

## FIRST DIVISION

[ G.R. No. 109205, April 18, 1997 ]

**ROSARIO LAO AND GEORGE FELIPE, JR, PETITIONERS, VS.  
COURT OF APPEALS, FORMER FIFTH DIVISION AND FRANK  
DEUNA, RESPONDENTS.  
D E C I S I O N**

**KAPUNAN, J.:**

This is a petition for review on *certiorari* seeking to reverse and set aside the decision in CA-G.R. CV No. 28002 of the Court of Appeals dated October 22, 1992 dismissing petitioners<sup>[1]</sup> appeal and the resolution dated February 18, 1993 denying their motion for reconsideration.

CA-G.R. CV No. 28002 was an appeal by petitioners from the decision of the Quezon City Regional Trial Court, Branch 88 in Civil Case No. Q-89-2836, adjudging them jointly and severally liable for damages for the malicious prosecution of herein private respondent, plaintiff below.<sup>[2]</sup>

Petitioners contend as their lone assignment of error that the decision of respondent court was brought by a misapprehension of facts. In the instant petition, they give their version of the facts which they sought but failed to establish in the trial court.<sup>[3]</sup>

We find no merit in the petition.

Petitioners fail to convince us that the case before us falls under the exception to the rule that the factual findings of the appellate court are conclusive and binding upon this Court.<sup>[4]</sup> We find no misapprehension of facts.<sup>[5]</sup> The evidence on record preponderantly establish the incidents and circumstances narrated by the appellate court, to wit:

At around 9:00 to 10:00 o'clock in the evening of December 30, 1988, Eduardo Antonio, his wife and children together with Mrs. Miranda and her daughter Maricel were having a conversation while on the sidewalk near the side of Eduardo's house at Gate 1, Himlayan Road, Pasong Tamo, Quezon City. Suddenly, the group direction on the right side of the street where they were situated. Urgently, Eduardo told his companions to go to the side of the sidewalk to avoid being hit or bumped by said jeep. While Eduardo's companions were able to scamper to safety, Eduardo was not able to get out of the way and was violently bumped or hit on both his calves by the bumper of the jeep. Afterwards, the jeep moved a few meters in the reverse direction and its engine stopped running. Then, defendant-appellant George Felipe, Jr., who was at that time driving the jeep while his wife and two (2) children were inside, got out of the vehicle and shouted "Wait for me, I'll get a gun and shoot you". Thereafter, George ran towards the direction of his house, located several meters away from where he bumped Eduardo.

Unable to walk by himself, Eduardo requested his neighbors Mar Eustaquio, Edwin Norio, Arnel de Lara and several others to accompany him to the residence of Frank Deuna who was then a barangay councilman of the place of the incident. Upon arriving at Frank's residence, Eduardo narrated what happened and asked Frank to accompany him to the Sangandaan Police Sub-station No. 8. Thereat, Eduardo reported the incident to police station desk officer Pfc. Ely Aguilar who, after taking down Eduardo's statement, directed Pat. Elpidio Bondad to make a follow-up investigation for the possible apprehension of George and the recovery of the jeep used by the latter in hitting Eduardo. Immediately, Frank, accompanied Pat. Bondad, Pfc. Maderazo and two (2) other police officers, who were all in police uniform, to the scene of the incident.

Upon arriving at the place where the incident occurred, Frank pointed to the police officers the jeep, which was then parked in front of the house of George, used by the latter in bumping or hitting Eduardo. Thereafter, the police officers began inquiring from the people in the vicinity if they knew where George was. However, George was nowhere to be found. Since the police officers were ordered to seize the vehicle in question, they informed George's mother Zenaida Felipe, in the presence of the people who were around, that they will be bringing the jeep to the Sangandaan Police Sub-station No. 8. The keys of said vehicle not being in their possession, the policemen pushed the jeep, assisted by several persons in the vicinity, until it reached the aforementioned police station where its custody was turned over to the police station desk officer for safekeeping. Accordingly, the incident which transpired was recorded in the complaint or blotter book of said police station (Exh. "F"). Afterwards, Frank accompanied Eduardo to the East Avenue Medical Center at Quezon City for medical treatment.

On January 4, 1989, Sangandaan Police Sub-station Commanding Officer P/Capt. Enrique M. Robles filed a complaint with the Quezon City Fiscal's Office, charging George with frustrated homicide (Exh. "E"). Subsequently, Assistant City Prosecutor Wildredo L. Maynigo filed an information, dated February 28, 1989, in the Regional Trial Court at Quezon City, Branch 78, docketed as Criminal Case No. Q-89-3436, charging George with the crime of attempted murder (Exh. "H"). Earlier, Rosario Lao, impleading Frank and Eduardo as respondents, filed a complaint-affidavit, dated January 10, 1989, for carnapping with the Anti-Carnapping Task Force of the Department of Justice, docketed as I.S. No. AC 89-00027. In the complaint-affidavit, Rosario alleged, among others that Frank and Eduardo together with their companions forcibly took the subject vehicle from George's house at Himlayan Road, Tandang Sora, Quezon City (Exh. "A").

On January 18, 1989, the Anti-Carnapping Task Force issued an alarm sheet (Exh. "6-B") as well as subpoenas addressed to Frank and Eduardo who both subsequently filed their counter-affidavits stating that the vehicle, on December 30, 1988, was brought to the Sangandaan Police Sub-station for safekeeping (Exhs. "8" and "9"). Giving due course to Rosario's motion for production of vehicle (Exh. "10"), State Prosecutor Evangeline Yuipco issued an order, dated August 8, 1989, ordering the Commander of Sangandaan Sub-station No. 8 to turn over the vehicle to the Central Impounding Area of Camp Crame (Exh. "11"). After investigation, the Department of Justice issued a resolution dated November 17, 1989 ordering the dismissal of the case "for lack of evidence sufficient to establish a probable cause" against Frank and Eduardo. (Exh. "K").

On June 27, 1989, Frank, impleading Rosario and George as defendants, filed in the court a quo the instant civil case for damages, alleging, among others, that he "suffered mental anguish, serious anxiety, besmirched reputation, wounded feelings, moral shock and social humiliation" due to the "fabricated, malicious and baseless charges" of carnapping filed against him by said defendants (Records, p. 1). In the same complaint, Frank prayed that a judgment be rendered ordering Rosario and George to jointly and severally pay him moral damages of P50,000.00; exemplary damages of P25,000.00; and attorney's fees of P25,000.00 plus P300.00 appearance fees (Records, p. 3). On September 1, 1989, Rosario and George filed a joint answer with counterclaim praying, among others, that judgment be rendered dismissing the complaint of Frank and ordering the latter to pay actual and compensatory damages of P50,000.00; moral damages of P100,000.00; exemplary or corrective damages of P50,000.00; attorney's fees of P50,000.00 plus the costs of suit (Records, p. 27).

After the parties failed to arrive at an amicable settlement, the trial proceeded, and, on July 26, 1990, the lower court rendered its decision the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is rendered sentencing defendants to pay plaintiff jointly and severally the following:

1. P50,000.00 as moral damages;
2. P25,000.00 as exemplary damages;
3. P25,000.00 as attorney's fees; and
4. Costs of suit.

Defendants' counterclaim is hereby ordered dismissed.

SO ORDERED.<sup>[6]</sup>

Not satisfied with the decision of the Regional Trial Court, petitioners appealed to the Court of Appeals alleging that the trial court erred in:

## **I**

X X X FINDING THAT PLAINTIFF-APPELLEE HAD NOT COMMITTED ANY ACT WHICH VIOLATED THE RIGHTS OF DEFENDANTS-APPELLANTS;

## **II**

X X X FINDING THAT THERE WAS MALICIOUS INTENT IN THE FILING OF THE CARNAPPING CASE;

## **III**

X X X FINDING DEFENDANTS-APPELLANTS LIABLE FOR MALICIOUS PROSECUTION AND AWARDING PLAINTIFF-APPELLEE MORAL DAMAGES, EXEMPLARY DAMAGES

AND ATTORNEY'S FEES THEREFOR; and

#### IV

X X.X DISMISSING DEFENDANTS-APPELLANTS' COUNTERCLAIMS (Appellants' Brief, p. 3).

Finding that private respondent was not liable for malicious prosecution, the Court of Appeals dismissed petitioners' appeal, ratiocinating that:

To constitute malicious prosecution, there must be proof that the prosecution was prompted by a sinister design to vex or humiliate a person; and that it was initiated deliberately by the defendant knowing that his charges were false and groundless. Concededly, the mere act of submitting a case to the authorities for prosecution does not make one liable for malicious prosecution (*Salao vs. Salao*, 70 SCRA 65; *Ramos vs. Ramos*, 61 SCRA 284; *Solis & Yarisantos vs. Salvador*, 14 SCRA 887; *Buenaventura, et al. vs. Sto. Domingo, et al.*, 103 Phil. 239; *Barreto vs. Arevalo*, 99 Phil. 771).

In the instant case, however, there is reason to believe that there was malicious intent in the filing of the complaint for carnapping. For one, Rosario's own testimony would reveal that, a day after the vehicle was taken, she was told by her aunt Zenaida Felipe and the latter's neighbor Teofila Lucaria, that barangay official Frank Deuna and several armed men took the jeep after informing Zenaida that said vehicle was used by George in hitting or bumping Eduardo (tsn, p. 9, February 22, 1990). But, allegedly because her place was far from Sangandaan, Rosario did not personally report the taking of the jeep to the police precinct in the area, as advised by her employer Atty. Javellana (tsn, pp. 4 and 9, *Ibid.*). Nor did Rosario bother to verify from Frank what actually happened and where the vehicle was taken. Had Rosario only done so, she would have found out or discovered that her vehicle was with the Sangandaan Police Sub-station No. 8 for safekeeping. For another, how can Rosario validly claim that, prior to her filing of the complaint-affidavit for carnapping, she did not know the whereabouts of the vehicle when, according to her and Teofila's testimony, immediately after the incident Zenaida, Teofila and George went to the Sangandaan Police Sub-station No. 8 to report what happened (tsn, p. 12, February 20, 1990). For sure, the police officers at said police station would have told Zenaida, Teofila or George that the vehicle was then in the custody of the police station and such information would have been relayed to Rosario.

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True enough, a few days after the criminal complaint for frustrated homicide, which subsequently led to the filing of an information for attempted murder, was filed, upon the instance of Eduardo, against George, Rosario immediately filed the aforementioned carnapping case. Undisputedly, even after Rosario was later able to verify that the Sangandaan Police Sub-station had possession of the vehicle which upon her motion was ordered by the Department of Justice to be brought to

the Central Impounding Area of Camp Crame where she was able to inspect the same, she did not take any action at all to have the carjacking charge dropped or dismissed against Frank and Eduardo, albeit it was clear by then that they did not steal the vehicle. Experience tells us that this is not the attitude of someone who had unintentionally accused an innocent person of a serious offense. On the contrary, such actions of Rosario lend credence to the conclusion arrived at by the trial court that "the filing of the carjacking case against the plaintiff (Frank) was nothing more than a malicious, fabricated and baseless charge concocted to harass plaintiff and to scare and deter Eduardo Antonio from pushing through with his complaint for Attempted Murder against George Felipe, Jr., a cousin of Rosario Lao" (Decision p. 5).<sup>[7]</sup>

We note that the version presented by petitioners totally ignores the foregoing facts and glosses over the relevant antecedents leading to the taking into custody of the offending vehicle by the police. Petitioners assert that their evidence proved the following:

On 30 December 1988 at about 11 :00 o'clock in the evening, PRIVATE RESPONDENT, armed with an armalite and accompanied by several other similarly armed persons dressed in civilian clothes, went to the house of petitioner JORGE ("GEORGE") FELIPE, JR. at the interior of Himalayan Road, Barangay Pasong Tamo, Tandang Sora, Quezon City, and despite the protest of ZENAIDA FELIPE, mother of said petitioner, forcibly took therefrom the Toyota/Harabas motor vehicle belonging to petitioner ROSARIO LAO from the enclosure within the yard of said house where said vehicle was garaged (testimony of Zenaida Felipe, on pp. 6-8, tsn 2 February 1990; testimony of Teofila Lucaria, on pp. 5-7, tsn 9 February 1990). PRIVATE RESPONDENT and his companions did not have any warrant or other document authorizing them to take said vehicle (testimony of PFC. Ely Aguilar, on p. 14, tsn 19 January 1990; testimony of Franck Deuna, on p. 8, tsn 23 January 1990; testimony of Pat. Elpidio Bondad, Jr., on p. 7, tsn 1 February 1990; testimony of Zenaida Felipe, on p. 9 tsn 2 February 1990), nor did they issue any receipt after taking the same (testimony of Pat. Elpidio Bondad, Jr., on p. 13, tsn 1 February 1990; testimony of Zenaida Felipe, on p. 9, tsn 2 February 1990).

On the following day, Zenaida Felipe's son went to petitioner Rosario Lao and informed her of what happened (testimony of Zenaida Felipe, on p. 10, tsn 2 February 1990; testimony of Rosario Lao, on p. 3, tsn 22 February 1990). Petitioner Rosario Lao went to the house of her aunt, Zenaida Felipe, and inquired from the latter as well as from her neighbor, TEOFILA LUCARIA, who witnessed the incident, regarding the matter (testimony of Teofila Lucaria, on p. 7, tsn 9 February 1990 and p. 17, tsn 20 February 1990; testimony of Rosario Lao, on p. 4, tsn 22 February 1990).

After discovering the circumstances of the forcible taking of her motor vehicle, petitioner Rosario Lao sought the advice of her employer, Atty. Yolanda Q. Javellana, as to what to do (testimony of Rosario Lao, on p. 4, tsn 22 February 1990). Atty. Javellana advised her to report the incident to the police as well as to the Anti-Carjacking (sic) Unit at Camp Crame