

**BERNABE CASTILLO (IN HIS OWN BEHALF, AND IN BEHALF OF
SERAPION CASTILLO, WHO HAS SINCE THEN BECOME DECEASED,
AND EULOGIO CASTILLO, HIS MINOR CHILD) AND GENEROSA
GALANG CASTILLO,...**

G.R. No. L-48541. August 21, 1989

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

In this petition for review on certiorari, petitioners seek the reversal of the February 13, 1978 decision of the Court of Appeals in CA-G.R. No. 52567-R, entitled "Bernabe Castillo, et al. v. Juanito Rosario, et al." affirming the dismissal by the Court of First Instance of Manila of the complaint for damages filed by petitioners against private respondents. Said dismissal was decreed on the basis of the evidence before the trial court as well as the decision of the Court of Appeals in CA-G.R. No. 07684-CR, entitled "People v. Juanito Rosario".

Petitioners and private respondents figured in a vehicular accident on May 2, 1965 at Bagac, Villasis, Pangasinan, which caused injuries to their persons and damage to their respective vehicles.

The parties have conflicting versions as to what actually transpired on that fateful day; each party pointing to the negligence of the other as the proximate cause of the accident. Thus, as expected in cases like this, the main issue is: Who was at fault?

According to the petitioners, the accident happened as follows:[1]

"On May 2, 1965 at about 2:00 o'clock in the afternoon, petitioner Bernabe Castillo was driving his jeep with Plate No. J-4649 '64 Manila on the right lane of the McArthur Highway with Generosa Castillo, his wife, father Serapion Castillo, seated in front and Eulogio Castillo, then a minor child, as passengers, bound northward for Binmaley, Pangasinan at the rate of 25 kilometers per hour. Just past San Nicolas bridge, Villasis, he noticed, from a distance of 120 meters more or less, a speeding oncoming car with Plate No. L-27045 '64 Cavite, along the same lane (facing north) he was driving, overtaking a cargo truck ahead of it. He switched on his headlights to signal the car to return to its own right lane as the way was not clear for it to overtake the truck.

"The car turned out to be driven by the private respondent, Juanito Rosario, with his wife, Cresencia Rosario. The signal was disregarded, as the car proceeded on its direction southward on the right lane (facing north). In order to evade the impending collision, petitioner Bernabe Castillo swerved his jeep to the right towards the shoulder and applied on the brakes, and leaving his feet on it, even, immediately after the impact. The car rested on the shoulder of the right lane. The jeep's rear left wheel was on the road, leaving short tiremarks behind it; while the car left long tire-marks, specially its left rear wheel. The jeep suffered a shattered windshield, pushed-in radiator. The left mid-portion of its bumper badly dented. The car had a flat tire on its right front wheel; its right fender badly dented as the headlamp on top of it. The bumper stooped downward, because it went thru under the bumper of the jeep.

"The driver of the jeep, including his passengers suffered physical injuries. Bernabe Castillo, with the patella of his right knee, fractured, suffered serious physical injuries, in other parts of his body. Serapion Castillo whose head crushed through the windshield, was nearly beheaded, while the other two passengers suffered multiple slight and less serious injuries."

Private respondents, on the other hand, have their own version of the accident and thus asseverate as follows:[2]

"Sometime in the early afternoon of May 2, 1965, the private respondents, together with their small daughter, were on their way from San Carlos City (Pangasinan) to Olongapo City where they resided at the time and where Juanito Rosario, a member of the US Navy, had been temporarily stationed. They rode in the family car. (TSN, C. Rosario, p. 35; J. Rosario, pp. 2, 12 Annex "D", "Request for Admission")

"At or about 2:30 p.m. of the same date, as Juanito Rosario who was driving the car, and his two passengers, were along MacArthur Highway in Barrio Bacag, Villasis, Pangasinan, going towards the south, they saw ahead of them a big heavily loaded cargo truck. (TSN, B. Castillo, p. 532, Annex "B", "Request for Admission") The truck was moving very slowly because of its heavy load so that Juanito Rosario decided to overtake it. But before doing so, he first saw to it that the road was clear and as additional precautionary measure, he blew his horn several times at the time he was overtaking the truck. (TSN, Juanito Rosario, pp. 4, 11; C. Rosario, pp. 31-41, Annex "B", "Request for Admission")

"Then as the car was about to overtake the slow moving cargo truck, the car's front left tire suddenly burst due to pressure causing the car to swerve to the left and naturally making steering and control difficult. Because of the tendency of the car to veer towards the left due to the blown out tire, the driver steered the car towards the direction where he could find a safe place to park and fix the tire. He finally brought the car to a halt at the left shoulder of the road (facing south). (TSN, C. Rosario, p. 31; J. Rosario, pp. 4, 17, Annex "D", "Request for Admission")

"But barely had the said defendant parked his car on the left shoulder of the road and just as he was about to get off to fix the flat tire, the car was suddenly bumped by the jeep driven by Bernabe Castillo which came from the opposite direction. (TSN, C. Rosario, p. 32; J. Rosario, p. 6, "Request for Admission") Both vehicles were damaged, the car suffering the heavier damage. (Please see Annex "C", "Request for Admission") Passengers of the jeep sustained injuries while those of the car were badly shaken."

On June 30, 1965, a civil case for the recovery of damages for the injuries sustained by petitioners and for the damage to their vehicle as a result of the collision, was instituted by the petitioners in the Court of First Instance of Manila. While this case was pending, the Provincial Fiscal of Pangasinan filed an information dated September 29, 1965 against Juanito Rosario, private respondent herein, for double physical injuries; double less serious physical injuries; and damage to property thru reckless imprudence, in the Court of First Instance of Urdaneta. Respondent Juanito Rosario was prosecuted and convicted by the trial court in the criminal case. He appealed to the Court of Appeals, which rendered a decision[3] acquitting him from the crime charged on the ground that his guilt has not been proved beyond reasonable doubt.

In the meantime, private respondents thru counsel, filed a "Request for Admission"[4] on April 3, 1972 in the civil case, requesting petitioners to admit the truthfulness of the facts set forth therein as well as the correctness and genuineness of the documents attached thereto. On May 5, 1972, petitioners filed a "Manifestation",[5] admitting the allegations in the "Request for Admission" with some qualifications. Later, both parties submitted their respective memoranda.

On the basis of the testimonies and evidence submitted by the petitioners, as well as the records of the criminal case attached in the "Request for Admission" of the private respondents, the Court of First Instance of Manila rendered a decision[6] on December 28, 1972, dismissing the complaint of the petitioners against private

respondents as well as the counterclaim of private respondents against the petitioners. On January 24, 1973, petitioners appealed to the Court of Appeals. On February 13, 1978, the Court of Appeals affirmed the decision[7] of the Court of First Instance of Manila.

Hence, the present petition for review on certiorari.[8] The petitioners-appellants raise in issue before Us the following questions, to wit:

"1) Is the decision of the Court of Appeals, where its dispositive part, or "fallo", states that the guilt of the (appellant) accused was not proved beyond reasonable doubt final and conclusive, on an action for damages based on quasi-delict?;

"2) Are the testimonies given in a criminal case, without strict compliance with Section 41 Rule 130 and without opportunity to cross-examine the witnesses who made these testimonies, admissible evidence in a subsequent case and can be the basis of a valid decision?;

"3) Is an action for damages based on quasi-delict barred by a decision of the appellate court acquitting the accused, the body of which lays the blame on the plaintiff but in its dispositive part declares the guilt of the accused not proved beyond reasonable doubt?"[9]

The main thrust of this petition for review which stems from a cause of action based on quasi-delict or culpa aquiliana (being a recovery for damages arising from the vehicular accident), is that petitioners were deprived of due process because their civil action was decided on the basis of private respondent Juanito Rosario's acquittal in the criminal case for reckless imprudence.

There is no dispute that the subject action for damages, being civil in nature, is separate and distinct from the criminal aspect, necessitating only a preponderance of evidence. According to a number of cases,[10] a quasi-delict or culpa aquiliana is a separate legal institution under the Civil Code, with a substantivity all its own, and individuality that is entirely apart and independent from a delict or crime. A distinction exists between the civil liability arising from a crime and the responsibility for quasi-delicts or culpa extra-contractual. The same negligence causing damages may produce civil liability arising from a crime under the Penal Code, or create an action for quasi-delictos or culpa extra-contractual under the Civil Code. Therefore, the acquittal or conviction in the criminal case is entirely irrelevant in the civil case."[11]

In the case of *Azucena v. Potenciano*, L-14028, June 30, 1962, 5 SCRA 468, 470-471, this Court held:

"x x x in the criminal case for reckless imprudence resulting in serious physical injuries x x x, the judgment of acquittal does not operate to extinguish the civil liability of the defendant based on the same incident. The civil action is entirely independent of the criminal case according to Articles 33 and 2177 of the Civil Code. There can be no logical conclusion than this, for to subordinate the civil action contemplated in the said articles to the result of the criminal prosecution - whether it be conviction or acquittal - would render meaningless the independent character of the civil action and the clear injunction in Article 31, that his action may proceed independently of the criminal proceedings and regardless of the result of the latter."

"But this rule is not without exception. Thus, Section 2 (c) of Rule 111 of the Rules of Court provides:

"Extinction of the penal action does not carry with it extinction of the civil, unless the extinction proceeds from a declaration from a final judgment that the fact from which the civil action might arise did not exist."

In a previous case, CA-G.R. No. 07684-CR, *People v. Rosario*, the Court of Appeals after a painstaking analysis of: (a) the testimonial evidence; (b) the relative positions of the two vehicles as depicted in the sketches; (c) the distance of each of the two vehicles from the cemented edge of the road; (d) the point of impact; (e) the visible tire marks; and (f) the extent of the damage caused upon each of the two vehicles, ruled that it was the driver of

the jeep and not the accused driver of the car who was negligent and accordingly acquitted the latter.[12]

Negligence, being the source and foundation of actions of quasi-delict, is the basis for the recovery of damages. In the case at bar, the Court of Appeals found that no negligence was committed by Juanito Rosario to warrant an award of damages to the petitioners.

Respondent Appellate Court states:

"In acquitting defendant-appellee Juanito Rosario in CA-G.R. No. 07684-CR on October 28, 1968, this Court held that the collision was not due to the negligence of Juanito Rosario but 'it was Castillo's own act of driving the jeep to the shoulder [of the road] where the car was that was actually the proximate cause of the collision.' (Ibid., p. 183) With this finding, this Court actually exonerated appellee Juanito Rosario from civil liability. Since plaintiffs-appellants' civil action is predicated upon Juanito Rosario's alleged negligence which does not exist, it follows that his acquittal in the criminal action, which is already final, carried with it the extinction of civil responsibility arising therefrom. (Corpus vs. Paje, 28 SCRA 1062, 1064, 1067; Faraon vs. Priela, 24 SCRA 582, 583; De Soriano vs. Albornoz, 98 Phil. 785, 787-788; Tan vs. Standard Vacuum Oil Co., 91 Phil. 672, 675)."[13]

It was the Court of Appeals' findings that the collision was not due to the negligence of Juanito Rosario but rather it was Castillo's own act of driving the jeep to the shoulder of the road where the car was, which was actually the proximate cause of the collision. With this findings, the Court of Appeals exonerated Juanito Rosario from civil liability on the ground that the alleged negligence did not exist.

As earlier stated, the questioned decision of the Court of Appeals was an affirmation of the decision of the Court of First Instance of Manila. During the trial of the case before the Court of First Instance, the private respondents were not present, in view of the fact that they were out of the country at that time. Their counsel introduced as part of their evidence, the records in the criminal case, in accordance with Section 41 Rule 130 of the Rules of Court.[14] These records were attached to their "Request for Admission" and were substantially admitted by petitioners. The said records were mostly composed of transcripts of the hearing in the criminal case. Petitioners raised, as one of their objections, the propriety and correctness of admitting and adopting these transcripts as part of the record in the civil case. According to them, this is a violation of Section 41, Rule 130 of the Rules of Court, on the ground that petitioners were not given the opportunity to cross-examine. We have to disagree. A careful reading of the transcripts would reveal that then counsel for petitioners, Atty. Nicodemo Ferrer, actively participated during the proceedings of the criminal case. He raised various objections[15] in the course of the trials. Petitioners, therefore, thru counsel had the opportunity to cross-examine the witnesses.

Thus, the admission of the said testimonies cannot be set aside.

Finally, in a long line of decisions, this Court has held time and again that the findings of facts by the Court of Appeals are conclusive and not reviewable by the Supreme Court.[16]

In *Macadangdang v. Court of Appeals*, 100 SCRA 73 and *Tolentino v. De Jesus*, 56 SCRA 167, it was held that:

"Findings of fact of the Court of Appeals are conclusive on the parties and on the Supreme Court, unless (1) the conclusion is a finding grounded entirely on speculations, surmises and conjectures; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on misapprehension of facts; (5) the Court of Appeals went beyond the issues of the case and its findings are contrary to the admission of both appellant and appellee; (6) the findings of facts of the Court of Appeals are contrary to those of the trial court; (7) said findings of facts are conclusions without citation of specific evidence on which they are based; (8) the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; and (9) when the finding of facts of the Court of Appeals is premised on the absence of evidence and is contradicted by evidence on record."

Finding that the questioned decision does not fall under any of the exceptions cited above, we find no cogent reason to disturb the findings and conclusions of the Court of Appeals.

WHEREFORE, in view of the foregoing, the petition is hereby denied. No pronouncement as to costs.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin, and Cortes, JJ., concur.

[1] Rollo, p. 110, Brief of Petitioners, pp. 1-3.

[2] Rollo, pp. 144-146.

[3] Rollo, p. 122, Case docketed as CA-G.R. No. 07684-CR by the First Division, composed of Presiding Justice Julio Villamor, ponente; Justices Hermogenes Concepcion, Jr. and Angel H. Mojica, concurring.

[4] Rollo, p. 47; Record on Appeal, pp. 63-68.

[5] Rollo, p. 47; Record on Appeal, pp. 79-81.

[6] Rollo, p. 47; Record on Appeal, pp. 168-188, penned by Judge Hilarion U. Jarencio.

[7] Rollo, pp. 123-128, Case docketed as CA-G.R. 52567-R, by the Eight Division, composed of Justice Crisolito Pascual, ponente, and Justices Mariano Agcaoili and Rafael Climaco, concurring.

[8] Rollo, pp. 7-45.

[9] Rollo, p. 110; Brief of Petitioners, pp. 5-6.

[10] Diana, et al. v. Batangas Transportation Co., L-4920, June 29, 1953, 93 Phil. 391, 395; Lanuzo v. Sy Bon Ping, et al., L-53064, September 25, 1980, 100 SCRA 205; Garcia, et al. v. Judge Florido, et al., L-35095, August 31, 1973, 52 SCRA 420.

[11] Dionisio, et al. v. Hon. Alvendia, L-10567, November 26, 1957, 102 Phil. 443; Chan v. Hon. Yatco, L-11163, April 30, 1958, 103 Phil. 1126; Batangas Laguna Tayabas Bus Co., Inc., et al. v. Court of Appeals, et. al., L-33138-39, June 27, 1975, 64 SCRA 427; Elcano v. Hill, L-24803, May 26, 1977, 77 SCRA 98; Virata, et al. v. Ochoa, L-46179, January 31, 1978, 81 SCRA 472; Heirs of Pedro Tayag v. Alcantara, et. al., L-50959, July 23, 1980, 98 SCRA 723.

[12] Rollo, pp. 114-122.

[13] Rollo, pp. 127-128.

[14] Rule 111, Section 41. TESTIMONY AT A FORMER TRIAL. - The testimony of a witness deceased or out of the Philippines, or unable to testify, given in a former case between the same parties, relating to the same matter, the adverse party having had an opportunity to cross-examine him, may be given in evidence.

[15] Original Record, pp. 101, 104, 106 & 107.

[16] Philippine Surety & Insurance Co., v. Zabal, 21 SCRA 682; PAL v. Salcedo, 21 SCRA 372; Coingco v. Flores, 82 Phil. 284; Fong v. Javier, 107 Phil. 392; Castillo v. Pasco, 11 SCRA 103; Laperal v. William, 13 SCRA 27; Conejero v. Court of Appeals, 16 SCRA 775; Sta. Ana v. Hernandez, 18 SCRA 973; Rizal Cement v. Villareal, 135 SCRA 16 [1985]; Dulos Realty v. C.A., 157 SCRA 426; Director of Lands v. Funtillo, 142 SCRA 57 (1986).

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