

**ERNESTO RAMAS UYPITCHING AND RAMAS UYPITCHING SONS, INC.,
PETITIONERS, VS. ERNESTO QUIAMCO, RESPONDENT.***G.R. NO. 146322. December 06, 2006*

Ponente: CORONA, J.

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Honeste vivere, non alterum laedere et jus suum cuique tribuere. To live virtuously, not to injure others and to give everyone his due. These supreme norms of justice are the underlying principles of law and order in society. We reaffirm them in this petition for review on certiorari assailing the July 26, 2000 decision[1] and October 18, 2000 resolution of the Court of Appeals (CA) in CA-G.R. CV No. 47571.

In 1982, respondent Ernesto C. Quiamco was approached by Juan Davalan,[2] Josefino Gabutero and Raul Generoso to amicably settle the civil aspect of a criminal case for robbery[3] filed by Quiamco against them. They surrendered to him a red Honda XL-100 motorcycle and a photocopy of its certificate of registration. Respondent asked for the original certificate of registration but the three accused never came to see him again. Meanwhile, the motorcycle was parked in an open space inside respondent's business establishment, Avesco-AVNE Enterprises, where it was visible and accessible to the public.

It turned out that, in October 1981, the motorcycle had been sold on installment basis to Gabutero by petitioner Ramas Uypitching Sons, Inc., a family-owned corporation managed by petitioner Atty. Ernesto Ramas Uypitching. To secure its payment, the motorcycle was mortgaged to petitioner corporation.[4]

When Gabutero could no longer pay the installments, Davalan assumed the obligation and continued the payments. In September 1982, however, Davalan stopped paying the remaining installments and told petitioner corporation's collector, Wilfredo Veraño, that the motorcycle had allegedly been "taken by respondent's men."

Nine years later, on January 26, 1991, petitioner Uypitching, accompanied by policemen,[5] went to Avesco-AVNE Enterprises to recover the motorcycle. The leader of the police team, P/Lt. Arturo Vendiola, talked to the clerk in charge and asked for respondent. While P/Lt. Vendiola and the clerk were talking, petitioner Uypitching paced back and forth inside the establishment uttering "Quiamco is a thief of a motorcycle."

On learning that respondent was not in Avesco-AVNE Enterprises, the policemen left to look for respondent in his residence while petitioner Uypitching stayed in the establishment to take photographs of the motorcycle. Unable to find respondent, the policemen went back to Avesco-AVNE Enterprises and, on petitioner Uypitching's instruction and over the clerk's objection, took the motorcycle.

On February 18, 1991, petitioner Uypitching filed a criminal complaint for qualified theft and/or violation of the Anti-Fencing Law[6] against respondent in the Office of the City Prosecutor of Dumaguete City.[7] Respondent moved for dismissal because the complaint did not charge an offense as he had neither stolen nor bought the motorcycle. The Office of the City Prosecutor dismissed the complaint[8] and denied petitioner Uypitching's subsequent motion for reconsideration.

Respondent filed an action for damages against petitioners in the RTC of Dumaguete City, Negros Oriental, Branch 37.[9] He sought to hold the petitioners liable for the following: (1) unlawful taking of the motorcycle; (2) utterance of a defamatory remark (that respondent was a thief) and (3) precipitate filing of a baseless and malicious complaint. These acts humiliated and embarrassed the respondent and injured his reputation and integrity.

On July 30, 1994, the trial court rendered a decision[10] finding that petitioner Uypitching was motivated with malice and ill will when he called respondent a thief, took the motorcycle in an abusive manner and filed a baseless complaint for qualified theft and/or violation of the Anti-Fencing Law. Petitioners' acts were found to be contrary to Articles 19[11] and 20[12] of the Civil Code. Hence, the trial court held petitioners liable to respondent for P500,000 moral damages, P200,000 exemplary damages and P50,000 attorney's fees plus costs.

Petitioners appealed the RTC decision but the CA affirmed the trial court's decision with modification, reducing the award of moral and exemplary damages to P300,000 and P100,000, respectively.[13] Petitioners sought reconsideration but it was denied. Thus, this petition.

In their petition and memorandum, petitioners submit that the sole (allegedly) issue to be resolved here is whether the filing of a complaint for qualified theft and/or violation of the Anti-Fencing Law in the Office of the City Prosecutor warranted the award of moral damages, exemplary damages, attorney's fees and costs in favor of respondent.

Petitioners' suggestion is misleading. They were held liable for damages not only for instituting a groundless complaint against respondent but also for making a slanderous remark and for taking the motorcycle from respondent's establishment in an abusive manner.

Correctness of the Findings of the RTC and CA

As they never questioned the findings of the RTC and CA that malice and ill will attended not only the public imputation of a crime to respondent[14] but also the taking of the motorcycle, petitioners were deemed to have accepted the correctness of such findings. This alone was sufficient to hold petitioners liable for damages to respondent.

Nevertheless, to address petitioners' concern, we also find that the trial and appellate courts correctly ruled that the filing of the complaint was tainted with malice and bad faith. Petitioners themselves in fact described their action as a "precipitate act." [15] Petitioners were bent on portraying respondent as a thief. In this connection, we quote with approval the following findings of the RTC, as adopted by the CA:

x x x There was malice or ill-will [in filing the complaint before the City Prosecutor's Office] because Atty. Ernesto Ramas Uypitching knew or ought to have known as he is a lawyer, that there was no probable cause at all for filing a criminal complaint for qualified theft and fencing activity against [respondent]. Atty. Uypitching had no personal knowledge that [respondent] stole the motorcycle in question. He was merely told by his bill collector ([i.e.] the bill collector of Ramas Uypitching Sons, Inc.)[, Wilfredo Veraño[,] that Juan Dabalan will [no longer] pay the remaining installment(s) for the motorcycle because the motorcycle was taken by the men of [respondent]. It must be noted that the term used by Wilfredo Veraño in informing Atty. Ernesto Ramas Uypitching of the refusal of Juan Dabalan to pay for the remaining installment was '[']taken[']', not '[']unlawfully taken[']' or 'stolen.' Yet, despite the double hearsay, Atty. Ernesto Ramas Uypitching not only executed the [complaint-affidavit] wherein he named [respondent] as 'the suspect' of the stolen motorcycle but also charged [respondent] of 'qualified theft and fencing activity' before the City [Prosecutor's] Office of Dumaguete. The absence of probable cause necessarily signifies the presence of malice. What is deplorable in all these is that Juan Dabalan, the owner of the motorcycle, did not accuse [respondent] or the latter's men of stealing the

motorcycle[,] much less bother[ed] to file a case for qualified theft before the authorities. That Atty. Uypitching's act in charging [respondent] with qualified theft and fencing activity is tainted with malice is also shown by his answer to the question of Cupid Gonzaga[16] [during one of their conversations] - "why should you still file a complaint" You have already recovered the motorcycle..."[:] "Aron motagam ang kawatan ug motor." ("To teach a lesson to the thief of motorcycle.")[17]

Moreover, the existence of malice, ill will or bad faith is a factual matter. As a rule, findings of fact of the trial court, when affirmed by the appellate court, are conclusive on this Court. We see no compelling reason to reverse the findings of the RTC and the CA.

Petitioners Abused Their
Right of Recovery as
Mortgagee(s)

Petitioners claim that they should not be held liable for petitioner corporation's exercise of its right as seller-mortgagee to recover the mortgaged vehicle preliminary to the enforcement of its right to foreclose on the mortgage in case of default. They are clearly mistaken.

True, a mortgagee may take steps to recover the mortgaged property to enable it to enforce or protect its foreclosure right thereon. There is, however, a well-defined procedure for the recovery of possession of mortgaged property: if a mortgagee is unable to obtain possession of a mortgaged property for its sale on foreclosure, he must bring a civil action either to recover such possession as a preliminary step to the sale, or to obtain judicial foreclosure.[18]

Petitioner corporation failed to bring the proper civil action necessary to acquire legal possession of the motorcycle. Instead, petitioner Uypitching descended on respondent's establishment with his policemen and ordered the seizure of the motorcycle without a search warrant or court order. Worse, in the course of the illegal seizure of the motorcycle, petitioner Uypitching even mouthed a slanderous statement.

No doubt, petitioner corporation, acting through its co-petitioner Uypitching, blatantly disregarded the lawful procedure for the enforcement of its right, to the prejudice of respondent. Petitioners' acts violated the law as well as public morals, and transgressed the proper norms of human relations.

The basic principle of human relations, embodied in Article 19 of the Civil Code, provides:

Art. 19. Every person must in the exercise of his rights and in the performance of his duties, act with justice, give every one his due, and observe honesty and good faith.

Article 19, also known as the "principle of abuse of right," prescribes that a person should not use his right unjustly or contrary to honesty and good faith, otherwise he opens himself to liability.[19] It seeks to preclude the use of, or the tendency to use, a legal right (or duty) as a means to unjust ends.

There is an abuse of right when it is exercised solely to prejudice or injure another.[20] The exercise of a right must be in accordance with the purpose for which it was established and must not be excessive or unduly harsh; there must be no intention to harm another.[21] Otherwise, liability for damages to the injured party will attach.

In this case, the manner by which the motorcycle was taken at petitioners' instance was not only attended by bad faith but also contrary to the procedure laid down by law. Considered in conjunction with the defamatory statement, petitioners' exercise of the right to recover the mortgaged vehicle was utterly prejudicial and injurious to respondent. On the other hand, the precipitate act of filing an unfounded complaint could not in any way be considered to be in accordance with the purpose for which the right to prosecute a crime was established. Thus,

the totality of petitioners' actions showed a calculated design to embarrass, humiliate and publicly ridicule respondent. Petitioners acted in an excessively harsh fashion to the prejudice of respondent. Contrary to law, petitioners willfully caused damage to respondent. Hence, they should indemnify him.[22]

WHEREFORE, the petition is hereby DENIED. The July 26, 2000 decision and October 18, 2000 resolution of the Court of Appeals in CA-G.R. CV No. 47571 are AFFIRMED.

Triple costs against petitioners, considering that petitioner Ernesto Ramas Uypitching is a lawyer and an officer of the court, for his improper behavior.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.

[1] Penned by Associate Justice Martin S. Villarama, Jr. and concurred in by Presiding Justice Salome A. Montoya (retired) and Associate Justice Romeo J. Callejo, Sr. (now a member of the Supreme Court) of the First Division of the Court of Appeals; rollo, pp. 26-36.

[2] "Juan Dabalan" in some parts of the records.

[3] The case was filed in the Regional Trial Court (RTC) of Negros Oriental, Dumaguete City, Branch 31 where it was docketed as Criminal Case No. 5630. On March 3, 1986, the trial court (through Judge Rolando R. Villaraza) convicted Davalan and Generoso and acquitted Gabutero.

[4] The certificate of registration issued to Gabutero bore the notation "Mortgaged."

[5] These policemen were P/Lt. Arturo Vendiola, Pfc. Damiola, Capt. Tayco, Pat. Romeo Tan and Pat. Catigtig.

[6] Presidential Decree No. 1612.

[7] Docketed as I.S. No. 91-74.

[8] Resolution dated June 14, 1991; rollo, pp. 147-151.

[9] Presided by Judge Temistocles B. Diez. The case was docketed as Civil Case No. 10492.

[10] Penned by Judge Temistocles B. Diez.

[11] Art. 19. Every person must in the exercise of his rights and in the performance of his duties, act with justice, give every one his due, and observe honesty and good faith.

[12] Art. 20. Every person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same.

[13] The modification was based on the principle that moral and exemplary damages are not imposed to enrich a party.

[14] In fact, malice is presumed from a defamatory imputation.

[15] Petition, p. 5; rollo, p.17.

[16] One of respondent's witnesses.

[17] CA Decision, supra note 1.

[18] *Filinvest Credit Corporation v. Court of Appeals*, G.R. No. 115902, 27 September 1995, 248 SCRA 549.

[19]Hongkong Shanghai Banking Corporation, Ltd. v. Catalan, G.R. Nos. 159590-91, 18 October 2004, 440 SCRA 498.

[20] Id.

[21] Id.

[22] CIVIL CODE, Art. 20.

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