution, is not the doctrine enunciated in the *Lao v. Court of Appeals* (199 SCRA 58, 61) complimentary, supportive or rather strengthening further the earlier doctrine posited in the case of *Lagman v. Intermediate [Appellate Court]* (G.R. 77281, 28 Oct. 89), or did the former amend or supplant the latter?"[10]

Restated, the issues brought forth in this case are as follows: (1) Was there probable cause against petitioner? (2) May the private complainant in a criminal case be held liable for malicious prosecution, considering that it is the fiscal who prosecuted the criminal action against the accused? and (3) Was the petitioner prosecuted out of malice?

The Court's Ruling

The Petition has no merit.

First Issue:

Probable Cause

For a malicious prosecution suit to prosper, the plaintiff must prove the following: (1) the prosecution did occur, and the defendant was himself the prosecutor or that he instigated its commencement; (2) the criminal action finally ended with an acquittal; (3) in bringing the action, the prosecutor acted without probable cause; and (4) the prosecution was impelled by legal malice -- an improper or a sinister motive.[11] Stripped of legal jargon, malicious prosecution means persecution through the misuse or abuse of judicial processes; or the institution and pursuit of legal proceedings for the purpose of harassing, annoying, vexing or injuring an innocent person.

Petitioner avers that there was no probable cause against him, because the imputed acts were not covered or punished by a penal statute. Despite being a complete stranger to the loan transaction, he was implicated by the bank as a conspirator in the six Complaints for violation of the General Banking Act. However, only three Informations were filed for violations of the following: one, Secs. 77, 87-A-2(b) and 87-A-1(d) of the General

Banking Act (Republic Act No. 337 as amended by Presidential Decree No. 71), as well as Central Bank Circular No. 517, Series of 1976; two, Secs. 87-A-2(d) and 87-A-1(c) of the General Banking Act, as amended; and, three, Article 315(2)(a) of the Revised Penal Code. The petitioner was acquitted of all three charges.

The contention is untenable. Probable cause is evident from the facts and circumstances established during the preliminary investigation conducted by the city prosecutor. In its 23-page Resolution of October 8, 1979, the City Prosecutor's Office outlined petitioner's participation, as follows:

"The first document of the case x x x is a Deed of Sale executed on November 4, 1978 in the City of Manila selling Lot No. 7716-B of the Cadastral Survey of the Municipality of Mauban, Province of Quezon covered by Transfer Certificate of Title No. T-81215 of the land records of Quezon Province consisting of 5,791,688 sq. m. (5[79] plus hectares)[;] the vendor is the Coco-Agro Industrial Co., Inc., represented by Jaime Abeja and the vendee is Hermenegildo Villanueva for a consideration of P500,000.00. Evidently, no money changed hands on this date except the sum of P6,000.00 for land taxes and other expenses because at about the same time, two (2) documents of mortgage were executed by Hermenegildo Villanueva in favor of Jaime Abeja: one for P1,100,000.00 and another for P400,000.00 to secure the payment of the agreed consideration of P1,500,000.00. Although these documents contain the signature of Jaime Abeja as vendor in the document of sale and as mortgagee in the two documents of mortgage, and that of Hermenegildo Villanueva as vendee and mortgagor in the documents of mortgage, Abeja claims that Hermenegildo Villanueva was not present. However, Bobby B. Cafe, Hector Villanueva, and Dr. Reynaldo Ramos were present. Obviously, these documents were prepared and signed by Villanueva beforehand. These mortgages were kept secret although the respondents, including Bobby B. Café, knew of them. x x x The Deed of Sale, enabled Bobby B. Cafe and/or the other respondents to transfer the title from the name of Abeja's corporation [to]the name of Hermenegildo Villanueva.[12]

"x x x And after release, the proceeds were deposited in the account of x x x Hermenegildo Villanueva with UCPB, Dumaguete Branch. Almost immediately, or about a day or two, the proceeds of the loan were withdrawn from the account of Hermenegildo Villanueva and deposited with the newly opened account of [petitioner], son of Hermenegildo Villanueva."[13]

"x x x The evidence also shows that at the time Abeja was in Dumaguete City, on 22 March 1978, when he signed the Memorandum of Agreement, vendee Hermenegildo Villanueva was out of the country. From start to finish, it was only Bobby B. Cafe and Rey Ramos, and at one time Hector Villanueva who had dealings and meetings with Jaime Abeja. x x x."[14]

The bank cannot be faulted for its desire to protect its interest in the subject loans. Since the proceeds thereof were already released and transferred to the bank account of petitioner from that of his father, the bank had to implead the petitioner in the criminal cases.

Probable cause is the existence of such facts and circumstances as would excite the belief in a reasonable mind that the person who is charged and prosecuted in a criminal case is probably guilty of the crime or wrongdoing.[15] The term does not connote absolute certainty. Neither does it require an inquiry into the sufficiency of the evidence to obtain a conviction.

In this case, the above-quoted facts taken together constitute prima facie evidence to engender a reasonable belief that petitioner was part of a conspiracy to defraud the respondent bank. Thus, there was probable cause for the filing of the Complaints, which were not products of the whim or caprice of the respondent bank.

In malicious prosecution, even if the act complained of does not constitute a crime, there can still be probable cause behind the commission of a civil wrong. The gravamen of malicious prosecution is not the filing of a complaint based on the wrong provision of law, but the deliberate initiation of an action with the knowledge that

the charges were false and groundless.[16] In the case at bar, even if Secs. 87-A-1, 87-A-1(d), 87-A-2, and 87-A-2(b) of the General Banking Act punish only bank officers, employees, borrowers or banking institutions, the respondent bank nonetheless filed these Complaints based on a theory of a conspiracy to defraud it.

The petitioner's acquittal, by itself, did not disprove the presence of probable cause. Evidence of probable cause to warrant the filing of a criminal information may not suffice to procure a conviction, which requires proof beyond reasonable doubt. In other words, an acquittal does not necessarily imply lack of probable cause.

Second Issue:

The Prosecution of the Information

by the Public Prosecutor, Not by the Complainant

Petitioner avers that the CA erred in absolving the respondent bank on the basis merely of the fact that the fiscal had absolute control and supervision of the prosecution.

We agree that the CA erred on this point. As held in *Lagman v. Intermediate Appellate Court*,^[17] the second requisite of malicious prosecution is "that the defendant was himself the prosecutor or that he instigated its commencement." Indeed, the right to institute a criminal action cannot be exercised maliciously and in bad faith, as when a criminal complaint is used "as a weapon to force an alleged debtor to pay an indebtedness."^[18] Such complaint designed to annoy or harass may be the basis of a suit for malicious prosecution. Clearly, the mere fact that the fiscal took full control of a litigation does not grant immunity to persons who misuse their rights to instigate criminal actions.

Third Issue: Malice and Malicious Prosecution

The respondent bank filed the criminal Complaints for violations of the General Banking Act in its honest belief that these charges were meritorious. There is no credible evidence to show that it was impelled by a desire to unjustly vex, annoy and inflict injury on the petitioner. Before these cases were referred to the city fiscal, it had even conducted its own investigation with the assistance of the National Bureau of Investigation.^[19]

Malicious prosecution requires proof that the prosecution was prompted by a sinister design to vex and humiliate the plaintiff.^[20] The respondent bank had neither a "bone to pick" with the petitioner nor a "previous dealing with petitioner that could have prompted the respondent bank to turn the tables on him."^[21]

Resort to judicial processes, by itself, is not evidence of ill will, as the mere act of filing a criminal complaint does not make the complainant liable for malicious prosecution.^[22] There must be proof that the suit was prompted by legal malice -- an inexcusable intent to injure, oppress, vex, annoy or humiliate.^[23] A contrary rule would discourage peaceful recourse to the courts and unjustly penalize the exercise of a citizen's right to litigate.^[24] Where the action is filed in good faith, no penalty should be imposed thereon.^[25]

WHEREFORE, the Petition is DENIED and the assailed Decision and Resolution AFFIRMED. Costs against petitioner.

SO ORDERED.

Melo, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] Rollo, pp. 13-25.

[2] Rollo, p. 33.

[3] Tenth Division composed of JJ Fermin A. Martin Jr., ponente and chairman; Romeo J. Callejo Sr. and

Mariano M. Umali, members (both concurring).

[4] CA Decision, p. 13; Rollo, p. 25.

[5] Rollo, p. 33.

[6] CA Decision, pp. 2-6; Rollo, pp. 14-18.

[7] Written by Judge Alvin L. Tan.

[8] RTC Records, vol. II, p. 264.

[9] This case was deemed submitted for decision upon simultaneous receipt by this Court of the parties' respective Memoranda on November 29, 1999. The Memorandum of petitioner was signed by Atty. Justo J. Paras of Paras & Associates, while that of respondent was prepared by Attys. Jefferson M. Marquez and Joseph Randi C. Torregosa of Abello Concepcion Regala & Cruz.

[10] Petitioner's Memorandum, pp. 6-7; Rollo, pp. 109-110.

[11] Ponce v. Legaspi, 208 SCRA 377, 388, May 6, 1992; Lao v. Court of Appeals, 199 SCRA 58, 61, July 11, 1991; Drilon v. Court of Appeals, 270 SCRA 211, 220-221, March 20, 1997.

[12] Exh. "7-A," Resolution of the Office of the City Fiscal of Dumaguete, pp. 14-15; RTC Records, Vol. II, pp. 139-140.

[13] Exh. "7-B," Ibid, p. 16; Ibid, p. 141.

[14] Exh. "7," Ibid, pp. 19-20; Ibid, pp. 144-145.

[15] Ponce v. Legaspi, supra, p. 389; Drilon v. Court of Appeals, 270 SCRA 211, 221, March 20, 1997.

[16] Albenson Enterprises Corp. v. Court of Appeals, 217 SCRA 16, 28, January 11, 1993; Chua v. Court of Appeals, 242 SCRA 341, 345, March 14, 1995; China Banking Corp. v. Court of Appeals, 231 SCRA 472, 478, March 28, 1994.

[17] 166 SCRA 734, 739, October 28, 1988, per Fernan, CJ.

[18] Yutuk v. Manila Electric Co., 2 SCRA 337, 348-349, May 31, 1961; Globe Mackay Cable & Radio Corporation v. Court of Appeals, 176 SCRA 778, 787, August 25, 1989.

[19] Memorandum for the Respondent, p. 27; Rollo, p. 102; TSN, March 1, 1995, pp. 6-7.

[20] Globe Mackay v. CA, supra, p. 788; Lagman v. IAC, supra, p. 740.

[21] Ibid, p. 25; Ibid, p. 100.

[22] Globe Mackay v. CA, supra, p. 788; Lagman v. IAC, supra, p. 740; Albenson v. CA, supra.

[23] Pro Line Sports Center, Inc. v. Court of Appeals, 281 SCRA 162, 172, October 23, 1997.

[24] Ibid.; "J" Marketing Corporation v. Sia Jr., 285 SCRA 580, 582, January 18, 1998.

[25] Lagman v. IAC, supra, p. 741; China Banking v. CA, supra, p. 478.

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