

**HEIRS OF TITO RILLORTA, PETITIONER, VS. HON. ROMEO N. FIRME, PRESIDING JUDGE, COURT OF FIRST INSTANCE OF LA UNION, BRANCH IV, BAUANG, LA UNION; AND ANDREW COSTALES, RESPONDENTS.**

*G.R. No. L-54904. January 29, 1988*

Ponente: CRUZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/33120e010d89/>

---

**CRUZ, J.:**

May the civil award in a criminal case be appealed by the heirs of the offended party? Of course. May the criminal aspect of the decision be modified as a basis for the increase in the civil award? Certainly not. Is the case at bar covered by the rule on double jeopardy or by the exception? We shall come to that.

Accused of killing Tito Rillorta, Andrew Costales was held guilty only of less serious physical injuries and sentenced to twenty days of arresto menor and to indemnify the heirs of the deceased in the sum of P500.00. The trial court said the defendant could not be held liable for homicide because the wound inflicted on the victim was only superficial. The certified cause of death was pneumonia, and this was obviously induced by the exploratory surgery which was needlessly performed upon him. In short, the victim had succumbed not to the skin-deep wound that did not affect any vital organ but as a result of the attending physician's gross incompetence.[1]

The heirs of the deceased, herein petitioners, did not agree. Through their counsel acting "under the direct control and supervision of the provincial fiscal," they filed a motion for reconsideration of the decision notified to them on January 23, 1980.[2] This motion was sent by registered mail on February 2, 1980.[3] Heard on February 26, it was denied on February 28, 1980, in an order that was communicated to the private prosecutor on March 18, 1980.[4] On March 20, 1980, a notice of appeal was filed with the trial court under the signatures of the prosecuting fiscal and the private prosecutor.[5] After considering the opposition to the notice and the reply thereto, the respondent judge dismissed the appeal on April 14, 1980, for tardiness.[6] Both the fiscal and the private prosecutor filed separate motions for reconsideration, but these were denied on May 12, 1980.[7] The dismissal of the appeal is now the subject of this petition for certiorari under Rule 65 of the Rules of Court.

It is clear that the notice of appeal was filed within the 15-day reglementary period. The motion for reconsideration of the decision rendered in open court on January 23, 1980, was filed on February 2, 1980, date of its posting by registered mail. Only ten days had elapsed from the earlier date. The running of the period was suspended while the motion was under study and until a copy of the order denying the same was furnished the private prosecutor on March 18, 1980. When two days later, on March 20, the fiscal and the private prosecutor jointly filed a notice of appeal, only 12 days of the period of appeal had been consumed. The appeal was thus perfected on time, conformably to Rule 122, Section 6, of the Rules of Court, reading as follows:

"SEC. 6. When appeal to be taken. - An appeal must be taken within fifteen (15) days from promulgation or notice of the judgment or order appealed from. This period for perfecting an appeal shall be interrupted from the time a motion for new trial is filed until notice of the order overruling the motion shall have been served

upon the defendant or his attorney."

The trial court thus lost jurisdiction over the appealed case on March 20, 1980, and was obligated to elevate the records thereof to the appellate court. Having become functus officio, it could no longer issue the challenged orders of April 14, 1980, and May 12, 1980, dismissing the appeal.

The question of whether or not the civil award in a criminal case may be appealed is not new and has been resolved earlier by this Court. It is settled that this can be done by the private prosecutor on behalf of the offended party or his successors. The adequacy of the award may be challenged on the ground that it is not commensurate with the gravity of the injuries sustained as a result of the offense committed by the accused. Thus, we have held that -

"x x x The offended party, be he the owner of the stolen or misappropriated property, or the owner of the pawnshop, may appeal from the judgment of the trial court with reference to the payment of the indemnity resulting from the commission of the offense. The pawnbrokers in this case are deemed to have been prejudiced by the commission of the crime, because by reason of the fact that the jewels pledge to them had been stolen they will now be deprived of their possession without first having a declaration of indemnity for the amount of the pledges."[8]

"x x x.

"In this instance, this court, in its resolution dated November 28, 1933, declared the appeal of the accused abandoned. Therefore, the only question left to be decided is the appeal of the private prosecution with regard to the civil liability of the accused.

"The trial court's resolution that, because the cause had been appealed by the accused, it had lost its jurisdiction to pass upon the motion for reconsideration filed by the private prosecution nine days after the date of the judgment, is unfounded.

"The right of the injured persons in an offense to take part in its prosecution and to appeal for purposes of the civil liability of the accused (section 107, General Orders, No. 58), necessarily implies that such right is protected in the same manner as the right of the accused to his defense. If the accused has the right within fifteen days to appeal from the judgment of conviction, the offended party should have the right within the same period to appeal from so much of the judgment as is prejudicial to him, and his appeal should not be made dependent on that of the accused."[9]

However, the civil indemnity may be increased only if it will not require an aggravation of the decision in the criminal case on which it is based. In other words, the accused may not, on appeal by the adverse party, be convicted of a more serious offense or sentenced to a higher penalty to justify the increase in the civil indemnity. This rule is applicable in the present case.

The petitioners are urging that the civil award in the sum of only P500.00 be increased because the accused should not have been found guilty of only less serious physical injuries but of homicide. They are not confining themselves to the civil aspect of the challenged decision. In their own words, their appeal involves "both the criminal aspect and the civil liabilities in the criminal cases." [10] This is not permitted under the rule on double jeopardy. [11]

Section 2 of Rule 122 of the Rules of Court provides that "the People of the Philippines cannot appeal if the defendant would be placed thereby in double jeopardy." This provision is based on the old case of *Kepner v. United States*, [12] where the U.S. Supreme Court, reviewing a decision of the Philippine Supreme Court in 1904, declared by a 5-4 vote that appeal of the prosecution from a judgment of acquittal (or for the purpose of increasing the penalty imposed upon the convict) would place him in double jeopardy. It has been consistently applied since

then in this jurisdiction.

It need only be stressed that if the government itself cannot appeal, much less then can the offended party or his heirs, who are mainly concerned only with the civil indemnity.

The prohibition operates as 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." [13] There is no question that the crime of less serious physical injuries, of which the accused in this case was convicted, is necessarily included in the offense of homicide.

But the petitioners argue that double jeopardy will not attach because the judgment convicting the accused of less serious physical injuries is tainted with grave abuse of discretion and therefore null and void. This argument is flawed because whatever error may have been committed by the lower court was merely an error of judgment and not of jurisdiction. It did not affect the intrinsic validity of the decision. This is the kind of error that can no longer be rectified on appeal by the prosecution no matter how obvious the error may be.

In *People v. City Court of Silay*, [14] the trial court granted the defendant's motion to dismiss a charge for falsification after the prosecution had rested, holding that the guilt of the accused had not been proved beyond reasonable doubt. The Court disagreed. Nevertheless, it held through Justice Munoz-Palma that "however erroneous the order of the respondent court is, and although a miscarriage of justice resulted from said order, such error cannot now be righted because of the timely plea of double jeopardy."

We have made similar rulings in several other cases, among them *people v. Hernando*, 108 SCRA 121, *People v. Francisco*, 128 SCRA 110, and *People v. Villarin*, 11 SCRA 550.

The cases cited by the petitioners are not in point because they all involve not errors of judgment but denial of due process resulting in loss or lack of jurisdiction. [15] The prosecution in each of these cases was allowed to appeal because it had not been given its day in court. In the present case, a full trial was held and both the prosecution and the defense were accorded the right to be heard before the judgment was reached. There is no doubt at all that the trial court had the requisite jurisdiction to pronounce the challenged sentence. Even assuming it was incorrect, it was certainly not invalid.

It follows that the appeal should be limited to the civil award corresponding only to the offense found against the accused, to wit, less serious physical injuries. The award cannot be related to the victim's death, of which the defendant has been absolved by the trial court. The problem then is whether or not the sum of P500.00 was sufficient indemnification for the wound which, the trial court has held, was not the proximate cause of the victim's death.

The determination of this question should normally be made by the appellate court after examining the factual issues as originally resolved by the trial court. This would require elevation of the records of the case to the Court of Appeals in accordance with the usual procedure and an exchange again of pleadings and arguments between the parties that will further prolong this case. But we do not believe that such delay is necessary. We can decide the appeal ourselves to expedite decision of this case. We have carefully studied the pros and cons of this problem and can rule on it directly on the basis of the record before us and in the interest of speedy justice.

Accordingly, we hold that the sum awarded by the trial court to the petitioners, for the less serious physical injuries inflicted upon the victim -- and not for his death -- is sufficient recompense. Therefore, the increase sought is denied.

While the Court sympathizes with the petitioners for their tragic loss, it is unable to accord them a more

satisfactory material settlement because it is limited by the findings of the trial court and the inhibitions of double jeopardy. If an error has been committed somewhere -- and on this it is not necessary for us to rule -- that error will nonetheless not relax the application of the salutary rule on double jeopardy. It must be, as it is here, upheld.

WHEREFORE, the orders of the respondent court dated April 14, 1980, and May 20, 1980, are SET ASIDE. However, the appeal sought shall no longer be necessary because the questioned civil award in the amount of P500.00 is hereby directly AFFIRMED. No costs.

**SO ORDERED.**

Teehankee, C.J., Narvasa, Paras, and Gancayco, JJ., concur.

---

[1] Rollo, p. 35.

[2] Ibid., pp. 15-33.

[3] Id., p. 62.

[4] Id.

[5] Id., p. 37.

[6] Id., p. 43.

[7] Id., p. 52.

[8] People v. Guido, 57 Phil. 52.

[9] People v. Ursua, 60 Phil. 252.

[10] Rollo, p. 113.

[11] Art. III, Sec. 21, Constitution.

[12] 11 Phil. 669; 195 U.S. 100.

[13] Sec. 9, Rule 117, Rules of Court.

[14] 74 Phil. 247.

[15] People v. Navarro, 63 SCRA 264; People v. Surtida, 43 SCRA 29; People v. Pablo, 98 SCRA 289; People v. Cabero, 61 Phil. 121.

**ABOUT BATAS.ORG**

# Study smarter at BATAS.org

*The Philippine bar review and law-school companion built around how your brain actually remembers.*

**The complete Philippine law library - free for everyone.**

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

**Audio case-brief lectures.**

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

**Bar review built on the science of memory.**

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

**The full law-school curriculum.**

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

**Mock exams that tell you where you stand.**

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

**A study planner that keeps you on pace.**

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

**Start free at <https://batas.org>**

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.