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FIRST DIVISION

[G.R. No. L-51354. January 15, 1986]

WILFREDO ASUTILLA, *petitioner-appellee, vs.* **PHILIPPINE NATIONAL BANK (Tagbilaran and Tubigon Branches, Bohol), then Acting Chief of Police Virgilio Dizon, Chief of Police Leopoldo R. Bagolor and the Municipal Judge of Tubigon**, *respondents-appellants.*

SYLLABUS

REMEDIAL LAW, PROVISIONAL REMEDIES; INJUNCTION; WILL NOT LIE TO ENJOIN A CRIMINAL PROCEEDINGS.— The Petition was filed primarily to enjoin the prosecution of criminal proceedings. It is a long-standing doctrine that injunction will not lie to enjoin a criminal prosecution for the reason that public interest requires that criminal acts be immediately investigated and prosecuted for the protection of society except in specified cases among which are to prevent the use of the strong arm of the law in an oppressive and vindictive manner, and to afford adequate protection to constitutional rights.

RESOLUTION

MELENCIO-HERRERA, *J.*:

The question of law certified to this instance by the then Court of Appeals revolves around the propriety of the judgment on the pleadings rendered by the former Court of First Instance of Bohol, Branch III (the trial Court).

On March 1, 1971, a Toyota jeep belonging to the Philippine National Bank, Tagbilaran & Tubigon Branches (PNB), and a Volkswagen Kombi, registered in the name of the Nazareno and/or Bohol Poly Clinic and apparently owned by Dr. Domiciano

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Nazareno and Dr. & Mrs. Manuel Relampagos, collided in Tubigon, Bohol. At the time of the accident, the regular driver of the PNB jeep was Rene ARCAYA, but it was actually being driven by Emmanuel CEBALLOS, both employees of PNB. The KOMBI was then driven by petitioner Wilfredo ASUTILLA.

On April 20, 1971, Virgilio DIZON, then the Acting Chief of Police of Tubigon, filed a Complaint with the former Municipal Court of Tubigon against ASUTILLA for Reckless Imprudence Resulting in Damage to Property, docketed as Criminal Case No. *1396*.

On April 27, 1971, Chief of Police Bagolor filed a Complaint against ARCAYA and CEBALLOS for Reckless Imprudence Resulting in Damage to Property and Physical Injuries with the same Municipal Court, docketed as Criminal Case No. *1397*.

On May 15, 1971, ASUTILLA filed the Petition for Prohibition and *Mandamus* with the trial Court to restrain the Municipal Court of Tubigon from proceeding with its prosecution of Criminal Case No. *1396*. Made respondents were the PNB, DIZON, BAGOLOR, and the Municipal Judge of Tubigon. The Petition described how the collision between the jeep and the Kombi happened, ascribing the fault to the jeep; alleged that because there were overtures of amicable settlement, the Kombi owners desisted from filing criminal charges against CEBALLOS and ARCAYA; and that "jumping the gun" on the Kombi owners, PNB caused the filing of Criminal Case No. *1396*. The Petition further alleged that the criminal case was "utterly baseless" and "purely motivated by malice," and that the filing thereof was intended solely "to use the strong arm of the law in order to oppress, harass and coerce the petitioner and his employer to submit and agree to an amicable settlement of the cases."

On the same date, May 15, 1971, the trial Court issued a Restraining Order, and a hearing was set on May 29, 1971 to

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determine whether or not a Writ of Preliminary Injunction should issue.

Answers were filed by respondents traversing the allegations of the Petition and contending that petitioner's remedy was to appeal from the judgment of the Municipal Court, if convicted, and not the Petition for Prohibition and Mandamus; and that the latter petition was "merely a prelude by the petitioner to file possible countercharges if and when respondents might make some unguarded statements in the answer."

On July 27, 1971, the trial Court issued the Writ of Preliminary Injunction enjoining the prosecution of Criminal Case No. *1396*. Reconsideration sought by respondents was denied.

Hearing on the merits was set on September 24, 1971. However, on September 3, 1971, ASUTILLA filed a Motion for Judgment on the Pleadings.

The case was not called on September 24, 1971, respondents having previously asked for postponement. The record does not contain Minutes for that date.

On September 25, 1971, the trial Court rendered a Decision upholding the Petition, directing the Municipal Court immediately to dismiss Criminal Case No. *1396*, and declaring permanent the Writ of Preliminary Injunction. The Decision, in effect, granted ASUTILLA's Motion for Judgment on the Pleadings.

Respondents appealed to the then Court of Appeals in CA-G.R. No. 53186-R with the following Assignments of Error:

I

The lower Court erred in holding that the Answers of the respondents failed to tender an issue or otherwise admit the material allegations of the petition in the case at bar.

II

The lower Court erred in rendering judgment on the pleadings without a hearing.

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It strikes us that the case should be resolved on a more vital consideration than the matter of judgment on the pleadings. The Petition was filed primarily to enjoin the prosecution of criminal proceedings. It is a long-standing doctrine that injunction will not lie to enjoin a criminal prosecution for the reason that public interest requires that criminal acts be immediately investigated and prosecuted for the protection of society except in specified cases among which are to prevent the use of the strong arm of the law in an oppressive and vindictive manner, and to afford adequate protection to constitutional rights.

The Order of the trial Court of July 27, 1971 and its Decision of September 25, 1971 enjoined the further prosecution of criminal proceedings without clear and convincing evidence showing that the complaint in Criminal Case No. *1396* was false, malicious and unfounded and was filed merely to oppress petitioner, or, that it was filed by the Acting Chief of Police out of political and personal considerations, or that petitioner had been deprived of his constitutional rights. There is nothing in the records to show that the Acting Chief of Police had usurped any authority not belonging to him when he filed the Complaint in Criminal Case No. *1396*. The filing of said criminal case was by no means intended to coerce the Kombi owners into submitting to an amicable settlement. There is indication in the records that the amicable settlement may have failed because of the huge sum of around ₱200,000.00 which the Kombi owners were trying to recover from the PNB. What is more, the unjustness of petitioner's stance is emphasized by the fact that Criminal Case No. *1397* arising from the same incident with the Kombi owners as the offended parties, and CEBALLOS and ARCAYA as the accused, was proceeding on its normal course. It would be more in the interest of justice if the two cases were to take their course and the party responsible for the accident judicially determined. If, as petitioner alleges, he was merely being oppressed or subjected to harassment or that the complaint against him was filed with malice aforethought, or that the circumstances of the accident show that he did not commit the act charged, then the chances of his acquittal would have been great. If convicted, he would have had the adequate

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remedy of appeal in the ordinary course of law. But it should be up to a judicial body to determine the party criminally responsible for the vehicular accident after evaluating the evidence presented during trial on the merits.

In fine, even without ruling on the question of propriety of the judgment on the pleadings, it is clear that the trial Court had committed grave abuse of discretion in enjoining permanently the prosecution of Criminal Case No. *1396*. In doing so it had blocked the smooth and efficient functioning of the machinery of justice.

ACCORDINGLY, the judgment appealed from is hereby REVERSED and SET ASIDE; the Writ of Preliminary Injunction issued by the lower Court hereby dissolved; and Criminal Case No. 1396 hereby ordered reinstated and heard on the merits together with Criminal Case No. 1397 if still pending. No costs.

SO ORDERED.

Plana, Relova, Gutierrez, Jr., De la Fuente, and *Patajo, JJ.*, concur.

Teehankee (Chairman), J., took no part.

EN BANC

[Adm. Case No. 2439. January 16, 1986]

JOSE DIAZ, *complainant, vs.* **ATTY. MANUEL S. GERONG,** *respondents.*

SYLLABUS

1. LEGAL ETHICS; DISBARMENT; MAY BE FILED IN CASE A LAWYER VIOLATED HIS LAWYER'S OATH.— The Lawyer's Oath obliges the attorney to swear that he will do no