

LIMANCH-O HOTEL AND LEASING CORPORATION AND CONRADO TIU, PETITIONERS, VS. CITY OF OLONGAPO, ATTY. MA. ELLEN AGUILAR, ENGR. RAMON ZAVALLA, ENGR. ANDREW DAYOT, AND ENGR. REYNALDO ...

G.R. No. 185121. January 18, 2010

Ponente: ABAD, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-185121/>

ABAD, J.:

This case is about a claim for damages based on malicious prosecution.

The Facts and the Case

Sometime in 1993, the respondent City of Olongapo assessed, through its Public Utilities Department (PUD), petitioner Conrado Tiu (the owner, president, and general manager of petitioner Limanch-O Hotel and Leasing Corporation) his unregistered electricity consumption from November 1988 to February 1993 in the amount of P9,364,276.50. The City threatened to cut off his electric supply if he did not immediately settle the amount.

Petitioner Tiu filed an action against the City before the Regional Trial Court (RTC) of Olongapo for injunction with damages, which he won. The RTC enjoined the City from collecting the deficiency amount and from cutting off Tiu's power supply.[1]

Pending the RTC's resolution of its motion for reconsideration, the City filed criminal complaints against petitioner Tiu for: (a) theft of electrical current punished under Presidential Decree (P.D.) 401; and (b) disengaging and tampering with his electric meter's potential link, thereby resulting to a zero-zero power consumption in violation of City Ordinance 23, series of 1989, and P.D. 401.

After the preliminary investigation, the state prosecutor issued a resolution, dismissing the complaints for insufficiency of evidence.[2] On appeal, however, the Acting Secretary of Justice modified the State Prosecutor's resolution and directed the filing of the corresponding information for theft of electricity against petitioner Tiu.[3] Subsequently, however, the Secretary of Justice reconsidered and ordered instead the withdrawal of any information that might in the meantime have been filed in court.[4] When the matter was elevated to the Court of Appeals (CA) and, ultimately, to this Court, both courts affirmed the dismissal of the City's complaints against Tiu.[5]

Claiming that petitioner Tiu suffered mental anguish, serious anxiety, besmirched reputation, wounded feelings, moral shock and social humiliation and that petitioner Limanch-O Hotel suffered loss of business goodwill, financial reverses, and injured reputation, both filed an action for damages against the City for having filed a malicious and unfounded charge of theft of electricity against them.[6]

In its answer, the City denied any ill motive in filing the criminal complaint. It explained that it filed the criminal action following an examination of the electric meter installed at petitioner Tiu's building and registered in his

name. The examination showed reverse polarity markings on the electric meter, causing it not to register Tiu's correct power consumption. Since this brought tremendous losses to the PUD and to the City, the latter argued that it should not be faulted for doing its job of going after those who pilfer electricity and tamper with metering devices.

After petitioners Tiu and Limanch-O Hotel rested their case, the City filed a demurrer to the evidence. The RTC granted the same and dismissed the complaint. On appeal,[7] the CA affirmed the RTC decision, having found no reversible error in the same. Tiu and Limanch-O Hotel, said the appellate court, were unable to prove the elements that will support an action for malicious prosecution, namely: (a) absence of probable cause in the filing of the criminal case and (b) a showing of legal malice.[8] Their motion for reconsideration having been denied,[9] Tiu and Limanch-O Hotel are now before this Court on a petition for review.[10]

Issue Presented

The issue in this case is whether or not the CA erred in its finding that petitioners Tiu and Limanch-O Hotel failed to present sufficient evidence showing that respondent City instituted the criminal complaint for theft of electricity against them maliciously and without probable cause.

The Court's Ruling

To entitle petitioners Tiu and Limanch-O Hotel to damages for malicious prosecution, they needed to prove the following elements: (1) that the respondent City had caused their prosecution; (2) that the criminal action ended in their acquittal; (3) that, in bringing the action, the City had no probable cause; and (4) that it was impelled by legal malice--an improper or a sinister motive.[11] Both parties concede that the first two elements were present in this case. What needs to be determined is whether or not petitioners Tiu and Limanch-O Hotel have proved the last two elements.

Here, petitioners claim that this Court itself found in *Public Utilities Department v. Hon. Guingona, Jr.*[12] that no probable cause existed to support the charge of theft of electricity against Tiu. This finding establishes, they said, the third element of filing of the action without probable cause. Further, they point to the City Mayor's call for the boycott of Tiu's business after he was branded an electricity thief; the procurement of a search warrant to gather evidence against him; the eventual dismissal of the complaint for theft of electricity; and the respondent City's dogged persistence in pursuing the case all the way to the Supreme Court as clear proofs of legal malice.

But the burden in suits for malicious prosecution is being able to prove the complainant's deliberate initiation of a criminal action knowing the charge to be false and groundless.[13] Here, the respondent City did not concoct out of thin air the criminal charge for theft of electricity against petitioners Tiu and Limanch-O Hotel. It filed the case based on the result of an investigation carried out at Tiu's premises which indicated a tampering of the electric meter. Indeed, petitioners never claimed that the inspection of Tiu's premises was just a farce. The City did not merely conjure the charge with the intention of vexing Tiu and Limanch-O Hotel. It acted within its right to bring up the result of that investigation to the authorities for evaluation and resolution.

It is not enough to say that, since the Supreme Court sustained the Secretary of Justice's finding that no probable cause for electricity theft existed against petitioners Tiu and Limanch-O Hotel, a case for malicious prosecution already exists against the complainant. When the Supreme Court reviewed the resolution of the Secretary of Justice, it merely determined if he gravely abused his discretion in the matter. The Court's finding does not amount to a judicial determination that the evidence established probable cause.[14]

The test should be whether sufficient facts exist which show that, in bringing the criminal action, complainant

acted without probable cause,[15] defined as the existence of such facts and circumstances as would excite the belief in a reasonable mind that the person charged and prosecuted in a criminal case is probably guilty of the crime or wrongdoing.[16] Here, the fact that the filing of the complaint was prompted by the result of an investigation shows that the City had a reasonable ground to believe that a crime had probably been committed. Additionally, the fact that the Department of Justice at first found basis for filing the charge of theft of electricity indicates that the existence of probable cause is not clearly settled, only that its final determination had to succumb to the sound discretion of the Secretary of Justice under his power to review, revise, or overturn the findings of his subordinates.

Finally, no evidence was shown that there had been bad blood between respondent City and petitioners Tiu and Limanch-O Hotel prior to the filing of the criminal charge, which circumstance if present could justify a malicious motive in filing the charge. Resort to judicial processes, by itself, is not an evidence of ill will which would automatically make the complainant liable for malicious prosecution. Otherwise, peaceful recourse to the courts will be greatly discouraged and the exercise of one's right to litigate would become meaningless and empty.[17]

Even if the Court were to concede that the City branded petitioners Tiu and Limanch-O Hotel as thieves, asked the people not to patronize their business, and had been overly zealous in pursuing the criminal complaint that it filed, these are not the legal malice contemplated in suits for malicious prosecution as the determining factor is evil motive in bringing the action, not the acts exhibited by the complainant after the case had been filed.

WHEREFORE, the Court DENIES the petition and AFFIRMS the Decision dated July 8, 2008 and Resolution dated October 22, 2008 of the Court of Appeals in CA-G.R. CV 88619.

SO ORDERED.

Carpio, Brion, Del Castillo, and Perez, JJ., concur.

[1] Rollo, p. 7.

[2] Id. at 113-117.

[3] Id. at 118-122.

[4] Id. at 123-125.

[5] See: Court of Appeals Decision in CA-G.R. SP No. 39689 dated August 22, 1997, rollo, pp. 127-133; and Supreme Court Decision in G.R. No. 130399 dated September 20, 2001, id. at 136-147.

[6] Docketed as Civil Case No. 316-0-2002, id. at 52-59.

[7] Docketed as CA-G.R. CV 88619.

[8] Rollo, pp. 37-50. Penned by Associate Justice Normandie B. Pizarro, with Associate Justices Edgardo P. Cruz and Fernanda Lampas Peralta concurring.

[9] Id. at 21-22.

[10] Id. at 3-16.

[11] See: Magbanua v. Junsay, G.R. No. 132659, February 12, 2007, 515 SCRA 419, 436-437.

[12] 417 Phil. 798 (2001).

[13] See: *Magbanua v. Junsay*, supra note 11.

[14] See: *Cometa v. Court of Appeals*, 378 Phil. 1187, 1193 (1999).

[15] *Id.* at 1194.

[16] *Villanueva v. United Coconut Planters Bank*, 384 Phil. 130, 142 (2000).

[17] *Id.* at 144.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.