

SECOND DIVISION

[G.R. No. 202111, November 25, 2019]

**TEDDY GRANA AND TEOFILO GRANA, PETITIONERS, VS. THE
PEOPLE OF THE PHILIPPINES, RESPONDENT.**

DECISION

HERNANDO, J.:

This Petition for Review on *Certiorari* assails the February 21, 2012 Decision^[1] and June 6, 2012 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. CR No. 34194, partially reversing the May 16, 2011 Decision^[3] of the Regional Trial Court (RTC), Branch 195, Parañaque City, in Criminal Case Nos. 10-0980 and 10-0981, which in turn affirmed *in toto* the August 10, 2010 Joint Decision^[4] of the Metropolitan Trial Court (MeTC), Branch 77, Parañaque City in Criminal Cases Nos. 03-2756 and 03-2757.

Complainant Freddie Bolbes (Bolbes) filed before the MeTC, Branch 77 of Parañaque City an Information^[5] for malicious mischief against Teddy Grana (Teddy), Gil Valdes^[6] (Gil), Ricky Dimaganti (Ricky), Olive Grana (Olive), and Teofilo Grana (Teofilo), and docketed as Crim. Case No. 03-2756, and another Information for Other Forms of Trespass to Dwelling, docketed as Crim. Case No. 03-2757, only against Teddy, Gil and Ricky.

All accused pleaded not guilty on the separate charges, except Ricky who still remains at large. The case was referred to the Philippine Mediation Office, but the parties failed to amicably settle their differences.^[7]

The evidence for the prosecution shows that complainant Bolbes and the five accused were neighbors at Bernabe Subdivision, Parañaque City. Bolbes claimed to have purchased the property subject of this controversy from the Home Insurance and Guaranty Corporation (HIGC) for P554,400.00 payable in installments as evidenced by the Contract to Sell dated February 28, 2002. He started occupying the said property in 1989, prior to his application with the HIGC. On the witness stand, Bolbes identified his *Sinumpaang Salaysay* and confirmed the truthfulness of his statements. In the said *Sinumpaang Salaysay*, Bolbes declared that on July 6, 2003, petitioner Teddy and accused Gil and Ricky, upon the order of Teofilo and Olive and without Bolbes's consent, entered the subject property by destroying the iron fence, removing the cement foundation and made diggings until it reached a portion of the foundation of his apartment, thus, exposing his apartment to danger of being destroyed in case of heavy rains. Teddy and Gil stopped only when some *Barangay Tanods* arrived in the vicinity. *Barangay Tanod* Andres Bonifacio testified that on July 7, 2003, Bolbes went to their barangay and filed a complaint against the five accused which was entered in the barangay blotter under entry no. 295. He also tried to persuade the petitioners to stop as well as accused Teofilo, Olive and

Ricky what they were doing.^[8]

For the defense, only Teofilo was presented. Teofilo testified that he bought the property subject of the controversy from Clarito Baldeo, who in turn, purchased it from one Alexandra Bernabe, as evidenced by a contract of lease with option to purchase. He admitted that he dug a portion of the lot to construct a perimeter fence for his and Bolbes's mutual protection, but, it did not push through because Bolbes stopped him. He referred the matter to the barangay for settlement and to which Bolbes agreed. However, after two months, he received summons from the court. He declared that he is the owner of the said parcel of land and that he made some diggings and destroyed the fence because Bolbes built them without his consent.^[9]

On August 10, 2010, the MeTC of Parañaque City rendered a Joint Decision finding all accused in Crim. Case No. 03-2756 guilty beyond reasonable doubt of the crime of Malicious Mischief, while in Crim. Case No. 03-2757, Teddy and Gil were both convicted of Other Forms of Trespass. The MeTC ruled that all the elements constituting the crimes charged were present in these two cases.

The dispositive portion of the MeTC Joint Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered:

1. In x x x Criminal Case No. 03-2756 finding the accused Teddy Grana, Gil Valdes, Olive Grana and Teofilo Grana, GUILTY BEYOND REASONABLE DOUBT of the crime of Malicious Mischief and each is hereby sentenced to suffer the straight penalty of imprisonment of four (4) months and to pay the complainant P7,500.00 as Actual Damages, P10,000.00 as Attorney's fees plus P1,500.00 for each appearance in court, P1,000.00 as incidental expenses and the costs.
2. In x x x Criminal Case No. 03-2757 finding the accused Teddy Grana, Gil Valdez, GUILTY BEYOND REASONABLE DOUBT of the crime of Other Forms of Trespass and each is hereby sentenced to suffer the penalty of Fine in the amount of P200.00 each with subsidiary imprisonment in case of insolvency.
3. Let the cases against the accused Ricky Dimaganti be sent to the archives and an Alias Warrant of Arrest be issued against him for his apprehension.

SO ORDERED.^[10]

Aggrieved, the four accused in Crim. Case No. 03-2756 appealed before the RTC of Parañaque City. The RTC affirmed *in toto* the findings of the MeTC that all the elements of the crime of Malicious Mischief were present in this case. It ratiocinated that:

All the foregoing elements are present in the case at bar. First, all accused, in their *pinagsamang kotra salaysay* admitted that defendant Teofilo made some diggings in the subject property, removed the fence and destroyed the cement built therein by private complainant. Second,

the diggings, demolition of the fence and destruction of the cement do not constitute arson or any other crime involving destruction. Third, even granting for the sake of argument that the ownership of the subject property was still disputed, accused Teofilo was not justified in summarily and extra judicially destroying the fence and removing the cement that private complainant had built therein. As it is, to the mind of the court, accused did the act complained of not for the purpose of protecting his right as the alleged owner of the subject property but to give vent to their anger and disgust over private complainant's alleged act of putting the fence and cement thereon without their consent. Indeed, accused Teofilo's act of summarily removing the steel fence and cement put up by private complainant, with the consent, assent and approval of his co--accused smacks of their pleasure in causing damage to it. x x x

As to the participation of accused Teddy, Olive, Gil and Ricky, in the act complained of which proved conspiracy, the same was established by said accused themselves when they stated in their sinumpaang salaysay, specifically on page 2, No. 3 thereof, which for ready reference, is herein below quoted, thus:

"na kami ay di maaring makasuhan ng nasabing reklamo sa mga dahilang naisaad na at sa dahilang ang aming ginawa ay hindi bilang paghihiganti, pagkapoot o may motibong masama na sinadyang ginawa upang sirain lamang ang mga nasabing bagay."^[11]

As to the crime of Other Forms of Trespass, the RTC, likewise, found on appeal that all the elements constituting the said crime attendant. It ruled that petitioner's claim of ownership over the said property as evidenced by the receipt dated July 31, 1994, which did not even mention the transaction and the subject matter thereof cannot prevail over that of Bolbes's who was able to present more credible pieces of documentary evidence, such as: Contract to Sell dated February 28, 2002 between complainant and HIGC, Transfer Certificate of Title No. 148468 in the name of HIGC, breakdown of installment payments, Tax Declaration No. E-010-08879 issued to HIGC; official Real Property Tax Receipt No. 0054254, and the location sketch/drawing prepared by HIGC.^[12]

Discontented, petitioner interposed an appeal before the CA which was partly granted.

The CA affirmed the conviction of Teddy, Gil, Olive and Teofilo for the crime of Malicious Mischief while Teddy and Gil were acquitted of the crime of Other Forms of Trespass.

In acquitting Teddy and Gil of the crime of Other Forms of Trespass, the CA found that one of the elements of the said crime, that is, "the entrance is made while either of them is uninhabited"^[13] was not established. The CA held that:

The burden of proving that the place was uninhabited when petitioners surreptitiously entered it belongs to the prosecution. Record, however, does not show that the prosecution had ever established this element. In fact, in concluding that the place was uninhabited, the RTC merely used