BISAYA LAND TRANSPORTATION COMPANY, INC., PETITIONER, VS. HON. MANUEL M. MEJIA, ET AL., RESPONDENTS.

G.R. Nos. L-8830, L-8837-39. May 11, 1956

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

These are four petitions for a writ of certiorari, to annul an order of respondent, Hon. Manuel M. Mejia, as Judge of First Instance of Cebu, dated February 22, 1955, denying a motion of petitioner herein, Bisaya Land Transportation Co., Inc., as defendant in civil cases Nos. R-1768, R-1769, R-1775 and R-1776 of said court, for the suspension of the trial of said cases until the rendition of final judgment in criminal case No. V-3142 of the same court. Upon the filing of the corresponding bond, we issued a writ of preliminary injunction directing respondent judge to desist and refrain, until further orders from this Court, from trying or hearing the four civil cases already referred to.

It appears that on November 1, 1951, Tan Sim's cargo truck No. T-17137, driven by Antonio Varga, and passenger truck No. TPU-10284 of petitioner Bisaya Land Transportation Co., Inc., driven by Teofilo Mongaya, collided with each other in the municipality of Compostela, province of Cebu. As a consequence, the passenger of the latter truck sustained physical injuries, and some of them died. Hence, on January 17, 1952, the provincial fiscal of Cebu commenced criminal case No. V-3142 of the Court of First Instance of Cebu entitled "People vs. Antonio Varga and Teofilo Mongaya"—the drivers of both trucks—for multiple homicide with serious, less serious and slight physical injuries^ through reckless imprudence. Moreover, the heirs of Jose-Yap Cabatingan, Jose Pestano, Cresencia Placencia and Lucas Maramara, some of the deceased passengers of the Bisaya truck No, TPU-10284, instituted in said court, the following civil cases, for damages allegedly sustained by reason of the accident above mentioned:

- Civil Case No. R-1768, entitled "Angel Cabatingan, et al. vs. Bisaya Land Transportation Co., Inc., Antonio Varga and Tan Sim;"

- Civil Case No. R-1769, entitled "Nely E. Pestano et al. vs. Bisaya Land Transportation Co., Inc., Antonio Varga and Tan Sim";

- Civil Case No. R-1775, entitled "Macaria Tolda de Placeneia et al. vs. Bisaya Land Transportation Co., Inc., Antonio Varga and Tan Sim"; and

- Civil Case No. R-1776, entitled "Teofila Misa, et al. vs. Bisaya Land Transportation Co., Inc., Antonio Varga and Tan Sim."

On or about February 17, 1955, petitioner herein filed a motion, in said four (4) civil cases, praying that the trial thereof, which was scheduled to take place, jointly, on February 22, 1955, before the Fifth Branch of the Court of First Instance of Cebu, presided over by respondent Judge, be suspended until final disposition of the afore-mentioned criminal case No. V-3142, the hearing of which had already begun. This motion was denied by

an order of respondent Judge dated February 22, 1955. On the same date, however, respondent Judge issued another order, postponing the hearing of said civil cases to March 4, 1955, so that petitioner may have an opportunity to seek from this Court such relief as it may deem fit. Hence, soon thereafter, petitioner instituted the cases at bar, for the purpose of annulling said order denying the motion for suspension of the hearing of the civil cases already adverted to.

Petitioner assails said order, upon the ground that it was issued by respondent Judge with abuse of discretion, and without, or in excess of his, jurisdiction, as well as in violation of Rule 107, section 1(c), of the Rules of Court and of the doctrines laid down in the cases of Francisco vs. Onrubia, 46 Phil., 327 and De Leon vs. Mabanag, 70 Phil., 202. However, said provision of the Rules of Court and the decisions cited are not in point. Section 1(c) of Rule 107 of the Rules of Court refers to civil actions "arising from the same offense" charged in the criminal action. Such was the civil action instituted by Francisco against Onrubia, supra, who, while driving a car, hit a pedestrian with whom he had no contractual relation whatsoever), killing the latter. A judgment of acquittal having been rendered in the corresponding criminal action against Onrubia, for homicide through reckless negligence, it followed that the civil action for damages, based upon the crime allegedly committed by him, could not prosper. Upon the other hand, the principle enunciated in the De Leon case, supra, is, at best, adverse to petitioner's contention, it having been held, in said case, that a pending civil action, hinging upon the genuineness or spurious nature of a given document, had to be decided before a criminal action for alleged falsification of said document be instituted.

Insofar as! herein petitioner is concerned, the complaints in the civil cases aforementioned are specifically based upon an alleged breach of the "contractual" relation between said petitioner, as owner and operator of truck No. TPU-10284, and its passengers, Jose Cabatingan, Jose Pestano, Cresencia Placencia and Lucas Maramara, which relation is governed by Articles 1755 to 1763 of the Civil Code of the Philippines, not by the Revised Penal Code, and is, therefore, independent of the provisions of the latter and of such criminal responsibility as may exist thereunder. Indeed, Articles 31 and 33 of the Civil Code of the Philippines explicitly provide:

> "ART. 31. When the civil action is based on an obligation not arising from the act or omission complained of as a felony, such civil action may proceed independently of the criminal proceedings and regardless of the result of the latter."
>
> "ART. 88. In cases of defamation, fraud, and physical injuries, a civil action for damages, entirely separate and distinct from " the criminal action, may be brought by the injured party. Such civil action shall proceed independently of the criminal prosecution, and shall require only a preponderance of evidence."

In view of these clear and positive legal precepts and in line with the well established practice in this jurisdiction (Rakes vs. Atlantic Gulf and Pacific Co., 7 Phil., 359, 362-365; Barredo vs. GTarcia and Almario, 73 Phil., 607, 611; Ramcar vs. De Leon, 44 Off. Gaz., 3795; Castro vs. Aero Taxicab Co., 46 Off. Gaz., 2023; San Pedro Bus Line vs. Navarro, 94 Phil., 846, decided on April 29, 1954; Son vs. Cebu Autobus Co., 94 Phil., 892, decided April 30, 1954; Ibañez et al. vs. North Negros Sugar Co., 96 Phil., 980, decided March 28, 1955; Carandang vs. Santiago, 97 Phil., 94, decided May 25, 1955), we hold that, as regards petitioner herein, the aforementioned civil cases Nos. R-1768, R-1769, R-1775 and R-1776 may proceed independently of said criminal case No. V-3142 and that, accordingly, His Honor, respondent judge, did not err in issuing the order complained of.

Wherefore, the petitions are dismissed and the writ of preliminary injunction heretofore issued hereby dissolved and set aside, with costs against the petitioner. It is so ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, Reyes, J. B. L., and Endencia, JJ., concur.

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