

**DOMINGO A. TUZON AND LOPE C. MAPAGU, PETITIONERS, VS.
HONORABLE COURT OF APPEALS AND SATURNINO T. JURADO,
RESPONDENTS.**

G.R. No. 90107. August 21, 1992

Ponente: CRUZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-90107/>

CRUZ, J.:

The petitioners are questioning the decision of the respondent court holding them liable in damages to the private respondent for refusing to issue to him a mayor's permit and license to operate his palay-threshing business.

The case goes back to March 14, 1977, when the Sangguniang Bayan of Camalaniugan, Cagayan, unanimously adopted Resolution No. 9, reading pertinently as follows:

"WHEREAS, the municipality of Camalaniugan, Cagayan has embarked in the construction of Sports and Nutrition Center, to provide the proper center wherein the government program of Nutrition and physical development of the people, especially the youth could be well administered:

"WHEREAS, the available funds for the construction of the said project is far (sic) being adequate to finance its completion;

"WHEREAS, the Sangguniang Bayan have (sic) thought of fund-raising scheme, to help finance the construction of the project, by soliciting 1% donation from the thresher operators who will apply for a permit to thresh within the jurisdiction of this municipality, of all the palay threshed by them to help finance the continuation of the construction of the Sports and Nutrition Center Building.

RESOLVED, therefore, as it is hereby resolved, that the municipal treasurer is hereby authorized to enter into an agreement to all thresher operators, that will come to apply for a permit to thresh palay within the jurisdiction of this municipality to donate 1% of all the palay threshed by them.

To implement the above resolution, petitioner Lope C. Mapagu, then incumbent municipal treasurer, prepared the following document for signature of all thresher/owner/operators applying for a mayor's permit:

AGREEMENT

That I, _____ thresher-owner-operator hereby voluntarily agree to donate to the municipality of Camalaniugan, Cagayan, one percent (1%) of all palay threshed by me within the jurisdiction of Camalaniugan, Cagayan, to help finance the completion of the construction of the sports and nutrition center building of Camalaniugan per Resolution No. 9 dated March 14, 1977 of the Sanggunian Bayan;

That I also agree to report weekly the total number of palay threshed by me to the municipal treasurer and turn over the corresponding 1% share of the municipality for the said project mentioned above.

Signed this day of _____, 1977.

Thresher/Owner/Operator

Soon thereafter, private respondent Saturnino T. Jurado sent his agent to the municipal treasurer's office to pay the license fee of P285.00 for thresher operators. Mapagu refused to accept the payment and required him to first secure a mayor's permit. For his part, Mayor Domingo Tuzon, the herein other petitioner, said that Jurado should first comply with Resolution No. 9 and sign the agreement before the permit could be issued. Jurado ignored the requirement. Instead, he sent the P285.00 license fee by postal money order to the office of the municipal treasurer who, however, returned the said amount. The reason given was the failure of the respondent to comply with Resolution No. 9.

On April 4, 1977, Jurado filed with the Court of First Instance of Cagayan a special civil action for mandamus with actual and moral damages to compel the issuance of the mayor's permit and license. On May 31, 1977, he filed another petition with the same court, this time for declaratory judgment against the said resolution (and the implementing agreement) for being illegal either as a donation or as a tax measure. Named defendants were the same respondents and all the members of the Sangguniang Bayan of Camalaniugan.

In a joint decision dated March 31, 1982, the trial court^[1] upheld the challenged measure. However, it dismissed the claims for damages of both parties for lack of evidence.

Jurado appealed to the Court of Appeals, which in its decision dated August 31, 1989,^[2] affirmed the validity of Resolution No. 9 and the implementing agreement. Nevertheless, it found Tuzon and Mapagu to have acted maliciously and in bad faith when they denied Jurado's application for the mayor's permit and license. Consequently, they were held liable thus:

WHEREFORE, in view of all the foregoing, the decision appealed from is hereby MODIFIED in that appellees Mayor and Municipal Treasurer are hereby ordered to pay jointly and severally the appellant the following amounts: P20,000.00 as actual damages; P5,000.00 as moral damages; and P3,000.00 as attorney's fees.

The petitioners now seek relief from this Court on the grounds that:

1. Respondent Court gravely abused its discretion when it concluded that the refusal on the part of the petitioners to issue a Mayor's permit and license to operate a thresher to the private respondent is "unjustified and constitutes bad faith" on their part.
2. Respondent Court gravely abused its discretion when it concluded that compliance with Resolution No. 9 and its implementing agreement is not mandatory despite its own ruling and finding that Resolution No. 9 is valid because the same was passed in accordance with the provisions of the 1973 Constitution and the Local Tax Code.
3. Respondent court likewise gravely abused its discretion when it awarded damages to the private respondent, contrary to the findings of facts of the trial court to the effect that petitioners were not guilty of bad faith and malice and because from the records, there is no proof or evidence to support such award.

The petitioners stress that they were acting in their official capacity when they enforced the resolution, which was duly adopted by the Sangguniang Bayan and later declared to be valid by both the trial and the appellate courts. For so acting, they cannot be held personally liable in damages, more so because their act was not tainted with bad faith or malice. This was the factual finding of the trial court and the respondent court was not justified in reversing it.

Commenting on the petition, the private respondent avers that the signing of the implementing agreement was not a condition sine qua non to the issuance of a permit and license. Hence, the petitioners' unwarranted refusal to issue the permit and license despite his offer to pay the required fee constituted bad faith on their part.

Jurado further assails Resolution No. 9 and the implementing agreement for compelling the thresher to donate something which he does not yet own. He also claims that the measure contravenes the limitations on the taxing powers of local government units under Section 5, of the Local Tax Code.

His conclusion is that he is entitled to actual and moral damages from the petitioners under Article 27 of the Civil Code, and to the payment of attorney's fees as well, for their refusal or neglect, without just cause, to perform their official duties.

We need not concern ourselves at this time with the validity of Resolution No. 9 and the implementing agreement because the issue has not been raised in this petition as an assigned error of the respondent court. The measures have been sustained in the challenged decision, from which the respondent has not appealed. The decision is final and binding as to him. It is true that he did question the measures in his Comment, but only half-heartedly and obliquely, to support his claim for damages. We may therefore defer examination of these measures to a more appropriate case, where it may be discussed more fully by the proper parties.

We may merely observe at this time that in sustaining Resolution No. 9, the respondent court said no more than that:

It was passed by the Sangguniang Bayan of Camalaniugan in the lawful exercise of its legislative powers in pursuance to Article XI, Section 5 of the 1973 Constitution which provided that: "Each local government unit shall have the power to create (sic) its own source of revenue and to levy taxes, subject to such limitation as may be provided by law." And under Article 4, Section 29 of Presidential Decree No. 231 (Enacting a Local Tax Code for Provinces, Cities, Municipalities and Barrios), it is provided that:

"Section 29. Contributions. - In addition to the above specified taxing and other revenue-raising powers, the barrio council may solicit monies, materials, and other contributions from the following sources:

x x x

"(c) Monies from private agencies and individuals."

That is an over-simplification. The respondent court has not offered any explanation for its conclusion that the challenged measures are valid nor does it discuss its own concept of the nature of the resolution.

While it would appear from the wording of the resolution that the municipal government merely intends to "solicit" the 1% contribution from the threshers, the implementing agreement seems to make the donation obligatory and a condition precedent to the issuance of the mayor's permit. This goes against the nature of a donation, which is an act of liberality and is never obligatory.[3]

If, on the other hand, it is to be considered a tax ordinance, then it must be shown, in view of the challenge raised by the private respondent, to have been enacted in accordance with the requirements of the Local Tax Code. These would include the holding of a public hearing on the measure[4] and its subsequent approval by the Secretary of Finance,[5] in addition to the usual requisites for publication of ordinances in general.[6]

The only issue that has to be resolved in this case is whether or not the petitioners are liable in damages to the private respondent for having withheld from him the mayor's permit and license because of his refusal to comply with Resolution No. 9.

The private respondent anchors his claim for damages on Article 27 of the New Civil Code, which reads:

Art. 27. Any person suffering material or moral loss because a public servant or employee refuses or neglects, without just cause, to perform his official duty may file an action for damages and other relief against the latter, without prejudice to any disciplinary administrative action that may be taken.

It has been remarked that one purpose of this article is to end the "bribery system, where the public official, for some flimsy excuse, delays or refuses the performance of his duty until he gets some kind of pabagsak." [7] Official inaction may also be due to plain indolence or a cynical indifference to the responsibilities of public service. According to *Phil. Match Co. Ltd. v. City of Cebu*, [8] the provision presupposes that the refusal or omission of a public official to perform his official duty is attributable to malice or inexcusable negligence. In any event, the erring public functionary is justly punishable under this article for whatever loss or damage the complainant has sustained.

In the present case, it has not even been alleged that the Mayor Tuzon's refusal to act on the private respondent's application was an attempt to compel him to resort to bribery to obtain approval of his application. It cannot be said either that the mayor and the municipal treasurer were motivated by personal spite or were grossly negligent in refusing to issue the permit and license to Jurado.

It is no less significant that no evidence has been offered to show that the petitioners singled out the private respondent for persecution. Neither does it appear that the petitioners stood to gain personally from refusing to issue to Jurado the mayor's permit and license he needed. The petitioners were not Jurado's business competitors nor has it been established that they intended to favor his competitors. On the contrary, the record discloses that the resolution was uniformly applied to all the threshers in the municipality without discrimination or preference.

The Court is convinced that the petitioners acted within the scope of their authority and in consonance with their honest interpretation of the resolution in question. We agree that it was not for them to rule on its validity. In the absence of a judicial decision declaring it invalid, its legality would have to be presumed (in fact, both the trial court and the appellate court said there was nothing wrong with it). As executive officials of the municipality, they had the duty to enforce it as long as it had not been repealed by the Sangguniang Bayan or annulled by the courts. [9]

x x x As a rule, a public officer, whether judicial, quasi-judicial or executive, is not personally liable to one injured in consequence of an act performed within the scope of his official authority, and in line of his official duty.

x x x It has been held that an erroneous interpretation of an ordinance does not constitute nor does it amount to bad faith, that would entitle an aggrieved party to an award for damages. (*Philippine Match Co. Ltd. v. City of Cebu*, 81 SCRA 99)

The private respondent complains that as a result of the petitioners' acts, he was prevented from operating his business all this time and earning substantial profit therefrom, as he had in previous years. But as the petitioners correctly observed, he could have taken the prudent course of signing the agreement under protest and later challenging it in court to relieve him of the obligation to "donate." *Pendente lite*, he could have continued to operate his threshing business and thus avoided the *lucro cesante* that he now says was the consequence of the petitioners' wrongful act. He could have opted for the less obstinate but still dissentient action, without loss of face, or principle, or profit.

In view of the foregoing, we find that the petitioners, having acted in good faith in the discharge of their official functions, should be absolved from liability.

ACCORDINGLY, the appealed decision is reversed insofar as it holds the petitioners liable in damages and attorney's fees to the private respondent. No costs.

SO ORDERED.

Griño-Aquino and Bellosillo, JJ., concur.

Medialdea, J., no part.

[1] Decision penned by Judge Napoleon R. Flojo of the Court of First Instance, First Judicial District, Second Branch, Aparri, Cagayan, Rollo, p. 71.

[2] Kapunan, Santiago M., J, Ponente; Francisco, Ricardo J. and Gonzaga-Reyes, Minerva, JJ., concurring; Rollo, p. 13.

[3] Article 725, Civil Code.

[4] Sections 49 and 50, Local Tax Code.

[5] Ibid.

[6] Section 11, Local Government Code (now in Section 59 of the Local Government Code (LGC) and Section 43, Local Tax Code (now in Section 188, LGC of 1991).

[7] Paras, E., Civil Code of the Philippines, 1989, pp. 145-146.

[8] 81 SCRA 99.

[9] Section 44, Local Tax Code.

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.