

CHINA BANKING CORPORATION, AND ORWIL ONG, PETITIONERS, VS. COURT OF APPEALS AND CLARO BEN LIM, RESPONDENTS.

G.R. No. 94182. March 28, 1994

Ponente: QUIASON, J.

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QUIASON, J.:

This is a petition for review on certiorari under Rule 45 of the Revised Rules of Court to reverse and set aside the decision of the Court of Appeals in CA-G.R. CV No. 20112, affirming the decision of the Regional Trial Court, Branch 8, Manila, which awarded the claim for damages filed by respondent Claro Ben Lim against petitioners China Banking Corporation (CBC) and Orwil Ong (Civil Case No. 33945).

We grant the petition and reverse the decision of the Court of Appeals.

I

On March 1, 1984, petitioner CBC filed with the City Fiscal of Manila a complaint (I.S. No. 84-04412) against George U. Lim, Julia L. Wang and private respondent, as officers of Pacific Mills, Inc. (Pacific), for violation of P.D. No. 115. The complaint arose from two trust receipts: one, dated November 18, 1977 which was signed by George U. Lim and private respondent, and the other dated March 19, 1981 (also referred to in the records and in the petition as being dated July 10, 1981) which was signed by George U. Lim and Julia L. Wang.

Petitioner Orwil Ong, the Section Chief of the International Department of petitioner CBC, submitted his affidavit-complaint, alleging as follows:

"8. Under the Trust Receipt, Annex "A-3", Pacific/George U. Lim and Julia L. Wang are guilty of one (1) count of Estafa under the provisions of P.D. No. 115, in relation to Art. 315 of the Revised Penal Code; under the Trust Receipt, Annex "B-3". Pacific/George U. Lim and Claro Ben Lim are likewise guilty of one (1) count of Estafa under the provisions of P.D. No. 115, in relation to Art. 315 of the Revised Penal Code, as amended" (Records, pp. 109-110).

Private respondent could not be subpoenaed at the address furnished by petitioners, which was the office address of Pacific at 28 Novaliches Road, Balintawak, Quezon City.

On February 19, 1985, after preliminary investigation, an information was filed with the Regional Trial Court, Manila in Criminal Case No. 85-34190, charging George U. Lim and private respondent with violation of P.D. No. 115, involving Trust Receipt Agreement dated March 19, 1981 (Annex "B-3").

When private respondent found out that Criminal Case No. 85-34190 arose from the March 19, 1981 trust receipt, he filed a counter-affidavit with the Fiscal's office alleging that he was not a signatory to said trust receipt.

Petitioner CBC forthwith filed a Motion for Reinvestigation and/or Amendment of Information, alleging that "through inadvertence and oversight in the preparation of the complaint-affidavit," the names of Claro Ben Lim and Julia L. Wang were interchanged, and as a consequence, private respondent was charged in the

affidavit-complaint in connection with the Trust Receipt Agreement dated March 19, 1981 (Annex "B-3"), while Julia L. Wang was charged in the complaint-affidavit in connection with the Trust Receipt Agreement dated November 18, 1977 (Annex "A-3") when it should have been the other way around (Rollo, pp. 14-15).

Petitioner Ong filed a supplemental reply-affidavit with the City Fiscal, reiterating the allegations in the Motion for Reinvestigation and/or Amendment of Information of his co-petitioner.

Private respondent filed a motion to dismiss Criminal Case No. 85-34190, which was granted in an order dated November 27, 1988 insofar as he was concerned.

Subsequently, private respondent filed a complaint for damages against petitioners based on Articles 19, 20 and 21 of the Civil Code of the Philippines. He alleged that petitioner Ong committed perjury when he implicated private respondent as having executed with George U. Lim, the trust receipt dated March 19, 1981, when he had already severed his relations with Pacific three years before the execution of said trust receipt. He further alleged that petitioners acted fraudulently when they failed to ascertain his correct address, thus depriving him of the opportunity to appear in the preliminary investigation, resulting in the filing of the wrong information (Complaint, pars. 11 and 12).

In support of his claim for actual, moral and exemplary damages, as well as attorney's fees, private respondent alleged that "petitioners' [w]anton, malevolent, reckless, fraudulent, ruthless and oppressive manner" caused him to suffer "mental torture, shock, humiliation, mental anguish [and] sleepless night" not only because his stature in the business community declined and his business suffered, but also because his wife suffered a nervous breakdown and his children who were also engaged in business were affected. He asserted that he was well-known both in the local and international business circles and was actively engaged in various socio-civic, religious and charitable associations (Complaint, par. 14). Moreover, he alleged that he was compelled to litigate as a result of the acts of petitioner (Complaint, pars. 15-18).

In their Answer with Compulsory Counterclaim, petitioner reiterated that "the interchanging of the names of plaintiff and Julia L. Wang [was] made in absolute good faith," as shown by their filing of the motion for reinvestigation in Criminal Case No. 85-34190.

The trial court rendered a decision in favor of private respondent, the dispositive portion of which reads as follows:

"WHEREFORE, in view of the foregoing, judgment is hereby rendered in favor of plaintiff Claro Ben Lim and against the defendants jointly and severally ordering the latter to pay the plaintiff the amount of P500,000.00 as moral damages; P25,000.00 as exemplary damages, and finally the costs of suit."

Petitioners then appealed to the Court of Appeals, which affirmed the decision rendered by the trial court.

Petitioners filed this petition, alleging that the Court of Appeals gravely erred in:

1

"xxx concluding that the alleged failure of petitioners to furnish the City Fiscal's office of the correct and known address of Lim constitutes gross negligence."

2

"xxx failing to consider that on the basis of the documents submitted before the City Fiscal of Manila, Lim could properly be indicted for a violation of the Trust Receipt Law (P.D. No. 115)."

3

"xxx holding that the interchange of the names of Lim with that of Julia L. Wang such that the former was charged under the Trust Receipt dated March 18, 1981 instead of being charged under the Trust Receipt dated November 18, 1977 constitutes gross negligence."

The petition has merit.

II

First, petitioners question the finding of the Court of Appeals that they had acted with gross negligence, when they failed to furnish the City Fiscal of Manila the correct address of private respondent.

Under Section 3, Rule 112 of the 1985 Rules of Criminal Procedure the "complaint shall state the known address of the respondent xxx."

The address of private respondent that was furnished by petitioners to the investigating fiscal was his office address at Pacific, which appeared on the Trust Receipt Agreement dated November 18, 1977 and the application for the issuance of a letter of credit. So, as far as petitioners were concerned, private respondent's address was that which was stated in their records. Furthermore, they were never advised of the resignation of private respondent from Pacific nor were they given his new address. Hence, petitioners can not be said to have acted with gross negligence.

Second, petitioners question the failure of the Court of Appeals to consider that on the basis of the documents given to the City Fiscal, there was a prima facie evidence that Lim violated the Trust Receipt Law at least with respect to the Trust Receipt Agreement dated November 18, 1977.

The filing of two criminal complaints by petitioners against George U. Lim and one count each against his co-principals Julia L. Wang and private respondent, arose from two trust receipt agreements executed in favor of petitioner CBC. When Pacific failed to pay its obligation or to return the articles covered by the trust receipts on or before the due dates, private respondent as a signatory to the trust receipt dated November 18, 1977 became criminally liable for estafa under P.D. No. 115.

The offer of Pacific to return the articles entrusted to it was made only after the filing of the criminal complaint with the City Fiscal. The full payment of the obligation was effected only in June 1988. Hence, contrary to the finding of the Court of Appeals, there was basis for the filing of the criminal complaint against private respondent.

Third, petitioners question the finding that there was gross negligence on their part when they interchanged the names of Lim and Julia L. Wang under the Trust Receipt dated March 19, 1981.

The affidavit-complaint was the handiwork of the lawyers, not of petitioner Ong. The latter's participation in its preparation could not be more than that of furnishing to said lawyers copies of the two trust receipts.

Upon the discovery of the interchange of the names of private respondent and Julia L. Wang, petitioners immediately moved for a reinvestigation of Criminal Cases Nos. 85-34190 and 85-34191. This clearly negates any malice, ill-will or bad faith on the part of petitioners.

We shall now discuss the question of whether petitioners are liable for damages under Articles 19, 20 and 21 of the Civil Code of the Philippines.

Article 19 provides:

"Art. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith."

Article 20 provides:

"Every person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same."

Article 21 provides:

"Any person who willfully causes loss or injury to another in a manner that is contrary to morals, good customs, or public policy shall compensate the latter for the damage."

A common thread woven in the three articles is that the act complained of must be intentional. The act must be tainted with bad faith. However, bad faith can not be attributed to petitioners in filing the criminal complaint against private respondent. In doing so, they were merely exercising their right under the law. Based on the trust receipt bearing the signature of private respondent (Annex "A-3") there was a prima facie case against him for estafa. The interchange in the names of private respondent and Julia L. Wang was merely due to oversight and was not done deliberately. This fact was proven when petitioners immediately asked for a reinvestigation of the case upon discovering their mistake.

Since the facts show that petitioners did not act with bad faith, it clearly follows that an award for damages based on malicious prosecution will not prosper. Malicious prosecution, both in criminal and civil cases, requires the presence of two elements, to wit: a) malice; and b) absence of probable cause. Moreover, 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 (*Manila Gas Corporation v. Court of Appeals*, 100 SCRA 602 [1980]). Hence, mere filing of a suit does not render a person liable for malicious prosecution should he be unsuccessful, for the law could not have meant to impose a penalty on the right to litigate (*Ponce v. Legaspi*, 208 SCRA 377 [1992]; *Saba v. Court of Appeals*, 189 SCRA 50 [1990]; *Rubio v. Court of Appeals*, 141 SCRA 488 [1986]). Settled in our jurisprudence is the rule that moral damages cannot be recovered from a person who has filed a complaint against another in good faith, or without malice or bad faith (*Philippine National Bank v. Court of Appeals*, 159 SCRA 433 [1988]; *R & B Surety and Insurance v. Intermediate Appellate Court*, 129 SCRA 736 [1984]). If damage results from the filing of the complaint, it is *damnum absque injuria* (*Ilocos Norte Electric Company v. Court of Appeals*, 179 SCRA 5 [1989]).

A case presenting a situation similar to the case at bench is *Albenson Enterprises Corporation v. Court of Appeals*, 217 SCRA 16 (1993). In said case, the petitioners filed a complaint for violation of B.P. Blg. 22 against Eugenio S. Baltao. The complaint arose from the issuance of a check signed by "Eugenio Baltao" in payment of a delivery of steel plates purchased by Guaranteed Industries, Inc. with offices at No. 3267 V. Mapa St., Sta. Mesa, Manila. The check was dishonored by the drawee bank, stating as reason that the account had been closed. After the information against respondent Eugenio S. Baltao was filed in court, he moved for a reinvestigation alleging that he was not the one who issued the said check. At the reinvestigation, it was established that the check was issued by a namesake of respondent Baltao, who held office at No. 3267 V. Mapa, St., the same address of Guaranteed Industries, Inc. The Provincial Fiscal moved for the dismissal of the information filed against respondent Baltao, who subsequently filed an action for damages against the petitioners. The action of respondent Baltao was based on malicious prosecution and Articles 19, 20 and 21 of the Civil Code of the Philippines. The trial court awarded respondent Baltao the damages prayed for in his complaint, but the Court of Appeals reduced the award for damages. On appeal, we reversed the Court of Appeals, holding that there was no proof that the petitioners acted in bad faith in the filing of the case against respondent Baltao and consequently, they could not be held liable for damages.

In *Albenson*, the one charged in the information had no participation whatsoever in the issuance of the bouncing

check. In the case at bench, private respondent was a signatory to an actionable trust receipt, but the complaint against him was based on the wrong trust receipt. Comparing the two cases, the accused in Albenson had suffered greater injury and had more reasons to complain than private respondent herein.

WHEREFORE, the petition is GRANTED and the decision of the Court of Appeals is REVERSED. No pronouncement as to costs.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

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