

GAUDENCIO T. MENDOZA, PLAINTIFF AND APPELLANT, VS. MAXIMO M. ALCALA, DEFENDANT AND APPELLEE.*G.R. No. L-14305. August 29, 1961*

Ponente: NATIVIDAD, J.

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This action for a sum of money, brought in the Court of First Instance of Nueva Ecija, was originally appealed to the Court of Appeals. The latter court, however, has certified it to us for the reason that the questions involved therein are purely of law.

It appears that sometime prior to September 12, 1955, an information was, at the instance of the plaintiff, Gaudencio T. Mendoza, filed in the Court of First Instance of Nueva Ecija charging the defendant, Maximo M. Alcala, with the crime of estafa. The charge was predicated upon a receipt which reads as follows:

RECIBO

"Tinanggap ko kay Gng. Gaudencio T. Mendoza ang halagang ISANG LIBO AT ISAND DAANG piso (1,100) kuantang pilipino bilang paunang bayad ng isang daan (Wagwag) kabang palay sa 56 kilos bawa't kavan, puesto sa kanyang kamalig.

"Ipinangako kong ihahatid ang palay na ito sa o bago dumating ang ika-5 ng Septiembre, 1953, dito sa San Jose, Nueva Ecija.

"Sa katunayan ng lahat ay lumagda ako sa ibaba nito ngayong ika-2 ng Septiembre, 1953.

(Sgd.) Maximo M. Alcala"

The case was docketed as Criminal Case No. 3219, Court of First Instance of Nueva Ecija, People vs. Maximo M. Alcala. After trial, that court acquitted the defendant of the offense charged, with costs de oficio, on the following findings:

"The prosecution has not proved beyond reasonable doubt that the defendant had in fact represented to Gaudencio T. Mendoza that he had 100 cavans of palay stored in his sister's bodega, which he offered to sell for P1,100. The Court cannot believe that Gaudencio T. Mendoza would pay to the defendant the sum of P1,100 on the mere representation of the defendant that the palay was in the bodega of his sister, and on his request to pay him first as he was going to Manila. In the first place, there is no showing why the defendant was in urgent need of P1,100 on September 2, and why it was absolutely necessary for him to go immediately to Manila on that date, such that he had no time to deliver the 100 cavans of palay allegedly deposited in his sister's bodega, which is only a few meters distant from the house of Gaudencio T. Mendoza. Mendoza and the defendant are from the same town; they had known each other for a long time and they were even friends. Defendant testified that he had no palay and had no land from which to raise that palay. That denial has not been successfully rebutted by the prosecution. The prosecution could have shown that the defendant had in fact tracts of land where he could raise enough palay to sell to Mendoza. Mendoza must have known that the defendant had no palay to sell; and as defendant was not engaged in the business of buying and selling palay, Mendoza could not have been deceived by the defendant. Again, since the bodega is near the house of

Mendoza, he could have verified from the defendant the existence of that palay. The fact that Mendoza did not even attempt to verify the existence of that palay, is ample proof that the receipt Exhibit B was not in fact what it purports to be. The court does not expressly pass upon the defense that the receipt signed by him arose from a usurious loan, as there is sufficient evidence to warrant a finding that there had been no deceit or misrepresentation and that Exhibit B is not what it purports to be. Any obligation which the defendant may have incurred in favor of Gaudencio T. Mendoza is purely civil in character, and not criminal." (Italics ours)

On December 16, 1954, while said criminal case was still pending, the plaintiff filed in the Justice of the Peace Court of San Jose, Nueva Ecija, the complaint by which this case was initiated. That complaint was based on the very same receipt upon which the criminal action was predicated, and in it plaintiff, after alleging violation of the terms of said receipt, asked for judgment against the defendant for the sum of P1,100 with legal interests from September 5, 1953 until full payment, plus P550 for damages, P300 for attorney's fees, and the costs of suit. Defendant's answer consists of specific denials, affirmative defenses to the effect that the transaction referred to in the complaint was a usurious loan in the sum of P500 and that the sum had already been paid in full, and a counter-claim for actual, moral and exemplary damages, and attorney's fees, in the total sum of P6,000. After trial, the justice of the peace court rendered judgment sentencing the defendant to pay to the plaintiff the sum of P1,100, plus P300 as attorney's fees, and dismissing defendant's counterclaim. From this judgment, the defendant appealed to the Court of First Instance of Nueva Ecija, where he reproduced the answer he had filed in the justice of the peace court. At the hearing of the case in the Court of First Instance of Nueva Ecija, and while the first witness for the plaintiff was testifying on the witness stand, the following proceedings were had:

"AGREEMENT:

Atty. Padilla

The parties stipulate that the transaction which is now the object of the civil case is the same transaction which had been the object in Criminal Case No. 3219 of this Hon. Court. "

Atty. Cadhit

Agreed.

Atty. Padilla

That the accused was acquitted in that case was evidenced by the decision, Exhibit A.

Atty. Cadhit

Agreed.

Atty. Padilla

In the said criminal case having made a specific finding that the transaction was not a sale of palay but it can be any other, we believe any question with respect to the sale of palay will be out of order now.

Court

Submitted in accordance with Rule 107."

Upon the agreement and the decision rendered in Criminal Case No. 3219 above referred to, the Court of First Instance of Nueva Ecija rendered judgment, dismissing plaintiff's complaint and defendant's counterclaim, with costs against plaintiff, on the findings, among others, that—

"On the basis of said stipulation a question of law is raised by the parties, to wit, whether the defendant could still be prosecuted for the collection of the amount stated in the said receipt after he had been acquitted by the Court on a charge of estafa based on the said receipt. Section d, Rule 107, provides:

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

"In acquitting the accused of the crime of estafa, the Court expressly made a finding as follows:

'The Court does not expressly pass upon the defense that the receipt signed by him arose from a usurious loan, as there is sufficient evidence to warrant a finding that there had been no deceit or misrepresentation and Exh. B. is not what it purports to be.'

"In effect, the Court did not believe that the accused received the amount of P1,100 as advance payment of the 100 cavans of palay weighing 46 kilos a cavan. Since the Court did not find this to be a fact, it cannot serve as basis for a criminal action under the provision of the rule above-cited. The reason for the rule is that, once the court makes a definite finding as to the non-existence of a fact, non-existence should be final and conclusive against the party claiming the existence of the same, otherwise there would be no stability in the decision of the courts. The only possibility, therefore, of filing a civil action against the same defendant is to work out a theory entirely different from the theory followed in the criminal action, which was, that the defendant received the amount of P1,100 as advance payment for palay for as to any other theory, the Court did not make any express finding that the same did not exist.

"It may be contended that a separate civil action may even be filed against the same defendant if a criminal action had already been filed against him. Granting this contention to be true and tenable, it is no less true that when a criminal action is filed against the defendant the civil action must yield to the criminal action after the acquittal of the defendant, if the two actions are based on the same set of facts. It may also be true that a separate civil action may be filed against him if he is acquitted on a reasonable doubt. But that is entirely different from a finding that the facts from which the civil action may arise did not exist, for in case of reasonable doubt, this fact may yet exist. In other words, when the court makes an express finding that the facts upon which the decision may be based do not exist, the same is conclusive and is a bar to the prosecution based on the same set of facts."

From this judgment, the plaintiff appealed.

The appellant contends that the trial court committed error in dismissing the present action. It is claimed that as in its decision in Criminal Case No. 3219 the trial court did not make any express finding that the fact on which the action was predicated did not exist, but merely found that "the prosecution has not proved beyond reasonable doubt that the defendant had in fact represented to Gaudencio T. Mendoza that he had 100 cavans of palay stored in his sister's bodega, which he offered to sell for P1,100," that "there is sufficient evidence to warrant a finding that there had been no deceit or misrepresentation and that Exhibit B is not what it purports to be," and that "any obligation which the defendant may have incurred in favor of Gaudencio T. Mendoza is purely civil in character, and not criminal," which findings amount to a declaration that the defendant was acquitted on reasonable doubt, a civil action based on the same transaction may still be instituted.

The appellee, on the other hand, maintains that the judgment appealed from is correct. It is urged that the findings made in said decision, particularly those quoted above, amount to a declaration that the transaction which was the subject matter of the criminal case did not exist, and so no civil action based on that same transaction would lie.

The pertinent provisions of law are Article 29 of the new Civil Code and Rule 107, Section 1, Subsection (d), of the Rules of Court. Article 29 of the new Civil Code provides:

"Art. 29. When the accused in a criminal prosecution is acquitted on the ground that his guilt has not been proved beyond reasonable doubt, a civil action for damages for the same act or omission may be instituted. Upon motion of the defendant the court may require the plaintiff to file a bond to answer for damages in case the complaint should be found to be malicious.

"If in a criminal case the judgment of acquittal is based upon reasonable doubt, the court shall so declare. In the absence of any declaration to that effect, it may be inferred from the text of the decision whether or not the

acquittal is due to that ground."

and Rule 107, Section 1, Subsection (d), of the Rules of Court, reads as follows:

"Section 1. Rules governing civil actions arising from offenses.—Except as otherwise provided by law, the following rules shall be observed:

* * * * *

"(d) Extinction of the penal action does not carry with it extinction of the civil, unless the extinction proceeds from a declaration in a final judgment that the fact from which the civil might arise did not exist. In the other cases, the person entitled to the civil action may institute it in the jurisdiction and in the manner provided by law against the person who may be liable for restitution of the thing and reparation or indemnity for the damages suffered;

* * * * *

Interpreting the scope of the above quoted provisions of law, we held in the case of Philippine National Bank vs. Catipon, 98 Phil., 286; 52 Off. Gaz., 3589, that—

"The acquittal of the accused of the charge of estafa predicated on the conclusion 'that the guilt of the defendant has not been satisfactorily established,' is equivalent to one on reasonable doubt and does not preclude a suit to enforce the civil liability for the same act or omission under Article 29 of the new Civil Code."

and in Republic of the Philippines vs. Assad, 96 Phil., 398; 51 Off. Gaz., 703, that—

"A judgment of acquittal does not constitute a bar to a subsequent civil action involving the same subject matter, even in regard to a civil action brought against the defendant by the State, nor it is evidence of his innocence in such action, and is not admissible in evidence to prove that he was not guilty of the crime with which he was charged. (50 C. J. S., pp. 272-273; 30 Am. Jur., 1003)"

As we analyze the record in the light of the above provisions of law and jurisprudence, we are fully persuaded that appellant's contention is not without foundation. It will be noted that nowhere in the decision rendered in Criminal Case No. 3219 of the Court of First Instance of Nueva Ecija is found an express declaration that the fact from which the civil action might arise did not exist. It is true that said decision likewise contains no express declaration that the acquittal of the defendant was based upon reasonable doubt. Whether or not, however, the acquittal is due to that ground may, under the above quoted provision of Article 29 of the Civil Code, be inferred from the text of the decision, and a close consideration of the language used in said decision, particularly the findings quoted above, which are of similar import as the phrase "that the guilt of the defendant has not been satisfactorily established," held in Philippine National Bank vs. Catipon, *supra*, to be equivalent to a declaration that the acquittal was based on reasonable doubt, convinces us that the acquittal of the defendant in the criminal case in question was predicated on the conclusion that his guilt of the crime charged has not been proved beyond reasonable doubt and does not preclude a suit to enforce the civil liability arising from the same transaction which was the subject-matter of said criminal action. The right, therefore, of the appellant to bring the present action cannot be questioned, the fact that he did not reserve his right to file an independent civil action, and that this action has been instituted before final judgment in the criminal case rendered, notwithstanding. The declaration in the decision in Criminal Case No. 3219 to the effect that "any obligation which the defendant may have incurred in favor of Gaudencio T. Mendoza is purely civil in character, and not criminal" amount to a reservation of the civil action in favor of the offended party, Philippine National Bank vs. Catipon, *supra*, and the offense charged in said criminal case being estafa, which is fraud, the present action falls under the exception to the general rule and it can be filed independently of the criminal action, (Article 33, new Civil Code; Dianeta vs. Makasiar, [CA] 55 Off. Gaz., 10273; People vs. Balagtas, [CA] 51 Off. Gaz., 5714.)

Wherefore, the judgment appealed from is hereby vacated and set aside, and it is ordered that the records of this case be remanded to the court of origin for further proceedings in accordance with law. With the costs taxed against the appellee. It is so ordered.

Bengzon, C. J., Padilla, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, and De Leon, JJ., concur.

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