

ZENAIDA R. GREGORIO, PETITIONER, VS. COURT OF APPEALS, SANSIO PHILIPPINES, INC., AND EMMA J. DATUIN, RESPONDENTS.

G.R. No. 179799. September 11, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

This is a petition[1] for certiorari under Rule 45 of the Rules of Court assailing the Decision[2] of the Court of Appeals (CA) dated January 31, 2007 and its Resolution[3] dated September 12, 2007 in CA-G.R. SP No. 63602, entitled "Sansio Philippines, Inc., et al. v. Hon. Romulo SG. Villanueva, et al."

The case arose from the filing of an Affidavit of Complaint[4] for violation of Batas Pambansa Bilang (B.P. Blg.) 22 (Bouncing Checks Law) by respondent Emma J. Datuin (Datuin), as Officer-in-Charge of the Accounts Receivables Department, and upon authority of petitioner Sansio Philippines, Inc. (Sansio), against petitioner Zenaida R. Gregorio (Gregorio) and one Vito Belarmino, as proprietors of Alvi Marketing, allegedly for delivering insufficiently funded bank checks as payment for the numerous appliances bought by Alvi Marketing from Sansio.

As the address stated in the complaint was incorrect, Gregorio was unable to controvert the charges against her. Consequently, she was indicted for three (3) counts of violation of B.P. Blg. 22, docketed as Criminal Case Nos. 236544, 236545, and 236546, before the Metropolitan Trial Court (MeTC), Branch 3, Manila.

The MeTC issued a warrant[5] for her arrest, and it was served upon her by the armed operatives of the Public Assistance and Reaction Against Crime (PARAC) of the Department of Interior and Local Government (DILG) on October 17, 1997, Friday, at around 9:30 a.m. in Quezon City while she was visiting her husband and their two (2) daughters at their city residence. Gregorio was brought to the PARAC-DILG Office where she was subjected to fingerprinting and mug shots, and was detained. She was released in the afternoon of the same day when her husband posted a bond for her temporary liberty.

On December 5, 1997, Gregorio filed before the MeTC a Motion[6] for Deferment of Arraignment and Reinvestigation, alleging that she could not have issued the bounced checks, since she did not even have a checking account with the bank on which the checks were drawn, as certified by the branch manager of the Philippine National Bank, Sorsogon Branch. She also alleged that her signature was patently and radically different from the signatures appearing on the bounced checks.

The MeTC granted the Motion and a reinvestigation was conducted. In the course of the reinvestigation, Datuin submitted an Affidavit of Desistance[7] dated August 18, 1998, stating, among others, that Gregorio was not one of the signatories of the bounced checks subject of prosecution.

Subsequently, the assistant city prosecutor filed a Motion to Dismiss[8] dated November 12, 1998 with respect to Criminal Case Nos. 236544-46. The MeTC granted the motion and ordered the B.P. Blg. 22 cases dismissed.[9]

On August 18, 2000, Gregorio filed a complaint[10] for damages against Sansio and Datuin before the Regional

Trial Court (RTC), Branch 12, Ligao, Albay. The complaint, in part, reads —

4. That on or about December 15, 1995, defendant Emma J. Datuin filed with the Office of the City Prosecutor of Manila an "Affidavit of Complaint" wherein, among others, she alleged under oath that as an Officer In-charge of the Accounts Receivables Department of SANSIO PHILIPPINES, INC., she was duly authorized and empowered by said company to file cases against debtors, customers and dealers of the company;

x x x x

5. That while acting under authority of her employer namely the defendant SANSIO PHILIPPINES, INC., defendant EMMA J. DATUIN falsely stated in the "Affidavit of Complaint" (Annex "A"), among others, that plaintiff Zenaida R. Gregorio issued and delivered to their office the following checks, to wit:

- PNB Check No. C-347108 dated November 30, 1992 in the amount of P9,564.00;

- PNB Check No. C-347109 dated November 30, 1992 in the amount of P19,194.48; and

- PNB Check No. C-347104 dated December 2, 1992 in the amount of P10,000.00

and that the above-mentioned PNB Checks bounced when deposited upon maturity;

6. That as a result of the filing of the "Affidavit of Complaint" (Annex "A") wherein defendant Emma J. Datuin falsely charged the plaintiff with offenses of Estafa and/or violation of B.P. Blg. 22 on three (3) counts, the Office of the City Prosecutor of Manila issued a Resolution dated April 1, 1996 finding the existence of a probable cause against the plaintiff for violation of Batas Pambansa Blg. 22 on three counts;

x x x x

7. That in the "MEMO OF PRELIMINARY INVESTIGATION" attached hereto as Annex "C," signed by defendant Emma J. Datuin she falsely indicated the address of plaintiff to be at No. 76 Peñaranda Street, Legaspi City when the truth of the matter is that the latter's correct address is at Barangay Rizal, Oas, Albay;

8. That as a consequence of the foregoing false and misleading indication of address, plaintiff was therefore not duly notified of the charges filed against her by defendant Emma J. Datuin; and more, she was not able to controvert them before the investigating prosecutor, finally resulting in the filing in court of three (3) informations accusing her of violating B.P. 22;

x x x x

9. That as pernicious result of the unwarranted and baseless accusation by the defendants which culminated in the filing of three (3) informations in the Metropolitan Trial Court of Manila, Branch 3 indicting the plaintiff on three counts of the offense of violating B.P. 22, the said court issued a Warrant of Arrest on July 22, 1996 ordering the arrest of the plaintiff;

x x x x

10. That taking extra effort to expedite the apprehension of plaintiff, defendants' retained private prosecutor managed to obtain the Warrant for the Arrest of said plaintiff from the Court as evidenced by the copy of the letter of lawyer Alquin B. Manguerra of Chua and Associates Law Office (Annex "H") so much so that in the morning of October 17, 1997, while plaintiff was visiting her husband Jose Gregorio and their two daughters at their city residence at 78 K-2 Street, Kamuning, Quezon City, and without the slightest premonition that she was wanted by the law, armed operatives of the Public Assistance and Reaction Against Crime (PARAC) of DILG suddenly swooped down on their residence, arrested the plaintiff and brought her to the PARAC DILG Office in Quezon City where she was fingerprinted and detained like an ordinary criminal;

x x x x

11. That feeling distraught, helpless and hungry (not having eaten for a whole day) the plaintiff languished in her place of confinement until the late afternoon of October 17, 1997 when her husband was able to post a bond for her temporary liberty and secure an order of release (Annex "J") from the court. It was providential that a city judge was available in the late afternoon of October 17, 1997 which was a Friday, otherwise plaintiff would have remained in confinement for the entire weekend;

12. That because of her desire to prove and establish her innocence of the unjustified charges lodged against her by the defendants, the plaintiff was thus compelled to retain the services of counsel resulting in the filing of a Motion for Deferment of Arraignment and Reinvestigation (Annex "K") which was granted by the court; the filing of a Request for Reinvestigation with the prosecutor's office (Annex "L"); and the submission of a Counter-Affidavit to the investigating prosecutor. All of these culminated in the filing by the investigating prosecutor of a Motion to Dismiss (Annex "M") the three criminal cases as a consequence of which the Court issued an Order dated June 1, 1999 (Annex "N") dismissing Criminal Cases No. 236544, No. 236545 and No. 236546, copy of which was received by plaintiff only on July 7, 2000;

13. That previous to the filing of the above-mentioned Motion to Dismiss by the prosecutor and having been faced with the truth and righteousness of plaintiff's avowal of innocence which was irrefutable, defendants had no recourse but to concede and recognize the verity that they had wrongly accused an innocent person, in itself a brazen travesty of justice, so much so that defendant Emma J. Datuin had to execute an Affidavit of Desistance (Annex "O") admitting that plaintiff is not a signatory to the three bouncing checks in question, rationalizing, albeit lamely, that the filing of the cases against the plaintiff was by virtue of an honest mistake or inadvertence on her (Datuin's) part;

14. Be that as it may, incalculable damage has been inflicted on the plaintiff on account of the defendants' wanton, callous and reckless disregard of the fundamental legal precept that "every person shall respect the dignity, personality, privacy and peace of mind of his neighbors and other persons" (Art. 26, Civil Code of the Philippines);

15. That the plaintiff, being completely innocent of the charges against her as adverted to in the preceding paragraphs, was socially humiliated, embarrassed, suffered physical discomfort, mental anguish, fright, and serious anxiety as a proximate result of her unjustified indictment, arrest and detention at the PARAC headquarters - all of these ordeals having been exacerbated by the fact that plaintiff is a woman who comes from a respected family in Oas, Albay, being the wife of an executive of the Philippine National Construction Corporation, the mother of two college students studying in Manila, a pharmacist by profession, a businesswoman by occupation, and an incumbent Municipal Councilor (Kagawad) of Oas, Albay, at the time of her arrest and detention; and that she previously held the following positions:

- (a). President, Philippine Pharmaceutical Association (Albay Chapter);
- (b). Chairman of the Board, Albay Pharmaceutical Marketing Cooperative (ALPHAMAC);
- (c). Charter Secretary, Kiwanis Club of Oas;
- (d). Chairman, Polangui Ladies Multi-Purpose Cooperative, Polangui, Albay;
- (e). Vicarial Regent, Daughters of Mary Immaculate International, District IX;
- (f). Chapter President and Municipal Coordinator, Albay Women Volunteers Association, Inc., Legaspi City;
- (g). Regent, Daughters of Mary Immaculate International Virgo Clemens Circle, Oas, Albay;
- (h). Secretary, Girl Scout of the Philippines District Association; and
- (i). Director, Albay Electric Cooperative (ALECO),

not to mention the undue aspersion cast upon her social, professional and business reputation because of defendants' tortious act of accusing her of Estafa and/or issuing bouncing checks - even without a scintilla of evidence;

16. That to compound the foregoing travails and sufferings of the plaintiff she had to devote and spend much of her time, money and efforts trying to clear her tarnished name and reputation, including traveling to and

from Manila to confer with her lawyer, attend the hearings at the prosecutor's office and at the Metropolitan Trial Court;

17. By and large, defendants' fault or, at the very least, their reckless imprudence or negligence, in filing the three (3) criminal cases against the plaintiff unequivocally caused damage to the latter and because of defendants' baseless and unjustified accusations, plaintiff was constrained to retain the services of a lawyer to represent her at the Metropolitan Trial Court and at the Office of the City Prosecutor at Manila in order to establish her innocence and cause the dismissal of the three (3) criminal cases filed against her, reason for which she spent P20,000.00; and in order to institute this instant action for the redress of her grievances, plaintiff have to pay the sum of P50,000.00 as attorney's fees and incur litigation expenses in the amount of P35,000.00;

18. That by reason of all the foregoing and pursuant to the provision of law that "whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done," (Article 2176, Civil Code of the Philippines), the plaintiff is entitled to and hereby claims the following items of damages:

- a. P3,000,000.00 as moral damages
- b. P50,000.00 as actual damages
- c. P50,000.00 as nominal damages
- d. P70,000.00 as attorney's fees
- e. P35,000.00 as litigation expenses

19. That defendants herein are jointly and solidarily liable for the payment of the above items of damages being co-tortfeasors. Moreover, defendant SANSIO PHILIPPINES, INC. is vicariously liable as the employer of defendant Emma J. Datuin who patently acted within the scope of her assigned tasks (Vide: Art. 2180, Civil Code of the Philippines).[11]

Sansio and Datuin filed a Motion to Dismiss[12] on the ground that the complaint, being one for damages arising from malicious prosecution, failed to state a cause of action, as the ultimate facts constituting the elements thereof were not alleged in the complaint. Gregorio opposed[13] the Motion. Sansio and Datuin filed their Reply[14] to the Opposition. Gregorio, in turn, filed her Rejoinder.[15]

On October 10, 2000, the RTC issued an Order[16] denying the Motion to Dismiss. Sansio and Datuin filed a Motion for Reconsideration[17] of the October 10, 2000 Order, but the RTC denied the same in its Order[18] dated January 5, 2001.

Sansio and Datuin went to the CA via a petition[19] for certiorari under Rule 65 of the Rules of Court alleging grave abuse of discretion on the part of the presiding judge of the RTC in denying their motions to dismiss and for reconsideration.

Meanwhile, on March 20, 2003, the RTC rendered its Decision in the civil case for damages instituted by Gregorio, directing Sansio and Datuin, jointly and solidarily, to pay Gregorio P200,000.00 as moral damages; P10,000.00 as nominal damages; P35,000.00 as litigation expenses; P30,000.00 as attorney's fees; and costs of the suit. The RTC expressly stated in its Decision that the complaint was one for damages based on quasi-delict and not on malicious prosecution.

Aggrieved by the March 20, 2003 Decision, Sansio and Datuin appealed to the CA, and the same is now pending resolution.

On January 31, 2007, the CA rendered a Decision on the certiorari case granting the petition and ordering the dismissal of the damage suit of Gregorio. The latter moved to reconsider the said Decision but the same was

denied in the appellate court's Resolution dated September 12, 2007.

Hence, this petition.

The core issue to be resolved, as culled from the factual circumstances of this case, is whether the complaint, a civil suit filed by Gregorio, is based on quasi-delict or malicious prosecution.

It is the position of Sansio and Datuin that the complaint for damages filed by Gregorio before the RTC was for malicious prosecution, but it failed to allege the elements thereof, such that it was aptly dismissed on appeal by the CA on the ground of lack of cause of action. In their comment, citing *Albenson Enterprise Corporation v. Court of Appeals*,^[20] they posit that Article 26 of the Civil Code, cited by Gregorio as one of the bases for her complaint, and Articles 19, 20, and 21 of the same Code, mentioned by the RTC as bases for sustaining the complaint, are the very same provisions upon which malicious prosecution is grounded. And in order to further buttress their position that Gregorio's complaint was indeed one for malicious prosecution, they even pointed out the fact that Gregorio prayed for moral damages, which may be awarded only in case of malicious prosecution or, if the case is for quasi-delict, only if physical injury results therefrom.

We disagree.

A perusal of the allegations of Gregorio's complaint for damages readily shows that she filed a civil suit against Sansio and Datuin for filing against her criminal charges for violation of B.P. Blg. 22; that respondents did not exercise diligent efforts to ascertain the true identity of the person who delivered to them insufficiently funded checks as payment for the various appliances purchased; and that respondents never gave her the opportunity to controvert the charges against her, because they stated an incorrect address in the criminal complaint. Gregorio claimed damages for the embarrassment and humiliation she suffered when she was suddenly arrested at her city residence in Quezon City while visiting her family. She was, at the time of her arrest, a respected Kagawad in Oas, Albay. Gregorio anchored her civil complaint on Articles 26,^[21] 2176,^[22] and 2180^[23] of the Civil Code. Noticeably, despite alleging either fault or negligence on the part of Sansio and Datuin, Gregorio never imputed to them any bad faith in her complaint.

Basic is the legal principle that the nature of an action is determined by the material averments in the complaint and the character of the relief sought.^[24] Undeniably, Gregorio's civil complaint, read in its entirety, is a complaint based on quasi-delict under Article 2176, in relation to Article 26 of the Civil Code, rather than on malicious prosecution.

In every tort case filed under Article 2176 of the Civil Code, the plaintiff has to prove by a preponderance of evidence: (1) the damages suffered by him; (2) the fault or negligence of the defendant or some other person to whose act he must respond; (3) the connection of cause and effect between the fault or negligence and the damages incurred; and (4) that there must be no preexisting contractual relation between the parties.^[25]

On the other hand, Article 26 of the Civil Code grants a cause of action for damages, prevention, and other relief in cases of breach, though not necessarily constituting a criminal offense, of the following rights: (1) right to personal dignity; (2) right to personal security; (3) right to family relations; (4) right to social intercourse; (5) right to privacy; and (6) right to peace of mind.^[26]

A scrutiny of Gregorio's civil complaint reveals that the averments thereof, taken together, fulfill the elements of Article 2176, in relation to Article 26 of the Civil Code. It appears that Gregorio's rights to personal dignity, personal security, privacy, and peace of mind were infringed by Sansio and Datuin when they failed to exercise the requisite diligence in determining the identity of the person they should rightfully accuse of tendering insufficiently funded checks. This fault was compounded when they failed to ascertain the correct address of

petitioner, thus depriving her of the opportunity to controvert the charges, because she was not given proper notice. Because she was not able to refute the charges against her, petitioner was falsely indicted for three (3) counts of violation of B.P. Blg. 22. Although she was never found at No. 76 Peñaranda St., Legaspi City, the office address of Alvi Marketing as stated in the criminal complaint, Gregorio was conveniently arrested by armed operatives of the PARAC-DILG at her city residence at 78 K-2 St., Kamuning, Quezon City, while visiting her family. She suffered embarrassment and humiliation over her sudden arrest and detention and she had to spend time, effort, and money to clear her tarnished name and reputation, considering that she had held several honorable positions in different organizations and offices in the public service, particularly her being a Kagawad in Oas, Albay at the time of her arrest. There exists no contractual relation between Gregorio and Sansio. On the other hand, Gregorio is prosecuting Sansio, under Article 2180 of the Civil Code, for its vicarious liability, as employer, arising from the act or omission of its employee Datuin.

These allegations, assuming them to be true, sufficiently constituted a cause of action against Sansio and Datuin. Thus, the RTC was correct when it denied respondents' motion to dismiss.

Sansio and Datuin are in error when they insist that Gregorio's complaint is based on malicious prosecution. In an action to recover damages for malicious prosecution, it must be alleged and established that Sansio and Datuin were impelled by legal malice or bad faith in deliberately initiating an action against Gregorio, knowing that the charges were false and groundless, intending to vex and humiliate her.[27] As previously mentioned, Gregorio did not allege this in her complaint. Moreover, the fact that she prayed for moral damages did not change the nature of her action based on quasi-delict. She might have acted on the mistaken notion that she was entitled to moral damages, considering that she suffered physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, and social humiliation on account of her indictment and her sudden arrest.

Verily, Gregorio was only acting within her right when she instituted against Sansio and Datuin an action she perceived to be proper, given the factual antecedents of the case.

WHEREFORE, the petition is GRANTED. The Decision dated January 31, 2007 and the Resolution dated September 12, 2007 are REVERSED and SET ASIDE. Costs against respondents.

SO ORDERED.

Ynares-Santiago, Chico-Nazario, Velasco, Jr., and Peralta, JJ., concur.

[1] Rollo, pp. 8-45.

[2] Penned by Associate Justice Amelita G. Tolentino, with Associate Justices Conrado M. Vasquez, Jr. (now Presiding Justice) and Lucenito N. Tagle, concurring; id. at 46-59.

[3] Rollo, p. 60.

[4] Id. at 61-62.

[5] Id. at 64.

[6] Id. at 70-72.

[7] Id. at 73.

[8] Id. at 76.

[9] Id. at 77.

[10] Id. at 78-85.

[11] Id. at 78-83. (Underscoring supplied.)

[12] Id. at 109-116.

[13] Id. at 117-119.

[14] Id. at 120-122.

[15] Id. at 123-124.

[16] Id. at 127-129.

[17] Id. at 130-135.

[18] Id. at 136-137.

[19] Id. at 138-152.

[20] G.R. No. 88694, January 11, 1993, 217 SCRA 16.

[21] Art. 26. Every person shall respect the dignity, personality, privacy and peace of mind of his neighbors and other persons. The following and similar acts, though they may not constitute a criminal offense, shall produce a cause of action for damages, prevention and other relief:

- (1) Prying into the privacy of another's residence;
- (2) Meddling with or disturbing the private life or family relations of another;
- (3) Intriguing to cause another to be alienated from his friends;
- (4) Vexing or humiliating another on account of his religious beliefs, lowly station in life, place of birth, physical defect, or other personal condition.

[22] ART. 2176. Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence, if there is no preexisting contractual relation between the parties, is called a quasi-delict and is governed by the provisions of this Chapter.

[23] ART. 2180. The obligation imposed by Article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.

x x x x

The owners and managers of an establishment or enterprise are likewise responsible for damages caused by their employees in the service of the branches in which the latter are employed or on the occasion of their functions.

Employers shall be liable for the damages caused by their employees and household helpers acting within the scope of their assigned tasks, even though the former are not engaged in any business or industry.

[24] *Hernudd v. Lofgren*, G.R. No. 140337, September 27, 2007, 534 SCRA 205, 213-214; *Barbosa v. Hernandez*, G.R. No. 133564, July 10, 2007, 527 SCRA 99, 103; *Benguet State University v. Commission on Audit*, G.R. No. 169637, June 8, 2007, 524 SCRA 437, 444; *Agoy v. Court of Appeals*, G.R. No. 162927, March 6, 2007, 517 SCRA 535, 541.

[25] *Corinthian Gardens Association, Inc. v. Tanjangco*, G.R. No. 160795, June 27, 2008, 556 SCRA 154, 168.

[26] Tolentino, A.M., Commentaries and Jurisprudence on the Civil Code of the Philippines, Vol. I. (1985).

[27] Magbanua v. Junsay, G.R. No. 132659, February 12, 2007, 515 SCRA 419, 435-437.

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