

MS. VIOLETA YASOÑA, PERSONALLY AND AS HEIR OF DECEASED SISTER DEFENDANT PELAGIA YASOÑA AND AS ATTORNEY-IN-FACT OF HER BROTHERS ALEJANDRO AND EUSTAQUIO, BOTH YASOÑA AND SISTERS: ...

G.R. No. 156339. October 06, 2004

Ponente: CORONA, J.

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CORONA, J.:

Before this Court is a petition for review on certiorari seeking the reversal of the decision[1] of the Court of Appeals dated June 14, 2002 and its resolution dated December 12, 2002 in CA-G.R. SP No. 69300.

The records disclose that in November 1971, Aurea Yasoña and her son, Saturnino, went to the house of Jovencio de Ramos to ask for financial assistance in paying their loans to Philippine National Bank (PNB), otherwise their residential house and lot, covered by TCT No. T-32810, would be foreclosed. Inasmuch as Aurea was his aunt, Jovencio acceded to the request. They agreed that, upon payment by Jovencio of the loan to PNB, half of Yasoñas' subject property would be sold to him.

On December 29, 1971, Jovencio paid Aurea's bank loan. As agreed upon, Aurea executed a deed of absolute sale in favor of Jovencio over half of the lot consisting of 123 square meters. Thereafter, the lot was surveyed and separate titles were issued by the Register of Deeds of Sta. Cruz, Laguna in the names of Aurea (TCT No. 73252) and Jovencio (TCT No. 73251).

Twenty-two years later, in August 1993, Aurea filed an estafa complaint against brothers Jovencio and Rodencio de Ramos on the ground that she was deceived by them when she asked for their assistance in 1971 concerning her mortgaged property. In her complaint, Aurea alleged that Rodencio asked her to sign a blank paper on the pretext that it would be used in the redemption of the mortgaged property. Aurea signed the blank paper without further inquiry because she trusted her nephew, Rodencio. Thereafter, they heard nothing from Rodencio and this prompted Nimpha Yasoña Bondoc to confront Rodencio but she was told that the title was still with the Register of Deeds. However, when Nimpha inquired from the Register of Deeds, she was shocked to find out that the lot had been divided into two, pursuant to a deed of sale apparently executed by Aurea in favor of Jovencio. Aurea averred that she never sold any portion of her property to Jovencio and never executed a deed of sale. Aurea was thus forced to seek the advice of Judge Enrique Almario, another relative, who suggested filing a complaint for estafa.

On February 21, 1994, Assistant Provincial Prosecutor Rodrigo B. Zayenis dismissed the criminal complaint for estafa for lack of evidence. On account of this dismissal, Jovencio and Rodencio filed a complaint for damages on the ground of malicious prosecution with the Regional Trial Court of Sta. Cruz, Laguna, Branch 91,[2] which was docketed as Civil Case No. SC-3230. They alleged that the filing of the estafa complaint against them was done with malice and it caused irreparable injury to their reputation, as Aurea knew fully well that she had already sold half of the property to Jovencio.

On October 5, 2000, the trial court rendered a decision in favor of Jovencio and Rodencio. The dispositive portion stated:

WHEREFORE, premises considered, finding that plaintiffs have established their case by preponderance of evidence, judgment is hereby rendered in their favor and against the defendants ordering the latter to pay the former as follows:

A) P150,000.00 by way of moral damages;

B) P30,000.00 as exemplary damages;

C) P10,000.00 as attorney's fees incurred in defending themselves from the criminal complaint for estafa;

D) P10,000.00 as attorney's fees and cost of litigation, and to pay the costs.

There being no sufficient evidence established to prove the claim for actual damages the same is hereby dismissed.

SO ORDERED.[3]

Petitioner Violeta Yasoña, personally and on behalf of her brothers and sisters and mother Aurea, filed a petition for certiorari under Rule 65 with the Court of Appeals which dismissed the same on June 14, 2002 on the ground that petitioners availed of the wrong remedy. Their subsequent motion for reconsideration was likewise denied on December 12, 2000.

Hence, the instant petition.

We agree with the appellate court that the remedy availed of by petitioners was inappropriate as Rule 65 of the Rules of Court cannot be a substitute for a lost appeal,[4] and that, in any event, petitioners are liable for malicious prosecution.

The principal question to be resolved is whether the filing of the criminal complaint for estafa by petitioners against respondents constituted malicious prosecution.

In this jurisdiction, the term "malicious prosecution" has been defined as "an action for damages brought by one against whom a criminal prosecution, civil suit, or other legal proceeding has been instituted maliciously and without probable cause, after the termination of such prosecution, suit, or other proceeding in favor of the defendant therein." To constitute "malicious prosecution," there must be proof that the prosecution was prompted by a sinister design to vex or humiliate a person, and that it was initiated deliberately by the defendant knowing that his charges were false and groundless.[5] Concededly, the mere act of submitting a case to the authorities for prosecution does not make one liable for malicious prosecution.[6]

In this case, however, there is reason to believe that a malicious intent was behind the filing of the complaint for estafa against respondents. The records show that the sale of the property was evidenced by a deed of sale duly notarized and registered with the local Register of Deeds. After the execution of the deed of sale, the property was surveyed and divided into two portions. Separate titles were then issued in the names of Aurea Yasoña (TCT No. 73252) and Jovencio de Ramos (TCT No. 73251). Since 1973, Jovencio had been paying the realty taxes of the portion registered in his name. In 1974, Aurea even requested Jovencio to use his portion as bond for the temporary release of her son who was charged with malicious mischief. Also, when Aurea borrowed money from the Rural Bank of Lumban in 1973 and the PNB in 1979, only her portion covered by TCT No. 73252 was mortgaged.

All these pieces of evidence indicate that Aurea had long acknowledged Jovencio's ownership of half of the property. Furthermore, it was only in 1993 when petitioners decided to file the estafa complaint against

respondents. If petitioners had honestly believed that they still owned the entire property, it would not have taken them 22 years to question Jovencio's ownership of half of the property. The only conclusion that can be drawn from the circumstances is that Aurea knew all along that she was no longer the owner of Jovencio's portion after having sold it to him way back in 1971. Likewise, other than petitioners' bare allegations, no other evidence was presented by them to substantiate their claim.

Malicious prosecution, both in criminal and civil cases, requires the elements of (1) malice and (2) absence of probable cause.[7] These two elements are present in the present controversy. Petitioners were completely aware that Jovencio was the rightful owner of the lot covered by TCT No. 73251, clearly signifying that they were impelled by malice and avarice in bringing the unfounded action. That there was no probable cause at all for the filing of the estafa case against respondents led to the dismissal of the charges filed by petitioners with the Provincial Prosecutor's Office in Siniloan, Laguna.

Petitioners' reliance on *Drilon vs. Court of Appeals*[8] is misplaced. It must be noted that in *Drilon*, the investigating panel found that there was probable cause to hold private respondent Homobono Adaza for trial for the crime of rebellion with murder and frustrated murder. Thus, petitioner (now Senate President) Franklin Drilon could not be held liable for malicious prosecution as there existed probable cause for the criminal case. Here, the complaint for estafa was dismissed outright as the prosecutor did not find any probable cause against respondents. A suit for malicious prosecution will prosper where legal prosecution is carried out without probable cause.

In sum, we find no reversible error on the part of the appellate court in dismissing the petition and in effect affirming the trial court's decision holding petitioners liable for damages for the malicious prosecution of respondents.

WHEREFORE, the decision declaring petitioners liable for malicious prosecution is hereby **AFFIRMED** in toto.

SO ORDERED.

Panganiban, (Chairman), and Sandoval-Gutierrez, JJ., concur.
Carpio-Morales, J., on leave.

[1] Penned by Associate Justice Josefina Guevarra-Salonga and concurred in by Associate Justices Eubulo G. Verzola and Bernardo P. Abesamis, Third Division.

[2] Judge Florencio S. Arellano, presiding.

[3] Penned by Judge Florencio Arellano, Rollo, pp. 36-37.

[4] *Chico vs. Court of Appeals*, 348 Phil. 37 (1998).

[5] Moreno, *Philippine Legal Dictionary*, 3[rd] ed., 1988, p. 25.

[6] *Manila Gas Corporation vs. Court of Appeals*, G.R. No. L-44190, 30 October 1980, 100 SCRA 602.

[7] *China Banking Corporation vs. Court of Appeals*, G.R. No. 94182, 28 March 1994, 231 SCRA 472.

[8] 336 Phil. 949 (1997).

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