

SECOND DIVISION

[G.R. No. 149718, September 29, 2003]

**MARIO VALEROSO, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

RESOLUTION

CALLEJO, SR., J.:

Before the Court is a petition for review on certiorari filed by Mario Valeroso seeking to reverse and set aside the Decision^[1] of the Court of Appeals dated September 7, 2001 in CA-G.R. CR No. 23672 which affirmed the petitioner's conviction for Malicious Mischief.

The undisputed antecedent facts are as follows:

The petitioner was a former barangay captain of Balon Anito, Balanga, Bataan. On August 21, 1996, the Philippine National Bank (PNB) hired the petitioner as caretaker of its lot situated in Porto del Sol Subdivision, Balon Anito, Balanga, Bataan. Consequently, the petitioner put up on the said lot a sign which reads "No Trespassing, PNB Property" to ward off squatters.

Sometime in April 1997, despite the sign, Mrs. Julita Castillo, believing that the said lot was owned by her grandparents, constructed a nipa hut thereon. She spent P12,350 for the hut's construction.

On June 5, 1997, the petitioner, together with Jorge Valeroso, Fernando Operario, Peter Morales and Rolando de Guzman, tore down and demolished Mrs. Castillo's hut. She thus filed with the Municipal Trial Court (MTC) of Bataan a criminal complaint for malicious mischief against the petitioner and his cohorts:

That on or about 9:30 o'clock more or less in the morning of June 5, 1997 at Sitio Porto, Brgy. Balon Anito, Municipality of Mariveles, Province of Bataan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with deliberate intent did then and there willfully, unlawfully and feloniously motivated with hatred and confederately conspiring and mutually helping one another to attain their united purpose, and without any authority from the Law demolished the house owned by the herein named offended party Mrs. Julita Castillo, to the Damaged [sic] and Prejudiced [sic] of the aforementioned offended party in the total amount of twelve thousand three hundred fifty pesos (P12,350.00) Philippine Currency.

CONTRARY TO LAW.^[2]

The case was tried in accordance with the Rules on Summary Procedure. The petitioner and his co-accused were required to submit their counter-affidavits. During the arraignment, they pleaded not guilty. After due trial, the MTC rendered judgment upon the following findings:

Accused Valerozo (sic) admitted in his counter-affidavit and during his oral testimony that he indeed demolished the structure of complainant Julita Castillo in his capacity as caretaker of the owner, PNB, Republic Bank, after he warned her and all illegal occupants to vacate the premises even posting "NO TRESPASSING" signs to indicate that the place is privately owned; he also absolved all his co-defendants from any liability alleging that he acted alone during the demolition of said structure. By this unequivocal admission made by Valerozo (sic), the question which arises is whether or not his being designated as caretaker of the property necessarily clothed him with authority to demolish the structure of the complainant without further resort to legal niceties such as obtaining a written order from the Court authorizing such demolition.

The Court is inclined to support the view that Valerozo should not have taken the law into his own hands to cause the destruction and eventual demolition of Mrs. Castillo's structure even if it could be assumed that it was constructed without his permission or that of the owner, PNB, Republic Bank, or that she was merely an intruder, interloper or a squatter on the land. Justifying Valerozo's (sic) unilateral action of demolition will set a bad precedent and may result in chaos and disorder in society as the owner or anybody perceived to be so authorized by the owner can act on his own and conduct demolition extrajudicially. This is against the law and cannot be countenanced.

All the essential elements to establish the crime of Malicious Mischief has been sufficiently proven against accused Valerozo (sic) alone. The evidence taken as a whole, however, does not point with positive certainty towards the guilt of the rest of the defendants.^[3]

The dispositive portion of the MTC decision reads:

IN VIEW OF THE FOREGOING, considering the fact that the guilt of defendant Mario Valerozo (sic) of the crime of Malicious Mischief has been duly established beyond reasonable doubt; there being neither mitigating nor aggravating circumstances in attendance, and pursuant to Article 329, first paragraph of the Revised Penal Code, he is hereby sentenced to a straight penalty of three (3) months of arresto mayor, including whatever accessory penalties which may be applicable and to pay the costs of the proceedings. Accused Jorge Valerozo, Peter Morales (who died during the proceedings), Rolando De Guzman and Fernando Operario are hereby ACQUITTED for insufficiency of evidence.

SO ORDERED.^[4]

The petitioner appealed to the Regional Trial Court (RTC), of Balanga, Bataan, Branch 4, which affirmed with modification the decision of the MTC. The dispositive portion of the RTC decision states: