

LEHNER V. MARTIRES, PETITIONER, VS. RICARDO COKIENG AND ZENNIE T. COKIENG, REPRESENTATIVES OF THE LATE REGINO COKIENG, RESPONDENTS.

G.R. NO. 150192. February 17, 2005

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

On the balance is a petition for review of the Decision[1] dated 23 May 2001 of the Court of Appeals, which set aside the Decision[2] dated 20 September 1999 of the Regional Trial Court (RTC), Branch 224, Quezon City, for Damages upon a Malicious Prosecution. The Resolution[3] dated 28 September 2001 denying the subsequent motion for reconsideration is likewise assailed.

Petitioner Lehner V. Martires[4] and respondent Ricardo C. Cokieng were contemporaries in Xavier School and in the De La Salle University.[5] Both later built their own respective business pursuits; petitioner with his Durabuilt Company and Ricardo Cokieng with his Phil-Air Conditioning Center, which he jointly owned with his brother and co-respondent Regino Cokieng. Phil-Air Conditioning Center was engaged in the distribution and sale of Carrier air-conditioners and refrigeration units.

Sometime in 1992, petitioner joined Phil-Air Conditioning Center as its agent. For his services, petitioner would receive commission and a fixed monthly salary.[6] This arrangement was done informally, with no written contract governing them.[7] In September 1994, as a result of a verbal tussle between the former classmates, the ties between the duo ended in antipathy, with petitioner resigning from Phil-Air. [8]

This animosity culminated in the filing of a criminal complaint for Estafa by Regino Cokieng against petitioner. In October 1994, petitioner was invited by the Philippine National Police Criminal Investigation Command (PNPCIC) at Camp Crame, Quezon City, to appear before it for investigation in relation to said complaint.[9] It can be gleaned from the Certification dated 14 November 1994 issued by PNPCIC that on 19 October 1994, no amicable settlement was reached by the parties and said Office advised Regino to “file the proper case before the appropriate court.”[10]

While respondent Regino Cokieng recoiled from pursuing the Estafa case, his brother Ricardo Cokieng geared for the next burst of hostilities.

On 08 December 1994, Ricardo Cokieng filed a Complaint-Affidavit[11] charging the petitioner with the crime of Unjust Vexation before the Metropolitan Trial Court (MeTC) of Makati City. Ricardo Cokieng alleged in his affidavit that he maintained a personal checking account with the Prudential Bank, Magallanes Branch. He further alleged that petitioner herein received Ricardo Cokieng’s bank statement of account on 31 October 1994 without the latter’s authorization.[12] Ricardo Cokieng additionally averred that he had previously requested petitioner who was his former business partner “to render an accounting of his business activities during the existence of the partnership as he suspected that he was doing something foolish, but instead petitioner suddenly did not report to the office anymore and has not returned ever since.”[13]

From said Complaint, an Information was filed by the Assistant Prosecutor for Unjust Vexation in Criminal Case No. 160684 on 20 December 1994, the accusatory portion of which reads:

That on about the 31[st] day of October 1994, in the Municipality of Makati, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused who was a former business partner of RICARDO COKIENG, did then and there willfully, unlawfully and feloniously, without being authorized by offended party RICARDO COKIENG, took the latter's bank statement of accounts for August 1, 1994 from Prudential Bank Magallanes Branch, and despite demand, accused failed and refused to give said bank statement which the accused could use against RICARDO COKIENG thereby causing the latter anxiety, annoyance and unjust vexation.[14]

In his defense, petitioner admitted taking Ricardo Cokieng's statement of account when he went to the bank to get his own bank statement as he had a Savings Account of his own therein. Knowing that he was closely associated to Ricardo Cokieng, having maintained a joint savings account[15] with the latter in said bank, a bank employee requested petitioner to get Ricardo Cokieng's statement as well. He explained that he left Ricardo Cokieng's bank statement on his table and Ricardo Cokieng got it. Petitioner asserted that he has no motive to retain the bank statement in his possession and withholding it would not in any way profit him.[16]

After trial, the MeTC promulgated a decision[17] on 29 February 1996 acquitting petitioner of the crime charged for insufficiency of evidence. In giving more credence to the testimony of petitioner, the MeTC held that under the circumstances, the taking of the bank statement is not an unlawful act, and therefore the presumption of criminal intent did not arise from the mere proof of the taking of the bank account. The trial court added that to be annoyed or vexed is something subjective. Such annoyance or vexation could only be manifested by some clear act on the part of the person alleged to be vexed or annoyed and there is no showing that Ricardo Cokieng was vexed or annoyed other than his own statement that is self-serving. The fallo provides:

WHEREFORE, the Court hereby ACQUITS accused Lehner Martires for insufficiency of evidence.[18]

Claiming bad faith and malice in respondents' indiscriminate filing of criminal complaints against him, without legal and factual bases, and with the apparent purpose of harassing and inconveniencing him, petitioner filed a Complaint for Damages on 11 October 1996.[19]

Petitioner alleged that as a result of the indiscriminate filing of the two suits against him by respondents, he had suffered actual damages consisting of expenses incurred for attorney's fees, transportation, and the like. He thus sought to hold said respondents liable, jointly and severally, for the following damages: P1,000,000 by way of moral damages, P200,000 as actual damages, P300,000 by way of attorney's fees and for expenses of litigation as may be proved during the trial.[20]

Respondents retorted in their Memorandum that malice cannot be attributed to them in filing the subject criminal complaints, their action being merely an exercise of their right to litigate. respondents controverted petitioner's allegation that the criminal complaint for estafa filed with the PNP was dismissed for being "glaringly unfounded," but rather, they were advised to file the proper case before the appropriate court. As to the criminal complaint for unjust vexation filed by respondent Ricardo Cokieng, the same was found to have probable cause which warranted the filing of information, and although petitioner was acquitted in said case, malice cannot be imputed to herein respondents due to the finding of probable cause. Respondents thus prayed for the dismissal of the complaint and on their counterclaim, that petitioner be ordered to pay to respondents the sums of P1,000,000 each for moral damages, P100,000 as exemplary damages, and P15,000 as attorney's fees plus P1,000 per appearance. [21]

At the trial proper, witnesses for the petitioner were petitioner himself and his wife, Luduvina Martires. Both

respondents Ricardo Cokieng and Regino Cokieng took the witness stand in support of their defense.

On 20 September 1999, the trial court rendered judgment in favor of the petitioner and against the respondents. The decretal portion enunciates:

Accordingly, therefore, the Court hereby renders judgment in favor of the plaintiff and against the defendants ordering the latter to pay plaintiff the following amounts:

- P 1,000,000.00 by way of moral damages;
- P 200,000.00 by way of actual damages; and
- P 300,000.00 by way of attorney's fees.[22]

Respondents had struck back with an appeal. In the assailed Decision dated 23 May 2001, the Court of Appeals reversed the RTC decision. The fallo of the Court of Appeals' decision reads:

WHEREFORE, premises considered, the present appeal is hereby GRANTED. The appealed Decision in Civil Case No. Q-96-29087 is hereby REVERSED and SET ASIDE and a new judgment is hereby rendered DISMISSING the Complaint for lack of merit.

No pronouncement as to costs.[23]

The motion for reconsideration filed by petitioner suffered the same fate in the Resolution of the Court of Appeals dated 28 September 2001.

Petitioner now lays his cause before us through the present petition for review, raising the following as grounds for the reversal of the Court of Appeals Decision:

- THE DECISION OF THE HONORABLE COURT OF APPEALS IS NOT SUPPORTED BY THE EVIDENCE ON RECORD.

- THE EVIDENCE ON RECORD CLEARLY SHOWS THAT RESPONDENTS WERE ACTUATED BY MALICE IN FILING THE SUBJECT CRIMINAL COMPLAINTS AGAINST THE PETITIONER AND THAT SAID CRIMINAL COMPLAINTS HAVE NO BASIS IN FACT AND IN LAW AND/OR LACK OF PROBABLE CAUSE.[24]

The instant case gyrates on the issue of whether or not the Court of Appeals erred in ruling that petitioner failed to show a cause of action for damages based upon an alleged malicious prosecution.

Petitioner contends that by filing the baseless criminal suits against him, respondents Regino and Ricardo Cokieng have subjected him and his family to untold anxiety, disgrace, and financial ruin.

Respondents, on the other hand, assert that the criminal actions were filed as a valid exercise of their rights to pursue their legitimate claims against petitioner.

All things considered, we find the petition to be devoid of merit.

There is malicious prosecution when a person directly insinuates or imputes to an innocent person the commission of a crime and the accused is compelled to defend himself in court. While generally associated with unfounded criminal actions, the term has been expanded to include unfounded civil suits instituted just to vex and humiliate the defendant despite the absence of a cause of action or probable cause.[25]

To merit the award of damages in a case of malicious prosecution, the aggrieved party must prove: (1) that he has been denounced or charged falsely of an offense by the defendant, (2) that the latter knows that the charge was false or lacks probable cause, (3) that the said defendant acted with malice, and, of course, (4) the damages he has suffered.[26] The elements of want of probable cause and malice must simultaneously exist; otherwise, the presence of probable cause signifies, as a legal consequence, the absence of malice.[27] On these, there must be proof that the prosecution was prompted by a sinister design to vex and humiliate a person, and that it was initiated deliberately knowing that the charge was false and baseless to entitle the victim to damages.

To the mind of this Court, the twin elements of probable cause and malice are lacking in the case at bar to entitle petitioner to damages he now seeks out. For one, it is an elementary rule in this jurisdiction that good faith is presumed and that the burden of proving bad faith rests upon a party alleging the same.[28] In the case at bar, petitioner has failed to prove bad faith on the part of respondents. For another, there are no factual allegations in the complaint that can support a finding that malice and bad faith motivated the respondents in filing the two informations against petitioner. Allegations of bad faith, malice, and other related words without ultimate facts to support the same are mere conclusions of law. [29] From our reading of the complaint for damages arising from malicious prosecution and from the records of the case, we find no ultimate facts to buttress these conclusions of law.

The claim for damages in the instant case is anchored on the supposed malevolence that attended the filing of the criminal cases for Estafa and Unjust Vexation. Petitioner makes much of the fact that the Estafa case was not pursued by respondent Regino Cokieng and the fact of his acquittal from the charge of Unjust Vexation.

Recall from the records that the PNPCIC at Camp Crame, Quezon City, after investigation of the Estafa case against petitioner, recommended the filing of the proper action in court. True, Regino Cokieng balked in pursuing the said case. His desistance, however, could not be construed as an outright acquiescence to petitioner's theory that Regino Cokieng filed the said case despite the knowledge that it would not prosper in court in light of the initial recommendation of the PNPCIC for Regino Cokieng to file the appropriate case in court through his lawyer or through the said Office. Thus, as far as the PNPCIC is concerned, there is a ground for Regino Cokieng to pursue the case. In fact, such desistance is, to us, an earmark of good faith as it may well suggest that respondent had kept his hands off petitioner despite the said recommendation of PNPCIC. Regino Cokieng must have, for one reason or another, decided that it was not worth his time pursuing the case – a personal decision which was not necessarily shared by his brother, Ricardo Cokieng who felt that danger lay in wait for him as his bank statement sits in the hands of petitioner.

As regards the Unjust Vexation case, recall that the basis for the acquittal of petitioner was for insufficiency of evidence and not on a finding that facts as narrated by respondents did not exist. Absent a categorical statement from the MeTC, petitioner's acquittal does not ipso facto indicate that the exculpatory version of the petitioner that he received the bank statement as a favor to respondent Ricardo Cokieng and that he has already given the copy to the latter, was the true one.[30]

True, from the testimonies of respondents, their main gripe centered on how petitioner's alleged failure to render accounting prior to his exit from Phil-Air imperiled the viability of respondents' business, how petitioner's failure to return the bank statement resulted in difficulty in reconciling the books of Phil-Air, and how they suspected a chicanery in petitioner's sudden severance of his ties with Phil-Air.[31] For these reasons, their proper cause of action should have been for accounting and damages, not a Criminal Case for Unjust Vexation or Estafa, with the view of establishing once and for all, by a reconciliation of their respective books of accounts, the true and correct accountability of petitioner to Phil-Air. However, to the mind of this Court, the fact that respondents may have been ill-advised by their counsel should not be taken against them. As far as respondents

were concerned, they have been wronged by petitioner, thus their resolve that their criminal complaints would prosper.

More specifically, the filing of information for Unjust Vexation by respondent Ricardo Cokieng was based on his fear that petitioner took the statement so he could hold onto something which he could use against Ricardo Cokieng. To a legal mind, this may be a tawdry justification to subject a person to the hassle of a criminal prosecution, but given the manner by which petitioner left Phil-Air, which was in haste, respondent Ricardo Cokieng had ground to suspect petitioner's real purpose in securing the former's bank statement. Further, the fact that subsequently, petitioner filed no less than two other civil cases for recovery of certain amounts of commission and for recovery of properties[32] against respondents bolstered respondent Ricardo Cokieng's fear that petitioner could indeed use the bank statement against him. Hence, the Court has sufficient reason to believe respondent Ricardo Cokieng's avowal that he was buoyed by an honest belief that petitioner's act of holding on to his bank statement constituted an actionable offense – an antithesis to the petitioner's assertion that the filing was a product of mere whim or caprice.

While it is settled that the mere fact that the fiscal took full control of litigation does not grant immunity to persons who misuse their rights to instigate criminal actions,[33] we cannot, however, discount the fact that from his layman's point of view, the prosecutor's act of filing an Information for Unjust Vexation against petitioner must have indeed bolstered Ricardo Cokieng's honest belief that he had a strong case against the former. Moreover, it is a doctrine well-entrenched in jurisprudence that the mere act of submitting a case to the authorities for prosecution does not make one liable for malicious prosecution, for the law could not have meant to impose a penalty on the right to litigate.[34]

It is a sound principle of justice and public policy that persons shall have free resort to the courts for redress of wrong and vindication of their rights.[35] This is not to undermine our previous ruling that the right to institute criminal prosecutions has its metes and bounds and can not be exercised maliciously and in bad faith to the detriment and harassment of a person who, without cause, is pestered, inconvenienced, and rendered cash-strapped inasmuch as such suits where liberty is at stake, compel an accused to hire a lawyer and incur other expenses for his defense. We are likewise constantly mindful that over and above these monetary costs is the psychological burden that an accused and his family would have to hurdle in the interregnum. Indeed, being tagged as an "accused" is by itself traumatic. Nevertheless, the award of damages arising from malicious prosecution is justified if and only if it is proved that there was a 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.[36]

In the instant case, petitioner failed to show by a clear preponderance of evidence as required in civil cases that respondents have acted in wanton and gross bad faith and injustice in instigating the criminal suits against petitioner to entitle him to the damages he now seeks. Where the actions are filed in good faith, no penalty should be imposed thereon. [37]

WHEREFORE, the instant petition is DENIED. The Resolutions dated 11 September 1998 and 5 March 1999 of the Court of Appeals in CA-G.R. CV No. 65804 are hereby AFFIRMED. Costs against petitioner.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Tinga, JJ., concur.

[1] Rollo, pp. 19-24. Penned by Associate Justice Martin S. Villarama, Jr., with Associate Justices Conrado M.

Vasquez, Jr. and Eliezer R. Delos Santos, concurring.

[2] Rollo, pp. 85-90. Penned by Judge Emilio L. Leachon, Jr.

[3] Rollo, p. 26.

[4] Also spelled as “Martirez” in other parts of the records. TSN, 14 April 1999, pp. 1-19.

[5] TSN, 05 September 1997, pp. 17-18.

[6] TSN, 05 September 1997, p. 8.

[7] TSN, 05 September 1997, p. 16.

[8] TSN, 05 September 1997, pp. 16-17, p. 20.

[9] Rollo, p. 33.

[10] Records, p. 171.

[11] Rollo, pp. 34-35.

[12] Rollo, p. 34.

[13] Rollo, p. 34.

[14] Rollo, p. 38.

[15] Records, pp. 164-167.

[16] Rollo, p. 40.

[17] Rollo, pp. 39-40. Penned by Judge Leticia Querubin Ulibarri.

[18] Rollo, p. 40.

[19] Rollo, pp. 28-29.

[20] Rollo, p. 31.

[21] Rollo, pp. 65-84.

[22] Rollo, p. 90.

[23] Rollo, p. 23.

[24] Rollo, p. 11.

[25] *Bayani v. Panay Electric Co., Inc.*, G.R. No. 139680, 12 April 2000, 330 SCRA 759, 764.

[26] *Ventura v. Bernabe*, G.R. No. L-26760, 30 April 1971, 38 SCRA 587, 596.

[27] *Lucas v. Royo*, G.R. No. 136185, 30 October 2000, 344 SCRA 481.

[28] *Barons Marketing Corp. v. Court of Appeals*, G.R. No. 126486, 09 February 1998, 286 SCRA 96, 105.

[29] *Drilon v. Court of Appeals*, G.R. No. 106922, 20 April 2001, 357 SCRA 12.

[30] *Supra*, note 26.

[31] TSN, 17 July 1998, pp. 23-35; TSN, 14 April 1999, pp. 6-7.

[32] TSN, 5 September 1997, pp. 60-62.

[33] Villanueva v. United Coconut Planters Bank, G.R. No. 138291, 07 March 2000, 327 SCRA 391, 404.

[34] Lao v. Court of Appeals, G.R. No. 109205, 18 April 1997, 271 SCRA 477.

[35] Cacayoren v. Suller, A.M. No. MTJ-97-1132, 24 October 2000, 344 SCRA 159, 166.

[36] Supra, note 33.

[37] Ibid.

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