

THIRD DIVISION

[G.R. NO. 132659, February 12, 2007]

**CONRADO MAGBANUA AND ROSEMARIE MAGBANUA-TABORADA,
THE LATTER ASSISTED BY HER HUSBAND ARTEMIO TABORADA,
PETITIONERS, VS. PILAR S. JUNSAY, ASSISTED BY HER
HUSBAND VICENTE JUNSAY, IBARRA LOPEZ, AND JUANITO
JACELA, RESPONDENTS.**

D E C I S I O N

CHICO-NAZARIO, J.:

This is an Appeal by *Certiorari* from the Decision,^[1] dated 26 January 1998, of the Court of Appeals in CA-G.R. CV No. 51750, which affirmed *in toto* the Decision,^[2] dated 25 July 1995, of the Regional Trial Court (RTC), Branch 51, Bacolod City, in Civil Case No. 4361, dismissing the Complaint for Damages for malicious prosecution, filed by petitioners against respondents. The RTC rendered judgment declaring that the prosecution was not prompted by sinister design to vex and humiliate petitioner Rosemarie Magbanua. The Court of Appeals similarly found the appeal without merit.

The following are the antecedent facts:

Petitioner Rosemarie Magbanua, who worked as a housemaid in the residence of complainant and herein respondent Pilar S. Junsay was charged as a co-accused with the crime of Robbery before the RTC, Branch XLI of Bacolod City in Criminal Case No. 28 entitled, *People of the Philippines v. Rosemarie Magbanua, et al.*, by virtue of an Information, which recites, thus:

That on or about the 18th day of July, 1982, in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, conspiring, confederating and mutually helping one another, with intent to gain and with the use of force upon things by then and there making a hole on the lower portion of the kitchen's door of the house of the herein offended party, Dra. Pilar S. Junsay, situated at Bata Subdivision, Bacolod City, through which opening made (sic) them, said accused gained entrance thereto and once inside the said house, did, then and there willfully, unlawfully and feloniously take, rob and carry away with them, assorted jewelries and cash, valued all in all in the amount of P29,624.00, Pesos, Philippine Currency, to the damage and prejudice of the herein offended party in the aforementioned amount.^[3]

The records show that only petitioner Rosemarie was tried in Criminal Case No. 28. Her co-accused, Ernesto Fernandez and a certain Gudo, remain at large.

The case for the prosecution relied on an alleged confession made by petitioner

Rosemarie, admitting her participation in the crime of Robbery. The defense contested the admissibility of the confession, and averred that the same was made under duress.

On 20 December 1985, the RTC, Branch XLI of Bacolod City, rendered a Decision,^[4] acquitting petitioner Rosemarie of the crime of Robbery. The RTC held:

The evidence for accused [herein petitioner Rosemarie] more particularly the Medical Certificate and the testimony of the attending physician as well as the Decision of the NAPOLCOM finding the investigating officers guilty has clearly establish (sic) the fact that accused was physically maltreated by the investigating officers in an attempt to force her to confess her participation in the robbery. Whatever declaration of accused therefore against her interest is inadmissible in evidence against her, hence, the alleged admission of the accused that she participated in the commission of the Robbery made to the police investigator and complainant [complainant respondent Pilar] even if it is true cannot be used against her. Notwithstanding however, accused could still be found guilty if the evidence for the prosecution is sufficient to establish her participation in the crime without said alleged admission by the accused. Record, however, shows that other than the alleged admission of the accused made to the police investigator and the complainant, the only evidence to establish the participation of the accused in the robbery is the testimony of the complaining witness that after accused informed her that part of the jewelry stolen was inside her bag at her room, the complaining witness searched the room of accused and found one (1) piece of gold necklace. On this point, the evidence adduced shows that the police authorities went at (sic) the scene of the robbery and thoroughly investigated the incident including dusting for fingerprints, tending to show that the investigation of the police authorities was extensive, hence, it was quite improbable and difficult to believe that the police investigator would fail to search the bag nor the room of accused. This Court[,] therefore[,] find said testimony of the complaining witness on this point discredited.^[5]

The decretal portion of the 20 December 1985 RTC Decision pronounced:

IN VIEW OF THE FOREGOING THEREFORE, this Court finds the evidence for the prosecution not only insufficient to prove the guilt of the accused beyond reasonable doubt but even insufficient to establish a prima facie case against her for having participated in the robbery subject of the above entitled case and therefore ACQUITS accused on the ground of insufficiency of evidence. The bailbond of the accused for her provisional liberty is hereby ordered cancelled.^[6]

On 9 March 1987, petitioner Rosemarie, assisted by Artemio Taborada, and together with co-petitioner Conrado Magbanua (Rosemarie's father) filed with the RTC, Branch 51, Bacolod City, a Complaint for Damages^[7] against respondent Pilar, assisted by her husband Vicente Junsay, Ibarra Lopez, and Juanito Jacela. Respondent Pilar was the employer of petitioner Rosemarie, while respondents Ibarra and Juanito were members of the police force of Bacolod City, and assigned at the Police Station in Taculing, Bacolod City.

The Complaint, alleged, *inter alia*, that by reason of respondents' false, malicious, and illegal actuations in filing Criminal Case No. 28 for Robbery against petitioner Rosemarie, the latter suffered untold pain, shame, humiliation, worry, and mental anguish, which if assessed in monetary terms will not be less than P200,000.00.

[8] It was further alleged therein that Conrado, Rosemarie's father, lost his job and his entire family suffered.[9] Petitioners maintained that Rosemarie suffered physical pain and mental torture due to the filing of the false criminal charge against her.[10] They sought moral and exemplary damages, including attorney's fees and litigation expenses, as well as loss of earnings and expenses incurred in connection with Rosemarie's defense in Criminal Case No. 28 for Robbery.[11] They similarly prayed for payment of the expenses incurred in the prosecution of the instant case.

Subsequently, petitioners filed a Petition to litigate as pauper which the RTC granted in its Order dated 9 March 1987, it appearing that they had no means to prosecute their action.[12]

Respondent Pilar filed a Motion to Dismiss,[13] on the ground that the cause of action is barred by the Statute of Limitations, as crystallized in Article 1146[14] of the Civil Code. From the time the cause of action arose to the filing of the Complaint, four years and eight months had already lapsed.

Petitioners filed an Opposition to the Motion to Dismiss,[15] contending that their cause of action is not for damages based on the physical injuries suffered by Rosemarie during the investigation of the criminal case nor the violation of her rights for the indignities foisted upon her by the respondents from 18 July 1982, and several days thereafter.[16] They posited that the damages sought are for the malicious prosecution of Rosemarie. They reasoned that the baseless filing of the criminal case for Robbery against Rosemarie, despite her protestations of innocence and the lack of evidence against her, caused her family to incur expenses and subjected her to untold shame and humiliation.[17] Petitioners clarified that the allegations about the violation of Rosemarie's rights as a person were included only to demonstrate respondents' palpable malice in the filing of the said criminal case against her. Petitioners postulated that as the Complaint for Damages is for malicious prosecution, the prescriptive period should be counted from the date of Rosemarie's acquittal in Criminal Case No. 28, or on 20 December 1985, and not from 18 July 1982, the date when respondents injured the rights of Rosemarie. From the time judgment in Criminal Case No. 28 was rendered to the filing of the Complaint in the instant case, not more than one year and three months had passed.[18]

On 24 March 1988, the RTC issued an Order[19] denying respondents' Motion to Dismiss for lack of merit. It found that the cause of action of petitioners' Complaint was based on malicious prosecution; hence, the prescriptive period shall be counted from the date of petitioner Rosemarie's acquittal. According to the RTC, the allegations about the wanton violation of the rights of Rosemarie as a person were to show the pattern of respondents' malice.

Respondent Pilar filed before the RTC an Answer,[20] dated 18 May 1988, disclaiming

petitioners' allegation that she maltreated petitioner Rosemarie while the latter was being investigated by the police authorities. She posited, *inter alia*: that she was not present during the investigation, and was subsequently informed of petitioner Rosemarie's participation in the robbery by the investigators, the same being reflected in the Joint Affidavit of the police investigators; that she never laid a hand on petitioner Rosemarie before, during, or after the investigation, as, in fact, she had no inkling of her participation in the crime; that she had no hand in the filing of the case except to execute an affidavit regarding her ownership of the lost jewelry; and that she has no liability whatsoever to petitioner Rosemarie, much less, to her father, petitioner Conrado, who does not appear to have any involvement in the matter.^[21] By way of counterclaim, she sought damages, including attorney's fees, and costs of suit from the petitioners.

Petitioners filed a Reply and Answer to Counterclaim,^[22] reiterating the allegation in the Complaint, that respondent Pilar actually participated in the maltreatment of petitioner Rosemarie, and she cannot deny her participation as she was always present in the police station during the investigation. Petitioners alleged that respondent Pilar cannot claim lack of knowledge of the maltreatment and indignities suffered by petitioner Rosemarie because she herself participated in such maltreatment. Petitioners further contended, *inter alia*, that they have a proper and valid cause of action against the respondents, including petitioner Conrado who suffered and incurred expenses to defend his daughter, Rosemarie, who was then a minor against unjust accusation, maltreatment and torture.

On 9 September 1988, at the pre-trial, the parties entered into a stipulation of facts. Counsel for the petitioners manifested that they were claiming damages not for physical injuries which petitioner Rosemarie allegedly suffered in the hands of respondents during her investigation, but for her malicious prosecution.^[23] In concurrence thereto, counsel for respondents declared that the main issue was whether Rosemarie was maliciously prosecuted with the filing of the criminal case for Robbery.^[24] Following the stipulations and counter-stipulation of facts, pre-trial was terminated.

Meanwhile, respondents Ibarra and Juanito, members of the police force of Bacolod City, filed an Answer and Manifestation,^[25] adopting the Answer filed by their co-respondent Pilar, dated 18 May 1988, insofar as the allegations therein were applicable to them, and further adopting the counterclaim interposed in the aforesaid action.

Trial, thereafter, ensued.

Seeking to fortify their case, petitioners offered the following exhibits, to wit:

Exhibit "A" - The medical certificate issued by Dr. Teodoro S. Lavasa, Medico-legal officer and Chief, Crime Laboratory, Bacolod Metro Police District, dated July 27, 1982.

This exhibit is offered to show the many injuries sustained by [herein petitioner] Rosemarie Magbanua at the hands of the [herein respondents] in their joint effort to make her admit the crime in the absence of proof that she participated therein and despite her

protestations of innocence.

Exhibit "B" - The note of Dr. Teodoro S. Lavada to the jail warden.

This exhibit is offered to show the result of the maltreatment and/or physical injuries inflicted by the [respondents] on the person of [petitioner] Rosemarie Magbanua - hemoptysis, fever, and body pains - which made the medico-legal officer recommend hospitalization for her.

Exhibit "C" - The information filed by Fiscal Ricardo F. Tornilla, 2nd Asst. City Fiscal, Bacolod City, dated July 20, 1982.

This exhibit is offered to show the result of the [respondents'] confederated efforts for Rosemarie Magbanua to be prosecuted for the crime she did not commit, including untrue affidavits, a biased and false investigation report mentioning Rosemarie Magbanua's alleged confession of her participation in the robbery when she never did, despite the injuries and indignities to which she was subjected, all of which made the Asst. City Fiscal Ricardo F. Tornilla file the information against said plaintiff Rosemarie Magbanua.

Exhibit "D" - The Decision rendered by Hon. Quirino D. Abad Santos, Jr., Judge, Regional Trial Court of Negros Occidental, Branch XLI Bacolod City, in Criminal Case No. 28 entitled, "People of the Philippines vs. Rosemarie Magbanua, et al." dated December 20, 1985.

Exhibit "D-1" - The portion appearing on page 4 of said decision stating that, "IN VIEW OF THE FOREGOING THEREFORE, this Court finds the evidence for the prosecution not only insufficient to prove the guilt of the accused beyond reasonable doubt but even insufficient to establish a prima facie case against her for having participated in the robbery subject of the above entitled case and therefore ACQUITS accused on the ground of insufficiency of evidence. The bailbond of the accused for her provisional liberty is hereby ordered cancelled."

This exhibit with its sub-marking is offered to show that the [petitioner] Rosemarie Magbanua was acquitted of the crime charged because the evidence for the prosecution was not only insufficient to prove the guilt of the accused beyond reasonable doubt but even insufficient to establish a prima facie evidence against her for having participated in the robbery, thus glaringly exposing the utter lack of basis for charging and/or prosecuting Rosemarie Magbanua for the crime of robbery which was nevertheless filed at the behest of the [respondents] who knowing fully the bereftness of their stand even tried to concoct additional evidence of having found still more jewelry in [petitioner] Rosemarie Magbanua's handbag, a maneuver which was debunked by the honorable Court in its decision.

Exhibit "E" - The decision of the National Police Commission Adjudication Board No. 11 in Adm. Case No. 83-0888 finding the respondent PFC Ibarra Lopez and respondent Patrolman Juanito Jacela, two of the defendants, guilty of grave misconduct and ordering their suspension for