



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

JOSE G. TAN and ORENCIO C.  
LUZURIAGA,

Petitioners,

G.R. No. 185559

Present:

CARPIO, J.,  
Chairperson

PERALTA,  
MENDOZA,  
LEONEN,  
MARTIRES, JJ.

-versus-

ROMEO H. VALERIANO,  
Respondent.

Promulgated:

02 AUG 2017

x ----- *[Handwritten Signature]* x

DECISION

MARTIRES, J.:

For resolution is the Petition for Review on Certiorari,<sup>1</sup> docketed as G.R. No. 185559, assailing the 25 September 2008 Decision<sup>2</sup> and the 5 December 2008 Resolution<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 88795.

THE FACTS

The present case arose from a damages suit for malicious prosecution filed by respondent Romeo H. Valeriano (*Valeriano*) against petitioners Jose G. Tan, and Orencio C. Luzuriaga (*petitioners*), as well as Toby Gonzales (*Gonzales*) and Antonio G. Gilana (*Gilana*).<sup>4</sup>

*[Handwritten Signature]*

<sup>1</sup> Under Rule 45 of the Rules of Court; *rollo*, pp. 10-38.  
<sup>2</sup> Id. at 40-59; penned by Associate Justice Remedios A. Salazar-Fernando, and concurred in by Associate Justices Rosalinda Asuncion-Vicente and Ramon M. Bato, Jr.  
<sup>3</sup> Id. at 61-62.  
<sup>4</sup> Records, pp. 1-3.

It is undisputed that on 4 January 2001, the Holy Name Society of Bulan, Sorsogon (*Holy Name Society*), held a multi-sectoral consultative conference at the Bulan Parish Compound. Valeriano, the president of the religious organization, delivered a welcome address during the conference. In his address, Valeriano allegedly lambasted certain local officials of Bulan, Sorsogon, specifically Municipal Councilors petitioners, Gilana and Vice-Mayor Gonzales.

The following day, or on 5 January 2001, petitioners, together with Gilana and Gonzales, filed before the Civil Service Commission (*CSC*) an administrative complaint against Valeriano who was an incumbent resident auditor of the Commission on Audit (*COA*). Believing that the real purpose of the conference was to choose the candidates who will be endorsed by the Holy Name Society for the 2001 elections, petitioners, Gilana and Gonzales, charged Valeriano with acts of electioneering and engaging in partisan politics. They were convinced that, through his opening remarks, Valeriano had set the political tone of the conference. They also claimed that Valeriano did not advise or prevent the other speakers from criticizing the local administration with which they are politically aligned or identified.<sup>5</sup>

The COA was furnished with a copy of the administrative complaint against Valeriano. The COA, however, did not take any action on the complaint in view of the pendency of the case before the CSC.<sup>6</sup>

On 30 January 2001, the CSC dismissed the complaint due to a procedural defect, but without prejudice to its re-filing.<sup>7</sup> The CSC noted that the complaint-affidavit was not filed under oath.

The petitioners subsequently re-filed a Complaint-Affidavit<sup>8</sup> dated 23 March 2001 before the CSC. On motion of their counsel, however, the petitioners withdrew their complaint on 15 June 2001.<sup>9</sup>

In the meantime, the petitioners and Gilana filed on 22 March 2001 another administrative complaint<sup>10</sup> dated 13 March 2001 before the Office of the Ombudsman, this time for violation of Republic Act No. 6713,<sup>11</sup> in relation to Section 55 of the Revised Administrative Code of 1987. This complaint was dismissed by the Ombudsman on 21 June 2001 for want of evidence.<sup>12</sup>

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<sup>5</sup> Id. at 4-5.

<sup>6</sup> Id. at 15-18.

<sup>7</sup> Id. at 6.

<sup>8</sup> Id. at 19-20.

<sup>9</sup> Id. at 22.

<sup>10</sup> Id. at 7-9.

<sup>11</sup> Otherwise known as the "Code of Conduct and ethical Standards of Public Officials and Employees."

<sup>12</sup> Records, pp. 10-14.

Aggrieved by the turn of events, Valeriano filed before Branch 65, Regional Trial Court (*RTC*), Sorsogon City, a complaint for damages against the petitioners.

### **The Ruling of the Regional Trial Court**

After weighing the evidence, the RTC ruled that the act of filing of numerous cases against Valeriano by petitioners, Gilana, and Gonzales was attended by malice, vindictiveness, and bad faith.<sup>13</sup> The RTC observed that Valeriano earned the ire of petitioners, Gilana, and Gonzales because he was the one who organized and led the sponsorship of the Multi-Sectoral Consultative Conference which was attended by some opposition leaders who were allowed to air their views freely relative to the theme: "Facing Socio-Economic Challenges in the 3rd Millennium, Its Alternative for Good Governance," a theme which is not totally apolitical considering that it pertains to alternative good governance.<sup>14</sup> The RTC noted that the fact that Valeriano was singled out by petitioners, Gilana, and Gonzales, although his participation was only to deliver the Welcome Address, is indicative of malice. Also, the RTC held that the act of filing numerous cases before the CSC, COA, and the Ombudsman, which cases were subsequently found to be unsubstantiated, is reflective of ill will or the desire for revenge.<sup>15</sup>

Due to the unfounded complaints initiated by the petitioners, the RTC decided in favor of Valeriano. By reason of his physical suffering, mental anguish, and social humiliation, the RTC awarded Valeriano ₱300,000.00 as moral damages; ₱200,000.00 as exemplary damages; and ₱30,000.00 as attorney's fees and litigation expenses.<sup>16</sup>

### **The Ruling of the Court of Appeals**

In the assailed decision, the CA reversed the trial court's ruling insofar as Gonzales and Gilana were concerned,<sup>17</sup> but affirmed that petitioners should be held liable for damages.<sup>18</sup> It held that Gonzales and Gilana did not act with malice to vex or humiliate Valeriano by the mere act of initiating an administrative case against him with the CSC and the Ombudsman.<sup>19</sup> On the other hand, the CA held that petitioners' act of re-filing their complaint with the CSC in April 2001, notwithstanding the pendency of the administrative case with the Ombudsman, shows bad

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<sup>13</sup> Id. at 245-246.

<sup>14</sup> Id. at 246.

<sup>15</sup> Id.

<sup>16</sup> Id. at 249.

<sup>17</sup> *Rollo*, p. 55-56.

<sup>18</sup> Id. at 57.

<sup>19</sup> Id.



faith.<sup>20</sup> The CA further held that petitioners' intent to prejudice and injure Valeriano was revealed when they did not inform their lawyer of the pending case with the Ombudsman.<sup>21</sup>

### The Issue

The pivotal issue in this case is whether petitioners acted with malice or bad faith in filing the administrative complaints against Valeriano.

### The Court's Ruling

We rule in the negative.

At the onset, we must remember that our scope of review in a Rule 45 petition is limited to questions of law.<sup>22</sup> This limitation exists because the Supreme Court is not a trier of facts that undertakes the re-examination and re-assessment of the evidence presented by the contending parties during the trial.<sup>23</sup> The appreciation and resolution of factual issues are the functions of the lower courts, whose resulting findings are then received with respect and are binding on the Supreme Court subject to certain exceptions.<sup>24</sup>

These exceptional circumstances when we have entertained questions of fact are: (1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.<sup>25</sup>

<sup>20</sup> Id. at 58.

<sup>21</sup> Id. at 57-58.

<sup>22</sup> RULES OF COURT, Rule 45, Section 1. *Filing of petition with Supreme Court.* x x x The petition may include an application for a writ of preliminary injunction or other provisional remedies and **shall raise only questions of law**, which must be distinctly set forth. x x x (emphasis supplied)

<sup>23</sup> *Maglana Rice and Corn Mill, Inc. v. Sps. Tan*, 673 Phil. 532, 539 (2011).

<sup>24</sup> Id., citing *FNCB Finance v. Estavillo*, 270 Phil. 630, 633 (1990).

<sup>25</sup> *Sampayan v. CA*, 489 Phil. 200, 208 (2005), citing *The Insular Life Assurance Co. Ltd. v. CA*, 472 Phil. 11, 22-23 (2004), further citing *Langkaan Realty Development, Inc. v. United Coconut Planters Bank*, 400 Phil. 1349, 1356 (2000); *Nokom v. NLRC*, 390 Phil. 1228, 1242-1243 (2000); *Sps. Sta. Maria v.*

The issue raised in the present petition is clearly not a question of law as it requires a re-examination of the weight and probative value of the evidence presented by the litigants and, thus, asking us to make a different factual conclusion. In other words, what is being asked of us now is to review the factual circumstances that led to the filing of numerous administrative complaints against Valeriano, and to determine the presence of ill motive, malice or bad faith to justify the award for damages.

After reviewing the records and the conclusions arrived at by the lower courts, however, we find that they had misappreciated the factual circumstances in this case thereby qualifying this case as an exception to the rule that a petition for review on certiorari is limited to questions of law.

Article 19 of the Civil Code contains what is commonly referred to as the principle of abuse of rights which requires that everyone must act with justice, give everyone his due, and observe honesty and good faith. The law recognizes a primordial limitation on all rights; that in their exercise, the norms of human conduct must be observed. A right, though by itself legal because it is recognized or granted by law as such, may nevertheless become the source of some illegality. When a right is exercised in a manner which does not conform with the norms enshrined in Article 19 and results in damage to another, a legal wrong is thereby committed for which the wrongdoer must be held responsible.<sup>26</sup>

The elements of abuse of rights are the following: (a) the existence of a legal right or duty; (b) which is exercised in bad faith; and (c) with the sole intent of prejudicing or injuring another.<sup>27</sup>

The existence of malice or bad faith is the fundamental element in abuse of right. In an action to recover damages based on malicious prosecution, it must be established that the prosecution was impelled by legal malice.<sup>28</sup> There is necessity of proof that the suit was patently malicious as to warrant the award of damages under Articles 19 to 21 of the Civil Code or that the suit was grounded on malice or bad faith.<sup>29</sup> There is malice when the prosecution was prompted by a sinister design to vex and humiliate a person, and that it was initiated deliberately by the defendant knowing that his charges were false and groundless.<sup>30</sup> The award of damages arising from malicious prosecution is justified *if and only if* it is

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*CA*, 349 Phil. 275, 282-283 (2000); *Aguirre v. CA*, 466 Phil. 32, 42-43 (2004); *C & S Fishfarm Corporation v. CA*, 442 Phil. 279, 288 (2002).

<sup>26</sup> *Globe Mackay Cable and Radio Corp. v. CA*, 257 Phil. 783-789 (1989).

<sup>27</sup> *Diaz v. Davao Light and Power Co., Inc.*, 549 Phil. 271, 296 (2007), citing *Hongkong and Shanghai Banking Corporation, Ltd. v. Catalan*, 483 Phil. 525, 539 (2004); *Saber v. CA*, 480 Phil. 723, 747 (2004).

<sup>28</sup> *Magbanua v. Junsay*, 544 Phil. 349, 367 (2007).

<sup>29</sup> *Bayani v. Panay Electric Co., Inc.* 386 Phil. 980, 986 (2000), citing *Equitable Banking Corp. v. Intermediate Appellate Court*, 218 Phil. 135, 140 (1984).

<sup>30</sup> *Drilon v. CA*, 336 Phil. 949, 956-957 (1997).

proved that there was a misuse or abuse of judicial processes.<sup>31</sup> Concededly, the mere act of submitting a case to the authorities for prosecution does not make one liable for malicious prosecution.<sup>32</sup>

In this case, what prompted petitioners to initiate the complaint against Valeriano was his vital participation in the multi-sectoral conference that was held wherein certain local officials were the subject of criticisms.

No less than the Constitution prohibits such officers and employees in the civil service in engaging in partisan political activity, to wit:

*Section 2. (4) No officer or employee in the civil service shall engage, directly or indirectly, in any electioneering or partisan political campaign.*

Correspondingly, the Revised Administrative Code of 1987, in its provisions on the Civil Service, provides:

*SEC. 55. Political Activity.* — No officer or employee in the Civil Service including members of the Armed Forces, shall engage directly or indirectly in any partisan political activity or take part in any election except to vote nor shall he use his official authority or influence to coerce the political activity of any other person or body. Nothing herein provided shall be understood to prevent any officer or employee from expressing his views on current political problems or issues, or from mentioning the names of candidates for public office whom he supports: Provided, That public officers and employees holding political offices may take part in political and electoral activities but it shall be unlawful for them to solicit contributions from their subordinates or subject them to any of the acts involving subordinates prohibited in the Election Code.<sup>33</sup>

During the consultative conference held by the Holy Name Society, speakers were allowed to criticize certain incumbent local officials. The conference was held at a time so close to the holding of the 2001 elections. Valeriano, an employee of the COA, was, incidentally, the president of said religious organization. Given the law's prohibition on public officers and employees, such as Valeriano, from engaging in certain forms of political activities, it could reasonably be said that those who had filed the complaints against Valeriano before the CSC and the Office of the Ombudsman had done so as they had reason to believe that Valeriano was violating the prohibition. Given the circumstances of the conference, it can reasonably be said that the complaints were filed out of a belief in a viable cause of action

<sup>31</sup> *Martires v. Cokieng*, 492 Phil. 81, 94 (2005), citing *Villanueva v. United Coconut Planters Bank (UCPB)*, 384 Phil. 130, 143 (2000).

<sup>32</sup> *Drilon v. CA*, *supra* note 30 at 957.

<sup>33</sup> The Revised Administrative Code of 1987, Book V, Title I (Constitutional Commissions), Subtitle A (Civil Service Commission), Chapter 7 (Prohibitions), Section 55.



against Valeriano. Put in another way, it cannot be said, for certain, that the complaints against Valeriano were filed simply out of malice.

Indeed, the CA, in absolving Gonzales and Gilana, found no malice or bad faith in the first complaint with the CSC, to wit:

Defendants-appellants miserably failed to show that plaintiff-appellee Valeriano probably engaged in partisan political activity when the latter urged the participants in his welcome address “to join hands together to build and offer our constituents a good governance as alternative of which, I will leave it to your noble hands.” Witness for defendants-appellants Asotes did not even see and hear plaintiff-appellee Valeriano deliver his welcome address.

However, there is **no showing that defendants-appellants Gonzales and Gilana acted with malice or sinister design to vex or humiliate plaintiff-appellee Valeriano by the mere act of initiating an administrative case** for electioneering against the latter with the CSC and with the Office of the Ombudsman after the dismissal without prejudice of the complaint by the CSC.<sup>34</sup> (emphasis supplied)

This Court, however, disagrees with the CA that the mere re-filing of the complaint with the CSC is reason to hold petitioners liable for damages. It must be remembered that the same complaint had earlier been dismissed on a technicality,<sup>35</sup> and that the CSC directed that the dismissal was without prejudice, i.e., the complaint may be re-filed after compliance with the technical rules. Following the discussion of the CA as quoted above, we can say that this same complaint was likewise not filed out of malice. It was borne out of a reasonable belief on the illegality of Valeriano’s acts. Parenthetically, whether Valeriano’s acts do amount to illegalities is another question altogether, one that is not within the purview of the present review.

It is a doctrine well-entrenched in jurisprudence that the mere act of submitting a case to the authorities for prosecution, of and by itself, does not make one liable for malicious prosecution, for the law could not have meant to impose a penalty on the right to litigate.<sup>36</sup>

Valeriano failed to prove that the subject complaints against him were motivated purely by a sinister design. It is an elementary rule that good faith is presumed and that the burden of proving bad faith rests upon a party

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<sup>34</sup> *Rollo*, pp. 55-56.


<sup>35</sup> Specifically, the technical requirement in Rule II, Section 8, of CSC Resolution No. 99-1936 dated 31 August 1999, which provides: “**Section 8. Complaint**—A complaint against a civil service official or employee shall not be given due course unless it is in writing and subscribed and sworn to by the complainant. However in cases initiated by the proper disciplining authority, the complaint need not be under oath.

<sup>36</sup> See *Lao v. Court of Appeals*, 338 Phil. 191, 203 (1997).

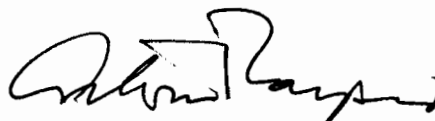
alleging the same. Absent such, petitioners cannot be held liable for damages.

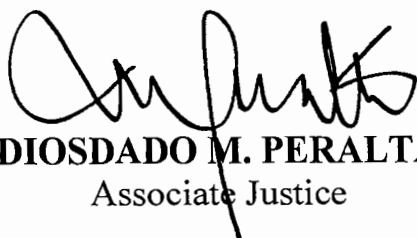
**WHEREFORE**, the foregoing premises considered, the Decision dated 25 September 2008, and the Resolution dated 5 December 2008, of the Court of Appeals in CA-G.R. CV No. 88795 are hereby **REVERSED** and **SET ASIDE**. A new judgment is rendered **DISMISSING** the complaint in Civil Case No. 01-176 filed by Romeo H. Valeriano before the Regional Trial Court, Branch 65, Bulan, Sorsogon, for lack of merit.

**SO ORDERED.**

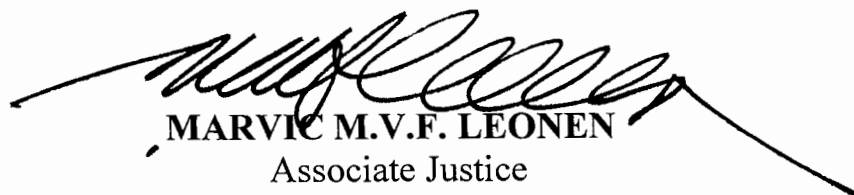
  
**SAMUEL R. MARTIRES**  
Associate Justice

WE CONCUR:

  
**ANTONIO T. CARPIO**  
Senior Associate Justice  
Chairperson

  
**DIOSDADO M. PERALTA**  
Associate Justice

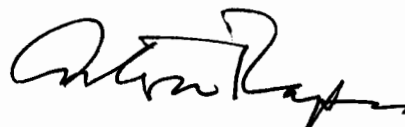
  
**JOSE CATRAL MENDOZA**  
Associate Justice

  
**MARVIC M.V.F. LEONEN**  
Associate Justice



**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ANTONIO T. CARPIO**  
Senior Associate Justice  
Chairperson, Second Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P.A. SERENO**  
Chief Justice