

## TWELFTH DIVISION

[ CA–G.R. CV No. 98667, March 24, 2014 ]

**ALEJANDRA V. MABITAZAN, AVELINO V. BERNARDO AND FLORENCIO A. BERNARDO (SUBSTITUTED BY ALICIA B. JULOYA, NELLY B. RUBINA AND AVELINO BERNARDO), PLAINTIFFS-APPELLANTS, VS. SPS. ROBERTO VILLANUEVA AND CONSUELO VILLANUEVA AND ATTY. LAZARO C. GAYO, DEFENDANTS-APPELLEES.**

### D E C I S I O N

**DICDICAN, J.:**

Before us is an appeal from the Judgment<sup>[1]</sup> rendered by Presiding Judge Jennifer A. Pilar of Branch 32 of the Regional Trial Court of the First (1<sup>st</sup>) Judicial Region in Agoo, La Union (“trial court”) on March 30, 2012 in Civil Case No. A-2598 which, *inter alia*, dismissed the complaint for damages that was filed by herein plaintiffs-appellants against the defendants-appellees for lack of merit (“assailed judgment”).

The material and relevant facts of the case, as culled from the record, are as follows:

The instant case stemmed from a Complaint<sup>[2]</sup> for damages for malicious prosecution that was filed by herein plaintiffs-appellants against the defendants-appellees in the trial court on March 16, 2009. In the said complaint, the plaintiffs-appellants alleged that, on February 24, 2004, they filed a Complaint<sup>[3]</sup> for easement of road right of way against herein defendants-appellees spouses Roberto and Consuelo Villanueva (“defendants-appellees spouses”) in the Regional Trial Court of Agoo, La Union docketed as Civil Case No. A-2290. In the said Civil Case No. A-2290, the plaintiffs-appellants averred that they had been using a portion of a land that is owned by the defendants-appellees spouses pursuant to a right of way that had been agreed upon by both parties. However, the plaintiffs-appellants narrated that the defendants-appellees spouses constructed a fence around their land, thereby depriving herein plaintiffs-appellants of ingress from and egress to the aforesaid subject land.

Thereafter, on March 11, 2004, the defendants-appellees spouses, with the advice of their counsel, herein defendant-appellee Lazaro C. Gayo, filed a Criminal Complaint<sup>[4]</sup> for perjury against herein plaintiffs-appellants in the Municipal Trial Court of Agoo, La Union (“MTC of Agoo”). In the said criminal case which was docketed as Criminal Case No. 8271, the defendants-appellees spouses maintained that herein plaintiffs-appellants committed perjury when they made false allegations in their complaint in Civil Case No. A-2290. More particularly, the defendants-appellees spouses asseverated that the plaintiffs-appellants falsely narrated that they had constructed a fence around the subject property when, in truth and in fact, they had not constructed any fence therein.

Consequently, on the basis of the aforementioned criminal case for perjury that was filed against the plaintiffs-appellants, a warrant of arrest was issued against them by the MTC of Agoo on April 26, 2004.<sup>[5]</sup> For their part, the plaintiffs-appellants, as accused in Criminal Case No. 8271, moved to quash the complaint for perjury that was filed against them, contending that the aforesaid criminal complaint failed to allege facts which would constitute the said offense. Moreover, the plaintiffs-appellants argued that herein defendants-appellees spouses who filed the criminal complaint against them in the MTC of Agoo and who themselves signed the aforesaid criminal complaint in the said court had no authority to do so since the crime of perjury is a crime against public interest.<sup>[6]</sup> The aforesaid motion to quash was, however, denied by the MTC of Agoo in a Resolution dated January 11, 2005.<sup>[7]</sup>

Thus, on April 18, 2005, the plaintiffs-appellants filed in the trial court a Petition for Certiorari and Mandamus<sup>[8]</sup> questioning the January 11, 2005 Resolution of the MTC of Agoo which denied their motion to quash. In a Decision<sup>[9]</sup> dated March 16, 2007, the trial court granted the petition for certiorari that was filed by the plaintiffs-appellants and ordered the MTC of Agoo to dismiss Criminal Case No. 8271.

Meanwhile, on December 31, 2005, a Decision<sup>[10]</sup> was rendered by Branch 31 of the Regional Trial Court of Agoo, La Union, in Civil Case No. A-2290 granting the prayer of herein plaintiffs-appellants for a road right of way within a portion of the subject lot that was owned by the defendants-appellees spouses. On appeal to this Court by the defendants-appellees, the December 31, 2005 decision of Branch 31 of the RTC of Agoo, La Union, was affirmed *in toto* in a Decision<sup>[11]</sup> rendered on October 25, 2007 in CA G.R. CV No. 86931. The matter was later on elevated to the Supreme Court which likewise denied the petition for review on certiorari that was filed by the defendants-appellees in G.R. No. 183223. In sum, the issue of the road right of way in Civil Case No. A-2290 had already been decided with finality in favor of herein plaintiffs-appellants.

The foregoing antecedents thereby prompted herein plaintiffs-appellants to file the instant complaint in the trial court, insisting that the criminal case for perjury (Criminal Case No. 8271) that was filed against them by the defendants-appellees in the MTC of Agoo was baseless, frivolous and absolutely without a semblance of a probable cause. According to the plaintiffs-appellants, the filing against them of Criminal Case No. 8271, which was later on dismissed by the trial court, was impelled and actuated by malice and meant to vex, harass and punish them for filing Civil Case No. A-2290 against herein defendants-appellees spouses. Consequently, the plaintiffs-appellants claimed that they should be awarded moral and exemplary damages, as well as attorney's fees and the costs of suit.

Summonses were thereafter served upon the defendants-appellees by the trial court requiring the latter to file their respective answers to the complaint within fifteen (15) days from their receipt thereof. In their Answer with Compulsory Counterclaim<sup>[12]</sup>, the defendants-appellees spouses denied the allegations that were hurled against them by the plaintiffs-appellants. The defendants-appellees spouses contended that there was no malice on their part when they filed the criminal case for perjury against the plaintiffs-appellants and that the same was done in good faith as, in fact, the MTC of Agoo issued a warrant of arrest against the plaintiffs-appellants after the MTC of Agoo found probable cause to charge them of the crime of perjury.

Moreover, the defendants-appellees spouses argued that the criminal complaint for perjury that was filed against the plaintiffs-appellants in the MTC of Agoo was a pleading that was duly filed with a competent court and one which is not actionable. Consequently, the defendants-appellees spouses posited that the plaintiffs-appellants had no cause of action against them for damages.

For his part, defendant-appellee Gayo, in his Answer with Affirmative Defenses and Counterclaim<sup>[13]</sup>, likewise denied the allegations that were made against him by the plaintiffs-appellants. According to him, he was not behind the filing of Criminal Case No. 8271 against the plaintiffs-appellants and that the aforementioned case was filed after an ocular inspection of the subject lot was made in order to determine whether or not there was a ground to file a criminal case for perjury against the plaintiffs-appellants. Further, defendant-appellee Gayo maintained that the mere filing of a suit would not render a person to be liable for malicious prosecution, stressing that malice and lack of probable cause must both exist in order to justify the aforementioned action.

Thereafter, a pre-trial conference was conducted by the trial court on November 17, 2010 whereby the parties submitted the following issues for the resolution of the trial court, to wit: (1) whether or not there was malicious prosecution in the instant case; and (2) who, between the plaintiffs-appellants and the defendants-appellees, were entitled to damages and attorney's fees. Trial on the merits of the case thereafter ensued.

On March 30, 2012, the trial court rendered the herein assailed judgment the dispositive portion of which reads:

"WHEREFORE, Civil Case No. A-2598 is hereby dismissed for lack of merit.

"SO ORDERED."

Undaunted by the foregoing disquisition of the trial court, the plaintiffs-appellants filed the instant appeal raising the following errors which were purportedly committed by the trial court, to wit:

I.

THE REGIONAL TRIAL COURT GRAVELY ERRED AND MANIFESTED A CLEAR BIAS AND INCOMPETENCE IN THE APPRECIATION OF THE EVIDENCE AND IN NOT FINDING THE ELEMENTS OF MALICIOUS PROSECUTION.

II.

THE REGIONAL TRIAL COURT ERRED IN NOT MAKING THE DEFENDANTS-APPELLEES TO BE JOINTLY AND SEVERALLY LIABLE TO THE PLAINTIFFS-APPELLANTS FOR ATTORNEY'S FEES AND MORAL AND EXEMPLARY DAMAGES.

In sum, the sole issue brought before this Court for resolution is whether or not the trial court erred when it dismissed the complaint docketed as Civil Case No. A-2598 on the ground that the elements of malicious prosecution had not been proven by the plaintiffs-appellants in the said case. After a careful and thorough review of the facts, law and issues of this case, we find the instant appeal to be bereft of merit.

In their appeal that was filed in this Court, the plaintiffs-appellants contended that the allegations which they made in Civil Case No. A-2290 could not be the basis for the filing of Criminal Case No. 8271 for perjury against them. While, initially, the MTC of Agoo found probable cause to charge them of the crime of perjury, the said finding of probable cause by the MTC of Agoo was later on reversed by the trial court which, in turn, ordered the dismissal of the said Criminal Case No. 8271. Thereafter, both this Court and, eventually, the Supreme Court upheld the ruling of the trial court. Thus, the plaintiffs-appellants submitted that the truth or falsity of the allegations of their complaint in Civil Case No. A-2290 is now *res judicata*.

Moreover, according to the plaintiffs-appellants, the complaint in Criminal Case No. 8271 was impelled by malice and improper motive. They contended that, if, indeed, the defendants-appellees spouses entertained an honest belief that the allegations in Civil Case No. A-2290 were not true, the next proper step was for them to present evidence to the contrary in support of their defense during the trial of the case. Consequently, in view of the unwarranted acts of the defendants-appellees, the plaintiffs-appellants insisted that they should be made liable for moral and exemplary damages and attorney's fees.

For their part, the defendants-appellees spouses merely adopted the memorandum which they filed in the trial court as their appellees' brief. On the other hand, a Manifestation and Motion<sup>[14]</sup> was filed in this Court by one Atty. Edward U. Garcia stating that defendant-appellee Gayo had been shot to death on October 29, 2012 at his office at Agoo, La Union. To date, however, no certified true copy of the death certificate of defendant-appellee Gayo had been submitted in this Court despite our directive to do so in our Resolution<sup>[15]</sup> dated October 8, 2013.

Thus, we now resolve.

There is malicious prosecution when a person directly insinuates or imputes to an innocent person the commission of a crime and the accused is compelled to defend himself or herself in court. While generally associated with unfounded criminal actions, the term had been expanded to include unfounded civil suits instituted just to vex and humiliate the defendant despite the absence of a cause of action or probable cause.<sup>[16]</sup>

To merit the award of damages in a case of malicious prosecution, the aggrieved party must prove that: (1) he or she had been denounced or charged falsely of an offense by the defendant; (2) the latter knows that the charge was false or lacks probable cause; (3) the said defendant acted with malice; and (4) he or she suffered damages. The elements of want of probable cause and malice must simultaneously exist; otherwise, the presence of probable cause signifies, as a legal consequence, the absence of malice. On these, 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 to entitle the victim to damages.<sup>[17]</sup>

In the case at bench, the claim for damages by the plaintiffs-appellants is anchored on the supposed bad faith which attended the filing of Criminal Case No. 8271 against them for the crime of perjury. However, as can be inferred from the record of the instant case, the MTC found probable cause to charge the plaintiffs-appellants of the crime of perjury. The said finding, however, was reversed by the trial court and the ruling of the said trial court was affirmed by this Court and, eventually, the