

MARIO VALEROSO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 149718. September 29, 2003

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before the Court is a petition for review on certiorari filed by Mario Valeroso seeking to reverse and set aside the Decision[1] of the Court of Appeals dated September 7, 2001 in CA-G.R. CR No. 23672 which affirmed the petitioner's conviction for Malicious Mischief.

The undisputed antecedent facts are as follows:

The petitioner was a former barangay captain of Balon Anito, Balanga, Bataan. On August 21, 1996, the Philippine National Bank (PNB) hired the petitioner as caretaker of its lot situated in Porto del Sol Subdivision, Balon Anito, Balanga, Bataan. Consequently, the petitioner put up on the said lot a sign which reads "No Trespassing, PNB Property" to ward off squatters.

Sometime in April 1997, despite the sign, Mrs. Julita Castillo, believing that the said lot was owned by her grandparents, constructed a nipa hut thereon. She spent P12,350 for the hut's construction.

On June 5, 1997, the petitioner, together with Jorge Valeroso, Fernando Operario, Peter Morales and Rolando de Guzman, tore down and demolished Mrs. Castillo's hut. She thus filed with the Municipal Trial Court (MTC) of Bataan a criminal complaint for malicious mischief against the petitioner and his cohorts:

That on or about 9:30 o'clock more or less in the morning of June 5, 1997 at Sitio Porto, Brgy. Balon Anito, Municipality of Mariveles, Province of Bataan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with deliberate intent did then and there willfully, unlawfully and feloniously motivated with hatred and confederately conspiring and mutually helping one another to attain their united purpose, and without any authority from the Law demolished the house owned by the herein named offended party Mrs. Julita Castillo, to the Damaged [sic] and Prejudiced [sic] of the aforementioned offended party in the total amount of twelve thousand three hundred fifty pesos (P12,350.00) Philippine Currency.

CONTRARY TO LAW.[2]

The case was tried in accordance with the Rules on Summary Procedure. The petitioner and his co-accused were required to submit their counter-affidavits. During the arraignment, they pleaded not guilty. After due trial, the MTC rendered judgment upon the following findings:

Accused Valeroso (sic) admitted in his counter-affidavit and during his oral testimony that he indeed demolished the structure of complainant Julita Castillo in his capacity as caretaker of the owner, PNB, Republic Bank, after he warned her and all illegal occupants to vacate the premises even posting "NO TRESPASSING" signs to indicate that the place is privately owned; he also absolved all his co-defendants from any liability alleging that he acted alone during the demolition of said structure. By this unequivocal

admission made by Valerozo (sic), the question which arises is whether or not his being designated as caretaker of the property necessarily clothed him with authority to demolish the structure of the complainant without further resort to legal niceties such as obtaining a written order from the Court authorizing such demolition.

The Court is inclined to support the view that Valerozo should not have taken the law into his own hands to cause the destruction and eventual demolition of Mrs. Castillo's structure even if it could be assumed that it was constructed without his permission or that of the owner, PNB, Republic Bank, or that she was merely an intruder, interloper or a squatter on the land. Justifying Valerozo's (sic) unilateral action of demolition will set a bad precedent and may result in chaos and disorder in society as the owner or anybody perceived to be so authorized by the owner can act on his own and conduct demolition extrajudicially. This is against the law and cannot be countenanced.

All the essential elements to establish the crime of Malicious Mischief has been sufficiently proven against accused Valerozo (sic) alone. The evidence taken as a whole, however, does not point with positive certainty towards the guilt of the rest of the defendants.[3]

The dispositive portion of the MTC decision reads:

IN VIEW OF THE FOREGOING, considering the fact that the guilt of defendant Mario Valerozo (sic) of the crime of Malicious Mischief has been duly established beyond reasonable doubt; there being neither mitigating nor aggravating circumstances in attendance, and pursuant to Article 329, first paragraph of the Revised Penal Code, he is hereby sentenced to a straight penalty of three (3) months of arresto mayor, including whatever accessory penalties which may be applicable and to pay the costs of the proceedings. Accused Jorge Valerozo, Peter Morales (who died during the proceedings), Rolando De Guzman and Fernando Operario are hereby ACQUITTED for insufficiency of evidence.

SO ORDERED.[4]

The petitioner appealed to the Regional Trial Court (RTC), of Balanga, Bataan, Branch 4, which affirmed with modification the decision of the MTC. The dispositive portion of the RTC decision states:

WHEREFORE, premises considered, the decision appealed from is hereby MODIFIED. There being no reason to deviate from the decision of the Municipal Trial Court Judge with respect to the criminal liability of the accused the same is hereby AFFIRMED in toto. However, the court finds appellant civilly liable in the amount of TWO THOUSAND PESOS (P2,000.00) as actual damages.

SO ORDERED.[5]

The petitioner then elevated the case to the Court of Appeals (CA) which rendered the assailed decision affirming that of the RTC, finding the petitioner guilty of malicious mischief and holding him criminally and civilly liable therefor:

WHEREFORE, the instant petition is hereby DISMISSED and the assailed decision AFFIRMED.

SO ORDERED.[6]

Undaunted, the petitioner now comes to this Court alleging that the CA erred in declaring him guilty of malicious mischief.

The petitioner admits that he deliberately demolished Mrs. Castillo's nipa hut. He, however, contends that the third element of the crime of malicious mischief, i.e., that the act of damaging another's property be committed merely for the sake of damaging it, is not present in this case. He maintains that he demolished Mrs. Castillo's nipa hut to safeguard the interest of his employer, the PNB, and for no other reason. His motive was lawful and

that there was no malice in causing the damage to the private complainant's property. In other words, he did not act out of "hatred, revenge or other evil motive."

Invoking paragraph 5, Article 11 of the Revised Penal Code, the petitioner posits that he acted in the lawful exercise of a right in effecting the demolition. He thus prays that he be absolved of any criminal liability therefor.

The petition is bereft of merit.

The elements of the crime of malicious mischief under Article 327 of the Revised Penal Code are:

- That the offender deliberately caused damage to the property of another;
- That such act does not constitute arson or other crimes involving destruction;
- That the act of damaging another's property be committed merely for the sake of damaging it.[7]

Contrary to the petitioner's contention, all the foregoing elements are present in this case. First, he admits that he deliberately demolished the nipa hut of Mrs. Castillo. Second, the demolition does not constitute arson or any other crime involving destruction. Third, as correctly found by the CA:

Petitioner was appointed caretaker of the subject lot on August 21, 1996. Upon the other hand, private complainant constructed her hut thereon only in April 1997. Such being the case, petitioner was not justified in summarily and extrajudicially demolishing private complainant's structure. As it is, petitioner proceeded not so much to safeguard the lot as it is to give vent to his anger and disgust over Castillo's disregard of the "no trespassing" sign he placed thereon. Indeed, his act of summarily demolishing the house smacks of his pleasure in causing damage to it (United States vs. Gerale, 4 Phil. 218).[8]

Neither can the petitioner rightfully invoke paragraph 5, Article 11 of the Revised Penal Code which states:

Art. 11. Justifying circumstances. - The following do not incur any criminal liability:

...

- Any person who acts in the fulfillment of a duty or in the lawful exercise of a right or office.

The requisites of the foregoing justifying circumstance are (1) that the accused acted in the performance of a duty or in the lawful exercise of a right; and (2) that the injury caused or the offense committed be the necessary consequence of the due performance of duty or the lawful exercise of such right or office.[9]

In this case, as held not only by the MTC but also the RTC and the CA, the petitioner deliberately demolished the property of Mrs. Castillo without any lawful authority. Thus, while the first requisite is present, the second is unavailing. The petitioner was not acting in the fulfillment of his duty when he took the law into his own hands and summarily demolished Mrs. Castillo's hut. It bears stressing that the said hut was constructed on the property as early as April 1997.

In sum, the petitioner has failed to sufficiently show that the appellate court committed reversible error in the assailed decision.

IN VIEW OF THE FOREGOING, the petition is hereby DENIED for lack of merit. The assailed Decision dated September 7, 2001, of the Court of Appeals in CA-G.R. CR No. 23672 is AFFIRMED in toto.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Austria-Martinez, and Tinga, JJ., concur.

[1] Penned by Associate Justice Cancio C. Garcia, with Associate Justices Hilarion L. Aquino and Jose L. Sabio, Jr. concurring.

[2] Rollo, p. 14.

[3] Rollo, pp. 17-18.

[4] Id. at 18.

[5] Id. at 23.

[6] Id. at 31.

[7] REYES, THE REVISED PENAL CODE, Vol. II, p. 326.

[8] CA Decision, p. 6; Rollo, p. 29 (Underscoring ours).

[9] REYES, THE REVISED PENAL CODE, Vol. I, p. 196.

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