



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated November 18, 2020 which reads as follows:

“G.R. No. 252322 – DR. VICKY R. GALIZA, DR. MELITO A. BACCAY and ARCH. ROBERTO D. PANGANORON, petitioners, versus MANOLITO L. ONG, doing business under the name and style “168 PARAGON INTERNATIONAL GENERAL CONTRACTOR AND EQUIPMENT,” respondent.

After reviewing the Petition and its annexes, inclusive of the Court of Appeals (CA) Decision¹ dated October 16, 2019 and Resolution² dated February 27, 2020 in CA-G.R. CV No. 112379, as well as the Decision³ dated November 16, 2018 issued by the Regional Trial Court of Quezon City, Branch 97 (RTC) in Civil Case No. Q710-66741, the Court resolves to **DENY** the Petition and **AFFIRM** the Decision of the CA.

The petitioners, who were members of the Bids and Awards Committee of the Technological University of the Philippines (TUP), insist that the respondent filed with the National Bureau of Investigation (NBI) a complaint for violation of Republic Act No. (RA) 3019⁴ and RA 9184⁵ against them for the purpose of maliciously indicting, prosecuting, incriminating, and harassing them. In so doing, the petitioners claim that the respondent falsely asserted that they rigged the bidding for the TUP centennial stage and audiovisual room renovation, and amphitheater construction project.⁶ Thus, the

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¹ *Rollo*, pp. 20-32. Penned by Associate Justice Stephen C. Cruz, with the concurrence of Associate Justices Jhosep Y. Lopez and Tita Marilyn B. Payoyo-Villordon.

² *Id.* at 33-34.

³ *Id.* at 35-53. Penned by Acting Presiding Judge Marilou D. Runes-Tamang, MNSA.

⁴ ANTI-GRAFT AND CORRUPT PRACTICES ACT, August 17, 1960.

⁵ GOVERNMENT PROCUREMENT REFORM ACT, January 10, 2003.

⁶ *Rollo*, pp. 10-11, 21-23.

petitioners argue that the lower courts erred in dismissing their complaint for malicious prosecution, incriminatory machinations, and abuse of right with damages (Complaint). These assertions lack merit.

Malicious prosecution is 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.⁷

The basis for a civil action for damages arising from malicious prosecution is found in Articles 19, 21, 29, and 35, of the Civil Code.⁸ To merit the award of damages, the following elements must be proved: (i) malice on the part of the defendant; (ii) want of probable cause in the prosecution of an action against the plaintiff; and (iii) the defendant must himself be the prosecutor or the instigator of the prosecution, which ended in acquittal.⁹ **All three elements are absent in this case.**

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⁷ *Sosmeña v. Bonafe*, G.R. No. 232677, June 8, 2020, p. 8, citing *Magbanua v. Junsay*, 544 Phil. 349, 364 (2007).

⁸ *Bayani v. Panay Electric Co., Inc.*, 386 Phil. 980, 986 (2000). The relevant provisions of the Civil Code state:

ART. 19. Every person 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.

x x x x

ART. 21. Any person who wilfully causes loss or injury to another in manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage.

x x x x

ART. 29. When the accused in a criminal prosecution is acquitted on the ground that his guilt has not been proved beyond reasonable doubt, a civil action for damages for the same act or omission may be instituted. Such action requires only a preponderance of evidence. Upon motion of the defendant, the court may require the plaintiff to file a bond to answer for damages in case the complaint should be found to be malicious.

If in a criminal case the judgment of acquittal is based upon reasonable doubt, the court shall so declare. In the absence of any declaration to that effect, it may be inferred from the text of the decision whether or not the acquittal is due to that ground.

x x x x

ART. 35. When a person, claiming to be injured by a criminal offense, charges another with the same, for which no independent civil action is granted in this Code or any special law, but the justice of the peace finds no reasonable grounds to believe that a crime has been committed, or the prosecuting attorney refuses or fails to institute criminal proceedings, the complainant may bring a civil action for damages against the alleged offender. Such civil action may be supported by a preponderance of evidence. Upon the defendant's motion, the court may require the plaintiff to file a bond to indemnify the defendant in case the complaint should be found to be malicious.

If during the pendency of the civil action, an information should be presented by the prosecuting attorney, the civil action shall be suspended until the termination of the criminal proceedings.

⁹ *Ventura v. Bernabe*, 148 Phil. 610, 620 (1971), citing *Martinez v. United Finance Corporation*, 145 Phil. 496, 499 (1970).

As correctly held by the CA, the first two elements of malice and want of probable cause must simultaneously exist since the presence of probable cause necessarily signifies the absence of malice. In this respect, the Court quotes, with approval, the findings of the CA:

In the present appeal, the [RTC] correctly held that the [petitioners] failed to present any proof of a sinister design on the part of [Manolito Ong (Ong)] to vex or humiliate the [petitioners] by instituting a case against them. It is evident that [Ong] was not motivated by malicious intent or by a sinister design to unduly harass the [petitioners], but only by a well-founded anxiety to protect his rights against the supposed malicious bidding procedures conducted by the [petitioners], as personally witnessed by [Maricel] Bueno, during the opening bids for the subject project x x x. [Ong] cannot therefore be faulted in availing of the remedies provided for by law.¹⁰

As regards the third element, it bears noting that the respondent filed two complaints with the Manila Prosecutor's Office (MPO) after he withdrew the complaint pending preliminary investigation with the Office of the Ombudsman. **While the first MPO complaint was dismissed, the second MPO complaint for violation of RA 3019 resulted in the issuance of a Review Resolution dated January 5, 2012 recommending the filing of an Information against the petitioners for violation of Section 3(e) of RA 3019.** The petitioners attempt to evade this fact by claiming that the subject of said Information are not the incidents initially raised in the respondent's initial complaint filed with the NBI, but the *new* allegation that the petitioners "favored Erectors 2000" in said bidding. To the mind of the Court, this distinction is too narrow to merit consideration. The fact remains that a finding of probable cause involving the alleged anomalies committed during the 2009 bidding had been made, and that the criminal case which stems therefrom remains pending with the RTC of Manila.¹¹

All told, the Court finds no basis to deviate from the uniform findings of the lower courts, and thus finds the dismissal of the petitioners' Complaint proper.

The Court of Appeals is hereby **DROPPED** as party respondent in this case pursuant to Sec. 4, Rule 45, 1997 Rules of Civil Procedure, as amended.


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¹⁰ *Rollo*, pp. 28-29.

¹¹ As alleged in the Petition, *id.* at 15.

SO ORDERED.” *Carandang, J., on official leave.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *m/n*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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