

**PAULINO PADUA AND LUCENA BEBIN PADUA,
PLAINTIFFS-APPELLANTS, VS. GREGORIO N. ROBLES AND BAY TAXI
CAB, DEFENDANTS-APPELLEES.**

G.R. No. L-40486. August 29, 1975

Ponente: CASTRO, J.

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CASTRO, J.:

Resolving this appeal by the spouses Paulino and Lucena Bebin Padua, we set aside the order dated October 25, 1972 of the Court of First Instance of Zambales dismissing their complaint in civil case 1079-0, and remand this case for further proceedings.

In the early morning of New Year's Day of 1969 a taxicab (bearing 1968 plate no. TX-9395 and driven by Romeo N. Punzalan but operated by the Bay Taxi Cab owned by Gregorio N. Robles) struck ten-year old Normandy Padua on the national road in barrio Barretto, Olongapo City. The impact hurled Normandy about forty meters away from the point where the taxicab struck him, as a result of which he died.

Subsequently, Normandy's parents (Paulino and Lucena Bebin Padua), by complaint filed with the Court of First Instance of Zambales (civil case 427-0), sought damages from Punzalan and the Bay Taxi Cab; likewise, the City Fiscal of Olongapo, by information filed with the same court (criminal case 1158-0), charged Punzalan with homicide through reckless imprudence.

On October 27, 1969 the court a quo, in civil case 427-0, adjudged for the Paduas as follows:

"WHEREFORE, judgment is hereby rendered ordering the defendant Romeo Punzalan to pay the plaintiffs the sums of P12,000.00 as actual damages, P5,000.00 as moral and exemplary damages, and P10,000.00 as attorney's fees; and dismissing the complaint insofar as the Bay Taxicab Company is concerned. With costs against the defendant Romeo Punzalan." (Italics supplied)

Almost a year later, on October 5, 1970, the court a quo, in criminal case 1158-0, convicted Punzalan, as follows:

"WHEREFORE, the Court finds the accused Romeo Punzalan y Narciso guilty beyond reasonable doubt of the crime of homicide through reckless imprudence, as defined and penalized under Article 365 of the Revised Penal Code, attended by the mitigating circumstance of voluntary surrender, and hereby sentences him to suffer the indeterminate penalty of TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional, as minimum, to SIX (6) YEARS and ONE (1) DAY of prision mayor, as maximum, and to pay the costs. The civil liability of the accused has already been determined and assessed in Civil Case No. 427-0, entitled Pauline Padua, et al. vs. Romeo Punzalan, et al." (Italics supplied).

After the judgment in civil case 427-0 became final, the Paduas sought execution thereof. This proved futile; the corresponding court officer returned the writ of execution unsatisfied.

Unable to collect the amount of P27,000 awarded in their favor, the Paduas instituted action in the same court against Gregorio N. Robles to enforce the latter's subsidiary responsibility under the provisions of article 103 of

the Revised Penal Code. Robles filed a motion to dismiss based on (1) bar of the cause of action by a prior judgment and (2) failure of the complaint to state a cause of action.

Thereafter, the court a quo, in an order dated October 25, 1972, granted Robles' motion to dismiss on the ground that the Paduas' complaint states no cause of action. This order the Paduas questioned in the Court of Appeals which, by resolution dated March 5, 1975, certified the case to this Court for the reason that the appeal involves only questions of law.

The Paduas predicate their appeal on eighteen errors allegedly committed by the court a quo. These assigned errors, however, raise only one substantial issue: whether the judgment dated October 5, 1970 in criminal case 1158-0 includes a determination and adjudication of Punzalan's civil liability arising from his criminal act upon which Robles' subsidiary civil responsibility may be based.

The sufficiency and efficacy of a judgment must be tested by its substance rather than its form. In construing a judgment, its legal effects including such effects that necessarily follow because of legal implications, rather than the language used, govern. Also, its meaning, operation, and consequences must be ascertained like any other written instrument. Thus, a judgment rests on the intention of the court as gathered from every part thereof, including the situation to which it applies and the attendant circumstances.

It would appear that a plain reading, on its face, of the judgment in criminal case 1158-0, particularly its decretal portion, easily results in the same conclusion reached by the court a quo: that the said judgment assessed no civil liability arising from the offense charged against Punzalan. However, a careful study of the judgment in question, the situation to which it applies, and the attendant circumstances, would yield the conclusion that the court a quo, on the contrary, recognized the enforceable right of the Paduas to the civil liability arising from the offense committed by Punzalan and awarded the corresponding indemnity therefor.

Civil liability coexists with criminal responsibility. In negligence cases, the offended party (or his heirs) has the option between an action for enforcement of civil liability based on culpa criminal under article 100 of the Revised Penal Code and an action for recovery of damages based on culpa aquiliana under article 2177 of the Civil Code. The action for enforcement of civil liability based on culpa criminal section 1 of Rule 111 of the Rules of Court deems simultaneously instituted with the criminal action, unless expressly waived or reserved for a separate application by the offended party. Article 2177 of the Civil Code, however, precludes recovery of damages twice for the same negligent act or omission.

In the case at bar, the Court finds it immaterial that the Paduas chose, in the first instance, an action for recovery of damages based on culpa aquiliana under articles 2176, 2177, and 2180 of the Civil Code, which action proved ineffectual. The Court also takes note of the absence of any inconsistency between the aforementioned action priorly availed of by the Paduas and their subsequent application for enforcement of civil liability arising from the offense committed by Punzalan and, consequently, for exaction of Robles' subsidiary responsibility. Allowance of the latter application involves no violation of the proscription against double recovery of damages for the same negligent act or omission. For, as hereinbefore stated, the corresponding officer of the court a quo returned unsatisfied the writ of execution issued against Punzalan to satisfy the amount of indemnity awarded to the Paduas in civil case 427-0. Article 2177 of the Civil Code forbids actual double recovery of damages for the same negligent act or omission. Finally, the Court notes that the same judge[*] tried, heard, and determined both civil case 427-0 and criminal case 1158-0. Knowledge of and familiarity with all the facts and circumstances relevant and relative to the civil liability of Punzalan may thus be readily attributed to the judge when he rendered judgment in the criminal action.

In view of the above considerations, it cannot reasonably be contended that the court a quo intended, in its

judgment in criminal case 1158-0, to omit recognition of the right of the Paduas to the civil liability arising from the offense of which Punzalan was adjudged guilty and the corollary award of the corresponding indemnity therefor. Surely, it cannot be said that the court intended the statement in the decretal portion of the judgment in criminal case 1158-0 referring to the determination and assessment of Punzalan's civil liability in civil case 427-0 to be pure jargon or "gobbledygook" and to be absolutely of no meaning and effect whatsoever. The substance of such statement, taken in the light of the situation to which it applies and the attendant circumstances, makes unmistakably clear the intention of the court to accord affirmation to the Paduas' right to the civil liability arising from the judgment against Punzalan in criminal case 1158-0. Indeed, by including such statement in the decretal portion of the said judgment, the court intended to adopt the same adjudication and award it made in civil case 427-0 as Punzalan's civil liability in criminal case 1158-0.

There is indeed much to be desired in the formulation by Judge Amores of that part of the decretal portion of the judgment in criminal case 1158-0 referring to the civil liability of Punzalan resulting from his criminal conviction. The judge could have been forthright and direct instead of circuitous and ambiguous. But, as we have above explained, the statement on the civil liability of Punzalan must surely have a meaning; and even if the statement were reasonably susceptible of two or more interpretations, that which achieves moral justice should be adopted, eschewing the other interpretations which in effect would negate moral justice.

It is not amiss at this juncture to emphasize to all magistrates in all levels of the judicial hierarchy that extreme degree of care should be exercised in the formulation of the dispositive portion of a decision, because it is this portion that is to be executed once the decision becomes final. The adjudication of the rights and obligations of the parties, and the dispositions made as well as the directions and instructions given by the court in the premises in conformity with the body of the decision, must all be spelled out clearly, distinctly and unequivocally, leaving absolutely no room for dispute, debate or interpretation.

We therefore hold that the Paduas' complaint in civil case 1079-0 states a cause of action against Robles whose concomitant subsidiary responsibility, per the judgment in criminal case 1158-0, subsists.

ACCORDINGLY, the order a quo dated October 25, 1972 dismissing the complaint in civil case 1079-0 is set aside, and this case is hereby remanded to the court a quo for further proceedings conformably with this decision and with law. No pronouncement as to costs.

Makalintal, C.J., Teehankee, Makasiar, Esguerra, Aquino, Concepcion, Jr., and Martin, JJ., concur.

Fernando, J., concurs and submits a brief opinion.

Barredo, J., concurs with a separate opinion.

Muñoz Palma, J., did not take part.

Antonio, J., is on leave.

[*] Judge Augusto M. Amores.

CONCURRING OPINION

FERNANDO, J. :

The clarity and lucidity with which Justice Castro spelled out the decisive issue and how to resolve it to achieve the desirable goal of moral justice in adjudication compels concurrence. I do so. What is more, there is to my mind a distinct advance in the juridical frontiers in the mode in which the novel question raised was settled. If the trend manifest in the view taken by the Court would thereafter be followed, then the protective ramparts the law throws around victims of vehicular accidents, unfortunately of rather frequent occurrence here, will be further strengthened. That dissipates whatever doubts I may have originally felt in view of certain traditional procedural concepts about the correctness of the decision reached. It is true this is one of those hard cases which, if an old law is to be believed, may result in bad law. It need not be so, of course, as pointed out with great persuasiveness in the 1971 inaugural lecture at Oxford given by Professor Ronald Dworkin, the successor in the chair of jurisprudence to one of the most eminent men in the field H. L. A. Hart.[1] The more accurate way of viewing the matter is that whenever there is an apparent gap in the law and settled principles of adjudication may not clearly indicate the answer, then a judge may rely either on an argument of policy or an argument of principle, the former having kinship with the sociological school of jurisprudence and the latter with the analytical. As I hope I may be able to indicate in this brief concurrence, the decision reached by us is in consonance with either approach. With the natural law thinking manifest in the opinion of the Court, witness its stress on moral justice, I am comforted by the reflection that the procedural barrier is not insurmountable, the decision reached deriving support from the viewpoint of law as logic, justice, or social control.

1. Dworkin identifies a matter of principle from the standpoint of a right either granted or recognized by law. As was so clearly pointed out in the opinion of Justice Castro: "It would appear that a plain reading, on its face, of the judgment in criminal case 1158-0, particularly its decretal portion, easily results in the same conclusion reached by the court a quo: that the said judgment assessed no civil liability arising from the offense charged against Punzalan. However, a careful study of the judgment in question, the situation to which it applies, and the attendant circumstances, would yield the conclusion that the court a quo, on the contrary, recognized the enforceable right of the Paduas to the civil liability arising from the offense committed by Punzalan and awarded the corresponding indemnity therefor." [2] There is much to be said therefor for the view expressed therein that "it cannot reasonably be contended that the court a quo intended, in its judgment in criminal case 1158-0, to omit recognition of the right of the Paduas to the civil liability arising from the offense of which Punzalan was adjudged guilty and the corollary award of the corresponding indemnity therefor. Surely, it cannot be said that the court intended the statement in the decretal portion of the judgment in criminal case 1158-0 referring to the determination and assessment of Punzalan's civil liability in civil case 427-0 to be pure jargon or 'gobbledygook' and to be absolutely of no meaning and effect whatsoever. The substance of such statement, taken in the light of the situation to which it applies and the attendant circumstances, makes unmistakably clear the intention of the court to accord affirmation to the Padua's right to the civil liability arising from the judgment against Punzalan in criminal case 1158-0." [3] Whatever misgivings therefore may be felt because in the civil case No. 427-0 the complaint against Bay Taxi Cab Co. is dismissed, do not suffice, to my mind, to render nugatory the admitted subsidiary liability arising from a decision in criminal case No. 1158-0 which is necessarily attendant upon the conviction of the driver, Romeo N. Punzalan. Such a difficulty could have been avoided had greater care been exercised by the lower court, but precisely recourse may be had to our corrective powers to avoid a right granted in law from being rendered illusory in fact.

2. There is thus the strongest policy consideration that buttresses the conclusion reached by us. It would conduce to less respect for the law as an agency of social control if there be recognition in the codes of the right of next kin to damages arising from the tragic occurrence of young lives being snuffed out due to reckless driving on the part of what had been accurately described as dealers of death on the road and then by lack of care on the part of a

judge assure that it is nothing more than a barren form of words. This is what Dean Pound referred to as law in books as distinguished from law in action. To recall an expression from Justice Jackson, it is comparable to a munificent bequest in a pauper's will. It is less than a realistic to assert that anyway the guilty driver can be made to pay. The obvious answer is: "With what?"

This is not to deny that a previous judgment that certainly lends itself to ambiguity considering the facts disclosed and found by the trial court does interpose juristic difficulty to the imposition of liability on the offending taxicab company. There can be no blinking the fact though that if it did not place such vehicles on the road driven in such a reckless and culpable manner resulting in a ten-year old boy being hurled about forty meters away from the point of impact, this tragedy could have been avoided. To say now that doubts engendered by the previous ruling in the culpa aquiliana suit could nullify what the law decrees as to the subsidiary liability of the employer in the criminal case finding the accused guilty would be fraught with pernicious consequences. The party just as much responsible for the mishap, with his operation of the transportation service, would be absolved from liability. It need not be so, but certainly for entrepreneurs more enterprising than careful, not excessively concerned with the safety of the traveling public, it could be a green light for less vigilance over the conduct of their drivers. The resulting injury to public safety is not hard to imagine. Moreover, from the standpoint of the feelings of the bereaved parents, and this is just as important a policy consideration, I feel that no avenue should be left unexplored to mitigate the harshness of fate. To paraphrase Justice Malcolm, there is not enough money in the entire world to compensate the parents for the loss of their child.[4]

To repeat, the decision reached has my full concurrence.

[1] Dworkin, Hard Cases, 88 Harv. Law Review 1057 (1975).

[2] Padua v. Robles, L-40486.

[3] Ibid.

[4] Cf. Bernal v. House, 54 Phil. 327 (1930).

CONCURRING OPINION

BARREDO, J.:

On strictly legal considerations, it would seem possible, to dismiss the petition for review in this case. But there are certain considerations of equity and substantial justice obviously underlying the cause of petitioners which I find difficult to ignore. It would be unfair and unjust to deprive said petitioners of their right to damages for the death of their child unquestionably caused by the fault of respondent's employee merely because the dispositive portion of the decision of Judge Amores in the criminal case appears to be rather equivocal on its face as to respondent's liability therefor, albeit under the incontrovertible facts extant in the record such liability is indisputable in law and the language of Judge Amores' judgment does not anyway exonerate either respondent's driver or private respondent, and what is more, does not exclude the idea that, as explained in the able main opinion of Mr. Justice Castro, the judge intended to merely adopt and incorporate in said judgment the assessment of amount of damages which said judge himself had already made in the civil case he had previously decided. It is on these fundamental considerations that I base my concurrence in the judgment in this case.

As I have already indicated, from the standpoint of strict adjective law, the petition should be dismissed because in truth, there is yet no showing that any attempt has been made by petitioners to have the judgment in the

criminal cases, assuming it includes an imposition of civil liability upon the accused driver, Romeo N. Punzalan, executed. What appears in the record is that it was the writ of execution issued against said Punzalan in the previous civil case that was returned unsatisfied. Of course, this point is highly technical, because all that has to be done is for petitioners to have another execution in the criminal case, which it can even now be foreseen will have exactly the same result. I am therefore agreeable as a matter of equity that the Court hold that for all legal intents and purposes, We may consider the return of insolvency of Punzalan in the civil case as in effect the return in the criminal case, since equity considers as done what ought to have been done when otherwise injustice would result. And so, the paramount question arises, was there any civil liability to impose in the criminal judgment of Judge Amores?

As related in the main opinion, the judgment of October 27, 1969 in the civil case ordered Punzalan "to pay plaintiffs (herein petitioners) the sums of P12,000.00 as actual damages, P5,000.00 as moral and exemplary damages, and P10,000.00 as attorney's fees," although absolving at the same time the herein private respondent, and then, on October 5, 1970, the judgment in the criminal case was as follows:

"WHEREFORE, the Court finds the accused Romeo Punzalan y Narciso guilty beyond reasonable doubt of the crime of homicide through reckless imprudence, as defined and penalized under Article 365 of the Revised Penal Code, attended by the mitigating circumstance of voluntary surrender, and hereby sentences him to suffer the indeterminate penalty of TWO (2) YEARS, FOUR (4) MONTHS and ONE(1) DAY of prision correccional, as minimum, to SIX (6) YEARS and ONE (1) DAY of prision mayor, as maximum, and to pay the costs. The civil liability of the accused already been determined and assessed in Civil Case No. 427-0, entitled 'Paulino Padua, et al vs. Romeo Punzalan, et al'" (italics supplied)

Succintly, the decisive issue presented to Us now is whether this judgment just transcribed imposes upon Punzalan a civil liability by adoption by reference of the civil liability already adjudged in the civil case or it exonerates him from any civil liability arising from the offense of which he has been found guilty inasmuch as he was already found civilly liable in the civil case. It must be admitted in candor that both constructions are literally tenable, with the particularity, however, that the first interpretation, if adopted would not involve the assumption that the judge committed a grievous and palpable error of law whereas the second would necessarily mean that he did.

It is by now settled beyond all cavil, as to dispense with the citation of jurisprudence, that a negligent act such as that committed by Punzalan gives rise to at least two separate and independent kinds of liabilities, (1) the civil liability arising from crime or culpa criminal and (2) the liability arising from civil negligence or the so-called culpa aquiliana. These two concepts of fault are so distinct from each other that exoneration from one does not result in exoneration from the other. Adjectively and substantively, they can be prosecuted separately and independently of each other, although Article 2177 of the Civil Code precludes recovery of damages twice for the same negligent act or omission, which means that should there be varying amounts awarded in two separate cases, the plaintiff may recover, in effect, only the bigger amount. That is to say, if the plaintiff has already been ordered paid an amount in one case and in the other case the amount adjudged is bigger, he shall be entitled in the second case only to the excess over the one fixed in the first case, but if he has already been paid a bigger amount in the first case, he may not recover anymore in the second case. Thus, in the case at bar, inasmuch as Punzalan had already been sentenced to pay the herein petitioners the amounts above-stated, in the subsequent criminal case, he could not be adjudged to pay a higher amount.

Now, under Article 100 of the Revised Penal Code, a person criminally liable is also civilly liable, hence, the judgment in the criminal case is supposed to include the imposition of civil liability, unless the basis therefor has been shown not to exist, which is not the case here. And since the judgment in question says that "the civil

liability of the accused has already been determined and assessed in Civil Case No. 427-0 entitled Paulino Padua et al. vs. Romeo Punzalan et al." it is but logical to conclude that the meaning of such statement is that the same amounts of damages fixed in the previous case were being awarded to the offended party in the criminal case. Otherwise, We would have to indulge in the assumption that Judge Amores committed the grievous and palpable error of law of exonerating Punzalan of all civil liabilities in the criminal case just because he had already been sentence to pay damages in the civil case. I am not ready to accept such assumption. The law and jurisprudence on the matter are so clear and well-settled that I refuse to believe that a judge of the experience of Judge Amores would not be cognizant thereof. Besides, Judge Amores knew or ought to have known that having absolved herein respondent in the civil case, the only possible recourse has left to petitioners to recover from said respondent damages for the death of their child caused by the indisputable negligence of his employee Punzalan is in the form of the subsidiary liability of the employer under the Penal Code. Indeed, I cannot believe that Judge Amores intended to allow respondent to escape liability altogether, it being evident under the circumstances which he himself has found in both cases, civil and criminal, that Punzalan, their employee, had caused the death of the ten-year-old child of petitioners thru reckless imprudence and that in such a situation in the law exacts liability from both the employee and the employer.

What is more, I consider it but equitable to hold that the rather equivocal phraseology of the decision of Judge Amores should be read in the sense it was understood by the petitioners, who in the faith and reliance that the law had been complied with by Judge Amores and that he had accordingly awarded them in the criminal case the civil liability that by law goes with it, did not anymore move for clarification or reconsideration nor appeal from said decision. My understanding is that the filing of the subject civil action by petitioners proceeded from that assumption, namely, that Punzalan has been found civilly liable for the same amounts adjudged in the civil case and, therefore, respondent is subsidiarily liable therefor in the face of Punzalan's insolvency.

Accordingly, I concur in that the order of dismissal of respondent judge should be set aside and that petitioners' action should be tried on the merits.

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