

## **SPECIAL TWENTIETH DIVISION**

**[ CA-G.R. CV NO. 02042, June 26, 2014 ]**

**MARISSA B. DIADULA, PLAINTIFF-APPELLANT, VS. SILVERIA T. MARSAMOLO, DEFENDANT-APPELLEE.**

### **D E C I S I O N**

**QUIJANO-PADILLA, J.:**

This is an appeal<sup>[1]</sup> from the Decision<sup>[2]</sup> dated January 8, 2007 of the Regional Trial Court (RTC), Branch 47, Tagbilaran City in Civil Case No. 6812 for Damages. The assailed Decision dismissed the instant case holding that the defendant-appellee's act of filing complaints or charges against the plaintiff-appellant before the Civil Service Commission and the then Officer-in-Charge of the Provincial Agriculture Office did not amount to evident bad faith or were patently malicious so as to warrant the award of damages under Articles 19 to 21 of the Civil Code and likewise held that even if damages resulted to the plaintiff-appellant, the same is "*damnum absque injuria*."

#### **The Antecedents**

This case stemmed from a Complaint<sup>[3]</sup> for Damages filed by plaintiff-appellant against defendant-appellee on the ground that two complaints or charges were filed against her, the first was a complaint for the alleged commission of the offense of falsification and violation of the Anti-Graft and Corrupt Practices Act before the Civil Service Commission, Provincial Office, Tagbilaran City dated May 10, 1999, while the second was a letter-complaint dated November 18, 2002 addressed to Mrs. Judith Uy-Sumatra, the then Officer-in-Charge of the Provincial Agriculture Office, Province of Bohol allegedly imputing that the plaintiff-appellant was the one who placed a big question mark in black ink on the November 2002 Bundy Clock Time Card (BCTC) of the defendant-appellee. Plaintiff-appellant posited that the filing of these charges were malicious, unfounded and with the intention of harassing her. As a result of these cases, plaintiff-appellant was humiliated publicly and her name and reputation were severely desecrated causing her damage and prejudice. There being a resulting prejudice, plaintiff-appellant contended that the defendant-appellee must be held accountable. Hence, in her Complaint, plaintiff-appellant sought for the award of moral, exemplary and actual damages as well as litigation expenses and attorney's fees.

On the contrary, in her Answer with Counterclaim,<sup>[4]</sup> defendant-appellee pleaded good faith as the charges lodged against plaintiff-appellant were accordingly made by her in her capacity as the Administrative Officer III of the Provincial Agriculture Office and that she had acted regularly in accordance with the function bestowed by her office. By way of counterclaim, defendant-appellee alleged that as a consequence of this malicious suit against her, she suffered sleepless nights and felt sad, worried and tormented. As such, the plaintiff-appellant should be held liable for

moral damages as well as attorney's fees and litigation expenses.

After pre-trial conference,<sup>[5]</sup> the trial court then proceeded to try the case on the merits. Trial on the merits started before the Honorable Raineldo T. Son and was later transferred to the herein Presiding Judge, Honorable Suceso A. Arcamo, when the former passed away on October 30, 2004.<sup>[6]</sup>

The evidence for the plaintiff-appellant, as culled from the trial court's summary, is as follows:

"Two of the witnesses testified for the plaintiff, namely: (1) Marissa B. Diadula, the plaintiff herself and (2) Liza Migriño Quirog.

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Stripped of the non-essentials, the testimonies of the above-named witnesses can be summarized as follows:

Plaintiff Marissa B. Diadula testified that she is the Records Officer II of the Provincial Agriculture Office whereas defendant Silveria Faelden, now Mrs. Silveria T. Marsamolo was their Administrative Officer.

Plaintiff claimed that while she was working with the defendant Mrs. Silveria Marsamolo, she (plaintiff) was always bothered and had no peace of mind. There were instances when she was supposed to be sent for training but the defendant blocked the same. Defendant resented when she (plaintiff) sometimes made corrections on the communication letters written by (defendant) which passed thru her table because she (defendant) could not accept the fact that a mere subordinate like her (plaintiff) would correct the former's work.

Defendant had also filed a case against her and her officemate Emma Abellana with the Civil Service Commission for falsification of public records as allegedly, plaintiff punched in the bundy clock time card of Emma Abellana. She was ordered by the said commission to file under oath her answer and that of Emma Abellana. Their office security guard, Mr. Calixto Alfafero, had executed an affidavit in support of her affidavit.

However, the Civil Service Commission remanded the case against them to the Office of the Governor thru Mrs. Josephine Relampagos, the Human Resource Management and Development Officer, Province of Bohol. According to the Commission, the act of defendant in filing a complaint against them with the Civil Service Office was improper because it was not referred first to the HRMDO and the Office of the Governor.

After being summoned, Mrs. Josephine Relampagos investigated them (plaintiff and defendant) concerning the matter at issue. Mrs. Relampagos asked Mrs. Marsamolo what she would like to happen and the latter answered that she wanted her (plaintiff) to ask for forgiveness. She (plaintiff) retorted by saying that she could never ask forgiveness from the defendant because she had not done the act which was the

subject of defendant's complaint. The defendant requested from Mrs. Relampagos that both plaintiff and Mrs. Abellana would get reprimanded. They (plaintiff and Abellana) waited for the reprimand letter and since there was none, they thought that the case was already closed and terminated.

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On November 18, 2002, defendant Silveria Marsamolo requested for an investigation regarding her (defendant) bundy clock time card for the month of November 2002 which was allegedly written with a big question mark in black ink. Thereafter, Mrs. Silveria Marsamolo again filed a complaint against her addressed to the Officer-in-charge of the Provincial Agriculture Office, Mrs. Judith Uy-Sumatra where it was alleged that she (plaintiff) was the one who wrote a question mark on defendant's bundy clock time card. Mrs. Judith Uy-Sumatra required her (plaintiff) to explain in writing regarding the complaint of defendant. Plaintiff then filed her counter-affidavit to explain her side. Mrs. Marsamolo filed her reply to plaintiff's explanation on December 11, 2002 which plaintiff received on December 13, 2002. Defendant's reply however was not responsive as it dealt on personal matters.

No resolution was rendered on the complaint of the defendant and no investigation was done by Mrs. Sumatra on the plaintiff.

Because of defendant's actuations, plaintiff suffered anxiety and sleepless nights. She was hurt, downhearted and she cried as she could not understand why she had been unfairly treated by the defendant.

Before the filing of the instant case, plaintiff first filed a complaint against the defendant before the Office of the Punong Barangay of Poblacion III where they were both called for a conference. Since no settlement was reached she was issued a Certification to File Action against Mrs. Marsamolo dated February 19, 2003.

Her main cause of action for damages against the defendant Mrs. Silveria Marsamolo was defendant's false accusation against her of having tampered defendant's bundy clock time card.

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The second witness for the plaintiff was Liza M. Quirog. She was the Acting Executive Secretary to the Governor before she was transferred and appointed as Officer-in-Charge of the Department of Agriculture, Province of Bohol in June 19, 2000. In September 2000, she was relieved by the Governor but she again assumed office on March 17, 2001 as the Provincial Agriculturist of Bohol. She knows the plaintiff Marissa Diadula and the defendant Silveria Marsamolo who were her officemates at the Provincial Agriculture Office, Bohol.

When she assumed office as Assistant Provincial Agriculturist and at the same time acting as Administrative Officer, she filed an administrative

case against Mrs. Marsamolo on the ground of habitual absenteeism.

As defendant's administrative officer, she was not able to rate her performance in the office because the latter did not submit her performance evaluation. The ratings in the Performance Evaluation System are from 0 to 10, ten being excellent. In terms of intellectual capability, she believes that Mrs. Marsamolo can perform her job if she would.

Since she became the Provincial Agriculturist she observed that Mrs. Marsamolo was not very cooperative. In the last term of January to June 2000, she gave her several warnings on poor performance which were rated as 0. In terms of her personal relationship with other employees, she was indifferent and would not cooperate in holding a dialogue. One time she asked her to submit her DTR but defendant said 'I will submit only when I want to.' At another time also, they were both attending a conference in the Governor's Office and when she asked her, 'Where were you? You were absent?,' Mrs. Marsamolo replied, 'We will not talk.'

The then Governor Rene L. Relampagos called the office personnel of the Provincial Agriculture for a dialogue to settle issues not only between the plaintiff and defendant but for every one in the office. During that meeting, the employees promised the governor to work harmoniously with each other and help achieve the task of the office.

After the meeting with the governor, defendant was transferred to the Provincial Motorpool Office. She believed that it was done by the governor in order to give in to the request of the employees and also not to hurt Mrs. Marsamolo's ego. When defendant was already transferred to the Provincial Motorpool, she (witness) was designated as the Acting Provincial Agriculturist per Memorandum or Office Order No. 18, Series of 2000.

When Gov. Rene L. Relampagos lost in the 2001 elections but before the new governor Erico B. Aumentado assumed office, she had been appointed as the Provincial Agriculturist of Bohol.

When the new governor was about to assume office in the last week of June 2001, Mrs. Marsamolo was transferred back to the Office of the Provincial Agriculture from the Provincial Motorpool.

She was aware that the defendant had filed a case against the plaintiff before the Civil Service Commission and another complaint also against the plaintiff before the Office of the Governor. She also knew that plaintiff Marissa Diadula had filed a case against the defendant with the barangay captain of Poblacion III before the instant case in court. She was present at one time during the barangay conference upon the invitation of Ms. Diadula. Defendant Silveria Marsamolo objected to her presence at the barangay conciliation proceedings because accordingly, she (witness) was not in the Office of the Provincial Agriculture when the incident of putting a question mark on defendant's bundy card happened.

After the plaintiff-appellant had rested, defendant-appellee then presented her evidence. The version of the defendant-appellee, as narrated by the trial court is quoted hereunder:

"The testimonial evidence for the defendant consisted of the testimonies of defendant herself Silveria Marsamolo and the latter's witness Judith Uy-Sumatra.

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Defendant Silveria Timbal Marsamolo testified that plaintiff was the Records Officer II during the time when she was the Administrative Officer of the Provincial Agriculture Office while Emma M. Abellana was their utility worker.

She had written a letter to Atty. Karin Litz P. Zerna, Acting Director II of the Civil Service Commission, Head Office, Tagbilaran City dated May 10, 1999 where her surname was still Faelden because she was still then in the process of annulling her first marriage. She got married again in 2002. The gist of her letter was about an incident regarding the bundy clock time card and the DTR of Emma Abellana for the month of April 1999 which were missing. Their office timekeeper Mrs. Rina Tangcawan was the one who recovered the said bundy clock time card and DTR of Mrs. Abellana which were then given to her (defendant). Mrs. Rina Tangcawan told her that she received the DTR and the bundy clock time card of Mrs. Abellana from the plaintiff Marissa Diadula. She was surprised because the bundy clock time card should not be in the possession of anybody, not even its owner except when the DTR was to be filled up with the entries in the bundy clock time card.

She then made her own personal investigation and found out that the handwritten entries in the bundy clock time card and DTR of Mrs. Abellana were not that of Abellana's. She also noticed that the entries in the bundy clock time card on the 19<sup>th</sup> and 23<sup>rd</sup> of April were handwritten. When she made a check whether the bundy clock was operational or not during the aforesaid dates, she found out that it was operational.

Before the above incident, she had already observed that Marissa Diadula lacked respect on her being the administrative officer. Plaintiff did not want to be under her direct supervision and control.

The Civil Service Commission referred her complaint against the plaintiff and Mrs. Abellana to the HRMDO where they were amicably settled as what she only wanted from them was to ask forgiveness and to refrain from committing the same offense again.

On November 18, 2002, she wrote a letter-report addressed to their OIC Mrs. Judith Uy Sumatra stating that she discovered that her bundy clock time card for the month of November 2002 was written with a big question mark in black ink. During that time, she was trembling with