



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**MEYR ENTERPRISES
CORPORATION,**

Petitioner,

- versus -

ROLANDO CORDERO,
Respondent.

G.R. No. 197336

Present:

CARPIO, *Acting Chief Justice*,^{*}
DEL CASTILLO,
VILLARAMA, JR.,^{**}
REYES,^{***} *and*
LEONEN, *JJ.*

Promulgated:
SEP 03 2014

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DECISION

DEL CASTILLO, J.:

A question of fact cannot be raised in petitions for review on *certiorari*; in such appeals by petition for review on *certiorari* under Rule 45, only questions of law shall be raised.

This Petition for Review on *Certiorari*¹ seeks to set aside the November 26, 2010 Decision² of the Court of Appeals (CA) in CA-G.R. CV No. 02887 affirming the August 21, 2008 Decision³ of the Regional Trial Court of Cebu City, Branch 8 in Civil Case No. CEB-28040, as well as its February 23, 2011 Resolution⁴ denying Meyr Enterprises Corporation's (petitioner) Motion for Reconsideration⁵ of the assailed judgment.

^{*} Per Special Order No. 1770 dated August 28, 2014.

^{**} Per Special Order No. 1767 dated August 27, 2014.

^{***} Per Special Order No. 1763 dated August 26, 2014 in relation to Special Order No. 1776 dated August 28, 2014.

¹ *Rollo*, pp. 4-31.

² *Id.* at 82-89; penned by Associate Justice Edgardo L. delos Santos and concurred in by Associate Justices Agnes Reyes-Carpio and Eduardo B. Peralta, Jr.

³ *Id.* at 71-80; penned by Presiding Judge Macaundas M. Hadjirasul.

⁴ *Id.* at 94.

⁵ *Id.* at 91-93.

Factual Antecedents

The pertinent facts are as follows:

On August 22, 2002, plaintiff-appellant, Meyr Enterprises Corporation⁶ (hereafter Meyr/plaintiff-appellant) filed a Complaint⁷ for Damages and Attorney's Fees before the Regional Trial Court of Cebu City against Rolando Cordero⁸ (hereafter defendant-appellee/Cordero).

Meyr claims to be the registered owner of a [4,887-square meter parcel of land covered by TCT No. T-1198.]⁹ Plaintiff-appellant alleged that sometime in July 2002, defendant constructed a dike in front of his land. The [dike disrupted] the flow of the waves of the sea causing damages to [his] land. The trees in the land were allegedly in danger of [being uprooted] and the sand [of disappearing further]. Plaintiff-appellant prays for [O]ne Million [P]esos actual damages, [P]600,000[.00] moral damages, [P]200,000.00 exemplary damages.

In his Answer,¹⁰ dated September 20, 2002, x x x Cordero averred that the construction of the dike began [in] December 2001 through the authority of the Local Government of Guinsiliban, Camiguin pursuant to a resolution¹¹ of the Sangguniang Bayan. He added that the alleged interruption of the waves is unfounded and a lie because the dike [does not encroach] on the plaintiff's land and in no way will [it] interrupt the normal action of the waves.

Cordero argued that plaintiff-appellant has no personality to sue as the area in controversy is a foreshore land, owned by the State and under no circumstances will plaintiff suffer any damage or injury therefrom. The area is covered under the COMMUNITY-BASED FOREST MANAGEMENT AGREEMENT (CBFMA), between the Department of Environment and Natural Resources and the Cantaan Centennial Multi-Purpose Cooperative (CCMPC). Defendant-appellee stated that under the CBFMA Agreement the holder thereof has the exclusive responsibility of protecting the area, thus, he concludes that only CCMPC has the personality to sue in court.

Defendant-appellee alleged that sometime in September 2001, the property caretaker of the plaintiff hired several workers upon the order of Mr. Paul Rodriguez, and clandestinely quarried the white sand and finger gravel along the shore of their land. The people of Barangay Cantaan and the DENR supposedly complained to the Sangguniang Bayan of Guinsiliban[,] Camiguin, [which] then made an ocular inspection on the area. Mr. Deogracias Dagondon, a DENR representative, allegedly caught *in flagrante delicto* three persons quarrying finger gravel and one of them is Mr. Jadman (the property caretaker of the plaintiff), who told the former that they were under orders from Mr. Rodriguez. As a result, the Sangguniang Bayan of Guinsiliban, Camiguin approved Resolution No. 44 informing Mr. Paul Rodriguez to stop quarrying finger gravel.

⁶ Herein petitioner.

⁷ *Rollo*, pp. 33-35.

⁸ Herein respondent.

⁹ *Rollo*, p. 32.

¹⁰ *Id.* at 40-48.

¹¹ *Id.* at 98-99; Resolution No. 38, series of 2001.

Defendant-appellee averred that in order to “restore mother nature” without engaging plaintiff in actual court battle, defendant sought assistance from the local government of Guinsiliban, in constructing a dike/sea wall. He contended that the construction thereof should be charged to the plaintiff, as it is the proximate cause of the damage. He postulated that plaintiff filed the baseless suit against him because Meyr wanted to acquire his land. He prayed for moral damages in the total amount of Php2,500,000.00, attorney’s fees of Php250,000.00, litigation expenses of Php75,000.00 and exemplary damages of Php5,000,000.00.

Subsequently, on May 28, 2003 the RTC dismissed the complaint of the plaintiff based on defendant-appellee’s affirmative defenses, the pertinent portions of which state:

“After weighing the arguments of the contending parties, this Court rules to consider defendant’s affirmative defenses which are supported by documentary evidences on the following grounds: firstly, as the records would show, the area under discussion is a foreshore and is a public dominion owned by the State and as such it is the latter who has the exclusive right to file an action. Secondly, the subject area is covered with a Community Based Forest Management Agreement between the DENR and Cantaan Fishermen Association, Inc., now known as Cantaan [Centennial] Multi-Purpose Cooperative per agreement executed by the above-named parties way back [on] May 20, 1998 (Annex “4”-Answer). Thirdly, defendant’s act of constructing [a] dike/seawall in front of his land was duly authorized by the Sangguniang Bayan of Guinsiliban, Camiguin per Resolution No. 38 (Annex “1”-Answer).

PREMISES CONSIDERED, the Court hereby grants the dismissal of the instant case for lack of legal and factual basis.

SO ORDERED.”¹²

Plaintiff’s motion for reconsideration of the said order met the same fate and was denied in an Order dated September 8, 2003.¹³

The dismissal of the case became final and executory as the notice of appeal by the plaintiff-appellant was filed out of time as can be clearly seen from the twin Orders of the trial court respectively dated October 27, 2003 and January 12, 2004.¹⁴

Meanwhile, defendant-appellee filed a motion in court to set his counterclaim for hearing. Thus, hearing of defendant-appellee’s counterclaim ensued. On August 21, 2008, the Regional Trial Court rendered a decision¹⁵ in favor of the defendant’s counterclaim the dispositive portion of which states:

“WHEREFORE, premises considered, judgment is hereby rendered in favor of the defendant-counterclaimant,

¹² Id. at 69; Order dated May 28, 2003.

¹³ Id. (page unnumbered).

¹⁴ Id. at 70.

¹⁵ Id. at 71-80.

ROLANDO CORDERO, and against the plaintiff-counterclaim defendant, MEYR ENTERPRISES CORPORATION, ordering the latter to pay the former the amounts of Php50,000.00 for moral damages, Php20,000.00 as attorney's fees, and the costs of the suit.

SO ORDERED.”¹⁶

In arriving at the above pronouncement on Rolando Cordero's (respondent's) counterclaim, the trial court held in its Decision that –

The Court is inclined to believe that, indeed, there was damage, specifically erosion, in the seashore of Barangay Cantaan. But no sufficient evidence, other than their own allegations which appear to be no more than finger pointing, has been presented by any of the parties as to the cause of said damage. The plaintiff says it is the dike constructed by the defendant, while the latter says it is the quarrying of sand and gravel done by plaintiff's workers. To the mind of the Court, the determination of the cause of such erosion needs the help of experts, especially with the conflicting claims of the parties. The Court wonders why the assistance of the DENR was not sought on this matter, especially so [since] said Office has a Dive Camp at the area.

It must also be noted that, among the reasons relied upon by this Court in dismissing the plaintiff's complaint are that “the area under discussion is a foreshore and is a public dominion owned by the State and as such it is the latter who has the exclusive right to file an action. x x x, the subject area is covered with a Community Based Forest Management Agreement between the DENR and Cantaan Fishermen Association, Inc. now known as Cantaan Centennial Multi-Purpose Cooperative per agreement executed by the above-named parties way back [on] May 20, 1998.”

Hence, the Court cannot require the plaintiff-counterclaim defendant to reimburse the defendant-counterclaimant of the expenses he incurred in the construction of the dike for the protection of his property.

But indeed, as previously found by this Court, the plaintiff-counterclaim defendant had no basis in filing this case against the defendant-counterclaimant, and considering further that the latter was permitted by the Sangguniang Bayan of Guinsiliban to construct the dike, that plaintiff-counterclaim defendant's workers themselves quarried said sand and gravel from the seashore and that it showed interest in buying the defendant-counterclaimant's property, its act has all the hallmarks of a malicious prosecution. Hence, the plaintiff-counterclaim defendant should be sentenced to pay the defendant-counterclaimant moral damages, attorney's fees and costs of litigation.¹⁷

Ruling of the Court of Appeals

Petitioner appealed the trial court's Decision with the CA. Docketed as

¹⁶ Id. at 82-85

¹⁷ Id. at 79-80.

CA-G.R. CV No. 02887, the appeal essentially centered on the argument that contrary to the trial court's findings, petitioner had a valid cause of action against respondent for damages arising from the erosion caused by the latter's construction of a dike on foreshore land, which petitioner claims is illegal; for this reason, it should not be found guilty of malicious prosecution for instituting Civil Case No. CEB-28040.

On November 26, 2010, the CA issued the assailed Decision which affirmed the trial court's August 21, 2008 Decision, stating thus:

At the outset, this Court highlights that Meyr is not assailing the dismissal of its complaint but only the award of moral damages, attorney's fees, and litigation cost by the trial court, which it based on malicious prosecution. "In this jurisdiction, the term 'malicious prosecution' has been defined as 'an action for damages brought by one against whom a criminal prosecution, civil suit, or other legal proceeding has been instituted maliciously and without probable cause, after the termination of such prosecution, suit, or other proceeding in favor of the defendant therein.' While generally associated with unfounded criminal actions, the term has 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." A finding of malicious prosecution requires the following elements:

- (1) the fact of the prosecution and the further fact that the defendant was himself the prosecutor, and that the action was finally terminated with an acquittal;
- (2) that in bringing the action, the prosecutor acted without probable cause; and
- (3) the prosecutor was actuated or impelled by legal malice.

Anent the first element, it is apparent that herein plaintiff-appellant was the one who initiated the present case for damages against the defendant-appellee. It is also crystal clear that the dismissal of the original case has long become final and executory as can be fairly inferred from the twin Orders of the trial court respectively dated October 27, 2003 and January 12, 2004.

Likewise, the second and third element[s] for malicious (prosecution) have been evidently established. The subject in litigation which is the beach is undoubtedly a foreshore land and incapable of private ownership. As such, the only entity that could suffer any damage thereon is the State. This Court is in full agreement with the following factual findings of the trial court and We adopt the same as Our own:

"It must be also noted that among the reasons relied upon by this Court in dismissing plaintiff's Complaint are that 'the area under discussion is a foreshore land and is a public dominion owned by the State and as such it is the latter who has the exclusive right to file an action. x x x'"

It is already established that herein plaintiff-appellant had no personality to sue. Thus, plaintiff will never have probable cause to file an action against the defendant.

In addition, it may not be amiss to point out that plaintiff-appellant did not deny defendant-appellee's assertions that the former made an offer to buy defendant's land, nor did it deny the allegation that it ordered its employees to gather sand and gravel from the seashore which resulted in damage to the beach. In fact, in its appellant's brief it never made any mention regarding these allegations. Petitioner's deafening silence on the issue only highlights the fictiveness of their [sic] claim. For failure of the plaintiff-appellant to controvert the testimony of the defendant, the said allegation stands and remains unchallenged. x x x

Incidentally, as found by the trial court the construction of the sea wall/dike was made with the authority of the local government of Guinsiliban. Such authority must have been made public and of public knowledge as it was issued pursuant to a Resolution No. 38. Hence, it is within the power of the plaintiff-appellant to acquire knowledge or information that such construction was made by virtue of the order of the local government and not by the plaintiff. Meyr could not feign ignorance of such authority as it is made through a public resolution of the Sangguniang Bayan of Guinsiliban, which forms part of public record. Therefore, We find no reason for plaintiff corporation to attribute such construction of the dike to the defendant-appellee. We also note that herein Meyr Corporation also filed a case against the defendant before the Ombudsman of the Visayas, which also dismissed the case. A convergent view of these establishes that plaintiff-appellant had an "axe to grind" against the defendant-appellee. Plaintiff's actions were filed with the intention to vex, humiliate, and annoy the defendant-appellee. The alleged wrongdoing of defendant-appellee was a product of mere speculations and conjectures, which are unsubstantiated by fact, law and equity. Its baseless accusations, extremely prejudiced the defendant causing the latter to suffer moral damages. Likewise, Rolando Cordero was forced to litigate in court in his defense, thereby incurring attorney's fees. Thus, it is the conscientious posture of the Court that not only did Meyr deliberately brought [sic] the case without probable cause but also filed the same with legal malice as well. x x x

Penultimately, such act is also contrary to the conduct of a person who 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. More importantly, a 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 damage.

WHEREFORE, premises considered, the Decision dated August 21, 2008, by the Regional Trial Court, Branch 8, Cebu City in CEB-28040 is hereby AFFIRMED.

SO ORDERED.¹⁸

Petitioner moved to reconsider, but in a February 23, 2011 Resolution, the

¹⁸ Id. at 85-89.

CA held its ground. Hence, the present Petition.

In a March 18, 2013 Resolution,¹⁹ this Court resolved to give due course to the instant Petition.

Issues

Petitioner raises the following issues:

- I. THE HONORABLE COURT OF APPEALS AND THE TRIAL COURT GROSSLY ERRED WHEN (THEY) RULED THAT PETITIONER FILED SUBJECT COMPLAINT WITH THE INTENTION TO VEX, HUMILIATE AND ANNOY RESPONDENT WHICH AMOUNTED TO MALICIOUS PROSECUTION.
- II. THE HONORABLE COURT OF APPEALS AND THE TRIAL COURT ERRED WHEN (THEY) FAILED TO CONSIDER THE FACT THAT THERE IS NO LEGAL AND FACTUAL BASIS FOR THE GRANT OF MORAL DAMAGES IN FAVOR OF RESPONDENT.
- III. THE HONORABLE COURT OF APPEALS AND THE TRIAL COURT ERRED IN DIRECTING THE PAYMENT OF ATTORNEY'S FEES AND COSTS TO RESPONDENT, WITHOUT ANY LEGAL AND FACTUAL BASES.²⁰

Petitioner's Arguments

In its Petition and Reply²¹ seeking to reverse and set aside the assailed CA dispositions and thus delete the award of moral damages, attorney's fees and costs, petitioner basically argues that it had the right to resort to the courts for redress of its grievances and the vindication of its rights for what it honestly perceived was respondent's transgressions, "without fear of later on standing trial for damages where by lack of sufficient evidence, legal technicalities or a different interpretation of the laws on the matter, the case would lose ground and therein defendants are acquitted."²² It maintains that its alleged design to vex and humiliate and cast dishonor and disgrace upon respondent was not clearly and preponderantly established; that there is no proof that it had an "axe to grind" against respondent, but that on the contrary, it had a valid cause of action against the latter for the damage caused by the dike not only upon the foreshore, but on its property as well; that respondent used his power and influence as a politician in obtaining Resolution No. 38 (series of 2001) from the *Sangguniang Bayan* of Guinsiliban, Camiguin, which Resolution is nonetheless illegal because it violates

¹⁹ Id. at 125-126.

²⁰ Id. at 13.

²¹ Id. at 118-122.

²² Id. at 14.

Ordinance No. 19, series of 1999, prohibiting all landowners adjacent to the seashore from constructing their buildings, fences, or whatever construction three (3) meters from the highest tide level; that in the absence of malice and bad faith on its part, there can be no malicious prosecution; and that since there is no malicious prosecution, respondent cannot be entitled to moral damages, attorney's fees, and costs of suit.

Respondent's Arguments

In his Comment,²³ respondent simply maintains that the assailed dispositions of the appellate court are well-supported by evidence on record and applicable laws and jurisprudence.

Our Ruling

The Court denies the Petition.

The resolution of the case hinges on the question of whether petitioner is guilty of malice and bad faith in instituting Civil Case No. CEB-28040; if it is not so, then there is no ground to hold it liable for malicious prosecution.

However, "the existence of bad faith is a question of fact and is evidentiary; x x x it requires that the reviewing court look into the evidence to find if indeed there is proof that is substantial enough to show such bad faith."²⁴ However, this Court is not a trier of facts; it is "not duty-bound to analyze again and weigh the evidence introduced in and considered by the tribunals below. When supported by substantial evidence, the findings of fact of the CA are conclusive and binding on the parties and are not reviewable by this Court x x x."²⁵ This being the case, the instant Petition must fail because a question of fact cannot properly be raised in a petition for review on *certiorari*.²⁶ An appeal by petition for review on *certiorari* under Rule 45 shall raise only questions of law.²⁷ Indeed, there are recognized exceptions to this rule, to wit:

(a) When the findings are grounded entirely on speculation, surmises, or conjectures;

²³ Id. at 112-113.

²⁴ *Tabangao Shell Refinery Employees Association v. Pilipinas Shell Petroleum Corporation*, G.R. No. 170007, April 7, 2014, citing *Belle Corporation v. De Leon-Banks*, G.R. No. 174669, September 19, 2012, 681 SCRA 351, 362; also, *Vilbar v. Opinion*, G.R. No. 176043, January 15, 2014.

²⁵ *Cirtek Employees Labor Union-Federation of Free Workers v. Cirtek Electronics, Inc.*, G.R. No. 190515, June 6, 2011, 650 SCRA 656, 660.

²⁶ *Tabangao Shell Refinery Employees Association v. Pilipinas Shell Petroleum Corporation*, supra note 24, citing *Mindanao Terminal and Brokerage Service, Inc. v. Nagkahiusang Mamumuo sa Minterbro-Southern Philippines Federation of Labor*, G.R. No. 174300, December 5, 2012, 687 SCRA 28, 41.

²⁷ *Andrada v. Pilhino Sales Corporation*, G.R. No. 156448, February 23, 2011, 644 SCRA 1, 3.

- (b) When the inference made is manifestly mistaken, absurd, or impossible;
- (c) When there is grave abuse of discretion;
- (d) When the judgment is based on a misapprehension of facts;
- (e) When the findings of facts are conflicting;
- (f) When in making its findings the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee;
- (g) When the CA's findings are contrary to those [of] the trial court;
- (h) When the findings are conclusions without citation of specific evidence on which they are based;
- (i) 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;
- (j) When the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; [and]
- (k) When the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.²⁸

However, these exceptions do not obtain in the instant case. On the contrary, both the trial and appellate courts arrived at identical findings, and took a common and undivided view of the case – that is, that petitioner is guilty of malicious prosecution. “In the absence of compelling reasons, the Court will not disturb the rule that factual findings of the lower tribunals are final and binding on this Court.”²⁹

It will suffice for this Court to rely on the judgment of the trial and appellate courts; “[p]revailing jurisprudence uniformly holds that findings of facts of the trial court, particularly when affirmed by the Court of Appeals, are binding upon this Court.”³⁰ Their singular judgment will not be disturbed. Thus, both tribunals unanimously held that in the first instance, petitioner had no probable cause to complain, since it had no personality to sue, given that the affected portion is foreshore or public land; that petitioner did not deny that it conducted quarrying of sand and gravel which could have caused the erosion of its own beach; that it offered to buy respondent's land; that petitioner cannot deny and in fact constructively knew that respondent was authorized by Resolution No. 38 to construct the dike; that a previous case filed by petitioner against respondent,

²⁸ *Skunac Corporation v. Sylianteng*, G.R. No. 205879, April 23, 2014.

²⁹ *Plaza v. Lustiva*, G.R. No. 172909, March 05, 2014.

³⁰ *Castillo v. Court of Appeals*, 329 Phil. 150, 159 (1996).

based on the same facts, was dismissed; and that as a whole, petitioner's baseless accusations were particularly intended to vex and humiliate the respondent, who openly objected to petitioner's quarrying of sand and gravel precisely because it caused the erosion of his beach as well. Although it may have been a bit extreme for the CA to declare that petitioner had an "axe to grind" against respondent, this characterization is merely semantic; there is no capriciousness or arbitrariness in the description, because the circumstances leading to the conclusion that petitioner is guilty of malicious prosecution are already present, as far as the tribunals below are concerned. This conclusion can no longer be questioned, given the limitations petitioner is confronted with in a recourse of this nature.

With the foregoing view, there is no need to resolve the other issues and arguments pointed out by the petitioner, which are correspondingly discredited. Notably, the recovery of moral damages for malicious prosecution is allowed under Article 2219 of the Civil Code,³¹ while attorney's fees and expenses of litigation may be adjudged in malicious prosecution cases pursuant to Article 2208³² of the same Code.

WHEREFORE, the Petition is **DENIED**. The November 26, 2010 Decision and February 23, 2011 Resolution of the Court of Appeals in CA-G.R. CV No. 02887 are **AFFIRMED**.

³¹ Art. 2219. Moral damages may be recovered in the following and analogous cases:

- (1) A criminal offense resulting in physical injuries;
- (2) Quasi-delicts causing physical injuries;
- (3) Seduction, abduction, rape, or other lascivious acts;
- (4) Adultery or concubinage;
- (5) Illegal or arbitrary detention or arrest;
- (6) Illegal search;
- (7) Libel, slander or any other form of defamation;
- (8) Malicious prosecution;
- (9) Acts mentioned in Article 309;
- (10) Acts and actions referred to in Articles 21, 26, 27, 28, 29, 30, 32, 34, and 35.

The parents of the female seduced, abducted, raped, or abused, referred to in No. 3 of this article, may also recover moral damages.

The spouse, descendants, ascendants, and brothers and sisters may bring the action mentioned in No. 9 of this article, in the order named.

³² Art. 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

- (1) When exemplary damages are awarded;
- (2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;
- (3) In criminal cases of malicious prosecution against the plaintiff;
- (4) In case of a clearly unfounded civil action or proceeding against the plaintiff;
- (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;
- (6) In actions for legal support;
- (7) In actions for the recovery of wages of household helpers, laborers and skilled workers;
- (8) In actions for indemnity under workmen's compensation and employer's liability laws;
- (9) In a separate civil action to recover civil liability arising from a crime;
- (10) When at least double judicial costs are awarded;
- (11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson



MARTIN S. VILLARAMA, JR.
Associate Justice


BIENVENIDO L. REYES
Associate Justice


MARVIC MARIO VICTOR F. LEONEN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify 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
Associate Justice
Acting Chief Justice