

SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila
SECOND DIVISION

TEDDY GRANA and TEOFILO GRANA,
Petitioners,

G.R. No. 202111

Present:

PERLAS-BERNABE, J.,
Chairperson,
REYES, A. JR.,*
HERNANDO,
INTING, and
ZALAMEDA, JJ.**

-versus-

Promulgated:

THE PEOPLE OF THE PHILIPPINES,
Respondent.

25 NOV 2019

X ----- X

DECISION

HERNANDO, J.:

This Petition for Review on *Certiorari* assails the February 21, 2012 Decision¹ and June 6, 2012 Resolution² of the Court of Appeals (CA) in CA-G.R. CR No. 34194, partially reversing the May 16, 2011 Decision³ 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 Decision⁴ 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 Information⁵ for malicious mischief against Teddy

* On leave
** Designated additional member per Special Order No. 2727 dated October 25, 2019.
¹ *Rollo*, pp. 41-48; penned by Associate Justice Amy C. Lazaro-Javier (now a member of this Court) and concurred in by Associate Justices Sesinando E. Villon and Stephen C. Cruz.
² *Id.* at 50-51.
³ *Id.* at 85-90; penned by Judge Aida Estrella Macapagal.
⁴ *Id.* at 60-67; penned by Judge Donato H. de Castro.
⁵ *Id.* at 60-61.

Grana (Teddy), Gil Valdes⁶ (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 ₱554,400.00 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

⁶ Also spelled as "Valdez" in some parts of the records.

⁷ *Rollo*, p. 61.

⁸ *Id.* at 86.

⁹ *Id.* at 87.

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

¹⁰ *Id.* at 67.

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 assumptions, i.e., petitioners’ contention that the subject property is inhabited is belied by their own admission that they and private complainant are inhabiting the immediate environs; and there is nowhere in their pleadings a statement that the subject property was being occupied[/inhabited] at the time of the incident. Assumptions are not proof, especially where, in this case, such assumptions are non-sequitur. Verily, the prosecution failed to prove the element that the place was uninhabited when petitioners entered it on the day in question.¹⁴

The CA then ruled:

¹¹ *Id.* at 88-89.

¹² *Id.* at 90.

¹³ *Id.* at 46.

¹⁴ *Id.* at 46-47.

ACCORDINGLY, the petition is **PARTLY GRANTED**. The assailed conviction of Teddy Grana, Gil Valdez, Olive Grana and Teofilo Grana for malicious mischief is **AFFIRMED** in Criminal Case No. 10-0980; the conviction of Teddy Grana and Gil Valdez in Criminal Case No. 10-0981 is **REVERSED** and **SET ASIDE** and a new one entered **ACQUITTING** them of other forms of trespass.¹⁵

Teddy, Gil, Olive and Teofilo filed a Partial Motion for Reconsideration which was likewise denied for lack of merit.¹⁶

Hence, the present Petition for Review on *Certiorari* filed by petitioners Teddy and Teofilo. The two other accused, Gil and Olive, did not appeal their case.

Petitioners Teddy and Teofilo raise the following assignment of errors, *viz.*: (1) not all the elements of the crime of malicious mischief have been proven beyond reasonable doubt; (2) the petitioners were not driven by hatred, revenge, or evil motive when they removed the illegal fence constructed by the private complainant; and (3) the petitioners did not act maliciously when they removed the illegal fence constructed by Bolbes.¹⁷

The contentions are not meritorious.

The issues raised by petitioners require a re-appreciation and re-examination of the evidence which are evidentiary and factual in nature. On this ground alone, the petition must be denied because “‘one, the petition for review thereby violates the limitation of the issues to only legal questions, and, two, the Court, not being a trier of facts, will not disturb the factual findings of the CA, unless they were mistaken, absurd, speculative, conflicting, tainted with grave abuse of discretion, or contrary to the findings reached by the court of origin,’ which was not shown to be the case here.”¹⁸

“Besides, findings of facts of the RTC, its calibration of the testimonial evidence, its assessment of the probative weight thereof, as well as its conclusions anchored on the said findings, are accorded high respect if not conclusive effect when affirmed by the CA, as in this case. [The MeTC/RTC] ‘had the opportunity to observe the witnesses on the stand and detect if they were telling the truth.’ ‘To thus accord with the established doctrine of finality and bindingness of the trial court’s findings of fact, [the Court shall] not disturb [the] findings of fact of the [MeTC/RTC], particularly after their affirmance by the CA,’ as petitioner[s] were] not able to sufficiently establish any extraordinary circumstance which merits a departure from the said doctrine.”¹⁹

¹⁵ *Id.* at 47-48.

¹⁶ *Id.* at 50.

¹⁷ *Id.* at 28.

¹⁸ *Roque v. People*, 757 Phil. 392, 398 (2015).

¹⁹ *Id.*

Article 327 of the Revised Penal Code pertinently provides:

Art. 327. *Who are liable for malicious mischief.* - Any person who shall deliberately cause to the property of another any damage not falling within the terms of the next preceding chapter, shall be guilty of malicious mischief.

The elements of Malicious Mischief have been duly proven in this case, viz.:

1. Petitioners admitted in their "*kontra salaysay*" that Teofilo deliberately destroyed the fence and its cement foundation, and made diggings in the subject property;
2. The destruction did not constitute arson or other crime involving destruction; and
3. The act of damaging another's property was committed merely for the sake of damaging it.

Under the third element, assuming that petitioner Teofilo owned the property in controversy, he and his co-accused were not justified in summarily destroying the improvements built thereon by Bolbes. They unlawfully took the law into their own hands when they surreptitiously entered Bolbes's enclosed lot and destroyed its fence and foundation. Evidently, petitioners' actions were made out of hatred, revenge or evil motive. As aptly found by the RTC:

[T]o 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.
x x x²⁰

Considering that all the elements of the crime of Malicious Mischief are present in this case, petitioners were properly adjudged guilty thereof.

With regard to the penalty imposed by the MeTC, as affirmed by the RTC and further affirmed by the Court of Appeals, there is a need to modify the same in view of the adjustments stated in Republic Act No. 10951. Under Section 88 thereof, the penalty imposed on persons found liable for Malicious Mischief under Article 327 and penalized under Article 329 is amended to read as follows:

SEC. 88. Article 329 of the same Act, as amended by Commonwealth Act No. 3999, is hereby further amended to read as follows:

"Art. 329. *Other mischiefs.* — The mischiefs not included in the next preceding article shall be punished:

²⁰ Rollo, p. 89.

“1. By *arresto mayor* in its medium and maximum periods, if the value of the damage caused exceeds Two hundred thousand pesos (P200,000);

“2. By *arresto mayor* in its minimum and medium periods, if such value is over Forty thousand pesos (P40,000) but does not exceed Two hundred thousand pesos (P200,000); and

“3. By *arresto menor* or a fine of not less than the value of the damage caused and not more than Forty thousand pesos (P40,000), if the amount involved does not exceed Forty thousand pesos (P40,000) or cannot be estimated.” (Emphasis Ours)

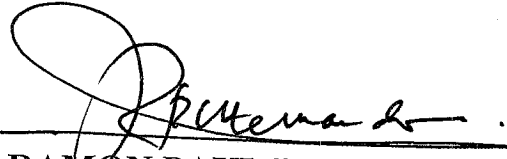
The value of the damage caused to private complainant by petitioners is only ₱7,500.00. Consequently, pursuant to Article 329 of the RPC, as amended by R.A. 10951, petitioners' original sentence of a straight penalty of imprisonment of four (4) months should be reduced to *arresto menor* or imprisonment of one (1) day to thirty (30) days.

We note that Gil and Olive did not appeal their case before the Court of Appeals. Section 11(a), Rule 122 of the Rules of Court provides that “[a]n appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter.” In this case, considering the reduction of the sentence imposed on the crime committed, which is favorable and applicable to Gil and Olive, then they should benefit from the reduction of the sentence imposed on them.


WHEREFORE, the Petition for Review on *Certiorari* is **DENIED**. Petitioners Teddy Grana and Teofilo Grana, as well as accused Gil Valdes and Olive Grana, are found **GUILTY** beyond reasonable doubt of the crime of Malicious Mischief under Article 327 and penalized under Article 329 of the Revised Penal Code, as amended. The February 21, 2012 Decision and the June 6, 2012 Resolution of the Court of Appeals in CA-G.R. CR No. 34194 are **AFFIRMED with the MODIFICATION** that Teddy Grana, Teofilo Grana, Gil Valdes and Olive Grana are sentenced to suffer imprisonment of thirty (30) days of *arresto menor* and to pay private complainant Freddie Bolbes the amount of ₱7,500.00 as actual damages, which shall earn interest of six percent (6%) per *annum* from the date of the finality of this judgment until fully paid.

—A


SO ORDERED.

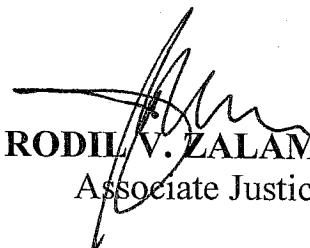

RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


ESTELA M. BERLAS-BERNABE
Associate Justice
Chairperson

On leave
ANDRES B. REYES, JR.
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

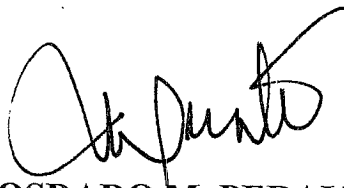


ESTELA M. PERLAS-BERNABE

Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I hereby certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA

Chief Justice