

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. PEDRO MACABUHAY, DEFENDANT AND APPELLE.

G.R. No. L-19648. February 28, 1966

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

The State appeals from the order of the Court of First Instance of Laguna which quashed the information against Pedro Macabuhay on the ground of double jeopardy.

In an amended complaint filed by the Chief of Police in the Justice of the Peace Court of Rizal, Laguna, Macabuhay was charged with serious physical injuries, less serious physical injuries, double slight physical injuries and damage to property thru reckless imprudence (Criminal Case No. 98 of said court). During the preliminary investigation, counsel for the accused asked that the charge of slight physical injuries be excluded from the complaint on the ground that being a light felony it could not be made part of a complex crime. The prosecution not having registered any objection, the court granted the motion. Hence the complaint was reamended to charge only the crime of serious physical injuries, less serious physical injuries and damage to property thru reckless imprudence. As a result of the same vehicular incident that gave rise to the above complaint two separate complaints for slight physical injuries thru reckless imprudence were filed in the same court and against the same accused (Criminal Cases Nos. 107 and 108 of that court). After trial of these two cases, the Justice of the Peace Court acquitted the accused of the charges.

After the preliminary investigation in Criminal Case No. 98 an information based thereon was filed against Macabuhay in the Court of First Instance of Laguna (Criminal Case No. SP-549). This is the information that was quashed in the order appealed from. The Solicitor General now seeks the modification of that order so as to allow the prosecution of appellee for the crime of damage to property thru reckless imprudence.[1]

Section 9, Rule 117 of the Revised Rules of Court, provides:

"When a defendant shall have been convicted or acquitted, or the case against him dismissed or otherwise terminated without the express consent of the defendant, by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction, and after the defendant had pleaded to the charge, the conviction or acquittal of the defendant or the dismissal of the case shall be a bar to another prosecution for the offense charged, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information."

The question is whether the crime of slight physical injuries thru reckless imprudence as described in the complaints filed in the Justice of the Peace Court is the same as, or necessarily includes or is necessarily included in, the crime of damage to property thru reckless imprudence. An offense necessarily includes another when some of the essential elements of the former, as this is described in the complaint or information, constitute the latter;

and an offense is necessarily included in another when the essential ingredients of the former constitute or form a part of those constituting the latter (Section 5, Rule 120 of the Revised Rules of Court).

The complaint in Criminal Case No. 107 of the Justice of the Peace Court of Rizal, Laguna, alleges:

"The undersigned Chief of Police, after having been duly sworn to in accordance with law accuses Pedro Macabuhay, resident of Lumban, Laguna, and driver of LTB Company, San Pablo City, for the crime of slight physical injuries thru reckless imprudence, committed as follows:

"That on or about 28th day of February 1960 at around 7:10 o'clock in the morning more or less, in Barrio Pook, Municipality of Rizal, Province of Laguna Republic of the Philippines and within the jurisdiction of this Honorable Court, the said accused Pedro Macabuhay, while actually engaged in the performance of his duties as a driver of LTB bus No. 645 did then and there willfully, unlawfully and carelessly drive his bus, LTB bus No. 645, while passing along the National Road within said barrio in a negligent, reckless and imprudent manner without due regard to traffic rules and regulations without taking the necessary precaution to avoid accident to persons and damage to property, causing by such negligence, recklessness, and imprudence, that the said accused, thereby hitting, colliding and bumping against a jeepney, 'Floralicia', throwing and ramming said jeepney against the wall along the shoulder of the road, said offended party ROSA LATAYAN sustained injuries in different parts of her body to wit: (1) presence of hematoma, 2 inches by 2 1/2 inches, mandibular region, left; (2) presence of hematoma, 2 inches, head, parietal region, right, as mentioned in the attached medical certificate marked Annex-A, and made an integral part of this complaint, curable with medical assistance barring any complication, said lesions will heal within nine (9) days."

On the other hand, the information in Criminal Case No. SP-549 of the Court of First Instance of Laguna states:

"The undersigned Provincial Fiscal accuses Pedro Macabuhay of the crime of 'serious physical injuries, less serious physical INJURIES AND DAMAGE TO PROPERTY THRU RECKLESS IMPRUDENCE' (Article 365 of the Revised Penal Code), committed as follows:

"That on or about February 28, 1960, in the Municipality of Rizal, Province of Laguna, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the accused above-named, being then the driver and person in charge of LTB Bus No. 645, did then and there willfully, unlawfully, recklessly and imprudently manage, operate and drive said vehicle while passing along the road within the said municipality in a negligent, careless and imprudent manner, without due regard to traffic rules and regulations, in violation of the Motor Vehicle Law, and without taking the necessary precautions to avoid accident to persons and damage to property, causing by such negligence, carelessness and imprudence said truck (LTB) being driven and operated by the herein accused bump, strike and collide with a jeepney 'Floralicia' thereby causing physical injuries to the following persons, to wit:

1. Rufina Latayan—1-2 months medical treatment

2. Monico Latayan—2 weeks medical treatment

which injuries will require medical attendance for the period of time listed above and will incapacitate them from dedicating to their customary labors for the same period of time and causing damages to the last named vehicle in the amount of no less than P2,500.00 Philippine Currency, to the damage and prejudice of Domingo Tubaña, owner of said damage jeepney, in the aforementioned amount."

The essential elements of the crime charged in the complaint are (1) date and place of the vehicular collision; (2) appellee's reckless imprudence in driving his bus; (3) appellee's having caused the bus, by his reckless imprudence, to hit the jeepney "Floralicia"; (4) physical injuries to Rosa Latayan; and (5) period within which the injuries would heal.

The first three elements enumerated above, considered together with the allegation in the complaint that appellee failed to take the necessary precaution to prevent accident to persons and damage to property, constitute the offense of damage to property thru reckless imprudence. In *People vs. Narvas* (107 Phil. 737 1960), upon facts strikingly similar to those in the present case, this Court said:

"It will thus be seen that the three elements (a), (b), (c) above related [2] constitute the offense described in the first information: damage to property thru reckless imprudence. True, there is no direct allegation of damage to property; but it is common sense to conclude that the carabao was hurt and the stores and houses were damaged by the impact, which was so violent as to cause the truck to zig-zag¹ from one side of the road to the other; specially because the information itself charged the accused with having failed to take 'the necessary precaution to prevent accident and damage to properties.' It is also true that the information did not assert the value of the damage caused. But in this, as in theft and estafa cases, the damage may be assessed at the minimum, penalized by law."

Relying on the case of *People vs. Estipona* (70 Phil. 513) appellant contends that the crime of physical injuries thru reckless imprudence and the crime of damage to property thru reckless imprudence are two distinct offenses even though they arose from the same incident. This argument is answered by the following statement in our decision in the *Narvas* case.

"The appellant cites the case of *People vs. Estipona*, 70 Phil. 513, wherein it was held that a person prosecuted for, and convicted of, damage to property thru reckless imprudence, could again be prosecuted for physical injuries thru reckless imprudence produced on the same occasion. But therein it does not appear that the information for damage to property also described the offense of physical injuries, both caused thru reckless imprudence."

Wherefore, the appealed order is affirmed, with costs de oficio.

Bengzon, C. J., Reyes, J.B.L., Dizon, Bengzon, J. P., Zaldivar and Sanchez, JJ., concur.

Order affirmed.

[1] Inferentially, appellant admits that acquittal under the two complaints for slight physical injuries bars the prosecution of the charge of serious and less serious physical injuries included in the information.

[2] The three elements mentioned in the cited decision are similar to the first three elements in the enumeration above.

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